

GUARDIANSHIP OF THE PERSON - MINOR PERSONS

This packet describes the steps necessary to establish a guardianship of a minor. Information is provided on preparing documents and presenting them for filing. Samples of the basic forms are also included. You may also need other forms that are not part of this packet. The samples that are attached are provided only as a guide and are designed to meet the legal requirements. Parties or agencies who wish to amend or alter these documents may do so as long as the results are consistent with statutory requirements.

If you are not an attorney, we strongly recommend that you seek the services of an attorney. The Lawyer Referral Service (537-9140) of the Hawaii State Bar Association may provide names of attorneys, but not information on fees. You may also consult the yellow pages of the telephone book for attorneys who specialize in family law.

Legal Aid Society of Hawaii offers assistance to people with low incomes who meet their financial criteria. You may call their intake number: 242-0724, to see if you qualify and for more information.

Volunteer Legal Services also offers assistance to people with low incomes who meet their financial criteria. Please call 1-800-839-5200 for more information.

Should you decide to proceed on your own without the assistance of an attorney, you may wish to review sections 560:1-401 and 560:5-201 to 560:5-210 of the Hawaii Revised Statutes pertaining to Guardians of the Person of Minors. You are responsible for assuring that your documents comply with Rule 3 of the Rules of the Circuit Court, applicable Hawaii Family Court Rules and applicable sections of the Hawaii Revised Statutes as well as any memoranda issued by the Family Court.

Copies of these statutes, rules and memoranda are available at the Law Library at Hoapili Hale, 2145 Main Street, 2nd Floor, Wailuku, Hawaii. Court Rules & Statutes are also available on-line at www.courts.state.hi.us (rules) and www.capitol.hawaii.gov (statutes). A manual entitled Guidelines for Guardianship in Hawaii - A Legal Manual, 1987 by the Protection and Advocacy Agency of Hawaii is also available at the law library. However, please note that sections of the manual may be outdated.

FILING FEE: \$215.00

**Questions? Please contact:
JUDICIARY SERVICE CENTER
HOAPILI HALE
2145 MAIN STREET, Room 141
WAILUKU, HI 96793
Telephone: 244-2706**

Overview of Documents in this Packet

This packet includes the following:

1. **“Petition for Appointment of a Guardian...”** states the factual and legal basis for the appointment of a guardian and asks the court to issue an Order Appointing Guardian with Limited Unlimited Authority.
2. **“Notice of Hearing”** is attached to the Petition. Court personnel will schedule the hearing and fill in the blank spaces for the date and time of hearing.
3. **“List of Exhibits”** this cover sheet organizes supporting documents that are submitted at the time of filing the Petition. Documents that are attached to this cover sheet and submitted as exhibits must be original copies.

The **List of Exhibits** must include a certified copy of the subject child’s birth certificate as well as certified copies of any death certificates of deceased persons which are required notice (see **Service & Notice** below).

4. **“Waiver of Notice and Consent to Guardianship”** informs the court that a person, who is entitled to receive notice, agrees to have the guardianship proceedings take place without his or her involvement. This document may be filed to support the Petition for appointment of Guardian. The proposed guardian is always expected to attend the hearing, unless previously excused by the court.

This form also allows interested parties to waive the requirement that they be given at least 14-days advance notice of the hearing on the Petition. It has a check box if the interested party wants to waive notice of any future hearings.

5. **“Order Appointing Guardian with Limited Unlimited Authority”** contains the Judge’s finding and states, among other things, the conditions under which the guardian shall serve and the events that will terminate the guardianship.
6. **“Letters of Guardianship”** serves as proof of the guardian’s appointment and restates certain items that are included in the Order Appointing Guardian, other than the Court’s findings.

How to Prepare Documents for Filing

A “No-Bounce” filing policy currently in effect requires Documents Receiving Clerks to accept documents for filing even if presented in improper form. **YOU ARE RESPONSIBLE** for assuring that your documents comply with applicable rules, statutes and judges’ memoranda. Court clerks are not allowed to give legal advice. Statutory deficiencies may affect the granting of the guardianship at the hearing.

Although the forms do not need to be typed, they **must** be legible and in black ink.

- Signature:** Documents must be dated and signed in black ink.
Name: Be sure to include the Petitioner’s name, address and phone number on the upper left-hand corner of the first page of each document. A phone number is required.
Copies: Prepare a sufficient number of copies (see Service & Notice below).

Initial Filing:

STEP 1: Complete the following forms by writing or typing in the relevant information:

- Petition for Appointment of a Guardian of the Person of a Minor (“Petition”)
- Notice of Hearing
- List of Exhibits

Should you wish to have more than one person serve as co-guardians, amend pertinent portions of the documents to show that this is a co-guardianship case.

STEP 2: Make copies and put the forms into sets:

Make copies of the **Petition** and **Notice of Hearing**. The total number of copies depends on how many parties need to be served with the Petition. You will always need an original copy for the Court and an additional copy for the Petitioner. In other words, in addition to the persons that must be noticed according to the **Service & Notice** section, you must add two (2) copies.

Staple the **Notice of Hearing** to the back of the **Petition** for all copies. Then clip all sets together with the original set on top.

Make 1 copy of the **List of Exhibits** and attached exhibits. Take both for filing. The court keeps the original and Petitioner gets one file copy for their records.

Presenting Documents for Initial Filing

After completing all necessary documents present the original and the necessary number of copies together with the filing fee of \$215 to the Documents Receiving Clerk, Room 106, 2145 Main Street, Wailuku, HI. You must leave the documents for processing. A hearing date will be assigned by the Family Court. Submit as many copies as the number of persons who must receive notice (see H.R.S. section 560:5-205 and **Service & Notice** below).

You may wish to request that certain copies be certified. The Documents Receiving Clerk certifies copies as requested and returns certified copies and any extra copies to you.

Service & Notice:

Please note that each of the following persons must be served with a copy of the petition and notice of hearing at least 14 days prior to the hearing. Service on all of the persons listed below may be made by certified, registered or first class mail except for a minor who is 14 years or older (HRS Sections 560:5-205 and 560:1-401):

1. Minor if 14 years or older (**must be personal service**)
2. Minor's mother
3. Minor's legal father
4. Minor's maternal grandmother
5. Minor's legal maternal grandfather
6. Minor's legal paternal grandmother
7. Minor's legal paternal grandfather
8. Minor's custodian during the 60 days prior to the petition being filed
9. Minor's guardian of the property
10. Minor's legal guardian.

For each person above, you **must have at least one** of the following before your hearing or the person must be present at the hearing:

- (1) written proof of service (personal service) at least 14 days prior to the date of the hearing,
- (2) a signed **Waiver of Notice and Consent to Guardianship**
- (3) if the person is deceased, a sworn statement must be made at the hearing or a certified copy must be filed with the Court in the **List of Exhibits**

If you must notice by publication, you must coordinate the last publication 10 days prior to the hearing (see HRS Section 560:1-401(a)(3)). You do not need to serve non-legal biological parents or grandparents.

Before the Hearing

Waiver of Notice and Consent to Guardianship informs the court that a person otherwise entitled to notice consents to have guardianship proceedings take place without his or her involvement. This document shall be filed before the hearing to support the Petition for Guardianship.

Please note: there is only one copy of the **Waiver of Notice and Consent to Guardianship** form provided in this packet. You must make enough copies of this blank form for as many people that are required to receive notice and agree to sign the waiver.

Once the **“Waiver and Notice...”** is signed, make one copy of the completed form and bring the Original and copy to the Court for filing before your hearing date.

At the Hearing

The proposed guardian is always expected to attend the hearing, unless previously excused by the court.

BE READY: Be prepared to testify and tell the Court why the Guardianship should be established. The Court may have questions.

If any party contests the Guardianship, the case may be sent to trial and you should seek the assistance of an attorney.

After the Hearing

If the court appoints a guardian and orders that letters of guardianship be issued, the petitioner prepares an **Order Appointing Guardian** and **Letters of Guardianship**.

Submit the following for the court’s signature after your hearing:

Original + 3 of the **Order Appointing Guardian**
Original + 5 of the **Letters of Guardianship**

After the Order and Letters have been signed, the documents will be available to be picked up in the “Pro Se Jacket”, or you may provide a self-addressed, stamped envelope. Please allow up to two weeks for processing.

IMPORTANT: You will be required to submit to the Court annual reports on the condition of the minor and the minor’s estate.

If you need additional copies, you may request copies from Legal Documents for a fee at Rm. 106, 2145 Main Street, Wailuku, Hawaii, 96793, Telephone: 244-2969.