

## GUARDIANSHIPS IN HAWAII

There are two kinds of guardianships in Hawaii: guardianship of a minor and guardianship of an incapacitated person.

Guardianship of a Minor. Guardianships are most often desired by servicemembers who want to establish a minor as a military dependent.<sup>1</sup>

The minor (under the age of 18) must be a resident of or physically present in Hawaii prior to the filing of the petition. The process involves filing a petition and other required papers and paying a filing fee of \$175 with the Family Court in downtown Honolulu. The court will assign a hearing date, which at present takes approximately five months. The proposed guardian, or co-guardians in the case of a married couple, must be present at the hearing and should probably bring the minor with them. The judge will ask a number of questions and then approve the petition. However, the guardianship is not final until the judge signs and files the guardianship order and letters of guardianship, which may take an additional week. The minor must be under the age of 18 when the guardianship order becomes effective; otherwise the proceeding becomes moot, since by law an individual becomes an adult at age 18. A guardianship terminates automatically when an individual reaches 18 or by court order in other instances.<sup>2</sup>

Persons requiring legal notice of the guardianship proceeding are any living legal parent, the minor if aged 14 or older, the person having the principal care and custody of the minor during the 60 days preceding filing of the petition, and any guardian of the minor's property. In most cases notice can be substituted with a signed consent form. The consent form must be signed and dated *after* the petition has been filed. For good cause, notice can be waived by the court in some instances. However, notice to a legal parent cannot be waived. Hence, if a legal parent cannot be found, notice must be given by publication in a local Honolulu newspaper, which first requires permission by the court.

If a client needs an expedited hearing, for instance, because of deployment, a request can be made to the court to advance the hearing date.

All documents must be typed or prepared using a word processor. The court will not accept guardianship forms that have filled-in blanks. Navy Legal will assist any client who wishes to represent himself in a guardianship proceeding. Along with ensuring that the paperwork has been prepared correctly, we provide our clients with step-by-step guidance on how to go through the process.

*Sarah Courageous*  
*October 1, 2008*

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<sup>1</sup> See <http://afpubs.hq.af.mil> (Attachment 5, Rule 14) for military dependent eligibility requirements.

<sup>2</sup> It does not appear that the automatic termination of guardianship upon age 18 has any effect on eligibility requirements for military dependent status. So long as the servicemember can present evidence of a court-ordered guardianship, PSD will allow the ward to be put on the member's page 2, regardless of whether the ward has turned 18.