

## GUAM GUARDIANSHIP

**What is Guardianship?** In the context of a minor, a guardian is a person who is appointed by a court to take care of a child's personal needs, including shelter, education, and medical care. A guardian may, and in many cases has a responsibility to, provide financial management for a child's assets.

**What is the difference between a guardianship and an adoption?** A guardianship establishes a legal relationship between a child and an adult who isn't the child's parent, but it does not end the legal relationship between the child and the child's biological parents. For example, the biological parents are still legally required to provide financial support for the child. If a biological parent dies without a will, the child has certain automatic inheritance rights.

On the other hand, an adoption permanently changes the relationship between the child and the adults involved. The adopting adult or adults legally become the child's parents. The biological parent (if living) gives up all parental rights and obligations to the child, including the responsibility to pay child support. If a biological parent dies without a will, the child usually has no right to inherit.

**When does a guardianship end?** It ends when one of the following events occurs:

1. the child reaches legal age (usually 18),
2. the child dies,
3. the child's assets are used up (if the guardianship was set up solely for the purpose of handling the child's finances), or
4. a judge determines that a guardianship is no longer necessary.

Even if a guardianship remains in force, a guardian may step down from his or her role with permission from the court. In that case, a judge will appoint a replacement guardian if necessary.

**If a child already lives with you, is a guardianship still necessary?** Guardianship is not necessary if the child is only staying with the petitioner for a few weeks or months. But anyone who anticipates caring for a child for a period of years will probably need a legal guardianship. Without this legal arrangement, it may be difficult to register the child in school, arrange for medical care, and obtain benefits on the child's behalf. In addition, a guardianship will protect the rights of the petitioner in decision making against the will of the biological parents.

**How is guardianship established?** To put a guardianship in place, the petitioner will start by filing guardianship papers in court. A court investigator will likely interview the petitioner, the child, and his or her parents if they are alive and available. The investigator will then make a recommendation to the judge. The judge will review the case and decide whether to appoint the petitioner as guardian, usually after a hearing. In Guam the courts look to the best interests of the child in order to determine if guardianship will be granted.

**Can a petitioner be appointed guardian if the child's parents object?** As a general rule, guardianships are not granted unless:

- the parents voluntarily consent,
- the parents have abandoned the child, or
- a judge finds that it would be detrimental to the child for his or her parents to have custody.

There are some circumstances where a petitioner can get a guardianship over the parents' objections, but generally this is only where the parents were shown to be unfit.

Other family members—siblings, grandparents, aunts, and uncles of the child—are also entitled to know that a petitioner is seeking guardianship of their relative. In many jurisdictions, these family members have a right to object to the guardianship.

**Who financially supports a child under a guardianship?** Unless a court terminates the biological parents' rights (uncommon in most guardianship situations), the parents are responsible for supporting their child. In reality, however, financial support often becomes the guardian's responsibility. The guardian may choose to seek financial benefits on the child's behalf, such as public assistance and Social Security.

Any funds the guardian receives for the child must be used for the child's benefit. Depending on the amount of money involved, the guardian may be required to file periodic reports with a court showing how much money was received for the child and how it was spent.

**What Must I Do To Start the Process?** An adoption is begun by filing a law suit with the Clerk of the Superior Court at 120 West O'Brien Drive Hagåtña, Guam 96910-5174, having copies of all papers delivered to all interested parties, and giving notice to the public. Neither the Court nor the Clerk prepares standardized forms for this process. You can hire a private attorney to help you do this or you can represent yourself. Though the NLSO is available to provide you guidance and information about the law, NLSO cannot prepare documents for you or appear in court.