

# INSTRUCTIONS & CHECKLIST

## PACKET “P” – Guardianship of a Minor

**YOU NEED TO FILE SEPARATE CASES FOR SEPARATE CHILDREN.  
YOU CAN ONLY USE ONE SET OF DOCUMENTS PER CHILD.**

**NOTE:** If an Order of Protection has been issued by the Justice Court or Municipal Court, see Pro Se Packet K for instructions on how to transfer the Order of Protection to District Court.

**BEFORE YOU BEGIN: READ ALL THE INSTRUCTIONS AND ANY OTHER INFORMATION GIVEN TO YOU BY THE SELF HELP LAW CENTER**

**The Montana Supreme Court has enacted Court Rules for Privacy and Public Access to Court Records in Montana. These rules apply to all court records. There is certain information (which should be maintained as confidential) that you cannot put in a court record.**

Use these formats when you are required to put sensitive information in court documents **OTHER THAN THE SENSITIVE DATA FORM:**

- For a social security number, use this format: XXX-XX-1234.
- For a date of birth, use this format: age \_\_\_\_.
- For financial account numbers, use this format: ending in the last four digits of 1234

### I. PETITIONING FOR GUARDIANSHIP OF A MINOR:

There are many forms to be completed. Take it step-by-step. On the top left corner of the first page of each document is a “heading” which asks for the name and contact information for the person who is asking or petitioning the Court to be the Guardian of the minor child. The child’s name goes on the top line in the left side of the box labeled Petitioner. Fill out the first page of each document exactly the same way. The Clerk of District Court will assign a cause number and department number when you file your documents.

\*\*\*If you provide your email address, please confirm with the Clerk of District Court that you would like orders either physically mailed or emailed to you.\*\*\*

#### STEP 1. -- Filling Out The Forms

**Note:** You might want to use a pen with **blue ink** so you always know which are the originals and which are copies. Also, put N/A (“not applicable”) in any spaces that don’t apply to your situation.

- Form #250      **Affidavit of Inability to Pay**  
The filing fee for Guardianship of a Minor is \$120—cash/money order/personal check (subject to change). If you cannot afford the fee, fill out this form completely and sign in front of a notary public. Notaries can be found at banks, law offices, etc. The Clerk of Court’s Office can also notarize documents. If the Judge decides you cannot afford to pay the filing fee, your fees may be waived in whole or in part.
- Form #251      **Petition for Appointment of Guardian of a Minor**  
Fill in every section. Sign page 4 in front of a notary public.
- Forms #252      **Consent**  
If you have the consent of either or both parents, have the consenting parent(s) fill out this form and sign in front of a notary public.

- Form #253      **Minor’s Nomination of Guardian**  
If the minor child you are seeking guardianship of is 14 or older, they may complete the Minor’s Nomination of Guardian form. The minor must sign this form in front of a notary public.
- Form #254      **Request for Hearing**  
Complete and sign.
- Form #255      **Proposed Order**  
Complete caption only. Judge will sign or issue a separate order.
- Form #256      **Notice of Hearing**  
Complete caption only.
- Form #257      **Findings of Fact, Conclusions of Law and Order**  
Complete, do not sign. The Judge will sign at the hearing if he grants your petition. He or she may make some changes.
- Form #258      **Letters of Guardianship**  
Complete caption only. This is for the Clerk of District Court to fill out and sign. These “letters” give the guardian authority regarding medical care, education, etc.

**STEP 2. -- Making Copies**

- Make 1 copy of your Order on Ability to Pay from document #250.
- Make 1 copy of Forms #251-254.
- Make 2-3 copies of Form #256 once hearing has been scheduled. A copy of Form #256 is required to be given to any person requiring notice of the hearing under Mont. Code Ann. § 72-5-225. (see below)

**STEP 3. -- Filing Your Case With Clerk of Court.**

- Bring the originals and one copy of Forms #250, 251, 252, 253, 254, and 257.to the Clerk of District Court’s Office for filing. The Clerk will assign a cause number and department number to identify your case with the Court. One copy will be for your own personal records.
- \$120.00 Fee -- cash/money order/personal check (subject to change). If you cannot afford the fee, fill out the Form #250, “Affidavit of Inability to Pay”.
- The Clerk will file stamp all your documents (copies and originals). The Clerk will keep the originals and give you the copies. One set is to be retained by you.

**STEP 5. – Required Notice of Hearing**

- Under Mont. Code Ann. § 72-5-225 the following parties are required to be given notice of the time and place of the hearing on a petition for appointment of a guardian of a minor:
  - The minor, if the minor is 14 or older,
  - The person who has had the principal care and custody of the minor during the 60 days proceeding the date of the petition, and
  - Any living parent of the minor.

Notice must be given in one of the following ways under Mont. Code Ann. § 72-1-301:

- by mailing a copy of the notice at least 14 days before the time set for the hearing by certified mail or ordinary first class mail addressed to the person being notified
- by delivering a copy of the notice to the person being notified personally at least 14 days before the time set for the hearing, or
- if the address or identity of any person is not known and cannot be ascertained with reasonable diligence, by publishing the notice in a weekly paper once a week for 3 consecutive weeks and, if in a newspaper published more than once a week, by publishing on at least 3 different days of publication. There must be at least 10 days from the first to the last day of publication, both the first and the last day being included.

- Bring Forms #257 and #258 to the final hearing. The judge will sign Form #257 and the clerk will sign Form #258 after the hearing.

#### **IV. AFTER THE HEARING:**

- A filing fee of \$45 (subject to change) must be paid to the Clerk of Court before the Findings of Fact and Conclusion of Law and Decree (Form #257) is filed and the Letters (Form #258) are issued.
- Copies of the Findings of Fact, Conclusions of Law and Order Appointing Guardian of Minor will be available at the Clerk of Court's office. The Clerk's office charges \$10 per copy. However, you have already supplied 2 extra copies of the Findings. The Clerk's office will conform these copies with the original at no cost. The Clerk should then certify one copy. The cost for certification is \$2.00 each.

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