

What to Expect: An Overview of Guardianship Cases in Montana

It costs money to ask for a guardianship of a minor. There are court fees, copying costs and "service of process" costs. If you believe you cannot afford to pay the court fees, follow the instructions in the packet for the "Affidavit of Inability to Pay" which, upon review by a Judge, may result in all or part of your fees being waived.

THE PAPERWORK

There is a lot of paperwork involved in having a guardianship granted by a Judge. Some of the documents in a guardianship case are:

1. Summons and Petition

In Montana, you must start the guardianship process by writing a Summons and Petition and "serving" them on the parents of the minor child. See instructions in packets for specific rules for how to serve the documents.

2. Response

The parent(s) who received the Summons and Petition must read the documents and decide how to respond. If the parent(s) disagrees, they write and serve a Response.

3. Service of Process: If the other person in your case will not sign an Acknowledgment form saying they received the court papers, then you will have to pay to have the Sheriff or another person not connected to the case deliver the paperwork and sign a form saying that they delivered the papers to the parent(s).

4. Status Report to the Court, Mediation and Court Orders

If you indicate you and the minor child's parent(s) cannot agree in the "Status Report and Request for Court Action" form, the Court may issue an Order for a hearing to help resolve the problem. You may also be ordered to attend an "Intervention Conference" with a Standing Master or to attend mediation.

5. Final Guardianship Document

The official name of your final guardianship document is Findings of Fact, Conclusions of Law, and Order Appointing Guardian of Minor. Once this document has been signed by a Judge, it is "entered" by the Clerk of Court as the Final Decree.

GOING TO COURT

1. Where to go? This Missoula County Courthouse is located at 200 West Broadway, Missoula, MT. The Mineral County Courthouse is located at 300 River St. Superior, MT. It's open Monday – Friday, 8:00 AM to 5:00 PM and is closed on all major holidays.
2. How often? The number of times you go to Court to see a Judge or Standing Master depends a lot on whether you and the minor parent(s) can agree on issues regarding the minor child. If you don't agree, things usually take longer to get resolved.
3. Courtroom Behavior. Appearing in court is a very important part of any legal case, and all parties are expected to arrive early, dress properly, and act respectfully.

TIPS FOR YOUR DAY IN COURT

1. Don't Miss Your Court Date. Court is not an appointment that can be missed or rescheduled. If you don't show up, you will likely lose the case by default. If you have a serious reason why you cannot go to court on the assigned day, call the Judge's clerk at the Clerk of Court's office. Usually you need to file papers requesting a change, or get the other side to agree to change the date.
2. If you are the Respondent in a case (someone else started the case) and you agree with the other side's requests or don't have any defense, you may think there is no point in going to court. Not going can be dangerous because you might not fully understand everything that can or will be ordered in your absence.
3. Allow Plenty of Time to Get to Court. You should arrive at the courtroom 30 minutes before your hearing time. Consider the traffic, weather, parking or frequency of the bus and allow plenty of extra time. You are not allowed to carry any weapons in the courthouse.
4. Bring your files. You should have a file with copies of all papers you and the other side have filed with the court, or given to each other.
5. Dress nicely and take off your hat.
6. Do not bring children. Unless the court has told you to bring your children to the hearing, make arrangements for someone to take care of your children if possible.
7. Proper conduct in the courtroom. Certain behaviors are not allowed because they are noisy, distracting or disrespectful. You cannot: chew gum, eat, read a newspaper, sleep, wear a hat, listen to earphones, carry a cell phone or pager unless it's turned off, have a camera or camera phone, or carry a weapon.
8. During the hearing you should listen carefully, ask permission of the Judge to speak, talk directly to the Judge and not the other side, avoid arguing with or interrupting another person, and control your emotions. When you talk to the Judge, start by saying, "Your Honor". Speak loudly and clearly and remember that only one person can speak at a time.
9. Before you leave court make sure you understand what happens next. Do you need to come back for another court hearing? Do you need to take other steps or actions? Will the Judge make an order as a result of the hearing? Politely ask questions if you do not understand what will happen next.

(Revised: 04/13)