

Circuit Court of Hampshire County

SONJA K. EMBREY, CLERK

Post Office Box 343

50 South High Street, Suite 157

Romney, West Virginia 26757



304-822-5022

304-822-8257-FAX

Email: sonja.embrey@courtsww.gov

Website: www.hampshirecircuitclerkwv.com

Beverly D. Shanholtz, Chief Deputy

Jessica L. MacBeth, Deputy

Katie L. Simmons, Deputy

Rachael E. Hiatt, Deputy

IMPORTANT NOTICE to ProSe Filers

- **READ ALL INSTRUCTIONS CAREFULLY**
- Circuit Clerk’s Office cannot help fill out the forms or give legal advice
- CASH, MONEY ORDER or CREDIT CARD are accepted
 - Cash **MUST** be exact change
 - No Personal Checks
 - Credit Card service Fee when paying via credit card
- You must have a complete address for the Respondent
 - NO PO Boxes for services via Sheriff
- All forms must be completed before filing; including Notarization(s)
 - Please note that there isn’t a Notary in Hampshire County Circuit Clerk’s Office.
- The Hampshire County Circuit Clerk has transitioned to WV e-File as of January 2016. As a result of electronic filing it is not necessary to make additional copies of the paperwork you are filing. You will receive all of your original documents in return after filing.

Thank you,

Sonja K. Embrey
Circuit Clerk

Filing Fees

Minor Guardianship	\$200
--------------------	-------

Service Fees

Service via Certified Mail	\$20
Service via WV Sheriff	\$25

WEST VIRGINIA INSTRUCTIONS FOR MINOR GUARDIANSHIP

IMPORTANT INFORMATION

YOUR RIGHTS MAY BE BETTER PROTECTED WITH THE HELP ON AN ATTORNEY

You can be appointed as a guardian for a minor if a minor needs someone besides their parents to provide care for them. You can also be appointed as a guardian if a minor owns valuable property that an adult should manage. **Do not file a minor guardianship case if the issue is custody between parents.**

To be appointed as a guardian, you must complete a petition. If you will only provide care for a minor, then the “Petition for Appointment of Guardian for the Minor(s)” should be completed. If you must manage a minor’s valuable property, then the “Petition for Appointment of Guardian for the Minor(s) and/or for the Estate of the Minor(s)” should be completed. The form should be filled out as completely and neatly as possible. You will also need to complete a Civil Case Information Sheet (CCIS).

Unless the case involves abuse and neglect of the minor(s), the case may be filed in family or circuit court. If the case involves abuse and neglect of the minors or the minors were ever subject to an abuse and neglect case, the case must be addressed in circuit court. In these circumstances, you should select "circuit court" at the top of the petition form.

If a parent wants you to serve as guardian, the parent should complete a “Waiver of Guardian Appointment.” If a minor, at least age 14, wants you to serve as a guardian, the minor should complete a “Nomination for Appointment of Guardian.”

Once the original forms are completed, they must be filed in the in the circuit clerk’s office in the county where the minor has lived for the last six months. There are some exceptions that can be indicated on the petition. You should keep a copy of all forms and submit copies to the clerk for anyone who must be served. A filing fee and fees for service of the petition will be collected unless you qualify for a fee waiver.

These fees will be collected unless you qualify for a fee waiver:	\$200.00
Filing fee for minor guardianship:	\$ 25.00
Service for each copy of the petition by the Sheriff:	

In some counties, you may need to prepare a notice of hearing. You should ask the circuit clerk whether it is your responsibility. If so, you should serve the notice of hearing, along with the petition and related documents.

When the petition and related documents are filed, **you will be responsible for serving persons who will be affected by the guardianship.** The people who must be served include:

- a) any parent who is not a petitioner and whose parental rights have not been terminated;
- b) any other person who has custodial rights to any minor named in the petition; and
- c) any minor who is 14 years of age or more. Other than a parent, a person has custodial rights to a minor if a court has placed custody of a minor with him or her.

To arrange for service of the petition, the summons, and the notice of hearing, you need to select the type of service: personal service by the sheriff's department, personal service by a private process server, or certified mail. You should include the type of service on the CCIS. Because minor guardianship cases must be addressed quickly, service by certified mail is not a good option for service. Another option can include the completion of a form, "Acceptance of Service," that indicates that an individual is voluntarily accepting service. For example, a parent who agrees that the petitioner should be the guardian may be willing to complete this form. The clerk's office should have a copy of the form for "Acceptance of Service."

The court will conduct an initial hearing within 10 business days of the filing of the petition. The court may conduct additional hearings if all issues are not resolved at the first hearing.

If you are appointed as a guardian for a minor and/or the estate of a minor, you may be required to post a bond. The court will establish the type of bond.

IN RE:
The Marriage / Children Of:

Case No. _____

Judge: _____

_____, and _____
Petitioner (First/Middle/Last) Respondent (First/Middle/Last)

**PETITIONER'S CIVIL CASE INFORMATION STATEMENT
DOMESTIC RELATIONS CASES**

PETITIONER'S IDENTIFYING INFORMATION	IMPORTANT NOTICE
<p>Street Address _____</p> <p>City / State / Zip Code _____</p> <p>() - <input type="checkbox"/> Male / <input type="checkbox"/> Female</p> <p>Phone Number _____</p> <p>_____ / _____ / _____</p> <p>Social Security Number _____ Date of Birth _____</p> <p>Race: <input type="checkbox"/> American Indian/Alaskan Native <input type="checkbox"/> Hispanic <input type="checkbox"/> Asian or Pacific Islander <input type="checkbox"/> Black <input type="checkbox"/> Unknown <input type="checkbox"/> White</p>	<p><input type="checkbox"/> Check this box if you wish to keep the information in this box CONFIDENTIAL because you fear for your safety and/or the safety of your children.</p> <p>If the box above is checked, this page is sealed in the file and NOT TRANSMITTED with the Petition and Summons.</p> <p>You must complete the form, Affidavit To Withhold Identifying Information, and file it at the Circuit Clerk's Office.</p>

List all minor children affected by this action:

Name	Date of Birth	Social Security Number
	/ /	- -
	/ /	- -
	/ /	- -
	/ /	- -

YES NO Do you or any of your clients or witnesses in this case require special accommodations due to a disability?

- IF YES, SPECIFY:
- Wheelchair accessible hearing room and other facilities;
 - Interpreter or other auxiliary aid for the hearing impaired;
 - Reader or other auxiliary aid for the visually impaired;
 - Spokesperson or other auxiliary aid for the speech impaired;
 - Other: _____

Original and _____ copies of petition enclosed/attached.

PETITIONER: _____

Case No. _____

RESPONDENT: _____

Days To Answer: _____ Type of Service: _____

1. RESPONDENT'S IDENTIFYING INFORMATION	
Street Address _____	
City / State / Zip Code _____	
() - _____	<input type="checkbox"/> Male / <input type="checkbox"/> Female
Phone Number _____	/ /
Social Security Number _____	Date of Birth _____
Race: <input type="checkbox"/> American Indian/Alaskan Native	<input type="checkbox"/> Hispanic
<input type="checkbox"/> Asian or Pacific Islander	<input type="checkbox"/> Black
<input type="checkbox"/> Unknown	<input type="checkbox"/> White

2. TYPE OF CASE RELIEF
(Check All That Apply)

- Divorce Without Children
- Divorce With Children
- Grandparent Visitation
- Annulment
- Separate Maintenance
- Child Support Only
- Child Custody Without Divorce
- Paternity
- Modification
- Contempt
- Infant Guardianship
- Other (specify): _____

3. YES NO Is either party seeking child support or alimony?
4. YES NO Is a Domestic Violence Protective Order in effect now?
5. YES NO Is there an active Child Protective Services (CPS) investigation of the children or was an investigation conducted in the last year prior to filing this action?
6. I am proceeding without an attorney.

OR

I have an attorney. (Complete attorney information below.)

Attorney Name: _____

Firm: _____

Address: _____

Telephone: () - _____

Dated: _____

Signature _____

IN THE _____ COURT OF _____ COUNTY, WEST VIRGINIA

IN THE MATTER OF:

Civil Action No.

- -

Minor(s) Under the Age of 18 Years

**PETITION FOR APPOINTMENT OF GUARDIAN FOR THE MINOR(S) AND/OR
FOR THE ESTATE OF THE MINOR(S)**

I/We, _____, the Petitioner(s), pursuant to West Virginia Code § 44-10-3, hereby request that the Court appoint a guardian for the following minor(s):

<i>Name</i>	<i>Age</i>	<i>Date of Birth</i>
_____	_____	____/____/____
_____	_____	____/____/____
_____	_____	____/____/____
_____	_____	____/____/____
_____	_____	____/____/____

Type of Guardianship

1. Petitioner(s) is/are requesting the following type of guardianship:

over the person (custody) the minor(s). This type of guardianship provides the guardian authority over the person of the minor, including decisions that a parent would ordinarily make and requires that the guardian provide for the physical and emotional well-being of the minor(s).

and/or

over the estate of the minor(s). This type of guardianship provides the guardian authority over the assets owned by the minor. If the minor does not own any assets (not including personal effects), then guardianship over the estate is not needed.

Need for Proposed Guardianship

2. The proposed guardianship is needed for the following reason(s): *(Attach additional pages if needed)*

Minor's Information

3. Each minor(s) named above is:

current resident of this county and state for the past six months; or there

are extraordinary circumstances that justify an earlier filing. These

circumstances include: _____
_____.

a nonresident of the state but has an estate (real property or other assets) in this county.

4. The minor(s) currently live(s) with _____

whose address is _____

and telephone number(s) is/are _____.

5. During the last five years, the minor(s) has/have lived at the following addresses:

Minor's Name	Address and Adult Members of Household	Dates of Residence

Parents' Information

6. The parents of the minor(s) is/are:

<i>Name</i>	<i>Last Known Address</i>
Father: _____	_____
Deceased <input type="checkbox"/> Yes <input type="checkbox"/> No	_____
	Telephone No.: _____
Mother: _____	_____
Deceased <input type="checkbox"/> Yes <input type="checkbox"/> No	_____
	Telephone No.: _____

7. Deceased Parents: *If any parent is deceased, please provide the date of death and county and state in which the parent died. If available, please attach a copy of the death certificate.*

Name: _____

_____/_____/_____ _____

Date of Death County and State of Death

Name: _____

_____/_____/_____ _____

Date of Death County and State of Death

8. Parents whose parental rights have been terminated: *If the parental rights of either parent have been terminated in a child abuse and neglect case, please provide the date of the termination and county and state of the child abuse and neglect case.*

Parent's Name: _____

Date of Termination: ____/____/____ County and State: _____

Parent's Name: _____

Date of Termination: ____/____/____ County and State: _____

9. PRIOR CPS INVESTIGATION: *Complete this section if the parents or the minor(s) have been subject to a CPS investigation.*

(a) The minor(s) and/or their parents have been subject to a CPS investigation(s) that involved the following: _____

(b) The outcome of the investigation was: _____

(c) CPS investigation history occurred in _____ County in the State of _____

10. If custody has previously been determined by a court proceeding, please complete this section.

To the best of my knowledge, the minor(s)'s custody has been determined in the following court proceedings:

Name of Court: _____

Case No.: _____ County and State: _____

Type of Proceeding: _____

Outcome of Proceeding: _____

Information of Proposed Guardian

11. *The proposed guardian(s) of the minor(s) is/are: (Check and complete as appropriate, depending upon whether one guardian is sought over the minor(s) and/or the estate, or different guardians are sought over the minor(s) and the estate).*

Name: _____

Address: _____

Telephone number(s): _____

Date of Birth: ____/____/____

Relationship, if any, to the minor(s): _____

12. The proposed guardian(s) for the estate is:

Name: _____

Address: _____

Telephone number(s): _____

Date of Birth: ____/____/____

13. List the full name(s) of all other adults, besides the proposed guardian(s), who reside in the household of the proposed guardian: _____

14. The proposed guardian(s) is/are competent and fit to serve as guardian(s) of the

minor(s) and/or estate of the minor(s); and the welfare and best interests of the minor(s)

be properly protected by the appointment of the proposed guardian(s).

15. For the court to determine an appropriate guardian, the Petitioner(s) states the following regarding the proposed guardian(s): _____

- (a) Yes No Required to register as a sex offender under West Virginia Code, Chapter 15, Article 12;
- (b) Yes No Record of any misdemeanor or felony conviction;
- (c) Yes No Subject to a restraining order or final protective order;
- (d) Yes No Subject of any substantiated report alleging child abuse, neglect, or sexual abuse made to any child protection agency ("CPS"), other law enforcement agency, or court in any jurisdiction;
- (e) Yes No Uses any illegal substances, such as drugs, or misuses prescription drugs;
- (f) Yes No Abuses alcohol;
- (g) Yes No Another person living in the home is involved in any of the matters stated above.

If you answered "yes" to any of the questions, please provide additional information:

Estate of Minor(s)

16. The minor(s)'s estate consists of the following assets:

Real property: _____

Personal Property: _____

Other: _____

17. Do the minor(s) receive(s) any ongoing payments such as social security or child support?

Yes No

18. Does one of the parents receive child support payments for the minor(s)?

Yes No

If your answer is "Yes," to either question 17 or 18, please list the type of payment, the amount of the payment, and how often it is received.

19. Please provide any additional information that the court should consider:

Temporary Relief

20. For the following reasons:

- a curator for the estate of the minor(s) is needed; or
- a temporary guardian is needed to protect the welfare and the best interest of the minor(s) until a guardian is appointed and qualified to act; or
- temporary relief is not needed.

Because of the following circumstances, temporary relief is needed: _____

WHEREFORE, based upon the foregoing, and upon a hearing to be held in this matter, the undersigned petitioner requests that the Court appoint the above-proposed guardian(s) of the herein-named minor(s) and/or the estate and grant such other relief the Court finds appropriate.

Dated this _____ day of _____, 20_____.

Note: If the Court grants your petition, you may be required to post a bond. The Court will determine the amount and type of the bond.

VERIFICATION

STATE OF WEST VIRGINIA

COUNTY OF _____, to wit:

I, _____, on oath or affirmation, say that I am the petitioner named in this PETITION FOR APPOINTMENT OF GUARDIAN FOR THE MINOR(S) AND FOR THE ESTATE OF THE MINOR(S) and that the facts contained herein are true, except that where they are stated to be on information and belief, I believe them to be true.

PETITIONER

Taken, subscribed, and sworn or affirmed before me this _____ day of _____,
20 _____.

My commission expires: _____.

Notary Public

AFFIDAVIT OF OUT-OF-STATE OR UNKNOWN RESIDENCY

STATE OF WEST VIRGINIA

COUNTY OF _____, to-wit:

I, _____, after being sworn, do say that I am the Petitioner in the foregoing Petition for Divorce now pending in the Family Court of _____

County, West Virginia; and further that:

The Respondent, _____,

(CHECK ALL THAT APPLY)

is not a resident of the State of West Virginia; and the last known address of the Respondent is

_____ County;

OR

After giving my documents twice to the Sheriff in the County where the Respondent resides, the Sheriff has not been able to serve the Respondent;

OR

I have used due diligence to determine the address of the Respondent and have been unable to locate it. The address of the Respondent is unknown to me.

Petitioner, Pro Se

Taken, sworn to, and subscribed before me this _____ day of _____, 20_____.

Notary Public

My Commission expires _____.

IN THE _____ COURT OF _____ COUNTY, WEST VIRGINIA

IN THE MATTER OF:

Civil Action No.

____ - ____ - ____

Minor(s) Under the Age of 18 Years

NOMINATION FOR APPOINTMENT OF GUARDIAN

1. I, _____, a minor named in this proceeding, am over the age of fourteen years, being born on _____, _____, _____, and further being resident of _____, County, West Virginia, do hereby nominate and request the appointment of _____ as guardian of:

(initial one or both)

_____ My person

_____ My estate

2. I am nominating the guardian named above for the following reasons:

Dated this _____ day of _____, 20_____.

MINOR

STATE OF WEST VIRGINIA
COUNTY OF _____, to wit:

Taken, subscribed, and sworn or affirmed before me this _____ day of _____, 20_____.

My commission expires: _____.

Notary Public/Judicial Officer

IN THE _____ COURT OF _____ COUNTY, WEST VIRGINIA

IN THE MATTER OF:

Civil Action No.

____ - ____ - ____

Minor(s) Under the Age of 18 Years

WAIVER OF GUARDIAN APPOINTMENT

1. I, _____, Father/ Mother of the following minor(s):

<i>Name</i>	<i>Age</i>	<i>Date of Birth</i>
_____	_____	____ / ____ / ____
_____	_____	____ / ____ / ____
_____	_____	____ / ____ / ____

hereby waive my priority right to qualify for the appointment as guardian (**Check one or both**)

of the person/ of the estate of the above named minor(s).

2. I agree to the appointment of a guardian, and I am waiving my priority right to qualify as guardian:

3. (Optional) Additionally, I nominate, and respectfully request that the Court appoint as guardian for my minor child.

4. To the best of my knowledge, I state the following regarding the proposed guardian(s)

- (a) Yes No Required to register as a sex offender under West Virginia Code, Chapter 15, Article 12;
- (b) Yes No Record of any misdemeanor or felony conviction;
- (c) Yes No Subject to a restraining order or final protective order;
- (d) Yes No Subject of any substantiated report alleging child abuse, neglect, or sexual abuse made to any child protective agency ("CPS"), other law enforcement agency, or court in any jurisdiction;

- (e) Yes No Uses any illegal substances;
- (f) Yes No Abuses alcohol;
- (g) Yes No Another person living in the home is involved in any of the matters stated above

If you answered "yes" to any of the questions above, provide further information:

5. I further state that the other parent of the child is _____, and his/her address and telephone number are:

Dated this _____ day of _____, 20_____.

FATHER/MOTHER

STATE OF WEST VIRGINIA
COUNTY OF _____, to wit:

Taken, subscribed, and sworn or affirmed before me this _____ day of _____, 20_____.

My commission expires: _____.

Notary Public/Judicial Officer