

PREPARING THE INITIAL FORMS

Where can I find the forms?

- Judicial Council of California Website - <http://www.courts.ca.gov/forms.htm>
 - Click on Select a Category
- Essential Forms and Legal Solutions
- Forms may be hand-written or typed
- ***NOTE: Your court may have additional, required local forms

What forms will I need to file initially?

- a. **FW-001-GC:** Request to Waive Court Fees (Ward or Conservatee) (one per child)
 - i. Copy of any public assistance cards/verification (i.e. food stamps, paystubs, etc.)
 - ii. **SDSC PR-136:** Probate Ex Parte Coversheet & Instructions (on green paper)
 1. Use ONLY if your client falls under category 8c on FW-001-GC
- b. **FW-003-GC:** Order on Court Fee Waiver (Ward or Conservatee) (one per child)
- c. **GC-210:** Petition for Appointment of Guardian
 - i. **MC-025:** Attachment 10 (Use if you are requesting the court to waive notice to anyone)
 - ii. **GC-210(CA):** Guardianship Petition - Child Information Attachment (one per child)
 1. **MC-025:** Attachment 8c(1) (one per child)
- d. **FL-105/GC-120:** Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)
 - i. **FL-105(A)/GC-120(A):** Attachment to Declaration Under UCCJEA (Use if more than two children)
- e. **GC-211:** Signed Consent of Proposed Guardian (one for each proposed guardian)
- f. **GC-212:** Confidential Guardianship Screening Form (one for each proposed guardian)
 - i. **MC-025:** Attachment (if answer to GC-212 was yes)
- g. **GC-248:** Duties of Guardian (each proposed guardian must sign)
- h. **MC-030:** Declaration (use if there are allegations of unfitness) with the phrase, "CONFIDENTIAL PURSUANT TO LOCAL RULE 4.19.2" at the top of the form.

Instructions for Completing Forms

a. FW-001-GC: Request to Waive Court Fees (Ward or Conservatee)

Complete one for each child. Court fees and costs will be waived only if the MINOR meets one of the following three requirements:

1. The minor is receiving public financial assistance under one or more of the following programs:
 - a. Food Stamps (Cal-Fresh/SNAP)

- b. SSI (Supplemental Security Income). This is NOT social security benefits.
- c. SSP (State Supplementary Payment). This is NOT social security benefits.
- d. Medi-Cal
- e. County Relief/General Assistance
- e. IHSS (In-Home Supportive Services)
- f. Cal-WORKS or Tribal TANF
- g. CAPI (Cash Assistance Program for Aged, Blind, Disabled)

2. The gross monthly income of the minor’s household is less than the following:

<u>Number in Family</u>	<u>Family Income</u>
1	\$1,256.26
2	\$1,691.67
3	\$2,127.09
4	\$2,562.51
5	\$2,997.92
6	\$3,433.34
Each additional family member	Add \$435.42

A “household” includes anyone the minor supports or who supports the minor. For example, a “household” would include a typical nuclear family with the parents and children. The instructions indicate that you should not include the proposed guardian’s income as part of the household income.

3. The household income is not enough to pay for the household’s basic needs and also pay court fees and costs. This option may be utilized where the gross monthly household income exceeds the fee schedule and minor does not qualify based on requirement #2 or #1.

Item 1: Enter your client’s full legal name, address and telephone number

Item 2: Enter your name, firm, address, bar number, telephone number, and email

Item 3: Enter the minor’s name, address, phone number, age and date of birth

Item 4: Write N/A

Item 5: Write “not employed” or list minor’s job details if employed

Item 6: Mark the “Superior Court” box

Item 7: Leave blank

Item 8a: Check if the minor receives any of the listed forms of government assistance. If so, do not fill out the fourth page of the form. It is not necessary to include proof of receipt of benefits, but it is recommended.

Item 8b: This applies if the minor does not receive the forms of financial assistance listed in 5a but minor’s household’s gross monthly income falls within the schedule that is listed. Check the box and complete Items 14, 15, and 16 on the second page of the form. It is not necessary to include any proof of income or other attachments.

Item 8c: This applies to cases that do not fall under Items 8a or 8b, and if the household’s income is not enough to pay for court fees and costs after paying all monthly expenses. Check box c and all three options, “waive all court fees and costs,”

“waive some of the court fees,” and “let me make payments over time.” Complete Items 14, 15, 16, 17, and 18. You may explain additional or extraordinary expenses in an attachment (you may use a word document labeled “MC-025” at the top). It is helpful to attach copies of paycheck stubs, bills, bank statements, and if possible, a declaration from your client or the minor explaining why he/she is unable to pay the filing fee. If your client falls under category 8c, your request will be reviewed by the Court on a later date. It is unlikely the Court will grant the request in full; however, the Court often orders a payment plan. If your client falls under category 8c, please note that the business office will request that you complete and submit **SDSC PR-136**. The business office will take the original and the copies and will notify you when the judge has made a decision. Although SDSC PR-136 has instructions on the back with additional requirements, you should ignore these requirements. They do not apply to a Request to Waive Court Fees.

Item 9: Check “Person only, no estate.”

Item 10a: Enter the father’s name, address (if known), and telephone number

Item 10b: Enter the mother’s name, address (if known), and telephone number

Item 10c: Check the box for the parents’ marital status (if known). If there is a child support order, include information for the order.

Items 11-13: Leave blank

Have your client sign and date at the bottom of page 3.

b. FW-003-GC: Order on Court Fee Waiver (Ward or Conservatee)

Complete one for each child. If you are requesting a Fee Waiver using FW-001-GC, FW-003-GC must be completed as your proposed court order. If the minor qualifies for a fee waiver under Gov. Code §68632 then the court must allow complete waiver of court fees, including reasonably necessary certification and copying. See Cal. Rules of Court §3.55.

Item 1: Enter the client’s full legal name, address and telephone number.

Item 2: Enter your name, firm, address, bar number, telephone number, and email

Item 3: Enter the child’s full legal name, address, and telephone number

Item 4: Leave blank

Item 5: Leave blank

Item 6: Check the box to “Request to Waive Court Fees”

Item 6a: Check the box

Item 6a1: Check the box

c. GC-210: Petition for Appointment of Guardian

Item 1: Include the name of the petitioner on the first line. The petitioner is not always the proposed guardian and may be the minor if 12 years old or older, or another person on behalf of the minor (Probate Code § 1510(a)). **Use full legal names as listed on the birth certificate.** Petitioner and/or guardian must sign forms exactly as their names are listed throughout the forms. Only one person should be listed as petitioner, even if there is more than one proposed guardian. However, in Peace of Mind cases, it is

helpful to list another person along with the terminally ill parent as a petitioner, in the event that the parent passes away before the guardianship hearing. This would avoid having to re-file the case under a new petitioner.

Item 1a: Include the name and address of the proposed guardian or guardians, or in a joint guardianship, the name and address of the parent who has a terminal illness and the name and address of the person that the parent chooses to serve as joint guardian.

Item 1b: Leave blank. This is for guardianship of the estate cases only.

Item 1c: If the guardianship is of the person only, bond is not necessary. Check box 1, "bond not be required," and check "because the petition is for guardian of the person only."

Item 1f: If notice is not possible, (i.e., because whereabouts unknown) describe those facts in an **Attachment 10** (see Item 10 below). Please note that the request to dispense with notice will not be decided until the hearing. If the judge determines that notice is appropriate, the hearing will be continued so notice can be completed.

Item 1g: If the petitioner seeks other orders, include them in an **Attachment 1g**. Examples of other orders include: An order specifying parental visitation rights or an order requesting that the court take emergency jurisdiction.

Item 2: Fill in each minor's complete name as listed on his/her birth certificate and date of birth. If there are more than four minors at issue, the names and dates of birth of the additional minors should be set forth in **Attachment 2**.

Item 3: Check the box that applies to the petitioner.

Item 4: If the proposed guardian is related to the minor, check box (b). If the proposed guardian is not related to the minor, check box (c)

Item 5: If the proposed guardian intends to adopt, check this box. If the proposed guardian is unsure of her answer to this question, it should be left blank.

Item 6: Check the boxes that apply only if a person other than the proposed guardian has been nominated by a will or another written nomination. If so, affix the nomination in an **Attachment 6**.

Item 8: Check the box by "person". In the space provided, set forth the reasons appointment of a guardian of the minor is necessary and convenient. If needed, continue in **Attachment 8**. If parental custody of the minor would be detrimental to the minor, check the box. Do not include allegations of unfitness directly in the pleadings. Instead write "Please see confidential declaration" and include the allegations in a separate declaration (MC-030). You will want to explain why the parents are not able to care for the child, the relationship between the child and the proposed guardian, why the proposed guardian is a suitable caregiver, and any other reasons why the guardianship is needed. Keep in mind that all parties will have access to this form.

Item 10: Check this box only if item 1f was checked. A request to dispense with notice may be granted if these persons cannot with due diligence be given notice (i.e., if their whereabouts unknown or doing so would be against the interests of justice.)

Attachment 10 should include the names of persons that will not be located or notified.

Item 11: Complete this section if the proposed guardian is not a relative. If the petitioner is not the proposed guardian, include an **Attachment 11b**, which includes the following or its equivalent:

The undersigned is the proposed guardian of the person of [name], a minor, in these proceedings. The undersigned will promptly furnish all information requested by an agency referred to in Probate Code § 1543.

Dated: _____

Signature of proposed guardian

Check the boxes in 11(c) and/or (d) if appropriate.

Item 12: Check this box.

Item 13: Check each appropriate box for the documents filed with the petition.

Item 14: Note the number of pages that are attached to the Petition.

Make sure that you sign and date the form and that each petitioner signs and dates the form.

d. GC-210(CA): Guardianship Petition - Child Information Attachment

A Child Information Attachment must be filled out **for each child** subject to the guardianship. Write the names of all minors involved at the top of the form, and just below, the name of the specific child that form refers to. Each form should be attached to item 2 of form GC-210; check the corresponding box. Then check the box just below, indicating that it is a guardianship of a person.

Item 1a-b: Enter the child's full legal name, date of birth, address, and telephone number.

Item 1c: (1) Check this box to indicate whether the child has Native American heritage. If the answer is "Not sure" or "No," then answer item (2). If the answer for either (1) or (2) is "Yes," then the Notice of Child Custody Proceeding for Indian Child (Form ICWA-030) must be filled out, and notice must be mailed according to the ICWA special notice procedure.

Item 1d: Check "never married."

Item 1e: Check the box that applies. The child's receipt of public benefits is relevant both to the need for guardianship and the waiver of fees. Specify in the boxes provided the type and amount of aid the child is receiving.

Item 1f: Complete this item if a court has ordered legal custody or if a parent claims legal custody, and give the name and address of the legal custodian. Leave blank if unknown.

Item 1g: If the child lives with someone who does not have legal custody of the child, check this box and specify who the child lives with. **This is usually the proposed guardian(s).**

Item 1h: Check the box if applicable, and enter information concerning any adoption, juvenile court, marriage dissolution, domestic relations, custody, or other similar proceedings affecting the minor in the provided boxes. Attach copies of any relevant orders or pending proceedings, if available.

Item 1i: Check this box if applicable, and enter the name of the institution the child is presently at, or on leave from.

Item 2: List the names and addresses of all relatives within the second degree (parents, grandparents, siblings or half-siblings) (Probate Code § 1510(c)). If space is inadequate for additional siblings, names can be included in an **Attachment 2 – Other Siblings**. If there is a person nominated to be the child’s guardian other than the person you are representing, list their information at the bottom of item 2.

Item 3: Write the name of the proposed guardian in item 3a. Indicate in item 3b the relationship they have to the child (i.e., “Maternal Aunt”, “Step-Sister”, etc.). If the proposed guardian is not a relative of the child, include a brief description of his or her connection to the child.

Item 4: In the space provided, set forth the reasons for appointing the person in item 3 as guardian of the minor. These should be substantially similar to the reasons set forth in item 8 of the petition. Be sure to describe why this person in particular is best suited to care for the child. If you need more space, continue in **Attachment 4 – Best Interest of Child**. In the alternative, you can refer back to your reasons in Attachment 8 (Form GC-210).

Item 5: Indicate whether the mother and father of the child agree to the proposed guardianship. If unknown, check “Not known at this time.” If either parent agrees, he or she can nominate the guardian on the “Nomination of Guardian” form (GC-211).

Item 6: Check the boxes as appropriate.

Item 7: Check this box if the petitioner is not the proposed guardian. If so, specify in the space provided the petitioner’s relationship to the child.

Item 8: If the child has no known Indian ancestry, check box (c) and (8). Include an attachment with the names, addresses, and phone numbers of the individuals interviewed to obtain information on Indian heritage, and the date or dates the interview took place.

e. FL-105/GC-120: Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)

The person who signs this declaration can be the petitioner, the parent, or another person.

Item 3: Write the number of children who are subject to the proceeding.

Item 3a: Write the child’s name, place of birth, date of birth, and sex. Below this, include the child’s addresses and length of time at the addresses for past 5 years.

Item 3b: If there is a second child to the guardianship proceeding, include the child’s name, place of birth, date of birth, and sex. If the residence information is the same as the first child, you may check the box “Residence information is the same as given above for child a.” If the residence information is not the same, write the child’s addresses and length of time at the addresses for past 5 years.

Item 3c: Check this box if additional residence information is continued on attachment 3c.

Item 3d: Check this box if there are three or more children subject to the guardianship proceeding and complete FL-105(A)/GC-120(A).

Item 4: Check the appropriate box. If you have information about another court case involving the child/ren, provide the case number, court, court order date, name of child, your connection to the case, case status, and a copy of the court order if you have it.

Item 5: Check if any domestic violence restraining orders are in effect regarding the child, the child's parents, or the proposed guardians. Attach a copy of the orders if they are available.

Item 6: Check if any other person has physical custody of the child or claims to have custody or visitation rights with the child.

f. GC-211: Consent of Proposed Guardian, Nomination of Guardian, and Consent to Appointment of Guardian and Waiver of Notice

This form is actually used for three different purposes. For the initial filing, the proposed guardian should sign section #1, the consent portion of the form. If there are two proposed guardians, they can sign the same consent form. Simply insert a signature line above the existing proposed guardian signature line.

g. GC-212: Confidential Guardianship Screening Form

Each proposed guardian must submit one of these forms. Go through this form twice with the client. Clients may not understand what you are asking, and the story may differ each time it is told. Break down the questions so that they are more understandable.

Item 1: Fill in proposed guardian's name, date of birth, social security number, driver's license number, and telephone numbers. A separate form must be used for each proposed guardian. In joint guardianship cases, the parent must also complete this form.

Items 2-19: Answer all questions and explain "yes" answers in attachments. Please note that a "private professional fiduciary" is defined in Business and Professions Code § 6501(f) means "a person who acts as a conservator or guardian for two or more persons at the same time who are not related to the professional fiduciary or to each other by blood, adoption, marriage, or registered domestic partnership."

Item 20: Include the child's name, current school address, home telephone number and school telephone number.

h. GC-248: Duties of Guardian

Each proposed guardian should read, sign, and date this form.

i. MC-030: Confidential Declaration

Why Do We Use It? Per San Diego Local Rule of Court 4.19.2(d) and Cal. Fam. Code §3041(a), allegations that parental custody would be detrimental to the minor child, other than a statement of ultimate fact, shall **not** appear in the petition. As used in this section, "detriment to the child" includes the harm of removal from a stable placement

of a child with a person who has assumed, on a day-to-day basis, the role of his or her parent, fulfilling both the child's physical needs and the child's psychological needs for care and affection, and who has assumed that role for a substantial period of time. A finding of "detriment to the child" does not require any finding of parental "unfitness." Cal. Fam. Code §3041(c); see *Fenn v. Sherriff* (2003) 109 CA4th 1466, 1486, 1 CR3d 185, 201. A confidential declaration allows the Court to see the allegations but stops the allegations from becoming part of the public record.

How Do We Make a Declaration Confidential? Write "CONFIDENTIAL PURSUANT TO LOCAL RULE 4.19.2" at the top of a separate declaration (MC-030) if you are alleging parental custody is detrimental to the minor. Complete the confidential declaration and file the confidential declaration with the petition for guardianship.

For example, if you want the Court to know that the mother has a drug addiction and has been arrested for drugs, theft, and assault, you cannot write these allegations directly into the petition. You must write them in a separate document (i.e. MC-030) and write "CONFIDENTIAL PURSUANT TO LOCAL RULE 4.19.2" at the top of the declaration. Likewise, if you want the Court to know that the father has been abusive towards the child and that the child has lived with your client for ten years, you must write these allegations in a separate document (MC-030), and write "CONFIDENTIAL PURSUANT TO LOCAL RULE 4.19.2" at the top of the declaration.