

JV-350-INFO Information on Juvenile Court Guardianship

This form is about legal guardianship ordered by the juvenile court as the permanent plan for a child under the court's jurisdiction who cannot return home safely or be adopted.

The form explains:

- What is a guardianship and who can be appointed guardian;
- How and when to ask to be appointed guardian in juvenile court;
- Differences between a foster parent or resource family (a foster parent approved through a specific process), a court-appointed guardian, and an adoptive parent; and
- A guardian's legal rights, duties, and eligibility for financial help.

For information about *probate* guardianship of the person and the estate, read Judicial Council forms GC-205-INFO and GC-206-INFO. For a comparison of probate and juvenile court guardianship with juvenile court placement with a relative caregiver or foster parent/resource family, read form GC-207-INFO/JV-352-INFO.

For more information, visit the California Courts website at www.courts.ca.gov/1206.htm or talk to a lawyer with experience in juvenile court. Learn how to find a lawyer on the website at www.courts.ca.gov/selfhelp-findlawyer.htm.

1 What is a guardianship?

A guardianship—technically a *guardianship of the person*—is a court-ordered relationship in which a person, other than the child's parent, is given legal and physical custody of a child and can make the decisions that a parent can about the child's care and control, residence, education, and medical treatment. When a guardianship is established, the parents' rights to have the child live with them and to make decisions for the child are completely suspended and given to the guardian for as long as the guardianship lasts.

2 Who can be appointed guardian by the juvenile court?

A child's juvenile court guardian must:

- Be an adult (18 years old or older);
- Not be the child's parent; and
- Be approved by the county child welfare agency or juvenile probation department.

3 Can a relative be appointed guardian?

Yes. The court can appoint any approved adult, including any relative except the child's parent.

4 Is a foster parent/resource family the same as a guardian?

No. A foster parent/resource family is *not* a guardian, but the court will often appoint one, especially a relative, as guardian if the child cannot return home. Foster parents/resource families have some legal rights, including:

- The right to notice of the child's review or permanency hearings and go to the hearings; and
- The right to give the court information about the child's needs. *Caregiver Information Form* (form JV-290) may be used for this purpose.

5 How is a guardian different from a foster parent/resource family?

Foster parents/resource families and guardians are both responsible for taking care of other people's children. But there are important differences.

- **Permanence.** Placement with a foster parent/resource family, including a relative, is intended to be temporary; it can end at any time. A guardianship is a permanent plan, intended to give a child a stable, lasting home and a caring relationship.
- **Court supervision.** The court holds review hearings every six months for a child in foster care. A social worker or probation officer visits a foster/resource family placement regularly. In a guardianship, no regular hearings or visits are required unless the court keeps the juvenile case open, though a guardian who receives services and financial support may continue to have contact with a social worker.
- **Duties.** A foster parent/resource family provides food, clothing, housing, and emotional support to the child under the supervision of a social worker or probation officer. A guardian has more rights and duties toward the child but may receive fewer services and less financial and personal support.

6 Who else can be involved in the court case?

The child's relatives. A relative, even if not the child's foster parent/resource family, has a right to give the court information about the child in writing. *Relative Information* (form JV-285) may be used for this purpose. Relatives can also ask the court to allow them to go to the child's hearings.



7 Will the child be returned to the parent?

In most cases, the social worker or probation officer works with the family by giving them services so that the child can return to live safely at home.

Sometimes the court decides the child will not be able to return home safely. If that happens, the court will deny or stop services for the parent. The social worker or probation officer will recommend a permanent plan for the child in a written report to the court.

8 Is guardianship a permanent plan?

Yes. A guardianship is one of three authorized permanent plans. It is intended to last until the child turns 18 years of age. If the child cannot return home, adoption is the legally preferred permanent plan because it is more stable and secure. (Later, this form talks more about adoption.) But if adoption is not a legally available option, the court will try to appoint a guardian for the child.

HOW CAN I BECOME THE CHILD'S GUARDIAN?**9 How do I ask to become the guardian?**

If you want the court to appoint you the child's guardian, you should:

- Tell the social worker or probation officer right away; and
- Ask the judge at a hearing as soon as you can.

Think carefully! If the court appoints you, the guardianship will last until the child turns 18. The court will not “undo” or end a guardianship unless:

- The situation has changed since appointment; and
- It is in the child's best interest to end it.

10 What are the steps to becoming a guardian?

There are several steps to becoming a child's guardian in juvenile court:

- a. The social worker or probation officer will interview you and visit your home to make sure you, your home, and everyone living there are safe for the child.
- b. Your home must be approved.
- c. The social worker or probation officer will write a report to the court recommending a permanent plan for the child.

Note: If you are not recommended as guardian, ask the social worker or probation officer if they will name you as a prospective successor guardian. Then you might be assessed and appointed if the first appointed guardian can no longer serve.

- d. There will be a court hearing to decide the child's permanent plan. You will get a notice that tells you when and where the hearing will happen.
- e. Go to the hearing and talk to the judge. The child's parents and other people interested in the case can also go to the hearing and tell the judge what they think about you being the child's guardian.

11 How will the court decide whether to appoint me as guardian?

The court will consider:

- Whether the child can be adopted;
- The recommendation in the agency's report;
- What you and other people say at the hearing; and
- Any other reasons for or against appointing you as guardian.

The court will appoint you as guardian if it decides that:

- A guardianship is best for the child; *and*
- You are the best person to be the child's guardian.

12 What if the court appoints me as guardian?

If the court appoints you as guardian, take the order to the clerk. After you affirm that you will perform the duties of a guardian under the law, the clerk will issue *Letters of Guardianship* (form JV-330) as proof that you are the child's legal guardian. Buy a certified copy of the form from the clerk, make copies of it, and keep the certified copy in a safe place.

Take a copy of the *Letters* with you whenever you:

- Take the child to a doctor, dentist, or therapist;
- Sign the child up for school or go to school meetings; or
- Travel with the child.



13 Will the court oversee me as guardian?

When it appoints you, the court can give you other orders, such as to notify the court if you move or to allow the parents or siblings to visit and spend time with the child. You must obey the court's orders.

After it appoints you, the juvenile court may oversee the guardianship to make sure you perform your duties. You won't usually have to go to court unless the court keeps the juvenile case open or someone asks the court to change its orders or make new orders.

Note: Even after the juvenile case is closed, anyone, including you, can use *Request to Change Court Order* (form JV-180) to ask the juvenile court to give you directions, review your plans or actions as guardian, change its previous orders, or end the guardianship.

The social worker or probation officer might also offer permanent placement services to the child. If you're not related to the child, a social worker will visit you every six months and update a voluntary case plan. If you don't follow the case plan, the worker might ask the court to order you to do so.

14 When will the guardianship end?

A guardianship lasts until the child turns 18 unless:

- The child dies before then;
- The child is adopted (by you or another adult); or
- The child is emancipated (or freed from your control) by getting married, entering active military duty, or getting a court order.

The court can order a guardianship to end before the child turns 18, but only if the proposed alternative is in the child's best interests; that is, it would be *better for the child* than continuing the guardianship.

Note: If the child keeps living with you after turning 18, you can get financial help if the child is eligible for Kin-GAP or state AFDC-FC and meets the program requirements. See page 5 for more information about financial support generally.

15 Can the court replace me as guardian?

Yes. The court will consider replacing you as guardian if asked by:

- You, the guardian;
- Any other interested adult; or

- The child, if 14 years old or older.

The judge will replace you only if the judge decides after a hearing that the situation has changed and a new guardian is in the child's best interests.

16 How is guardianship different from adoption?

Both a guardian and an adoptive parent have legal and physical custody of the child in place of the birth parents. But there are many differences.

Permanence. In a guardianship, the parent's rights are only *suspended*. The court can end a guardianship and give the parents back their rights if that would be in the child's best interests. In an adoption, parental rights are *permanently ended*. The adoptive parent is the child's legal parent. The birth parents cannot get their rights back.

Visitation. In a guardianship, the court can make an order allowing the parents or other relatives to visit a child. The guardian must obey the visitation order, as well as all other court orders. In an adoption, parents and other relatives lose their rights to visit the child unless the court and the adoptive parents agree that they can have contact after the adoption.

Duration. A guardianship lasts until the child turns 18 unless something happens to end the guardianship before then. (A court can order a guardianship to end if that is in the child's best interest.) An adoption is intended to last forever. A court can end an adoption only by terminating parental rights in a new juvenile or family law case.

Court oversight. The court keeps jurisdiction over a guardianship and can direct the guardian, replace the guardian, or end the guardianship if someone asks and the order is in the child's best interests. The court does not oversee an adoption once it is final.

Inheritance. A child in a guardianship can inherit property from a parent if the parent dies without a will. If the court knows the child might inherit property, it may appoint a "guardian of the estate" to manage the property. An adopted child usually has no right to inherit from a birth parent but may receive a gift from a birth parent's will or trust.

WHAT ARE A GUARDIAN'S RIGHTS AND DUTIES?

Subject to the court's orders, a court-appointed guardian has the same rights to legal and physical custody of the child as a parent does. In general, you must care for and control the child the same way a parent would.

Specifically, that means:

17 Arrange a place for the child to live

If you move the child to a new address in California, you must notify the court in writing. To move the child out of California, you must get court approval first. Use form JV-180 to ask the court to approve. Other states have different guardianship laws. If you plan to move to another state, find out about your legal rights and duties in that state.

18 Arrange for the child's health care

You can consent to (allow) most medical or dental treatment for the child. But if the child is at least 14 years old and does not want to have a non-emergency surgery, you must first get permission from the court.

The law also allows children, usually older ones, to get some kinds of medical treatment on their own without your approval, including:

- Outpatient mental health treatment;
- Reproductive health care; and
- Drug and alcohol treatment.

19 Provide for the child's education

You can choose the child's school and learning programs just as a parent can. In special situations, the court may also be involved in these decisions. Pay attention to how the child does in school, and meet with the child's teachers. If the child needs special education or other specialized services, you can also ask the school or other providers for these services.

20 Access social services

You can get help for the child from other programs, such as:

- Head Start;
- Regional centers for persons with developmental delays or disabilities;
- Health care services; and
- After-school care.

21 Give consent to the child's marriage

You can allow the child to marry, but you must get the court's permission first. Once the child gets married, the guardianship will end.

22 Give consent to the child's military service

You can allow the child to enlist in the U.S. military. Once the child enters active duty, the guardianship will end.

23 Give consent for the child's driver's license

The child cannot get a driver's license without your written permission. (See also the duties described below.) If you change your mind later, you can sign a form at the DMV to cancel the child's driver's license.

24 Pay for harm caused by the child's driving

You must get **insurance** to cover the child when driving. You will have to pay for damage the child causes when driving that's not covered by insurance, but the law limits how much money you can be forced to pay. If you're concerned about this duty, you should talk to a lawyer.

25 Pay for harm caused by the child's other acts

Willful misconduct. In most cases, a guardian can be made to pay only for harm to another person caused by the child's *willful* misconduct. There is usually a limit to how much you can be required to pay.

Negligent conduct. In some cases, you can be made to pay for harm caused by the child's *negligent* conduct. If you're concerned about this duty, you should talk to a lawyer.

26 Pay for the child's needs

The parents are still legally responsible for child support, but you can accept this responsibility. You can get money to help you support the child. See page 5 for more information.

27 Obey all court orders

The court may require you to accept other duties. For example, the judge may order you to take the child to visit a parent or other relative. You must do what the court orders.



WHAT FINANCIAL SUPPORT CAN I RECEIVE?

You may be able to get financial help from the county, state, or federal government. The type of help depends on the child's eligibility and their relationship to you.

Important! Before you become the child's guardian, ask the child's social worker or probation officer or a lawyer if you will qualify for financial help. For a detailed comparison of services and supports available to foster parents, relative caregivers, and guardians, read *Comparison of Guardians With Other Nonparent Caregivers* (form GC-207-INFO/JV-352-INFO).

If the child is related to you

If you become the guardian of a child who is a relative, you may qualify for financial help from these programs:

- **Kin-GAP payments:** If the child has lived with you for at least six months, you have been approved as a resource family, you sign a written agreement, and the court closes the dependency case, you can qualify for Kin-GAP payments. Kin-GAP gives you the same monthly payments as a foster parent caring for a foster child, including any rate the county might pay to care for the child's special needs.

You can receive Kin-GAP in any county or state, but the amount may change based on where you live. In California, the payments are the same amount as foster care payments.

- **Approved Relative Caregiver (ARC) or foster care program:** If the court keeps the juvenile case open after appointing you guardian, you can receive ARC or foster care payments instead of Kin-GAP.
- **CalWORKs (cash assistance):** In very rare situations, you may not qualify for Kin-GAP, foster care, or ARC payments. In those cases, you may still qualify for CalWORKs payments. If you have a low income, you may get a full CalWORKs grant. If your income is too high to qualify for a full grant, you may still receive a "child-only" CalWORKs grant.
- **Health care:** A child who qualifies for Kin-GAP, ARC, foster care, or CalWORKs payments gets health care through Medi-Cal.
- **Independent living program (ILP):** Beginning at age 16, most children can receive ILP funds and services to help them become successful adults. The services available depend on the child's age when Kin-GAP payments started.

- **Chafee Education and Training Vouchers** for postsecondary education are available for youth who were in foster care on or after age 16. Vouchers are worth up to \$5,000 per year.

If the child is NOT related to you

In California, guardians who are not related to the child are eligible for foster care payments from the state. You can receive these payments in any county or state, but the amount may change if you live in another state. Before you move, ask if the rate will change! If you receive payments, a case worker will visit you every six months.

- **Health care:** Children who qualify for foster care payments get health care through Medi-Cal.
- **Independent living program (ILP):** Beginning at age 16, most children can receive ILP funds and services to help them become successful adults.
- **Chafee Education and Training Vouchers** for postsecondary education are available for youth who were in foster care on or after age 16. Vouchers are worth up to \$5,000 per year.

If you keep supporting the child after age 18

Even though the guardianship ends when the child turns 18, payments can continue if the youth still lives with you, you continue to care for and support the youth, the youth meets all other eligibility requirements, and you both sign written agreements.

Generally, Kin-GAP payments end when a child turns 18, *unless* the payments started after the child turned 16 (they continue until age 21) *or* the child has a mental or physical disability (funding continues until 21) *or* the child is in high school (funding continues until 19 or graduation).

Important! Talk to the child's social worker or probation officer or a lawyer a few months *before* the child turns 18 to make sure the child doesn't miss any payments.

CAN I RECEIVE CHILDCARE ASSISTANCE?

California offers a variety of publicly funded childcare programs that help families with low income, including guardians, pay for emergency and long-term, continuous childcare. Programs include: CalWORKs childcare; Alternative Payment Program (AP) voucher and contract-based childcare; California State Preschool Program (CSPP); Head Start and Early Head Start; and Transitional Kindergarten. Many of these childcare programs offer special consideration for families caring for children who have been formally or informally placed outside their home.

Every county in California has at least one childcare resource & referral agency that helps families find childcare and determine whether they qualify for public funding to help them pay for it. Parents and guardians can use this website to find their local resource and referral agency for childcare assistance: <https://rrnetwork.org/family-services/find-child-care>.

The main childcare programs in California are:

- **CalWORKs Childcare:** CalWORKs childcare has three stages:
 - Stage 1:* An entitlement for parents or guardians receiving CalWORKs cash assistance or who received cash assistance in the past 24 months and are engaged or want to engage in a Welfare-to-Work activity. Families stay in Stage 1 until they are transferred to Stage 2.
 - Stage 2:* An entitlement for parents or guardians who received CalWORKs cash-assistance in the past 24 months or a lump-sum diversion payment or services. See AP voucher & contract-based childcare, below, for eligibility requirements.
 - Stage 3:* Subject to enough funding, families are transferred to Stage 3 after 24 months of receiving cash assistance or if they received a lump-sum diversion payment or services. See AP voucher & contract-based childcare, below, for eligibility requirementsFamilies get continuous CalWORKs childcare for children in their care, including children in formal and informal out-of-home care, for at least 12 months until recertification. Childcare is available until the child is 13 years old or, if the child has a disability, until the child is 21. Qualifying families should not be put on a waiting list for CalWORKs Stages 1 & 2, as these are entitlement programs. Families can usually choose the childcare setting that best meets their needs.*

- **AP voucher and contract-based childcare (including CalWORKs Stages 2 & 3):** Families with children in guardianship qualify for childcare based on income, or if they receive CalWORKs cash assistance, or if they are experiencing homelessness and the guardian has a “need” for childcare, such as working or attending school. Families have continuous eligibility for at least 12 months until recertification, until the child is 13 years old or until the child is 21 years old if the child has a disability. Families can usually choose the childcare setting that best meets their needs.*
- **California State Preschool Program (CSPP):** AP voucher and contract-based childcare eligibility requirements apply, with some exceptions. CSPP is for children ages 4–5; there are no “need” requirements for part-day CSPP. CSPPs are located on school campuses and in neighborhoods.
- **Head Start and Early Head Start:** Families experiencing homelessness or families receiving CalWORKs cash payments or Supplemental Security Income (SSI) qualify regardless of their income. Other families must qualify based on their income. Head Start offers comprehensive services to families with children ages 3–5 and Early Head Start is for pregnant women and children under age 3.
- **Transitional Kindergarten:** No-cost early care & education for 4-year-olds offered on school campuses. Parents and guardians with childcare subsidies may keep their 4-year-old children in non-school settings if they prefer.

Local assistance

You can get help and information about financial support and services from local agencies. For example, if the child does not qualify for Kin-GAP, AFDC-FC, or other foster care payments, you may still be able to get Social Security, Supplemental Security Income (SSI), Medi-Cal, or other financial help. Contact your local child welfare agency if you have questions.

* Some counties do not allow guardians to choose unlicensed family, friend, or neighbor childcare.