

## INSTRUCTIONS FOR FILLING OUT FORM

**PURPOSE.** This form is to be used when you are an interested party to the Guardianship and there are grounds for removal of the guardian. This would be either the adult under the guardianship or his or her relative.

**FORMS INVOLVED.** The form is a **Petition to Remove Guardian of a Minor(s)**. You will need to fill in the necessary information with help from the instructions below and then file the forms with the court.

An interested party can petition the Court or the Court on its own motion to have the guardian removed. In the guardianship code a guardian can be removed for breach of trust, continued failure to perform his duties, incapacity to perform his duties, gross immaturity, having an interest adverse to the faithful performance of his duties, removal from the jurisdiction of this Court, insolvency of a guardian of property, when it is no longer proper that the ward should be under guardianship or the guardian has failed to render an accounting or perform other duties as ordered by the Court. If after the hearing the Court finds there are grounds can remove the guardian and compel the guardian to surrender the estate of the ward to the persons found to be lawfully entitled to it.

A guardian can also resign with the permission of the Court.

**How to file the Petition to Remove Guardian.** You must file your Petition by filing it with the court. The Court will provide notice of hearing to the guardian along with the Petition to Remove Guardian and notify the Petitioner of any hearing date and time. If after the hearing the Court finds there are grounds can remove the guardian and compel the guardian to surrender the estate of the ward to the persons found to be lawfully entitled to it. The clerk will find a hearing date and send notice of hearing to all parties.

**BURDEN OF PROOF.** By filing a petition to remove guardian you as the moving party have the burden of proving your claim by preponderance of evidence. This means that by representing your self in a legal matter it is your responsibility to prove your case. Don't expect the judge to prove your case for you. Proving something by a preponderance of the evidence means evidence with greater weight or that is more convincing than the evidence of the opposing party(s). You will need to prove the allegations in the petition by testifying, calling witnesses and/or introducing documents that prove your claim. You as the petitioner have the burden of proving by a preponderance of the evidence the following to the court:

That there are grounds to remove the guardian including breach of trust, continued failure to perform his duties, incapacity to perform his duties, gross immaturity, having an interest adverse to the faithful performance of his duties, removal from the jurisdiction of this Court, insolvency of a guardian of property, when it is no longer proper that the ward should be under guardianship or the guardian has failed to render an accounting or perform other duties as ordered by the Court.

**INSTRUCTIONS FOR FILLING OUT THE FORM.** To fill out this form follow these instructions. The numbers to each instruction below is the number on the blank line on the form where the information for that number needs to be inserted on the form.

- (1) on this line insert the name of each child you are seeking to have the guardian removed and their date of birth (This information should be on all prior guardianship pleadings for reference).
- (2) on this line insert your name.
- (3) on this line insert how you are related/next of kin next of kin (you must show you are an interested party) to the children you are seeking to remove the guardian.
- (4) insert your mailing address.
- (5) in detail tell why the guardian should be removed. See Burden of Proof section above before filling in this part of the petition. Attach copies of any relevant documents to the Petition.
- (6) on this line insert the day.
- (7) on this line insert the month.
- (8) on this line insert the year.
- (9) on this line insert your name by signing.



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4. That it would be in the best interest of the above named minor children that the appointed guardian be removed and be replaced with another.

WHEREFORE, Petitioner(s) prays that this Court order that:

A. Petitioner's petition be granted and the guardian the above named minor children be removed;

B. That another guardian be appointed to act for the above named minor children;

C. This matter be set for hearing and the court.

D. For such other and further relief the Court finds just and equitable.

Dated this (6)\_\_\_\_\_ day of (7)\_\_\_\_\_, (8)\_\_\_\_\_.

(9) \_\_\_\_\_  
Petitioner(s)