

IMPORTANT

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Guardianship Definitions

Accounting – A guardian of the estate must file an accounting with the court each year, if the ward's total assets are \$5,000.00 in value or greater. This requirement is found at NRS 159.176 through 159.181. An accounting is meant to show the court how much money has been received during the accounting period set by law or the court, and how much money has been spent on the care and welfare of the ward during the accounting period. The accounting is also a snapshot of the total value of all the ward's assets. A form Accounting is available for the guardian's use.

Affidavit of Mailing or Affidavit of Service – An affidavit is a sworn statement. The Affidavit of Mailing or an Affidavit of Service shows the Court that certain documents were served. Someone who is not a party to the case and who is over 18 years old will need to mail or serve the documents and sign the document.

Asset Value – The fair market value (price which would be received if the item were sold to an unrelated person) of an asset.

Certificate of Mailing – A document to show the Court that the party was sent a copy of the papers you have just filed. Someone who is over 18 years old and not a party to the case will need to sign this document. Sometimes an Affidavit of Mailing must be used instead of a Certificate of Mailing. (An affidavit is a sworn statement.) If your packet contains an Affidavit of Mailing and/or an Affidavit of Service, you must use that document to show that the documents were mailed.

Citation to Appear and Show Cause – A document which puts people and businesses on notice that some action is being taken on a guardianship case. It typically gives the date, time and place of a court hearing. Usually, types of proceedings that require a Citation have a waiting period of at least 20 days from the date the document is served before a hearing can be held. (See NRS 159.0145)

Clear and Convincing Evidence – The standard of proof required for the establishment of a guardianship is clear and convincing. This level of evidence shows the need for a guardianship is highly probable or reasonably certain. This standard of proof is higher than the usual standard required in civil matters.

Confidential Information Sheet and Confidential Medical/Educational Information Sheet – The petitioner is required to give the court certain information about the guardian and the proposed ward. The types of information that the court can accept are listed in the Confidential Information Sheet. The Confidential Medical/Educational Information Sheet is used to provide required medical and educational documents to the court.

Consent of Child – If you are asking for a guardianship over a child and the child is at least 14 years old, the child must agree to the guardianship. Similarly, if you want to end the guardianship without a hearing and the child is over 14 years old, the child must agree

to end the guardianship. The Consent of Child form shows the court that the child agrees with your request.

Durable Power of Attorney – A durable power of attorney is a document that names a person to act on someone’s behalf during a period of incompetency (defined at NRS 159.019) or incapacity. A durable power of attorney may be for health care assistance or financial assistance. A durable power or attorney may be suspended or revoked by the guardianship judge.

Estate – All the income, money, and assets (real and personal property) that are owned by the ward. An estate may also include a claim of money or ownership in an asset which has not yet been received or will be determined by a court.

Final Accounting – A guardian of the estate must file a final accounting at the termination or conclusion of the guardianship or if the guardian is no longer serving as guardian of the estate because of removal or resignation. The final accounting is a snapshot of the total value of the ward’s estate at the termination or conclusion of the guardianship or at the time the guardian was removed or resigned as guardian of the estate. (See NRS 159.177). A form Accounting is available for the guardian or former guardian’s use.

General Letters of Guardianship – The document that gives the guardian the power to act on behalf of the ward (i.e., withdraw money, make medical decisions, etc.).

Guardian of the Estate – A guardian of the estate must protect, preserve and manage a ward’s estate (assets) in order to apply and use the estate to provide for the proper care, maintenance, education and support of the ward. (See NRS 159.083) The guardian of the estate is responsible for filing an inventory and accounting.

Guardian of the Person – A guardian of the person must exercise care and control over the ward, and should provide adequate and appropriate food, clothing, shelter, and necessities of life. The guardian must seek and oversee medical care and treatment. Depending upon the ward’s age and physical abilities, the guardian should seek education, trade skills, an occupation, or activities of mental stimulation for the ward. (See NRS 159.079) The guardian of the person is responsible for filing an annual report on the condition of the ward.

Guardian of the Person and Estate – See above, Guardian of the Estate and Guardian of the Person.

Inventory – A guardian of the estate must investigate, identify and collect all monies and assets that are owned by the ward or may be due to the ward. The inventory is a listing of all these monies and assets that are owned or due to the ward on the date the guardianship was established (ordered) by the court. (See NRS 159.085). A form Inventory is available for the guardian’s use.

Judicially Determined – A court has held a hearing, after notice to the parties, and made a decision after hearing all the facts and evidence.

Legal Custody – Custody that has been established either by an order of the court or because of the law in Nevada; being on the birth certificate is not enough to establish legal custody.

Net Asset Value – An asset's value after everything that is owed on the asset (mortgage, lien, loan, note, or other encumbrance) is subtracted.

Notice of Entry of Order – The document that tells the ward's relatives and others entitled to notice that an order has been filed in the case. It also effects the timing for rights (i.e., to appeal the judge's decision, to ask the judge to reconsider his/her decision, etc.).

Notice of Hearing – A document which puts people and businesses on notice that some action is being taken on a guardianship case. It typically gives the date, time and place of a court hearing. Usually, types of proceedings that require a Citation have a waiting period of at least 10 days from the date the document is served before a hearing can be held.

Order – The document which contains the judge's decision.

Petition – The document which asks the judge to do something (i.e., give you guardianship over someone, end a guardianship, etc.)

Public Guardian – Many counties in the State of Nevada have designated a person to serve as a guardian when there is no suitable person to serve as guardian for an individual who is incompetent or incapacitated. This person is the public guardian.

Report of the Guardian – A guardian of the person must file a report with the court each year that describes the physical, emotional and mental condition of the ward. This requirement is found at NRS 159.081. A form Report of the Person is available for the guardian's use.

Second Degree of Consanguinity – Consanguinity means degree of relationship by blood. Those relatives within the second degree of consanguinity to a ward are: children, grandchildren, parents, brothers, sisters and grandparents.

Specific Powers – A guardian has certain rights to manage a ward's financial and personal affairs; however, sometimes specific actions require permission of the court in order to have the right to do certain things. When additional powers are granted by a separate court order, these are typically called special powers. See NRS 159.113 for a list of some of the special powers that a guardian may request.

Stipulation and Order – An agreement between the parties in a case. If the judge approves that agreement he/she will sign an Order to make the agreement binding. A Stipulation and Order allows the parties to resolve their case without going to a hearing.

Summary Administration – If the total value of the ward’s estate does not exceed \$5,000.00, the court may allow the estate to be managed as a summary administration. This means that until the value of the ward’s estate exceeds \$5,000.00 or the guardianship is terminated, an annual accounting will not be required. If summary administration of an estate is permitted at the time the guardianship of the estate is established, an inventory is still required to be filed with the court. (See, NRS 159.076)

Temporary Guardian of the Estate – A temporary guardianship of the estate may be granted when it is determined that a substantial and immediate risk of financial loss is present and the person who owns the assets is unable to respond to this loss. The law requires specific and detailed information to be submitted to the court prior to the temporary guardianship being established. A temporary guardianship is good for no more than 10 days, unless after a hearing and determination by the court that cause exists, the temporary guardianship is extended. Generally, a temporary guardianship will never be in effect for longer than a total of 40 days. (See NRS 159.0525) A Petition for Guardianship must be filed before or at the same time as an addendum requesting the temporary guardianship.

Temporary Guardianship of the Person – A temporary guardianship of the person may be granted when it is determined that a substantial and immediate risk of physical harm is present, or there is a need for immediate medical attention. The law requires specific and detailed information to be submitted to the court prior to the temporary guardianship being established. A temporary guardianship is good for no more than 10 days, unless after a hearing and determination by the court that cause exists, the temporary guardianship is extended. Generally, a temporary guardianship will never be in effect for longer than a total of 40 days. (See NRS 159.052 regarding minors) (See NRS 159.0523 regarding adults) A Petition for Guardianship must be filed before or at the same time as an addendum requesting the temporary guardianship.

Temporary Guardian of the Person and Estate – See above, Temporary Guardian of the Person and Temporary Guardian of the Estate.

Temporary Letters of Guardianship – The document that gives the temporary guardian the power to act on behalf of the ward when the court has determined that an emergency exists, and there is not sufficient time to hold the hearing on the Petition for Guardianship. Temporary Letters of Guardianship are valid for a limited period of time, and the duties and authority granted a Temporary Guardian are limited to those needed to address the emergency (i.e., lock down bank accounts, make emergency medical decisions, etc.).

Written Nomination of Guardian – A written statement of a parent of a child usually contained in a will or trust naming a person to care for the child in case of the parent’s

inability. (See NRS 159.062). A written statement of an adult designating who should be appointed guardian upon the finding that the adult is incompetent. The court will attempt to honor this nomination, if it found to be appropriate and in the best interests of the proposed ward.