



Welcome to the
Probate and Family Court
Department of the
Massachusetts Trial Court.

Many Probate and Family law matters involve complex and valuable legal rights. You should always speak with an attorney before filing any papers. Please ask court staff for the pamphlet "Looking for Legal Assistance?" which contains helpful information about obtaining legal advice and representation.

The information in this pamphlet is provided as a service of the court and does not constitute legal advice which can only be given to you by an attorney.

GM4

Motion for Appointment of Temporary Guardian of a Minor

Form and Instructions

Use these instructions **ONLY** if:

- P** You have filed, or you are about to file, a Petition for Guardianship of a Minor; and
- P** You want to be appointed Temporary Guardian of the child.

Do not use these instructions unless both are true. Please see the staff at the Registry of Probate if you have questions.

Instructions for Filing a MOTION FOR APPOINTMENT OF TEMPORARY GUARDIAN

STEP I - COMPLETE THE MOTION FOR APPOINTMENT OF TEMPORARY GUARDIAN

Please print or type all information. **Do not fill in the sample form, use the form provided by the court.** Look at the sample on the opposite page to see where to put the required information. For example, put the information asked for in line (1) of these instructions on the same line of the form provided by the court (the numbers are not on the form that you will fill out).

- ① Fill in the name of the county where you are filing your papers.
- ② Put in the docket number for this case, if one has been assigned. Otherwise, leave this space blank. Ask someone at the Registry of Probate to find out if a docket number has been assigned.
- ③ Cross out the words "**Plaintiff/Petitioner**" and "**Defendant/Respondent**". Write in the words "Guardianship of" and the name of the child or children involved.
- ④ Print the words "Appointment of Temporary Guardian"
- ⑤ Print your name. Circle the word "**petitioner**".
- ⑥ Print a statement asking the court to appoint you Temporary Guardian. Sample language is provided on the sample form.
- ⑦ **Sign** your name and **print** your name underneath. Print your address.
- ⑧ Print today's date.
- ⑨ Print your telephone number, including the area code.
- ⑩ Ask at the Registry of Probate about scheduling a hearing on your Motion for Appointment of Temporary Guardian. After you have scheduled the hearing, fill in the city where the motion will be heard and the date and time of the hearing.

**YOU ARE FINISHED WITH THE FRONT OF THE FORM.
THE COURT WILL COMPLETE THE REST OF THE FRONT OF THE FORM.**

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STEP 2- AFFIDAVIT FOR TEMPORARY GUARDIANSHIP

The court will appoint a Temporary Guardian only when there is an emergency which requires immediate attention. If you want to be appointed Temporary Guardian, you must tell the court: (1) What the emergency is and when the emergency happened; (2) What particular harm to the child you hope to avoid by being appointed as Temporary Guardian and; (3) What actions you will need to take to avoid that harm to the child. You must provide this information to the court in the form of an Affidavit for Temporary Guardianship.

Ask a staff member at the Registry of Probate for the pamphlet entitled Affidavit for Temporary Guardianship, Form and Instructions. **The Affidavit for Temporary Guardianship must be completed and filed with the court if you want to be appointed Temporary Guardian.**

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STEP 3- CERTIFICATE OF SERVICE

After you file the Motion for Appointment of Temporary Guardian, you must mail or hand deliver a copy of the motion and the affidavit to all interested parties so that they may come to the hearing if they want to. Interested parties are: (1) The birth parents or, if the child has been adopted, the adoptive parents; (2) Any other person who has legal custody of the child or with whom the child is living; and (3) The child, if he or she is 14 years old or older. If any interested party has an attorney who has filed an Appearance in this case, you must send the motion and the affidavit to the attorney, not to the person the attorney represents.

You must usually deliver the motion and affidavit to the interested parties at least three business days before the hearing date. However, in some situations your motion will be heard in fewer than three days. Ask someone at the Registry of Probate about when your motion will be heard.

After you have mailed or delivered copies of the motion and affidavit to all of the interested parties, complete the "Certificate of Service" on the back of the "Motion for Appointment of Temporary Guardian" See the back page of these **instructions for details about how to complete the Certificate of Service.**

Commonwealth of Massachusetts

1 Division The Trial Court Probate and Family Court Department Docket No. 2

MOTION FOR

Plaintiff/Petitioner v. 3

APPOINTMENT OF TEMPORARY GUARDIAN 4

Defendant/Respondent

Now comes 5 PRINT your name (name of moving party), the plaintiff/defendant/petitioner/respondent, in this action who moves this Honorable Court as follows:

Appoint me as Temporary

Guardian of the above-named child. In support of this motion, I state that an emergency exists which requires immediate attention. My affidavit is filed with this motion

6

NOTICE OF HEARING
This Motion will be heard at the Probate & Family Court in (city) on (month/day/year) at (time of hearing) 10

7 SIGN your name (signature) PRINT your name (PRINT name) Print your full address (street address) (city or town) (state) (zip code)

Date: 8 Print today's date

Tel. No. 9 ()

The within motion is hereby ALLOWED - DENIED. DO NOT WRITE IN THIS SECTION Date Justice of the Probate and Family Court

INSTRUCTIONS

- 1. Generally refer to Mass. R. Civ. P./Mass. R. Dom. Rel. P. 6 and 7- Probate Court Rules 6, 29 and 29B.
2. If the opposing party is represented by an attorney who has filed an appearance, service of this motion MUST be made on the attorney.
3. Certificate of Service on Reverse side must be completed.
4. All motions shall be accompanied by a proposed order which shall be served with the motion.

**INSTRUCTIONS FOR COMPLETING the
CERTIFICATE OF SERVICE**

(on back of the Motion for Appointment of Temporary Guardian)
Please print or type all information.

Do not fill in the sample below. Use the Certificate of Service on the back of the Motion form provided by the court. Look at the sample on this page to see where to put the required information. For example, put the information asked for in line ① of these instructions on the same line of the form provided by the court (the numbers are not on the form that you will fill out).

- ① Print or type on these two lines the full names and full addresses (including street, city or town, state and ZIP code) of every person to whom you sent a copy of the motion and affidavit, either by mail or by delivering in hand. If any of these individuals are represented by an attorney, you must send the motion and affidavit to the attorney and the attorney's name and full address must be listed here.
- ② If you delivered the motion and affidavit in hand, write in the date and time that you delivered them
- ③ Be sure to circle A.M. or P.M. If you mailed the copies of the motion and the affidavit, cross off the words "**delivery in hand**", and leave spaces 2 and 3 blank.
- ④ If you mailed the motion and affidavit, write in the date that you mailed them.
- ⑤ **Sign** your name.

SAMPLE FORM

DO NOT FILL -OUT

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of this motion upon: ①

(name of party and address or name and address of attorney of record; including, street address/city or townzip code.)

by -- delivery in hand on -- ② at ③ A.M./P.M. -- mailing (postage paid) on

④

(date of mailing)

⑤
SIGN your name

(Signature)