



COUNTY COURT AT LAW NO. 3 SMITH COUNTY

CLAY WHITE, JUDGE

CHECKLIST – APPOINTMENT OF GUARDIAN

Procedure: Please e-file all appropriate documents for your case with the Smith County Clerk’s office. **Once the checklist is fully completed, the applicant’s attorney can request to set a hearing on this matter.**

The Court will send the hearing notice to all parties/counsel who have made an appearance.

Any questions regarding citations, return of service, or JBCC completion of background checks, please contact the Smith County Probate Clerks at (903) 590-4677 or 4678 for further assistance.

Case Number _____ Guardianship of _____

Please cross through actions that do not apply:

- Confirm all attorneys representing any person's interests in this guardianship proceeding, including an attorney ad litem, are certified by the State Bar of Texas
The Court checks the following website to confirm guardianship certification is current:
https://www.texasbar.com/AM/Template.cfm?Section=Course_Search&Template=/CustomSource/mcle/search/guardianship.cfm
- E-file the Application
 - Title of document must reflect what you are requesting – for example, “*Application to Appoint Guardian of Person Only*” or “*Application to Appoint Guardian of the Estate Only*” or “*Application to Appoint Guardian of the Person and Estate with Limited Authority*”
 - Sworn Application meets all the requirements of *Texas Estate Code §1101.001*, including but not limited to:
 - The application must be sworn to by the applicant and state:
 - the proposed ward's name, sex, date of birth, and address;
 - the name, former name, if any, relationship, and address of the person the applicant seeks to have appointed as guardian;
 - whether guardianship of the person or estate, or both, is sought;
 - whether alternatives to guardianship and available supports and services to avoid guardianship were considered;
 - whether any alternatives to guardianship and supports and services are feasible and would avoid the need for a guardianship;
 - the nature and degree of the alleged incapacity, the specific areas of protection and assistance requested, and the limitation or termination of rights requested to be included in the court's order of appointment, including a termination of:
 - the right of a proposed ward who is 18 years of age or older to vote in a public election;
 - the proposed ward's eligibility to hold or obtain a license to operate a motor vehicle under Chapter 521, Transportation Code; and
 - the right of a proposed ward to make personal decisions regarding residence;
 - the facts requiring the appointment of a guardian;
 - the interest of the applicant in the appointment of a guardian;
 - the nature and description of any kind of guardianship existing for the proposed ward in any other state;
 - the name and address of any person or institution having the care and custody of the proposed ward;
 - the approximate value and a detailed description of the proposed ward's property, including:

- liquid assets, including any compensation, pension, insurance, or allowance to which the proposed ward may be entitled; and
- non-liquid assets, including real property;
- the name and address of any person whom the applicant knows to hold a power of attorney signed by the proposed ward and a description of the type of power of attorney;
- for a proposed ward who is a minor, the following information if known by the applicant:
 - the name of each of the proposed ward's parents and either the parent's address or that the parent is deceased;
 - the name and age of each of the proposed ward's siblings, if any, and either the sibling's address or that the sibling is deceased; and
 - if each of the proposed ward's parents and adult siblings are deceased, the names and addresses of the proposed ward's other living relatives who are related to the proposed ward within the third degree by consanguinity and who are adults;
- for a proposed ward who is a minor, whether the minor was the subject of a legal or conservatorship proceeding in the preceding two years and, if so:
 - the court involved;
 - the nature of the proceeding; and
 - any final disposition of the proceeding;
- for a proposed ward who is an adult, the following information if known by the applicant:
 - the name of the proposed ward's spouse, if any, and either the spouse's address or that the spouse is deceased;
 - the name of each of the proposed ward's parents and either the parent's address or that the parent is deceased;
 - the name and age of each of the proposed ward's siblings, if any, and either the sibling's address or that the sibling is deceased;
 - the name and age of each of the proposed ward's children, if any, and either the child's address or that the child is deceased; and
 - if there is no living spouse, parent, adult sibling, or adult child of the proposed ward, the names and addresses of the proposed ward's other living relatives who are related to the proposed ward within the third degree by consanguinity and who are adults;
- facts showing that the court has venue of the proceeding; and
- if applicable, that the person whom the applicant seeks to have appointed as a guardian is a private professional guardian who is certified under Subchapter C, Chapter 155, Government Code, and has complied with the requirements of Subchapter G, Chapter 1104.
- Confirm the citation was posted by the clerk with (1) correct case number; (2) correct name of proposed ward; (3) correct name of applicant; and (4) correct title of application
- File Proof of Personal Service of Citation on Proposed Ward over the age of 12. (Texas Estates Code §1051.103)
- File Proof of Personal Service of Citation or Waiver of Process, Waiver of priority to Serve. (Texas Estates Code §1051.103)
 - Mother
 - Father
 - Conservator or person having control of the care and welfare of Proposed Ward
 - Spouse
 - Non-applicant person to be named guardian
 - Confirm citation or waiver includes notice of right to receive notice about ward - Texas Estates Code §1051.103(c)
- File Proof of Personal Process by qualified delivery method or Waiver of Process, Waiver to Serve, as applicable. (Texas Estates Code §1051.104)
 - Adult children
 - Adult sibling
 - Administrator of nursing home or operator of residential facility

- Power(s) of Attorney
- Person designated to serve as guardian by written declaration
- Other living relatives, as applicable (see statute)
 - Confirm notice or waiver includes notice of right to receive notice about ward - Texas Estates Code §1051.104(d)
- E-file §1051.104(b)(2) affidavit
- Proof of JBCC registration emailed to Court
- E-file JBCC training certificate
- JBCC background check completed (fingerprints for liquid assets over \$50,000 or non-resident applicant)
- E-file Answer of Attorney Ad Litem
- E-file Report of Attorney Ad Litem
- E-file Physician's Certificate of Medical Examination (CME) (Texas Estates Code §1101.103)
 - Dated not earlier than the 120th day before the application is filed
 - Based on an examination performed not earlier than the 120th day before the application is filed
 - If intellectual disability, dated no earlier than 24 months before the hearing date (Texas Estates Code §1101.104)
- E-file Appointment of Resident Agent (*to accept service of process in all actions or proceedings with respect to the guardian*)
- E-file §1101.003 affidavit
- Confirm availability of all witnesses (before requesting a hearing)
- I understand that I must e-file all proposed hearing documents with all dates filled in with the hearing date
- Order that includes proper title and language
 - Blank space for completion of bond amount
 - Attorney ad Litem fee (leave blank if more than \$500)
 - Discharging ad litem
 - Prior to filing the proposed order, please send it to your ad litem for review and approval.
Once approved, all attorneys sign Order prior to e-filing.
- Oath (clearly stating appointment, for example Guardian of Person or Guardian of Estate or Co-Guardians)
- I understand I must email a completed personal representative sheet for each applicant before the hearing or I must bring the completed form to the hearing and have the applicant sign it in front of the notary.
 - I understand that the relatives/friends section **MUST** be complete and the addresses for the friends/relatives cannot be the same as the applicant or the other friend/relative.

Attorney Verification

I, _____ confirm that all required documents for the hearing I am requesting in Cause No. _____ are correct and have been e-filed and accepted by the Smith County Clerk's office or emailed to the Court as directed.

Signed: _____

Date: _____