

A GUIDEBOOK TO: PLANNING FOR YOUR CHILD'S CARE



A RESOURCE BY:



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Who will take care of my child if I cannot?

Parents ask themselves this question when there is uncertainty in their lives. Whether it be related to finances, mental health, or immigration status – many factors may arise in our lives that can make it difficult to ensure a child's well-being.

There is an understandable fear in the undocumented immigrant communities that current immigration policies could fracture and break-up families via deportation. This threat is made worse by the unexpected nature of deportation. Deportation can happen at anytime and anywhere.

We hope that no family is affected by deportation. However, it is important to have a plan for who will take care of your child in case of a deportation or other emergency.

This booklet can be used as a guide to create a plan of who can take care of your child(ren) if you are impacted by deportation or other emergencies. This guide will also prepare you to have a conversation with family or friends about the care of your child.

Choosing a Caregiver

Choosing who will serve as a caregiver for your child(ren) is a personal and often difficult decision. A caregiver for your child can be either a family member or friend; but most importantly, it should be someone you trust. You should have a discussion with trusted family members and friends to help you decide who will take care of your child if you no longer can.

1. Choose a caregiver. Discuss all expectations, responsibilities, and duties that come along with caring for your child in your absence. Include the following:

- Any special needs your child may have (i.e. allergies, medical conditions, disabilities, etc.)
- Your wishes regarding your child's education
- List of relatives and friends who can be contacted as necessary
- Add the designated caregiver's contact information to the emergency contact list at your child's school

2. Talk to your child. Have a conversation with your child about the following:

- Discuss who will take care of them in your absence.
- Instruct your child to use your chosen caregiver's name if the Department of Children and Family Services (DCFS) gets involved and asks your child who they want to live with.

The person you select to care for your child can be either an informal caregiver or a formal caregiver.

**Informal
Caregiver**



OR

**Formal
Caregiver**



Informal Caregiver

An informal caregiver can physically take care of your child. This is a good plan if you expect to be unavailable for a short time. An informal caregiver, however, does not have legal rights to make all decisions for your child. You, the parent, keep legal control of decision-making for your child.



A Caregiver's Affidavit can help an informal caregiver enroll the child in school. The affidavit can also help the caregiver get limited medical care for your child. (see Appendix A: Sample Caregiver's Affidavit).



The Caregiver's Affidavit has limitations. A full list of limitations are listed on the back of the affidavit. (Appendix A). When you use a Caregiver's Affidavit, you, as the parent, keep legal custodial rights of your child.

Formal Caregiver



A judge can grant formal custody of your child to a caregiver through a legal guardianship. A legal guardian has the power to make legal decisions about your child, including educational and medical decisions, where your child will live, and even if you will get to see your child. Under a legal guardianship, parents' legal rights over their child are paused until the guardianship is terminated or the minor turns 18.



What is a Legal Guardian?

In a legal guardianship, the judge orders custody of a child to a person who is not a parent to that child.

1 A legal guardian will be able to make all medical and educational decisions on your child's behalf and is responsible for providing them with food and shelter.

2 A legal guardian is appointed when the court finds that the child's parents are unable or unwilling to care for the child.

3 The guardian can be a relative to the child (such as a grandparent) or a non-relative (such as a friend of the family).

4 Two guardians may request to be guardians of the child. If the court agrees, both guardians will share responsibility of the child.

Guardianship & Your Parental Rights



Under a legal guardianship, your parental rights are paused, not terminated.

A parent can ask that the court terminate the guardianship at any time so that the parent can regain custody and their legal rights. However, it is important to know that it can sometimes be hard to terminate a guardianship.



An adoption is **NOT** the same as a guardianship.

In an adoption, your parental rights are permanently terminated and the adoptive parent takes the rights and responsibilities from the biological parents. Additionally, in an adoption, the biological parents cannot ask the court to get their rights back.

Requirements for a Legal Guardian



A Guardian Must:

- Be at least 18 years old.
- Have the child in their physical care.
- Be willing to participate in an investigation conducted either by the court's Probate Investigations Office if they are a relative or by a social worker from the Department of Children and Family Services (DCFS) if they are not a relative of your child.
- This person does not need to be a U.S citizen nor have established permanent residency in the United States.



A guardianship of the person lasts until the child turns 18 years old.

It will end before the child turns 18 years old if the child marries, is adopted, dies, enters the military, or if the guardianship is ended by a court order. A legal guardian, parent, or minor child over 12 can request the court terminate the guardianship.

Nominating a Legal Guardian

Nominating a guardian allows you to ask for a specific person to care for your child if you are not able. To nominate a guardian, you sign a special form. Then the person you asked to serve as guardian will use the form when you become unavailable to file a Petition for Guardianship with the court. Nominating a guardian lets the court know your wishes. It is important to know, though, that the court will make the final decision regarding your child's guardian and may not grant guardianship to the person you selected.

You can either fill out a guardianship court form or a nomination of guardian form to nominate a guardian.



How to Nominate a Guardian

Option 1: Sign a guardianship court form

If you would like the court to choose a certain person to be your child's legal guardian, you can nominate that person by signing a court form called the GC-211, Consent of Proposed Guardian, Nomination of Guardian, and Consent to Appointment of Guardian and Waiver of Notice. This form will tell the court that you agree with the guardianship.

GC-211

<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address)</p> <p>TELEPHONE NO. _____ FAX NO. (optional) _____</p> <p>E-MAIL ADDRESS (optional) _____</p> <p>ATTORNEY FOR (Name): _____</p> <p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</p> <p>STREET ADDRESS _____</p> <p>MAILING ADDRESS _____</p> <p>CITY AND ZIP CODE _____</p> <p>BRANCH NAME _____</p> <p>GUARDIANSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (Name): _____</p> <p><input type="checkbox"/> CONSENT OF PROPOSED GUARDIAN</p> <p><input type="checkbox"/> NOMINATION OF GUARDIAN</p> <p><input type="checkbox"/> CONSENT TO APPOINTMENT OF GUARDIAN AND WAIVER OF NOTICE</p>	<p>FOR COURT USE ONLY</p> <p>CASE NUMBER: _____</p>
--	--

1. I consent to serve as guardian of the person estate of the minor.

Date: _____

NOMINATION OF GUARDIAN

2. I am a parent of the minor a donor of a gift to the minor. I nominate (name and address): _____

as guardian of the person estate of the minor.

3. I am a parent of the minor a donor of a gift to the minor. I nominate (name and address): _____

as guardian of the person estate of the minor.

Date: _____

NOTICE: The guardian of the person of a minor child has full legal and physical custody until the child becomes an adult or is adopted, the court changes guardians, or the court terminates the guardianship. Parents or other interested persons must petition the court to terminate the guardianship. The court will not do so unless the judge decides that termination would be in the child's best interest.

CONSENT TO APPOINTMENT OF GUARDIAN AND WAIVER OF NOTICE

4. I consent to appointment of the guardian as requested in the Petition for Appointment of Guardian of Minor, filed on (date): _____ I am entitled to notice in this proceeding, but I waive notice of hearing of the petition, including notice of any request for independent powers contained in it. I waive timely receipt of a copy of the petition.

DATE _____	(TYPE OR PRINT NAME) _____	(SIGNATURE) _____	RELATIONSHIP TO MINOR _____
DATE _____	(TYPE OR PRINT NAME) _____	(SIGNATURE) _____	RELATIONSHIP TO MINOR _____
DATE _____	(TYPE OR PRINT NAME) _____	(SIGNATURE) _____	RELATIONSHIP TO MINOR _____

Continued on Attachment 4.

CONSENT OF PROPOSED GUARDIAN, NOMINATION OF GUARDIAN, AND CONSENT TO APPOINTMENT OF GUARDIAN AND WAIVER OF NOTICE

Page 1 of 1
Form Adopted for Mandatory Use
Judicial Council of California
GC-211 Rev. January 1, 2004
Probate Code, §§ 1202, 1300-1302


A sample of this form is included in Appendix B.

How to Nominate a Guardian

Option 2: Prepare a nomination of guardian

Another way you can nominate a guardian for your child is by completing a Nomination of Guardian form and getting it notarized. **You do not need to pay someone to prepare this document for you.** Just use the sample document in the back of this guide. Then you and the person you would like to care for your children should sign it together in front of a notary.

NOMINATION OF A GUARDIAN SAMPLE FORM	
NOMINATION OF GUARDIAN	
I, _____, the parent of the following children, nominate _____ to act as guardian of the person of said children in the event of my death or incapacity (and in the event that the children's second parent is similarly deceased or incapacitated), if is unable or unwilling to serve as guardian, I nominate _____ to serve as guardian of the person of said children. If guardianship is sought due to my incapacitation, such incapacitation must be documented with a signed original letter from a licensed physician.	
Minor's name	Minor's Date of Birth
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
Parent #1 Name _____	_____
Signature: _____	Date: _____
Parent #2 Name _____	_____
Signature: _____	Date: _____


I ACCEPT THIS NOMINATION:
First Proposed Guardian Name _____
Signature: _____ Date: _____
Second Proposed Guardian Name _____
Signature: _____ Date: _____
NOTARY PUBLIC INFORMATION IS ON THE NEXT PAGE


This form allows you to list who you would like to be guardian of your child in the event something were to happen to you. The parent and the potential guardian(s) must sign and notarize the Nomination of Guardian form.


See Appendix C: Nomination of a Guardian Sample Form

How to Nominate a Guardian


Important Notes



It is not enough to just prepare a Nomination of Guardian. The person you would like to care for your child must also file a petition for guardianship with the Probate Court when the guardianship is needed!



The court will set a hearing date for the guardianship.



The judge will make the final decision as to whether the potential guardian(s) will become the legal guardian(s) of the child.

See “What is a Legal Guardian?” section for more information about guardianship.

Keep your nomination form in a safe place. The potential guardian should file this form at the same time they file their petition for guardianship with the court.

Financial Assistance for Caregivers

Both informal and formal caregivers can apply for public benefits and other financial assistance to care for your child. Below are some of the programs the legal guardian may be eligible for:

Medi-Cal*: Medi-Cal is a public health insurance program that provides needed health care services for low-income individuals including families with children, seniors, persons with disabilities, foster care, pregnant women, and low-income people. Both relatives and non-relatives of your child can apply for these benefits.

CalFresh*: CalFresh is California's Food Stamps program. This is also known as SNAP, Food Assistance, or EBT. Both informal and formal caregivers can apply for CalFresh. Both relatives and non-relatives of your child can apply for these benefits. However, with CalFresh, a caregiver's income will be considered in determining whether the household is eligible.

***Please Note: Caregivers asking for CalFresh or Medi-Cal can apply for those benefits via BenefitsCal or by visiting their local county social services office. BenefitsCal Website:**

<https://info.benefitscal.com/>*

Financial Assistance for Legal Guardians

CalWORKS*: CalWORKS is a welfare program that gives cash aid and services to eligible California families in need. Both informal and formal caregivers, like legal guardians, can be eligible to receive CalWORKS if the caregiver is a close relative. The caregiver may be able to get a monthly cash payment from CalWORKS for the child, regardless of the guardian's income.

Please Note: Caregivers asking for CalWORKS apply for those benefits via BenefitsCal or by visiting their local county social services office. BenefitsCal Website: <https://info.benefitscal.com/>

State foster care for extended family members and non-relatives (AFDC-FC): State foster care provides cash aid to extended family member and non-relative caregivers who have been granted legal guardianship, including temporary legal guardianship, by Probate Court. Informal caregivers cannot get state foster care benefits. If the person has legal permanent guardianship or has temporary letters of guardianship, they can request financial assistance.

***Please Note: Legal guardians can apply for state foster care by visiting DCFS' Non-Related Legal Guardianship Portal at <https://nrlg.dcfslacounty.gov/> or by calling the DCFS Child Protection Hotline at (800) 540-4000.**

Applying for state foster care does not mean a social worker will be assigned to you. It also does not mean the child is in "foster care."

Financial Assistance for Caregivers

Supplemental Security Income (SSI): SSI is a program by the Social Security Administration. SSI provides monthly payments to children with disabilities. Legal guardians can apply for SSI by visiting <https://www.ssa.gov/ssi>

Survivor's Benefits: The Survivor's Benefits program is a program by the Social Security Administration. Survivor benefits provide monthly payments to eligible family members of people who worked and paid Social Security taxes before they died. Legal guardians can apply for Survivor's Benefits for a child if a parent has passed away and that parent paid Social Security taxes before they passed away. Legal guardians can apply for Survivor's Benefits by visiting <https://www.ssa.gov/survivor> .

Termination of Guardianship

A Guardianship Ends in the Following Ways:

- The minor turns 18 years old.
- If the minor passes away, is adopted, marries, or is emancipated (declared an adult by court order).
- A parent, guardian or the child (over the age of 12) can ask the court to end (terminate) the guardianship if it is no longer necessary or no longer in the child's best interest.



If you want to terminate the guardianship, you must file a petition to terminate the guardianship with the court.

Termination of Guardianship

If a parent wants the child to live with them again, the judge will want to know that the parent:

- Has a stable place to live
- Has a source of income
- Is "fit" or has been rehabilitated, and can provide a good home for the child

The judge will also look at:

- If the child is comfortable and used to living with the guardian
- What the child wants, if the child is 12 year old or older



You may or may not, be able to regain custody of your child.

The court may not allow your child to return with you to your home country.

While the court will consider the wishes of the guardian and/or parent, it is up to the court to decide.

Help with a Legal Guardianship

If the person you ask to care for your child needs help to file a legal guardianship, the Public Counsel Guardianship Clinic helps people free of charge. It is located at the Superior Court in Downtown Los Angeles. Assistance is available in English and Spanish.

Pro Per Guardianship Clinic

Los Angeles Superior Court
Stanley Mosk Courthouse
111 N. Hill Street, Room 230
Los Angeles, CA 90012

Monday to Wednesday
9:00 AM to 3:00 PM

Please try to arrive by 9am to sign-in.

***We assist the public on a first come, first served basis. We only assist litigants who are Pro Per. Pro Per means you don't have an attorney and you are acting as your own attorney in court. We cannot assist those who already have legal representation. ***

What Documents Should You Prepare?

It is important that you put aside important documents in case you suddenly need to leave your child in another person's care. It can be very helpful to have these documents in a safe place that your family can locate in an emergency.

Check List:

- Birth Certificates
- Death Certificates (of a deceased parent if applicable)
- School Records (including IEPs)
- Medical Information (including doctors' information, list of prescriptions with instructions)
- Nomination for a Guardian (either a signed form or notarized document)
- Immigration documents (green cards, certificates of naturalization)
- List of relatives and friends who can be contacted as necessary
- Social Security Cards

Appendix A

Caregivers Affidavit



CAREGIVER'S AUTHORIZATION AFFIDAVIT

Use of this affidavit is authorized by Part 1.5 (commencing with Section 6550) of Division 11 of the California Family Code.

Instructions: Completion of items 1-4 and the signing of the affidavit is sufficient to authorize enrollment of a minor in school and authorize school-related medical care. Completion of items 5-8 is additionally required to authorize any other medical care. Print clearly. The minor named below lives in my home and I am 18 of age or older.

1. Name of minor: _____
2. Minor's birth date: _____
3. My name (adult giving authorization): _____
4. My home address: _____
5. I am a grandparent, aunt, uncle, or other qualified relative of the minor (see back of this form for a definition of "qualified relative").
6. Check one or both (for example, if one parent was advised and the other cannot be located):
 I have advised the parent(s) or other person(s) having legal custody of the minor of my intent to authorize medical care and have received no objection.
 I am unable to contact the parent(s) or other person(s) having legal custody of the minor at this time, to notify them of my intended authorization.
7. My date of birth: _____
8. My California driver's license or identification card number: _____

Warning: Do not sign this form if any of the statements above are incorrect, or you will be committing a crime punishable by a fine, imprisonment, or both.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: _____

Signed: _____

Appendix B

GC-211



GC-211

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):		FOR COURT USE ONLY
TELEPHONE NO.:	FAX NO. (Optional):	
E-MAIL ADDRESS (Optional):		
ATTORNEY FOR (Name):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF		
STREET ADDRESS:		
MAILING ADDRESS:		
CITY AND ZIP CODE:		
BRANCH NAME:		
GUARDIANSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (Name):		
<input type="checkbox"/> CONSENT OF PROPOSED GUARDIAN		CASE NUMBER:
<input type="checkbox"/> NOMINATION OF GUARDIAN		
<input type="checkbox"/> CONSENT TO APPOINTMENT OF GUARDIAN AND WAIVER OF NOTICE		

CONSENT OF PROPOSED GUARDIAN

1. I consent to serve as guardian of the person estate of the minor.

Date:

(TYPE OR PRINT NAME) ▶ _____
(SIGNATURE OF PROPOSED GUARDIAN)

NOMINATION OF GUARDIAN

2. I am a parent of the minor a donor of a gift to the minor. I nominate (name and address):

as guardian of the person estate of the minor.

3. I am a parent of the minor a donor of a gift to the minor. I nominate (name and address):

as guardian of the person estate of the minor.

Date:

(TYPE OR PRINT NAME) ▶ _____
(SIGNATURE)

NOTICE: The guardian of the person of a minor child has full legal and physical custody until the child becomes an adult or is adopted, the court changes guardians, or the court terminates the guardianship. Parents or other interested persons must petition the court to terminate the guardianship. The court will not do so unless the judge decides that termination would be in the child's best interest.

CONSENT TO APPOINTMENT OF GUARDIAN AND WAIVER OF NOTICE

4. I consent to appointment of the guardian as requested in the Petition for Appointment of Guardian of Minor, filed on (date): _____, I am entitled to notice in this proceeding, but I waive notice of hearing of the petition, including notice of any request for independent powers contained in it. I waive timely receipt of a copy of the petition.

DATE	(TYPE OR PRINT NAME)	▶	(SIGNATURE)	RELATIONSHIP TO MINOR
DATE	(TYPE OR PRINT NAME)	▶	(SIGNATURE)	RELATIONSHIP TO MINOR
DATE	(TYPE OR PRINT NAME)	▶	(SIGNATURE)	RELATIONSHIP TO MINOR

Continued on Attachment 4.

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Appendix C

Nomination of a Guardian Sample Form



NOMINATION OF A GUARDIAN SAMPLE FORM

NOMINATION OF GUARDIAN

I, _____, the parent of the following children, nominate _____ to act as guardian of the person of said children in the event of my death or incapacity (and in the event that the children's second parent is similarly deceased or incapacitated). If _____ is unable or unwilling to serve as guardian, I nominate _____ to serve as guardian of the person of said children. If guardianship is sought due to my incapacitation, such incapacitation must be documented with a signed original letter from a licensed physician.

Minor's name

Minor's Date of Birth

- 1.
- 2.
- 3.
- 4.

Parent #1 Name _____
Signature: _____ Date: _____

Parent #2 Name _____
Signature: _____ Date: _____

I ACCEPT THIS NOMINATION:

First Proposed Guardian Name

Signature: _____ Date: _____

Second Proposed Guardian Name

Signature: _____ Date: _____

NOTARY PUBLIC INFORMATION IS ON THE NEXT PAGE