

# Juvenile Clerks Meet Up Minor Guardianships March 8, 2022

48.9795  
Minor  
Guardianships of  
the Person

Chapter 54  
Minor  
Guardianships of  
the Estate

48.977 CHIPS  
Guardianships

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Please note this information is not meant  
to be construed as legal advice.

Any guidance provided should not  
override a judge's decision and authority.

Please do not include any confidential  
case specific information in the chat.

Thank you!

# 48.9795

## MINOR GUARDIANSHIPS OF THE PERSON



### **Petitions for Appointment of Guardian**

JN-1501 - Petition for Appointment of Guardian - Full/Limited/Temporary Guardianship

IW-1501 - Petition for Appointment of Guardian - Full/Limited/Temporary Guardianship -  
Indian Child Welfare Act

JN-1504 - Petition for Appointment of Emergency Guardian

Each petition requires a separate filing and own case number.

If two petitions are filed, they can be numbered either:

22 JG 1 & 22 JG 2 or

22 JG 1 & 22 JG 1A

## Scheduling the Initial Hearing

### Emergency Guardianships



### Full, Limited, and Temporary Guardianships



## Notice Timeframes

### Emergency Guardianships

As soon as possible  
after filing the petition

### Full, Limited, & Temporary Guardianships

At least 7 days  
before the hearing  
(unless parties  
waive timelines)

### ICWA

- 10 days for Indian child, Indian child's parents, Indian custodian, and Indian tribe.
- 15 days if sending to the U.S. Secretary of the Interior when the identity/location of the Indian child's parent, Indian custodian, or tribe cannot be determined.
- 7 days for child's guardian, legal custodian, and guardian ad litem / adversary counsel.

## GAL or Adversary Counsel?

### GUARDIAN AD LITEM

A Guardian ad Litem **must** be appointed for the child.

A GAL is definitely required when a §48.9795 guardianship petition is filed through disposition.

The statute is contradictory about subsequent proceedings.

### ADVERSARY COUNSEL

There is no requirement for appointing adversary counsel in §48.9795 guardianships.

The court may appoint counsel for the child under §48.23 (3-4).

SPD anticipates appointing counsel when a request is made by the child or the court.

## Additional Timelines after Initial Hearing

Fact-Finding or Fact-Finding and Dispositional Hearing



### Adjournments

Hearings can be adjourned for good cause under §48.315.



## Turning an Emergency into a Full, Limited, or Temporary Guardianship?

Emergency  
Guardianships



Full, Limited, and  
Temporary  
Guardianships

Unlike Chapter 54, §48.9795 does not have any language or a procedure to turn an Emergency Guardianship into a Full, Limited, or Temporary Guardianship.

Only one Disposition can be entered into CCAP.

An emergency guardianship has very different hearing timelines, notice requirements, and findings than the Full, Limited, and Temporary Guardianships.

## Are Annual Reports Required?

Full

Yes, it is required to be filed annually.

Limited

May be required to be filed at the discretion of the court.

Temporary

No, it is not required by statute.

Emergency

No, it is not required by statute.

The calendar application allows Annual Report packets to be printed.

Each county determines when packets are sent and due.

## How are Annual Report Packets Printed?

To create and save a calendar:

<http://help.wicourts.gov/cc/general/savesearch.htm>

### How to Print the Packets from Calendar Application

1. Go to CCAP3 Calendar application.
2. Go to Saved Searches
3. Select the saved search. This will bring up a list of cases.
4. Highlight the cases you wish to print, select F9.
5. Highlight the Forms to print and in the Print box, under "Group by:," select "ROW" (to get the forms to collate in each case) and then click on the Print button on the screen.

## Do parties have a right to substitution within §48.9795 guardianships?

§48.29 - Substitution of Judge does not exclude guardianship proceedings and §48.9795 guardianships are within Chapter 48, so it likely applies.

We defer to the judge to ultimately make the decision since it is not specifically mentioned within §48.9795.



## **Are proposed guardians parties in §48.9795 guardianships?**

Yes!

The Proposed Guardian (PG) party type for JG cases should be utilized when the Proposed Guardian is not the Petitioner.

For example, when the DA's Office or Corporation Counsel files the guardianship case.

## **How do you modify visitation or an amount of support that was ordered in a §48.9795 guardianship?**

A Request to Modify (JN-1540) should be filed within the §48.9795 JG case that ordered the visitation or amount of support.

A new case should not be opened.

## **Can a corporate guardian be named the guardian within a §48.9795 guardianship?**

§48.9795 does not prohibit corporate guardians.

2019 WI Act 109 did not amend §54.15 (7) regarding corporate guardians. This implies the section would apply to both minors and adults.

## **When is a §48.9795 guardianship case stayed?**

The §48.9795 Full, Limited, or Temporary guardianship case must be stayed until the pending Chapter 48 or 938 case reaches Disposition.

It is possible to schedule the CHIPS/JIPS/Delinquency Dispositional Hearing at the same time as the Guardianship Hearing.

## **§48.9795 Guardianship Stay Codes**

The maintenance code stops the case from aging -  
*Stay 48.9795 Juv Grdnshp (SG).*

When the history event code / court record event  
*MGS - Minor Guardianship Stay* is added,  
the case will be stayed and will stop aging.

The history event code / court record event  
*MGRS - Minor Guardianship Remove Stay* - removes the case from  
*Stay 48.9795 Juv Grdnshp (SG) maintenance.*

## **Can a §48.9795 Emergency Guardianship move forward when there is a pending Chapter 48 or 938 case?**

Yes, an Emergency guardianship can move forward  
when there is a Chapter 48 or 938 case pending.

An Order Appointing an Emergency Guardian may not  
change the placement of a child under the supervision of a  
court pursuant to s. 48.13, 48.133, or 48.14 (1) to (10) or (12)  
or ch. 938.

## **Can a CHIPS case result in permanency through a §48.9795 Guardianship case instead of a §48.977 CHIPS Guardianship ?**

Absolutely! Once the case has reached Disposition, either a §48.977 CHIPS Guardianship or a §48.9795 Guardianship can be entered.

If the proposed guardian qualifies for a §48.977 subsidized guardianships, the agency must pursue a §48.977 guardianship.

## **Can Court Commissioners hear §48.9795 Guardianship cases?**

A Court Commissioner can only hear uncontested §48.9795 guardianship proceedings.

§757.69 (1)(g)

§48.9795 Questions?



# Chapter 54

## Minor Guardianships of the Estate





# Inventory and Account of Guardian Forms

These forms are only available within 50304 GN cases.

We've asked CCAP to program both forms for 50305 JG cases when the Minor Estate GN case is consolidated into the Minor Guardianship of the Person JG case.

Upload documents

File name	Status	Document type	Document title	Seal	Remove
<a href="#">Test for e-filing.pdf</a>	Upload complete	Account of Guardian (Minor Guardianship of the Estate) x	Required	<input type="checkbox"/>	<a href="#">Remove</a>

Previous

Continue

## What happens when two different parties file a minor guardianship on the same child?

Please do not reject the filing!

If possible, schedule the cases together and bring them to the attention of the judge.

# Can Juvenile Clerks sign the Annual Accounting?

§ 54.62 – Account shall be examined by the court or by a person satisfactory to the court. Also says the account should be examined as the court directs.

The judge can determine who can review these.

Please discuss with your RIP and Judge!

## Do you need to terminate a Minor Guardianship of the Estate? Is a hearing required?

Technically, a Minor Guardianship of the Estate automatically terminates when a minor ward turns 18 (per Wis. Stat. 54.64).

However, some Judges require the guardianship to be specifically terminated. A few options are:

- GN-3662 - Order on Petition for Termination of Guardianship (Minor Guardianship of the Estate),
- write “the guardianship is terminated” on the Order of Discharge, or
- draft own orders terminating the guardianship.

RMC is looking at a proposed new form

- Order Terminating Guardianship without a Filed Petition

# Minor Guardianships of the Estate Questions?



# 48.977

## CHIPS Guardianships



## **Why is the successor guardian information under the subsidized section of the §48.977 Petition and Dispositional Order?**

Subsidized §48.977 guardianships may name a successor guardian.

The §48.977 statute doesn't address successor guardians for unsubsidized guardianships.

## **Can a successor guardian be named or ordered in a §48.977 unsubsidized guardianship?**

The statute doesn't provide a procedure to name or order a successor guardian for an unsubsidized §48.977 guardianship.

We defer to the judge since there isn't a clear procedure to do this.

It is unclear if the court would be able to make all of the required findings on the Dispositional Order to appoint a successor guardian in an unsubsidized §48.977 guardianship such as the agency providing services and reasonable efforts .

## **Can you use the §48.9795 successor guardian procedure and form to appoint a §48.977 successor guardian?**

No, you can't jump between the two statutes - §48.977 and §48.9795.

There is not a procedure to transfer a §48.977 CHIPS Guardianship to a §48.9795 guardianship.

The §48.977 guardianship could be terminated and a new §48.9795 guardianship could be ordered. The court could schedule both hearings at the same time.

## **Why isn't there a §48.977 Statement of the Guardian ad Litem Circuit Court form?**

§48.977 does not have specific requirements for the Guardian ad Litem like there is in §48.9795.

JN-1512 can be e-filed in a §48.977 guardianship case; however, some of the sections would not apply.

Some counties create their own Guardian ad Litem form.

Some Guardians ad Litem submit a letter to the court with their recommendations in a §48.977 guardianship case.

## **Does the Proposed Guardian in a §48.977 guardianship have to complete a Statement by the Proposed Guardian?**

The statute does not require it so that is why we do not have a §48.977 Statement by the Proposed Guardian Circuit Court form.

A judge may be interested in additional information about the proposed guardian. Some judges have instructed parties to use the §48.9795 form or counties have created their own form.

We defer to the judge since the statute is silent!

## **Can Court Commissioners hear §48.977 Guardianship cases?**

A Court Commissioner cannot hear §48.977 guardianship proceedings.

§757.69 (1m)(e)

# §48.977 CHIPS Guardianship Questions?



## Resources

[www.wiccuptraining.com](http://www.wiccuptraining.com)

### Module 3: Specialty Topics

[Interstate Compact on the Placement of Children Adoption](#)

[Qualified Residential Treatment Program](#)

[WICWA](#)

[Child Safety Decision-Making](#)

[§ 48.977 Guardianship](#)

[§ 48.9795 Guardianship](#)

## FILING A MINOR GUARDIANSHIP OF THE PERSON CASE

This document provides general information about Minor Guardianships of the Person and is not legal advice.

### 1 Which type of guardianship are you requesting?

#### FULL GUARDIANSHIP

- A full guardianship requires the Petitioner to prove facts and circumstances establishing that the child's parents are unfit, unwilling, or unable to provide for the care, custody, and control of the child or other compelling facts and circumstances demonstrating that a full guardianship is necessary.
- A full guardian's duties and authority include:
  - All of the duties and authority specified in 48.023, Wis. Stats., the duty and authority to make important decisions in matters having a permanent effect on the life and development of the child and the duty to be concerned about the child's general welfare, including but not limited to:
    - The authority to consent to marriage, enlistment in the U.S. armed forces, major medical, psychiatric and surgical treatment, and obtaining a motor vehicle operator's license.
    - The authority to represent the child in legal actions and make other decisions of substantial legal significance concerning the child.
    - Reasonable visitation of the child.
    - The rights and responsibilities of legal custody except when legal custody has been vested in another person or when the child is under the supervision of the department of corrections or a county department.
  - The right to change the residence of the child from Wisconsin to another state.
  - The guardian must immediately notify the court of any change in the address of the guardian or child.
  - The guardian must make an annual report to that court on the condition of the child. The report shall include the location of the child, the health condition of the child, and any recommendations regarding the child.
- A full guardianship remains until the child is 18 years old unless terminated earlier.



# CourtNet Resources

## Juvenile




- > [Adoption](#) (04/17)
- > [Juvenile - Children's code - Chapter 48](#) (11/21)
- > [Juvenile - DNA at arrest](#) (10/16)
- > [Juvenile - Juvenile justice code - Chapter 938](#) (11/21)
- > [Juvenile - Indian Child Welfare Act \(ICWA\)](#) (11/21)
- > [Victim procedures in CCAP](#) (11/20)

## Probate/Guardianship

- > [Guardian of estate of minor](#) (03/21)
- > [Guardianship](#) (03/17)
- > [Probate](#) (09/13)

Chapter 48 Minor Guardianship  
Model Record Keeping Procedures  
are included in the  
Juvenile - Children's Code - Chapter 48

## History event code guides

- > [Adult guardianships](#)  (04/21)
- > [Minor guardianships of the estate](#)  (04/21)
- > [Minor guardianships – 48.977 and 48.831](#)  (04/21)
- > [Minor guardianships – 48.9795](#)  (09/21)

**Are there questions you would like to  
ask other Juvenile Clerks?**





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