

TEMPORARY GUARDIANSHIP FOR MINORS

Like adult guardianships discussed in my previous article, minor guardianships are also filed in probate court. These petitions are generally filed when the biological parents of a minor child, less than 17 years and 5 months old, are not physically, mentally or financially able to provide for a minor child, and voluntarily consent to another person caring for the child. Even though a temporary guardianship gives authority to guardians to make all decisions regarding the safety and welfare of the child, it is not to be confused with adoption. Parents who voluntarily agree to a temporary guardianship can revoke it at any time.

Georgia law recognizes that there are times when a minor child's biological parents are not able to fulfill their duties as parents. Examples include: 1) when a single parent of the minor child has been incarcerated or institutionalized for drug or alcohol treatment or otherwise rendered incapable of acting in the parental role, 2) when a single parent or both parents are in the military and have been called away to active duty; 3) when the parent(s) do not live in the United States but have sent the child to live with a friend or relative; 4) when the family has relocated but the parents desires for the child to remain in his or her current school for the remainder of the academic year; or 5) when a parent has disappeared but there is no reason to believe the parent is dead. It is important to note that even if a biological parent has not been actively involved in the minor child's life, unless that absent parent's rights have been terminated by the court, he or she is still entitled to notice that a petition for minor guardianship was filed on behalf of their minor child. If the absent parent's address is unknown, the notice requirement can be satisfied by publication in the newspaper.

If the petitioner has custody of the minor child, the petition for guardianship of a minor is filed in the probate court of the county in which the petitioner is domiciled. If the petitioner does not have physical custody, the petition must be filed in the county where the minor can be found. The petition must contain specific information about the minor and the petitioner; a statement that the petitioner is domiciled in the county and has physical custody of the child, or alternatively, that the petitioner is not domiciled in Georgia and the petition is being filed in the county in which the minor is filed; information about the parents, statement as to whether the parents have consented to the temporary guardianship; and if the sole parent or both parents have not consented, a statement as to why the guardianship is needed. The minor child may express a preference as to who should serve as temporary guardian. However, the best interest of the minor is the controlling standard in any hearing on the establishment of the temporary guardianship or selection of the temporary guardian. The petitioner must undergo a background check prior to the probate judge granting the temporary guardianship.

A temporary guardianship will terminate when the minor reaches the age of 18, or is emancipated, adopted, death of the minor or temporary guardian occurs, a permanent guardianship is granted, or upon a court order terminating the guardianship. The biological parent or the guardian may also petition the court to terminate the guardianship at any time.