

# CHILDREN GUARDIANSHIP CHECKLIST

Please initial on the lines below

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## THINGS TO CONSIDER

- Parents have the right to parent their children, and a guardianship suspends this right. It isn't about what is best for the child, it is about the fitness of the parents
- If parents do not agree with the guardianship, I will have to prove the parents are currently unfit
- If the children are with the parents and in danger, then I should call the child abuse hotline
- If the children are wards of a State or another Tribe, this Guardianship will be put on hold. It is not a way to avoid the removal of children from their parents by child welfare
- I will need to complete an annual report that includes medical and school records
- I will be responsible for the care and supervision of the children and if no conservator is appointed, I will be responsible for them financially
- Is there an emergency – a valid reason why this can't wait for a court hearing

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## HOW TO START A GUARDIANSHIP

- I have completed the Petition for Guardianship
  - It is legible – easily read. If it can't be read, the judge may deny my Petition
  - It has been notarized
  - I have listed the Ward's parents, grandparents and other family members and interested parties
  - I have included all information about any child welfare cases and/or CPS involvement
- I have paid the filing fee or if I am Ponca I have completed the form to waive the filing fee if I am unable to pay
- I have read and completed the Oath of Guardianship
- I have completed the Jurisdictional Affidavit
- If there is an emergency, I have completed the Affidavit stating the reasons that a Guardianship is necessary without notifying any other party

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## AFTER THE PAPERWORK IS SUBMITTED TO THE COURT

- I understand I will need to attend the Court hearings. If I do not attend, the Judge may dismiss my Petition, and my filing fee may be kept
- I will need to keep the Court updated of my address and the Ward's address
- I will complete the Annual Reports with medical and school records



Telephone Number: \_\_\_\_\_

Email Address - if you use and check it regularly: \_\_\_\_\_

County of residence: \_\_\_\_\_

Is there a Tribal Affiliation? \_\_\_\_\_ If so, which tribe? \_\_\_\_\_

What is their relationship (if any) to the ward?  
\_\_\_\_\_

Does the ward currently live with the co-guardian? \_\_\_\_\_ If so, what is the date the ward was first placed or lived with the co-guardian? \_\_\_\_\_

**3) INFORMATION ON WARD A**

Full Legal Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Sex: \_\_\_\_\_

Place of Birth: \_\_\_\_\_

Current Residence: \_\_\_\_\_

Tribal Affiliation: \_\_\_\_\_

I have listed the property and the value of the property that the ward owns below:  
\_\_\_\_\_ worth \$ \_\_\_\_\_  
\_\_\_\_\_ worth \$ \_\_\_\_\_  
\_\_\_\_\_ worth \$ \_\_\_\_\_  
\_\_\_\_\_ worth \$ \_\_\_\_\_

**IF WARD IS A MINOR CHILD, COMPLETE THE FOLLOWING:**

Who currently has legal custody of the child? \_\_\_\_\_

Their current address \_\_\_\_\_

Their Tribal Membership \_\_\_\_\_

Full name of mother: \_\_\_\_\_

Full address of mother: \_\_\_\_\_

Tribal Affiliation of mother: \_\_\_\_\_

Have parental rights of mother been terminated? \_\_\_\_\_ Have parental rights of father been terminated? \_\_\_\_\_

Full name of father: \_\_\_\_\_

Full address of father: \_\_\_\_\_

Tribal Affiliation of father: \_\_\_\_\_

Parents of Ward ( ) are or have been married ( ) were **NEVER** married

Paternity determined by: **check one** ( ) court order ( ) affidavit ( ) not established

**4) INFORMATION ON WARD B**

Full Legal Name: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_ Sex: \_\_\_\_\_  
Place of Birth: \_\_\_\_\_  
Current Residence: \_\_\_\_\_  
Tribal Affiliation: \_\_\_\_\_

I have listed the property and the value of the property that the ward owns below:

\_\_\_\_\_ worth \$ \_\_\_\_\_  
\_\_\_\_\_ worth \$ \_\_\_\_\_  
\_\_\_\_\_ worth \$ \_\_\_\_\_  
\_\_\_\_\_ worth \$ \_\_\_\_\_

**IF WARD IS A MINOR CHILD, COMPLETE THE FOLLOWING:**

Who currently has legal custody of the child? \_\_\_\_\_  
Their current address \_\_\_\_\_

Their Tribal Membership \_\_\_\_\_

Full name of mother: \_\_\_\_\_

Full address of mother: \_\_\_\_\_

Tribal Affiliation of mother: \_\_\_\_\_

Have parental rights of mother been terminated? \_\_\_\_\_ Have parental rights of father been terminated? \_\_\_\_\_

Full name of father: \_\_\_\_\_

Full address of father: \_\_\_\_\_

Tribal Affiliation of father: \_\_\_\_\_

Parents of Ward ( ) are or have been married ( ) were **NEVER** married

Paternity determined by: **check one** ( ) court order ( ) affidavit ( ) not established

**5) INFORMATION ON WARD C - Please attach a separate paper if there are more than 3 wards.**

Full Legal Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Sex: \_\_\_\_\_

Place of Birth: \_\_\_\_\_

Current Residence: \_\_\_\_\_

Tribal Affiliation: \_\_\_\_\_

I have listed the property and the value of the property that the ward owns below:

\_\_\_\_\_ worth \$ \_\_\_\_\_  
\_\_\_\_\_ worth \$ \_\_\_\_\_  
\_\_\_\_\_ worth \$ \_\_\_\_\_  
\_\_\_\_\_ worth \$ \_\_\_\_\_

**IF WARD IS A MINOR CHILD, COMPLETE THE FOLLOWING:**

Who currently has legal custody of the child? \_\_\_\_\_  
Their current address \_\_\_\_\_

Their Tribal Membership \_\_\_\_\_  
Full name of mother: \_\_\_\_\_  
Full address of mother: \_\_\_\_\_

Tribal Affiliation of mother: \_\_\_\_\_  
Have parental rights of mother been terminated? \_\_\_\_\_ Have parental rights of father been terminated? \_\_\_\_\_  
Full name of father: \_\_\_\_\_  
Full address of father: \_\_\_\_\_

Tribal Affiliation of father: \_\_\_\_\_  
Parents of Ward ( ) are or have been married ( ) were **NEVER** married  
Paternity determined by: **check one** ( ) court order ( ) affidavit ( ) not established

**6) Information about Previous cases are as follows:**

Full Name of person(s) last known to have legal custody of the ward are: \_\_\_\_\_

Their last known Address: \_\_\_\_\_

Their Tribal Affiliation: \_\_\_\_\_  
List any previous or current Court cases involving the Ward: \_\_\_\_\_

This information is not available because: \_\_\_\_\_

**7) Information about interested parties is as follows: Please note this must be a complete list and each person listed will be provided a copy of this Petition, and be informed of the initial Court hearing.**

**PLEASE ATTACH A SEPARATE PAGE IF NECESSARY.**

Name of Extended Family Member: \_\_\_\_\_  
Address of Extended Family Member: \_\_\_\_\_

Tribal Affiliation of Extended family member: \_\_\_\_\_

Name of Extended Family Member: \_\_\_\_\_  
Address of Extended Family Member: \_\_\_\_\_

Tribal Affiliation of Extended family member: \_\_\_\_\_

Name of Extended Family Member: \_\_\_\_\_

Address of Extended Family Member: \_\_\_\_\_

Tribal Affiliation of Extended family member: \_\_\_\_\_

Name of Extended Family Member: \_\_\_\_\_

Address of Extended Family Member: \_\_\_\_\_

Tribal Affiliation of Extended family member: \_\_\_\_\_

Name of Former Care Giver: \_\_\_\_\_

Address of Former Care Giver: \_\_\_\_\_

Tribal Affiliation of Former Care Giver: \_\_\_\_\_

Name of Former Care Giver: \_\_\_\_\_

Address of Former Care Giver: \_\_\_\_\_

Tribal Affiliation of Former Care Giver: \_\_\_\_\_

Name of Any other person who has direct interest in Ward: \_\_\_\_\_

Address of Person with direct interest: \_\_\_\_\_

Tribal Affiliation of Person with direct interest: \_\_\_\_\_

This information is not available because: \_\_\_\_\_

\_\_\_\_\_

**8) Information about why a guardianship/conservatorship is necessary is as follows:**

That the reasons which warrant the appointment of a guardian for the Ward are:

List in detail the reasons why a guardian/conservator is needed, attach another sheet if necessary.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Emergency Temporary Orders.**

I am NOT requesting an Emergency Order

I am requesting an Emergency Order. I will attach a separate Affidavit that will state the reasons for such a request. **I understand that no emergency order will be granted without a separate notarized Affidavit.**

WHEREFORE, I am requesting that the Court appoint

\_\_\_\_\_ as Guardian

\_\_\_\_\_ as Conservator  
and issue Letters of Guardianship/Conservatorship to the appointed Guardian/Conservator to act as Guardian/Conservator of the Ward.

I declare under penalty of perjury that the foregoing is true and correct and executed on

\_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Petitioner

SUBSCRIBED TO and sworn before me on \_\_\_\_\_.

[SEAL]

\_\_\_\_\_  
Notary Public

I declare under penalty of perjury that the foregoing is true and correct and executed on

\_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Co-guardian/Petitioner

SUBSCRIBED TO and sworn before me on \_\_\_\_\_.

[SEAL]

\_\_\_\_\_  
Notary Public

IN THE PONCA TRIBAL COURT

STATE OF \_\_\_\_\_ )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

MOTION TO PROCEED  
IN FORMA PAUPERIS

I, \_\_\_\_\_, being duly sworn upon by oath, say:

(Your Name)

- 1. I am unable to pay the costs of this action.
- 2. I am a member of the \_\_\_\_\_ Tribe, enrollment # \_\_\_\_\_.

**The Ponca Tribal Council has determined that only enrolled members of the Ponca Tribe are eligible for a waiver of filing fees.**

- 3. My family unit consists of \_\_\_\_\_ people ( 1 Self + \_\_\_\_\_ children + \_\_\_\_\_ adults)
- 4. My family unit has an average gross monthly income of \$ \_\_\_\_\_, including (check all)  
 Employment \$ \_\_\_\_\_  Food Stamps \$ \_\_\_\_\_  Medicaid  
 Child Support \$ \_\_\_\_\_  SSI \$ \_\_\_\_\_  TANF \$ \_\_\_\_\_  
 Other \_\_\_\_\_  Other \_\_\_\_\_

5. I receive no income from other sources. This is how I can live without any money coming in or going out to pay bills: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 6. My family unit's average monthly expenses are \$ \_\_\_\_\_, which include  
Rent \$ \_\_\_\_\_ Heating \$ \_\_\_\_\_ Lights \$ \_\_\_\_\_ Trash \$ \_\_\_\_\_  
Phone \$ \_\_\_\_\_ Child Care \$ \_\_\_\_\_ Food (Do not include food stamps) \$ \_\_\_\_\_  
Alcohol \$ \_\_\_\_\_ Cigarettes \$ \_\_\_\_\_ Car, insurance & gas for car \$ \_\_\_\_\_  
Other (explain) \$ \_\_\_\_\_ Other (explain) \$ \_\_\_\_\_

7. I own  no real or personal property of more than nominal value.  the following real or personal property that has more than nominal value: \_\_\_\_\_  
\_\_\_\_\_

8. I wish to add the following for consideration.  
\_\_\_\_\_  
\_\_\_\_\_

9. The phone number where I may be contacted at is \_\_\_\_\_.

10. Have you, on three or more prior occasions, brought an action or appeal in a Ponca Court that were dismissed on the grounds of being frivolous, malicious, or failing to state a claim upon which relief may be granted? ( ) Yes ( ) No

If yes, is the reason you are coming to court because you are in imminent danger of serious bodily injury? ( ) Yes ( ) No

11. I understand that a false statement or answer to any questions in this Motion may subject me to penalties of perjury.

\_\_\_\_\_  
Your Signature Date  
SUBSCRIBED AND SWORN BEFORE ME ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary (SEAL) Commission Expires: \_\_\_\_\_  
Approved by Court 02/02/2021





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**Section 3-9-24. Powers and Duties of Guardians.**

1. Except as limited or modified by order of the Court, a guardian shall be responsible for the care, custody and control of the ward and, without limiting such responsibilities, shall have all of the following powers and duties:
  - a. To the extent consistent with the terms of an order of the Court relating to detention or commitment of the ward, have custody of the person of the ward and establish the ward's place of residence, provided that the guardian shall give preference as follows:
    - i. To the least restrictive setting in which the ward's special needs, if any, will be met;
    - ii. To places within the territory of the Tribe, if residence within the territory of the Tribe and outside the territory of the Tribe would be substantially equivalent; and
    - iii. To places that are not treatment facilities, unless the only available and appropriate place of residence is a treatment facility, in which case the guardian shall give preference to any treatment facilities licensed or approved by the Tribe over other such facilities;
  - b. Provide for the care, comfort and maintenance of the ward and, whenever appropriate, arrange for training and education of the ward;
  - c. Take reasonable care of the ward's clothing, furniture, vehicles, and other personal effects and begin protective proceedings if other property of the ward is in need of protection;
  - d. If the ward is an incapacitated person, to the extent possible, secure services to restore the ward to the best possible state of mental and physical well-being in an effort to return the ward to self-management at the earliest possible time;
  - e. Consent to or approve any necessary medical or other professional care, counsel, treatment or service for the ward and any other matters that may be required or in the ward's best interest;
  - f. If no conservator has been appointed or the guardianship does not exclude guardianship of the ward's estate, to the extent consistent with the orders of the Court:
    - i. Institute a proceeding to compel a person under a duty to support the ward or to pay money for the ward's welfare to perform the duty;
    - ii. Receive money and tangible property deliverable to the ward and apply the same for the ward's care, comfort, maintenance and appropriate training and education while exercising care to

**Keep this page**

conserve any excess for the ward's needs; provided, however, the guardian shall not use money from the ward's estate for room and board which is furnished by the guardian or his or her spouse, parent or child unless authorized by order of the Court;

g. If a conservator has been appointed, pay the conservator for management, pursuant to this Chapter, the amount of the ward's estate received by the guardian in excess of the amount the guardian expends for the ward's current care, comfort, maintenance and appropriate training and education, and account to the conservator for all amounts expended; and

h. Do all other things necessary for the protection of the ward.

2. Except as limited or modified by order of the Court, a guardian shall:

a. Whenever meaningful communication is possible, consult with the ward before making any major decision affecting the ward;

b. Visit the ward within one (1) month of appointment and not less than once within one (1) month after each previous visit;

c. Immediately notify the Court, in writing, of any change of address;

d. Provide the Court with annual written reports on the guardianship as provided in this Chapter; and

e. At the termination of the guardianship, deliver the assets of the ward to the persons entitled thereto.

3. A guardian may petition the Court for authority to do any act about which the guardian is uncertain, and the Court may grant such authority if such act appears to be in the best interests of the ward.

4. Except as provided by order of the Court, a guardian shall have no authority to relinquish a ward's membership in the Tribe without express permission of the Court.

5. The Court may impose restrictions and limitations on the duties and powers of a guardian and condition the appointment on the performance of specific duties.

**Section 3-9-25. Powers and Duties of Conservators.**

1. Except as limited or modified by order of the Court, a conservator shall be responsible for the collection, care, preservation, administration and protection of the ward's estate and, without limiting such responsibilities, shall have all of the following powers and duties without Court authorization or confirmation:

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- a. To expend or distribute the ward's estate income or principal for the support, education, care, or benefit of the ward or the ward's dependents and others who are members of the ward's household who are unable to support themselves;
- b. To collect, hold, and retain assets of the ward's estate, in the ward's name, and receive any additions thereto, including real property wherever situated, until proper disposition in accordance with this Chapter;
- c. To continue or participate in the operation of any business or other enterprise in which the ward is engaged;
- d. To deposit estate funds in a federally insured financial institution;
- e. To insure the assets of the estate against damage or loss, and the conservator against liability with respect to third persons;
- f. To pay taxes, assessments, compensation of the conservator, and other expenses incurred in the collection, care, administration and protection of the estate;
- g. To pay any sum distributable to a ward or dependent of the ward by paying the sum to the proper party; and
- h. To execute and deliver all instruments that will accomplish or facilitate the exercise of the powers vested in the conservator.

2. Upon authorization by the Court, a conservator may exercise the following powers:

- a. To acquire an undivided interest in any asset of the ward's estate in which the conservator, in any fiduciary capacity, holds an undivided interest;
- b. Sell, transfer, mortgage, encumber, lease, or otherwise dispose of the ward's real property or any interest therein;
- c. To consent to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise in which the ward is engaged;
- d. To prudently invest and reinvest assets and funds of the ward's estate as would a trustee;
- e. To acquire or dispose of an asset of the ward's estate, including non-trust land wherever located, for cash or on credit, at public or private sale;
- f. To borrow money to be repaid from the ward's estate or otherwise for the purpose of paying debts, taxes, and other claims against the ward or the ward's estate;
- g. To manage, develop, improve, exchange, partition, change the character of, or abandon an asset of the estate;
- h. To make ordinary or extraordinary repairs or alterations to buildings or other structures, and demolish or construct new buildings or structures and any improvements;
- i. To vote a security owned by the ward in person or by general or limited proxy;

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- j. To employ persons, including attorneys and lay counsel, auditors, investment advisors, or agents, even though they are associated with the conservator, to advise and assist the conservator in the performance of administrative duties and to act upon their recommendation without independent investigation;
- k. To prosecute or defend actions, claims or proceedings in any jurisdiction to obtain support to which the ward is legally entitled and for the protection of assets of the ward's estate or of the conservator in the performance of his or her duties;
- l. To compromise, adjust, arbitrate, sue on, defend, abandon, or otherwise deal with and settle any claim in favor of or against the ward or the ward's estate; and
- m. To prosecute claims of the ward, including those for personal injury.

3. Except as limited or modified by order of the Court, a conservator shall:

- a. Whenever meaningful communication is possible, consult with the ward before making any major decision affecting the ward's affairs or estate;
- b. Within forty-five (45) days of appointment, conduct a due diligence investigation of the ward's estate and prepare and submit to the Court an inventory and appraisal of the estate;
- c. Mail notice of the conservator's appointment to all known creditors who were not originally notified of the conservatorship appointment;
- d. Immediately notify the Court, in writing, of any change of address;
- e. Provide the Court with annual written reports on the conservatorship as provided in this Chapter; and
- f. At the termination of the conservatorship, deliver the assets of the ward to the persons entitled thereto.

4. A conservator may petition the Court for authority to do any act about which the conservator is uncertain, and the Court may grant such authority if such act appears to be in the best interests of the ward.

5. A conservator shall have no authority to relinquish a ward's membership in the Tribe.

6. The Court may impose restrictions and limitations on the duties and powers of a conservator and condition the appointment on the performance of specific duties.



