

**Information or instructions: Guardian's application to expend funds and for monthly allowance - general procedure**

**PREVIEW**

1. Section 811 et al of the Texas Probate Code requires the Guardian to obtain approval from the court prior to the expenditure of the Ward's moneys.

2. Court approval comes after the filing of an application to expend funds followed by a court hearing.

3. Thereafter an order is submitted to the court authorizing the proposed expenditure.

4. The following form may be used to obtain court approval to expend funds.

5. Section 77.7 of the Texas Probate Code provides that the estate of any minor who is 17 years or younger cannot be used for the care of the Ward, unless it can be shown by clear and convincing evidence that the Ward's parents cannot without reasonable hardship pay for all of the expenses related to the Ward's support.

6. An estate for an adult is administered differently in that the estate is responsible for all expenses, education and welfare of the Ward. Therefore no showing is necessary that the Guardian cannot without reasonable hardship pay for all of the expenses related to the Ward's support.

7. A Guardian cannot spend more than \$ 5000 annually out of the Ward's estate without court approval.

8. The following form may be used to request the court to authorize the Guardian to expend moneys for maintenance, expenses and taxes, legal and accounting fees on real property owned by the Ward.

9. The application also assumes that the Ward has graduated from high school and will be attending a college or university and therefore requests that his college educational expenses for the first year be approved by the court.

10. The form further requests that the court allow the Guardian to spend some of the Ward's money for purchase of a car.

11. The request thereafter asks the court for the Guardian to be given a monthly allowance to pay for the Ward's ongoing expenses such as food, clothing, medical expenses, etc.

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Form: Guardian's application to expend funds and for a monthly allowance

**PREVIEW**

CAUSE NUMBER \_\_\_\_\_

IN THE MATTER OF:

IN THE COUNTY COURT

THE GUARDIANSHIP OF [PERSON OR  
ESTATE] OF NAME

NUMBER \_\_\_\_\_

AN INCAPACITATED PERSON

[COUNTY] COUNTY, TEXAS

GUARDIAN'S APPLICATION TO EXPEND FUNDS  
AND FOR A MONTHLY ALLOWANCE  
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[Guardian's name], Guardian of [Ward's name], a minor, and applies for the Court's  
permission to expend certain funds and for a monthly allowance;

In support of the application Guardian would respectfully show unto the Court as follows:

1.

1.1 The Ward owns the following property \_\_\_\_\_. This property is in need of  
maintenance and repair.

**THIS DOCUMENT**

1.2 Furthermore, real property taxes will be owed for the \_\_\_\_\_ year on the  
property.

1.3 Certain legal fees and court costs are owed in connection with the preparation and filing of  
Guardian's Application for Order Approving Annual Account, Application to Expend Funds, and  
for an Allowance Order approving the same.

1.4 There are sufficient funds on deposit in \_\_\_\_\_ Bank to pay the above items  
and Guardian requests the Court for permission to pay the same.

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1.5 The Ward has adequate funds for the expenses requested in this application because the  
Ward receives the following income:

[state the income amount and its source]

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1.6 The requested expenses and allowance herein are in the best interests of the Ward. Said expenses and allowance are also reasonable and necessary.

**PREVIEW**

2.

2.1 [Ward's name] has graduated from high school, has been accepted as a student at the [Name of School] for [his or her] freshman year of college beginning in [month and year].

2.2 In this connection, [he or she] will incur the following expenses:

a. \$[Amount] registration;

b. \$[Amount] room and board;

c. \$[Amount] books and supplies;

d. \$[Amount] room deposit;

e. \$[Amount] travel expense;

f. \$[Amount] student activity fees; and

g. \$[Amount] insurance.

The total amount equals: \$[Amount]

2.3 Guardian requests permission of the Court to pay the above items for the benefit of [Ward's name] out of the savings account at \_\_\_\_\_ Bank.

3.

3.1 For the past year, [Ward's name] [minor] has worked and saved money for the purchase of a car for [his or her] transportation.

3.2 Minor however needs \$[Amount] in order to purchase the car of [his or her] choice, a [year, make, and model of car].

3.3 Guardian hereby asks the Court's permission to pay the additional \$[Amount] on the car out of the Ward's savings account.

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4.1 The Ward will continue to incur on a regular basis the following expenses: [e.g., food, clothing, medical expenses, living expenses, transportation, etc.].

4.2 Accordingly, Guardian requests the Court grant [him or her] an allowance of \$[Amount] per month per Ward to be used by the Guardian for the [e.g., food, clothing, medical, living, transportation, etc.] expenses. The total per month would be \$[Amount].

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5.1 Guardian would show by clear and convincing evidence that the Guardian cannot pay out of his or her own funds the moneys and expenses stated above without reasonable hardship.

[state the facts or circumstances that prove the hardship]

Guardian prays that the Court after due hearing approve the payment of the above referenced expenses and a monthly allowance for a period of 12 months and such other relief to which he or she may be entitled to.

# THIS DOCUMENT

Respectfully Submitted,

\_\_\_\_\_  
[Law Firm Name]

By \_\_\_\_\_

\_\_\_\_\_  
[Attorney's Name]

# THANK YOU

Attorney for Applicant

[Attorney's Address]

[Telephone Number]

[Facsimile Number]

[Bar Card Number]

\_\_\_\_\_  
Guardian  
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Information or instructions: Guardian's affidavit to support the request for an expenditure and monthly allowance

PREVIEW

1. The affidavit is necessary to prove up the requirement in Section 777 of the Texas Probate Code which provides that the estate of any minor who is 17 years or younger cannot be used for the care of the Ward, unless it can be shown by clear and convincing evidence that the Ward's parents cannot without reasonable hardship pay for all of the expenses related to the Ward's support.

Form: Guardian's affidavit to support request for expenditure and monthly allowance

AFFIDAVIT

State of Texas

County of [Name of county]

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Before me the undersigned authority on \_\_\_\_\_ personally appeared [Name] known to me to be the Guardian of the person and estate of [Name] Ward, and to be the person whose name is subscribed to the above Guardian's Application to Expend Funds and For a Monthly Allowance and on [his or her] oath has stated that the Application contains a true and complete statement of the matters to which it relates and that all of the contents thereof are true, complete and correct.

Guardian further states that:

My address is [Guardian Address].

My employer's name and address is [Name and Address of Guardian's Employer].

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My monthly net take home pay is \$[Guardian Net Take Home Pay].

My net income from other sources is \$[Net Income from Other Sources].

My total net income is not sufficient to pay the Ward's expenses without creating an undue burden or hardship on me and my family.

The Ward's estate has sufficient assets from which to provide for the Ward's additional care, support, education, training and other needs. The expenses requested in the attached application are reasonable and necessary for the support, welfare, education and/or maintenance of the Ward.

THANK YOU

Guardian

Affiant on oath swears that the statements are true and correct based on his or her personal knowledge and Affiant has:

Subscribed and sworn to before me on \_\_\_\_\_

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Signature of officer

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Notary's typed or printed name

My commission expires:

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[or Notary's Stamp]

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Form: Order authorizing expenses and monthly allowance

**PREVIEW**  
CAUSE NUMBER \_\_\_\_\_

IN THE MATTER OF:

IN THE COUNTY COURT

THE GUARDIANSHIP OF [PERSON OR  
ESTATE] OF NAME

NUMBER \_\_\_\_\_

AN INCAPACITATED PERSON

[COUNTY] COUNTY, TEXAS

ORDER APPROVING GUARDIAN'S APPLICATION TO EXPEND FUNDS  
AND FOR A MONTHLY ALLOWANCE

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On \_\_\_\_\_, in the above-styled and numbered cause, came on to be heard

the Application of [Guardian's name], Guardian of [Ward's name], minor, for the Court's  
permission to expend certain funds for a monthly allowance.

The Court after hearing full and sufficient evidence and support for the Application finds  
that such expenses appear to be reasonable and necessary and in the best interest of the Ward and  
the Ward's estate.

**THIS DOCUMENT**

The Court further finds by clear and convincing evidence that the Guardian cannot pay out  
of [his or her] own funds the moneys and expenses requested herein without reasonable hardship,  
and that clear and convincing evidence has been presented in support of such application, therefore  
the Court is of the opinion that the application should be granted.

It is hereby ORDERED, ADJUDGED and DECREED that the Guardian pay all of the  
following expenses: [list each of the creditors and expenses]

**THANK YOU**

It is further ORDERED, ADJUDGED and DECREED that the Guardian pay all court costs  
and legal fees owed to \_\_\_\_\_ law firm as of the date of this Order.

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It is further ORDERED, ADJUDGED and DECREED that Guardian pay for the benefit of [Name] minor, the following expenses for [his or her] education: [list fees, e.g., registration, student activity fees, room and board, books, supplies, room deposit, travel expense insurance, etc.].

It is further ORDERED, ADJUDGED and DECREED that Guardian pay the following sum toward the purchase of a car for [Name] minor: \$[Amount].

It is further ORDERED, ADJUDGED and DECREED that Guardian have or be entitled to a monthly allowance of \$[Amount] per month for a period of 12 months beginning on \_\_\_\_\_ and ending on \_\_\_\_\_, without further orders of this Court to be

used by the Guardian for the food, clothing, medical expenses and current living expenses of the Ward.

In connection therewith, the Court orders the Guardian to account for the funds received by this allowance each year when the Guardian files [his or her] annual account. Guardian is to receive this allowance as long as the Ward's estate is producing income sufficient to pay the allowance.

SIGNED on \_\_\_\_\_.

\_\_\_\_\_  
JUDGE PRESIDING

**THANK YOU**

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