

**Information or instructions: Application for guardianship over the person and estate of a minor**

# PREVIEW

1. This form is based upon the assumption that the natural living mother was awarded custody of the minor children pursuant to a divorce decree and that she is now deceased.
2. The stepfather, who does not have custody of the children, seeks a guardianship over the minor children and their property.
3. The application assumes that the minor children inherited property from their mother pursuant to her Last Will and Testament and that a separate probate proceeding has been filed to probate the Last Will and Testament of the deceased parent.
4. **PLEASE DO NOT COPY** The will established a trust for the children, however, the trust, in the opinion of the practitioner, is deficient or does not protect the children and a guardianship would be more appropriate in this instance.
5. Accordingly, the application seeks to have the trust assets put into the guardianship.
6. Complete the Applicant's affidavit, the property description and appointment of Attorney Ad Litem forms that follow the Application for Guardian forms.
7. Thereafter also complete and file Form Application to Transfer Assets of a Probate Estate to a guardianship Estate.

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Form: Application for a guardianship over person and estate of minor

**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

APPLICATION FOR APPOINTMENT OF A GUARDIAN FOR THE PERSON AND THE ESTATE OF A MINOR

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Now comes [name], Applicant in the above entitled and numbered cause, and files this application

to be appointed Guardian of the person and estate of the minor child(ren) [names], and the

Applicant would show unto this honorable court the following:

**1. Identity Of The Proposed Ward[s] and Powers of Attorney**

1.1 The minor child(ren) are: [name, sex, age, birth date and birthplace].

1.2 The child(ren) reside with Applicant herein at [address]. [if the children reside at a different address, then state their address].

1.3. The name and address of any person whom the applicant knows to hold a power of attorney signed by the proposed ward and a description of the type of power of attorney is as follows, if any:  
[Describe the power of attorney, attorney's name and property covered by the power]

1.4 The proposed ward is not presently in a custodial court ordered decree or guardianship. [Name and address] is presently caring for the proposed ward.

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**2. Identity of Minor's Parents**

2.1 The natural father of the minor child(ren) is [Name], and he resides at [Address].

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2.2 The natural mother of the minor child(ren) is [Name] who died on [Date] at [County, Texas], and whose estate was filed for probate in Cause No. \_\_\_\_\_, [Probate Court No.].

[County, Texas, with [name and address], appointed independent executor.

2.3 The father and mother of the minors were divorced on [Date] in the [District Court of County, Texas, in Cause No.]

a. The divorce proceeding is final and [mother's name] was awarded custody of the minor children.

b. [state if any other proceedings have been held such as an adoption by the step father etc.].

### 3. Minor's Estate

3.1 The estate of the minor child (ren) to be administered by this guardianship of their person and estate will consist of real and personal property that belonged to their natural mother who is now deceased, pursuant to her estate in Cause No. [Cause Number] currently pending in Probate Court No. [Court Number], of [Suit County] County, Texas.

3.2 The assets of the estate of [natural mother], deceased, will be shared by the child(ren).

a. [List the assets to be included in the estate].

3.3 The beneficiaries of the Last Will and Testament of [natural mother], deceased, are to share and share alike in her estate.

3.4 The estate of [natural mother], deceased, consists of the following real and personal property that is known to your Applicant (not omitting any other property that belonged to the decedent), as follows: [list the property] i.e.:

a. Lien Notes from the sale of the house and lot in [City], located at [Street Address].

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b. A house and lot complete with household furnishings and fixtures and more fully described as follows: [insert description].

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c. A motor vehicle described as follows:

d. Benefits due the estate of [natural mother], deceased, pursuant to her employment with before and at the time of her death.

e. [List all other property.]

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4.1 Applicant requests the establishment of a full guardianship over both the person and estate of the minor child(ren).

4. Necessity For A guardianship

4.2 A full guardianship over both the person and estate of the minor child(ren) is necessary to protect their property rights in the estate of [natural mother], deceased.

4.3 It is necessary to appoint a Guardian over the minors since their managing conservator is deceased and for the following additional reasons:

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[list the reasons].

**5. Request For An Ad Litem**

5.1 Applicant requests the court to appoint an Attorney Ad Litem to protect the interest of the minor child(ren).

[if a Guardian ad litem is also necessary, due to inability to locate or serve a necessary party, state the pertinent facts].

**THANK YOU**  
6. Identity And Relationship Of Applicant

6.1 Applicant requests to be appointed Guardian of the person and estate of the minor child(ren).

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6.2 Applicant is their [state the relationship, if any, i.e. stepfather] and in whose home the minor child(ren) now reside.

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6.3 Applicant currently has the care, custody and control of the proposed Wards.

6.4 Applicant is not ineligible or disqualified by law to so act.

6.5 It is in the best interests of the proposed Wards for Applicant to be appointed their Guardian.

### **7. Type Of guardianship Requested**

7.1 The Applicant seeks a full guardianship of both the person and estate of the minor child(ren).

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### **8. Venue**

8.1 The domicile of the minor child(ren) and the Applicant is in [Domicile County] County, Texas, therefore this court has venue of the case at bar.

### **9. Other Facts**

9.1 Applicant does not know of any person who holds a power of attorney for the proposed Wards.

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9.2 Applicant has listed the names of the proposed minor Wards' next of kin and whether or not any of the same are deceased.

9.3 Applicant has listed whether or not the minors were the subject of a legal or conservatorship within the preceding two year period and the court involved, the nature of the proceedings and the final disposition of the same.

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9.4 This guardianship is not being filed for a minor person for the primary purpose of enabling the minor to establish his or her residency for enrollment in a particular school or school district in which the minor would not otherwise be eligible for enrollment.

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PRAYER

Applicant prays the court order issuance of citation as the law may require and service of the citation upon all persons at law who are entitled to notice including the independent executor and trustee of the estate of [estate's name] and service of the application for guardianship on [names of others who are entitled to service including the natural father etc.].

Applicant prays for the appointment of an attorney ad litem, the establishment of a guardianship of the person and estate of the minor child(ren) with Applicant as Guardian, a transfer of the assets and liabilities from the estate of [natural mother], deceased and the trust of the minor child(ren) to the guardianship, costs of court and general relief.

Respectfully Submitted,

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

By \_\_\_\_\_

**THIS DOCUMENT**

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

Attorney for Applicant  
[Attorney's Address]  
[Telephone Number]  
[Facsimile Number]  
[Bar Card Number]

\_\_\_\_\_  
Applicant

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