

**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. 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.

**Information or instructions: Procedure for obtaining a guardianship**

# THIS DOCUMENT

The procedure to obtain a guardianship is as follows:

1. Meet with the clients to obtain the facts and information necessary to support the application.
2. Obtain a medical letter from the proposed Ward's treating physician (if the guardianship is for a person who is incapacitated due to physical or mental infirmity).
3. Prepare the application for guardianship and appropriate affidavit and property description attached thereto.
4. File the application, the affidavit and property description with the court, and have citation issued to the proposed Ward, and any other persons or entities entitled to notice such as the proposed Ward's nursing home, etc.
5. Personal service must be issued on all minors who have obtained the age of 14, persons alleged to be incapacitated or habitual drunkards or persons in need of a Guardian if they are to receive funds.

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6. Personal service may be waived by minors of 14 years of age upon signing of a waiver or if it is represented under oath that within six months before the application was filed, the person for whom the guardianship was sought has been adjudicated by court of competent jurisdiction of Texas, after due notice, to be of unsound mind or habitual drunkard.

7. Have the Constable post the citation at the appropriate place.

8. Citations and notices by the clerk are returnable to the court on the first Monday after service was perfected.

9. Proof of service must be filed with the court.

10. Thereafter the hearing on the application may be held.

11. Schedule a hearing with the court after the citation posting has expired.

12. Hold the hearing.

13. At the hearing prove the facts contained in the application of guardianship.

14. The court must find that the person over whom a guardianship is sought is a minor or incapacitated or is a person which must have a guardianship as a pre-requisite to receive funds.

15. The court must also find it has jurisdiction and venue.

16. The court must also find the person appointed Guardian is not disqualified to act as a Guardian.

17. The court must also find the rights of the person or the property will be protected by the appointment of a Guardian.

18. The bond amount will be established and thereafter, the court may enter an Order appointing a Guardian.

19. Have the Guardian execute, in front of the court clerk, the oath of Guardian.

20. Thereafter, Letters of Guardianship may be issued.

21. The letters are proof of the Guardian's power to act for Ward.

22. Immediately thereafter prepare an inventory appraisalment and list of debts.

23. This should be filed within 90 days after the Guardian has qualified.

24. The inventory and appraisalment should contain a complete list of all of the person's property and assets.

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25. The judge will also want to see a list of debts called a list of claims. Said list details the debts owed by the Ward.

**PREVIEW**

**Information or instructions: Contents for the application for a guardianship**

Section 682 of the Texas Probate Code has been amended. Section 682 sets forth the required information to be included in an application for a guardianship. The new provision reads as follows:

Sec. 682. APPLICATION; CONTENTS. Any person may commence a proceeding for the appointment of a guardian by filing a written application in a court having jurisdiction and venue

**PLEASE DO NOT COPY**  
The application must be sworn to by the applicant and state:

- (1) the name, sex, date of birth, and address of the proposed ward;
- (2) the name, relationship, and address of the person the applicant desires to have appointed as guardian;
- (3) whether guardianship of the person or estate, or both, is sought;
- (4) the nature and degree of the alleged incapacity, the specific areas of protection and assistance requested, and the limitation of rights requested to be included in the court's order of appointment;
- (5) the facts requiring that a guardian be appointed and the interest of the applicant in the appointment;
- (6) the nature and description of any guardianship of any kind existing for the proposed ward in [this or] any other state;
- (7) the name and address of any person or institution having the care and custody of the proposed ward;
- (8) the approximate value and description of the proposed ward's property, including any compensation, pension, insurance, or allowance to which the proposed ward may be entitled;
- (9) the requested term, if known, of the guardianship;
- (10) 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;
- (11) if the proposed ward is a minor, the names of the parents and next of kin of the proposed ward and whether either or both of the parents are deceased;
- (12) if the proposed ward is a minor, whether the minor was the subject of a legal or conservatorship proceeding within the preceding two-year period and, if so, the court involved, the nature of the proceeding, and the final disposition, if any, of the proceeding;
- (13) if the proposed ward is 60 years of age or older, the names and addresses, to the best of the applicant's knowledge, of the proposed ward's spouse, siblings, and children, or, if there is no spouse, sibling, or child, the names and addresses of the proposed ward's next of kin;
- (14) facts showing that the court has venue over the proceeding; and

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(16) if applicable, that the person whom the applicant desires to have appointed as a guardian is a private professional guardian who has complied with the requirements of Section 697 of this code.

**PREVIEW**

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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.

**THANK YOU**

**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].

**PREVIEW**

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.]

**PLEASE DO NOT COPY**  
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:

**THIS DOCUMENT**  
[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.

**PREVIEW**

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.

**THIS DOCUMENT**

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.

**THANK YOU**

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

**THANK YOU**

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AFFIDAVIT OF APPLICANT  
**PREVIEW**

State of Texas  
County of \_\_\_\_\_

BEFORE ME, a Notary Public in and for \_\_\_\_\_ County, Texas, on \_\_\_\_\_ personally appeared \_\_\_\_\_, known to me to be a credible person of lawful age and qualified in all respects to make this Affidavit, who being first sworn on oath, says that [he or she] is the Applicant in the foregoing Application for the Appointment of a Guardian and that [he or she] has read the foregoing Application and that the Application is in every statement and allegation thereof, true and correct to [his or her] own personal knowledge.

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Subscribed and sworn to before me on \_\_\_\_\_ by \_\_\_\_\_ [Name].

\_\_\_\_\_  
Signature of officer

\_\_\_\_\_  
Notary's typed or printed name

My commission expires: \_\_\_\_\_  
**THIS DOCUMENT**  
[or Notary's Stamp]

**THANK YOU**

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Information or instructions: ~~Ward information letter~~

**PREVIEW**

Section 683A of the Texas Probate Code now authorizes the following information form concerning a person who is believed to be incapacitated to be prepared per Section 683(b)(1) of the Texas Probate Code:

**INFORMATION LETTER**

(1) include the name, address, telephone number, county of residence, and date of birth of the person;

(2) state whether the residence of the person is a private residence, health care facility, or other type of residence;

(3) describe the relationship between the interested person and the person;

(4) contain the names and telephone numbers of any known friends and relatives of the person;

(5) state whether a guardian of the person or estate of the person has been appointed in this state;

(6) state whether the person has executed a power of attorney and, if so, the designee's name, address, and telephone number;

(7) describe any property of the person, including the estimated value of that property;

(8) list any amount and source of monthly income of the person; and

(9) describe the nature and degree of the person's alleged incapacity and include a statement of whether the person is in imminent danger of serious impairment to the person's physical health, safety, or estate.

**THANK YOU**

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Information or instructions: Applicant's affidavit for application for appointment of guardian

# PREVIEW

1. The purpose of the following affidavit is to support and substantiate the statements made in the Application for Appointment of a Guardian.
2. The affidavit should be signed by the party desiring to be appointed Guardian. It should be attached to the Application for Appointment of a Guardian.

## Applicant's affidavit to support the application for guardianship

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

IN THE MATTER OF **PLEASE DO NOT COPY** IN THE COUNTY COURT

THE GUARDIANSHIP OF [PERSON OR ESTATE] OF NAME

NUMBER \_\_\_\_\_

AN INCAPACITATED PERSON

[COUNTY] COUNTY, TEXAS

### AFFIDAVIT

State of Texas  
County of

BEFORE ME, the undersigned authority, on \_\_\_\_\_ personally appeared [Name] and after by me being duly sworn, deposes and says: THAT I, [Name] am the step father of [minors' names] and I have the custody of my minor children, who reside with me at \_\_\_\_\_, [Name of County] County, Texas.

# THIS DOCUMENT

That I have read the foregoing Application for guardianship over the person and estates of the minor children and that the Application and statements contained therein are true and correct based on my personal knowledge.

I have read the Will of [natural mother's name], Deceased, and have been informed by legal counsel and know from my own knowledge that the minor children will inherit both real and personal property.

# THANK YOU

I further believe from observations that the assets of the estate of [natural mother's name], Deceased, that a full guardianship is in the best interest of the children sought to be made Wards hereunder.

\_\_\_\_\_  
[Name] Applicant

State of Texas **LegalFormsForTexas.Com**

County of [Name of County]

# PREVIEW

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 \_\_\_\_\_ by

\_\_\_\_\_.

\_\_\_\_\_  
Signature of officer

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\_\_\_\_\_  
Notary's word or printed name

My commission expires:  
\_\_\_\_\_

[or Notary's Stamp]

## THIS DOCUMENT

## THANK YOU

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Form: Description and value of proposed ward's property

**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

DESCRIPTION AND VALUATION OF PROPERTY OF PROPOSED Ward

**PLEASE DO NOT COPY**  
1. Real Property

Description:

Approximate Value: \$[Amount]

Subtotal: \$[Amount]

**2. Personal Property**

[List household goods and personal effects, bank accounts and locations, automobiles and all other property with the value of each.]

**THIS DOCUMENT**

Subtotal: \$[Amount]

Total: \$[Amount]

\_\_\_\_\_  
[Name] Applicant

State of Texas

County of [Name of County]

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

**THANK YOU**

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

\_\_\_\_\_  
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Signature of officer  
**PREVIEW** \_\_\_\_\_  
Notary's typed or printed name

My commission expires:

\_\_\_\_\_

[or Notary's Stamp]

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**THIS DOCUMENT**

**THANK YOU**

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**Information or instructions: Order appointing attorney ad litem**

**PREVIEW**

1. All guardianships now require an attorney ad litem to be appointed to represent a proposed Ward.
2. The court will automatically appoint an attorney ad litem; the following form is an order that may be used for that purpose.
3. The form is required by Section 646 of the Texas Probate Code.

**Form: Order appointing attorney ad litem**

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

**PLEASE DO NOT COPY**

IN THE MATTER OF: \_\_\_\_\_ IN THE COUNTY COURT

**THE GUARDIANSHIP OF [PERSON OR ESTATE] OF NAME**

**NUMBER \_\_\_\_\_**

**AN INCAPACITATED PERSON**

**[COUNTY] COUNTY, TEXAS**

**ORDER APPOINTING ATTORNEY AD LITEM**

On \_\_\_\_\_ in the above mentioned cause the Court's attention having been called to the fact that an application for appointment of \_\_\_\_\_ Guardian [temporary or other] was filed on [Date], alleging that [name], an incapacitated person/minor and requires the appointment of an Attorney Ad Litem to represent his/her interests, as provided by Section 646 of the Texas Probate Code;

**THIS DOCUMENT**

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED, by this Court that [Name and Address], an Attorney licensed to practice law in the State of Texas, and certified to act as an Attorney Ad Litem should be and he/she is hereby appointed Attorney Ad Litem to represent the legal interests of [name], an incapacitated person, in this proceeding.

**THANK YOU**

[if a Guardian ad litem is needed continue with the following:

It is ORDERED, ADJUDGED, AND DECREED, by this Court that [Name and Address], an Attorney licensed to practice law in the State of Texas and certified to act as a Guardian Ad

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Litem, should be and he/she is hereby appointed Guardian Ad Litem to represent the best interests  
of [name], an incapacitated person, in this proceeding.

**PREVIEW**

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

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**JUDGE PRESIDING**

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**THIS DOCUMENT**

**THANK YOU**

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Order approving 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

ORDER APPOINTING A GUARDIAN OF THE PERSON AND ESTATE OF MINOR CHILDREN

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BE IT REMEMBERED on \_\_\_\_\_, came on to be considered the

application of [name] requesting that he/she be appointed Guardian of the person and estate of the following minor children [name], and the Court having considered this application and heard the evidence and reviewed the documents filed herein and having found that the allegations contained in the application are true by clear and convincing evidence, and that notice and citation have been given in the manner and for the length of time required by law, the court makes the following findings and orders:

**THIS DOCUMENT**

[findings:]

The Court finds that it has both subject matter Jurisdiction and venue of this case.

The Court finds that a need exists for the appointment of a Guardian over the person and the estate of [name].

The Court finds that the Ward [name], is a [male or female], who is [age] and that the Ward was born on [Date] in the City of [Name] [Residence County] County, State of [State]. The court finds that the Ward is a minor child; [list information for each child separately.]; the address of the minor [child or children] is [Name of County] County, Texas, which is the home of [his, her or their] [name] (father or stepfather etc.)

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The Court finds that the rights of the Ward and his or her property will be protected by the appointment of a Guardian and that it is in the Ward's best interests for a guardianship to be established.

**PREVIEW**

The Court finds [insert the specific findings, e.g., "that [name], is the Independent Executor of the estate of [name], Deceased, having qualified and been issued Letters of Testamentary. The Court further finds that an inventory and appraisal and list of claims has been filed in the estate of [name] Deceased"]

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The Court further finds that the Will of [name], Deceased established a Trust for the benefit of her children, [name], with [name], being appointed Trustee of the Trust, and that the assets of the Trust are the same as the assets shown in the inventory and appraisal and list of claims filed of record in the estate of [name], Deceased, in Cause No. \_\_\_\_\_.

The Court further finds that an agreement has been reached between the Independent Executor and Trustee of the Last Will and Testament referred to above, [his or her] attorney of record, [name], and [name of applicant] and his attorney of record, with the agreement being that the assets and liabilities of the estate of [name], Deceased, that are listed in the inventory and appraisal and list of claims of the estate and further being the same assets in the Trust established by the Will of [name], Deceased, as filed in Cause No. \_\_\_\_\_ and that these assets are to be transferred to the Guardian of [name], minor children.

**THIS DOCUMENT**

The Court further finds that Trustee, [name], is unable to further act as Trustee of the Trust and Independent Executor of the estate of [name], Deceased.

**THANK YOU**

The Court further finds that at the time of the death of [name], Deceased, on [Date], she and [name] were divorced, having been granted a Decree of Divorce in Cause No.

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in the \_\_\_\_\_ Judicial District Court of \_\_\_\_\_ County,

Texas, on [Date]. In this Decree [name] was appointed the managing conservator of the minor children.

**PREVIEW**

The Court finds that [name] is not ineligible to serve as Guardian over the person and the estate of [name].

The Court further finds that the rights of the persons and the property of the minor children, [name], will be properly protected by the appointment of a Guardian of their person and estate.

The Court finds that this application was not filed for the primary purpose of enabling the minor to establish residency for enrollment in a school or school district in which the student would not otherwise be eligible for enrollment.

It is therefore ORDERED, ADJUDGED AND DECREED that [applicant's name] be appointed full Guardian of the person and estate of [Ward's name], and upon Applicant's qualifying according to law, that Letters of guardianship are to be issued by the Clerk of this Court to [applicant's name] upon the qualification of Applicant in the form and manner required by law,

And it is further ORDERED, ADJUDGED AND DECREED that [applicant's name] file a good and sufficient bond in the sum of \$[Amount] for the service of [applicant's name] as Guardian of the person and estate of [Ward's name], and that Applicant make the Oath of Guardian and file the oath herein.

It is further ORDERED that [names of the attorney and Guardian ad Litem], the person[s] appointed by this Court as Attorney Ad Litem [and if applicable Guardian Ad Litem] to represent [name], and protect the legal interests of the Ward, is awarded compensation in the amount of [Amount] [if paid by the estate: this compensation to be taxed as part of the costs of this

proceeding and are hereby ordered to be paid from the Ward's estate, for which let execution issue, if not timely paid. If paid by the company then add the following: The Court has found that the

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**THIS DOCUMENT**

**THANK YOU**

Ward's estate is insufficient to pay the Ad Litem's costs, accordingly per Section 669 of the Texas Probate Code], the Treasurer of [name] County, Texas, is ordered to pay such costs out of the funds

**PREVIEW**

of [name] County, for which let execution issue if not timely paid.

Signed on \_\_\_\_\_.

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**JUDGE PRESIDING**

APPROVED AS TO FORM AND SUBSTANCE:

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---

[Law Firm's or Attorney's Name]  
Attorney for Applicant  
[Address]  
[Telephone & facsimile numbers]  
Texas Bar no. [Number]

---

Applicant

[If applicable]

**THIS DOCUMENT**

Attorney Ad Litem or Guardian Ad Litem:  
[Law Firm's or Attorney's Name]  
Attorney for \_\_\_\_\_  
[Address]  
[Telephone & facsimile numbers]  
Texas Bar no. [Number]

**THANK YOU**

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Information or instructions: Oath of guardian

**PREVIEW**

1. A Guardian must sign and file an oath per Section 700 et seq. of the Texas Probate Code.

a. The oath must be filed within twenty days of the date that the order was signed which granted the letters of guardianship.

b. After the hearing is held and the court approves the guardianship, the Guardian may sign the oath in the presence of the court clerk.

Form: Oath of guardian

CAUSE NUMBER  
**PLEASE DO NOT COPY**  
IN THE MATTER OF: IN THE COUNTY COURT

THE GUARDIANSHIP OF [PERSON OR  
ESTATE] OF NAME

NUMBER \_\_\_\_\_

AN INCAPACITATED PERSON

[COUNTY] COUNTY, TEXAS

Oath Of Guardian

I, [name], do solemnly swear that I will faithfully discharge the duties of Guardian of the [person  
and/or estate] of [name], an incapacitated person, according to law.

**THIS DOCUMENT**

\_\_\_\_\_

Guardian

State of Texas

County of [Name of county]

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

\_\_\_\_\_ **THANK YOU** \_\_\_\_\_

\_\_\_\_\_  
Signature of officer

\_\_\_\_\_  
Notary's typed or printed name

My commission expires.

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**PREVIEW** —  
[or Notary's Stamp]

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**THIS DOCUMENT**

**THANK YOU**

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**Information or instructions: Guardian's bond**

**PREVIEW**

1. Prior to receiving letters of guardianship, the applicant must file a bond for serving as the Guardian over the person and a bond for serving as Guardian over the estate in the amounts stated in the guardianship order.

2. Section 703 of the Texas Probate Code provides for a hearing to set the amount of the bond. The court considers the following in setting the bond amount:

a. the projected net revenue from the estate,

b. the projected debts of the estate,

c. the projected value of the estate's assets including cash, life insurance, personal property and marketable investments controlled by the Guardian, and,

d. the Ward's cash and projected expenses.

e. The bonds must be filed within twenty days of the date that the order was signed which granted the letters of guardianship.

f. A court can waive a bond for a corporate fiduciary.

**Form: Guardian's bond**

**THIS DOCUMENT**

CASE NUMBER \_\_\_\_\_

**IN THE MATTER OF:**

**IN THE COUNTY COURT**

**THE GUARDIANSHIP OF [PERSON OR ESTATE] OF NAME**

**NUMBER \_\_\_\_\_**

**AN INCAPACITATED PERSON**

**[COUNTY] COUNTY, TEXAS**

State of Texas

County of \_\_\_\_\_

**THANK YOU**

KNOW ALL MEN BY THESE PRESENTS, that we, [applicant's name] as principal and a Guardian of the person and estate of [Ward's name], an incapacitated person, and [Name] a commercial surety, are held and bound firmly unto the Judge of the \_\_\_\_\_ Court in the County, State of Texas, and his successors in office, in the amount of \$[Amount] [bond amount].

This bond is conditioned that [applicant's name] who has been appointed by the Judge of this Court as Guardian of the person and estate of [Ward's name], an incapacitated person, shall well and duly

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perform all of the duties required by law of the Guardian of the person and estate of [Ward's name],  
an incapacitated person under appointment

**PREVIEW**

\_\_\_\_\_  
[Applicant's Name]

\_\_\_\_\_  
[Authorized Representative]

For the Surety

Approved by me on \_\_\_\_\_.

\_\_\_\_\_  
JUDGE PRESIDING  
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**THIS DOCUMENT**

**THANK YOU**

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Information or instructions: ~~Inventory and appraisement~~

**PREVIEW**

1. The purpose of the inventory and appraisement in a guardianship action is to record and state a value of the property and assets held by the Guardian for the Ward.
2. Sections 729 through 731 of the Texas Probate Code govern the inventory and appraisement process.

a. Per Section 729, the inventory is due on or before 90 days from the date that the Guardian qualified as the Guardian.

b. Many courts require both a legal description and a street address when listing real property

Form: ~~Inventory and appraisement~~

**PLEASE DO NOT COPY**

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

**THIS DOCUMENT**

~~INVENTORY AND APPRAISEMENT~~

Inventory and Appraisement of the Estate of [Ward's name], presented to the Court by [Guardian's name], Guardian of the Person and Estate of [Ward's Name], Ward:

**1. INVENTORY**

1.1 Real Estate:

a. Community Property:

The Ward herein owns a ~~one-half~~ interest in the following described community real property: \_\_\_\_\_, being subject to a balance of approximately \$[Amount] remaining unpaid upon the purchase price and secured by a mortgage with \_\_\_\_\_,

Loan No. \_\_\_\_\_, the Ward's one-half interest in the property being reasonably valued at a gross amount of \$[Amount].

**THANK YOU**

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b. Separate Property:

**PREVIEW**

The Ward herein owns a \_\_\_\_\_ interest in the following described separate real property: \_\_\_\_\_, being subject to a balance of approximately \$[Amount] remaining unpaid upon the purchase price and secured by a mortgage with \_\_\_\_\_, Loan No. \_\_\_\_\_, the Ward's interest in the property being reasonably valued at a gross amount of \$[Amount].

1.2 Stocks:

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a. Community Property:

The Ward herein owns the following number of shares in the following described stocks: [Name] the Ward's one-half interest in the property being reasonably valued at a gross amount of \$[Amount].

b. Separate Property:

The Ward herein owns the following number of shares in the following described stocks:

**THIS DOCUMENT**

[Name] the Ward's interest in the property being reasonably valued at a gross amount of \$[Amount].

1.3 Cash:

a. Community Property:

The Ward's community one-half interest in the following cash and bank accounts, the accounts being in the name of [Name] The Guardian of the Estate of [Ward's name]: [list accounts and balances].

**THANK YOU**

b. Separate Property:

The Ward owns the following cash and bank accounts, the accounts being in the name of [Name] The Guardian of the Estate of [Ward's name]: [list accounts and balances].

1.4

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a. Community Property:

**PREVIEW**

The Ward herein owns a one-half interest in the following described insurance policies, the cash surrender value being \$[Amount].

b. Separate Property:

The Ward herein owns a \_\_\_\_\_ interest in the following described insurance policies, the cash surrender value being \$[Amount].

1.5 Personal Property:

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a. Community Property:

The Ward herein owns a one-half interest in the following described personal property: .

b. Separate Property:

The Ward herein owns a \_\_\_\_\_ interest in the following described insurance policies, the cash surrender value being \$[Amount].

1.6 Community Income of Ward:

**THIS DOCUMENT**

The Ward herein receives \$[Amount] per month in \_\_\_\_\_ benefits.

1.7 Separate Income of Ward:

The Ward herein receives \$[Amount] per month in \_\_\_\_\_ benefits.

**2. LIST OF ALL CLAIMS DUE AND OWING TO ESTATE**

2.1 Claims have been filed with [Where Claims were Filed].

2.2 There are no other claims due and owing to the Estate

**THANK YOU**

**3. LIST OF ALL CLAIMS DUE AND OWING BY ESTATE**

3.1 .[List]

I do solemnly swear that the foregoing Inventory and List is a true and complete statement of the property and claims of the Estate of [Ward's name], Ward herein, that have come to my knowledge as of this date.

**PREVIEW**

Respectfully Submitted,

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

By

**PLEASE DO NOT COPY**

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

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

\_\_\_\_\_  
Guardian

**THIS DOCUMENT**

State of Texas  
County of [Name of county]

On \_\_\_\_\_ before me, the undersigned authority, personally appeared [Name] personally known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he or she executed it for the purposes and consideration expressed therein.

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

\_\_\_\_\_  
**THANK YOU**

Signature of officer

\_\_\_\_\_  
Notary's typed or printed name

My commission expires:

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[or Notary's Stamp]

Form: Order approving inventory

# 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 INVENTORY AND APPRAISEMENT

# PLEASE DO NOT COPY

On \_\_\_\_\_, in the above-mentioned cause, the Court examined the Inventory

and Appraisement filed by the Guardian in the above-numbered and styled cause. No objections having been filed, then Inventory and Appraisement are in order.

IT IS ORDERED, ADJUDGED, AND DECREED, by the Court that said Inventory and Appraisement be approved and together with this Order, be filed in the records of this proceeding.

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

# THIS DOCUMENT

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

# THANK YOU

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**Information or instructions: Notice to creditors**

**PREVIEW**

1. Sections 783 and 784 of the Texas Probate Code requires notice be given to the Ward's creditors.

2. Creditors must be notified of the proceeding. Proof of the notice should be made and it should be filed within 30 days of issuance of Letters of guardianship.

a. File the published notice and proof of publication in the probate court records.

b. The Guardian should send the notice to all general and all secured creditors that are within his or her actual knowledge.

The notice should be sent within four months after the issuance of Letters of guardianship.

d. The notices should be sent by certified or registered mail, return receipt requested, to the last known addresses of the claim holder (creditor).

e. Per Section 785 of the Texas Probate Code, failure to comply with Sections 783 and 784 of the Texas Probate Code can subject the Guardian to personal liability through creditor's claims.

f. The following forms should be used:

g. Notice to all persons having claims against the estate

h. Proof of service of the Notice to all persons having claims against the estate,

i. Letter to the Publisher and the Publisher's affidavit

j. Published notice

k. Sections 783-809 of the Texas Probate Code state as follows:

**Sec. 783. Notice by Guardian of Appointment**

(a) Within one month after receiving notice, personal representatives of estates shall send to the comptroller of public accounts by certified or registered mail if the decedent remitted or should have remitted taxes administered by the comptroller of public accounts and publish in some newspaper, printed in the county where the letters were issued, if there be one, a notice requiring all persons having a claim against the estate being administered to present the claim within the time prescribed by law. The notice must include the time of issuance of letters held by the representative, the address to which a claim may be presented, and an instruction of the representative to direct that claim be addressed in care of the

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representative, in care of the representative's attorney, or in care of "Representative, Estate of " (naming the estate).

**PREVIEW**

(b) A copy of the printed notice, with the affidavit of the publisher, duly sworn to and subscribed before a proper officer, to the effect that the notice was published as provided in this chapter for the service of citation or notice by publication, shall be filed in the court in which the cause is pending.

(c) When no newspaper is printed in the county, the notice shall be posted and the return made and filed as required by this chapter.

#### Sec. 784. Notice to Holders of Recorded Claims

**PLEASE DO NOT COPY**  
(a) Within four months after receiving letters, the guardian of an estate shall give notice of the issuance of the letters to each and every person having a claim for money against the estate of a ward if the claim is secured by a deed of trust, mortgage, or vendor's, mechanic's or other contractor's lien on real estate belonging to the estate.

(b) Within four months after receiving letters, the guardian of an estate shall give notice of the issuance of the letters to each person having an outstanding claim for money against the estate of a ward if the guardian has actual knowledge of the claim.

(c) The notice stating the original grant of letter shall be given by mailing the notice by certified mail or registered letter, with return receipt requested, addressed to the record holder of the indebtedness or claim at the last known post office address of the record holder.

**THIS DOCUMENT**

(d) A copy of each notice required by Subsection (a) of this section, with the return receipt and an affidavit of the representative, stating that the notice was mailed as required by law, giving the name of the person to whom the notice was mailed, if not shown on the notice or receipt, shall be filed in the court from which letters were issued.

#### Sec. 785. One Notice Sufficient; Penalty for Failure to Give Notice

(a) If the notice required by Section 784 of this code has been given by a former representative, or by one when several representatives are acting, the notice given by the former representative or co-representative is sufficient and need not be repeated by any successor or co-representative.

**THANK YOU**

(b) If the guardian fails to give the notice required in other sections of this chapter or to cause the notices to be given, the guardian and the sureties on the bond of the guardian shall be liable for any damage that any person suffers because of the neglect, unless it appears that the person had notice otherwise.

#### Sec. 786. Claims Against Wards

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(a) A claim may be presented to the guardian of the estate at any time when the estate is not closed and when suit on the claim has not been barred by the general statutes of limitation.

(b) A claim against a ward on which a suit is barred by a general statute of limitation applicable to the claim may not be allowed by a guardian. If allowed by the guardian and the court is satisfied that limitations have run, the claim shall be disapproved.

#### Sec. 787. Tolling of General Statutes of Limitation

The general statutes of limitation are tolled:

(1) by filing a claim that is legally allowed and approved; or

(2) by bringing a suit on a rejected and disapproved claim not later than the 90th day after the date of rejection or disapproval.

#### Sec. 788. Claims Must be Authenticated

Except as provided by this section, with respect to the payment of an unauthenticated claim by a guardian, a guardian of the estate may not allow and the court may not approve a claim for money against the estate, unless the claim is supported by an affidavit that the claim is just and that all legal offsets, payments, and credits known to the Affiant have been allowed. If the claim is not founded on a written instrument or account, the affidavit must also state the facts on which the claim is founded. A photostatic copy of an exhibit or voucher necessary to prove a claim under this section may be offered with and attached to the claim instead of the original.

**THIS DOCUMENT**

#### Sec. 789. When Defects of Form Are Waived

Any defect of form or claim of insufficiency of exhibits or vouchers presented is deemed waived by the guardian unless written objection to the form, exhibit, or voucher is made not later than the 30th day after the date of presentment of the claim and is filed with the county clerk.

#### Sec. 790. Evidence Concerning Lost or Destroyed Claims

If evidence of a claim is lost or destroyed, the claimant or a representative of the claimant may make affidavit to the fact of the loss or destruction, stating the amount, date, and nature of the claim and when due, that the claim is just, that all legal offsets, payments, and credits known to the Affiant have been allowed, and that the claimant is still the owner of the claim. The claim must be proved by disinterested testimony taken in open court, or by oral or written deposition, before the claim is approved. If the claim is allowed or approved without the affidavit or if the claim is approved without satisfactory proof, the allowance or approval is void.

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Sec. 791. Authentication of Claim by Others Than Individual Owners

# PREVIEW

The cashier, treasurer, or managing officer of a corporation shall make the affidavit required to authenticate a claim of the corporation. When an affidavit is made by an officer of a corporation, or by an executor, administrator, guardian, trustee, assignee, agent, or attorney, it is sufficient to state in the affidavit that the person making the affidavit has made diligent inquiry and examination and that the person believes that the claim is just and that all legal offsets, payments, and credits made known to the person making the affidavit have been allowed.

## Sec. 792. Guardian's Payment of Unauthenticated Claims

A guardian may pay an unauthenticated claim against the estate of the guardian's ward that the guardian believes to be just, but the guardian and the sureties on the bond of the guardian shall be liable for the amount of any payment on the claim if the court finds that the claim is not just.

## Sec. 793. Method of Handling Secured Claims

(a) When a secured claim against a ward is presented, the claimant shall specify in the claim, in addition to all other matters required to be specified in claims:

(1) whether the claim shall be allowed and approved as a matured secured claim to be paid in due course of administration, in which event it shall be so paid if allowed and approved; or

(2) whether the claim shall be allowed, approved, and fixed as a preferred debt and lien against the specific property securing the indebtedness and paid according to the terms of the contract that secured the lien, in which event it shall be so allowed and approved if it is a valid lien; provided, however, the guardian may pay the claim prior to maturity if it is in the best interests of the estate to do so.

(b) If a secured claim is not presented within the time provided by law, it shall be treated as a claim to be paid in accordance with Subsection (a)(2) of this section.

(c) When an indebtedness has been allowed and approved under Subsection (a)(2) of this section, no further claim shall be made against other assets of the estate because of the indebtedness, but the claim remains a preferred lien against the property securing the claim, and the property remains security for the debt in any distribution or sale of the property before final maturity and payment of the debt.

(d) If property that secures a claim allowed, approved, and fixed under Subsection (a)(2) of this section is not sold or distributed not later than the 12th month after the date letters of guardianship are granted, the guardian of the estate shall promptly pay all maturities that have accrued on the debt according to the terms of the maturities and shall perform all the terms of any contract securing the maturities. If the guardian defaults in the payment or performance, the court, on motion of the claim holder, shall require the sale of the property

subject to the unmatured part of the debt and apply the proceeds of the sale to the liquidation of the maturities or, at the option of the claim holder, a portion may be made in a like manner to require the sale of the property free of the lien and to apply the proceeds to the payment of the whole debt.

#### Sec. 794. Claims Providing for Attorney's Fees

If the instrument that evidences or supports a claim provides for attorney's fees, the claimant may include as a part of the claim the portion of the fee that the claimant has paid or contracted to pay to an attorney to prepare, present, and collect the claim.

#### Sec. 795. Depositing Claims With Clerk

A claim may also be presented by depositing the claim with vouchers and necessary exhibits and affidavit attached to the claim, with the clerk. The clerk, on receiving the claim, shall advise the guardian of the estate or the guardian's attorney by letter mailed to the last known address of the guardian of the deposit of the claim. If the guardian fails to act on the claim within 30 days after it is filed, the claim is presumed to be rejected. Failure of the clerk to give notice as required under this section does not affect the validity of the presentment or the presumption of rejection of the claim because not acted on within the 30-day period.

#### Sec. 796. Memorandum of Allowance or Rejection of Claim

When a duly authenticated claim against a guardianship estate is presented to the guardian or filed with the clerk as provided by this subpart, the guardian shall not later than the 30th day after the date the claim is presented or filed, endorse or annex to the claim a memorandum signed by the guardian stating the time of presentation or filing of the claim and that the guardian allows or rejects the claim, or what portion of the claim the guardian allows or rejects.

#### Sec. 797. Failure to Endorse or Annex Memorandum

The failure of a guardian of an estate to endorse on or annex to a claim presented to the guardian, or the failure of a guardian to allow or reject the claim or portion of the claim within 30 days after the claim was presented constitutes a rejection of the claim. If the claim is later established by suit, the costs shall be taxed against the guardian, individually, or the guardian may be removed in either case of removal on the written complaint of any person interested in the claim, after personal service of citation, hearing, and proof.

#### Sec. 798. Claims Entered in Docket

After a claim against a ward's estate has been presented to and allowed by the guardian, either in whole or in part, the claim shall be filed with the county clerk of the proper county who shall enter it in the claim docket.

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Sec. 799. Contest of Claims, Action by Court, and Appeals

**PREVIEW**

(a) Any person interested in a ward, at any time before the court has acted on a claim, may appear and object in writing to the approval of the claim, or any part of the claim. The parties are entitled to process for witnesses, and the court shall hear proof and render judgment as in ordinary suits.

(b) The court shall either approve in whole or in part or reject a claim that has been allowed and entered on the claim docket for a period of 10 days and shall at the same time classify the claim.

(c) Although a claim may be properly authenticated and allowed, if the court is not satisfied that it is just, the court shall examine the claimant and the guardian under oath and hear the evidence necessary to determine the issue. If after the examination and hearing the court is not convinced that the claim is just, the court shall disapprove the claim.

(d) When the court has acted on a claim, the court shall endorse on or annex to the claim a written memorandum dated and signed officially that states the exact action taken by the court on the claim, whether the court approved or disapproved the claim or approved in part or rejected in part the claim, and that states the classification of the claim. An order under this subsection has the force and effect of a final judgment.

(e) When a claimant or any person interested in a ward is dissatisfied with the action of the court on a claim, the claimant or person interested may appeal the action to the courts of appeals, as from other judgments of the county court in probate matters.

**THIS DOCUMENT**

Sec. 800. Suit on Rejected Claim

When a claim or a part of a claim has been rejected by the guardian, the claimant shall institute suit on the claim in the court of original probate jurisdiction in which the guardianship is pending or in any other court of proper jurisdiction not later than the 90th day after the date of the rejection of the claim or the claim is barred. When a rejected claim is sued on, the endorsement made on or annexed to the claim is taken to be true without further proof, unless denied under oath. When a rejected claim or part of a claim has been established by suit, no execution shall issue but the judgment shall be certified not later than the 30th day after the date of rendition if the judgment is from a court other than the court of original probate jurisdiction, filed in the court in which the cause is pending entered on the claim docket, classified by the court, and handled as if originally allowed and approved in due course of administration.

**THANK YOU**

Sec. 801. Presentment of Claims a Prerequisite for Judgment

A judgment may not be rendered in favor of a claimant on any claim for money that has not been legally presented to the guardian of the estate of the ward and rejected by the guardian or by the court in which it is pending.

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Sec. 802. Costs of Suit With Respect to Claims

**PREVIEW**

All costs incurred in the probate court with respect to claims are taxed as follows:

- (1) if allowed and approved, the guardianship estate shall pay the costs;
- (2) if allowed, but disapproved, the claimant shall pay the costs;
- (3) if rejected, but established by suit, the guardianship estate shall pay the costs;
- (4) if rejected, but not established by suit, the claimant shall pay the costs; or
- (5) in suits to establish a claim after rejection in part, if the claimant fails to recover judgment for a greater amount than was allowed or approved, the claimant shall pay all costs.

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Sec. 803. Claims by Guardians

(a) A claim that a guardian of the person or estate held against the ward at the time of the appointment of the guardian, or that has since accrued, shall be verified by affidavit as required in other cases and presented to the clerk of the court in which the guardianship is pending. The clerk shall enter the claim on the claim docket, after which it shall take the same course as other claims.

(b) When a claim by a guardian has been filed with the court within the required time, the claim shall be entered on the claim docket and acted on by the court in the same manner as in other cases. When the claim has been acted on by the court, an appeal from the judgment of the court may be taken as in other cases.

**THIS DOCUMENT**

Sec. 804. Claims Not to be Paid Unless Approved

Except as provided for payment at the risk of a guardian of an unauthenticated claim, a claim for money against the estate of a ward or any part of a claim may not be paid until it has been approved by the court or established by the judgment of a court of competent jurisdiction.

Sec. 805. Order of Payment of Claims

**THANK YOU**

(a) The guardian shall pay a claim against the estate of the guardian's ward that has been allowed and approved or established by suit, as soon as practicable, in the following order:

(1) expenses for the care, maintenance, and education of the ward or the ward's dependents;

(2) funeral expenses of the ward and expenses of the ward's last illness, if the guardianship is kept open after the death of the ward as provided in this chapter, except if a claim against the estate of a ward that has been allowed and approved or established by suit before

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the death of the ward shall be paid before the funeral expenses and expenses of the last illness;

**PREVIEW**

(3) expenses of administration; and

(4) other claims against the ward or the ward's estate.

(b) A claimant whose claim has not been paid may petition the court for determination of the claim at any time before it is barred by the applicable statute of limitations and on due proof procure an order for its allowance and payment from the estate.

#### Sec. 806. Deficiency of Assets

**PLEASE DO NOT COPY**  
If there is a deficiency of assets to pay all claims of the same class, the claims in the same class shall be paid pro rata, as directed by the court, and in the order directed. A guardian may not be allowed to pay any claims, whether the estate is solvent or insolvent, except with the pro rata amount of the funds of the guardianship estate that have come to hand.

#### Sec. 807. Guardian Not to Purchase Claims

A guardian may not purchase for the guardian's own use or for any purposes whatsoever a claim against the guardianship the guardian represents. On written complaint by a person interested in the guardianship estate and satisfactory proof of violation of this provision, the court after citation and hearing shall enter its order canceling the claim and no part of the claim shall be paid out of the guardianship. The judge may remove the guardian for a violation of this section.

**THIS DOCUMENT**

#### Sec. 808. Proceeds of Sale of Mortgaged Property

When a guardian has on hand the proceeds of a sale that has been made for the satisfaction of a mortgage or other lien and the proceeds, or any part of the proceeds, are not required for the payment of any debts against the estate that have a preference over the mortgage or other lien, the guardian shall pay the proceeds to a holder of the mortgage or other lien. If the guardian fails to pay the proceeds as required by this section, the holder, on proof of the mortgage or other lien, may obtain an order from the court directing the payment to be made.

**THANK YOU**

#### Sec. 809. Liability for Nonpayment of Claims

(a) If a guardian of an estate fails to pay on demand any money ordered by the court to be paid to any person, except to the state treasury, when there are funds of the guardianship estate available, the person or claimant entitled to the payment, on affidavit of the demand and failure to pay, is authorized to have execution issued against the property of the guardian for the amount due, with interest and costs.

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**PREVIEW**

(b) On return of the execution not satisfied, or merely on the affidavit of demand and failure to pay, the court may cite the guardian and the sureties of the bond of the guardian to show cause why the guardian or the sureties should not be held liable for the debt, interest, costs, or damages. On return of citation duly served, if good cause to the contrary is not shown, the court shall render judgment against the guardian and sureties that are cited under this subsection in favor of the holder of the claim for the unpaid amount ordered to be paid or established by suit, with interest and costs, and for damages on the amount neglected to be paid, at the rate of five percent per month for each month or fraction of a month that the payment was neglected to be paid after demand was made for payment. The damages may be collected in any court of competent jurisdiction.

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**THIS DOCUMENT**

**THANK YOU**

**[LegalFormsForTexas.Com](http://LegalFormsForTexas.Com)**

Mailed notice to creditors

**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

MAILED NOTICE TO ALL PERSONS HAVING CLAIMS  
AGAINST THE ESTATE OF [Name] AN INCAPACITATED PERSON

**PLEASE DO NOT COPY**

To: [creditor's name]  
[address]

Please be advised that notice is hereby given you that [Guardian's name] has been appointed Guardian over the \_\_\_\_\_ person/and or estate of [Ward's name] and that Letters of guardianship for the Estate of [Ward's name] were issued on [Date], in Cause No. \_\_\_\_\_ pending in the \_\_\_\_\_ Court of [Name of County] County, Texas, to: [Guardian's name].

The Guardian's address is [Address, and name of County] County, Texas. [or all claims should be send in care of the attorney for the estate at [address]].

**THIS DOCUMENT**

All persons having claims against this Estate which is currently being administered are required to present their claims within the time and in the manner prescribed by law.

If you have a secured claim against the Estate you must present your claim to the Guardian at the above address. You may have an outstanding claim for money against this estate.

This notice is being sent to all creditors of the estate including those that may have secured claims against the estate which may be supported by a Deed of Trust, a Mortgage, a Vendor's Lien, a Mechanic's or Contractor's Lien upon real estate or a lien per a certificate of title or Uniform Commercial Code filing.

Dated \_\_\_\_\_ **THANK YOU**

\_\_\_\_\_  
Guardian of the Estate of [Ward's name]

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Form: Proof of service of notice to creditors

**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

**PROOF OF SERVICE OF NOTICE UPON CREDITORS OF THE ESTATE**

State of Texas

**PLEASE DO NOT COPY**

County of [Name of county]

BEFORE ME, the undersigned authority, on \_\_\_\_\_ personally appeared [name of  
Affiant], who being first duly sworn on oath says:

The attached notice is a copy of the notice which was sent by Registered Mail, Return Receipt  
Requested, to the persons or firms whose names and addresses are listed in Exhibit A which is  
attached hereto in compliance with of the Texas Probate Code.

The return Receipt is also attached to this notice.

**THIS DOCUMENT**

And that such mailing was required by law, that the return receipt affidavit, return receipts are also  
attached to exhibit A and that this affidavit and such attached copy of notice and return receipt will  
be forthwith filed with the court.

\_\_\_\_\_

Affiant

State of Texas

County of [Name of county]

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

**THANK YOU**

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

\_\_\_\_\_.

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Signature of officer

**PREVIEW**

\_\_\_\_\_  
[Notary's typed or printed name]

My commission expires:  
\_\_\_\_\_

[or Notary's Stamp]

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**THIS DOCUMENT**

**THANK YOU**

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Form: Letter to the publisher request for the notice to be published

**PREVIEW**

[Date]

[Name and Address of publication]

Regarding: Estate of

Dear [Salutation]:

Enclosed with this letter are two copies of a document entitled:

"NOTICE TO ALL PERSONS HAVING CLAIMS AGAINST THE ESTATE OF Name VAN INCAPACITATED PERSON".

**PLEASE DO NOT COPY**

Please publish it in one issue of your newspaper. After the publication, please execute the two (2) Publisher's Affidavits and return the same to my office, along with two (2) copies of the publication.

I will remit payment promptly upon receipt of your bill.

Very truly yours,

**THIS DOCUMENT** [Name of attorney]

Certified Return Receipt Request Number:

cc: [Guardian's name]

**THANK YOU**

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Form: Published notice to creditors

# 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

PUBLISHED NOTICE TO ALL PERSONS HAVING CLAIMS AGAINST THE ESTATE OF [Name] AN INCAPACITATED PERSON

## PLEASE DO NOT COPY

Notice is hereby given that [Guardian's name] has been appointed Guardian over the \_\_\_\_\_ person/and or estate of [Ward's name] and that Letters of guardianship for the Estate of [Ward's name] were issued on [Date], in Cause No. pending in the \_\_\_\_\_ Court of [Name of County] County, Texas, to: [Guardian's name].

The Guardian's address is \_\_\_\_\_, [Name of County] County, Texas. [or all claims should be sent in care of the attorney for the estate at [address]]. All claims shall be addressed to the [Guardian or attorney] at the above address.

All persons having claims against this Estate which is currently being administered are required to present their claims within the time and in the manner prescribed by law.

## THIS DOCUMENT

If you have a secured claim against the Estate you must present your claim to the Guardian at the above address.

Dated \_\_\_\_\_.

\_\_\_\_\_  
Guardian of the Estate of [Ward's name]

# THANK YOU

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Form: Publisher's affidavit

# PREVIEW

PUBLISHER'S AFFIDAVIT

State of Texas  
County of [Name of county]

BEFORE ME, on \_\_\_\_\_ personally appeared [name of the person giving the affidavit], who is personally known to me, and first being duly sworn according to law upon his or her oath deposed and said:

I do solemnly swear that the above notice was published once in [name of publication], a newspaper printed in [name of locality] [Name of County] County, Texas. That newspaper is one of general circulation in and for that county as provided for in the Texas Probate Code for the service of citation or notice by publication.

The date and the issue of the newspaper in which that notice was published is \_\_\_\_\_, and a copy of the notice as published, has been clipped from the newspaper and is attached to this affidavit.

\_\_\_\_\_  
Publisher

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

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

\_\_\_\_\_.

\_\_\_\_\_  
Signature of officer

\_\_\_\_\_  
Notary's typed or printed name

My commission expires.

\_\_\_\_\_  
[or Notary's Stamp]

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**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 777 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.

**THANK YOU**

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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

**PLEASE DO NOT COPY**  
GUARDIAN'S APPLICATION TO EXPEND FUNDS AND FOR A MONTHLY ALLOWANCE

[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.

**THANK YOU**

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]

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**THIS DOCUMENT**

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.

**THANK YOU**

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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# PREVIEW<sup>4</sup>

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].

# PLEASE DO NOT COPY<sup>5</sup>

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].

**THIS DOCUMENT**

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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# PREVIEW

\_\_\_\_\_  
Signature of officer

\_\_\_\_\_  
Notary's typed or printed name

My commission expires:  
\_\_\_\_\_

[or Notary's Stamp]

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**THIS DOCUMENT**

**THANK YOU**

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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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