

SELF-SERVICE CENTER

INFORMATION ON LEGAL NOTICE FOR GUARDIANSHIP OF A MINOR

- 1. WHAT IS LEGAL NOTICE:** After you have completed **AND** filed the guardianship Petition, other court papers and “Certificate of Readiness (Request to Set Hearing)” with the Court, **AND** after you have received an “Order and Notice of Hearing” from the Court, you must tell **all** “interested persons” about the papers and Court hearing.

A. WHAT COURT DOCUMENTS DO I NEED TO GIVE NOTICE ABOUT?

- **The PETITION:** This document explains what you want the Judge/Commissioner to do and why.
- **ORDER AND NOTICE OF HEARING:** This document provides information about the hearing, including the date, location, and the name of the Judge/Commissioner who will hear the case.

It is recommended that you give people entitled to notice copies of **all** documents you filed with the court. After giving notice to those persons, you must then file a “PROOF OF NOTICE” listing the name of each person given notice and the title of each of the documents you provided. See Section “C” below for further information.

B. WHAT ARE THE WAYS TO GIVE LEGAL NOTICE?

- **“Personal Service”** means giving formal notice to the person required to be given notice in one of three ways:
 1. Papers are served by the Sheriff’s Department; or
 2. Papers are served by a registered, private process server; or
 3. The person receiving the papers *voluntarily* signs an “Acceptance of Service” in front of a Notary, and returns the form to you, or files it with the Court.
- When personal service is required, it means the law is written to make sure that a person who needs notice of a case is given that notice.
See **Step 4** for instructions on how to give personal service.

Mail or hand delivery is a less formal but important way of giving notice to other persons in some cases. When you are required to give notice by mail, 1st class postage-prepaid mail is usually acceptable. Other method provided by the U.S. Postal Service that provide proof of delivery, such as certified or registered mail with return receipt, Signature or Delivery Confirmation, provide proof that you posted the notice and that the person received the notice. .

- **Publication of Notice** is permitted as a last resort when you do not know the address of the person to whom you need to give notice. The Court will only permit notice by publication after you have made every reasonable effort to locate the person who is entitled to notice, and you prove to the Court’s satisfaction that you did everything you could to try to find the person or the person’s address. Then, you must publish the Notice at least **3 times** in a newspaper in the county where the Court hearing is held. See ARS § 14-1401(A)(3).

C. HOW DO I SHOW THAT I GAVE LEGAL NOTICE?

- **PROOF OF NOTICE** is the document you sign and file with the Court to prove you gave notice to **all** interested persons, and how you did it. You must fill out this form after you have served the documents on all interested persons (**See Step 1A**).

There are other documents that go with the PROOF OF NOTICE to show that service was made. These documents may include the following:

- 1) "AFFIDAVIT OF PUBLICATION",
- 2) "AFFIDAVIT OF SERVICE" signed by the process server or sheriff, **OR**
- 3) "ACCEPTANCE OF SERVICE".

D. WHEN CAN YOU SKIP GIVING LEGAL NOTICE?

- When a party required to be given notice signs a WAIVER OF NOTICE. Generally, a person required to be **personally served** can accept service by signing an ACCEPTANCE OF SERVICE and WAIVER OF NOTICE. However, if the Minor who needs the guardian signs the ACCEPTANCE AND WAIVER, that minor must also attend the hearing or service is not good, **OR**
- When a Party entitled to notice is present at the hearing and will accept service. Only rely on this method if you are **absolutely** certain the person will be at the hearing and will accept service.

2. WHO IS ENTITLED TO LEGAL NOTICE: Arizona law (ARS 14-5207) requires that notice regarding guardianship of a minor must be given to:

- The Minor, if 14 years or older;
- The person who has had the principal care and custody of the Minor during the **60 days** preceding the date of the Petition; **AND**
- Any living parent of the minor.

Note: You may give notice by **mail**, **hand-delivery**, or if all else fails, by publication to all those persons listed above.

3. TIME FRAMES TO GIVE LEGAL NOTICE: Generally, you must give **all** interested persons notice of the court papers at least **14 days** before the hearing. If you are giving NOTICE BY PUBLICATION, the first publication must be at least **14 days** before the hearing.

Note: .The newspaper will not provide the AFFIDAVIT OF PUBLICATION to you until all 3 required notices have been published.

4. THE METHODS OF PERSONAL SERVICE: There are several ways to give personal service that will be accepted by the Court.

- **Acceptance of Service:** The person must sign the acceptance form in front of a notary and return it to you, but the signature date cannot be earlier than the date you filed the court papers. The signature on this form does **not** mean the person agrees with the papers. It only means that he or she admits receiving the papers, without being served in person by a Sheriff or Process Server.
- **Process Server:** You generally must pay this person or company to do this for you. A process server will give the papers to the person at home, work, or other location. The process server will give the Court a sworn Affidavit stating that the person was served. The disadvantage of this method is the cost and that it requires the process server to find the person. If you decide to use this method, look under "PROCESS SERVER" in the Yellow Pages to find someone who can serve your papers.
- **Sheriff:** This method requires you to contact the Sheriff's Office in the County where the person lives to arrange for a Sheriff's deputy to serve the papers. This method requires

you to pay a fee to the Sheriff's office, unless you receive a Waiver or Deferral, which is available through the Court for persons who cannot afford the cost of Service. The Waiver or Deferral will require you to explain to the Sheriff why your circumstances call for this method.

5. **WHAT ELSE TO KNOW ABOUT LEGAL NOTICE:** Even if you are required to **personally serve** some persons, you may still have to give notice by **mail** or **hand-delivery** to other interested persons. You will still have to sign and file the "PROOF OF NOTICE" to show the Judge/Commissioner that you gave notice to everyone as required by law.
6. **HOW DOES A PERSON WHO GETS NOTICE OBJECT TO THE PETITION:** Sometimes a person, including the minor who is 14 years or older wants to object to the Petition, or tell the Judge/Commissioner something besides what is in the Petition. For more information on objecting to a court process, see the Self Service Center's Guardianship Packet 3 called ***To Object to a Court Proceeding***, which includes Court forms and instructions to file a written Response. Unless deferred or waived by the Court, a fee will be charged for filing any objection or response.
7. **COMPLETE THE NOTICE OF HEARING AND PROOF OF NOTICE:** After Notice has been given, you must complete the "PROOF OF NOTICE" form. Be sure to list the title of any documents given, and the names of the persons to whom you gave the copies. Also list the date you gave each person copies, how they were served (delivered), and the relationship between the person to whom you gave copies and the Minor). If the Minor has an attorney, be sure the attorney receives copies also.

Make **3 copies** of the "ORDER AND NOTICE OF HEARING", the "PROOF OF NOTICE", the "ACCEPTANCE OF SERVICE and WAIVER OF NOTICE" (if any), and assemble them in **3 packets**: one set of originals and two complete sets of copies.

8. **FILE THE NOTICE OF HEARING, ANY WAIVER, AND PROOF OF NOTICE:**
 - A. **PREPARE TO FILE:** At least **10 business days** before the scheduled hearing date, file the original of the following with the Clerk of the Court, Juvenile Division:
 - "ORDER AND NOTICE OF HEARING",
 - "PROOF OF NOTICE" OF HEARING FOR GUARDIANSHIP OF A MINOR, **AND**
 - "ACCEPTANCE OF SERVICE" (and WAIVER OF NOTICE)(if applicable).
 - B. **TAKE YOUR PAPERS TO THE CLERK:** The **original will be kept by the Clerk and 1 copy** of the "NOTICE OF HEARING", "PROOF OF NOTICE" and "ACCEPTANCE OF SERVICE" (and WAIVER OF NOTICE) (if any) will be returned to you. .

Note: Keep a copy of each document for your records. Bring them with you to the court hearing.

NEXT STEP: Prepare for the court hearing and get the rest of the paperwork in order. If you still have questions, you can ask a lawyer for legal advice. You can look up a lawyer in the telephone book under "attorneys." Also, the Self-Service Center has a list of lawyers who will, for a fee, help you help yourself. The list shows where the lawyers are located, how much they charge per hour, and what their experience is.

All forms referred to in these instructions are available at the Self-Service Center or on the web.