



## STANDBY GUARDIANSHIP

### What is standby guardianship?

If you are a parent, standby guardianship allows you to nominate another person, called a standby guardian, to take care of your kids in the event of mental incapacitation, physical debilitation, or an adverse immigration action.

- **Mental incapacitation** refers to a doctor's determination that you have a chronic and serious mental condition that affects your ability to care for your children.
- **Physical debilitation** refers to a doctor's determination that you have a chronic and serious physical illness or injury that affects your ability to care for your children.
- An **adverse immigration action** refers to any immigration event that affects your ability to take care of your kids. Examples of adverse immigration actions include:
  - getting arrested or detained by immigration authorities
  - being put in proceedings to remove you from the United States
  - leaving the U.S. due to an order of removal, deportation, or voluntary departure
  - being denied admission to the United States
  - the denial, revocation, or delay in the issuing of a visa

Standby guardianship is something you can put in place now if you are worried about one of these things happening to you in the future.

Standby guardianship does not affect your parental rights. You get to pick the standby guardian, when they can step in to care for your kids, and what they are allowed to do.

### What are the paths to standby guardianship?

There are two paths to standby guardianship:

- **Designation by a Parent.** This is an option if you're worried about becoming 1) mentally incapacitated, 2) physically debilitated, or 3) subject to an adverse immigration action at any point in the future. It starts by signing a designation form. You can use form [CC-GN-041 \(Parental Designation and Consent to the Beginning of Standby Guardianship\)](#). If one of those three things happens, the standby guardian's authority to care for your child lasts for 180 days. They can file a petition for judicial appointment to continue as standby guardian past 180 days.
- **Petition by Parent.** This is an option if you might become mentally incapacitated or die **within two years**. Start the process by filing a Petition by Parent (Appointment of Standby Guardian). You can use [CC-GN-043](#). If the court approves your request, it will issue an order appointing the person you named as standby guardian. Their authority as standby guardian kicks in when they



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receive documentation about your mental incapacitation or a death certificate. It can begin sooner with your written consent.

You can revoke or end the standby guardian's authority at any time. Your revocation must be in writing and filed with the court that appointed the standby guardian. You can use form [CC-GN-053 \(Petition to Revoke Standby Guardianship\)](#).

## Who should I choose as standby guardian?

One of the most important decisions you will make is choosing the standby guardian. The person you pick should be someone you trust and, ideally, someone your kids know.

You can choose to have a standby guardian of the person, guardian of the property, or both.

- A standby **guardian of the person** can make decisions about things like your child's education, medical care, food, housing, and other personal needs. They may be able to receive benefits on behalf of your kids and travel with them.
- A standby **guardian of the property** can make decisions about any money or property your kids have or apply for benefits on their behalf.

The standby guardianship process involves paperwork that lists the types of decisions the standby guardian is allowed to make. Be sure the person you choose understands what they can and can't do. They will also need to file paperwork with the court.

## I'm a standby guardian. Now what?

If a parent named you as standby guardian of their children, you're taking on an important responsibility. Read the paperwork carefully. It will tell you what you can and cannot do and what your responsibilities are.

- **If you were appointed standby guardian by a court**, your authority starts when you receive documentation from the parent's doctor about their mental incapacitation, or a copy of their death certificate. Your authority can start earlier if you receive written consent from the parent to the beginning of the standby guardianship. You then have 90 days to file that documentation or the parent's written consent with the court.
- **If you were designated standby guardian by a parent**, your authority begins when you receive documentation that one of the events listed in the designation occurred (the parent's mental incapacitation, physical debilitation, or an adverse immigration action). Your authority as standby guardian expires after 180 days or if the parent revokes your authority. If you need your authority for more than 180 days and the parent hasn't revoked it, file a petition for judicial appointment with the court. You can use form [CC-GN-042 \(Petition by Standby Guardian for Judicial Appointment\)](#).



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The court will set deadlines for you to file regular reports or accountings. They let the court know how the child is doing and that you are getting the support you need.

If you were appointed standby guardian of the person, you'll need to file an [Annual Report of Guardian \(form CC-GN-014\)](#). If you were appointed standby guardian of the property, you'll need to file a [Fiduciary's Account \(form CC-GN-012\)](#). The court can order more frequent reports. Pay attention to the court's deadlines and keep good records.

The court understands that serving as a standby guardian is a big responsibility. If at any point it becomes too much, let the court know in writing that you need to renounce, or step down, from your role as standby guardian.

*Last updated: July 2025*

