

Standby Guardianship (Part 5): I'm a Standby Guardian. Now what?

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Hello. In this video, I'll talk about what to do if you were appointed as a standby guardian by a court or designated one by a parent. This means you'll step in to care for a child if their parent becomes **mentally incapacitated**, **physically debilitated**, or subject to an **adverse immigration action**. I define these terms in Part 1 of this series and will refer to them as **triggering events**. A triggering event refers to when your authority as standby guardian goes into effect.

What happens next depends on how you were named standby guardian.

CHAPTER HEADING: IF YOU WERE APPOINTED STANDBY GUARDIAN BY A COURT

If you were appointed standby guardian by a court based on the parent's mental incapacitation or death, the triggering event occurs 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 consent in writing from the parent to begin the standby guardianship.

The court order lists what you can and cannot do on behalf of the child. The order is also proof to others, like the child's school and doctors, that you have authority to make decisions for them. Be prepared to give them copies of the court order.

Within 90 days of the triggering event, you need to file a copy of the document that triggered your authority with the court that appointed you. This would be medical documentation of mental incapacitation, the death certificate, or the parent's consent to begin the standby guardianship.

Let's now talk about what to expect if a parent designated you as standby guardian.

CHAPTER HEADING: IF A PARENT DESIGNATED YOU AS STANDBY GUARDIAN

Your authority to care for their child kicks in if, and only if, you receive documentation that one of the triggering events listed in the designation occurred. Read the designation carefully and keep it in a safe place.

If the triggering event is the parent's **mental incapacitation**, your authority goes into effect when you receive documentation from the parent's doctor stating that they are mentally incapacitated. If the triggering event is the parent's **physical debilitation**, your authority goes into effect when you have three things: 1) documentation from the parent's doctor that they are physically debilitated; 2) the parent's written consent to the beginning of the standby guardianship; and 3) a copy of the child's birth certificate. The parent can give you written consent and the child's birth certificate before they become physically debilitated.

If the triggering event is the parent's **adverse immigration action**, your authority goes into effect when you have three things: 1) evidence showing the parent was subject to an immigration action; 2) the parent's consent to the beginning of the standby guardianship; and 3) the child's birth certificate. Evidence of the adverse immigration action might include court orders, letters, or other documents that show the parent was arrested, detained, removed from, or denied entry to the United States. It can also include a copy of the parent's passport with a stamp showing the parent left the U.S. or information

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about the parent's location. An immigration lawyer can help you identify the type of evidence that will work in your situation.

The designation lists the types of decisions you can make for the child and whether you can apply for benefits for the child. You'll need to provide copies of the designation to the child's school, doctors, and others as proof of your authority to care for the child.

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, you'll need to file a **Petition by Standby Guardian for Judicial Appointment** with the court.

CHAPTER HEADING: PETITION BY STANDBY GUARDIAN FOR JUDICIAL APPOINTMENT

You can use form CC-GN-042. The petition must include information about you and the child. Attach the designation, documentation of the triggering event, any consents, and the child's birth certificate. If more than three months have passed since the triggering event, you'll need to attach a few more things: a statement from the child's primary doctor; their most recent school progress report, if there is one; and records from any court cases involving the child during the 180-day period.

File the petition and attachments in the circuit court where the child lives or is physically present. Each county and Baltimore City has a circuit court. The court will hold a hearing to determine if it is in the child's best interest for you to continue serving as standby guardian. If the court agrees, it will issue an order appointing you as standby guardian. The court order will list your powers and responsibilities.

When your authority as standby guardian is in effect and the court is involved, you will be responsible for filing reports to the court.

CHAPTER HEADING: REPORTS TO THE COURT

The court will set deadlines for you to file regular reports or accountings. These let the court know how the child is doing and that you are getting the support you need. Pay attention to the court's deadlines and keep good records.

If you were appointed standby guardian of the person, you'll need to file an Annual Report of Guardian of a Minor. You can use form CC-GN-014. If you were appointed standby guardian of the property, you'll need to file a Fiduciary's Account each year. You can use Form CC-GN-012. The court can order more frequent reports. Talk to the court if you have questions.

One more thing before you go.

CHAPTER HEADING: THANK YOU

Thank you for stepping in to care for a child at an incredibly difficult time in their life. Their parent chose you because they trust and know that you can do what's best for their child.

The court understands that serving as a standby guardian is a huge responsibility. If at any point it becomes too much, that's OK. Let the court know in writing that you need to renounce, or step down,

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from your role as standby guardian. You may want to talk to a lawyer first. You can talk to one for free by calling the Maryland Court Help Center at 410-260-1392 or visiting mdcourts.gov/helpcenter.

I hope this has been helpful.