

### **Standby Guardianship Part 3: Petition by Parent**

Hi there. In this video, I'll talk about the path to standby guardianship that starts when you file a **Petition by Parent** with the court. This is an option if there is a significant chance you will become mentally incapacitated or die within two years, and you want someone to step in to care for your child.

Let's get started.

#### **CHAPTER HEADING: PETITION BY PARENT**

The first step in this path is to file a **Petition by Parent for the Appointment of a Standby Guardian**. You can use form CC-GN-043. The petition needs to include information about you, your child, and any person with parental rights. Anyone with parental rights can join you in filing the petition if they consent to the guardianship. If they do not join you, are unknown, or cannot be located, that's OK.

You'll also name a standby guardian or guardians in the petition. You can name a **guardian of the person** who will make decisions about your child's education, medical care, food, housing, and other personal needs. Or, you can name a **guardian of the property** to manage money or apply for benefits on behalf of your child. If you need a standby guardian of the person and property, you can name one person to do both or name different people. Watch part 2 of this series for information about how to choose a standby guardian. You also need to explain why standby guardianship is in your child's best interest and state what role you want the standby guardian to have.

When your petition is complete, the next step is to file your petition.

#### **CHAPTER HEADING: FILE YOUR PETITION**

You can file your petition in the circuit court where your child lives or is physically present. Each county and Baltimore City has a circuit court. In limited circumstances, you can file the petition in an Orphans' Court. Talk to a lawyer to see if this is an option.

After your petition is filed, the court will direct you to provide a copy of the petition, any attachments, and a notice to interested persons. **Interested persons** are defined by law and, in this context, include your child, anyone you named as a standby guardian, and anyone else with parental rights. There is a form **Notice to Interested Persons**. It is form CC-GN-044.

The court will schedule a hearing. You, your child, and the standby guardian will need to attend. If you are not able to be at the hearing for health or other reasons, let the court know. You can be excused.

The court may appoint a lawyer to represent your child. It can also appoint an independent investigator to help the court decide if the standby guardianship is in your child's best interest.

If the court agrees with your petition, it will issue an order appointing the standby guardian or guardians. The order will state what the standby guardian's authority will be. I say "will be" because their authority does not go into effect right away. A **triggering event** needs to happen first.

## **CHAPTER HEADING: TRIGGERING EVENT**

The standby guardian's authority is triggered when they receive documentation from your doctor that you are mentally incapacitated or a copy of your death certificate. Their authority can also go into effect sooner if you consent to the beginning of the standby guardian's authority in writing. You must sign the consent in front of two witnesses who are at least 18 years old. The standby guardian also needs to sign it. If you are physically unable to sign it, you can have another adult sign on your behalf.

The standby guardian's role and authority will be spelled out in the court order. The standby guardian must file the documentation about the triggering event with the court within 90 days of receiving it. I talk more about that in part 5 of this series.

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.

I know this is a lot to think about. A lawyer can help walk you through this process. You can talk to one for free by calling the Maryland Court Help Center at 410-260-1392 or visiting [mdcourts.gov/helpcenter](http://mdcourts.gov/helpcenter).

