

Re: Petition for Order That Natural Guardian Not Be Required to Become Legally Qualified Guardian of the Property

INSTRUCTIONS

I. Specific Instructions

1. This form is to be used for filing a Petition for Order That Natural Guardian Not Be Required to Become Legally Qualified Guardian of the Property of a minor prior to compromising a claim or receiving property of the minor. Reading O.C.G.A. §29-2-16(d) and §29-4-2-(b) together, it appears that whether or not a legally qualified guardian of the property shall be required is in the discretion of the judge of the probate court as follows:

(a) If a doubtful claim is being compromised, the judge has such discretion pursuant to O.C.G.A. §29-2-16(d) where legal action has not been initiated and the gross settlement amount is over \$5,000.00 but the net settlement amount is less than \$10,000.00. The terms "gross settlement", "net settlement", and "present value" are defined in O.C.G.A. §29-2-16(k).

(b) In all other cases, the judge has such discretion pursuant to O.C.G.A. §29-4-2(b) where the value of the property of a minor child is greater than \$5,000.00 but less than \$10,000.00.

2. Since the granting of this petition is within the discretion of the judge of the probate court, the court may require the petitioner to submit additional information to supplement this standard form, including the execution by the petitioner of a consent form authorizing the court to receive any criminal history record information pertaining to the petitioner, if the court in its discretion deems it appropriate to obtain such information concerning the petitioner.

3. This form contemplates that if a formal guardianship, including bond, is later required due to an increase in value of the minor's property, the bond will be written by a corporate surety and thus will be in the amount of the minor's personal property. In the absence of a corporate surety, any required bond would have to be for double the amount of the personal property.

4. The attached form consists of 3 pages. (This does not include a consent form concerning criminal history information which the court may require.)

II. General Instructions

General instructions applicable to all Georgia probate court standard forms appear in Volume 255 of the Georgia Reports and are available in each probate court.

**PETITION FOR ORDER THAT NATURAL GUARDIAN
NOT BE REQUIRED TO BECOME
LEGALLY QUALIFIED GUARDIAN OF THE PROPERTY**

STATE OF GEORGIA, _____ COUNTY

Re: _____, Minor

To the Honorable Judge of the Probate Court:

The petition of _____ shows
the Court the following:

1.

The minor's date of birth is _____.

2.

Petitioner is the _____ of the minor, and:

(Check either a. or b.):

___ a. both of said minor's parents are alive and are not legally separated or divorced.

___ b. said minor's other parent is deceased or said minor's parents are legally separated or divorced and petitioner is the custodial parent of said minor.

3.

(Check either a. or b.):

___ a. The minor has a doubtful claim, petitioner is the natural guardian of said minor, the gross settlement amount is over \$5,000.00 but the net settlement amount is less than \$10,000.00, and legal action has not been initiated.

___ b. The minor is entitled to receive property with a value greater than \$5,000.00 but less than \$10,000.00.

The specific amount to which the minor is or will become entitled is _____.

4.

The Court should exercise its discretion and allow petitioner as natural guardian to demand and receive the minor's property described above without becoming the legally qualified guardian of the property because:

1. The court costs, bond cost and other costs of administering a formal guardianship during minority would substantially deplete the minor's funds,

2. Petitioner will hold and use such property for the benefit of the minor and shall be legally accountable to the minor for the proper handling of such property, and

3. Other: _____

_____.

WHEREFORE, petitioner prays that an Order be entered allowing the petitioner to demand and receive the minor's property described above without requiring the petitioner to become the legally qualified guardian of the property. Should the minor's personal property ever reach or exceed \$10,000.00 in value, petitioner will apply to the judge of the probate court to become the legally qualified guardian of the property of said minor, and will file with the judge of the probate court an initial bond in the amount of the minor's personal property, payable to the probate court.

Attorney's
Address: _____

Attorney (or petitioner if pro se)

Telephone: _____

VERIFICATION

Personally appeared before me the undersigned petitioner who on oath states that the facts set forth in the foregoing petition are true.

Residence
Address: _____

Petitioner

Telephone: _____

Sworn to and subscribed before me, this _____ day of _____,
_____.

Clerk of the Probate Court or Notary Public

ORDER

Probate Court of _____ County

Re: _____, Minor

The foregoing petition having been read and considered, and it appearing that the facts stated therein are true and that it would be in the best interests of the minor to grant said petition,

IT IS ORDERED that the petitioner as natural guardian be allowed to demand and receive the minor's property described in the petition without becoming the legally qualified guardian of the property. Petitioner shall hold and use such property for the benefit of the minor and shall be accountable for same.

Should the minor's personal property ever reach or exceed \$10,000.00 in value, petitioner shall apply to the judge of the probate court to become the legally qualified guardian of the property of said minor, and shall file with the judge of the probate court an initial bond in the amount of the minor's personal property, payable to the probate court.

DATE

JUDGE OF THE PROBATE COURT

**CERTIFICATE IN ACCORDANCE WITH
UNIFORM PROBATE COURT RULE 21(F)**

I certify that the content of the foregoing is identical in all material respects with Georgia probate court standard form entitled **Petition for Order That Natural Guardian Not Be Required to Become Legally Qualified Guardian of the Property**, except for additions or deletions indicated as required by the Uniform Probate Court Rules.

Date

Signature of Attorney
Address:

Telephone Number:
State Bar#:

CONFIDENTIAL

Re: _____, Minor; Petition for Order That Natural Guardian Not Required to Become Legally Qualified Guardian of the Property **B**

CONSENT FORM

I hereby authorize the Probate Court of _____ County to receive any criminal history record information pertaining to me which may be in the files of any state or local criminal justice agency in Georgia.

I have lived in the following states other than Georgia:

<u>State</u>	<u>Period</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

I have never been arrested or convicted of any crime in Georgia or any other state except as follows:

<u>Date</u>	<u>Crime</u>	<u>Disposition</u>	<u>State</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Full Name Printed

Address

Sex Race Date of Birth

Social Security Number

Signature

Sworn to and subscribed before me,
this _____ day of _____, _____.

Notary Public/Clerk, Probate Court