

TITLE 8: FAMILY LAW AND PROBATE
DIVISION 1: DOMESTIC RELATIONS

§ 1421. Guardianships.

(a) *Appointment.* The Court may appoint, for a term or indefinitely subject to review, an adult over the age of eighteen years to serve as a legal guardian of a minor child only after the following conditions are satisfied:

(1) A petition by the proposed guardian stating, under penalty of perjury, the names, dates of birth, and residences of the minor child and the proposed guardian, and the names and whereabouts of any surviving natural or legal parents, grandparents, or siblings of the minor child is filed with the Clerk of the Commonwealth Superior Court;

(2) A statement indicating who currently has custody of the minor child and describing the reasons a guardianship is necessary is affixed to the petition;

(3) Accompanying affidavits, sworn under penalty of perjury, of any surviving natural or legal parents indicating their consent to the guardianship arrangement are affixed to the petition;

(4) An affidavit by the petitioner sworn under penalty of perjury that the guardianship arrangement is not an attempt to avoid or circumvent CNMI immigration law is affixed to the petition;

(5) The minor child is not present in the Commonwealth pursuant to a Visitor's Entry Permit (VEP) issued by the Division of Immigration, or has any other immigration status the primary purpose of which is tourism;

(6) The petitioning adult has been a resident of the Commonwealth of the Northern Mariana Islands for the one year prior to the date of petition;

(7) A single petitioning guardian earns a salary of at least \$25,000 per annum, or a married couple serving as joint guardians earns a combined salary of at least \$35,000 per annum;

(8) The Court is satisfied that the living arrangement of the guardian and minor child are suitable. Factors the court may consider in evaluating whether a living arrangement is suitable include but are not limited to the size and number of bedrooms of the residence of the petitioner, and the number of other minor children or family members living in the residence. The Court may order a home study by the Department of Youth Services (DYS) or a Family Service Division prior to granting a petition under this section.

(9) The Court, after hearing on the petition, finds that the guardianship arrangement is in the best interests of the child and is not in violation of the law of the Commonwealth of the Northern Mariana Islands. The Division of Immigration may be heard on all matters relating to the immigration laws of the Commonwealth.

(10) *Notice Requirement:* Along with the petition, the petitioner shall file an order prescribing notice which shall set forth the time, place, and purpose of the hearing and require:

(i) Personal service or service by registered or certified mail return receipt requested of the notice of petition on all living parents, grandparents, and

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adult living siblings of the minor child as well as the person or persons having custody of the minor child, if they are not already included;

(ii) Posting of the notice of petition at the courthouse for a period of ten days;

(iii) Publication of the notice of petition once prior to hearing in a newspaper of general circulation in the Commonwealth.

(b) *Powers and Duties.* A legal guardian appointed by the Superior Court shall have all the rights and powers, duties, and obligations of a legal guardian of the minor child, and shall have a valid and effectual claim of custody of the minor child against every other person claiming custody of the minor child for the duration of the guardianship.

(c) *Review.* The Superior Court may, in its discretion, order that a guardianship be reviewed periodically on a schedule set by the Court.

(d) *Termination.* The Superior Court may terminate a guardianship if, upon review, it finds that the guardianship is no longer in the best interests of the minor child. A guardian who has had a guardianship terminated shall have all normal avenues of appeal.

(e) *Definitions.* For the purposes of this section “resident” means someone present in the CNMI with the intent to remain for a period of time in excess of one year for employment or social purposes. The term “minor child” shall mean any person under the age of eighteen years.

(f) This statute shall supplement the common law and supersede any regulation, rule, or common law practice to the contrary.

(g) *Guardians Not Present in the Commonwealth.* The Court may appoint a guardian who is not present in the Commonwealth but present in another jurisdiction of the United States provided that the minor child is present in the Commonwealth and the guardian satisfies all conditions listed in § 1421(a), except for § 1421(a)(6). A guardian not present in the Commonwealth must have been a resident of the jurisdiction in which they live for at least one year prior to appointment. Guardians not present in the Commonwealth shall have all powers and duties of guardians present in the Commonwealth.

Source: PL 15-100, § 2(1421), modified.

Commission Comment: The Commission deleted figures that repeated written words in the section above pursuant to 1 CMC § 3806. PL 15-100, enacted on October 23, 2007, included severability and savings provisions and the following:

Section 1. Findings and Purpose. The Commonwealth Legislature finds that the current statutory provisions regarding the appointment of guardians for minor children are insufficient to ensure both that children are placed in safe and financially sound homes and that the guardianship process is not abused. The Legislature finds that in many cases guardianship arrangements are used for the purpose of keeping a child in the CNMI contrary to Commonwealth immigration laws and regulations. The

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Legislature finds that adding a new section to the Commonwealth Code concerning guardianships will assist the Courts in both ensuring the safe placement of minor children and rejecting guardianship petitions that are an attempt to circumvent CNMI law. The Legislature further finds that there should be a provision for certain off-island petitioners to be appointed guardians of minor children present in the CNMI for familial and social reasons.