

Petition for Guardianship

Included in the packet:

- Petition for Guardianship
- Confidential Information Form
- Request to Waive Court Fees Form
- CCTHITA Title 04 Chapter 8 - Guardianship

There is a one-time filing fee of \$100.00. Make checks payable to: CCTHITA- Tribal Court

The fee may be reduced or waived by CCTHITA Tribal Court if the Petitioner can document financial hardship (please complete the *Request to Waive Court Fees* in this packet).

After Submitting your Petition:

Once the petition has been reviewed, the Clerk of the Court will issue a summons for the Petitioner and the Respondent. It is the responsibility of the Petitioner to ensure that the Respondent and all persons listed in the petition receive a copy of the petition filed and the summons issued by the Court. Please provide the CCTHITA Tribal Court with proof that the Petition and Summons have been provided to the respondent and all other family members listed. The court can assist with service if requested by Petitioner – see Clerk of the Court for fee schedule.

After Service has been made:

Once the proof of service is received by the CCTHITA Tribal Court, the Clerk will set a hearing date 20 days or more from the date of service. A notice of hearing will be sent by the CCTHITA Tribal Court to everyone identified in the Petition.

Before the Court Hearing:

If anyone listed in the Petition cannot attend the court hearing, they may be asked to provide a written response regarding their position of the guardianship of the child/ren or be provided with the opportunity to attend by telephone; which they will share with all case parties listed in the Petition.

Contact Information for Tribal Court:

Central Council Tlingit & Haida Indian Tribes of Alaska – Tribal Court
320 W. Willoughby Ave., Suite 300, Juneau, Alaska 99801
Telephone: 907-463-7165 Toll Free: 1-800-344-1432 x 7165
E-Mail: cclerk@ccthita-nsn.gov

**In the Central Council Tlingit and Haida
Indian Tribes of Alaska Tribal Courts
Juneau, Alaska**

In the Matter of the Protective Proceeding of)
) **PETITION FOR GUARDIANSHIP**

Minor Child DOB: _____)
) Court Docket Number: _____

Minor Child DOB: _____)

GUARDIANSHIP PETITION

Petitioner asks the court to appoint a guardian for the minor named above

1. Petitioner's Full Name _____ Age _____

Petitioner's Mailing Address _____

Petitioner's Daytime Phone _____

Relationship to Minor _____

2. The minor's mother is living. not living.

If living, mother's name is _____

Mother's Mailing Address _____

Mother's Daytime Phone _____

Mother's rights of custody have been

terminated by court order. Date of Order _____ Court Location _____

Attach copy of Order if Possible.

suspended by court order. Date of Order _____ Court Location _____

1 Suspended by the following circumstances (give specific
2 details) _____
3 _____
4 _____
5 _____
6 _____
7 _____ [Attach
8 extra page if needed]

11 3. The minor's father is living not living

12 If living, father's name is _____

13 Father's Mailing Address _____

14 Daytime Phone _____

15 Physical Address of Minor (if different) _____

16 4. For the past 60 days, the person who has had principal care and custody of the minor is

17 _____

18 Mailing Address _____

19 Daytime Phone _____

20 Physical Address of Minor (if different) _____

21 5. The minor is is not an Indian child as defined by the Indian Child Welfare Act¹

22 6. The minor is is not married

23 _____

24 ¹"Indian Child" means any unmarried person who is under age eighteen and
25 is either (a) a member of an Indian tribe or (b) is eligible for membership
26 in an Indian Tribe" 25 USC §1903 (4). Note: "Indian tribe" includes Alaskan
27 Native villages as defined in 43 USC 1602(e)
28

1 7. The minor's parents are both deceased, and

2 no guardian was named in either parent's will, or neither parent left a will.

3
4 _____ Was appointed as guardian in the will of
5 the mother father, who was the minor's last surviving parent. A copy of the
6 will is attached. However,

7
8 the guardian has not accepted the appointment. The guardian was given
9 notice of the filing of this petition on: _____

10 the guardian's appointment was prevented or terminated due to the minor's
11 objection under Sec. 04.13.002 (8).
12

13 8. Has a guardian for the minor been appointed by any court? No. Yes. If Yes, explain
14 (include court location and case number, if known):

15 _____
16 _____
17 _____
18 _____

19 9. Are there any other proceedings for the appointment of a guardian pending in any court?
20 NO. Yes. If yes explain (include court location and care number if known):

21 _____
22 _____
23 _____

24 10. Are there any other court proceedings involving this minor? No. Yes. If yes
25 explain (include court location and case number, if known):

26 _____
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28 _____

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11. Petitioner requests that the court appoint the following person as guardian:

Petitioner

Other Person: Name _____ Phone _____

Mailing Address _____

(city) (state) (ZIP)

Age _____ Relationship to Minor _____

12. I believe the welfare and best interests of the minor will be served by this appointment because

Date

Signature of Petitioner

I state on oath or affirm that I have read this petition and that all statements made in it are true to the best of my knowledge and belief.

Date

Signature of Petitioner

Subscribed and sworn to or affirmed before me that at _____, Alaska
on _____.

Date

(SEAL)

Clerk of the Court, Notary Public, or other person
Authorized to administer oaths.
My commission expires: _____

Confidential Information Form

Notice to Petitioner: You must supply the respondent's name and birth date, if known. Give as much information as possible. The information will **not** be given to the respondent.

A. Petition Information

Full Name: _____

Date of Birth: _____

Residence: _____

Mailing Address: _____

Home Number: _____ Cell Number: _____ Message: _____

Tribal Affiliation: _____

Employer: _____

Address: _____

Telephone: _____

Salary/Wages (if known): _____

B. Respondent Information

Full Name: _____ Sex: _____

Date of Birth: _____ Hair Color: _____ Eye Color: _____

Residence: _____

Mailing Address: _____

Home Number: _____ Cell Number: _____ Message: _____

Tribal Affiliation: _____

Employer: _____

Address: _____

Telephone: _____

Salary/Wages (if known): _____

C. Other Family Members listed in Petition:

Full Name: _____

Date of Birth: _____

Residence: _____

Mailing Address: _____

Home Number: _____ Cell Number: _____ Message: _____

Tribal Affiliation: _____

Full Name: _____
Date of Birth: _____
Residence: _____
Mailing Address: _____
Home Number: _____ Cell Number: _____ Message: _____
Tribal Affiliation: _____

Full Name: _____
Date of Birth: _____
Residence: _____
Mailing Address: _____
Home Number: _____ Cell Number: _____ Message: _____
Tribal Affiliation: _____

Full Name: _____
Date of Birth: _____
Residence: _____
Mailing Address: _____
Home Number: _____ Cell Number: _____ Message: _____
Tribal Affiliation: _____

Full Name: _____
Date of Birth: _____
Residence: _____
Mailing Address: _____
Home Number: _____ Cell Number: _____ Message: _____
Tribal Affiliation: _____

Full Name: _____
Date of Birth: _____
Residence: _____
Mailing Address: _____
Home Number: _____ Cell Number: _____ Message: _____
Tribal Affiliation: _____

Full Name: _____
Date of Birth: _____
Residence: _____
Mailing Address: _____
Home Number: _____ Cell Number: _____ Message: _____
Tribal Affiliation: _____



Request to Waive Court Fees

If you are getting public assistance, are a low-income person, or do not have enough income to pay for household's basic needs and your court fees, you may use this form to ask the court to waive all or part of your court fees. The court may order you to answer questions about your finances. If the court waives the fees, you may still have to pay later if:

- You cannot give the court proof of eligibility (Please provide paystubs from employer or copies of checks from TANF, SSI, or other agency).
- Your financial situation improves during this case.

Name: _____

Physical Address: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Employer: _____

Title: _____

Employer's Address: _____

What fees are you asking to be waived?

Why are you asking for the court to waive your court fees?

Monthly Income

Gross income before deductions: \$ _____

List sources and amount of any other income you have each month, including spousal/child support, retirement, social security, disability, unemployment, military basic allowance for quarters (BAQ), veterans payments, dividends, interest, trust income, annuities, net business or rental income, reimbursement for job-related expenses, gambling or lottery winnings, etc.

- 1. _____ \$ _____
 - 2. _____ \$ _____
 - 3. _____ \$ _____
 - 4. _____ \$ _____
- Total Monthly Income: \$ _____

Household income - List all other persons living in your home and their income; include only your spouse and all individuals who depend in whole or in part on you for support, or on whom you depend in whole or part for support.

- 1. Name: _____ age: _____ Income: \$ _____
 - 2. Name: _____ age: _____ Income: \$ _____
 - 3. Name: _____ age: _____ Income: \$ _____
 - 4. Name: _____ age: _____ Income: \$ _____
- Total Monthly Income: \$ _____

List any other facts you want the court to know, such as unusual medical expenses, family expenses, family emergencies, etc., attach to this form (list here and attach any documentation).

Important: If your financial situation or ability to pay court fees improvise, you must notify the court within five days.

Money & Property - Cash on Hand: \$ _____

List financial accounts (bank and amount)

_____ \$ _____
_____ \$ _____
_____ \$ _____

Do you own any cars, boats and other vehicles (please list):

1. _____ Value: _____ Payments: _____
2. _____ Value: _____ Payments: _____
3. _____ Value: _____ Payments: _____

Do you own any real estate (please list):

1. _____ Value: _____ Payments: _____
2. _____ Value: _____ Payments: _____
3. _____ Value: _____ Payments: _____

Other personal property (jewelry, furniture, furs, stocks, bonds, etc.)

1. _____ Value: _____ Payments: _____
2. _____ Value: _____ Payments: _____
3. _____ Value: _____ Payments: _____

Monthly Expenses:

Rent	\$ _____	Food/Household	\$ _____
Utilities/telephone	\$ _____	Clothing	\$ _____
Laundry/Cleaning	\$ _____	Medical/Dental	\$ _____
Insurance	\$ _____	Child Care	\$ _____
Child Support	\$ _____	Transportation	\$ _____
Installment Payments	\$ _____	Any other monthly payments	\$ _____
Total Monthly Expenses:	\$ _____		

The information I have provided on this form and all attachments are true and correct.

Print Name: _____

Signature: _____ Date: _____

Chapter 08. Guardianship

Sec. 04.08.001	Purpose
Sec. 04.08.002	Petition for Guardianship – Who May File
Sec. 04.08.003	Petition – Contents
Sec. 04.08.004	Setting the Hearing
Sec. 04.08.005	Guardian Home Study Report
Sec. 04.08.006	Additional Reports
Sec. 04.08.007	Guardianship Hearing
Sec. 04.08.008	Burden of Proof
Sec. 04.08.009	Grounds for Appointing a Guardian
Sec. 04.08.010	Placement Preference
Sec. 04.08.011	Enrollment Prior to Appointment of Guardian
Sec. 04.08.012	Powers of Guardian
Sec. 04.08.013	Cultural Continuity Agreement
Sec. 04.08.014	Protection of a Child’s Property
Sec. 04.08.015	Removal of Guardian for a Child’s Property
Sec. 04.08.016	Change of Address
Sec. 04.08.017	Visitation
Sec. 04.08.018	Termination of Guardianship

Sec. 04.08.001 Purpose

It has long been the custom of CCTHITA that a child may be cared for by persons other than a parent, without excluding the parent from the child’s life. It is intended that these sections be applied with the flexibility for a variety of family situations and problems.

Sec. 04.08.002 Petition for Guardianship – Who May File

Any person at least eighteen (18) years old may file a petition with the Child and Family Court requesting that he or she be appointed as the guardian of a child.

Sec. 04.08.003 Petition – Contents

A petition for appointment of a guardian shall include:

- A. The name, birth date, residence, and tribal status of the child who is the subject of the petition;
- B. The name, birth date, residence, and tribal status, if known, of the child’s parent(s) and of the petitioner(s);
- C. If the child is residing with someone other than a parent, the location and length of time at that location; and
- D. A statement of facts supporting his or her request to be appointed as a guardian.

Sec. 04.08.004 Setting the Hearing

When the Court receives the petition, it shall set a hearing date which shall not be more than forty (40) days after the Court received the petition, unless continued for good cause.

Service of the Notice of Hearing shall be as provided in Section 04.01.009.

Sec. 04.08.005 Guardian Home Study Report

For every guardianship petition, the petitioner shall provide the Court, or arrange for the Court to be provided, with a complete Guardianship Home Study Report including, but not limited to, a recommendation regarding the petitioners' financial ability to support the child; a complete home study and consultation with the child's parents; all health, education and social service personnel who have had prior professional contacts with the child. The guardianship report shall be in writing and contain the professional opinions of all persons consulted. The petitioner shall file and serve the report, as provided in CSC 04.01.009.

Sec. 04.08.006 Additional Reports

Any party may file and serve a report setting forth his or her recommendations regarding the guardianship, as provided in CSC 04.01.009.

Sec. 04.08.007 Guardianship Hearing

The hearing shall be private and closed. Only those persons the Child and Family Court finds to have a legitimate interest in the proceedings may attend. The Court shall hear testimony to determine whether a long-term guardianship is in the best interest of the child and the tribal community. The Court shall consider all guardianship reports submitted for review. All parties shall be given the opportunity to contest the factual contents and conclusions of the guardianship reports.

Sec. 04.08.008 Burden of Proof

The Court may appoint a guardian pursuant to CSC 04.08.009 when the conditions have been proved by a preponderance of the evidence presented regarding the following factors:

- A. Appointment of a guardian is in the best interest of the child and the tribal community; and
- B. The petitioner(s) can provide appropriate and adequate parental care for the child.

Sec. 04.08.009 Grounds for Appointing a Guardian

If the Child and Family Court finds that: (1) the child is without care or custody, (2) that the petitioner(s) can provide appropriate and adequate parental care for the child, and (3) that the guardianship is in the best interest of the child and the Tribe, the Court shall order guardianship pursuant to the petition. "Without care or custody" in this subsection means that:

- A. The child has been abandoned;
- B. The child has been found to be a "Child in Need of Care" in accordance with CSC 04.02.002;
- C. The child's parent(s) voluntarily agree, without duress and in the presence of the Child and Family Court judge, to the guardianship; or

- D. The child's parents are deceased. If the child's parents are deceased and have left a legal will nominating or otherwise recommending a guardian or other caretaker for the child, the parents' recommendation shall be honored by the Child and Family Court absent a specific finding based on clear and convincing evidence that the parents' recommendation would be detrimental to the best interest of the child.

Sec. 04.08.010 Placement Preference

The preference for appointment of a long-term guardian shall be:

- A. In the home of a member of the child's immediate, extended or clan family, whether or not the home is a licensed foster home;
- B. In the home of a member of the child's tribe;
- C. In the home of a person from another tribe; or
- D. A member of the CCTHITA community, which shall include persons living in or near a CCTHITA community who participate in tribal activities and are considered part of the tribal community, based on evidence presented at the hearing;
- E. If the above criteria cannot be met, for good cause shown, placement may be made with any person who has knowledge of and a desire to foster the child's tribal affiliation and special needs.

Sec. 04.08.011 Enrollment Prior to Appointment of Guardian

If a child is not enrolled but is eligible for enrollment or membership in an Indian Tribe, the Family Caseworker shall assist in making application for membership or enrollment of the child. If an objection to enrollment or membership is filed, the Court shall set the matter for hearing, notify the parent(s), and make a determination based on the best interests of the child.

Sec. 04.08.012 Powers of Guardian

- A. Unless otherwise ordered by the Court, a long-term guardian has all the rights and responsibilities of a parent whose parental rights have not been terminated or suspended, including but not limited to:
 - 1. The guardian shall insure that the child receives adequate off, clothing, health, and other professional care, shelter and education, as needed and appropriate;
 - 2. The authority to consent to marriage and to enlistment in the armed forces of the United States;
 - 3. The authority to consent to an adoption if there is no living parent or if all parental rights have been terminated by a court of competent jurisdiction;
 - 4. A guardian is responsible for the acts of the child. Legal liability for the acts of the child shall be limited to actual damages caused by the child when the child is living with the guardian(s);

5. A guardian may bring lawsuits on behalf of the child and otherwise represent the child in legal proceedings if expressly authorized to do so by the Court, on a case-by-case basis;
 6. The guardians have a duty to provide timely informed consent to necessary medical procedures, except sterilization;
 7. The guardianship does not affect the child's inheritance rights;
 8. A guardian may petition the court for authority to do any act which the guardian is uncertain of the scope of authority, and the Court may grant such authority after such notice and hearing, if any, as the Court may direct, if such appears consistent with the best interests of the child; and
 9. The authority to receive child support payments on behalf of the child.
- B.** The following shall require Court approval.
1. Sterilization.
 2. The enrollment of a child who is eligible for enrollment in CCTHITA in another tribe.
- C.** Unless otherwise ordered by the Court, the guardianship shall be subject to annual and continuing reviews by the Court.
- D.** Unless otherwise ordered by the Court, the guardianship shall not be subject to continuing supervision by TFYS.
- E.** A child shall not be removed from the custody of a guardian except under circumstances that would warrant removal if the guardian were the child's parent.

Sec. 04.08.013 Cultural Continuity Agreement

A Cultural Connection Agreement is a binding contract between a guardian and the Tribe that ensures a child remains connected with his or her culture and traditions.

Sec. 04.08.014 Protection of a Child's Property

The Court may appoint a person or financial institution to be the guardian of a child's property. This may be a different person than the guardian who provides direct care to the child.

Sec. 04.08.015 Removal of Guardian for a Child's Property

- A.** The Court has the power to remove a guardian for a child's property and appoint a replacement guardian whenever necessary for the child's best interest.
- B.** When a child whose property is in guardianship reaches the age of eighteen (18), the child may petition the Child and Family Court to terminate the guardianship and enter such orders as may be necessary to place the child in control of the child's property and earnings.

Sec. 04.08.016 Change of Address

Guardians shall immediately notify the Court, in writing, of any change of address.

Sec. 04.08.017 Visitation

The Court may order visitation between the child and parent(s) or any other person, in the best interest of the child and of the tribal community. The Court may specify in the order that supervision is required or may impose other requirements to protect the child.

Sec. 04.08.018 Termination of Guardianship

- A.** Generally, a guardianship shall terminate upon death, marriage, emancipation, adoption, or when the child reaches the age of eighteen (18), unless continued by the Court, or upon order of the Court.
- B.** Upon the petition of a parent of a child in long-term guardianship, the child may be returned to the parent, after notice and hearing, upon a showing by clear and convincing evidence that: (1) the parent is willing and able to resume permanent care of the child, (2) the child is not at risk of harm, and (3) that return to the parent is in the best interest of the child.
- C.** Guardians of tribal trusts shall serve until all trust funds have been distributed under the terms of the trust.