**A Guide to Becoming a Minor’s Guardian**

(Governed by Title 8, Mille Lacs Band Statutes, Sections 3201-3220)

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| **The instructions in this Guide are for informational purposes only and do not constitute legal advice about your case.**  **If you choose to represent yourself, you are bound by the same rules and procedures as an attorney** |

**Step 1. Complete Forms**

Fill out the **Petition for Appointment of Guardian for Minor.** If you have a family situation where one or more child(ren) has a different parent than the other child(ren), you must file a separate petition for each child.The Court Clerk must witness you signing each petition. There are two types of minor guardianships: (1) General Guardianship which grants you custody of the child(ren) until they reach age 18 but does not terminate the parents’ rights, (2) Emergency Guardianship which grants you custody of the child(ren) for up to 180 days.

If you need to be appointed as guardian very quickly without taking time to let the parents object (*ex parte)*, you should check the box on page 8 of the petition for an Emergency Guardianship and explain fully the reasons for the emergency and what steps you took to notify the child(ren)’s parents.

**Step 2. File and Serve Petition**

File the petition(s) with the Clerk by either hand-delivery, mail, or e-mail. The Clerk will arrange for service of the petition on the parents. You **must** provide the Clerk with the parents’ address(es) or your case cannot proceed. If you do not know the parents’ addresses, you must explain in the petition what steps you took to try and find the addresses.

If you have requested an *ex parte* emergency guardianship, the Court will review your petition, and if the judge finds by clear and convincing evidence that immediate injury, loss, or damage will result to the child before the parents can be heard on the petition, the Court may grant the emergency guardianship. You must be prepared to tell the judge what efforts you made to inform the parents of the filing of the petition.

**Step 3. Guardianship Report and Guardian ad Litem**

After the petition has been filed, the Court will issue an order to the Mille Lacs Band Family Services Department to conduct a safety study of your home and a background check on you. Family Services will work with you to develop a plan of care for the child(ren). The Court also may appoint a Guardian ad Litem to represent the child(ren)’s best interests.

**Step 4. Prepare for Hearing.**

The Clerk will send you a Notice of Hearing with the date and time of the hearing. You must appear. If a parent objects to you being appointed guardian, the Court will schedule a trial. Before the trial, it is your responsibility to gather any witnesses or documents necessary to support the petition. At the trial, you will be required to present evidence in the form of testimony and possibly documents. You will have to question any witnesses that you call, and perhaps testify yourself. The parent or the parent’s attorney may question you.

At trial, you must present clear and convincing evidence that reunification with the child(ren)’s parents is not possible and either: (1) the child(ren)’s parents have consented to the guardianship, (2) no parent is willing and available to care for the child(ren), (3) the child(ren)’s parent is willing and available to care for the child(ren) but that the parent’s conduct makes it necessary to protect the child(ren), or (4) that there is a substantial probability that the child(ren) would be neglected or abused if returned to the parent and the situation is unlikely to improve within a reasonable amount of time. If a child is fourteen (14) years old or older, the Court will consult with the child about the guardianship.

**Step 5. Guardianship Order**

If the Court finds that you presented enough evidence to support your petition, a Guardianship Order will be issued. You should make sure to get a certified copy of the Order from the Clerk.