

Question	Chapter 13.36 Guardianship	Chapter 11.130 Guardianship of a Minor
What type of law is it?	<ul style="list-style-type: none"> <li>Juvenile Law</li> <li>RCW 13.36</li> <li>There must already be an open dependency case involving the child.</li> </ul>	<ul style="list-style-type: none"> <li>Guardianship Law</li> <li>Article 2 of RCW 11.130</li> </ul>
Who can start the case?	<ul style="list-style-type: none"> <li>Any party to a dependency proceeding (state, parent, dependent child who is 12 or older, etc).</li> </ul>	<ul style="list-style-type: none"> <li>A child who seeks a guardian.</li> <li>The person who wants to be the guardian for the child.</li> <li>A person who believes the child needs a guardian, and who is requesting somebody else to be the actual guardian.</li> </ul>
Who do you have to <i>personally serve</i> (Tier 1 Notice) papers to in the case?	<ul style="list-style-type: none"> <li>All parties to the dependency, and the proposed guardian.</li> </ul>	<ul style="list-style-type: none"> <li>The child, if they are 12 or older, with some exceptions. <ul style="list-style-type: none"> <li>You can ask the court to waive service of the supplemental declaration if you have a good reason.</li> <li>If the child over 12 has a lawyer, you must serve all the paperwork on the lawyer.</li> <li>If the child over 12 does not have a lawyer but wants to see the case file, they can ask to have all the paperwork served on them.</li> </ul> </li> <li>Each parent of the child, or nearest adult in kinship if there are no parents.</li> <li>Any guardian or person with nonparent custody under RCW 26.10.</li> <li>Any other person the court decides should get personal service.</li> </ul>
Who are you required to <i>give</i>	<ul style="list-style-type: none"> <li>No one.</li> </ul>	<ul style="list-style-type: none"> <li>Any person with primary care and custody who is not the parent, legal guardian, or nonparent custodian.</li> </ul>

<p><i>notice</i> (by mail or other method reasonably determined to provide actual notice, e.g. email) to (Tier 2 Notice) about the case?</p>		<ul style="list-style-type: none"> <li>• Any adults who had primary care and custody of the child for more than 60 days in the last two years, if known.</li> <li>• Any adults who had primary care and custody of the child for two years or more, in the last five years, if known.</li> <li>• Any person nominated as guardian by the minor, if the minor is 12 years of age or older.</li> <li>• Any guardian proposed by a parent of the child.</li> <li>• All grandparents and adult siblings of the child, if known.</li> <li>• Any conservator for the child from another state or jurisdiction.</li> <li>• Any other person the court determines.</li> </ul>
<p>Can notice be waived to anyone?</p>	<ul style="list-style-type: none"> <li>• No.</li> </ul>	<ul style="list-style-type: none"> <li>• You can ask the court to waive the requirement to send notice via mail if you have a good reason. This includes the possibility that notifying a certain person would be dangerous to the child.</li> </ul>
<p>Does it cost money to file the case?</p>	<ul style="list-style-type: none"> <li>• No filing fee.</li> </ul>	<ul style="list-style-type: none"> <li>• No filing fee if you are a relative of the child and you are not a professional guardian.</li> </ul>
<p>Who has the right to a court-appointed lawyer in the case?</p>	<ul style="list-style-type: none"> <li>• The child must be appointed an attorney or a GAL in chapter 13 guardianships.</li> <li>• The statute is silent on whether parents have the right to attorneys. However, the parents will likely already have attorneys since a dependency case must already be open in order to file a chapter 13 guardianship.</li> </ul>	<ul style="list-style-type: none"> <li>• Child <b>may</b> if a) they are over 12 and they ask for one, b) the guardian ad litem recommends one, c) if the court decides the child needs one.</li> <li>• Child's parent <b>shall</b> if they are indigent (low-income enough to qualify for a public defender) and they object to the guardianship, or the court decides the parent needs a lawyer.</li> <li>• The child's parent <b>may</b> even if they are not indigent if a) the parent objects to the guardianship or the court decides the parent needs a lawyer.</li> </ul>

<p>Where is the case filed?</p>	<ul style="list-style-type: none"> <li>Juvenile court in the county where the dependency case is already open.</li> </ul>	<ul style="list-style-type: none"> <li>Superior Court in the county where the child lives.</li> <li>Or, the Superior Court in the county where there is already an open case about the child's custody (a dependency after a CPS investigation for example).</li> </ul>
<p>What rights does the child have in the case?</p>	<ul style="list-style-type: none"> <li>Children ages 12 and older are parties to the case.</li> <li>All children have the right to a GAL or court-appointed attorney.</li> </ul>	<ul style="list-style-type: none"> <li>A right to be served all papers in the case, unless the court waives this for good cause.</li> <li>A right to attend all hearings (unless court determines it would be harmful or that the child lacks ability or maturity to participate meaningfully).</li> <li>A right to participate and communicate with the court.</li> <li>A right to ask the court to let them view the court documents.</li> <li>A right to a Court Visitor (if no attorney and child is over 12) to investigate and report the child's <b>views and position</b> to the court.</li> </ul>
<p>Does the proposed guardian need to get background checks?</p>	<ul style="list-style-type: none"> <li>The proposed guardian must meet the minimum requirements to care for children as established by DCYF under RCW 74.15.030.</li> </ul>	<ul style="list-style-type: none"> <li>Washington State Patrol and</li> <li>CPS background check for <b>all adults</b> living in the house where the child will live.</li> </ul>
<p>What does the petitioner have to prove to establish guardianship?</p>	<ul style="list-style-type: none"> <li>It is in the child's best interests to establish a guardianship, rather than to terminate parental rights and proceed with adoption or to reunify the child with parents, AND</li> <li>1) All parties agree to the guardianship and the proposed guardian is qualified, OR</li> <li>2) the child is a dependent child, has been removed from the parent for at least six months following the filing of a dependency case, the services ordered for</li> </ul>	<ul style="list-style-type: none"> <li>It is in the child's best interests to have the guardian, and</li> <li>that no parent of the child is <b>willing or able</b> to exercise parenting functions as defined by the law.</li> <li>You must show this with clear and convincing evidence.</li> <li>or that all parents' rights have been legally terminated,</li> <li>or the parents all agree to the guardianship.</li> </ul>

	<p>parents have been offered and or provided, there is little likelihood that conditions will be remedied so that child can return to parent in the near future, and the proposed guardian has signed an acknowledgment of their rights and responsibilities.</p>	
<p>What rights and responsibilities does the guardian have?</p>	<ul style="list-style-type: none"> <li>• Physical and legal custody.</li> <li>• Duty to protect, nurture, discipline, and educate the child.</li> <li>• Duty to provide food, clothing, shelter, education, health care for the child.</li> <li>• Right to consent to health care for the child.</li> <li>• Right to consent to child's participation in social and school activities.</li> <li>• Duty to notify the court of child's change of address.</li> </ul>	<ul style="list-style-type: none"> <li>• All the duties and responsibilities of a parent in terms of support, care, education, health, safety, and welfare.</li> <li>• physical custody of the child.</li> <li>• Consent to health care, treatment, or service for the minor.</li> <li>• Manage the minor's funds, apply for benefits and services for the child, and expend funds in trust for the child's care if applicable.</li> <li>• Note – if the child has considerable assets, an conservatorship is an option.</li> <li>• The court can also authorize a guardian to consent to adoption of the minor <b>if no parent</b> of the minor is still alive.</li> </ul>
<p>How could a parent get custody again?</p>	<ul style="list-style-type: none"> <li>• They must show that there has been a substantial change of circumstances for the <i>child or guardian</i> and that terminating the guardianship would be in the best interests of the child.</li> <li>• Or – if the parent, child (if 12 or older) and the guardian <b>agree</b> to terminate the guardianship, AND a judge determines that the parent has remedied their parenting deficiencies and that it is no longer a risk to return the child to the parent, and that it is in the child's best interests.</li> </ul>	<ul style="list-style-type: none"> <li>• They must show that the basis for creating the guardianship no longer exists, unless the court finds</li> <li>• 1) termination would be harmful to the minor and</li> <li>• 2) the minor's interest in continuing the guardianship outweighs the parent's interest in getting their rights to make decisions about the minor back.</li> </ul>
<p>Does the Indian Child Welfare Act Apply?</p>	<ul style="list-style-type: none"> <li>• Yes.</li> </ul>	<ul style="list-style-type: none"> <li>• Yes. Every order or decree under this law must state whether the child is an Indian child or not and if ICWA applies.</li> </ul>

		<ul style="list-style-type: none"> <li>If they are, the decree must state how ICWA was followed – that notice, evidentiary requirements, and placement preferences under ICWA were satisfied.</li> </ul>
Can parents have visits in these cases?	<ul style="list-style-type: none"> <li>Yes, the guardianship order can specify the frequency and type of contact between the parent and child, and between child and their siblings if applicable.</li> </ul>	<ul style="list-style-type: none"> <li>Yes, the court can set up a residential schedule with visits.</li> <li>Parents’ visits can be restricted based on the specific issues related to their parenting (substance abuse, domestic violence, etc).</li> </ul>
Will parents have to pay child support?	<ul style="list-style-type: none"> <li>The statute is silent on child support.</li> </ul>	<ul style="list-style-type: none"> <li>They are supposed to pay child support and the court will base it on their incomes in a child support order.</li> </ul>
Is there DCYF oversight on these cases?	<ul style="list-style-type: none"> <li>No. Once a chapter 13 guardianship is established, the dependency is dismissed and DCYF does not supervise or provide case management services to the guardian or child.</li> </ul>	<ul style="list-style-type: none"> <li>No. A Minor Guardianship can be established completely independently of DCYF and the child welfare system. They can also be established as the permanent plan for a dependent child, and in those situations the dependency is also dismissed once the Minor Guardianship is established.</li> </ul>
Is R-GAP available for the guardian?	<ul style="list-style-type: none"> <li>Yes, if the guardian is a relative, and is a licensed foster parent at the time the guardianship is established and has been the child’s foster parent for a minimum of six months before the guardianship is established is eligible for R-GAP.</li> <li>If the guardian is not a relative they may apply for a child only TANF grant at the local CSO.</li> </ul>	<ul style="list-style-type: none"> <li>Yes in certain circumstances where they meet all federal requirements: <ol style="list-style-type: none"> <li>If there is an open dependency case and the minor guardianship is being created to close the case/as a permanent plan.</li> <li>If the case is Title IVE eligible (this is based on the circumstances of the parents at the time of removal).</li> <li>If the guardian is a relative, and is a licensed foster parent at the time the guardianship is established and has been the child’s foster parent for a minimum of six months before the guardianship is established.</li> </ol> </li> </ul>

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