

SELF-HELP PACKET:

Get an Appointment for GUARDIANSHIP AND CONSERVATORSHIP OF A MINOR

Preparing the Court Papers (Instructions and Forms)

Appointment of Guardian/Conservator for A Minor

CHECKLIST

You may use these forms if:

- ✓ You want to have the court appoint a guardian/conservator for a minor, AND
- ✓ The minor is a member of the Tohono O'odham Nation, AND
- ✓ After giving notice of the petition for guardianship and conservatorship to BOTH PARENTS (if living), one or both parents will give permission by signing a voluntary consent, and/or neither parent will file papers to oppose the guardianship.

A minor generally needs a GUARDIAN:

1. If the minor needs the care and supervision of an adult, and this is not presently available.

A minor generally needs a CONSERVATOR:

1. If the minor owns money or property or receives annual income in excess of \$10,000 that requires management or protection, which cannot be otherwise provided;
2. If the minor has business affairs/assets which may be jeopardized or prevented by his or her being a minor; and/or
3. If the minor needs funds for his or her support and education and protection is necessary or desirable to obtain or provide the funds.



READ ME: Consulting a lawyer or advocate before filing documents with the court may help prevent unexpected results. A list of lawyers or advocates you may hire to advise you on handling your own case or to perform specific tasks is available on the Judicial Branch website at <https://tojc-nsn.gov/>.

Appointment of a Guardian/Conservator for a Minor

This packet contains court forms and instructions to file for an appointment of a guardian/conservator for a minor. Items in **BOLD** are forms that you will need to file with the Court.

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How to ask the court to appoint a guardian/conservator for a minor

Use this packet if you want to be appointed as a guardian/conservator for a person under the age of 18. This packet does NOT help you with the following processes:

- Guardianship or conservatorship for persons 18 years or older;
- Testamentary (by will) appointment of a guardian of a minor.

Important Information:

- Any reference in this packet to a “guardian” also includes conservatorship appointment.
- Follow each step carefully. Each step contains certain forms, and some of these forms have instruction sheets to help you. The whole process, from filing the documents to the judge signing a final order, will take a couple of months.

Complete the court forms:

1. Fill out all the forms in the packet completely, either by typing the information into the online form, or by handwriting using in blue or black ink. “Child,” “children” and “minor” all refer to the minor children for whom you are asking a guardian be appointed.
 - Petition for Appointment of Guardian of a Minor. Fill out all the information carefully and notify the people entitled to receive notice about this matter.
 - If you have questions about who is entitled to notice see the Rules of Civil Procedure on Service available on the Court’s website: <https://tojcnnsn.gov/rules-and-opinions/>.
 - Signed, notarized Petition of Person to Be Appointed Guardian/Conservator (3 TOC Ch. 1, art. 6). This document must be completed by each person who wants to be guardian (usually the Petitioner).

Get Consents signed or give Notice:

1. If you haven’t already, have both parents sign the Consent and Waiver form in front of a notary. A notary is available at the Judicial Center. File the Consents with the Court and bring a copy of each to the Hearing.
2. If a parent won’t sign the Consent, you must give them Legal Notice. See the Rules of Civil Procedure for information about how to give Legal Notice. Be sure to file the proof of legal notice (Proof of Service) with the Court and bring a copy to the Hearing. The hearing cannot move forward without proof of service being filed.

- Consent of Parent to Guardianship and Waiver of Notice.
 - This document must be completed and signed by BOTH parents of the children, IF:
 - ✓ they are living, and
 - ✓ they have not had their parental rights terminated by a Court Order, or
 - ✓ they have not been declared incompetent by a Court.
 - If you only can find one parent, have that parent sign the Consent.
 - Be prepared to explain to the Court at the hearing why only one parent or no parents signed the consent. If you cannot locate a parent, be prepared to prove to the Court you did everything you could to try to find the parent including publishing notice. See the Rules of Civil Procedure for more information on service of notice by publication. <https://tojcnnsn.gov/rules-and-opinions/>
 - Consent of Minor to Guardianship and Waiver of Notice.
 - This document must be completed for all minors age 14 or older.
3. Make 3 copies of all the completed forms listed above. Assemble the copies so that you have 4 complete packets – one set of originals and three sets of copies. The Clerk will keep the original documents; one set of copies will be for the Petitioner’s records, and two sets of copies are for serving legal notice on the Mother and Father.

File the court forms:

4. File the court forms in person at the Judicial Center, or by mailing to:

Clerk of Court
 Tohono O'odham Nation Judicial Center
 P.O. Box 761
 Sells, AZ 85634

5. There is a filing fee due at the time you file the papers. Please pay the fee at the Court's cashier window. Payment can be made by cash, cashier's check, or money order. Personal checks are not accepted. A list of current fees is available on website at <https://tojcnnsn.gov/court-fees-and-costs/> or by calling the Court at 520-383-6300.

If you are unable to pay the filing fee, require a payment plan, or would like a deferral of the payment, file a Financial Affidavit and Request for Fee Waiver form with the Court. It is available at no charge from the Clerk of Court or on the website at <https://tojcnnsn.gov/wp-content/uploads/2023/09/Financial-Affidavit.pdf>.

6. Take the originals and 3 sets of copies of the following documents to the Clerk of Court, for processing:
- Petition for Appointment of Guardian/Conservator of a Minor

- Consent of Parent (Mother) (if applicable)
- Consent of Parent (Father) (if applicable)
- Consent of Minor (if applicable)



NOTE: The Clerk will keep the originals and return 3 copies of the documents to you. The Court will review your request and if appropriate, prepare a Notice of Hearing. You will be notified when the Notice of Hearing is ready to be picked up. You must deliver a copy of the documents and the Notice of Hearing to the other parties.

Prepare for your hearing:

7. If you do not bring the required documents to the hearing, your hearing may be canceled and reset to another date.

You must bring the original and one copy (to be given to the Court) of the following:

- Petitioner's Tribal, United States, or State issued identification (this is required for all Petitioners).
- If you have written consents from either or both parents, you must file the original, notarized consent with the Court. Bring a copy of each consent to your hearing. A parent may also provide their consent in Court.
- If either parent is deceased, you must bring the Death Certificate plus one extra copy for the Court.
- If either parent will not sign a consent, you must provide proof to the Court that they were served notice. This means they received copies of the Petition and Notice of Hearing. Instead, the parents may also sign a "Waiver of Notice." For more information about how to give notice, see the Rules of Civil Procedure on the Court's website at <https://tojc-nsn.gov/rules-and-opinions/>.

Need Help?

Court personnel can answer some questions about the procedures involved, but only an attorney or legal advocate can give you legal advice.

- You may find a lawyer or advocate who is authorized to practice in the Tohono O'odham Court by clicking on "Legal Practitioners accepting clients" at <https://tojc-nsn.gov/>.

Procedures: What to Do Before and After the Court Hearing for Appointment of a Guardian/Conservator for a Minor

Before the court hearing

Review the following information and take appropriate action.

1. Language: Do you need a court interpreter? At least 14 days before the hearing, if you need the services of a court interpreter, call the Court at 520-383-6300.
 - Hearing record: All hearings are recorded. If you would like a copy of any hearing, send a signed copy of the form located at <https://tojcnns.gov/wp-content/uploads/2018/10/RequestforInformation.pdf>, to the Clerk of Court.
2. Prepare testimony: Think about what you want to tell the Judge such as:
 - Why the Guardianship/Conservatorship is needed?
 - Why should the proposed Guardian be appointed?
 - Would a witness help the Judge better understand the need for the guardianship? If a witness would help the Judge understand the situation better, ask them to come to the hearing.



NOTE: Ask the witness/es to come to the hearing if you think witness testimony will help your case.

3. Documents: Bring the following documents to the Court Hearing:
 - Documents, consisting of:
 - Petition for Appointment of Guardian/Conservator of a Minor
 - Notarized, Consent of Mother (if applicable) and an extra copy for Court
 - Notarized, Consent of Father (if applicable) and an extra copy for Court
 - Petitioner's Tribal, United States, or State issued identification (this is required for all Petitioners)
 - If either parent has died, bring the Death Certificate and an extra copy for the Court.
 - If a child was born outside the United States, you must bring the original United States issued, temporary visa or permanent legal resident card and an extra copy for the Court.
 - Proof of Service Documents, consisting of:
 - The Notice of Hearing
 - Proof a party was given a copy of the Notice of Hearing

- Waiver of Notice (if applicable) – signed by interested person
- Acceptance of Service (if applicable) – signed by interested person
- Affidavit Supporting Publication (if applicable)
- Affidavit of Publication (if applicable)



NOTE: If you do not bring the required documents to the hearing, your hearing will be canceled and reset to another date.

After the court hearing

Please review the following information and take appropriate action.



NOTE: In order to prove that the Court granted you the authority to be appointed as the legal Guardian/Conservator of the minor, it is beneficial for you to obtain a certified copy of the Court order by calling the Clerk of Court at 520-383-6300. <https://tojc-nsn.gov/court-fees-and-costs/>.

1. **Change of address:** Always tell the Court in writing if you or the Minor change addresses.

- **For Guardian's Change of Address:** If you have been appointed as a Guardian, you must tell Court in writing within 10 court days if your mailing address changes anytime during the term of your appointment. Your change of address notice must include the Guardianship case number. You must also give or mail a copy of what you file with the Court to the Minor, if over age 14, and the living parents.
- **For Minor's Change of Address:** If you have been appointed as a Guardian, you must tell the Court in writing within 10 court days of the change of address of the Minor. The change of address notice must include the Guardianship case number and the Minor's new address. You must also give or mail a copy of what you file with the Court to the Minor, if over age 14, and the living parents.
- Your written change of address notice may be personally delivered to the Court or mailed to the Court at:

Clerk of Court
Tohono O'odham Nation Judicial Center
P.O. Box 761
Sells, AZ 85634



NOTE: A Guardian who fails to notify the Court of a change of address may be required to pay all costs and may be found in contempt of Court resulting from any failure to notify the Court of that change.

2. **Annual Report:** You must file the Child Guardianship Annual Report (available from the

Clerk or on the Court's website at <https://tojcnnsn.gov/forms/>) within one year of your Appointment as Guardian of a minor.

- Every year, at least one week before the anniversary date of your Appointment as Guardian, you must file an Annual Report with the Court.
3. **Termination:** If, at some point in time you want to terminate your Guardianship and be legally removed as the Guardian of the Minor, you must file a Petition with the Court requesting your removal and give notice to the interested parties the same way you did when filing the original Petition.
 4. If the minor is adopted, emancipated by court order, marries, or dies, you must notify the Court.

1st Person Filing: _____
 2nd Person Filing: _____ (if applicable)
 Mailing Address: _____
 City, State, Zip: _____
 Email Address: _____
 Telephone: _____
 Representing ☐ Self without an Attorney/Advocate **OR**
☐ Attorney/Advocate for Petitioner

**THE JUDICIAL COURT OF THE TOHONO O'ODHAM NATION
CIVIL DIVISION**

In the Matter of: NAME: _____ DOB: _____ NAME: _____ DOB: _____ NAME: _____ DOB: _____ Minor(s)	Case No. _____ PETITION FOR APPOINTMENT OF GUARDIAN(S)/CONSERVATOR(S) FOR MINOR(S)
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Comes now the Petitioner(s) and state:

1. The Court has jurisdiction over this matter pursuant to the Tohono O'odham Nation Children's Code, Title 3, Chapter 1, Article 6 because:

- ☐ Minor is under 18 years of age and an enrolled member of the Nation
- ☐ Minor is under 18 years of age and may be eligible for enrollment into the Nation
- ☐ Minor is under 18 years of age domiciled (living) on the Nation

AND

- ☐ Minor has no parent or current guardian who is capable of maintaining the care, custody, and control of the minor(s).

2. INFORMATION ABOUT THE PETITIONER(S)

a. Petitioner 1

FIRST NAME MIDDLE NAME LAST NAME

Date of Birth: _____ Place of Birth: _____

Physical Address: _____

Relationship to Minor: _____

Are you a member of the Tohono O'odham Nation?

☐ YES - TON ID # _____ ☐ NO. Other Tribal Affiliation? _____

b. Petitioner 2 (if applicable)

FIRST NAME MIDDLE NAME LAST NAME

Date of Birth: _____ Place of Birth: _____

Physical Address: _____

Relationship to Minor: _____

Are you a member of the Tohono O'odham Nation?

☐ YES - TON ID # _____ ☐ NO. Other Tribal Affiliation? _____

c. Are Petitioners married? ☐ YES ☐ NO

If yes, Date of Marriage: _____ Place of Marriage: _____

d. Date, if applicable, when you got physical custody of the Minor(s) and from whom:

Date: _____ Person: _____

3. INFORMATION ABOUT THE MINOR(S)**Minor 1**

Name as it appears on the Birth Certificate or tribal ID card:

First Name	Middle Name	Last Name
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Date of Birth: _____ Place of Birth: _____

Is the Minor a member of the Tohono O'odham Nation?

☐ YES - TON ID # _____
 ☐ NO. Other Tribal Affiliation? _____
Minor 2

Name as it appears on the Birth Certificate or tribal ID card:

First Name	Middle Name	Last Name
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Date of Birth: _____ Place of Birth: _____

Is the Minor a member of the Tohono O'odham Nation?

☐ YES - TON ID # _____
 ☐ NO. Other Tribal Affiliation? _____
Minor 3

Name as it appears on the Birth Certificate or tribal ID card:

First Name	Middle Name	Last Name
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Date of Birth: _____ Place of Birth: _____

Is the Minor a member of the Tohono O'odham Nation?

☐ YES - TON ID # _____
 ☐ NO. Other Tribal Affiliation? _____
4. INFORMATION ABOUT THE NATURAL PARENT'S**a. Information about the Natural Mother:**_____
FIRST NAME_____
MIDDLE NAME_____
LAST NAME

Is the Natural Mother a member of the Tohono O'odham Nation?

☐ YES - TON ID # _____ ☐ NO. Other Tribal Affiliation? _____

Natural Mother's mailing address: _____

Natural Mother's physical address: _____

Date of Birth: _____ Place of Birth: _____

b. Information about the Natural Father:

FIRST NAME

MIDDLE NAME

LAST NAME

Is the Natural Father a member of the Tohono O'odham Nation?

☐ YES - TON ID # _____ ☐ NO. Other Tribal Affiliation? _____

Natural Father's mailing address: _____

Natural Father's physical address: _____

Date of Birth: _____ Place of Birth: _____

c. Were the Natural Parents married? ☐ YES ☐ NO

If yes, Date of Marriage: _____ Place of Marriage: _____

d. If the Natural Parents were not married, was paternity established?

☐ YES ☐ NO

5. Petitioner(s) allege(s) that he/she/they is/are able to protect, care for, and nurture the Minor(s). Further, Petitioner(s) is/are fit and suitable candidates for guardianship of the Minor(s).

6. 6a. Provide a statement about why you would like guardianship of the Minor(s).

6b. Provide information about why the parent or current guardian is unable to provide adequate protection, care for, or nurturing to the Minor(s):

7. Provide a full description and state the value of all property owned by the minor, if known by you:

8. Court Record.

- a. Have you ever been convicted of any crime (misdemeanor or felony)? ☐ YES ☐ NO
- b. Do you have any pending court matters, in any court, including civil cases? ☐ YES ☐ NO
- c. If you answer yes to any of the above questions, please complete the following:

<u>Date</u>	<u>City/State</u>	<u>Criminal Charge/Civil Case Type</u>	<u>Outcome</u>
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REQUEST

For the reasons stated above, Petitioner(s) ask(s) that the Court grant the Petition and Order
Petitioner(s)

_____ be appointed guardian(s) of the
Petitioner's Name(s)

Minor(s), _____
Minor's Name(s)

until the Minor(s) reach(es) the age of majority, or until further Order of this Court.

VERIFICATION

I/We, _____, being duly sworn, upon my/our
Petitioner's Name(s)
oath, depose and say:

That I am/we are the Petitioner(s) in the above-entitled action. I/we have read the above Petition, and know its contents. I/we have stated in this Petition what I/we believe to be true, and upon such information and belief, do affirm these statements to the best of my/our knowledge.

RESPECTFULLY SUBMITTED, this ____ day of _____, 20__

Signature Date

Signature Date

SUBSCRIBED AND SWORN to me before me this _____ day of ____ 20_

_____.

Notary Public

MY COMMISSION EXPIRES:

**MOTHER'S CONSENT TO GUARDIANSHIP OF MINOR(S)
AND WAIVER NOTICE**

_____, being first duly sworn upon his/her oath, deposes and
says: Parent's Name

1. I am the NATURAL MOTHER of the minor(s):

Minor's Name _____, DOB: _____

Minor's Name _____, DOB: _____

Minor's Name _____, DOB: _____

2. I, _____, knowingly and voluntarily consent without objection to
Parent's Name
 _____ assuming Legal Guardianship of said Minor(s).
Petitioner's Name(s)

3. That I fully understand and acknowledge that _____
Petitioner's Name(s)
 by assuming Guardianship will have actual physical possession and control of education, and other child-rearing issues.

4. That no fees or anything of value was given or paid in consideration of the Guardianship to said minor.

5. I waive notice of all further proceedings in this matter. I understand I can reverse this waiver by filing a written document with the court under this court case number declaring I no longer waive notice of hearings and other court proceedings.

RESPECTFULLY SUBMITTED, this _____ day of _____, 20____.

Signature

Date

SUBSCRIBED AND SWORN to me before me this _____ day of _____ 20____.

MY COMMISSION EXPIRES:

Notary Public

**FATHER'S CONSENT TO GUARDIANSHIP OF MINOR(S)
AND WAIVER NOTICE**

_____, being first duly sworn upon his/her oath, deposes and says: Parent's Name

1. I am the NATURAL FATHER of the minor(s):

Minor's Name	, DOB:
Minor's Name	, DOB:
Minor's Name	, DOB:

2. I, _____, knowingly and voluntarily consent without objection to
Parent's Name
_____ assuming Legal Guardianship of said Minor(s).
Petitioner's Name(s)

3. That I fully understand and acknowledge that _____
Petitioner's Name(s)
by assuming Guardianship will have actual physical possession and control of education, and other child-rearing issues.

4. That no fees or anything of value was given or paid in consideration of the Guardianship to said child.

5. I waive notice of all further proceedings in this matter. I understand I can reverse this waiver by filing a written document with the court under this court case number declaring I no longer waive notice of hearings and other court proceedings.

RESPECTFULLY SUBMITTED, this _____ day of _____, 20____.

Signature Date

SUBSCRIBED AND SWORN to me before me this _____ day of _____ 20____.

MY COMMISSION EXPIRES:

Notary Public

**MINOR CHILD'S (14 YEARS OF AGE OR OLDER)
CONSENT TO GUARDIANSHIP AND WAIVER NOTICE**

_____, being first duly sworn upon his/her oath, deposes and
says: Minor's Name

Required information from minor, under oath or affirmation:

1. Information about me:

Name: _____

Street Address: _____

City, State, Zip Code: _____

Telephone: _____ Date of Birth: _____

2. I am the minor child named above who needs a guardian.
3. I have read the Petition for Appointment of a Guardianship of a Minor, and
4. I consent to the appointment of (name) _____ to be my guardian(s).
5. I waive notice of all further proceedings in this matter. I understand that I can reverse this waiver by filing a written document with the court under this court case number declaring that I no longer waive notice of hearings and other court proceedings.

OATH OR AFFIRMATION OF MINOR

I have read, understood, and completed the above statements. Everything I have said is true and correct to the best of my knowledge, information, and belief.

RESPECTFULLY SUBMITTED, this _____ day of _____, 20____.

Signature Date

SUBSCRIBED AND SWORN to me before me this _____ day of _____ 20____.

MY COMMISSION EXPIRES:

Notary Public