

### **Section 4 Overview**

This section pertains to the policy and procedures necessary when an out-of-home placement of a child is imminent or has occurred.

### **Chapter 22 Overview**

This chapter describes procedures and legal requirements when guardianship is the permanency option for a child.

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### **Memoranda History:**

[CS03-51](#), [CD05-72](#)

## 22.1 Definition and Purpose

Guardianship is a permanency option for those children where neither family reunification nor adoption is feasible/desirable and the caretaker family is willing to assume a greater level of responsibility and authority over the child.

A priority should be made to place siblings together, whenever possible. CD must make reasonable efforts to place siblings in the same placement unless doing so would be contrary to the safety or well-being of any of the siblings.

Related Subject: Section 4, Chapter 7, Attachment D, <a href="#">Sibling Placement Guidelines</a>
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Persons interested in serving as a child's guardian must file a petition in probate court in accordance with chapter 475, RSMo. If the court makes a determination that the child is a minor incapable of caring for himself and managing his affairs, a guardian is appointed. The guardian becomes legally responsible and obligated to take care of the child. The guardian must make all necessary decisions regarding the child's affairs including medical care, education and finances. Also, the guardian is under a duty to provide the child with necessary food, clothing and shelter. The guardian is directly supervised by and answerable to the court which granted the petitioner's request for guardianship.

There are two forms of guardianship available to caretakers interested in this permanency option for children. The first is guardianship by a qualified relative or a qualified close nonrelated person in accordance with 453.072 RSMo. Qualified individuals achieving guardianship may be eligible for guardianship subsidy through the Children's Division. The second form of guardianship is guardianship – no subsidy. Staff are encouraged to discuss these options with caretakers interested in legal guardianship and to explain the eligibility criteria for subsidy benefits. Staff will also have the responsibility for entering information into FACES appropriately as there will be two options available for guardianship in the placement section of FACES. These two options include guardianship-subsidy and guardianship-no subsidy.

As used in this section and defined by 453.072 RSMo:

Relative means any grandparent, aunt, uncle, adult sibling of the child or adult first cousin of the child, or any other person related to the child by blood or affinity;

Close nonrelated person means any nonrelated person whose life is so intermingled with the child such that the relationship is similar to a family relationship.

## 22.2 Guidelines for Assessing Guardianship:

1. The Family Support Team has determined that family reunification is not likely in the foreseeable future and termination of parental rights is deemed inappropriate;
2. Adoption is not an option;

3. Current placement provider is able to meet the needs of the child including financial;
  4. Current placement is stable;
  5. The child's caretaker family is willing to pursue guardianship;
  6. The parent(s) will consent to guardianship;
  7. The child, if over 14 years of age, consents;
  8. The juvenile court having jurisdiction supports guardianship as an option and is willing to terminate its jurisdiction when such is granted; and
  9. The child's Guardian ad Litem is supportive of plan for guardianship.
- The Division's legal relationship, as well as services and foster care payments to the child/family, would terminate once guardianship is established, however, support services may continue as needed/desired and available.

### **22.3 Procedures for Pursuing Guardianship:**

1. Discuss prospects of guardianship with the Family Support Team, i.e., child, if age appropriate, birth parent(s) and caretaker(s);
2. Discuss guardianship option with juvenile court representative and child's Guardian ad Litem;
3. If guardianship appears a viable option, caretaker family should be directed to consult with legal counsel;
4. Once the case plan has changed to guardianship, the Children's Service Worker responsible for case management should notify the Children's Service Worker responsible for the subsidy immediately to ensure that the subsidy worker has time to negotiate the Legal Guardianship subsidy agreement prior to the award of guardianship
5. The Children's Service Worker responsible for the subsidy has the responsibility to meet with the prospective guardian discussing services available through guardianship subsidy.
  - a. For the prospective guardian to be eligible for guardianship subsidy, they must be a qualified relative of the child or a qualified close nonrelated person.
    - i. Relative is defined as any grandparent, aunt, uncle, adult sibling of the child or adult first cousin of the child, or any other person related to the child by blood or affinity;

- ii. Close nonrelated person, is defined as any nonrelated person whose life is so intermingled with the child such that the relationship is similar to a family relationship.
  - b. The caretaker family also must comply with all licensing requirements including training, background checks and the home study process.
6. Once a petition for guardianship has been filed, write a letter of recommendation with rationale to probate court and juvenile court and coordinate with courts, if separate, to ensure child is not without a legal custodian during the transition; and
7. Continue with services as needed or desired by family and available through agency.

#### **22.4 Procedures for Closing Case**

The following procedures are required by the Children's Service Worker after the court has issued an Order for Guardianship:

1. Close necessary forms which include all SEAS forms, the SS-61 (the SS-61 should not be closed if the caretaker family will receive guardianship subsidy, however should be updated in FACES upon award of legal guardianship), the SS-63, and the KIDS account.
2. Update dictation and complete the CS-16e, Risk Reassessment and the CD-14D, Termination of Service/Aftercare Plan.
3. Place copy of Order for Guardianship in record.
4. Send family letter advising the case has been closed and offering services if needed by the family in the future.

Related Subject: Section 4, Chapter 30 Subsidizing an Adoption/Legal Guardianship
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Related Subject: Section 4, Chapter 12 Relative or Kinship Care
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