

PROBATE and FAMILY COURT
PETITION FOR GUARDIANSHIP OF MINOR:
INSTRUCTIONS – HOW TO GIVE NOTICE: STANDING ORDER 04-09

What is Notice?

In any court proceeding, “notice” is the formal method of providing information to those who may have an interest in the proceeding.

Who is entitled to Notice?

In a Guardianship of Minor Petition certain persons and entities – called “interested parties” – are entitled to receive notice that a Petition for Guardianship of a Minor has been filed. Giving proper notice includes providing a copy of the Petition, and a copy of the Order and Notice that the court will give you, to the “interested parties.”

Who/what are “interested parties”?

This depends on the facts of your case. The categories of interested parties are recited in Standing Order 04-09. In most cases, the “Interested Parties” will be the parents of the child. Fill out the form, “Interested Parties checklist, to determine who needs to receive notice of your Guardianship Petition.

What is the Order and Notice?

This tells you when a hearing on the Petition will be held, and what you must do in order to properly give notice to the “interested parties.” It also tells the “interested parties” when the hearing shall occur, and what they can do if they wish to respond to the Petition. It also notifies all parties that the minor is entitled to counsel. And it contains a “Return of Service” section (see below).

How do I serve the Petition and the Order and Notice?

“Serve” means to deliver. How you deliver it – or cause it to be delivered – depends on who/what is entitled to receive it. Look at the chart on the next page. You DO NOT need to serve it if all interested parties in your case file a consent form. **More than one consent form may be filed.** If you need the sheriff or constable to serve the Petition and Order of Notice, take a copy of the INTERESTED PARTIES checklist, and enough copies of the Petition and Order of Notice to the sheriff or Constable, and make arrangements for service.

What do I do after I give notice?

If the sheriff or Constable has served the Petition and Order of Notice, the sheriff or Constable must complete the RETURN OF SERVICE section. The sheriff or Constable may return it to you or they may return it to the court and send you a copy. **You are responsible for making sure the RETURN OF SERVICE is filed with the court.** There may be more than one RETURN OF SERVICE. If you have provided service by first-class mail, then you must complete the RETURN OF SERVICE section, and file it with the court. If you do not show the court that all interested parties have received notice – that is, a copy of the petition and the order for notice – your case may not be heard.

How Notice is Delivered

Interested party	Form of service	How many days before hearing*
Minor (14 and over) (If not the petitioner)	In hand by sheriff, Constable, or other Person approved by Court.	fourteen (14) days
Party whose residence is known	In hand by sheriff, Constable, or other Person approved by Court	fourteen (14) days
Party whose residence is known, but can't serve in hand after trying, may file Motion and Affidavit; may get Order for Service, then:	By mailing by first class mail to last and usual and by sheriff leaving at last and usual and (or other method as ordered by court)	fourteen (14) days
Party whose residence or whereabouts is not known, or cannot be ascertained with reasonable diligence	by mailing first class mail to last and usual address	fourteen (14) days
	and Court will issue an Order for Service by Publication; must be Published at least one time	seven (7) days
Party whose identity is not known	Court will issue an Order for Service by Publication; must be Published at least one time	seven (7) days
Veteran's Administration (Notice only required when child receives benefits paid by the Veteran's Administration.)	by petitioner, by first-class mail	seven (7) days
Department of Children and Families (Notice only required if the agency has custody of the child.)	by petitioner, by first-class mail	seven (7) days

* In some instances, the court will change the time period, known as a "short order of notice."

Are there any circumstances under which I do not need to give notice?

- 1) If an interested party files a consent to the petition, you do not need to give notice to that party.
- 2) If a parent has signed a voluntary surrender conforming with G.L. c.210, §2, you do not need to give notice to that parent.
- 3) If the court has terminated parental rights pursuant to G.L. c.210, §3, you do not need to give notice to that parent.