**The Family Court of the State of Delaware**

In and For [ ]  New Castle County [ ]  Kent County [ ]  Sussex County

**PETITION FOR PERMANENT GUARDIANSHIP OF A MINOR**

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| File Number: |       |  | Petition Number: |       |

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| **Petitioner** |  |  | **Respondent** |
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| Name: |       |  |  | Name: |       |  |
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| Relationship to Child(ren): |       |  |  | Relationship to Child(ren): |       |  |
|  |  |  |  |  |  |  |
| Attorney Name: |       |  |  | Attorney Name: |       |  |
|  |  |  |  |  |  |  |
| Interpreter needed? | [ ]  Yes [ ]  No |  |  | Interpreter needed? | [ ]  Yes [ ]  No |  |
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| **2nd Petitioner (if any)** |  |  | **2nd Respondent (if any)** |
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| Name: |       |  |  | Name: |       |  |
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| Relationship to Child(ren): |       |  |  | Relationship to Child(ren): |       |  |
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| Attorney Name: |       |  |  | Attorney Name: |       |  |
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| Interpreter needed? | [ ]  Yes [ ]  No |  |  | Interpreter needed? | [ ]  Yes [ ]  No |  |
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| **Child Attorney/Guardian Ad Litem (if any)** |  |
|  |
| Name: |       |  |
|  |  |  |
| Law Firm: |       |  |
|  |  |  |
| Office Address: |       |  |
|  |  |  |
| City/State/Zip Code: |       |  |
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| Phone Number: |       |  |
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| IN THE INTEREST OF THE FOLLOWING CHILD(REN): |
|  |
| **Complete the table below for each child for whom permanent guardianship is sought.** |
|  |
| Attach additional sheets if necessary. |

|  |  |  |
| --- | --- | --- |
|  |  |  |
| **Child’s Name:** |       |  |  | **Child’s Name:** |       |  |
|  |  |  |  |  |  |  |
| Date of Birth: |       |  |  | Date of Birth: |       |  |
|  |  |  |  |  |  |  |
| State of Birth: |       |  |  | State of Birth: |       |  |
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| City of Birth: |       |  |  | City of Birth: |       |  |
|  |  |  |  |  |  |  |
| Gender: | (check one) [ ]  Male [ ]  Female |  |  | Gender: | (check one) [ ]  Male [ ]  Female |  |
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|  |  |  |
| **Child’s Name:** |       |  |  | **Child’s Name:** |       |  |
|  |  |  |  |  |  |  |
| Date of Birth: |       |  |  | Date of Birth: |       |  |
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| State of Birth: |       |  |  | State of Birth: |       |  |
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| City of Birth: |       |  |  | City of Birth: |       |  |
|  |  |  |  |  |  |  |
| Gender: | (check one) [ ]  Male [ ]  Female |  |  | Gender: | (check one) [ ]  Male [ ]  Female |  |
|  |  |  |  |  |  |  |

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| --- |
| 1. Complete the table below regarding the child(ren)’s parents (individuals holding parental rights): |
|  |
|  |  |  |
| **MOTHER** |  |  | **FATHER** |
|  |  |  |
| Name: |       |  |  | Name: |       |  |
|  |  |  |  |  |  |  |
| Street Address: |       |  |  | Street Address: |       |  |
|  |  |  |  |  |  |  |
| Apartment: |       |  |  | Apartment: |       |  |
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| P.O. Box Number: |       |  |  | P.O. Box Number: |       |  |
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| City/State/Zip Code: |       |  |  | City/State/Zip Code: |       |  |
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| Date of Birth: |       |  |  | Date of Birth: |       |  |
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| 2. If you do not know the name/address of the child(ren)’s mother and/or father, write in the space |
|  |
|  provided below what you have done to try to locate him/her/them. |
|  |
|  |  |  |
|  |       |  |
|  |  |  |
|  |
| * I have attached to this Petition the following affidavit:
 |
|  |
| [ ]  **Affidavit that a Party’s Address is Unknown (Form 241)** |

|  |
| --- |
| 3. Name(s) and address of the person(s) or organization **holding parental rights** of the child(ren): |
|  |
|  |  |
| Name(s): |       |
|  |  |
| Street Address: |       |
|  |  |
| Apartment: |       |
|  |  |
| P.O. Box Number: |       |
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| City/State/Zip Code: |       |
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| 4. Name(s) and address of the person(s) or organization **having the guardianship, care, control or**  |
|  |
|  **custody** of the child(ren): |
|  |
| If address is the same address as Petitioner(s), please write “same as Petitioner(s).” |
|  |
|  |  |
| Name(s): |       |
|  |  |
| Street Address: |       |
|  |  |
| Apartment: |       |
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| P.O. Box Number: |       |
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| City/State/Zip Code: |       |
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| 5. Name(s) and address of the person(s) or organization **to whom permanent guardianship** shall |
|  |
|  be vested if this Petition is granted: |
|  |
| If address is the same address as Petitioner(s), please write “same as Petitioner(s).” |
|  |
|  |  |
| Name(s): |       |
|  |  |
| Street Address: |       |
|  |  |
| Apartment: |       |
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| P.O. Box Number: |       |
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| City/State/Zip Code: |       |
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| 6. Proposed permanent guardian(s)’ relationship to child(ren) if proposed permanent guardian is |
|  |
|  **NOT** the Petitioner(s): |       |  |

|  |
| --- |
| 7. Please check all that apply: |
|  |
| [ ]  The following children are under 14 years of age: |
|  |
|  |       |  |
|  |
| **OR** |
|  |
| [ ]  The following children are 14 years of age or older and consent to (agree with) this |
|  |
|  Petition. (*Attach Affidavit of Consent executed by each child who consents.*) |
|  |
|  List the name of each child 14 years of age or older who consents: |
|  |
|  |       |  |
|  |
| [ ]  The following children are 14 years of age or older and do NOT consent to (agree with) |
|  |
|  this Petition. List the name of each child 14 years of age or older who DOES NOT consent: |
|  |
|  |       |  |

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| --- |
| 8. I am filing this petition because: |
|  |
|  Check ALL that apply. |
|  |
| [ ]  The child(ren)’s parent(s) agree that I/we should become the guardian(s) of the child(ren). |
|  |
|  (*Attach an Affidavit of Consent (Form 202P) executed by the parent(s) who agree.*) |
|  |
| [ ]  The child(ren)’s parent(s) are deceased. (*Attach a certified copy of the death certificate.*) |
|  |
| [ ]  The child(ren) is/are dependent, neglected, and/or abused based on the following  |
|  |
|  reason(s): |
|  |
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| 9. I acknowledge the following is true for the child(ren) named in this petition: |
|  |
| [ ]  Adoption of the child is not possible or appropriate; |
|  |
| [ ]  Permanent Guardianship is in the best interests of the child; |
|  |
| [ ]  The proposed guardian is a: |
|  |
| [ ]  i. Relative (pursuant to 13 *Del. C.* § 2302) having placement of the child for at least |
|  |
|  the previous 6 months (select relationship) |
|  |
| [ ]  sibling |
|  |
| [ ]  grandparent or great-grandparent |
|  |
| [ ]  aunt or uncle |
|  |
| [ ]  first cousin or first cousin once removed |
|  |
| [ ]  grandaunt or granduncle |
|  |
| [ ]  half sibling |
|  |
| [ ]  stepparent |
|  |
| [ ]  stepsibling |
|  |
| [ ]  stepaunt or stepuncle |
|  |
| [ ]  stepgrandparent |
|  |
| [ ]  If you are a relative and you have not had placement of the child for at least |
|  |
|  the previous 6 months, but you believe that just cause supports your |
|  |
|  permanent guardianship petition, please explain: |
|  |
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| [ ]  ii. Foster parent caring for the child for at least the previous 6 months; |
|  |
| [ ]  iii. Guardian holding guardianship for at least the previous 6 months OR |
|  |
| [ ]  iv. Individual with whom the child in DSCYF custody has been placed for at least the |
|  |
|  previous 6 months. |
|  |
| [ ]  The proposed permanent guardian: |
|  |
| [ ]  i. Is emotionally, mentally, physically and financially suitable to become the |
|  |
|  permanent guardian; |
|  |
| [ ]  ii. Has expressly committed to remain the permanent guardian and assume the |
|  |
|  rights and responsibilities for the child for the duration of the child’s minority (until |
|  |
|  the child is 18 years old); AND |
|  |
| [ ]  iii. Has demonstrated an understanding of the financial implications of becoming a |
|  |
|  permanent guardian. |

|  |
| --- |
| [ ]  If the child is at least 14 years old, the child consents to the permanent guardianship being |
|  |
|  granted. |
|  |
| [ ]  If the proposed permanent guardian is not a relative (pursuant to 13 *Del. C.* § 2302) or a  |
|  |
|  current guardian of the child: |
|  |
| [ ]  i. The child is at least 12 years old; OR |
|  |
| [ ]  ii. The proposed permanent guardian is the permanent guardian of one of the child’s |
|  |
|  siblings; OR |
|  |
| [ ]  iii. The child receives substantial governmental benefits for a serious physical or |
|  |
|  mental disability which would no longer be available to the child if parental rights |
|  |
|  were terminated or if the child was adopted; OR |
|  |
| [ ]  iv. Extraordinary circumstances that support granting the permanent guardianship |
|  |
|  exist. |
|  |
| [ ]  I/We have made the following efforts to place the child for adoption (if applicable): |
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| 10. I have attached the Grounds for Permanent Guardianship for each child named above. I have |
|  |
| indicated at least one Ground for Permanent Guardianship for each child named in this petition. |

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| **WHEREFORE**, Petitioner(s) seek appointment as Guardian(s) of the above-named minor child(ren). |

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| --- | --- | --- | --- | --- | --- | --- |
|       |  |       |  |       |  |       |
| Petitioner |  | Date |  | 2nd Petitioner (if any) |  | Date |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
| Sworn to and subscribed before me: |  | Sworn to and subscribed before me: |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
|       |  |       |  |       |  |       |
|      Clerk of Court/Notary Public |  | Date |  |      Clerk of Court/Notary Public |  | Date |

**GROUNDS FOR PERMANENT GUARDIANSHIP**

**Complete a separate *Grounds for Permanent Guardianship* form for each child named in the *Petition for Permanent Guardianship*.** If there are 2 children, then 2 *Grounds for Permanent Guardianship* forms MUST be completed and attached to the Petition.

|  |  |
| --- | --- |
| CHILD’S NAME: |       |

Indicate the grounds for Permanent Guardianship (**Place an “X” next to the grounds that apply**). **At least one of the boxes numbered 1 through 9 must be checked.**

**CONSENT:**

1. [ ]  A parent of the child, or a person or organization holding parental rights over the child, agrees (consents) that this Petition should be granted.

[ ]  A *Consent to Permanent Guardianship* (Form 202P) is attached to the Petition.

**INTENTIONAL ABANDONMENT:**

1. [ ]  Respondent(s) have intentionally abandoned the child as evidenced by the fact that **(If you check box 2, you must place an “X” next to at least one of the following that apply):**
2. [ ]  The child is younger than 6 months old at the time of filing this Petition and Respondent(s) FAILED to:
* Pay reasonable prenatal, natal and postnatal expenses for the child; **AND**
* Visit regularly with the child or file a petition for visitation with the child; **AND**
* Manifest (show) an ability and willingness to assume legal and physical custody of the child (if the child was NOT in the physical custody of the *other* parent).
1. [ ]  The child is at least 6 months old at the time of filing this Petition **AND** for at least 6 consecutive months (6 months in a row) of the 12 months preceding the filing of this Petition, Respondent(s) FAILED to:
* Communicate or visit regularly with the child; **AND**
* Manifest (show) the ability and willingness to assume legal and physical custody of the child (if the child was NOT in the physical custody of the *other* parent).
1. [ ]  The child is younger than 6 years old at the time of filing this Petition **AND** Respondent(s) have placed the child in circumstances leaving the child in substantial risk of injury or death and, therefore, has manifested (shown) the unwillingness to exercise parental rights and responsibilities.

**UNINTENTIONAL ABANDONMENT:**

1. [ ]  Respondent(s) have unintentionally abandoned the child because for 12 consecutive months (12 months in a row) in the 18 months before filing this Petition, Respondent(s) FAILED to:
* Communicate or visit regularly with the child; **AND**
* File or pursue a pending Petition to establish paternity or to establish a right to have contact or visitation with the child; **AND**
* Manifest (show) an ability and willingness to assume legal and physical custody of the child (if the child was NOT in the physical custody of the *other* parent).

**AND** at least one of the below applies (**Place an “X” next to at least one of the following that apply**):

[ ]  The child is not in the other parents’ legal and physical custody and Respondent(s) are not able or willing promptly to assume legal and physical custody of the child, and to pay for reasonable support for the child.

[ ]  Placing the child in Respondent(s)’ legal and physical custody would pose a risk of substantial harm to the child’s physical or psychological well-being. Respondent(s) are unfit to maintain a relationship of “parent and child” with the child because of at least one (1) of the following reasons:

* + 1. The circumstances of the child’s conception; **OR**
		2. Respondent(s)’ behavior during pregnancy; **OR**
		3. Respondent(s)’ behavior after the child was born; **OR**
		4. Respondent(s)’ behavior with respect to another child.

[ ]  Failure to grant the Petition for Permanent Guardianship would be detrimental to the child.

**DETRIMENTAL TO THE CHILD**

In determining whether failure to grant the permanent guardianship would be detrimental to the child, the Court will consider all relevant factors, including the following:

A. The respondent’s efforts to obtain or maintain legal and physical custody of the child.

B. The role of another person in thwarting the respondent’s efforts to assert parental rights.

C. The respondent’s ability to care for the child.

D. The child’s age.

E. The quality of a previous relationship between the respondent and child, and between the respondent and another child.

F. The duration and suitability of the child’s current custodial environment.

G. The effect on the child of a change of physical custody.

**CONVICTION OR ADJUDICATION:**

1. [ ]  Respondent(s) have been convicted or adjudicated of the following (or a substantially similar offense in another jurisdiction) **(If you check box 4, you must place an “X” next to at least one of the following that apply):**

[ ]  A felony level offense against the person under Subchapter II of Chapter 5 of Title 11, in which the victim was a child; **OR**

[ ]  Aided, abetted, attempted, conspired or solicited to commit a felony level offense against the person under Subchapter II of Chapter 5 of Title 11, in which the victim was a child; **OR**

[ ]  Dealing in Children or attempting to deal in children under § 1100A of Title 11; **OR**

[ ]  Felony level endangering the welfare of a child under § 1102 of Title 11; **OR**

[ ]  Murder or manslaughter of the other parent of the child who is the subject of the petition; **OR**

[ ]  Aiding, abetting, attempting, conspiring, or soliciting to commit murder or manslaughter of the other parent of the child who is the subject of this petition.

**FAILURE TO PLAN:**

1. [ ]  **DSCYF or Licensed Agency:** the child is in DSCYF custody or placed by a licensed agencyand the Respondent(s) are not able or have failed to plan adequately for the child’s physical needs or mental and emotional health and development; **AND** at least **ONE (1)** of the following conditions are met **(CHECK ALL THAT APPLY)**:

[ ]  The child has been in DSCYF custody or placed by a licensed agency for at least 1 year.

[ ]  The child has been in DSCYF custody or placed by a licensed agency for at least 6 months and the child came into care as an infant.

[ ]  DSCYF previously had custody of the child or another child of the Respondent(s).

[ ]  The Respondent(s) have a history of dependency, neglect, abuse, or lack of care of the child or another child.

[ ]  The Respondent(s) are incapable of discharging parental responsibilities due to extended or repeated incarceration (the Court may consider the Respondent(s)’ postconviction conduct).

1. [ ]  **PRIVATE:** at the time of the Permanent Guardianship Hearing, the child will be a dependent child or neglected child in the Respondent(s)’ care and **ALL** of the following are true:

[ ]  The Petitioner (or proposed permanent guardian) is the child’s guardian, relative, or foster parent.

[ ]  The child has resided in the Petitioner’s (or proposed guardian’s) home for at least 1 year.

[ ]  The Respondent(s) failed to discharge parental responsibilities for at least 12 of the 18 months preceding the filing of the petition.

**[ ]** The Respondent(s) are unlikely to be able to remedy the dependency or neglect in the near future. ***\*NOTE\*:*** *in making this determination, the Court shall consider the Respondent(s)’ efforts to remedy the dependency or neglect.*

**You must also include a detailed statement of why the child would be a dependent child or neglected child in the Respondent(s)’ care:**

|  |  |  |
| --- | --- | --- |
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|  |       |  |
|  |  |  |

1. [ ]  **PRIOR INVOLUNTARY TERMINATION:** Respondent(s)’ parental rights over another child have been involuntarily terminated in a prior proceeding.
2. [ ]  **ABUSE:** The Respondent(s) have subjected a child to torture, chronic abuse, sexual abuse, or life-threatening abuse.
3. [ ]  **UNEXPLAINED SERIOUS INJURY OR DEATH:** A child has suffered unexplained serious physical injury, near death, or death under circumstances indicating that the injuries, near death, or death resulted from the Respondent(s)’ intentional or reckless conduct or willful neglect.