

Cherokee Nation Code Annotated

Title 30: Guardianship and Conservatorship

Chapter 1: Guardianships

§ 10. Duties and powers of guardians—Annual review

Cite as: 30 CNCA § 10

A. Except as otherwise ordered or limited by the Court:

1. A guardian of a child shall have the right to take or provide for his physical custody and shall be required to care for his health, safety and welfare, and provide for his education and medical care.

2. In a legal action, the guardian shall have the authority to represent the interests of the child in actual, threatened or contemplated litigation or other proceedings of a legal nature. The guardian may employ counsel and settle or compromise suits or claims subject to the approval of the Court

3. A guardian of the property of the child shall have the authority to invest, manage and dispose of the child's property in a prudent and reasonable manner. The guardian may expend such portions of the property, income and principal as shall be reasonably necessary for the education of the child and care of the child, including medical care, unless the guardianship order states that the child's property may not be used for the child's care and support, but rather that it be managed for the child until he reaches the age of eighteen (18) or an emancipation occurs.

B. A guardian may petition the Court at any time for authority to do any act, if he is uncertain of his authority. The Court may grant such authority, after notice and hearing, if this appears to be consistent with the best interests of the child.

C. A guardian shall report to the Court any change in the residence of a ward within ten (10) days following such change unless a prior order of approval of such change has been entered by the Court.

D. Every guardian, whether of the person and/or property of a child, shall:

1. stand in a fiduciary relationship to the child;
2. exercise a high degree of care in managing the child's property;
3. derive no personal benefit from the management of the child's property; and
4. be liable to the child for any losses attributable to breach of these duties.

E. Any action to enforce liability against the guardian may be brought by the child or a subsequently appointed guardian on behalf of the child within two (2) years after the appointment of a new guardian, or the discovery of the breach of duties, or attainment of the age of eighteen (18) by the child, whichever comes first.

F. The Court shall hold annual review hearings in guardianship cases, unless the Court provides a summary review upon written application of the Guardian, which shall be accompanied by a "Guardianship Review" form approved by the Court. A minute order reflecting summary review and the Guardianship Review form should be filed in each case where there is a summary review. Upon request by the Court, a guardian shall file a progress report with the Court at least thirty (30) days prior to any required annual review hearing. At any time, any person with an interest in a current Guardianship may request a review before the Court.

Historical Data

LA 39–12, eff. October 16, 2012. Amended LA 03–17, eff. March 25, 2017.

2017 Legislation

LA 03–17, Section 2, provides:

"Section 2. Purpose. To amend the Guardianship and Conservatorship Code to eliminate annual reviews for guardianships of minor unless ordered by the Court. This change will allow the District Court to more efficiently review guardianships of minors and save Guardians time while still allowing the Court to have oversight of the cases."