

Cherokee Nation Code Annotated

Title 30: Guardianship and Conservatorship

Chapter 1: Guardianships

§ 32. Applications to Court for relief—Contents—Notice and hearing—Order—Appointment of counsel—Joinder—Hearing without notice

Cite as: 30 CNCA § 32

A. After the appointment of a guardian, the ward, any person interested in the welfare of the ward, or a guardian may make application to the Court for:

1. termination of the guardianship;
2. removal of the guardian;
3. resolution of a dispute pertaining to the guardianship plan; or
4. a review hearing.

B. Such application shall set forth:

1. the names and addresses of the individuals and entities entitled to notice;
2. the relief requested; and
3. the alleged facts and reasons supporting the request.

C. Any person entitled to notice of the hearing on an application filed pursuant to this section may object to the relief requested in the application. Notice shall be as provided as set forth in this chapter.

D. The Court shall set an application filed pursuant to this section for hearing on a date certain and shall cause notice to be given to the persons entitled thereto by regular first-class mail at least ten (10) days prior to such date. However, except for an order terminating a guardianship, the Court may enter an order granting the relief requested in the application without notice if the Court determines that such relief should be granted immediately. In that event, the Court may grant such relief on a temporary basis and proceed to set the application for further hearing following the giving of notice as provided by this subsection. At the hearing, based upon the evidence adduced, the Judge may continue, modify or vacate his temporary order.

E. At the hearing held upon an application filed pursuant to this section for which notice is required, the Court may, based upon the evidence presented, enter an order granting or denying the relief requested. At such hearing, the Court may also make any other order

which the Court deems to be in the best interests of the ward or the estate of the ward. The Court may also set for further hearing, with prior notice to be given as provided in this section, any other matter which the Court deems should be considered in the best interest of the ward or the estate of the ward.

F. With respect to any matter set for hearing pursuant to this section, the Court may appoint an attorney to represent a ward at such hearing, in the same manner as provided in this chapter for appointment of an attorney for the subject of the proceeding following the filing of a petition for appointment of a guardian. The appointment of such attorney shall cease:

1. upon the entry by the Court of an order pertaining to the matters considered at such hearing, unless the Court otherwise directs, either in the order appointing such attorney or in the order pertaining to the matters considered at such hearing;
2. unless an appeal is taken from the order of the Court pertaining to the matters considered at such hearing, in which event such attorney shall continue to represent the ward until final disposition or as otherwise ordered by the Court; or
3. upon application of said attorney, the Court may allow the attorney to withdraw from the case and shall appoint another attorney to represent the subject of the proceeding in any appeal proceeding.

G. After notice, the Court may join the issues raised in separate applications or separate objections for determination at a single hearing, unless the Court determines joinder would be prejudicial to the interests of the ward.

H. The Court may hear an application other than with respect to the matters set forth in subsection (A) of this section, with or without notice as the Court determines. If the Court requires notice to be given, the Court shall specify the persons to whom notice shall be given and the manner and time in which such notice shall be given.

Historical Data

LA 39-12, eff. October 16, 2012.