

15-5-207. COURT APPOINTMENT OF GUARDIAN OF MINOR – PROCEDURE. (1) Proceedings for the appointment of a guardian or co-guardian may be initiated by the following persons:

- (a) Any relative of the minor;
- (b) The minor if he is fourteen (14) or more years of age;
- (c) Any person who comes within section 15-5-213(1), Idaho Code; or
- (d) Any person interested in the welfare of the minor.

(2) Notice of the time and place of hearing of a petition ~~for the appointment of a guardian of a minor~~ under this section is to be given by the petitioner in the manner prescribed by section 15-1-401, Idaho Code, to:

- (a) The minor, if he is fourteen (14) or more years of age;
- (b) The person who has had the principal care and custody of the minor during the sixty (60) days preceding the date of the petition;
- (c) Any person who comes within section 15-5-213(1), Idaho Code; and
- (d) Any living parent of the minor; provided however, that the court may waive notice to a living parent of the minor who is, or is alleged to be, the father of the minor if:
 - (i) The father was never married to the mother of the minor and has failed to register his paternity as provided in section 16-1504(4), Idaho Code; or
 - (ii) The court has been shown to its satisfaction circumstances that would allow the entry of an order of termination of parental rights pursuant to section 16-2005, Idaho Code, even though termination of parental rights is not being sought as to such father.

(3) The court may appoint co-guardians pursuant to the provisions of section 15-5-101, Idaho Code.

(34) ~~Upon hearing, if~~ Upon hearing, if the court finds, upon hearing, that a qualified person seeks appointment, venue is proper, the required notices have been given, the requirements of section 15-5-204, Idaho Code, have been met, and the ~~welfare and~~ best interests of the minor will be served by the requested appointment, it ~~shall~~ must make the appointment. In other cases the court may dismiss the proceedings, or make any other disposition of the matter that will best serve the interest of the minor.

~~(45) If necessary, the court may appoint a temporary guardian, with the status of an ordinary guardian of a minor, but the authority of a temporary guardian shall not last longer than six (6) months. Before the appointment of a guardian:~~

(a) the court may appoint a temporary guardian for the minor if it finds by a preponderance of evidence that:

(i) a petition for guardianship under section 15-5-207, Idaho Code, has been filed;

(ii) the appointment is necessary to protect the minor's health, safety or welfare until the petition can be heard; and

(iii) no other person appears to have the ability, authority and willingness to act.

(b) A temporary guardian may be appointed without notice or hearing if the minor is in the physical custody of the petitioner or proposed temporary guardian and the court finds from a statement made under oath that the minor may be immediately and substantially harmed before notice can be given or a hearing held.

(c) Notice of the appointment of a temporary guardian must be given to those designated in section 15-5-207(2), Idaho Code, within seventy-two (72) hours after the appointment. The notice must inform interested persons of the right to request a hearing. The court must hold a hearing on the appropriateness of the appointment within ten (10) days after request by an interested person. In all cases, either a hearing on the temporary guardianship or on the petition for guardianship itself must be held within ninety (90) days of the filing of any petition for guardianship of a minor.

(d) The temporary guardian's authority may not exceed six (6) months unless extended for good cause. The powers of the temporary guardian shall be limited to those necessary to protect the immediate health, safety or welfare of the minor until a hearing may be held and must include the care and custody of the minor.

(e) A temporary guardian must make reports as the court requires.

(6) When a minor is under guardianship:

(a) the court may appoint a temporary guardian if it finds:

(i) substantial evidence that the previously appointed guardian is not performing the guardian's duties; and

(ii) the appointment of a temporary guardian is necessary to protect the minor's health, safety or welfare.

(b) A temporary guardian may be appointed without notice or hearing if the court finds from a statement made under oath that the minor may be immediately and substantially harmed before notice can be given or a hearing held.

(c) Notice of the appointment of a temporary guardian must be given to those designated in Idaho Code 15-5-207(2) within seventy-two (72) hours after the appointment. The notice must inform interested persons of the right to request a hearing. The court shall hold a hearing on the appropriateness of the appointment within ten (10) days after request by an interested person.

(d) The authority of a previously appointed guardian is suspended as long as a temporary guardian has authority. The court must hold a hearing before the expiration of the temporary guardian's authority and may enter any appropriate order. The temporary guardian's authority may not exceed six (6) months unless extended for good cause.

(e) A temporary guardian must make reports as the court requires.

(57) The court shall appoint an attorney to represent the minor if the court determines that the minor possesses sufficient maturity to direct the attorney. If the court finds that the minor is not mature enough to direct an attorney, the court shall appoint a guardian ad litem for the minor. The court may decline to appoint an attorney or guardian ad litem if it finds in writing that such appointment is not necessary to serve the best interests of the minor or if the Idaho department of health and welfare has legal custody of the child.

(68) Letters of guardianship must indicate whether the guardian was appointed by will or by court order.