

**4A-501. Petition to appoint kinship guardians.**

STATE OF NEW MEXICO

COUNTY OF \_\_\_\_\_

\_\_\_\_\_, JUDICIAL DISTRICT

\_\_\_\_\_, Petitioner(s)

No. \_\_\_\_\_

IN THE MATTER OF THE KINSHIP GUARDIANSHIP OF

\_\_\_\_\_,<sup>1</sup> (a) Child(ren) (*use initials only*), and concerning

\_\_\_\_\_, Respondent #1,

\_\_\_\_\_, Respondent #2.

**PETITION TO APPOINT KINSHIP GUARDIAN(S)<sup>2</sup>**

Petitioner(s),<sup>3</sup> \_\_\_\_\_, request(s) the court to grant an  
Order Appointing Kinship Guardian(s) of the minor child(ren),

\_\_\_\_\_.

The court has jurisdiction of the parties and the subject matter of the cause of  
action.

**A. INFORMATION ABOUT PETITIONER(S)<sup>3</sup>**

1. Petitioner #1 Name and address:

\_\_\_\_\_  
\_\_\_\_\_

2. Petitioner #2 Name and address:

\_\_\_\_\_  
\_\_\_\_\_

3. Petitioner(s) are currently providing adequate care, maintenance, and  
supervision for \_\_\_\_\_  
(*names of minor child(ren)*).

**B. INFORMATION ABOUT THE CHILD(REN)<sup>4</sup>**

1. Child's Name \_\_\_\_\_

a. Address \_\_\_\_\_

b. Place and year of birth

City \_\_\_\_\_

State \_\_\_\_\_

Month and year of birth \_\_\_\_\_

c. Are Petitioner(s) related to the child? \_\_\_\_\_ Yes \_\_\_\_\_ No

d. If yes, what is the relationship?

\_\_\_\_\_

\_\_\_\_\_

If no, describe Petitioner(s)'s connection with the child.

\_\_\_\_\_

e. Is the child fourteen (14) years of age or older? \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, has the child stated that they want the named Petitioner(s)  
as the guardian(s)? \_\_\_\_\_ Yes<sup>5</sup> \_\_\_\_\_ No

f. Is the child an enrolled member of an Indian tribe or eligible for  
membership? \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, what tribe is the child enrolled with or eligible to be enrolled  
with?

\_\_\_\_\_

Have you notified the tribe of this Petition? \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, list the specific actions you have taken to notify the tribe and  
the results of those contacts, including the names, addresses, titles,  
and telephone numbers of the persons contacted. Attach copies of  
all correspondence with the Indian tribe.

\_\_\_\_\_

\_\_\_\_\_

2. Child's Name \_\_\_\_\_

a. Address \_\_\_\_\_

b. Place and year of birth

City \_\_\_\_\_

State \_\_\_\_\_

Month and year of birth \_\_\_\_\_

c. Are Petitioner(s) related to the child? \_\_\_\_\_ Yes \_\_\_\_\_ No

d. If yes, what is the relationship?

\_\_\_\_\_

\_\_\_\_\_

If no, describe Petitioner(s)'s connection with the child.

\_\_\_\_\_

e. Is the child fourteen (14) years of age or older? \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, has the child stated that they want the named Petitioner(s) as the guardian(s)? \_\_\_\_\_ Yes<sup>5</sup> \_\_\_\_\_ No

- f. Is the child an enrolled member of an Indian tribe or eligible for membership? \_\_\_\_\_ Yes \_\_\_\_\_ No  
If yes, what tribe is the child enrolled with or eligible to be enrolled with?

Have you notified the tribe of this Petition? \_\_\_\_\_ Yes \_\_\_\_\_ No  
If yes, list the specific actions you have taken to notify the tribe and the results of those contacts, including the names, addresses, titles, and telephone numbers of the persons contacted. Attach copies of all correspondence with the Indian tribe.

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**C. INFORMATION ABOUT CHILD'S PARENTS (RESPONDENTS)<sup>6</sup>**

1. Respondent #1

- a. \_\_\_\_\_ (*name of Respondent-parent if known*) is the parent of \_\_\_\_\_.
- b. This Respondent-parent is \_\_\_\_\_ alive \_\_\_\_\_ deceased (*if deceased, provide proof of death*)
- c. If alive, list address (*include physical street address, city, state, and zip code*):

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Is Respondent #1 an enrolled member of an Indian tribe or eligible for membership in an Indian tribe? \_\_\_\_\_ Yes \_\_\_\_\_ No  
If yes, what tribe is Respondent #1 enrolled with or eligible to be enrolled with?

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- d. On information and belief, (*complete only one choice below*)
- i. Respondent-parent \_\_\_\_\_ (*name*) consents to the appointment of Petitioner(s) as Kinship Guardian(s).<sup>7</sup>

Or

- ii. This legal parent is unable or unwilling to provide adequate care, maintenance, and supervision for the minor child(ren) named in this petition (*explain why you think this parent is unable or unwilling to provide care*):

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2. Respondent #2

- a. \_\_\_\_\_ (*name of Respondent-parent if known*) is the parent of \_\_\_\_\_.

- b. This Respondent-parent is \_\_\_\_\_ alive \_\_\_\_\_ deceased (*if deceased, provide proof of death*)

- c. If alive, list address (*include physical street address, city, state, and zip code*):

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Is Respondent #2 an enrolled member of an Indian tribe or eligible for membership in an Indian tribe? \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, what tribe is Respondent #2 enrolled with or eligible to be enrolled with?

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- d. On information and belief, (*complete only one choice below*)

- i. Respondent-parent \_\_\_\_\_ (*name*) consents to the appointment of Petitioner(s) as Kinship Guardian(s).<sup>7</sup>

Or

- ii. This legal parent is unable or unwilling to provide adequate care, maintenance, and supervision for the minor child(ren) named in this petition (*explain why you think this parent is unable or unwilling to provide care*):

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D. **FACTS REGARDING REQUEST FOR GUARDIANSHIP**

1. Consent to Guardianship

- a. Does Respondent #1 consent to the guardianship? \_\_\_\_ Yes \_\_\_\_ No  
If no, has the child(ren) lived with Petitioner(s) without Respondent #1 in the home for ninety (90) days immediately prior to filing this petition?  
\_\_\_\_ Yes \_\_\_\_ No
- b. Does Respondent #2 consent to the guardianship? \_\_\_\_ Yes \_\_\_\_ No  
If no, has the child(ren) lived with Petitioner(s) without Respondent #2 in the home for 90 days immediately prior to filing this petition?  
\_\_\_\_ Yes \_\_\_\_ No
2. Describe how the child came to reside with you and why you want guardianship.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. If a Respondent-parent is willing and able to parent the child(ren), are there extraordinary circumstances that justify granting the guardianship?<sup>8</sup>  
\_\_\_\_ Yes (*please explain*) \_\_\_\_ No  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**E. OTHER INFORMATION**

1. Are there any other court cases involving these children?  
\_\_\_\_ Yes \_\_\_\_ No \_\_\_\_ Unsure  
If yes, please provide:  
Case Number \_\_\_\_\_  
Type of case \_\_\_\_\_
2. Is there current CYFD involvement?<sup>10</sup>  
\_\_\_\_ Yes \_\_\_\_ No
- a. If yes, what is the contact information for the CYFD case worker?  
Name: \_\_\_\_\_  
Position (*if known*): \_\_\_\_\_  
Phone Number and/or email address: \_\_\_\_\_
- b. If yes, does CYFD have legal custody of any of the child(ren) named in this petition? Yes \_\_\_\_ No \_\_\_\_ . If yes, CYFD must be served with a copy of this petition.<sup>10</sup>

- c. If yes, does CYFD consent to this guardianship?  
\_\_\_\_\_ Yes \_\_\_\_\_ No \_\_\_\_\_ Don't know (*please explain*):

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3. Has CYFD filed a court case against the parents concerning this child?  
\_\_\_\_\_ Yes \_\_\_\_\_ No

4. Do any other person(s) have or claim to have court ordered custody of the child(ren)?<sup>9</sup> \_\_\_\_\_ Yes \_\_\_\_\_ No  
If yes, the name(s), phone number(s), and address(es) are:

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5. Do any other person(s) have court ordered visitation with the child(ren)?<sup>9</sup>  
\_\_\_\_\_ Yes \_\_\_\_\_ No  
If yes, the name(s), phone number(s), and address(es) are:

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6. Petitioner(s) are requesting child support from Respondents.<sup>11</sup>  
\_\_\_\_\_ Yes \_\_\_\_\_ No

7. Petitioners accept the duties and responsibilities of guardianship, including providing for the care, maintenance, and supervision of the child(ren).

8. No guardian of the child(ren) is currently appointed under a provision of the Uniform Probate Code, Section 45-1-101 NMSA 1978.

9. It is in the best interests of the child(ren) that Petitioner(s) be appointed as kinship guardian(s).

WHEREFORE, Petitioner(s) respectfully request(s) an Order Appointing Kinship Guardian(s) of the minor child(ren).

### VERIFICATION

Petitioner #1:

I, \_\_\_\_\_, Petitioner, affirm under penalty of perjury under the laws of the State of New Mexico that I am the Petitioner in the above-entitled cause; that I have read the Petition to Appoint Kinship Guardian(s); and that the contents of the petition are true and correct to the best of my information and belief.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Petitioner #1

\_\_\_\_\_  
Address, phone number, and email for  
Petitioner #1

Petitioner #2:

I, \_\_\_\_\_, Petitioner, affirm under penalty of perjury under the laws of the State of New Mexico that I am the Petitioner in the above-entitled cause; that I have read the Petition to Appoint Kinship Guardian(s); and that the contents of the petition are true and correct to the best of my information and belief.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Petitioner #1

\_\_\_\_\_  
Address, phone number, and email for  
Petitioner #2

#### USE NOTES

1. Enter the initials of each child. Each child should be listed in the petition under Section A.
2. Forms 4A-501 to -513 NMRA are required to be used by persons representing themselves in kinship guardianship proceedings. Parties represented by an attorney may use other forms that serve the same purpose.
3. A petitioner must be an adult with whom the child has a significant bond. See NMSA 1978, Section 40-10B-5 (2022) for persons who may file as a petitioner under the Kinship Guardianship Act.
4. Fill out Section B for each child you are seeking guardianship over. If you are applying for guardianship of more than two children, repeat the sections as necessary for each child.
5. Any minor child fourteen (14) years of age or older must be served with a copy of this petition. A child fourteen (14) years of age or older may nominate a person to be their kinship guardian using Nomination of Kinship Guardian(s) Form, Form 4A-506 NMRA. The court shall appoint a person nominated by a child who is fourteen (14) years of age or older unless the court finds the nomination contrary to the best interests of the child. Additionally, the court shall not appoint a person as the kinship guardian if a child who is fourteen (14) years of age or older files a written objection in the proceeding.

before the person accepts appointment as kinship guardian unless the court makes a specific finding that it is in the best interests of the child. See NMSA 1978, § 40-10B-11(B) (2023).

6. If there are more than two parents for the children involved, repeat the information for each additional parent. Unless the child's parent is deceased or the parent's parental rights have been terminated, use Form 4-206 NMRA for service of process on each parent named in the petition unless (a) the parent is deceased; or (b) the parent's rights as a parent have been terminated by a court order.

7. Form 4A-505 NMRA must be signed, notarized, and filed with the court for each respondent-parent who consents to the guardianship.

8. For example: Has the child lived with the petitioner(s) for so long that removing the child would cause anguish or harm to the child? Are there other reasons why the child should not be with the parent? Explain why neither parent can care for the children.

9. If there are other people claiming to have court-ordered custody or court-ordered visitation of the child(ren), they must also be served with a copy of the petition and notice of the hearing.

10. If CYFD has legal custody of any child named in this petition, CYFD must be served with a copy of this petition. CYFD has designated addresses and individuals to accept service of the petition. Court clerks and the local CYFD office will supply the contact information for the address and person that will accept service on behalf of CYFD.

11. Both parents may be ordered to pay child support. The petitioners' income should not be used for calculation of child support.

[Provisionally approved, effective August 15, 2003 until August 31, 2004; approved, effective January 20, 2005; 4-981 recompiled and amended as 4A-501 by Supreme Court Order No. 16-8300-020, effective for all pleadings and papers filed on or after December 31, 2016; as amended by Supreme Court Order No. 22-8300-020, effective for all pleadings and papers filed on or after December 31, 2022; as amended by Supreme Court Order No. S-1-RCR-2023-00052, effective for all cases pending or filed on or after December 31, 2024.]