

STANDBY GUARDIANSHIP IN VIRGINIA

Keep a copy of these instructions for yourself and give a copy to the person you designate as Standby Guardian and alternate Standby Guardian.

What is a Standby Guardian?

A Standby Guardian is a person who can temporarily care for and make decisions for your minor children in the event you are arrested, detained, or deported for immigration-related matters. The Standby Guardianship can last for the entire time you are detained or deported. The Standby Guardianship can end anytime by notifying the Standby Guardian in writing that you want to end the Standby Guardianship.

Who can appoint a Standby Guardian?

Only a minor child's parent or legal custodians can appoint a Standby or alternative Standby Guardian.

Who should you designate as a Standby or alternate Standby Guardian?

Because the Standby Guardianship gives important legal authority to the Standby Guardian(s), you should only choose someone you trust completely to care for your child. You should also choose someone with no or low risk for arrest, detention, or deportation themselves.

Instructions for the Standby Guardianship Form

- Section 1. Include the full legal name, address, and date of birth of every child you wish to have covered by the appointment of a Standby Guardian.
- Section 2. Include the full legal name, address, and telephone number of the person you wish to designate as the Standby Guardian. You can also designate an alternative Standby Guardian in case the first person you chose is unable for any reason to care for your children.
- Sections 3 & 4. Read and make sure you understand (1) the powers and duties of the standby guardian to act on behalf of the parent and in the best interests of the child(ren) and (2) how the standby guardianship becomes effective and under what circumstances it terminates.
- Section 5. *In the presence of a notary*, sign, date, and print your full legal name in the spaces provided. If two parents have legal custody of the child, both should fill out and sign. If both parents are not available to complete the Form at the same time, you can either (1) take the Form home so both parents can sign it at the

same time in front of a notary or (2) complete the Form for one parent by having their signature notarized and fill out an identical Form for the other parent to sign in front of a notary. *If each parent fills out a different Form, you must ensure the same children and Standby Guardians appear on both Forms.

- Additional considerations. If you have more children than the spaces provided on the Form, complete an additional Form or Forms with the names of (and other information for) the additional children in Section 1, as stated above. Then complete Sections 2 and 5, as stated above, ensuring that the additional Forms are signed and notarized.
 - If you want to appoint a different Standby Guardian for any of your children, fill out and complete a separate Form with the names of (and other information for) those children and the names of, and other information for, the other Standby Guardian or alternate Standby Guardian, and sign and have the additional Form notarized.
- Acceptance by Standby Guardian. If the persons to be appointed as Standby Guardian and alternate Standby Guardian are with the parent(s) when this Form is completed and notarized, they can fill out their full legal name, sign, and date in the spaces provided in front of a notary to then have it notarized. Otherwise, they can complete this section separately before a notary to have it notarized.

Next Steps

- The Standby Guardian should keep the original Form, and the parent(s) should keep a copy. The person appointed as Standby Guardian should keep the original of the completed Form, including the Acceptance by Standby Guardian section. The Standby Guardian may need to produce the original in the court petition, as described below. The parent(s) should keep a copy of the completed Form, including the Acceptance by Standby Guardian section.
- The Standby Guardian has 30 days to Petition the Court after Parent(s) are Detained. If the parent(s) are arrested, detained, or deported, the Standby Guardianship becomes effective immediately. The Standby Guardian can take custody of the children immediately. However, within 30 days of the parent(s) arrest, detention, or deportation, the Standby Guardian must file a petition in the Juvenile and Domestic Relations District Court in their city or county to confirm the Standby Guardianship.
 - This Form can only be enforced in Virginia.
 - The Standby Guardian can contact **Legal Aid Justice Center**, 1000 Preston Ave, Charlottesville, VA 22903, (434) 977-0553, for assistance with this procedure.