General Information About Guardianship of a Child

What is a guardianship?

A guardianship is when a person (other than the child’s parent) has legal custody and control over your child. The guardian has the right to make all decisions concerning the child, and is legally responsible for the child. When the child’s parent has legal custody and control of the child, it is called “custody.” When someone other than the parent has legal custody and control of the child, it is called “guardianship.”

I am thinking about giving guardianship of my children to a friend because I can’t take care of my kids right now. What happens if I do that?

Before you decide to give guardianship of your children to a third party (such as your friend) you should be aware of the legal aspects of a guardianship. A guardianship will give the third person the rights to make all decisions concerning your children, including whether or not to allow your children to see you. If you give someone else guardianship of your children, you will not be able to make any decisions concerning your child.

Can I end the guardianship whenever I want to?

No, not necessarily. A guardianship usually lasts until the child turns 18, unless the court ends the guardianship before the child’s 18th birthday. It can be hard to convince the court to end a guardianship before the child's 18th birthday (unless everyone agrees the guardianship should be ended).

After you have given legal guardianship to another person, if that person doesn’t agree to end the guardianship, you will need to go back to court and prove to the court that the guardianship should be ended.

I give guardianship of my children to someone else, will I have to pay that person child support?

It is possible. The court could order you to pay child support to the guardian, especially if the guardian is receiving government benefits for the child.
I can’t take care of my children right now, what else could I do instead of giving guardianship to my friend?

There are other alternatives to guardianship. You could simply allow your children to live with your friend. There are forms you can fill out so that your children can live with a third person and go to school in that person’s school district. The school generally cannot require the third person to obtain legal guardianship if you and the third person have completed this form. (See the link to School Forms at the right of this article).

You can appoint your friend to be a health care representative for your children so that your friend can get medical care for your children. To do so, you must write a document that states that you are authorizing your friend to get medical care for your children. The statement should also include your name, the children’s names and dates of birth, and your friend’s name. You must sign the document, and another adult must also sign the document as a witness. If possible, you should have the document notarized. This should allow your friend to get necessary medical care for the child.