

**Guardianship and Third Party Custody Law  
Sample Pleadings for Indiana Attorneys**

**(These Documents Should Not be Used by Unrepresented Parties)**

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STATE OF INDIANA )  
 ) SS: IN THE \_\_\_\_\_ SUPERIOR COURT  
 COUNTY OF (county) ) PROBATE DIVISION  
 IN THE MATTER OF: ) CAUSE NO. \_\_\_\_\_  
 )  
 )  
 THE GUARDIANSHIP OF: )  
 )  
 )  
 \_\_\_\_\_, A Minor, )  
 (child's name)

**VERIFIED PETITION FOR APPOINTMENT OF TEMPORARY GUARDIANS WITHOUT  
 NOTICE AND HEARING**

Come now the petitioners, \_\_\_\_\_  
 (proposed guardians' names)  
 by counsel, \_\_\_\_\_, and respectfully petition the Court to appoint them as  
 (counsel's name)  
 temporary guardians of \_\_\_\_\_.  
 (child)

In support of this request, the petitioners would respectfully show the Court as follows:

1. \_\_\_\_\_ currently resides with the petitioners at \_\_\_\_\_,  
 (child) (street address)  
 \_\_\_\_\_, Indiana.  
 (county)
2. \_\_\_\_\_ was born on \_\_\_\_\_ and is \_\_\_\_\_ years old  
 (child) (date of birth) (number)  
 and is incapacitated due to his/her minority.
3. \_\_\_\_\_ has no real property or personal property other than some clothing and  
 (child)  
 toys.
4. The petitioners have not been appointed guardians of any other person in any state.
5. The petitioners reside at \_\_\_\_\_, \_\_\_\_\_, Indiana and their  
 (street address) (county)  
 relationship to \_\_\_\_\_ is that of \_\_\_\_\_.  
 (child) (relationship)

6. The names and addresses as far as known or can reasonably be ascertained, of the persons most closely related by blood or marriage to \_\_\_\_\_ are:

(child)

a. \_\_\_\_\_ whose last know address was \_\_\_\_\_,  
(mother's name) (street address) (county)

Indiana, but petitioners do not have a current address for the mother, and her whereabouts are currently unknown to them.

b. \_\_\_\_\_ was born out of wedlock, and petitioners do not believe that a  
(child's name)

paternity affidavit has been executed nor that paternity has been established by a judicial proceeding. The petitioners' last known address for the alleged

father, \_\_\_\_\_, is \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.  
(father's name) (street address) (county) (state)

c. The maternal grandmother of \_\_\_\_\_ is \_\_\_\_\_, who  
(child) (grandmother's name)

resides at \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.  
(street address) (county) (state)

7. The petitioners have had physical care and custody of \_\_\_\_\_ since \_\_\_\_\_  
(child) (date)

when \_\_\_\_\_ was left with petitioners by \_\_\_\_\_.  
(child) (mother)

8. The appointment of a temporary guardian is sought for the following reasons:

a. No guardian has been appointed for \_\_\_\_\_, an emergency exists, and  
(child)

the welfare of \_\_\_\_\_, requires immediate action, and no other person  
(child)

appears to have authority to act in the circumstances.

b. The nature of the emergency is \_\_\_\_\_.  
(explain details of emergency)

c. The immediate action required on behalf of \_\_\_\_\_ is \_\_\_\_\_.  
(child) (state facts)

The petitioners are able and willing to undertake said action if the Court grants their petition.

d. Immediate and irreparable injury to the person of \_\_\_\_\_ may result  
(child)

unless the Court grants said temporary guardianship without notice and hearing.

9. The petitioners are requesting to be appointed temporary guardians because of \_\_\_\_\_  
\_\_\_\_\_, and the petitioners' interest in the appointment is  
(list reasons)

\_\_\_\_\_  
(describe interest)

10. The name and business address of the attorney who is representing the petitioners is  
\_\_\_\_\_  
(attorney's name and address)

11. Notice of this petition is being served on the persons listed in paragraph number six of the petition pursuant to IC 29-3-6.

12. The filing fee in this action has been paid.

Wherefore, the petitioners respectfully request to be appointed temporary guardians of \_\_\_\_\_, pending notice and hearing. The petitioners further request that the  
(child)

Court find that a guardian has not been appointed for \_\_\_\_\_, an emergency exists, the  
(child)

\_\_\_\_\_requires immediate action, no other person appears to have authority to act, and  
(child)

irreparable injury to the person of \_\_\_\_\_ may result if said temporary guardianship is  
(child)

not granted.

We solemnly swear or affirm, under penalty for perjury, that the foregoing facts and representations are true to the best of our knowledge and belief.

\_\_\_\_\_  
*(proposed guardian)*

\_\_\_\_\_  
*(proposed guardian)*

Attorney Name  
Address  
Telephone number

STATE OF INDIANA	)	IN THE _____ SUPERIOR COURT
	) SS:	PROBATE DIVISION
COUNTY OF (county)	)	CAUSE NO. _____
IN THE MATTER OF:	)	
	)	
THE GUARDIANSHIP OF:	)	
	)	
_____, A Minor,	)	
(child's name)	)	

**ORDER GRANTING VERIFIED PETITION FOR APPOINTMENT OF TEMPORARY  
GUARDIANS PENDING NOTICE AND HEARING**

Come now the petitioners, \_\_\_\_\_,  
*(proposed guardians' names)*

by counsel, \_\_\_\_\_ and file their Verified Petition for Appointment of  
*(counsel's name)*

Temporary Guardians Without Notice and Hearing. And the Court, having read and reviewed said Petition, enters the following findings and orders:

1. That \_\_\_\_\_ is incapacitated due to her minority.  
*(child)*
2. That \_\_\_\_\_ has no real property or personal property other than some clothing  
*(child)*  
and toys.
3. That the petitioners have not been appointed guardians of any other person in this state.
4. That \_\_\_\_\_ was born out of wedlock.  
*(child)*
5. That the petitioners have had physical custody of \_\_\_\_\_, since \_\_\_\_\_  
*(child)* *(date)*  
when \_\_\_\_\_ was left with the petitioners by \_\_\_\_\_.  
*(child)* *(mother)*
6. That no guardian has been appointed for \_\_\_\_\_, that an emergency  
*(child)*

exists that the welfare of \_\_\_\_\_ requires immediate action concerning  
(child)

\_\_\_\_\_  
(list circumstances)

7. That immediate and irreparable injury to the person of \_\_\_\_\_ may result unless  
(child)  
the Court grants temporary guardianship to petitioners without notice and hearing.

8. That the petitioners are suitable and willing to serve as temporary guardians of  
\_\_\_\_\_  
(child)

9. That said temporary guardianship is necessary and in \_\_\_\_\_ best interest.  
(child)

10. That a hearing on said guardianship shall be scheduled for the \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_-m., and that notice shall be given to the persons  
most closely related to \_\_\_\_\_, as listed in the petition, by the best means  
(child)  
possible, pursuant to IC 29-3-6.

11. That \_\_\_\_\_ are hereby appointed  
(petitioners' names)  
temporary guardians of \_\_\_\_\_, without limitations on their duties,  
(child)  
pending the hearing, and the Clerk shall issue Letters of Temporary Guardianship to  
the petitioners.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judge, Court, Probate Division

DISTRIBUTION:





3. \_\_\_\_\_ has no real property or personal property other than some clothing  
(child)  
and toys.

4. \_\_\_\_\_ was born out of wedlock and, to petitioners' knowledge, no paternity  
(child)  
affidavit was signed nor has paternity been established by a judicial proceeding.

5. The names and addresses as far as known or can be reasonably ascertained, of the persons  
most closely related by blood or marriage to \_\_\_\_\_ are:  
(child)

a. \_\_\_\_\_, whose last known address was \_\_\_\_\_,  
(mother's name) (street address)  
\_\_\_\_\_, Indiana, but petitioners do not have a current address for the Mother, and her  
(county)  
whereabouts are currently unknown to them.

b. \_\_\_\_\_, whose last known address was \_\_\_\_\_  
(alleged father's name) (street address)  
\_\_\_\_\_, Indiana, but petitioners do not have a current address for the alleged father, and his  
(county)  
whereabouts are currently unknown.

c. \_\_\_\_\_, who resides in foster care under the supervision of the  
(minor child's half-sibling)  
Marion County Department of Child Services.

6. The appointment of a permanent guardian is sought for the following reasons:

a. \_\_\_\_\_ has been abandoned by Mother, who is unavailable.  
(child)

b. \_\_\_\_\_ is unavailable to care for the child due to \_\_\_\_\_.  
(alleged father) (state reasons)

c. \_\_\_\_\_, if appointed guardians, can receive health insurance through  
(petitioners)

their employment and can provide \_\_\_\_\_ with a secure, stable home.

(child)

7. The name and business address of the attorney who is representing the petitioners is

\_\_\_\_\_.

(counsel's name and address)

8. Notice of this petition is being served on the mother and the alleged father by publication.

9. The filing fee for this proceeding has been paid.

10. The petitioners request that no bond be required of them since \_\_\_\_\_ has no assets.

(child)

Wherefore, the petitioners respectfully request to be appointed guardians of  
\_\_\_\_\_ after notice and hearing. The petitioners further request that the Court find that the

(child)

parental presumption has been rebutted by evidence of parental unfitness and abandonment of

\_\_\_\_\_ and that their guardianship of \_\_\_\_\_ is in the child's best interests and

(child)

(child)

presents a substantial and significant advantage to \_\_\_\_\_. The petitioners further request

(child)

that the Court Order supervised visitation for \_\_\_\_\_ with \_\_\_\_\_ when

(parents)

(child)

the parents are located, and the petitioners are willing to supervise said visitation at mutually convenient times and places.

We solemnly swear or affirm, under penalty for perjury, that the foregoing facts and representations are true to the best of our knowledge and belief.

\_\_\_\_\_  
(petitioner)

\_\_\_\_\_  
(petitioner)

Attorney Name and Supreme Court Number

Address

Telephone Number

STATE OF INDIANA	)	IN THE (County) COUNTY SUPERIOR COURT
	) SS:	COUNTY OF (county)
	)	CAUSE NO.
IN THE MATTER OF:	)	
	)	
THE GUARDIANSHIP OF:	)	
	)	
_____,	)	
A Minor.	)	

**ORDER FOR APPOINTMENT OF GUARDIANS**  
**OF THE PERSON OF MINOR**

On (Date), this Court issued an Order Granting Emergency Petition for the Appointment of Temporary Guardians of the Person over minor whereby (temporary guardians’ names) were made temporary guardians over (child’s name), minor.

On (Date), a hearing was held to determine whether the temporary guardians should be appointed guardians. Petitioners (Petitioners’ Names) appeared with counsel, attorney (attorney’s name); the mother appeared with counsel (attorney’s name), (any other parties that appeared). After the evidence was presented and being duly advised in the premises, the Court now enters the following facts and conclusions and issues this Order Thereon:

1. That the Court has jurisdiction over the parties and the subject matter in this case.
2. That (child) is (age) years-old, being born on (DOB), and is incapacitated due to minority.
3. That the minor child does not possess any property, personal or real, for which to account.
4. That no other guardian has been appointed or is acting for the minor child.
5. That the name and business address of the attorney who represents the guardians is (attorney’s name and address.)
6. That the appointment of a guardian is necessary as a means of providing care and supervision of the physical person of the minor child, pursuant to IC 29-3-5-3.

7. That the mother, (mother's name), and the father of the minor child, (father's name), both consent and agree to the appointment of (guardians' names) as guardians of (child).

8. That the weekly child support being paid by (father or mother) for the benefit of minor child (child's name) shall now be forwarded to the guardians (guardians' names) at their residence, which is (guardians' address), until further notice of this Court.

IT IS, THEREFORE, ORDERED that Petitioners (Petitioners' names) are hereby appointed as legal guardians of (child's name), minor child, and that said guardians shall serve without bond, and that the clerk shall issue Letters of Guardianship without any limitations to said guardians upon their taking an oath. Said guardians are authorized to exercise all powers granted guardians of the person of a minor as set forth in IC 29-3-8-1 through IC 29-3-8-4.

SO ORDERED ON: THIS DAY OF , 20\_\_\_\_.

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JUDGE  
(County) COUNTY SUPERIOR COURT

STATE OF INDIANA	)	IN THE (COUNTY) CIRCUIT COURT
	) SS:	COUNTY OF (COUNTY)
	)	CAUSE NO. _____
IN RE THE PATERNITY OF:	)	
	)	
_____	)	
(minor child)	)	
	)	
BY NEXT FRIEND:	)	
	)	
_____	)	
(mother)	)	
	)	
PETITIONER – MOTHER	)	
AND	)	
	)	
_____	)	
(father)	)	
	)	
RESPONDENT – FATHER	)	
	)	
_____	)	
(maternal grandparents)	)	
	)	
Intervenors	)	

**VERIFIED MOTION TO INTERVENE AND BE JOINED AS NECESSARY PARTIES AND  
PETITION FOR MODIFICATION OF CUSTODY**

Come now \_\_\_\_\_ and \_\_\_\_\_, hereinafter Maternal  
(maternal grandfather) (maternal grandmother)

Grandparents, and respectfully file their Verified Motion to Intervene and Be Joined as Necessary Parties and Petition for Modification of Custody. In support of these requests, maternal grandparents would respectfully show the Court as follows:

1. \_\_\_\_\_ was born out of wedlock to Petitioner Mother, \_\_\_\_\_, and is  
(child) (mother's name)  
now \_\_\_\_\_ years old.  
(number)



2. Paternity was established for \_\_\_\_\_ on \_\_\_\_\_.  
(child) (date)

3. Pursuant to the \_\_\_\_\_ agreement between Petitioner Mother and Respondent Father,  
(date)  
legal custody of \_\_\_\_\_ was awarded to Petitioner Mother and Respondent Father was  
(child)  
awarded Indiana Parenting Time Guideline parenting time. Respondent Father was ordered to pay  
\_\_\_\_\_ per week in child support to Petitioner Mother via Income Withholding Order.  
(amount)

4. Since the date of the Agreement, the following events have occurred:

a. Petitioner Mother has repeatedly been a victim of domestic violence by two live-in boyfriends within the past year.

b. Respondent Father has been convicted of molesting his niece and has been incarcerated at Putnamville Correctional Facility with an earliest possible release date of May 30, 2012.

c. Petitioner Mother has been unable to maintain employment or housing, and is currently homeless.

d. Petitioner Mother has been diagnosed with schizophrenia and is currently on an outpatient commitment under cause number \_\_\_\_\_.

e. \_\_\_\_\_ needs a stable home from which to attend school and neither parent can  
(child)  
provide a stable home.

f. \_\_\_\_\_ has been residing at the home of Maternal Grandparents since  
(child)  
\_\_\_\_\_ because Petitioner Mother was living in her car, after being evicted from her  
(date)  
apartment.

5. Maternal Grandparents seek intervention to request that the Court appoint them as Third Party Custodians of \_\_\_\_\_. The Maternal Grandparents reside at \_\_\_\_\_, \_\_\_\_\_, Indiana.  
*(child)* *(street address)*  
*(county)*

6. Maternal Grandparents believe that \_\_\_\_\_ best interests would be substantially and significantly served by placement with them based upon the following:  
*(child)*

- a. Maternal Grandparents have been married for thirty years.
- b. Maternal Grandfather has been employed at XYZ Corporation for twenty years and can provide health insurance for the child.
- c. Maternal Grandparents own their home where the child has her own bedroom.

7. The Maternal Grandparents request that the Court permit them to intervene as necessary parties pursuant to Indiana Trial Rule 24(B) because the child currently is living in their home, and the Maternal Grandparents are requesting to be appointed third party custodians. The Maternal Grandparents have a claim in common with the paternity proceeding in this cause.

8. Maternal Grandparents further request that the Court order supervised visitation for Petitioner Mother and no visitation for Respondent Father.

Wherefore, the Maternal Grandparents respectfully request that the Court permit them to intervene in this matter, and schedule a hearing on their Petition to Modify Custody.

We solemnly swear or affirm, under the penalty for perjury, that the foregoing facts and representations are true to the best of our knowledge and belief.

---

*(maternal grandfather)*

*(maternal grandmother)*

Attorney Name and Supreme Court Number  
Address  
Telephone Number

STATE OF INDIANA )  
 ) SS:  
 )  
 IN RE THE PATERNITY OF: )  
 )  
 \_\_\_\_\_ )  
 (minor child) )  
 )  
 BY NEXT FRIEND: )  
 )  
 \_\_\_\_\_ )  
 (mother) )  
 )  
 PETITIONER – MOTHER )  
 AND )  
 )  
 \_\_\_\_\_ )  
 (father) )  
 )  
 RESPONDENT – FATHER )  
 )  
 \_\_\_\_\_ )  
 (maternal grandparents) )  
 )  
 Interveners )

IN THE (COUNTY) CIRCUIT COURT  
 COUNTY OF (COUNTY)  
 CAUSE NO. \_\_\_\_\_

**ORDER GRANTING MATERNAL GRANDPARENTS’ MOTION TO INTERVENE**

Come now the Maternal Grandparents, \_\_\_\_\_ and  
 (maternal grandfather)  
 \_\_\_\_\_, by counsel \_\_\_\_\_ and file their Verified  
 (maternal grandmother) (attorney name)  
 Motion to Intervene and Be Joined as Necessary Parties and Petition for Modification of Custody.  
 And the Court, having read and reviewed said Motion and Petition, now finds that the Maternal  
 Grandparents are hereby permitted to intervene in the above cause pursuant to Indiana Trial Rule  
 24(B) for the purpose of providing evidence on their Petition for Modification of

Custody. The Court now schedules the Intervener Maternal Grandparents' Petition for Modification of Custody for hearing on the \_\_\_\_\_ day of \_\_\_\_\_, 2008, at \_\_\_\_\_M.

Counsel for the Intervener Maternal Grandparents is directed to serve a copy of this Order on Petitioner Mother and Respondent Father.

Date: \_\_\_\_\_

\_\_\_\_\_  
Judge  
(county) Circuit Court

**DISTRIBUTION:**  
Attorney for Interveners

STATE OF INDIANA )  
 ) SS:  
 )  
 IN RE THE PATERNITY OF: )  
 )  
 \_\_\_\_\_ )  
 (minor child) )  
 )  
 BY NEXT FRIEND: )  
 )  
 \_\_\_\_\_ )  
 (mother) )  
 )  
 PETITIONER – MOTHER )  
 AND )  
 )  
 \_\_\_\_\_ )  
 (father) )  
 )  
 RESPONDENT – FATHER )  
 )  
 )  
 \_\_\_\_\_ )  
 (maternal grandparents) )  
 )  
 Interveners )

IN THE (COUNTY) CIRCUIT COURT  
 COUNTY OF (COUNTY)  
 CAUSE NO. \_\_\_\_\_

**ORDER GRANTING INTERVENER MATERNAL GRANDPARENTS' PETITION FOR  
 MODIFICATION OF CUSTODY**

Comes now the Petitioner Mother, \_\_\_\_\_, in person and by counsel,  
 (mother's name)  
 \_\_\_\_\_, the Respondent Father, \_\_\_\_\_, by telephone, and the  
 (father's name)  
 Intervener Maternal Grandparents, \_\_\_\_\_ and  
 (maternal grandfather)  
 \_\_\_\_\_, in person, and by counsel \_\_\_\_\_ for hearing on  
 (maternal grandmother)  
 the Interveners' Petition for Modification of Custody.

Witnesses sworn. Evidence heard and concluded. And the Court now enters the following findings and orders:

1. The rebuttable presumption in favor of Petitioner Mother's custody of the child has been overcome by the following clear and convincing evidence:

a. Petitioner Mother has repeatedly been the victim of domestic violence by two live-in boyfriends within the past year.

b. Petitioner Mother has been unable to maintain employment or housing, and is currently homeless.

c. Petitioner Mother has been diagnosed with schizophrenia and is currently on outpatient commitment under cause number \_\_\_\_\_.

d. Petitioner Mother has been living in her car and placed the child with Intervener Maternal Grandparents on \_\_\_\_\_.

*(date)*

2. The rebuttable presumption in favor of Respondent Father's custody of the child has been overcome by the following clear and convincing evidence:

a. Respondent Father was charged with and convicted of child molestation of his twelve year old niece under \_\_\_\_\_ Superior Court, Criminal Division, cause number

*(county)*

\_\_\_\_\_.

b. Respondent Father is incarcerated at Putnamville Correctional Facility with a projected release date of May 30, 2012.

c. Respondent Father is unavailable to care for the child due to incarceration.

d. Respondent Father cannot have visitation with any children due to the nature of the crime for which he was convicted pursuant to the Rules of the Indiana Department of Correction.

3. Placing \_\_\_\_\_ in the custody of the Intervener Maternal Grandparents  
(child)

is in the child's best interests because:

- a. Maternal Grandparents have been married for thirty years and have a stable home.
- b. Maternal Grandfather has been employed by XYZ Corporation for twenty years and can obtain health insurance for and financially support the child.
- c. The Maternal Grandparents own their home and the child has her own bedroom in their home.

4. The Intervener Maternal Grandparents are appointed legal and physical custodians of  
\_\_\_\_\_  
(child)

5. The Petitioner Mother shall have parenting time supervised by Maternal Grandparents or a competent adult of their choosing from Noon to 5:00 p.m. on alternate Sundays beginning  
\_\_\_\_\_  
(date)

6. The Respondent Father shall have no parenting time.

7. \_\_\_\_\_ is appointed to serve as a temporary conditional custodian in the  
(relative's name)  
event of the death or disability of the Maternal Grandparents. \_\_\_\_\_ resides at  
(Relative)  
\_\_\_\_\_, \_\_\_\_\_, Indiana, her telephone number is \_\_\_\_\_, and  
(street address) (county)

counsel for Maternal Grandparents shall send her a copy of this Order.

8. Counsel for Petitioner Mother shall submit a child support worksheet within 30 days so that a child support order can be entered.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Judge  
(county) CIRCUIT COURT

**DISTRIBUTION:**

Attorney for Interveners  
Attorney for Petitioner Mother  
Respondent Father