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Governor Tony Evers
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Division of Milwaukee Child Protective Services

DATE: June 7, 2021

TO: DMCPs, Children's Wisconsin Community Services (CWCS), SaintA, and Milwaukee County District Attorney's Office

FROM: Sarah Henery, Administrator, Division of Milwaukee Child Protective Services

**Jennifer Rhodes, Attorney, DCF Office of Legal Counsel,
Division of Milwaukee Child Protective Services**

Maria Van Hoorn, Operations Office Director, Division of Milwaukee Child Protective Services

RE: DMCPs Procedure for Requesting Chapter 48 Guardianship

The 2019 WI Act 109 Minor Guardianships Law went into effect on August 1, 2020. This new guardianship law moves private guardianships of the child from Chapter 54 to Chapter 48, Children's Code, and expands the types of private minor guardianship available. The newly created section 48.9795 expands the types of guardianships from two, temporary and permanent guardianship, to four types of guardianships: full, limited, temporary, and emergency. This memo provides guidance and additional information about how the changes in the law impact DMCPs and Ongoing Case Management Agency practices. Additional information about the types of guardianship can be found in this Department of Children and Families, Division of Safety and Permanence Memo: [Changes to Private Minor Guardianship](#).

The information and outlined procedure below replaces those described in the 2016 Guardianship Policy under Chapters 48 and 54 and Subsidized Guardianships Policy (IA 30.00, OCM 27.00) as well as the 2018 Obtaining Temporary and Permanent Guardianship Policy (IA 27.00, OCM 21.00). **DMCPs will be updating these policies and related forms in 2021 to reflect all changes.**

DMCPs and Ongoing agencies are required to follow this procedure:

1. Requests for guardianship and the [required forms](#) must be submitted to DMCPs via the DCFDMPsconsents@wisconsin.gov for approval by designated DMCPs management.
 - o **Please be mindful of the timelines noted above to ensure there is no lapse in a guardianship order that presents child safety concerns.**
2. DMCPs will provide approval or request further information within 72 hours of receiving the request.
3. After the request has been approved by DMCPs, the IAS/OCM must consult the assigned Assistant District Attorney (ADA) to determine which type of guardianship is most appropriate. The IAS/OCM will send the required documents to the District Attorney's (DA) office (ChildWelfare.MilwReferrals@da.wi.gov). In situations where a

permanent, limited or temporary guardianship is recommended, the IAS/OCM needs to obtain a signed, notarized copy of the Statement by Proposed Guardian (Form JN-1514) to provide to the ADA's office. This document needs to be transmitted to DMCPs for signature by the Administrator or their designee and requires notarization. The IAS/OCM should be aware that the process of obtaining an original signature and notarization may take up to 3 business days. That form should then be transmitted with the required documents when they are sent to the ADA's office.

- Should the type of guardianship request approved by DMCPs differ from what the DAs Office ultimately wishes to file, the IAS/OCM must inform and discuss the difference with DMCPs prior to having the DA's office file the petition.
4. The DA's office completes the applicable Petition for Guardianship and obtains a court date.
 5. After the court hearing occurs, the IAS/OCM must upload the guardianship order(s) to eWiSACWIS and notify DMCPs (DCFDMCPsconsents@wisconsin.gov) that the guardianship was granted or denied. The notification must include the following information:
 - Type of guardianship requested and granted or if the guardianship petition was denied.
 - The guardianship order must be attached to the email or the email must note that the order is available in eWiSACWIS.

If an extraordinary circumstance arises, the IAS/OCM and supervisor must notify DMCPs at DCFDMCPsconsents@wisconsin.gov and confer with DMCPs Office of Legal Counsel.

Below are several informational resources that explain the new guardianship law and types of guardianships. The DMCPs guardianship policies and trainings will be updated in the future to provide more guidance.

References:

- [DCF DSP Memo: Changes to Private Minor Guardianship](#)
- [DMCPs Guardianship Policies and Forms](#)
 - DMCPs Temporary and Permanent Guardianship Policy
 - DMCPs Guardianship Policy
- [Kidsmatter/WI State Bar article](#)
- [WI courts website](#) containing the new guardianship forms