

## ARTICLE II. MINORS

### § 5-2-101. Guardian of Minor to Be Appointed, When - Petition - Notice

(a) The Sac and Fox Court when it appears necessary or convenient may appoint guardians for the person or estate, or both, of minors.

(b) Such appointment may be made on the verified petition of a relative or other person on behalf of such minor.

(c) (1) Before making the appointment, the Court may receive an investigation and report regarding the background and home of the prospective guardian. The investigation and report of the prospective guardian and placement restrictions and requirements shall be made pursuant to the requirements of the Sac and Fox Juvenile Code. In determining whether to require a home study pursuant to the provisions of this paragraph, the Court shall balance the need for a home study to protect the best interests of the minor with the ability of the prospective guardian to pay for the home study.

(2) (A) Costs of the home study shall be assessed against any private child-placing agency having custody of the child, or the person having legal custody of the child or the prospective guardians of the child.

(B) (i) For any child in the custody of the Indian Child Welfare or the Juvenile Department, the applicable Department shall conduct or provide for the home study for such child as required by the Sac and Fox Juvenile Code.

(ii) The Indian Child Welfare or the Juvenile Department shall not be required by any court to conduct or provide for a home study and report to the court on guardianship placements for any child that is not in the custody of either Department.

(3) An order appointing a guardian of the minor who has a parent living or other person legally responsible for the child shall comply with the provisions of Section 5-2-108 of this Act.

(d) In addition, before making the appointment, the court must cause notice of the hearing on the petition for appointment of a guardian for a minor to be given in the form required by the court to the minor if the minor has attained the age of fourteen (14) as of the date the petition is filed. The court shall also cause notice to be sent to the following persons:

(1) The then-living parents of the minor and any other person having custody of the minor, if such parent or person is not one of the petitioners;

(2) If the minor has no then-living parent, then to one of the then-living grandparents who is not one of the petitioners and who is not married to one of the petitioners; and

(3) If there is no such then-living grandparent or if there is no such then-living grandparent whose address is known to the petitioner, then notice shall be given to an adult relative, if any, of the minor residing within the Sac and Fox reservation.

(e) Such notice shall be mailed to each person, entitled to notice pursuant to this section, at that person's address as last-known to the petitioner, at least ten (10) days prior to the date set by the court for hearing on the petition. Provided the court may direct a shorter notice period if the court deems such shorter notice period to be appropriate under the circumstances. If there is no person other than the minor who is entitled to notice, or if the address of any person, other than the minor, who is entitled to notice is not known to the petitioner, the petition shall so allege. The court may direct that notice, other than notice to the minor if the minor has attained the age of fourteen (14), be waived or be given to any person or persons other than the minor in such manner as the court determines and directs.

**§ 5-2-102. Nominations of Guardian**

(a) A guardian of the person or estate, or of both, of a child born, or likely to be born, may be nominated by will or by other written instrument, to take effect upon the death of the parent so nominating:

(1) If the child is born in wedlock, by either parent or by both parents.

(2) If the child is born out of wedlock, by the mother of the child or by the natural father of the child, if said natural father has legally acknowledged paternity or has been judicially determined to be the father of the child at a paternity proceeding, or by both such mother and father.

(b) A nomination made by a parent who has relinquished parental rights pursuant to an adoption proceeding or whose parental rights have been terminated by a district court shall have no effect.

**§ 5-2-103. Nomination and Appointment of Guardian - Age of Minor**

(a) If the minor is under the age of fourteen (14) years, the court may name and appoint his guardian. If the minor has attained the age of fourteen (14) years, the minor may nominate his own guardian, who, if approved by the court, must be appointed accordingly.

(b) The court, in appointing a guardian for a minor, is to be guided by the Indian Child

Welfare Act placement preferences of the Sac and Fox Juvenile Code, Title 20, Section 410.

**§ 5-2-104. Nomination of Guardian by Minor at 14 Years of Age - Approval of Court**

When a guardian has been appointed by the court for a minor under the age of fourteen (14) years, the minor, at any time after he has attained age fourteen (14), may nominate his own guardian, subject to the approval of the court.

**§ 5-2-105. Appointment When Ward's Nominee Ineligible**

If a guardian nominated by a minor who has attained the age of fourteen (14) years is not approved by the court or if, after being notified by the court, the minor neglects for ten (10) days to nominate a suitable person, the court may name and appoint a guardian in the same manner as if the minor was under the age of fourteen (14) years.

**§ 5-2-106. Appointment of Parents as Guardians**

A minor's parent who is competent to transact his or her own business and not otherwise unsuitable or disqualified by law to serve as the guardian of said minor, shall be entitled to the guardianship of the minor until the minor has attained the age of fourteen (14) years. The parent petitioning the court for appointment as guardian of the minor must have the endorsement or nomination of the other parent, if the natural parents of the minor are married and living together. In cases where both parents are separately seeking appointment as guardian of the minor, the court may, upon full investigation, appoint the parent who in the judgment of the court is the most competent to look after the interest of said minor.

**§ 5-2-107. Guardian in Charge of Education of Minor**

If the minor has no father or mother living who is competent to have charge of the education of the minor, the guardian appointed by the court shall have the same.

**§ 5-2-108. Education and Maintenance of Minor - Income from Property of Minor - Orders Appointing Guardian**

(a) If any minor has property capable of maintaining and educating him in a manner more expensive than his parent(s) can reasonably afford and the additional expense is reasonably justifiable, the minor's education and maintenance expenses may be defrayed out of the income of the property of the minor in whole or in part, upon approval of the court. The charges therefore may be allowed accordingly in the settlement of the accounts of the guardian of the minor.

(b) (1) Any order appointing a guardian of the minor who has a parent living or other person legally responsible for the support of the child shall:

(A) provide for the payment of child support by the parent or other responsible party pursuant to the Sac and Fox Nation, or Oklahoma if the Nation has not adopted such, child support guidelines, and

(B) contain an income assignment provision.

(2) The provisions of this subsection shall not apply to parents whose rights and responsibilities have been terminated to the child unless the termination order requires payment of child support.

**§ 5-2-109. Conditions of Appointment**

(a) When any person is appointed guardian of a minor, the court may include in the order of appointment conditions providing for the care, treatment, education and welfare of the minor.

(b) The performance of such conditions shall be a part of the duties of the guardian, for the faithful performance of which he and the sureties on his bond are responsible.

**§ 5-2-110. Investments Authorized**

A guardian legally holding funds or assets belonging to or for the benefit of a minor may with the approval of the district court, invest such funds or assets or any part thereof, in single premium life, single premium endowment, or single premium annuity contracts of legal reserve life insurance companies as are duly licensed and qualified to transact business within the jurisdiction within which the conduct business.

**§ 5-2-111. Contracts on Lives of Wards and Beneficiaries of Trust Funds**

Such contracts may be issued on the life of a ward or beneficiary of a trust fund, and shall be so drawn by the insuring company so that the proceeds, or avails thereof shall be the sole property of the person whose funds are invested.

**§ 5-2-112. Interest of Guardian**

Such contracts may not be purchased from any company for which the guardian is acting as agent, or receives any commission, or part of any commission, directly or indirectly paid by such company to its agent soliciting or selling such contract.

**§ 5-2-113. Power of Guardian Appointed by Parent Ceases, When**

The power of a guardian appointed for a minor ceases upon:

- (a) the removal of the guardian;
- (b) the marriage of the ward; or
- (c) the ward's attaining majority or emancipation.

**§ 5-2-114. Release of Minor Ward at Majority**

After a minor ward has come to his majority, such ward may settle accounts with his guardian and give him a release, which is valid, subject to approval of the court, if obtained fairly and without undue influence.

**§ 5-2-115. Limitation of Discharge by Court**

A guardian of a minor appointed by a court is not entitled to his discharge until one (1) year after the majority of the ward unless the court determines that the minor has earlier validly released said guardian after a final accounting.

**§ 5-2-116. Delivery of up to \$5,000 of Minor's Estate to Custodian, Parent or Minor**

(a) (1) When the whole estate of a minor does not exceed the value of Five Thousand Dollars (\$5,000.00), the court may, in its discretion, without the appointment of a guardian or the giving of bond, authorize and direct:

(A) the delivery of the property or any portion thereof to one or more custodians pursuant to such restrictions as the court may require, or to one or more other custodians designated by the court, or

(B) the payment or delivery of the property or any portion thereof to the parent of the minor, or to the person having the care or custody of the minor, or to the minor. The person receiving the property shall pay necessary expenses of the minor and hold, manage, and dispose of the property in the manner directed by the court.

(2) When the whole estate of a minor exceeds the value of Five Thousand Dollars (\$5,000.00), the court may, in its discretion, without the appointment of a guardian or the

giving of bond, authorize and direct:

(A) the delivery of property having a value of up to Five Thousand Dollars (\$5,000.00) to one or more custodians pursuant to such restrictions as the court may require or to one or more other custodians designated by the court, or

(B) the payment or delivery of up to Five Thousand Dollars (\$5,000.00) of the property or any portion thereof to the parent of the minor, or to the person having the care or custody of the minor, or to the minor. The person receiving the property shall pay necessary expenses of the minor and hold, manage, and dispose of the property in the manner directed by the court.

(b) The person making payment, delivery, transfer or issuance of property or evidence thereof to the individual or custodian designated by the court pursuant to this section is discharged and released to the same extent as if payment, delivery, transfer, or issuance was made to a guardian of the minor, and the person is not required to see to the application thereof. A person making payment, delivery, transfer, or issuance of property, or evidence thereof, to a next friend or guardian *ad litem* may be discharged and released as provided for by this act.