

## Child and Family Services Licensing Policy Manual: Guardianship Home Assessment

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<b>Definitions</b>	<p>A <u>legal guardian</u> is a person who has qualified as a caretaker of a child in the custody of the department pursuant to court appointment.</p> <p>A person qualifies as a <u>prospective guardian</u> by having a positive guardianship home assessment recommending that they become the legal guardian for a child or children who have lived with the prospective guardian for at least six months.</p> <p>A <u>legal guardianship</u> is a judicially created relationship between a child and a caretaker which is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child: Protection, education, care and control of the child, custody of the child and decision making.</p> <p>A <u>guardianship family</u> is a resource family in which the adult(s) in the home have been approved to become legal guardians for a child or children in the custody of the department who has or have lived with the prospective guardian for at least six months.</p>
<b>Application</b>	The prospective guardian must complete a DPHHS-CFS-090(A) <u>Resource Family Application and Profile</u> (Part I) to initiate the guardianship assessment process.
Licensed Foster Parent Applicants	If the prospective guardian is a licensed foster parent, there are no other forms that must be completed by the applicant.
Non-licensed Applicants	<p>If the prospective guardian is <b>not</b> a licensed foster parent, he/she must submit a completed application packet including:</p> <ul style="list-style-type: none"> <li>• the DPHHS-CFS-090(A) Part I <u>Resource Family Application and Profile</u>;</li> <li>• DPHHS-CFS-033 <u>Personal Statement of Health for Licensure or Approval to Adopt</u> for each member of the applicant's household;</li> <li>• DPHHS- CFS-033A <u>Licensed Care Provider Medical Report</u>, if required;</li> <li>• immunization information if required;</li> <li>• DPHHS-CFS-LIC-018 <u>Release of Information</u> for applicant and adult member of the household;</li> <li>• Prospective guardian(s) and all adult members of the household</li> </ul>

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are required to submit satisfactory fingerprint based checks of the National Criminal Information Database (or met the criteria for an exception per Criminal Records and Protective Services Checks 802-3) showing no felony convictions for: child abuse or neglect, spousal abuse, crimes against children (including child pornography), or crimes involving violence (including rape, sexual assault, or homicide, but not including physical assault or battery.) In addition, the prospective guardian(s) must not have felony convictions within the last five years for physical assault, battery, or a drug-related offense. For many of the prospective guardians, a satisfactory fingerprint check may have been completed at time of child's placement into their home as Kinship providers. If the fingerprint results were received within a year of the guardianship application, they will be considered valid and meeting the criminal record check requirement.

- Satisfactory protective service results from Child Abuse Registry of all states that the prospective guardian(s) and adult household members have resided since the birth of the prospective guardian(s) oldest child, or 15 years if there are no children or five years minimum for those whose children are under five are to be completed.
- Montana motor vehicle checks on all adult household members; and
- four satisfactory reference letters.

### Training

A prospective guardian must participate in KCS training unless the regional administrator or designee approves a special exemption. The prospective guardian does not have to be kin to the child in order to receive an exemption from training.

### Guardianship Home Assessment

At least one visit to the home of the prospective guardian for the express purpose of assessing the appropriateness of the family to become the legal custodian of the child must be made **even when the family is already licensed as a foster family.**

During the home visit(s), the worker should explore with the prospective guardian(s) their reasons for wanting to become a guardian for a particular child or children, their understanding of the rights and responsibilities of a guardian, their willingness to make a permanent commitment to the child, other permanency options available to the child and the advantages and disadvantages of becoming a guardian.

In addition, the following should be addressed:

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- review of application documents;
- any concerns or questions the applicant has regarding their role as a guardian;
- a discussion of the family's strengths and needs relative to providing a permanent home for the specific child or children including a consideration of the physical space in the home and the needs/abilities of family members;
- review of parenting attitudes and beliefs in relation to the needs/abilities of the specific child or children for whom the applicant wishes to become a guardian including their knowledge of the child's history including placement and loss history and the potential effect on the child's development and future functioning; and
- review of child behavior and discipline.

### Written Assessment

A written assessment of the prospective guardian and home of the prospective guardian, which meets the requirements of Mont. Admin R. 37.50.1101, must be completed. The assessment must include a statement that the prospective guardian and home of the prospective guardian meets the youth foster home requirements contained in ARM 37. 51.301, 37.51.305-307, 37.51.310 & 311, 37.51.805 & 806, 37.51.810, 37.51.815& 816, 37.51. 825 & 826, 37.51.901 &902, 37.51.1001.

Completion of the DPHHS-CFS- LIC -020 LICENSING AGREEMENT shall also be completed as part of the assessment to ensure the standards are addressed and met.

The assessment must include a determination that the prospective guardian is appropriate to become the legal custodian for the specific child or children. Factors to be considered in determining the appropriateness of the proposed guardian which should be addressed in the assessment include:

- While conducting the assessment, the worker shall comply in full with the requirements of MEPA-IEP (as amended), Title IV of the Civil Rights Act of 1964 and ICWA (25 USC 1901 et seq) while assessing the appropriateness of the home/family to meet the child's needs;
- knowledge of the child's history, including placement and loss

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history and the potential effect on the child's development and future functioning;

- understanding and acceptance of the continued role of the child's birth family;
- In the case of siblings not jointly placed with the eligible child in the prospective guardian's home, a plan for frequent visitation or other ongoing interaction between the siblings, unless the department is able to document that visitation and contact would be contrary to the safety or well-being of any of the siblings
- understanding and acceptance of the powers and duties of a guardian; and
- the desire of the prospective guardian to become the child's guardian.

### Written Assessment

The FRS must complete the FASD screen and a written assessment of the applicant(s) and guardianship home, including a recommendation regarding approval or denial of the guardianship application.

### CAPS

The guardianship home must be entered in CAPS as a licensed facility using the appropriate facility type code. CFSD staff will use either:

GKS Guardian Kinship  
GNK Guardian Non-Kinship

for all guardianship homes approved by the department.

Tribal staff will use either:

TGK Tribal Guardian Kinship  
TGN Tribal Guardian Non-Kinship

when entering guardianship information on a prospective guardian who intends to become the guardian for a child.

The guardianship subsidy service code of PGUAR must be entered on FSPL if a subsidy is to be provided.

### Guardianship Home

The FRS sends a hard copy application and supporting documentation to the FRS supervisor. The FRS supervisor reviews the application

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- Approval/Denial** and supporting documentation, along with the information that has been entered in CAPS, including the assessment and recommendation. The FRS supervisor approves or denies the application in CAPS.
- Notification to Applicant** The FRS or FRS supervisor notifies the applicants in writing of the approval or denial of the application for guardianship.
- Re-Assessment** If guardianship for children for whom a guardianship assessment was completed is not established within one year of the approval of the guardianship assessment, an addendum to the assessment must be completed. The addendum should address the reasons why the guardianship has not been completed, whether the requirements for guardianship are still being met, and a recommendation as to continued approval or denial of the guardianship application. A name based criminal check will also be required for the reassessment unless one has been completed for the re-licensing assessment.

The reassessment should be sent to the FRS supervisor following the same process as is required for an initial assessment.

**A guardianship assessment or re-assessment is only valid for the specific child or children identified on the application. If a person wishes to become a guardian for additional children, a new application and assessment must be completed.**

- References**
- Mont. Code Ann. § 41-3-444
  - Mont. Code Ann. § 41-3-607
  - Mont. Code Ann. § 72-5-231
  - Mont. Admin. R. 37.50.1101