

Question	Nonparent Custody (NPC) ends 12/31/2020	Guardianship of a Minor starts 1/1/2021
What type of law is it?	<ul style="list-style-type: none"> • Family Law • RCW 26.10 	<ul style="list-style-type: none"> • Guardianship Law • Article 2 of RCW 11.130
Who can start the case?	<ul style="list-style-type: none"> • Only a nonparent who is trying to get custody of the child/children can file the case. 	<ul style="list-style-type: none"> • A child who seeks a guardian. • The person who wants to be the guardian for the child. • A person who believes the child needs a guardian, and who is requesting somebody else to be the actual guardian.
Who do you have to <i>personally serve</i> (Tier 1 Notice) papers to in the case?	<ul style="list-style-type: none"> • The parents, legal guardian, or custodian of the child. 	<ul style="list-style-type: none"> • The child, if they are 12 or older, with some exceptions. <ul style="list-style-type: none"> a. You can ask the court to waive service of the supplemental declaration if you have a good reason. b. If the child over 12 has a lawyer, you must serve all the paperwork on the lawyer. c. If the child over 12 does not have a lawyer but wants to see the case file, they can ask to have all the paperwork served on them. • Each parent of the child, or nearest adult in kinship if there are no parents. • Any guardian or person with nonparent custody under RCW 26.10. • Any other person the court decides should get personal service.
Who are you required to <i>give</i>	<ul style="list-style-type: none"> • No one. 	<ul style="list-style-type: none"> • Any person with primary care and custody who is not the parent, legal guardian, or nonparent custodian.

<p><i>notice</i> (by mail or other method reasonably determined to provide actual notice, e.g. email) to (Tier 2 Notice) about the case?</p>		<ul style="list-style-type: none"> • Any adults who had primary care and custody of the child for more than 60 days in the last two years, if known. • Any adults who had primary care and custody of the child for two years or more, in the last five years, if known. • Any person nominated as guardian by the minor, if the minor is 12 years of age or older. • Any guardian proposed by a parent of the child. • All grandparents and adult siblings of the child, if known. • Any conservator for the child from another state or jurisdiction. • Any other person the court determines.
<p>Can I waive notice to anyone?</p>	<ul style="list-style-type: none"> • No. 	<ul style="list-style-type: none"> • You can ask the court to waive the requirement to send notice via mail if you have a good reason. This includes the possibility that notifying a certain person would be dangerous to the child.
<p>Does it cost money to file the case?</p>	<ul style="list-style-type: none"> • Yes, unless you get a waiver approved based on being low-income or receiving state assistance. 	<ul style="list-style-type: none"> • Not if you are a relative of the child and you are not a professional guardian.
<p>Who has the right to a court-appointed lawyer in the case?</p>	<ul style="list-style-type: none"> • The child may be appointed a lawyer if the court decides it is needed. This is very rare and the law will be repealed 12/31/2020. 	<ul style="list-style-type: none"> • Child may if a) they are over 12 and they ask for one, b) the guardian ad litem recommends one, c) if the court decides the child needs one. • Child's parent shall if they are indigent (low-income enough to qualify for a public defender) and they object to the guardianship, or the court decides the parent needs a lawyer. • The child's parent may even if they are not indigent if a) the parent objects to the guardianship or the court decides the parent needs a lawyer.

<p>Where would I file the case?</p>	<ul style="list-style-type: none"> • Superior Court in the county where a parent of the child lives, or the county where the child you want custody of is living. 	<ul style="list-style-type: none"> • Superior Court in the county where the child lives. • Or, the Superior Court in the county where there is already an open case about the child's custody (a dependency after a CPS investigation for example).
<p>What rights does the child have in the case?</p>	<ul style="list-style-type: none"> • May have an attorney appointed, though very rare. • May have a GAL appointed to investigate and make recommendations. 	<ul style="list-style-type: none"> • A right to be served all papers in the case, unless the court waives this for good cause. • A right to attend all hearings (unless court determines it would be harmful or that the child lacks ability or maturity to participate meaningfully). • A right to participate and communicate with the court. • A right to ask the court to let them view the court documents. • A right to a Court Visitor (if no attorney and child is over 12) to investigate and report the child's views and position to the court.
<p>Do I need to get background checks?</p>	<ul style="list-style-type: none"> • Washington State Patrol and • CPS background check for all adults living in the house where the child will live. 	<ul style="list-style-type: none"> • Washington State Patrol and • CPS background check for all adults living in the house where the child will live.
<p>What do I have to prove to get custody?</p>	<ul style="list-style-type: none"> • neither parent is a suitable custodian. This means that • 1) they are unfit parents, or • 2) if they are fit but it would be detrimental to the child to be placed with them. 	<ul style="list-style-type: none"> • It is in the child's best interests to have the guardian, and • that no parent of the child is willing or able to exercise parenting functions as defined by the law. • You must show this with clear and convincing evidence. • or that all parents' rights have been legally terminated, • or the parents all agree to the guardianship.
<p>What rights and responsibilities do I get as custodian/guardian?</p>	<ul style="list-style-type: none"> • Physical custody • power to determine the child's upbringing, including education, health care, and religious training. 	<ul style="list-style-type: none"> • All the duties and responsibilities of a parent in terms of support, care, education, health, safety, and welfare. • physical custody of the child. • Consent to health care, treatment, or service for the minor.

	<ul style="list-style-type: none"> Note - This can be limited by the court if they court finds that limitations are necessary on the custodian's authority. 	<ul style="list-style-type: none"> Manage the minor's funds, apply for benefits and services for the child, and expend funds in trust for the child's care if applicable. Note – if the child has considerable assets, an conservatorship is an option. The court can also authorize a guardian to consent to adoption of the minor if no parent of the minor is still alive.
How could a parent get custody again?	<ul style="list-style-type: none"> They must show a substantial change of their own circumstances, or of the child's or of the custodian's. They would have to do this by filing a petition to modify. 	<ul style="list-style-type: none"> They must show that the basis for creating the guardianship no longer exists, unless the court finds 1) termination would be harmful to the minor and 2) the minor's interest in continuing the guardianship outweighs the parent's interest in getting their rights to make decisions about the minor back.
What if I have a final Nonparent Custody Order from before January 1, 2021?	<ul style="list-style-type: none"> It remains valid after January 1, 2021. A parent must follow the new guardianship law to try to get custody again. 	<ul style="list-style-type: none"> To modify or terminate a NonParent Custody Order after January 1, 2021, parties must follow the steps and law for guardianship.
What if I filed my Nonparent Custody case and didn't finish it before January 1,2021?	<ul style="list-style-type: none"> The new guardianship law does not have an answer to this question. Temporary NPC orders may remain valid. 	<ul style="list-style-type: none"> The new guardianship law does not have an answer to this question. Temporary NPC orders may remain valid.
Does the Indian Child Welfare Act Apply?	<ul style="list-style-type: none"> Yes. 	<ul style="list-style-type: none"> Yes. Every order or decree under this law must state whether the child is an Indian child or not and if ICWA applies.

		<ul style="list-style-type: none"> • If they are, the decree must state how ICWA was followed – that notice, evidentiary requirements, and placement preferences under ICWA were satisfied.
Can parents have visits in these cases?	<ul style="list-style-type: none"> • Yes, the court can set up a residential schedule with visits. • Parents’ visits can be restricted based on the specific issues related to their parenting (substance abuse, domestic violence, etc). 	<ul style="list-style-type: none"> • Yes, the court can set up a residential schedule with visits. • Parents’ visits can be restricted based on the specific issues related to their parenting (substance abuse, domestic violence, etc).
Will parents have to pay child support?	<ul style="list-style-type: none"> • They are supposed to pay child support and the court will base it on their incomes in a child support order. 	<ul style="list-style-type: none"> • They are supposed to pay child support and the court will base it on their incomes in a child support order.
Can I get a restraining order to keep the parents from coming to my house or going to the child’s school, etc?	<ul style="list-style-type: none"> • Yes. You will have to show that there could be irreparable harm to the child if the court does not issue a restraining order. 	<ul style="list-style-type: none"> • Yes. You will have to show that there could be irreparable harm to the child if the court does not issue a restraining order.
What if we need to plan ahead for custody? (parent terminally ill, potential deportation, etc)		<p>Standby Guardianship</p> <ul style="list-style-type: none"> • The parent can nominate a standby guardian in writing. • The parent or nominated guardian must file the petition to have them appointed. • They must serve 1) the child if over 12, 2) the child’s lawyer, if any, 3) the parents, 4) the person nominated as standby guardian, and 5) any other person the court determines. • Court will appoint the standby guardian if they find that within two years after the appointment, no parent of

		<p>the minor likely will be willing or able to perform parenting functions.</p> <ul style="list-style-type: none"> • If no one files an objection to the petition, the court can appoint the standby guardian without holding a hearing.
<p>What if I just need to take short-term custody and hope the parent will return to caring for their child in a few weeks or months?</p>		<p>Emergency Guardianship</p> <ul style="list-style-type: none"> • The court can appoint an emergency guardian if: it is likely to prevent substantial harm to the child’s health, safety, or welfare; and no other person appears to have authority and willingness to act in the circumstances. • The child, the court on its own, or a person interested in the welfare of the child can file the petition for emergency guardianship. • The emergency guardianship can only last 60 days. But it can be extended one time for 60 more days. • The emergency guardianship can last until a full guardianship is established, if it turns out a full guardianship is needed and requested.