

Care Options for Children of Incarcerated Parents

Guardianship

A guardianship is when a court orders someone other than the child's parent to:

- Have custody of the child; or
- Manage the child's property (called "estate"); or
- Both.

A pamphlet which provides basic information about guardianships for children may be found by visiting <http://www.courts.ca.gov/documents/gc205.pdf> .

Alternatives to Guardianship

A guardianship is not always necessary.

Power of Attorney

Parents, or a parent with sole custody of a child, may agree to let another person take care of their child:

- Parents can sign a Power of Attorney for a Minor Child in front of a notary that gives another person physical "custody" of the child and lets that person make decisions about the child's education and medical care.
- If the person with the Power of Attorney wants to add the child to his or her health insurance, they will probably need a court-ordered guardianship of the person since most insurance companies will not cover a minor who is not the child of the insured without a court order.
- The parents can cancel the Power of Attorney at any time.

Caregiver's Authorization Affidavit

If the child will remain in California, the person taking care of the child can complete and sign a Caregiver's Authorization Affidavit:

- If the person taking care of the child is a relative of the child, this form lets him or her enroll the child in school. It also gives the relative the same rights as a guardian to get medical care, including mental health treatment, for the child. The back of the affidavit has a list of which relatives qualify under this law.
- If the person taking care of the child is NOT a relative, this form still lets him or her enroll the child in school, but they are only authorized to make medical care decisions that are school related (like immunizations or physical exams required by the school for enrollment).
- The Caregiver's Authorization Affidavit is not an official court form.
- The parents do not have to sign the Caregiver's Authorization Affidavit but they can cancel the affidavit at any time.
- If the child is no longer living with the caregiver, the affidavit is not valid. The caregiver must notify the school and health care provider if the child is no longer living with him or her.

Keep in mind that the caregiver may not be able to meet all the child's needs with the Caregiver's Authorization Affidavit or a notarized letter from the parents:

- Schools and medical facilities are required by law to accept the Caregiver's Authorization Affidavit, but it is possible you may come across a lot of resistance and may decide that it is easier to go to court and get a legal guardianship.
- The parents can cancel these forms or their letter at any time and take the child, even if it is not safe for the child.
- It may be hard for the caregiver to get medical insurance for the child unless the caregiver is the legal guardian. Most insurance companies will not allow the caregiver to add the minor child to insurance unless the caregiver is the legal guardian.

A Caregiver's Authorization Affidavit is available at:

<http://www.courts.ca.gov/documents/caregiver.pdf>

For additional information see the California Courts Self-Help Website at:

<http://www.courts.ca.gov/1210.htm>

Trustline - Background Check for In-Home Child Care

TrustLine is California's registry of in-home child care providers, tutors, in-home counselors, and child care staff at Ancillary Child Care Centers who have passed a background screening. It was created by the California Legislature in 1987 and is a powerful resource for parents hiring a nanny or baby-sitter.

All caregivers listed with TrustLine have been cleared through a fingerprint check of records at the California Department of Justice. This means they have no disqualifying criminal convictions or substantiated child abuse reports in California. TrustLine is administered by the California Department of Social Services and the non-profit California Child Care Resource and Referral Network. It is endorsed by the California Academy of Pediatrics.

To check a child care provider's background:

- Call TrustLine at 1-800-822-8490. You must provide (1) the person's full name and (2) driver's license number.
- If the caregiver is not registered he or she may go to the TrustLine website for instructions about how to register.

Additional information is available at the TrustLine website: <http://trustline.org/>

CAREGIVER'S AUTHORIZATION AFFIDAVIT

Use of this affidavit is authorized by Part 1.5 (commencing with Section 6550) of Division 11 of the California Family Code.

Instructions: Completion of items 1 - 4 and the signing of the affidavit is sufficient to authorize enrollment of a minor in school and authorize school- related medical care. Completion of items 5-8 is additionally required to authorize any other medical care. Print clearly.

The minor named below lives in my home and I am 18 years of age or older.

1. Name of minor: _____ .
2. Minor's birth date: _____ .
3. My name (adult giving authorization): _____ .
4. My home address (street, apartment number, city, state, zip code):

5. I am a grandparent, aunt, uncle, or other qualified relative of the minor (see page 2 of this form for a definition of "qualified relative").
6. Check one or both (for example, if one parent was advised and the other cannot be located):
 I have advised the parent(s) or other person(s) having legal custody of the minor of my intent to authorize medical care, and have received no objection.
 I am unable to contact the parent(s) or other person(s) having legal custody of the minor a this time, to notify them of my intended authorization.
7. My date of birth: _____
8. My California driver's license or identification card number: _____

Warning: Do not sign this form if any of the statements above are incorrect, or you will be committing a crime punishable by a fine, imprisonment, or both.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: _____

Signed: _____

Notices:

1. This declaration does not affect the rights of the minor's parents or legal guardian regarding the care, custody, and control of the minor, and does not mean that the caregiver has legal custody of the minor.
2. A person who relies on this affidavit has no obligation to make any further inquiry or investigation.
3. This affidavit is not valid for more than one year after the date on which it is executed.

Additional Information:

TO CAREGIVERS:

1. "Qualified relative," for purposes of item 5, means a spouse, parent, stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin, or any person denoted by the prefix "grand" or "great," or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution.
2. The law may require you, if you are not a relative or a currently licensed foster parent, to obtain a foster home license in order to care for a minor. If you have any questions, please contact your local department of social services.
3. If the minor stops living with you, you are required to notify any school, health care provider, or health care service plan to which you have given this affidavit.
4. If you do not have the information requested in item 8 (California driver's license or I.D.), provide another form of identification such as your social security number or Medi-Cal number.

TO SCHOOL OFFICIALS:

1. Section 48204 of the Education Code provides that this affidavit constitutes a sufficient basis for a determination of residency of the minor, without the requirement of a guardianship or other custody order, unless the school district determines from actual facts that the minor is not living with the caregiver.
2. The school district may require additional reasonable evidence that the caregiver lives at the address provided in item 4.

TO HEALTH CARE PROVIDERS AND HEALTH CARE SERVICE PLANS:

1. No person who acts in good faith reliance upon a caregiver's authorization affidavit to provide medical or dental care, without actual knowledge of facts contrary to those stated on the affidavit, is subject to criminal liability or to civil liability to any person, or is subject to professional disciplinary action, for such reliance if the applicable portions of the form are completed.
2. This affidavit does not confer dependency for health care coverage purposes.