

**19 GCA PERSONAL RELATIONS
CH. 9 GUARDIAN AND WARD**

**CHAPTER 9
GUARDIAN AND WARD**

- § 9101. Guardian Generally.
- § 9102. Ward, What.
- § 9103. General, Special.
- § 9104. General Guardian.
- § 9105. Special Guardian.
- § 9106. By Will.
- § 9107. Insane Persons.
- § 9108. General Rules.
- § 9109. Confidential Relationship.
- § 9110. Court Control.
- § 9111. Survivor Continues, Power.
- § 9112. Removal, Generally.
- § 9113. Parent Appointment, Superseded.
- § 9114. Power, Discontinued.
- § 9115. Ward's Release.
- § 9116. Discharge.

CROSS-REFERENCES: For other provision on Guardian and Ward see 15 GCA Chapters 35 to end (Estates and Probate).

§ 9101. Guardian Generally.

A *guardian* is a person appointed to take care of the person or property of another.

SOURCE: CC §236.

§ 9102. Ward, What.

The person over whom or over whose property a guardian is appointed is called his *ward*.

SOURCE: CC §237.

§ 9103. General, Special.

Guardians are either:

- (a) General; or
- (b) Special.

SOURCE: CC §238.

§ 9104. General Guardian.

19 GCA PERSONAL RELATIONS
CH. 9 GUARDIAN AND WARD

A *general guardian* is a guardian of the person or of all the property of the ward within Guam.

SOURCE: CC §239.

§ 9105. Special Guardian.

Every other is a *special guardian*.

SOURCE: CC §240.

§ 9106. By Will.

A guardian of the person or estate, or of both, of a child born, or likely to be born, may be appointed by will or by deed, to take effect upon the death of the parent appointed:

(a) If the child be legitimate, by either parent, with written consent of the other; or by either parent, if the other be dead or incapable of consent.

(b) If the child be illegitimate, by the mother: Provided further, that any parent may, by deed or will, appoint a guardian as to the property which his or her child may inherit and take by devise or bequest from him or her.

SOURCE: CC §241.

§ 9107. Insane Persons.

A guardian of the person or estate, or of both, of an insane or incompetent person may be appointed by will or by deed, to take effect upon the death of the person appointing:

(a) If the insane or incompetent person be unmarried, or be a person whose marriage has been annulled or dissolved by death or divorce, by the father, with the written consent of the mother, or by either parent if the other be dead or incapable of consent.

(b) If the insane or incompetent person be married and a person whose marriage has not been annulled or dissolved by divorce, then by the spouse.

SOURCE: CC §242.

§ 9108. General Rules.

In awarding the custody of a minor, or in appointing a general guardian, the court or officer is to be guided by the following considerations:

19 GCA PERSONAL RELATIONS
CH. 9 GUARDIAN AND WARD

(a) By what appears to be for the best interest of the child in respect to its temporal and its mental and moral welfare; and if the child is of sufficient age to form an intelligent preference, the court may consider that preference in determining the question.

(b) As between parents adversely claiming the custody or guardianship, neither parent is entitled to it as of right; but other things being equal, if the child is of tender years, it should be given to the mother; if it is of an age to require education and preparation for labor and business, then to the father.

(c) Of two persons equally entitled to the custody in other respects, preference is to be given as follows:

(1) To a parent;

(2) To one who was indicated by the wishes of the deceased parent;

(3) To one who already stands in the position of a trustee of a fund to be applied to the child's support;

(4) To a relative.

(d) Any parent who knowingly or willfully abandons, or having the ability so to do, fails to maintain his minor child under the age of fourteen (14) years, forfeits the guardianship of such child.

SOURCE: CC §246.

§ 9109. Confidential Relationship.

The relation of guardian and ward is confidential, and is subject to the provisions of the Title on trusts.

SOURCE: CC §250.

§ 9110. Court Control.

In the management and disposition of the person or property committed to him, a guardian may be regulated and controlled by the court.

SOURCE: CC §251.

§ 9111. Survivor Continues, Power.

On the death of one or two or more joint guardians, the power continues to the survivor until a further appointment is made by the court.

SOURCE: CC §252.

§ 9112. Removal, Generally.

A guardian may be removed by the Superior Court for any of the following causes:

- (a) For abuse of his trust;
- (b) For continued failure to perform his duties;
- (c) For incapacity to perform his duties;
- (d) For gross immorality;
- (e) For having an interest adverse to the faithful performance of his duties;
- (f) For removal from Guam;
- (g) In the case of a guardian of the property, for insolvency; or
- (h) When it is no longer proper that the ward should be under guardianship.

SOURCE: CC §253.

NOTE: *Island Court* was changed to *Superior Court* in the foregoing section, to conform with changes authorized by P.L. 12-85.

§ 9113. Parent Appointment, Superseded.

The power of a guardian appointed by a parent is superseded:

- (a) By his removal, as provided by § 9114;
- (b) By the solemnized marriage of the ward; or
- (c) By the ward's attaining majority.

SOURCE: CC §254.

§ 9114. Power, Discontinued.

The power of a guardian appointed by a court is suspended only:

- (a) By order of the court; or
- (b) If the appointment was made solely because of the ward's minority, by his attaining majority; or
- (c) The guardianship over the person of the ward, by the marriage of the ward.

SOURCE: CC §255.

§ 9115. Ward's Release.

19 GCA PERSONAL RELATIONS
CH. 9 GUARDIAN AND WARD

After a ward has come to his majority, he may settle accounts with his guardian, and give him a release, which is valid if obtained fairly and without undue influence.

SOURCE: CC §256.

§ 9116. Discharge.

A guardian appointed by a court is not entitled to his discharge until one year after the ward's majority.

SOURCE: CC §257.
