



ADMINISTRATIVE RULES OF MONTANA



37.50.1101 GUARDIANSHIP AND HOME APPROVAL

- (1) In order to be approved as a guardian pursuant to 41-3-444, MCA, the prospective guardian and the home of the prospective guardian must meet the requirements set forth for youth foster homes contained in ARM 37.51.210, 37.51.216, 37.51.301, 37.51.305, 37.51.306, 37.51.307, 37.51.310, 37.51.311, 37.51.601, 37.51.602, 37.51.608, 37.51.609, 37.51.801, 37.51.802, 37.51.805, 37.51.806, 37.51.810, 37.51.815, 37.51.820, 37.51.825, 37.51.826, 37.51.901, 37.51.902, 37.51.1001, 37.51.1401, 37.51.1404, and 37.51.1405.
- (2) The child for whom guardianship is being considered must have resided with the prospective guardian for a minimum of six months.
- (3) A written assessment of the prospective guardian and home of the prospective guardian must be completed. The assessment must include a determination that the prospective guardian and home of the prospective guardian meet the requirements of this rule. The assessment must demonstrate the appropriateness of the proposed guardian to become the legal custodian for a specific child. Factors to be considered in determining the appropriateness of the proposed guardian include the proposed guardian's knowledge of the child's history, including placement and history of trauma 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; understanding and acceptance of the powers and duties of a guardian; and the desire of the prospective guardian to become the child's guardian.
- (4) If the child for whom guardianship is being considered is 12 years of age or older, the child must be consulted regarding the plan for guardianship.
- (5) The entry of a decree of guardianship terminates the custody of the department and the involvement of the department except to the extent necessary to administer any financial subsidy.

Authorizing statute(s): 52-2-603, MCA

Implementing statute(s): 41-3-444, 52-2-603, MCA

History: NEW, 2000 MAR p. 864, Eff. 3/31/00; AMD, 2014 MAR p. 976, Eff. 5/9/14.