

监护人的法定职责

Statutory Duties of the Guardian

1. 监护人应当履行监护职责，保护被监护人（指未成年人）的人身、财产及其他合法权益，教育和照顾被监护人。The Guardian shall fulfil his/her duty of guardianship and protect the person, property and other lawful rights and interests of the minor, educate and care for the minor.

监护人担负有维护未成年人的人身健康和安安全全，保护他们的荣誉权等责任，同时，还担负有排除来自于各方面的对未成年人的人身权利实施侵害的义务。监护人也负有对未成年人进行德、智、体、美、劳等方面培养和教育的职责。监护人依法履行监护的权利，受法律保护。监护人不履行监护职责或者侵害被监护人的合法权益的，应当承担责任；给被监护人造成财产损失的，应当赔偿损失。

The Guardian shall protect the physical and mental health, safety and right of honor etc. of the minor, and protect the minor from any infringement of his/her rights. The Guardian shall educate the minor on moral, intellectual, physical, aesthetic, labour and other aspects. The Guardian's rights to fulfil his/her guardianship in accordance with the law shall be protected by law. If the Guardian does not fulfil his duties as guardian or infringes upon the lawful rights and interests of the minor, the Guardian shall be held responsible; if the Guardian causes any property loss for the minor, s/he shall compensate for such losses.

2. 管理被监护人的财产 The Guardian shall handle the property of the minor

监护人于监护职责范围内管理好被监护的未成年人的财产，维护未成年人的合法的财产权益。监护人应制止和排除他人侵犯未成年人财产权益的行为，并依法否定未成年人所为的与其行为能力不相适应的处分财产的民事行为，并对不当得利人进行追索。

The Guardian shall manage the property of the minor and uphold the minor's legitimate property rights and interests. The Guardian shall stop and eliminate any acts of violation to the minor's property rights and interests, and repudiate the minor's civil conduct on handling of property in accordance with the law as that is not commensurate with the minor's ability to act, and take recourse to unjust enriched party.

监护人应当按照最有利于被监护人的原则履行监护职责。除为被监护人的利益外，不得处理被监护人的财产。在作出与被监护人利益有关的决定时，应当根据被监护人的年龄和智力状况，尊重被监护人的真实意愿。

The Guardian shall perform the duty of Guardianship in the best interest of the minor. The Guardian shall not handle the property of the minor unless it is in the minor's interests. When making decisions relating to the minor's interests, the Guardian shall respect the minor's true will taking into consideration of the minor's age and intelligence.

3. 代理进行民事活动 *The Guardian shall act as the minor's agent ad litem*

监护人是被监护人的法定代理人。监护人所代理进行的活动领域不限，较多地表现为诸如买卖、租赁、借贷等财产性质的活动。监护人对被监护人给他人造成的损害承担民事责任。当未成年人的合法权益遭致不法侵害时，监护人有权也有责任代理未成年人行使损害赔偿的请求权。

The Guardian shall be the minor's agent ad litem for civil activities such as purchases and sales, leases and loans etc. The Guardian shall bear civil liability for the damages caused by the minor. When the legitimate rights and interests of the minor are infringed, the Guardian has the right and the duty to claim for damages on behalf of the minor.

4. 监护人可能面临的处罚 *Possible punishments for the Guardian:*

a. 被剥夺监护人资格。

Disqualification of the Guardianship.

b. 承担民事责任的方式主要有：停止侵害；排除妨碍；消除危险；返还财产；恢复原状；修理、重作、更换；赔偿损失；支付违约金；消除影响、恢复名誉；赔礼道歉。

Bearing civil liability such as: cessation of infringements; removal of obstacles; elimination of dangers; return of property; restoration of original condition; repair, reworking or replacement; compensation for losses; payment of breach of contract; elimination of adverse effects and rehabilitation of reputation and extension of apology.

注：如果被监护人犯法，监护人不会坐牢，但可能赔钱。若监护人利用学生进行犯罪活动，则要受到刑事处罚。

Please Note: if the minor commits crime, the Guardian will not be imprisoned but may need to compensate for financial losses. However, if a Guardian makes use of a minor for criminal activity, s/he will receive criminal penalties.