

## North Bay Bohemian

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*Photograph by Edward Troxell*

**HUGS ALL AROUND:** More relatives and interested adults are moving to place neglected kids under legal guardianship.

# Step-In Parents

*Caring for kids sometimes means taking them on as your own.  
Legal guardianship is an increasingly attractive option.*

**By Patricia Lynn Henley**

Jeri vividly remembers the phone calls she used to receive from her grandson Josh when he was five. "Grandma, can you come get me? I can't wake up my mom."

Jeri and her husband, Frank, would once again drive from their Petaluma home to the apartment Jeri's divorced daughter Kelly rented in Rohnert Park. Kelly would once again be passed out drunk. And little Josh would once again be doing his best to care for Mandi, his newborn baby sister.

Jeri and Frank would gather up the kids and take them home, at least until Kelly regained consciousness and demanded their return. Often, Josh didn't want to go back to his mother's.

"He literally would cry when I turned the corner to take him home," Jeri recalls.

Even worse were the times when Kelly would drive the kids while drunk.

"The whole thing was so upsetting," Jeri says. "Finally, my husband and I talked about it and said let's do it."

"It" was filing to become the legal guardians of Josh and Mandi.

Jeri and Frank attended a Grandparents Parenting . . . Again clinic that walked them through the small mountain of required forms and procedures. The paperwork was reasonably straightforward, but emotionally, it was a hard step to take.

"I couldn't believe what I was doing to my own daughter," Jeri explains. "I felt so guilty because I was hurting her. But I thought, 'The kids are what's important.' Them having a safe and secure life—that's what's important."

Kelly opposed the guardianship, but the court ruled against her, and for over a decade, Jeri and Frank have raised Josh, now 17, and Mandi, now 12. The kids continue to see their biological parents, but home is with Grandma and Grandpa.

"I think my daughter has come to realize that the kids are better off where they're at," Jeri says quietly. "At least they have a stable environment. They know where their next meal's coming from."

Legal guardianship is an option not just for relatives but for any adult concerned about a minor who's living in an unstable or unsafe environment. Experts estimate that about two-thirds of guardian requests are unopposed, but when a case is contested by a biological parent or other adult, the court may still rule that appointing a guardian is in the best interests of the child—even if the guardian isn't a relative.

"A blood link is not required; it's only one factor," explains Ronit Rubinoff, executive director of Legal Aid of Sonoma County. "The overriding factor is, what is the bond or relationship between the potential guardian and the potential ward? You have to show as a potential guardian that you have some connection with this child, that you have some experience with this child, that the child has some bond with you. You also have to show as a potential guardian that you would make a suitable guardian and a suitable caretaker."

There were 1,879 new probate guardianship filings in fiscal year 2005–2006 in 22 California counties being monitored by the Judicial Council of California, including 42 in Napa and 108 in Sonoma. Rubinoff hopes there will be even more in the future. "I'd love to see all the cases that are going through foster care come through a guardianship instead."

Grandparents or other adults who have cared for a child for years may think applying for a legal guardianship is a bad idea because it will just rock the boat. But without the formal paperwork, they have no legal standing to authorize medical care, deal with school officials—or to stop a parent who has suddenly reappeared in the child's life and wants to yank the kid out of the home he or she has lived in for so long. Being named legal guardian can prevent the yo-yo effect of an unstable parent disrupting a kid's life and then drifting away again.

Through the Child Abuse Prevention Project, Legal Aid of Sonoma County has increased the number of families it assists with guardianship from about two a month to an average of nine. The program has helped 95 families and a total of 135 children who were dealing with problems that included physical abuse, neglect, homelessness, drug abuse, criminal behavior and parental abandonment.

"Legally, there's an opportunity for us to do this; morally, there's an opportunity for us to do this, and what a contribution to make," Rubinoff says. "I think it's one of the most rewarding types of work we do, not because of the legalities, but because it's so incredible to see the generosity and compassion of these various good Samaritans, whether they're relatives or not, who open up their homes and take care of these children. What an incredible thing to do."

## **Joan & Sarah**

Sitting in the coffee shop with their heads together over a menu, Joan, 56, and Sarah, 10, look like an average grandmother and granddaughter. Sarah happily steps outside to visit with the ducks in the large pond just outside the window.

That's when Joan summarizes their story. Her daughter, Mary, was about 18 and going through rehab for a meth addiction when she discovered she was pregnant. Mary moved home with her parents, Joan and Joe, and gave birth.

All went well for a few years, but when Sarah was a little older than two, Mary's behavior became erratic again; she was back on meth. After some agonizing, Joan and Joe attended the guardianship clinic offered by Grandparents Parenting . . . Again, then filed for emergency temporary guardianship and a restraining order. But before the final paperwork could come through, Mary fled with Sarah.

Mary deposited Sarah with Sarah's biological father in Mendocino County and disappeared. When Joan and Joe found Sarah, she was sleeping on a mattress in the same room with her father and his young girlfriend. There was a fist-sized hole in the home's front door and the place was a mess. Joan and Joe arranged to take Sarah home for a short visit, then a longer one. Soon, she was with them full-time.

"When we got her back, she stuttered so badly I couldn't believe it was the same kid," Joan recalls.

Sarah would wake up at night screaming, and during the day would have what Joan calls "meltdowns." Joan would take her to a rocking chair in a dim room and just rock her gently, holding her close.

"I taught her to breathe," Joan remembers. "Three and a half years old, and I would say, 'Breathe with Grandma.'"

Joan and Joe were granted legal guardianship. Mary, who was working in San Francisco as a lap dancer, fought against the order but lost.

There have been a lot of changes in the years since then. Mary has tried unsuccessfully several times to get the guardianship terminated so she can have Sarah back. Joe passed away earlier this year, and Joan took a disability retirement from her Sonoma County job.

There's strong pride in Joan's voice when she reports that Sarah is a healthy, normal child now. That Sarah's doing well academically, and is a leader in her school. That Sarah has been taking horseback riding lessons and swim classes. And that most adults who meet Sarah comment on how well she communicates—well beyond her years.

"Most people wouldn't know that she's ever had this history, but it was very rough going for awhile," Joan says, her eyes on her granddaughter.

Guardianship isn't always the best answer, says Kelly Reiter, an attorney with the Family and Children's Law Center in San Rafael.

"Sometimes, it may be better to go through [Child Welfare Services, formerly called Child Protective Services], because you might be able to get more services and [financial] support for the child," Reiter explains. "But more people need to know about guardianship as an option."

The Family & Children's Law Center is a private nonprofit organization that helps low-income clients. About 70 percent of the guardianships that Reiter handles involve relatives; in the other 30 percent, the guardians are not biologically related but are emotionally bonded to the child.

In many situations, guardianship is an important tool, says Nick Honey, director of the Sonoma County Human Services Department. In Sonoma County in 2006, out of 239 children who left the Child Welfare Services system, 36—or about 15 percent—were in permanent guardianship situations. "Every child needs a permanent plan, and the more permanent the plan, the better," Honey says. He adds, "We support [guardianship] because it's a commitment from an adult to a child that provides the child with some permanency."

Linda Canan, director of Child Welfare Services in Napa County, agrees. "Guardianship is one of the ways that kids can achieve permanency, a sense of belonging, and, when they're not able to be with their own birth parents, it kind of eases their anxiety about where they're going to be tomorrow. In terms of permanency, it's just one step down from adoption."

Guardianship can take a child out of the Child Welfare Services system, where the law mandates there be a focus on reuniting the birth family—something that might not always be in the best interests of the child.

## **Day in Court**

A young man in his early 20s stands stiffly in his blue suit and white shirt; a dark tattoo stretches up his neck to where several large steel studs adorn the edge of his ear. Behind him are rows of chairs where others wait their turn, sitting quietly as if they're in church. Several skim through the folders they hold, checking on their paperwork. One man drums his fingers almost silently on the armrest.

Behind the raised judge's desk sits Sonoma County Commissioner Larry Gamble, who is hearing contested guardianship cases.

The morning's calendar is a full one, and although Gamble listens patiently to each person who stands before him, he keeps things moving along. Gamble explains to the young man in the blue suit that he will be allowed to see his child for supervised two-hour visits every other week. The father, who is currently in a drug-rehab program, leaves the room obviously satisfied.

The people involved in the next case are called forward. Gamble reviews the paperwork, then officially announces that legal guardianship will be granted to a little girl's grandmother. "It's nothing that one should undertake lightly," Gamble tells the new guardian. "You now have a legal obligation, in addition to a family obligation."

Smiling, the woman leaves the courtroom. The next case is called. Not all the required paperwork has been filed, so the case is rescheduled.

Next case. A mother wants more visitation. The guardian, the child's grandfather, tells Gamble, "The last time I let her go out with her mother, she didn't come back for several weeks." Gamble orders a mediation session. "There's a four-year-old child out there, and that child deserves a good life," he tells the mother and grandfather.

The cases and people continue to cycle in. Gamble remains patient, but makes it clear that his interest is what's best for the children involved.

"One of the things we like in our lives and that children like is consistency," Gamble says to a brother and sister who want their young cousin removed from her current guardian and put into their care. "Children don't like change."

Watching from the sidelines is Anne Pierce, founder and executive director of Grandparents Parenting . . . Again. She attends all the Sonoma County guardianship hearings.

"I've been going for seven years," Pierce says of the sessions, which are referred to as "calendars." "I don't think I've missed three calendars in all that time."

She gets calls almost daily, she adds, from people who are worried about a child. On rare occasions, she recommends against trying for a guardianship. "Some people who come into the clinic, as much as they love the child, there's too much anger in them," Pierce explains. "You have to get your act together. You can't do this just because you love your grandchildren and you're angry at your own children. You have to set that anger aside."

The best place to vent that anger, Pierce says, is in the support groups offered by Grandparents Parenting . . . Again. "It's a good place to let the anger out without letting it out around the kids."

She'd like to see even more services available to those who are stepping in to raise children in need. "In foster care at any given time, there's approximately half a million children nationwide," Pierce asserts. "But for children being raised by grandparents, there's almost 6 million."

## Consistency & Love

All kinds of things can upset the balance of family life: drug or alcohol abuse, mental illness, incarceration, financial woes, violence, illness, death. Any one of these can make it necessary for someone else to step in and be willing to care for a child.

For Dominga, it was the death of her sister, whose appendix burst during childbirth. Dominga's own son was born in April 2006. Her nephew was born the following month. With assistance from Legal Aid of Sonoma County, Dominga and her husband were named as guardians to her newborn nephew.

"For me it was a joy because my husband knew that he also wanted to raise my nephew," Dominga says through a Spanish-English interpreter.

Now she spends her days caring for two one-year-old boys. She wouldn't have it any other way.

"Even though my sister and I were pregnant at the same time—well, things just happen. We never really know what's going to happen."

Jeri has no regrets about the 12 years she and Frank have spent raising their two grandchildren, Josh and Mandi.

"We have totally enjoyed these kids. You think back how many years we've had them—we've seen them through Halloween costumes, Christmases, teaching them how to ride a bike . . . We've totally enjoyed them."

When they applied for guardianship, Jeri was recovering from the 1996 death of her 26-year-old son who was killed by a car while in a crosswalk. She was also taking care of her elderly mother, who is now in a Petaluma nursing home. Jeri hires a caregiver to visit her mother on weekends so she can be with the grandkids.

Jeri knows that her friends are enjoying retirement, traveling and empty nests, but said she and her husband of 23 years have absolutely no regrets.

"This isn't something that we planned in our lives, but we've embraced it. We really have embraced it. Nothing can compare with my granddaughter putting her arm around me and saying, 'Hey, Gram, you want to go hang out for a while?'"

For anyone contemplating becoming a child's guardian, Jeri's advice is quick. "Just go for it," she urges. "It's not going to be easy, but if you want it badly enough, the rewards are endless."

## Preparing to Care

If a capable adult steps up and says, "I want to care for this child," and the parents and other close relatives either don't object, are dead or can't be found, creating a guardianship mostly

involves crossing the *i*'s and dotting the *t*'s on a raft of complicated paperwork. An uncontested case will probably go to a court hearing only once, when the guardianship is officially granted.

If Child Welfare Services is involved, a guardianship bid will be heard in Family Law Court, and there are legal requirements to first try to reunite the biological family, if possible. However, guardianships are also awarded in probate court, without involving government agencies like Child Welfare Services.

To be granted a guardianship, a plethora of official forms must be filled out precisely and correctly, and certain procedures have to be followed in notifying adult relatives of the child, but the process doesn't necessarily require the services of a lawyer. Many people successfully negotiate the guardianship maze with the help of a legal self-help center or nonprofit agency.

If a child appears to be in danger of immediate harm, an emergency temporary guardianship may be granted in only five days. Then the usual process will be followed to establish a guardianship beyond the temporary one. A guardianship lasts until the child is 18 years old, but can be ended before then if the guardian agrees or the biological parent demonstrates to the court's satisfaction that he or she can now provide a stable and secure home for the child.

## **Resources**

General guardianship information is available at [www.courtinfo.ca.gov](http://www.courtinfo.ca.gov) or [www.lsc-sf.org](http://www.lsc-sf.org); and Nolo Press publishes *The Guardianship Book for California: How to Become a Child's Legal Guardian* (\$34.99).

### **Sonoma**

Grandparents Parenting . . . Again 707.566.8676; [www.grandparentsparentingagain.org](http://www.grandparentsparentingagain.org) Legal Aid of Sonoma County Leave a message at 707.542.1290

### **Marin**

Family and Children's Law Center San Rafael, 415.492.9230; [www.faclc.org](http://www.faclc.org) Legal Self-Help Center of Marin 415.492.1111; [www.marinlegalselfhelp.org](http://www.marinlegalselfhelp.org)

### **Napa**

Family Law Facilitator's Self Help Center of Napa Superior Court 707.299.1137; [www.napacourts.com/Family/family\\_facilitator.htm](http://www.napacourts.com/Family/family_facilitator.htm) Legal Aid of Napa County (assists seniors seeking guardianship) 707.259.0579