

INSTRUCTIONS

Petition to Decrease or Waive Surety Bond In Conservatorship

Forms you may need for asking the court to waive or decrease the surety bond in a conservatorship case:

- *Petition to Decrease or Waive Surety Bond* (GAC302);
- *Affidavit of Service (Guardianship/Conservatorship)* (GAC 2-U).

What You Need to Do

1. Complete the *Petition*, following all of the steps in these instructions.
2. Sign the *Petition* under penalty of perjury.
3. **Serve** the person subject to conservatorship and interested persons with a copy of the *Petition* and **file** the completed paperwork with the court.
4. Wait to hear from the court and appear at the hearing, if one is scheduled.

Important Notices and Resources

Court administration has forms and instructions, for some types of cases, as a general guide to the court process. These instructions explain the steps in more detail and answer common questions, but are not a full guide to the law. Court employees may be able to give general information on court rules and procedures, but they cannot give legal advice.

Got a question about court forms or instructions?

- Visit www.MNCourts.gov/SelfHelp
- Call the MN Courts Self-Help Center at 651-435-6535

Not sure what to do about a legal issue or need advice?

- Talk with a lawyer
- Visit www.MNCourts.gov/Find-a-Lawyer.aspx

Helpful materials may be found at your public county law library. For a directory, see <http://mn.gov/law-library/research-links/county-law-libraries.jsp> . For more information, contact your court administrator or call the Minnesota State Law Library at 651-297-7651.

General Information about Conservatorship Bonds

What is a conservatorship bond?

Minn. Stat. § 524.5-415 (<https://www.revisor.mn.gov/statutes/cite/524.5-415>) gives the court the ability to require a conservator to purchase a conservatorship bond. A *conservatorship bond* is a type of surety bond which protects the assets of the person subject to conservatorship.

Conservatorship bonds protect against theft, fraud, misrepresentation, or improper handling of assets by the conservator. The amount of the bond needed depends on the amount of assets that are under the control of the conservator:

- If the person subject to conservatorship has limited assets, the court may find that a bond is not needed.
- If the value of the personal property of the person subject to conservatorship is **at least \$10,000**, the judge will require the conservator to post a bond.

Why might a conservatorship bond be decreased?

The amount of a conservatorship bond required by the court might be lowered if the assets of the person subject to conservatorship under the control of the conservator:

- Decrease to be under \$10,000; or
- Are placed in a restricted account that prevents access to the assets by the conservator; or
- Are required by the Veterans Administration to have a separate bond for VA funds.

Do you have all the information you need to fill out the forms?

The *Petition to Decrease or Waive Surety Bond* form (GAC302) asks for the following information:

- The county and Judicial District number where the Conservatorship case was filed;
- The court file number of the case;
- The bondable asset value of the person subject to conservatorship according to the last annual accounting report filed;
- Whether a bond has been filed in the case and, if so, the date and value; and
- If the Veterans Administration has required a bond, the amount and evidence of that bond.

Step 1

Fill Out *Petition to Decrease or Waive Surety Bond* (GAC302)

The top part of the page is where you will find the case *caption*. It looks like this:

<p>State of Minnesota</p> <p>County A</p> <hr/> <p>In Re the Conservatorship of</p> <p style="text-align: center;">C</p> <hr/> <p>My name is E _____, and I am the conservator in this case.</p>	<p style="text-align: right;">District Court</p> <p>Judicial District: B _____</p> <p>Court File Number: _____</p> <p>Case Type: <u>Guardianship/Conservatorship</u></p> <p style="text-align: center;">Petition to</p> <p style="text-align: center;"><input type="checkbox"/> Decrease</p> <p style="text-align: center;"><input type="checkbox"/> Waive</p> <p style="text-align: center;">Surety Bond</p> <p style="text-align: center;">D</p>
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- A. List the county where the conservatorship case was filed.
- B. List the Judicial District and the Court File Number for the case.
- C. Write in the full name of the person subject to conservatorship (first, middle, and last).
- D. Check the box to let the court know whether you are asking to *decrease* the surety bond, or to *waive* the surety bond.
- E. List your name.

Fill out the rest of the form:

<p>1. According to the last report filed, the bondable asset value of the person subject to conservatorship is \$ 1 _____.</p> <p>2. The bondable asset value of the person subject to conservatorship has changed in the following ways: 2 _____</p> <p>3. <input type="checkbox"/> A bond has not been filed in this case</p> <p style="text-align: center;">OR 3</p> <p><input type="checkbox"/> A bond in the amount of \$ _____ was filed with the court on _____.</p> <p>4. Veterans Administration has required a bond in the amount of \$ 4 _____. I am including evidence of that bond with my <i>Petition</i>.</p> <p>5 I ask the court to <input type="checkbox"/> <u>Decrease</u> / <input type="checkbox"/> <u>Waive</u> the surety bond ordered by the court.</p>

1. The last annual accounting filed into the conservatorship case should include the bondable asset value of the person subject to conservatorship. Write in this amount.
2. Explain how the bondable asset value has changed.
3. Check a box to say whether a bond has been filed in the case and, if so, fill in the amount of the bond and the date it was filed.

4. If the Veterans Administration has required a bond, fill in the amount. **You must provide evidence of that bond along with your *Petition*.**
5. Check a box to ask the court to either decrease the surety bond that was previously ordered by the court or to waive the surety bond altogether.

Step 2

Sign the *Petition to Decrease or Waive Bond* (GAC302)

Sign the *Petition* form and print your phone number, date of birth, and e-mail address in the blanks under the signature line. When you sign the *Petition*, you are signing under *penalty of perjury*. This means you are saying that everything in the form is true and correct; if you know something in the form is not true when you sign it, you could be found guilty of the crime of perjury (see Minn. Stat. § 609.48, <https://www.revisor.mn.gov/statutes/?id=609.48>).

Step 3

- **Serve the Person Subject to Conservatorship, Interested Persons, and the Surety**
- **File the Completed Forms with the Court**

Make copies of the completed form. Keep one copy for your own records and mail one to the person subject to conservatorship and to interested persons listed in the conservatorship case. You must also serve the surety at the address shown in the conservatorship case and to any other address that is known to you for that surety. Complete an *Affidavit of Service (Guardianship/Conservatorship)* (GAC 2-U) giving the details of when, where, and how you served the person subject to conservatorship, interested persons, and the surety.

File the affidavit and your completed *Petition to Decrease or Waive Surety Bond* form with the court. A motion fee must be paid when you file the *Petition* (see <http://mncourts.gov/Help-Topics/Court-Fees/District-Court-Fees.aspx?cat=probate&cookieCheck=true>). Check with court administration in the county where the conservatorship case is located for information on the exact fee.

Step 4

- **Wait to Hear from the Court**
- **Attend the Court Hearing, if One Is Scheduled**

Once you have filed your paperwork with the court, the judge will hold a hearing to approve or deny your petition. If a hearing is scheduled, court administration will send you a notice with the hearing details. If the judge decides that a hearing is not needed, court administration will send you a copy of the order issued by the judge either granting or denying your petition.

If the judge does schedule a hearing, you must appear at the hearing and be ready to testify to the facts included in your petition. If your petition is approved at the hearing, the judge will sign an order that decreases or waives the surety bond.

What to Expect Next...

Once you get an order, read it carefully. It will contain important information.

If the court changes the amount of the surety bond, you will need to take your order to the bonding company.

If the court *decreases* the surety bond, you will need to file a new bond with the court (the order may have more details).