

INSTRUCTIONS

Petition for Successor Guardian/Conservator of an Adult

Important Notices and Resources

The Court 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.

Have questions about court forms or instructions?

- Visit www.MNCourts.gov/SelfHelp
- Call the Statewide 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 court administration or call the Minnesota State Law Library at 651-297-7651.

Forms You May Need

- *Petition for Appointment of Successor Guardian and/or Conservator* (GAC402);
- *Acceptance of Appointment* (GAC406);
- *Order Appointing Successor Guardian and/or Successor Conservator* (GAC404);
- *Notice of Hearing and Notice of Rights* (GAC 6-U);
- *Letters of Successor Guardianship/Conservatorship* (GAC405);
- *Affidavit of Service* (GAC 2-U);
- *Notice Regarding Background Check Requirements* (GAC104);
- *Affidavit Regarding Background Checks* (GAC102) – you may need depending on your situation;
- *Criminal History Check* (GAC121) – you may need depending on your situation;

- “Guardian and Conservator Maltreatment and Licensing Agency Checks” form, available on the [DHS website](https://mn.gov/dhs/general-public/background-studies/for-entities/guardians-and-conservators/) (mn.gov/dhs/general-public/background-studies/for-entities/guardians-and-conservators/) – you may need depending on your situation;
- *Attachment to Petition for Appointment of Successor Guardian and/or Conservator* (GAC403).

Forms are available online at www.mncourts.gov/forms.

What You Need to Do

1. Complete the court forms, following all of the steps in these instructions.
2. File the completed forms with Court Administration.
3. Arrange for service.
4. Appear at the hearing. Each “step” here is described in more detail below.

General Information About Guardianship/Conservatorship

Recommendations for the Proposed Successor Guardian and/or Conservator

It is recommended that the proposed Successor Guardian and proposed Successor Conservator complete the following:

- Read the *Guardianship and Conservatorship Manual* (GAC101), which is available online at <https://mncourts.gov/GetForms.aspx?c=21&f=442>.
- Watch the Conservatorship/Guardianship Education Video, which is available on the Guardianship and Conservative Help Topic webpages:
 - <https://mncourts.gov/Help-Topics/Guardianship.aspx>
 - <https://mncourts.gov/Help-Topics/Conservatorship.aspx>
- Determine whether the two Background Checks need to be completed. Read the *Notice to Proposed Guardians/Conservators Regarding Background Check Requirements* (GAC104) to determine if you need to complete the background checks.
 - If you have completed the background checks within the last 5 years, fill out the *Affidavit Regarding Background Checks* (GAC102), and attach the most recent copy of the criminal history check from the BCA and maltreatment and licensing agency check from DHS along with the *Affidavit*.
 - If you need to complete the background checks, the *Notice to Proposed Guardians/Conservators Regarding Background Check Requirements* (GAC104) explains the procedures.

Step 1
Fill Out Petition for Appointment of Successor Guardian and/or Successor Conservator (GAC402)

THE CAPTION

| | |
|--|--|
| <p>State of Minnesota</p> <p>County of: _____ A</p> <p>In Re: <input type="checkbox"/> Guardianship <input type="checkbox"/> Conservatorship of: _____ B</p> | <p style="text-align: right;">District Court</p> <p>Judicial District: _____ Court File Number: _____ Case Type: Guardianship/Conservatorship</p> <p style="text-align: center;">Petition for Appointment of:</p> <p style="text-align: center;"><input type="checkbox"/> Successor Guardian C <input type="checkbox"/> Successor Conservator</p> |
|--|--|

- A. You will need the county, judicial district, and court file number (sometimes called case number) for the top of the form. You can find this information online by doing a search of Minnesota District (Trial) Court cases at <https://mncourts.gov/Access-Case-Records.aspx>.
- B. Next, check whether the case is a guardianship or a conservatorship, or both. On the blank line, fill in the name of the person subject to guardianship and/or conservatorship.
- C. Then check the box(es) to show what you are asking for – a successor guardian, a successor conservator, or both.

Paragraph 1-5 (Basic Information)

If a paragraph does not apply, you can write or type “not applicable” or “NA.” For example, if the person subject to guardianship/conservatorship is not married, then you can write or type “not applicable” or “NA” for paragraph #5a.

Which paragraphs to answer next?

It depends on whether you are asking the court to appoint a Successor Guardian, a Successor Conservator, or both.

- If you are asking the court to appoint a Successor Guardian, then answer paragraphs #6 - #19.
- If you are asking the court to appoint a Successor Conservator, then answer paragraphs #20 - #34.
- If you are asking the court to appoint BOTH a Successor Guardian and a Successor Conservator, then answer ALL of the paragraphs in the form.

FOR PROPOSED SUCCESSOR GUARDIANS

Paragraphs #6 - #19 – Fill out these paragraphs only if asking the court to appoint a Successor Guardian

Read through the list at paragraph #10 very carefully. It might also be helpful to read the list of a guardian’s powers and duties in Minn. Stat. § 524.5-313(c) (<https://www.revisor.mn.gov/statutes/cite/524.5-313>).

You need to answer paragraphs #11 - #19 for each proposed Successor Guardian and any proposed Successor Co-Guardian. There is room on the form to answer only for 1 successor guardian; you will need to fill out the *Attachment to Petition for Appointment of Successor Guardian and/or Conservator* (GAC403) for each successor co-guardian.

FOR PROPOSED SUCCESSOR CONSERVATORS

Paragraphs #20 - #34 – Fill out these paragraphs only if asking the court to appoint a Successor Conservator

Read through the list at paragraph #24 very carefully. It might also be helpful to read the list of a conservator’s powers and duties in Minn. Stat. § 524.5-417(c) (<https://www.revisor.mn.gov/statutes/cite/524.5-417>).

You need to answer paragraphs #26 - #34 for each proposed Successor Conservator and any proposed Successor Co-Conservator. There is room on the form to answer only for 1 successor conservator; you will need to fill out the *Attachment to Petition for Appointment of Successor Guardian and/or Conservator* (GAC403) for each successor co-conservator.

REQUESTS

In this section, you are asking the court to schedule a hearing, and to order certain things. Check the boxes showing what you want the court to order.

SIGNATURE BLOCK

After reading through the petition to make sure it is accurate and complete, date and sign the petition on the last page. Then print your name and contact information under your signature.

Step 2
Fill Out Acceptance of Appointment – Successor (GAC406)

THE CAPTION

| | |
|---|---|
| <p>State of Minnesota</p> <p>County of: _____</p> | <p style="text-align: right;">District Court</p> <p>Judicial District: _____</p> <p>Court File Number: _____</p> <p>Case Type: <u>Guardianship/Conservatorship</u></p> |
| <p>In Re: <input type="checkbox"/> Guardianship <input type="checkbox"/> Conservatorship</p> <p>B of: _____</p> | <p style="text-align: center;">Acceptance of Appointment - Successor</p> <p><input type="checkbox"/> Professional Individual <input type="checkbox"/> Individual <input type="checkbox"/> Corporation</p> |

- A. You will need the county, judicial district, and court file number (sometimes called case number) for the top of the form. You can find this information online by doing a search of Minnesota District (Trial) Court cases at <https://mncourts.gov/Access-Case-Records.aspx>.
- B. Next, check whether the case is a guardianship or a conservatorship, or both. On the blank line, fill in the name of the person subject to guardianship and/or conservatorship.
- C. Then check the box to show whether you are a professional guardian (“professional individual”), an individual, or an employee of a corporation.

For Individuals

(including professional individuals):

Fill out the section that is marked “By Individual.”

By Individual:

As a condition to receiving letters, I, Your Full Name **1**, the appointed

2 **Successor Guardian** **Successor Conservator**, verify that I understand the duties and responsibilities required of me in this role. I accept my appointment and will fully and faithfully perform all of my duties according to law and submit to the jurisdiction of the Court in any proceeding relating to the person subject to guardianship and/or person subject to conservatorship that may be brought by the court or any person interested in the affairs of the person subject to guardianship and/or person subject to conservatorship.

I have watched the Guardianship/Conservatorship Educational Video. ___ **3** ___ (initial here)

4 I am a professional conservator as defined by Minn. Stat. § 524.5-102, subd. 13c.

1. List your full name.
2. Check whether you are the proposed Successor Guardian, Successor Conservator, or both.
3. Be sure to watch the educational video mentioned on page 2 of these Instructions. After doing so, check the box letting the court know you have watched it, and then put your initials in the blank.
4. *If you are a professional conservator, check this box.*

For Corporations:

Fill out the section that is marked “By Corporation.”

By Corporation:

_____ **1** (“Corporation”) is a corporation under the Laws of the State of Minnesota. As a condition to receiving letters as **Successor Guardian** **Successor** **2** **Conservator**, the Corporation (1) accepts the duties of such appointment, (2) agrees to be bound by Minnesota law relating to guardians and conservators, (3) submits to the jurisdiction of the Court in any proceeding relating to this person subject to guardianship and/or person subject to conservatorship that may be brought by the court or any person interested in the affairs of the person subject to guardianship and/or person subject to conservatorship, and (4) employees of the corporation directly responsible for carrying out the duties and responsibilities of a guardian and/or conservator have watched the Guardianship/Conservatorship Educational Video and understand the duties and responsibilities of the role of guardian and/or conservator.

The corporation has authorized this acceptance to be signed in the corporate name.

1. List the name of the corporation.
2. Check whether the corporation is the proposed Successor Guardian, Successor Conservator, or both.

SIGNATURE BLOCK

When you sign the *Acceptance*, you are signing under penalty of perjury. Perjury is the crime of intentionally lying or misrepresenting the truth. By signing under penalty of perjury, you are stating that the information in the *Acceptance* is true to the best of your knowledge.

Date and sign the *Acceptance*. Then write the names of the county and state you are in when you signed it, and include your contact information below your signature.

Step 3 **Fill Out Order Appointment Successor Guardian and/or Successor Conservator** **(GAC404)**

In Step 3, you will fill out as much of the proposed Order as you can, based on the information you gave in the *Petition*.

| | |
|--|---|
| <p>State of Minnesota</p> <p>County of: _____</p> <p>In Re: <input type="checkbox"/> Guardianship A <input type="checkbox"/> Conservatorship of: _____</p> | <p style="text-align: center;">District Court</p> <p>Judicial District: _____ Court File Number: _____ Case Type: Guardianship/Conservatorship</p> <p style="text-align: center;">Order Appointing: <input type="checkbox"/> Successor Guardian B <input type="checkbox"/> Successor Conservator</p> |
|--|---|

- A. Fill out the caption as you did on the other forms.
- B. Check one or both boxes, depending on whether you are asking for an order appointing a successor guardian, a successor conservator, or both.

This matter came on for hearing before the district court on _____ **C** on a petition seeking appointment of suc **D** Guardian Conservator for the person subject to guardianship/conservatorship named above. Petitioner appeared personally with the Petitioner’s attorney, _____ **E** **Name of Attorney** _____. The person subject to guardianship/conservatorship appeared personally with their attorney, _____ **Name of Attorney** _____. The matter, having been considered by the Court, and the Court being duly advised in the premises now makes the following:

- C. List the date of the hearing, if you know it.
- D. Check one or both boxes, like you did in “B” above.
- E. List the name of the petitioner’s attorney, and the name of the attorney for the person subject to guardianship/conservatorship.

Findings of Fact

(#1 - #9)

Fill out this section based on what you put in the *Petition*.

1. Check the box for “Guardianship,” “Conservatorship,” or both.
2. This question asks about the less restrictive means you’ve tried. The first paragraph under #2 is about guardianships; the second paragraph is about conservatorships.
3. Question #3 asks about the powers. Be sure to check the boxes for the same powers as you did in the *Petition*.
4. Check the box if the person subject to guardianship/conservatorship *is not* a patient of a state hospital, etc.
5. Fill out #5 to the best of your ability.

6. Check whether the person subject to guardianship/conservatorship is under 30 years old.
7. Check one or both boxes, depending on what you have asked for in the *Petition*.
8. This question is about the right to vote. Check “a” if the person subject to guardianship/conservatorship seems to understand the nature and effect of voting, and should keep the right to vote. Otherwise, check “b.”
9. Check “a,” “b,” or both, depending on what you asked for in the *Petition*.

Conclusions of Law

| CONCLUSIONS OF LAW | |
|---------------------------|--|
| 1) | The person subject to guardianship/conservatorship is an incapacitated person whose needs cannot be met by less restrictive means. |
| 2) | The following should be appointed: |
| 2 | <input type="checkbox"/> A Guardian of _____; |
| | <input type="checkbox"/> A Conservator of _____ |

1. You do not have to do anything at #1.
2. For #2, check the box or boxes, depending on what you’re asking for. The name of the person subject to guardianship/conservatorship goes on the blank line for whichever box you checked.

Order

Fill out this section with the same information you included in the *Petition* and the “Findings of Fact” section of the order.

Leave the signature and date lines blank.

Step 4

Fill Out Letters of Guardianship/Conservatorship (GAC405)

Fill out the caption as you did on the other forms.

If asking for a Successor Guardian:

Guardian:

_____ **1**, is qualified and is hereby authorized to act as
 Successor Guardian of _____ **2**, after being appointed as Successor
 Guardian by the Court; the spouse of the person subject to guardianship; or the parent
 of the person subject to guardianship, with all of the powers and authority prescribed by statute
 as shown on the order appointing guardian the terms of which order are incorporated herein by
 reference including the powers under Minn. Stat. § 524.5-313(c), as follows:

3 all powers therein,
 or
 only those under paragraphs 1, 2, 3, 4, 5, 6, 7, 9, and 10;
 and
 the duration of the powers of the guardian are limited to _____ months.

1. Fill in the name of the proposed Successor Guardian.
2. Fill in the name of the person subject to guardianship.
3. Leave the rest of the section blank.

If asking for a Successor Conservator:

Conservator:

_____ **1**, is qualified and is hereby authorized to act as
 Successor Conservator of _____ **2**, with all of the powers and
 authority prescribed by statute as shown on the order appointing conservator, the terms of which
 order are incorporated herein by reference including the powers under Minn. Stat. § 524.5-417(c)
 as follows:

3 all powers therein,
 or
 only those under paragraphs 1, 2, 3, 4, 5, 6, and 7;

and each guardian and conservator has such other powers and duties granted under applicable
 law.

1. Fill in the name of the proposed Successor Conservator.
2. Fill in the name of the person subject to conservatorship.
3. Leave the rest of the section blank.

Step 5
Fill Out Notice of Hearing and Notice of Rights (GAC 6-U)

Fill out the caption as you did on the other forms.

Check the first box if you are asking the court to appoint a Successor Guardian. Include the name of the proposed Successor Guardian.

Check the second box if you are asking the court to appoint a Successor Conservator. Include the name of the proposed Successor Conservator.

On the third line, include the name of the person subject to guardianship/conservatorship.

Under “Rights and Obligations of Person Subject to Guardianship/Conservatorship” paragraph, include Court Administration’s phone number. You can find that information online at <https://mncourts.gov/Find-Courts.aspx>.

When you file the documents with Court Administration, court staff will fill out the bottom part of the *Notice of Hearing and Notice of Rights* form and return it to you for service.

Step 6 Background Checks

Read the *Notice to Proposed Guardians/Conservators Regarding Background Check Requirements* (GAC104) to see if the background checks need to be completed.

If the background checks are required, *and the proposed Successor Guardian/Conservator has completed the required background checks within the last 5 years*, fill out the *Affidavit Regarding Background Checks* (GAC102), attach a copy of the most recent criminal history check from the BCA and maltreatment and licensing agency check from DHS, and file them with Court Administration.

NOTE: If filing paper documents, you must use the Cover Sheet for Non-Public Documents Form 11.2 when filing a background check. Filers who are using eFS to submit their court documents must identify and designate their filings as required in Minn. Gen. R. Prac. 11.02 and 14.06.

The failure to use Form 11.2 may result in your document being rejected by court administration, being available to the public, stricken from the court record, and sanctions from the court.

See Rule 11 of the Minnesota General Rules of Practice for more information about how to file documents containing social security numbers, financial account numbers, “financial source documents” and other non-public documents.

Form 11.2 can be found at www.mncourts.gov/forms under the court forms category of “Confidential Information” and is court form number CON111 and CON112.

If the background checks are required, fill out the following forms:

- **The Maltreatment and Licensing Agency Checks (DHS-8450), which is found on the [DHS website](http://mn.gov/dhs/general-public/background-studies/for-entities/guardians-and-conservators/) (mn.gov/dhs/general-public/background-studies/for-entities/guardians-and-conservators/); and**
- **The *Guardian and Conservator Criminal History Check Consent Form* (GAC121), which is found on the [Minnesota Judicial Branch website](http://mncourts.gov/GetForms.aspx) (mncourts.gov/GetForms.aspx).**

For the Maltreatment and Licensing Agency Check:

- **Submit the completed form along with the filing fee of \$50 to DHS at the address listed on the form.**
- **NOTE: If there is a fee waiver on file with the court, then submit the completed form to court administration (in person, mail, or eFile) instead.**

For the Criminal History check:

- **Get fingerprinted. You can learn more about this on the [BCA's website \(mn.gov/boards/cbc/fingerprint-card/locations/\)](https://mn.gov/boards/cbc/fingerprint-card/locations/).**
- **Submit the completed form and fingerprint card with the filing fee of \$33.25 to the BCA at the address listed on the form.**
- **NOTE: If there is a fee waiver on file with the court, then include a copy of the fee waiver order when you submit the fingerprint card and consent form to the BCA.**



Make sure to submit the required materials to both DHS and BCA as soon as possible. According to MN law, the court requires these background checks before appointing a guardian or conservator.

Step 7 File with Court Administration

You will need to file the following forms with Court Administration in the county where the existing guardianship/conservatorship case is located:

- *Petition for Appointment of Successor Guardian and/or Successor Conservator (GAC402) and, if necessary, Attachment to Petition for Appointment... (GAC403);*
- *Acceptance of Appointment (GAC406);*
- *Order Appointing Successor Guardian and/or Successor Conservator (GAC404);*
- *Notice of Hearing and Notice of Rights (GAC 6-U);*
- *Letters of Successor Guardianship/Conservatorship (GAC405); and*
- **After service is completed: Affidavits of Service (GAC 2-U).**

If the background checks are required, you may also need to file:

- *Affidavit Regarding Background Checks (GAC102); and*
- *Copies of the background checks (reports).*

Filing Fee

There will be a fee when filing these documents, unless there is a fee waiver on file. Check with court administration in the county where the case is located for more details. If the Respondent cannot afford the filing fee, you can apply for a fee waiver based on the Respondent's financial situation. The fee waiver forms are online at www.mncourts.gov/forms (choose the "Fee Waiver" category and look for FEE401).

Step 8

Make Copies, Serve Copies, and File *Affidavits of Service*

NOTE: Originals must be filed with Court Administration. Make a copy of everything you file for your records.

Make enough copies for yourself, the person subject to guardianship/conservatorship, and any interested persons that need to be served.

Serving the Person Subject to Guardianship/Conservatorship

Ask Court Administration if a "Court Visitor" will be appointed to meet with the person subject to guardianship/conservatorship.

- *If a Court Visitor is appointed*, then the Court Visitor will serve the person subject to guardianship/conservatorship with the papers.
- *If no Court Visitor is appointed*, then you are responsible for arranging personal service of the *Notice of Hearing and Notice of Rights* and the *Petition for Appointment of Successor Guardian and/or Successor Conservator* on the person subject to guardianship/conservatorship at least 14 days before the hearing. NOTE: papers *cannot* be served on a legal holiday as defined in Minn. Stat. § 645.44, subd. 5 (<https://www.revisor.mn.gov/statutes/cite/645.44#stat.645.44.5>). **You cannot be the one to serve** (a sheriff or another adult must personally serve the forms). The person who hand-delivers the papers will need to fill out the *Affidavit of Service* (GAC 2-U).

Serving Interested Persons

Overview

Interested persons (including the head of the facility if the person subject to guardianship/conservatorship is a patient of a state hospital, regional center, or any state-operated service) must receive the *Notice of Hearing and Notice of Rights* and the *Petition for Appointment of Successor Guardian and/or Successor Conservator*. This is called "service of process." The papers can be served personally (handed to the interested person), or by mail. The interested persons must be served at least 14 days before the hearing. If papers are served by mail, Court Rules require adding 3 days, so the papers served by mail must be postmarked at least 17 days before the hearing.

NOTE: papers *cannot* be served on a legal holiday as defined in Minn. Stat. § 645.44, subd. 5 (<https://www.revisor.mn.gov/statutes/cite/645.44#stat.645.44.5>).

Who Can Serve

The forms can be served by any of the following:

- The sheriff;
- Another adult; or
- You.

After you served all of the interested persons, the server must complete a document proving service was made, such as the *Affidavit of Service* form (GAC 2-U).

What to Expect Next...

There will be a hearing. To prepare for the hearing, it is a good idea to look at the court rules. You can visit a law library (<https://mncourts.gov/Help-Topics/Law-Libraries.aspx>) to read the court rules. It is important to be on time and be prepared for the hearing.

Please visit the “Representing Yourself in Court” Help Topic online at <https://mncourts.gov/Help-Topics/Representing-Yourself-in-Court.aspx>.

Glossary

Affidavit: A statement made under penalty of perjury. See [Minn. Stat. § 358.116](https://www.revisor.mn.gov/statutes/cite/358.116) ([revisor.mn.gov/statutes/cite/358.116](https://www.revisor.mn.gov/statutes/cite/358.116)).

Anniversary Date: The date (month-day-year) that the Letters of Guardianship and/or Conservatorship were issued (signed by the judicial officer) is the *anniversary date*. This date remains fixed from year to year and is the date that is used to determine the period-ending date for filing annual reports and other required documents.

Bond: A promise by a bonding company that protects the person subject to conservatorship from mismanagement by the conservator. In the event of mismanagement, the court may decide that the bond will reimburse the estate for the missing money, and the company that issued the bond can recover the money from the conservator.

Burden of Proof: Responsibility of a party to prove a fact. The amount of proof required varies with the type of case. In guardianship and conservatorship cases, the burden of proof is clear and convincing evidence.

CAAP: The Conservator Account Auditing Program (CAAP) provides centralized oversight of conservator accounts. More information is available in the “Audit Program” tab in the [“Conservatorship” Help Topic](https://mncourts.gov/Help-Topics/Conservatorship.aspx) (mncourts.gov/Help-Topics/Conservatorship.aspx).

CARP: The Conservator Account Review Program (CARP) reviews inventories and accounts of conservators not subject to audit. More information is available in the “Audit Program” tab in the [“Conservatorship” Help Topic](http://mncourts.gov/Help-Topics/Conservatorship.aspx) (mncourts.gov/Help-Topics/Conservatorship.aspx).

Contested: When any party objects to the petition or to the hearing.

Continuance: When the court has agreed to postpone the hearing date.

Co-Conservator (also, Co-Guardian): When more than one person is appointed to serve as a decision-maker.

Conservator: A person appointed by the court to make financial decisions for the protected person. A conservator typically has the power to enter into contracts, pay bills, invest assets, and perform other financial functions for the person subject to conservatorship.

Conservatorship: A conservatorship exists when the court appoints a conservator to handle financial matters for another person. The person for whom a conservator handles financial affairs is called a person subject to conservatorship. Conservatorships are appointed to protect the finances of the person subject to conservatorship.

Emergency Conservatorship (Guardianship): In emergency situations where the process of petitioning for a general conservatorship (or guardianship) is reasonably expected to cause danger to the respondent’s personal safety or financial security, an emergency conservatorship (or guardianship) may be requested. In this instance, the requirement of providing a minimum of two weeks’ notice to the respondent and interested persons is waived. An emergency conservatorship (or guardianship) is granted for a specific, usually short, duration. See [Minn. Stat. § 524.5-311](http://revisor.mn.gov/statutes/cite/524.5-311) for Emergency Guardian (revisor.mn.gov/statutes/cite/524.5-311). See [Minn. Stat. § 524.5-409, subd. 2](http://revisor.mn.gov/statutes/cite/524.5-409), for Emergency Conservator (revisor.mn.gov/statutes/cite/524.5-409).

Estate: A person’s income, assets, real estate, or any other financial holdings.

Guardian: The person appointed by the court to make personal decisions for the person subject to guardianship, such as where to live, medical decisions, training and education, etc.

Guardianship: A guardianship exists when a guardian is appointed by the court to handle personal decisions for another person. The person for whom a guardian handles personal affairs is called a person subject to guardianship. Guardianships are only appointed to protect the personal well-being of the person subject to guardianship.

Hearing: A court proceeding that is conducted before a judge or referee which allows a person or persons to present their case.

Incapacitated person: An individual who, for reasons other than being a minor, is impaired to the extent of lacking sufficient understanding or capacity to make personal decisions and who is unable to meet personal needs for medical care, nutrition, clothing, shelter, or safety, even with appropriate technological and supported decision making assistance.

In Forma Pauperis (IFP) (Fee Waiver): Minnesota law states that the court may authorize a case to proceed in formal pauperis, without payment of court costs for those who qualify based on current federal poverty guidelines. See [Minn. Stat. § 563.01](http://revisor.mn.gov/statutes/cite/563.01) (revisor.mn.gov/statutes/cite/563.01). The court will consider the income and assets of the person subject to guardianship. Another law states that counties may be responsible for paying guardian, attorney, or health care professional fees to establish or maintain guardianships. See [Minn. Stat. § 524.5-502](http://revisor.mn.gov/statutes/cite/524.5-502) (revisor.mn.gov/statutes/cite/524.5-502).

Indigent: A person with little money or property.

Interested Party: a person who has suffered some injury-in-fact, a person who is the beneficiary of some legislative enactment granting standing, or a person who must have sufficient personal interest in the matter so that it is appropriate to allow that person to participate in the matter.

Interested Person: According to [Minn. Stat. § 524.5-102, subd. 7](http://revisor.mn.gov/statutes/cite/524.5-102) (revisor.mn.gov/statutes/cite/524.5-102), an “interested person” includes:

- The adult subject to guardianship or conservatorship, or respondent;
- The nominated guardian or conservator, or the appointed guardian or conservator;
- Legal representative;
- The spouse, parent, adult children (including adult step-children of a living spouse), and siblings; or if none of these are living or can be located, then the next of kin of the person subject to guardianship, person subject to conservatorship, or respondent;
- An adult person who has lived with the person subject to guardianship, person subject to conservatorship, or respondent, for more than 6 months;
- An attorney for the person subject to guardianship or person subject to conservatorship;
- A governmental agency paying, or to which an application has been made for benefits for the respondent, person subject to guardianship, or person subject to conservatorship, including the county social services agency for the person’s county of residence and the county where the court case is located;
- A representative of a state ombudsman’s office or a federal protection and advocacy program that has notified the court that it has a matter regarding the person subject to guardianship, person subject to conservatorship, or respondent;
- A health care agent or proxy appointed pursuant to a health care directive, a living will, or other similar document executed in another state and enforceable under Minnesota laws;
- In the case of a minor who is an Indian as defined under United States Code, title 25, section 1903, (1) the tribal chairman or delegated agent and (2) the regional direction of the minor child’s tribe with service by registered or certified mail under Code of Federal Regulations, title 25, parts 23.11 and 23.12; and

- Any other person designated by the court.

Inventory: A document that describes all assets of the person subject to conservatorship. A conservator is required to file an Inventory with the court within 60 days of appointment.

Less Restrictive Alternative: If there are other ways to assist an individual with their care and management of their finances, such as a family member providing the individual with assistance in making personal or financial decisions or appointing a Power of Attorney, these methods are considered “less restrictive alternatives” or “less restrictive means.” Before the court appoints a guardian or conservator, less restrictive alternatives must be explored and ruled out before petitioning for the appointment of a guardianship or conservatorship.

Oath: A sworn promise to perform and act faithfully and truthfully.

Penalty of Perjury: Perjury is the crime of intentionally lying or misrepresenting the truth. By signing under penalty of perjury, you are stating that the information in your document is true to the best of your knowledge.

Person Subject to Guardianship: A minor or incapacitated adult who has a court-appointed guardian, lacks sufficient understanding or capacity to make or communicate responsible personal decisions, and who has an inability to meet personal needs for medical care, nutrition, clothing, shelter, or safety. Before the rule changes in August 2020, this person was called the “ward.”

Person Subject to Conservatorship: A person who has a court appointed conservator because they lack the capacity or ability to make decisions regarding their financial affairs or estate. Before the rule changes in August 2020, this person was called the “protected person.”

Petition: A legal document requesting action or relief from the court.

Petitioner: The person who brings a petition before the court.

Respondent: The person for whom appointment of a guardian or conservator is sought.

Successor Conservator: Appointed by the court when the person subject to conservatorship is still in need of a conservator, but the current conservator dies, resigns, or is removed.

Successor Guardian: A person appointed by the court when the person subject to guardianship is still in need of a guardian, but the limited duration of the current guardianship is set to expire or the current guardian dies, resigns, or is removed.

Supported Decision Making: A person acting, either informally as a family member or friend, or formally, as a proxy, agent, guardian or conservator, on behalf of an incapacitated person in making relevant decisions regarding personal and medical issues and/or financial issues.

Technological Assistance: Technological assistance that may be used to assist the person subject to guardianship or person subject to conservatorship may include, but is not limited to:

- Direct deposit/withdrawal;

- Computer-assisted communication;
- Computer-controlled wheelchairs;
- Seeing eye dogs; and
- Any other form of applied technology that can assist the person to retain their independence.