

**Instructions – Petition for Appointment of Guardian and Conservator
(GAC503-Inst)**

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Legal Terms

You can find more definitions in [Minn. Stat. § 524.5-102](http://revisor.mn.gov/statutes/cite/524.5-102) (revisor.mn.gov/statutes/cite/524.5-102).

Conservator

Appointed by the court to make financial decisions for the person subject to conservatorship. 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.

Court Visitor

A judicial officer may appoint a “court visitor,” who is an officer of the court and must be neutral. If a court visitor is appointed, the court visitor will meet with the Respondent at least 14 days before the hearing and:

- Assess the Respondent’s health and personal wellbeing;
- Serve and review with the respondent the *Petition* and *Notice of Hearing and Notice of Rights*;
- Explain to the respondent their right to object to the petition; and
- Submit a report to the court before the hearing. This report will include a recommendation as to whether guardianship or conservatorship seems necessary. If guardianship or conservatorship is recommended, then the report will also recommend which specific powers the court visitor believes should be granted.

Guardian

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.

Interested Person

An “interested person” includes a spouse, person who lived with the Respondent for 6 months or more, parents, adult siblings, adult children (including adult stepchildren of a living spouse), and other next of kin. See [Minn. Stat. § 524.5-102, subd. 7](http://revisor.mn.gov/statutes/cite/524.5-102), for a complete list (revisor.mn.gov/statutes/cite/524.5-102).

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. When the case is first initiated, this person is a “Respondent.” They become the “Person Subject to Conservatorship” once the court appoints a conservator.

Person Subject to Guardianship

A minor or incapacitated adult who has a court-appointed guardian, lacks sufficient understanding or is unable to make or communicate responsible personal decisions, and

who has an inability to meet personal needs for medical care, nutrition, clothing, shelter, or safety. When the case is first initiated, this person is a “Respondent.” They become the “Person Subject to Guardianship” once the court appoints a guardian.

Respondent

The individual for whom a guardianship or conservatorship is being sought is the “Respondent.” This is the person who:

- In a petition for conservatorship, lacks the capacity or ability to make decisions about their financial affairs or estate; and
- In a petition for guardianship, lacks sufficient understanding or is unable to make or communicate responsible personal decisions, and who has an inability to meet personal needs for medical care, nutrition, clothing, shelter, or safety.

Steps to Follow – Asking the Court to Appoint Both a Guardian and a Conservator

One:

Learn More about Guardianships and Conservatorships in Minnesota

There are many resources available on the Minnesota Judicial Branch website.

- [“Before Guardianship”](http://mncourts.gov/Help-Topics/Guardianship.aspx) (mncourts.gov/Help-Topics/Guardianship.aspx) – Contains information about **less restrictive alternatives** that must be meaningfully considered and attempted before a **guardian** can be appointed, according to [Minn. Stat. § 524.5-310](#) (revisor.mn.gov/statutes/cite/524.5-310).
- [“Before Conservatorship”](http://mncourts.gov/Help-Topics/Conservatorship.aspx) (mncourts.gov/Help-Topics/Conservatorship.aspx) – Contains information about **less restrictive alternatives** that must be meaningfully considered and attempted before a **conservator** can be appointed, according to [Minn. Stat. § 524.5-409](#) (www.revisor.mn.gov/statutes/cite/524.5-409).
- **Orientation Videos** - Before a proposed guardian or conservator signs an *Acceptance of Appointment* and receives *Letters*, it is essential they view the **Guardian Orientation Video** and the **Conservator Orientation Video** to understand their duties.
 - [Guardian Orientation Video](http://guardianvideo-mmj.courts.state.mn.us/) (guardianvideo-mmj.courts.state.mn.us/)
 - [Conservator Orientation Video](http://conservatorvideo-mmj.courts.state.mn.us/) (conservatorvideo-mmj.courts.state.mn.us/)
- A Guardianship and Conservatorship Manual: [Guardianship and Conservatorship in Minnesota \(GAC101\)](#) (mncourts.gov/GetForms.aspx?c=21&f=442) – This is a manual published by the Minnesota Judicial Branch and written especially for non-lawyers.
- [Additional Online Training](http://mng.courtllms.org/) (mng.courtllms.org/)



Pay close attention to the sections in the orientation videos and the Guardianship and Conservatorship Manual about **less restrictive alternatives** (sometimes called “less restrictive means”). This can help you decide whether a guardianship and conservatorship are needed.

Two:

Determine Whether You Need the Two Background Checks

The two background checks required by Minnesota law are:

- ❖ **Maltreatment and State Licensing Agency Data Check** through the Minnesota Department of Human Services; and
- ❖ **Criminal History Check** through the Minnesota Bureau of Criminal Apprehension.

Follow these steps to determine whether you need the two background checks:

- Read the [Notice to Proposed Guardians/Conservators Regarding Background Check Requirements](#) (GAC104) (mncourts.gov/GetForms.aspx?c=21&f=445) to determine if you need to complete the background checks.

Note: You can also find information about the background check requirements on the Minnesota Judicial Branch website:

- [“Background Checks” tab in the Guardianship Help Topic](#) (mncourts.gov/Help-Topics/Guardianship.aspx); and
 - The same information is found in the [“Background Checks” tab in the Conservatorship Help Topic](#) (mncourts.gov/Help-Topics/Conservatorship.aspx).
- If you need the two background checks, follow the instructions in the *Notice to Proposed Guardians/Conservators Regarding Background Check Requirements* (GAC104) and fill out the following forms:
 - “Guardian and Conservator Maltreatment and Licensing Agency Checks” form, which is available 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**
 - [Guardian and Conservator Criminal History Check Consent Form](#) (GAC121) (mncourts.gov/GetForms.aspx?c=21&f=919).
 - Check with your local [court administration](#) (mncourts.gov/Find-Courts.aspx) to see if they have any further instructions regarding Background Checks.

- Follow the rest of the instructions in GAC104. Pay attention to the information about the fees and fee waivers.
- If you had the background checks done within the last 5 years, you may not need a new background check. Fill out the [Affidavit Regarding Background Checks](#) (GAC102) (mncourts.gov/GetForms.aspx?c=21&f=443) and file it with court administration.

Three:

Fill Out and File the Following Forms with Court Administration; Pay the Filing Fee or Request a Fee Waiver

The documents listed below are available on the [Minnesota Judicial Branch website](#) in the “Guardianship and Conservatorship” category of forms (mncourts.gov/GetForms.aspx?c=21&p=159).

You will need to file the forms with court administration in the county where the respondent lives. **Before you file, be sure to make copies of the forms.** You will need copies for yourself, the Respondent, and any interested persons that need to be served.



Required forms:

- *Petition for Appointment of Guardian and Conservator* (GAC503);
- *Proposed Notice of Hearing and Notice of Rights* (GAC 6-U);
- *Acceptance of Appointment by Conservator/Guardian* (GAC 1-U);
- *Proposed Letters of Guardianship/Conservatorship* (GAC 4-U);
- **After service is completed:** *Affidavit of Service* (GAC 2-U) (see “[Four: Serve Copies and File Affidavits of Service](#)” below).



Note: a “**proposed**” form (*Order, Notice, or Letter*, for example), for purposes of eFiling, means a form not signed by a judicial officer.



Depending on your situation, you may also need the following:

- *Proposed Order Appointing Guardian and/or Conservator* (GAC 8-U) – ask court administration whether you need to file a proposed order.
- *Co-Guardian Attachment to Petition* (GAC502-Co-G) – if asking the Court to appoint more than 1 guardian.
- *Co-Conservator Attachment to Petition* (GAC502-Co-C) – if asking the Court to appoint more than 1 conservator.

- *Affidavit to Request Fee Waiver (Guardianship/Conservatorship)* (FEE401) – There will be a **filing fee due when filing** these forms. If the Respondent cannot afford the filing fee, you can apply for a fee waiver based on the Respondent’s financial situation.
- Forms regarding background checks:
 - *Notice Regarding Background Check Requirements* (GAC104);
 - *Affidavit Regarding Background Checks* (GAC102);
 - *Criminal History Check* (GAC121);
 - “Guardian and Conservator Maltreatment and Licensing Agency Checks” form, which is available 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/).

Four:

Serve Copies and File *Affidavits of Service*

Serving Interested Persons

- You must serve (provide a copy of) the *Notice of Hearing and Notice of Rights* and the *Petition for Appointment of Guardian and/or Conservator* on all interested persons, including the head of the facility if the Respondent is a patient of a state hospital, regional center, or any state operated service.



These documents must be personally served on each interested person at least 14 days before the hearing, or mailed by first class mail 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>).

- An interested person may give up their right to receive any notices if they fill out the *Waiver of Notices and Reports* (GAC110).
- **After** you serve all the interested persons, fill out the *Affidavit of Service* form (GAC 2-U). The *Affidavit of Service* **must** identify:
 - Each person who was served;
 - How the person was served (mail or hand-delivered);
 - Where the person was served;
 - When the person was served (the date of service); and
 - What was served (must identify each form that was served).

Serving the Respondent

- Ask court administration if a [Court Visitor](#) will be appointed to meet with the Respondent.
 - **If a Court Visitor is appointed**, then the Court Visitor will serve the Respondent 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 Guardian and Conservator* on the Respondent at least 14 days before the hearing.
 - Note:** You cannot be the one to personally serve the Respondent!
 - The person who hand-delivers the papers will need to fill out the *Affidavit of Service* (GAC 2-U).
 - File the completed *Affidavit of Service* with court administration.

Five:

Appear at the Hearing

Look for the *Notice of Hearing* or other document you will receive from court administration that will contain important hearing information.

Read **Chapter 9** (Legal Procedures and Requirements) of the [Guardianship and Conservatorship Manual](#) (GAC101) (mncourts.gov/GetForms.aspx?c=21&f=442). There is a section titled “Preparing for the Hearing.”

Six:

If You Are Appointed as Guardian or Conservator

Read the judicial officer’s **order** carefully so you can see which specific powers the court granted you. There are certain things that need to be done right away.

- **Within 14 days of your appointment**, give the following documents to the person subject to guardianship and conservatorship:
 - A copy of the **court order**; and
 - A copy of the *Notice of Entry of Order and Right to Appeal* (GAC 9-U).
 - After you give the person subject to guardianship and conservatorship copies of these documents, fill out the bottom half of the *Notice of Entry of Order and Right to Appeal* (GAC 9-U), and file it with court administration.

- **Within 60 days of the appointment, the court-appointed conservator** must complete and file an **Inventory** through [MyMNConservator \(MMC\)](https://mncourts.gov/Help-Topics/MyMNConservator.aspx) (mncourts.gov/Help-Topics/MyMNConservator.aspx).

Six:

Helpful Resources

Court-Based Self-Help Centers

There is a virtual Statewide Self-Help Center, and some districts have local Self-Help Centers. See <https://mncourts.gov/Help-Topics/Self-Help-Centers.aspx>.

Law Library

The Minnesota State Law Library has an “Ask a Librarian” service. You can reach law library staff by phone or email. See <https://mncourts.gov/Help-Topics/Law-Libraries.aspx>.

Guardianship Help Topic

Visit the Guardianship Help Topic on the Minnesota Judicial Branch website at <https://mncourts.gov/Help-Topics/Guardianship.aspx>.

Conservator Help Topic

Visit the Conservatorship Help Topic on the Minnesota Judicial Branch website at <https://mncourts.gov/Help-Topics/Conservatorship.aspx>.