

# CONSERVATORSHIP & GUARDIANSHIP INSTRUCTIONS

## Legal Terms:

- **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.
- **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.
- **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.
- **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.

## 1. Read the Conservatorship and Guardianship Manual

- The Manual is on the Minnesota Judicial Branch website (*Form GAC 101*).



Pay close attention to Section III “Less Restrictive Alternatives” and Section IV “Assessing the Need for Legal Representation.” It can help you decide whether a Conservatorship and/or Guardianship is needed.

## 2. Watch the Conservatorship/Guardianship Educational Video

- The video is on the Minnesota Judicial Branch website on the Guardianship and Conservatorship Help Topic webpages:
  - <http://mncourts.gov/Help-Topics/Guardianship.aspx>
  - <http://mncourts.gov/Help-Topics/Conservatorship.aspx>

## 3. Determine whether you need a Background Study Completed

- Read the Notice to Proposed Guardians/Conservators Regarding Background Check Requirements (*Form GAC 104*) to determine if you need to complete a background study.
- If you need a background study, follow the instructions on the Information Sheet and fill out the DHS Background Check Form (*Form GAC 103*).
  - Check with your local Court Administration to see if they have any further instructions regarding Background Checks.
  - If the court waives your filing fees, you do not need to pay the fee for the Background Check. Return the completed DHS Background Check Form (*Form GAC 103*) to Court Administration. Court Administration will certify your fee waiver status and

- you will not have to pay the Background check fee. Depending on your county, Court Administration may return the form to you to mail the form to DHS or Court Administration may mail the form to DHS directly for you.
- If you had a background study done within the last five (5) years, you may not need a new background study. Fill out the Affidavit Regarding Background Study (*Form GAC 102*) and file it with Court Administration.

**4. Fill out and file the following documents with Court Administration; Pay the Filing Fee or Request a Fee Waiver**

- Required documents
  - Petition for Appointment of Guardian and/or Conservator (*Form GAC 5-U*)
  - Notice of Hearing and Notice of Rights (*Form GAC 6-U*)
  - Order Appointing Guardian and/or Conservator (*Form GAC 8-U*)
  - Acceptance of Appointment by Conservator/Guardian (*Form GAC 1-U*)
  - Letters of Guardianship/Conservatorship (*Form GAC 4-U*)
- Discretionary documents (these are documents you may need depending on the situation).
  - Physician's Statement (*Form GAC 7-U*)
  - Petition and Affidavit for Proceeding In Forma Pauperis ("Fee Waiver") (*Form IFP 401*) and Order for Proceeding In Forma Pauperis (*Form IFP 402*).
  - DHS Background Check Form (*Form GAC 103*)
  - Affidavit Regarding Background Study (*Form GAC 102*)
- **NOTE:** Originals must be filed with the court. Make one (1) copy of everything you file for your records.

**5. Wait for Court Administration to return the Notice of Hearing and Notice of Rights to you**

- Court Administration will fill out the bottom half of the Notice of Hearing and Notice of Rights (*Form GAC 6-U*) and return it to you.

**6. Make Copies**

- Make a copy of the Notice of Hearing and Notice of Rights (*Form GAC 6-U*) and the Petition for Appointment of Guardian and/or Conservator (*Form GAC 5-U*) for each of the interested persons.
  - An "interested person" includes: spouse, person who lived with the person subject to guardianship/conservatorship for six (6) months or more, parents, adult siblings, adult children including adult step-children of a living spouse, and other next of kin (see Petition and Minnesota Statute § 524.5-102, subd. 7 for a complete list).
  - If the person subject to guardianship/conservatorship is a patient of a state hospital, regional center or any state-operated service, you must also make a copy of the Notice of Hearing and Notice of Rights (*Form GAC 6-U*) and the Petition for Appointment of Guardian and/or Conservator (*Form GAC 5-U*) for the head of that facility.

**7. Serve all Interested Persons**

- Serve (provide a copy of) the Notice of Hearing and Notice of Rights (*Form GAC 6-U*) and the Petition for Appointment of Guardian and/or Conservator (*Form GAC 5-U*) on all the 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 facility.

- These documents must be personally served (hand-delivered) at least fourteen (14) days before the hearing or mailed (by first-class mail) at least fourteen (14) days before the hearing to each interested person.
- An interested person may give up their right to receive any notices if he/she fills out the Waiver of Notices and Reports (*Form GAC 110*).

#### **8. Fill out the Affidavit of Service: File the Affidavit of Service with Court Administration**

- After you served 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, the date the person was served, and must identify each document that was served.
- File the completed Affidavit of Service with Court Administration in person at least fourteen (14) days before the hearing or by mail at least fourteen (14) days before the hearing.

#### **9. Ask Court Administration if a Court Visitor will be appointed: Personal Service on 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.
  - The court may appoint a Court Visitor. The Court Visitor does the following:
    - Meet with the person subject to guardianship/conservatorship.
    - Personally serve (hand deliver) a copy of the Notice of Hearing and Notice of Rights (*Form GAC 6-U*) and the Petition for Appointment of Guardian and/or Conservator (*Form GAC 5-U*) on the person subject to guardianship/conservatorship at least fourteen (14) days before the hearing.
    - Explain the process and right to contest the petition.
    - Submit a report to the court before the hearing.
- If a Court Visitor is not appointed, you are responsible for service on the person subject to guardianship/conservatorship.
  - Somebody over the age of eighteen (18), who is not the Petitioner or an interested person, must personally serve (hand deliver) a copy of the Notice of Hearing and Notice of Rights (*Form GAC 6-U*) and the Petition for Appointment of Guardian and/or Conservator (*Form GAC 5-U*) on the person subject to guardianship/conservatorship at least fourteen (14) days before the hearing.
  - Whoever served the forms on the person subject to guardianship/conservatorship, must fill out the Affidavit of Service (*Form GAC 2-U*).
    - File the completed Affidavit of Service (*Form GAC 2-U*) with Court Administration.

#### **10. Appear at the hearing**

- For information on how to prepare for the hearing, review Section IX, C, of the Conservatorship and Guardianship Manual (*Form GAC 101*).

**11. If you were appointed as a Guardian and/or Conservator, complete the following:**

- Within 14 days of your appointment, complete and give the person subject to guardianship/conservatorship a copy of the Court Order appointing you as the Guardian and/or Conservator (*Form GAC 8-U*) and a copy of the Notice of Entry of Order and Right to Appeal (*Form GAC 9-U*).
  - After you give the person subject to guardianship/conservatorship copies of these forms, fill out the bottom half of the Notice of Entry of Order and Right to Appeal (*Form GAC 9-U*) and file the original with Court Administration.
- If you were appointed as a Conservator, complete and file an Inventory through MyMNConservator (MMC) within 60 days of the appointment.  
<http://www.mncourts.gov/Help-Topics/MyMNConservator.aspx>

**12. Online Conservatorship Guardianship Training**

- Once you have been appointed by the Court to serve as guardian or conservator, you may find it helpful to complete the Minnesota Judicial Branch's Online Conservatorship Guardianship Training. <https://mng.courtflms.org/>