

INSTRUCTIONS

Terminate Guardianship/Conservatorship and/or Discharge a Guardian/Conservator

Important Notices and Resources

The Court has forms and instructions, for some types of cases, as a general guide to the court process. This is not legal advice. 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. If you do not understand any of these procedures, talk to a lawyer. Court staff, including Self-Help staff, cannot give legal advice.

NOTE: These forms can only be used to ask the court to terminate guardianship/ conservatorship; discharge the guardian/conservator; or ask that one co-guardian/co-conservator be discharged and new letters be issued to remaining guardian/conservator. This form is NOT if you want to discharge the current guardian/conservator and have a successor guardian/conservator; other forms for this process are available online at mncourts.gov. Seek legal advice if you are not sure about how to move forward.

Have questions about court forms or instructions?

- Call the 10th Judicial District Self-Help Center at (763) 760-6699

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

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

Forms You May Need

- *Petition to Terminate Guardianship/Conservatorship and/or Discharge Guardian/Conservator* (10GC-202)
- *Order to Terminate Guardianship/Conservatorship and/or Discharge Guardian/Conservator* (10GC-203)
- *Notice of Hearing on Petition for Terminating or Modifying Guardianship/Conservatorship* (GAC 26-U)
- *Affidavit of Service* (GAC 2-U)

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.

Steps to Take

1. Complete the court forms, following all the steps in these instructions.
2. File the forms with Court Administration.
3. Complete service.
4. Attend the hearing.

NOTE: DO NOT fill out this instruction guide. Fill out the separate forms attached.

If the judge is unable to read your handwriting, the court may reject your documents and you will have to start over.

General Information About Guardianship/Conservatorship

When does a Guardianship or Conservatorship terminate?

- When the person subject to guardianship/conservatorship dies
- When the court finds there are less restrictive options than a guardianship/conservatorship
- When the court finds the person subject to guardianship is restored to capacity
- When the court finds the person subject to conservatorship has the ability to make financial decisions, manage their own property, or the property is no longer subject to waste
- When the person subject to guardianship/conservatorship is a minor and reaches the age of majority
- When the guardianship/conservatorship is for a limited duration (a set period of time) and the period of time expires
- Upon other order of the court

When can a guardian and/or conservator be discharged?

- When a guardianship/conservatorship terminates (see above)
- When a guardian/conservator dies
- When a guardian/conservator requests permission to resign
- When it is the best of interest of the person subject to guardianship/conservatorship to remove the current guardian and/or conservator
- Upon other good cause ordered by the court

Read the Guardianship and Conservatorship Manual. The Manual can be found at the following link: <http://mncourts.gov/GetForms.aspx?c=21&f=442>. This resource provides an overview of guardianships and conservatorships, and the legal process for terminating a guardianship/conservatorship, discharging a guardian/conservator, and appointing a successor guardian/conservator.

Legal Terms:

Conservator: 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.

Court Visitor: Neutral person appointed by the court to meet with the person subject to guardianship/conservatorship and to personally serve the Petition and Notice of Hearing and Notice of Rights on them. The court visitor explains the court forms to the person subject to guardianship/conservatorship, assesses their health and personal wellbeing, and prepares a written report with recommendations to the court.

Discharge: The act of removing a guardian/conservator.

Guardian: 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.

Interested Person: According to [Minn. Stat. § 524.5-102, subd. 7](#), an interested person” includes:

- the adult subject to guardianship or conservatorship, ward, protected person, or respondent;
- a nominated guardian or conservator, or the duly 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 such persons is living or can be located, the next of kin of the person subject to guardianship, person subject to conservatorship, or respondent;
- an adult person who has lived with a person subject to guardianship, person subject to conservatorship, or respondent for a period of more than six 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 proceeding is venued;
- 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 as defined in section [145C.01](#), a living will under chapter 145B, or other similar document executed in another state and enforceable under the laws of this state;
- 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

director 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.

Less Restrictive Alternatives: A less restrictive alternative is an option which allows a person to keep as much autonomy and self-determination as possible while still protecting the person. If a less restrictive alternative can provide proper protection for the person, it must be used to avoid guardianship or conservatorship. Some examples include, but are not limited to: protective orders, representative payee for certain government benefits, supported decision making, community or residential services, establishment of a trust, joint bank accounts, or advance directives for health care.

Person Subject to Guardianship: 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.

Person Subject to Conservatorship: Person who has a court appointed conservator because they lack the ability to make decisions regarding their financial affairs or estate.

Respondent: Person subject to the guardianship or the person subject to the conservatorship.

Termination: The act of ending a guardianship/conservatorship.

Step 1:

Fill Out Petition to Terminate Guardianship/Conservatorship and/or Discharge Guardian/Conservator (10GC-202)

THE CAPTION

The top part of the first page is where you will find the case caption.

The information you fill out on the caption must match the information from your existing guardianship/conservatorship case. If you do not have any documents from your court file, and if you do not know the information, you will need to look up the information in your court file.

- You can look at some case records online at www.mncourts.gov/publicaccess.
- If you cannot look at your case online, you may need to go to the courthouse in the county where your case is located to look at your court file.

At the top of the page, write in the following information:

- The **county** where the case is located; and
- Your **court file number** (this usually starts with a two-digit number, followed by letters and numbers. For example, 89-PR-18-231).

- The “Tenth” **judicial district** and “Guardianship/Conservatorship” **case type** have been filled in for you.
- After In Re: check the box for Guardianship, Conservatorship, or both based on the case. Write the name of the “Person Subject to Guardianship/Conservatorship.” This person is also called “Respondent.”
- Under “Petition to:” check the appropriate box based on what you are asking the court to do. To end the guardianship/conservatorship, check the box to *terminate* guardianship and/or conservatorship and *discharge* guardian and/or conservator. If you want the guardianship/conservatorship to continue but you want to remove a current guardian/conservator, check the box to *discharge* the guardian and/or conservator.

THE PETITION

The petition tells the court and the interested persons **what** you are asking for from the court and **why** you are asking for it.

NOTE: The instructions that follow are numbered the same as the questions on the *Petition to Terminate Guardianship/Conservatorship and/or Discharge Guardian/Conservator* form.

1. **Petitioner’s Information.** The person requesting to make changes to the guardianship and/or conservatorship is the Petitioner. Write Petitioner’s full name, address, telephone number, their interest in the matter, and relationship to Respondent.
2. **Respondent’s Information.** Respondent is the person subject to guardianship/conservatorship. Write Respondent’s full name, address, telephone number, age and date of birth.
3. **Guardian/Conservator Information.** The guardian/conservator is the person appointed by the court to make personal and/or financial decisions for Respondent. There may be more than one guardian/conservator. Write their full name, address, and telephone number. Check the box if the person is a guardian, conservator, or both.
4. **Date Guardian/Conservator was Appointed.** Check the box if a guardian, conservator, or both was appointed and write the date of the order appointing them. Look at the date on the *Order Appointing Guardian/Conservator* for this information.
5. **Explain Reasons for Request.** Tell the court why you are requesting to terminate and/or discharge the guardian/conservator. Check all the boxes that apply to your circumstances. Explain what has changed since the guardian/conservator was appointed by the court.
6. **Final Account.** If you are a conservator, you must log into MyMNConservator (MMC) at the following link <http://mncourts.gov/Help-Topics/MyMNConservator.aspx> to prepare a Final Account. Check the box if you filed the Final Account.

NOTE: Some judges will NOT hear your petition to terminate or discharge a conservatorship until the Final Account is filed. Check with Court Administration in your county for their local practices.

7. **Guardian/Conservator Duties.** Check this box to show the guardian, conservator, or both performed their duties and responsibilities. Only leave this box unchecked if you are requesting to remove a guardian/conservator because they have failed to perform their duties and responsibilities.
8. **Name of Discharged Guardian/Conservator.** Check the box for guardian, conservator, or both and write the name of the guardian/conservator you are requesting to be discharged.
9. **Co-Guardian/Co-Conservator** Check this box if there is a co-guardian/co-conservator. Check the box for co-guardian, co-conservator, or both and write the name of the person you are requesting remain as guardian/conservator.
10. **Successor Guardian/Successor Conservator.** Check this box if Respondent still needs a guardianship/conservatorship after the current guardian/conservator is terminated or discharged and you do not know anyone willing to take over as guardian/conservator.
11. **Other.** Explain any additional facts you think the court should know that are not included above.

After the “WHEREFORE:”

In this section, check all the boxes that apply based on your requests.

1. Check this box if you are asking the court to appoint an attorney for Respondent. ONLY the Respondent is entitled to a court-appointed attorney.
2. Check this box if you are asking the court to appoint a court visitor. A “court visitor” is defined in the Legal Terms section above.
3. Check the boxes for what you are asking the judge to order. These requests must be consistent with what you filled out in the Petition.

The Signature Block.

When you sign your *Petition*, 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 your *Petition* is true.

Date and sign the *Petition*. Write the names of the county and state you were in when you signed it. Print your personal contact information below your signature.

Step 2:

Fill Out Proposed Order to Terminate Guardianship/Conservatorship and/or Discharge Guardian/Conservator (10GC-203)

The *Order to Terminate Guardianship/Conservatorship and/or Discharge Guardian/Conservator* is a proposed order for the judge to complete and sign. You must fill out the top part of the form (caption) the same way you did in the *Petition* form.

Check with Court Administration in the county where you will file to see if they require the Findings of Fact and Order portions to be filled out by you before you file.

Step 3:

Fill Out Notice of Hearing on Petition for Terminating or Modifying Guardianship/Conservatorship (GAC 26-U)

The *Notice of Hearing and Notice of Rights* is a form that provides notice of any hearings and outlines Respondent's rights. Court Administration will fill in the hearing date and time, and sign the form. You are also responsible for filling in some of the information.

You must fill out the top part of the form (caption) the same way you did in the *Petition* and proposed *Order* forms. You must also write your name in the blank line after "**The petition of**" to identify that you are the person writing the request and check the appropriate boxes for termination or modification of guardianship/conservatorship.

In the last paragraph after the words "**contact the court at,**" write the telephone number of Court Administration where you are filing your case. You can find Court Administration telephone numbers at <https://mncourts.gov/Find-Conourts.aspx>.

After you file documents with Court Administration, the judge will review your *Petition* and decide if there should be a hearing. If a hearing is scheduled, Court Administration will fill out the rest of *Notice of Hearing* and return it to you for service (Step 5).

Step 4:

Make Copies and File Original Documents with Court Administration

Make copies of all paperwork you intend to file. Copies should be made for Respondent, all other interested persons, and yourself. File the originals of your paperwork with Court Administration.

File the following documents with Court Administration and pay any filing fee:

- *Petition to Terminate Guardianship/Conservatorship and/or Discharge Guardian/Conservator* (10GC-202)

- *Order to Terminate Guardianship/Conservatorship and/or Discharge Guardian/Conservator* (10GC-203)
- *Notice of Hearing on Petition for Terminating or Modifying Guardianship/Conservatorship* (GAC 26-U)

Information on specific filing fees can be found at: <http://mncourts.gov/Help-Topics/Court-Fees/District-Court-Fees.aspx>.

Step 5:

Serve Copies and File Affidavit of Service (GAC 2-U)

Find out from Court Administration if the judge scheduled a hearing.

Hearing Scheduled

If a hearing is scheduled, wait for Court Administration to return the *Notice of Hearing on Petition for Terminating or Modifying Guardianship/Conservatorship* (GAC 26-U). When you receive it, you must serve a copy of the *Notice of Hearing* and a copy of the *Petition to Terminate Guardianship/Conservatorship and/or Discharge a Guardian/Conservator* on Respondent and to all interested persons.

Hearing Not Scheduled

If a hearing is not scheduled, you need to serve a copy of the *Petition to Terminate Guardianship/Conservatorship and/or Discharge a Guardian/Conservator* on Respondent and all interested persons.

Service

You must serve Respondent and all interested persons at least 14 days before the hearing date. Service can be done either by first-class mail or personal service. You may complete service.

NOTE: Papers cannot be served on a legal holiday.

Once service is complete, fill out the *Affidavit of Service* (GAC 2-U) and file the *Affidavit of Service* with Court Administration.

If a court visitor is appointed, the court visitor will serve Respondent.

Step 6:

Go to Hearing, if One is Scheduled

If the judge schedules a hearing, you must appear at the hearing and be ready to testify to the facts included in your *Petition*. It is important to be on time and be prepared. For more information on how to prepare for the hearing, review Section IX, C, of the *Conservatorship and Guardianship Manual* (GAC101).

County of: _____	Court File Number: _____
Judicial District: <u>Tenth</u>	Case Type: <u>Guardianship/Conservatorship</u>

In Re: Guardianship
 Conservatorship of

Petition to:

- Terminate Guardianship
- Terminate Conservatorship
- Discharge Guardian
- Discharge Conservator

 Person Subject to
 Guardianship/Conservatorship

To the Honorable Judge of the District Court:

1. Petitioner's: Name: _____
 Address: _____

 Telephone: _____
 Interest in this matter: _____
 Relation to Respondent: _____

2. Respondent's: Name: _____
 Address: _____

 Telephone: _____
 Age and date of birth: _____

3. Contact Information for Guardian/Conservator

Name: _____
 Address: _____

 Telephone: _____
 Guardian Conservator

Name: _____
 Address: _____

 Telephone: _____
 Guardian Conservator

4. A Guardian Conservator was appointed by court order dated _____.

5. Tell the Court why you are requesting to terminate and/or discharge the guardian/conservator. Explain what circumstances have changed since the guardian/conservator was appointed. Check all that apply.

- a. Respondent was a minor and reached the age of majority on (date) _____.
- b. Guardianship Conservatorship was limited to _____ months.
- c. Guardian Conservator Respondent _____ is deceased. A death certificate is included with this Petition.
- d. Respondent is no longer in need of a guardian. Respondent is no longer an incapacitated person and can provide for their own care or less restrictive options are available. This is supported by the following facts:

- e. Respondent is no longer in need of a conservator. Respondent can manage their own property, the property is no longer subject to waste of dissipation, or less restrictive options are available. This is supported by the following facts:

- f. Guardian Conservator _____ requests permission to resign because they are no longer willing, able, or best-suited to be the guardian/conservator. This is supported by the following facts:

- g. Guardian Conservator _____ should be removed because it is in the best interest of Respondent or for other good cause. This is supported by the following facts:

- 6. Conservator filed a Final Account with the Court.
- 7. Guardian Conservator performed their duties and responsibilities under the law.
- 8. Guardian Conservator _____ should be discharged.
- 9. A co-guardianship/co-conservatorship is currently in place. Co-Guardian Co-Conservator _____ will remain as Guardian/Conservator. New letters should be issued by the Court.
- 10. A Successor Guardian Successor Conservator needs to be appointed by the Court. There is no known person willing to be appointed as Successor Guardian/Successor Conservator.
- 11. Other (Explain other facts you think the Court should know):

WHEREFORE, Petitioner respectfully requests the Court:

- 1. Appoint an attorney to represent Respondent.
- 2. Appoint a court visitor to report to the Court regarding Respondent.
- 3. Issue an order to:
 - Terminate or confirm termination of the Guardianship Conservatorship
 - Discharge Guardian Conservator _____.
 - Discharge the bond after the receipt of assets has been filed with the Court.
 - Discharge Co-Guardian Co-Conservator _____ and _____ will remain as Guardian Conservator. The Court will issue new letters.
 - Appoint a Successor Guardian Successor Conservator.

I declare under penalty of perjury that everything I have stated in this document is true and correct. Minn. Stat. § 358.116

Date: _____

Signature: _____

County and state where signed:

Printed Name: _____

Address: _____

City/State/Zip: _____

Phone: _____

Email: _____

County of: _____	Court File Number: _____
Judicial District: <u>Tenth</u>	Case Type: <u>Guardianship/Conservatorship</u>

In Re: Guardianship
 Conservatorship of

Order to:

- Terminate Guardianship**
- Terminate Conservatorship**
- Discharge Guardian**
- Discharge Conservator**

 Person Subject to
 Guardianship/Conservatorship

This matter came on for a hearing before the district court on _____, 20__ on a petition regarding termination and/or discharge of the guardian/conservator.

- Petitioner appeared personally; with attorney _____.
- Respondent appeared personally; with attorney _____.

Based on the court file, pleadings, evidence, and proceedings herein, the Court makes the following:

FINDINGS OF FACT

1. Termination and/or discharge of the guardian/conservator is appropriate because:

- a. Respondent was a minor and reached the age of majority on (date) _____.
- b. Guardianship Conservatorship was limited to _____ months.
- c. Guardian Conservator Respondent _____ is deceased. A death certificate is included with the Petition.
- d. Respondent is no longer in need of a guardian. Respondent is no longer an incapacitated person and can provide for their own care or less restrictive options are available. This is supported by the following facts:

- e. Respondent is no longer in need of a conservator. Respondent can manage their own property, the property is no longer subject to waste of dissipation, or less restrictive options are available. This is supported by the following facts:

- f. Guardian Conservator _____ requests permission to resign because they are no longer willing, able, or best-suited to be the guardian/conservator. This is support by the following facts:

- g. Guardian Conservator _____ should be removed because it is in the best interest of Respondent or for other good cause. This is supported by the following facts:

- 2. The Court followed the same procedures for establishing a guardianship/conservatorship to safeguard the rights of Respondent.
- 3. Conservator filed a Final Account with the Court.
- 4. Guardian Conservator performed their duties and responsibilities under the law.
- 5. Guardian Conservator _____ should be discharged.
- 6. A co-guardianship/co-conservatorship is currently in place. Co-Guardian Co-Conservator _____ will remain as Guardian/Conservator. New letters will be issued by the Court.

- 7. A Successor Guardian/Successor Conservator needs to be appointed by the Court. There is no known person willing to be appointed.
- 8. Other.

CONCLUSIONS OF LAW

- 1. **Termination of Guardianship/Conservatorship.** Petitioner presented evidence establishing a prima facie case that:
 - a. Guardianship should be terminated.
 - b. Conservatorship should be terminated.
- 2. **Discharge of Guardian/Conservator.** Petitioner presented evidence establishing a prima facie case that:
 - a. Guardian _____ should be discharged.
 - b. Conservator _____ should be discharged.
 - c. Co-Guardian Co-Conservator _____ should be discharged and _____ will remain as Guardian Conservator. New letters will be issued.
- 3. **Other.**

ORDER

- 1. **Termination of Guardianship/Conservatorship.**
 - a. Guardianship is terminated.
 - b. Conservatorship is terminated.

2. **Discharge of Guardian/Conservator.**

- a. Guardian _____ is discharged.
- b. Conservator _____ is discharged. The final account has been settled and allowed by the Court under separate order.
- c. Conservator _____ shall be discharged by separate order of the Court upon the final account being settled and allowed.
- d. Co-Guardian Co-Conservator _____ is discharged and _____ will remain as Guardian Conservator. New letters will be issued.

3. **Restoration of Rights.** All the rights and powers of Respondent are restored effective immediately.

4. **Court Appointed Attorney.** The court appointed attorney for Respondent is discharged.

5. **Other.**

IT IS SO ORDERED.

BY THE COURT

Judge of District Court Dated

State of Minnesota

District Court
Probate Division

County of _____

Judicial District: _____
Court File No. _____
Case Type: Guardianship/Conservatorship

In Re: Guardianship
 Conservatorship of

**Notice of Hearing on
Petition for Terminating or Modifying**
 Guardianship
 Conservatorship

The petition of _____ has been filed seeking the termination or modification of the guardianship conservatorship of the above-named person subject to guardianship conservatorship. This hearing will determine the continuing need for a guardianship or conservatorship.

A hearing on the petition will be held at _____ o'clock _____ m. on _____ at _____

The Petitioner must serve this notice by mailing a copy of this notice at least 14 days before the date of the hearing to the person subject to guardianship/conservatorship, and to all other interested persons entitled to notice under Minn. Stat. § 524.5-102, subd. 7.

The person subject to guardianship/conservatorship has the right to be represented by an attorney. The person subject to guardianship/conservatorship may either obtain an attorney or contact the court for appointment of an attorney. If the person subject to guardianship/conservatorship has funds, those funds will be used to pay for the attorney. If there are no funds available to pay for an attorney, contact the court at _____.

Dated: _____

Court Administrator

By: _____

State of Minnesota

**District Court
Probate Division**

County _____

Judicial District: _____
Court File Number: _____
Case Type: _____ Guardianship/Conservatorship

In Re: the Guardianship /
 Conservatorship of

Affidavit of Service
(Guardianship/Conservatorship)

My name is _____, and I am at least 18 years old. I served papers for this case as follows:

Person under Guardianship or Conservatorship:	Forms Served:
Name: _____	_____
Served at _____	_____
(location): _____	_____
Date Of Service: _____	_____
How Served: <input type="checkbox"/> By Mail (United States Mail) <input type="checkbox"/> By Personal Service (hand-delivered)	

Person of Interest with the Court:	Forms Served:
Name: _____	_____
Served at _____	_____
(location): _____	_____
Date of Service: _____	_____
How Served: <input type="checkbox"/> By Mail (United States Mail) <input type="checkbox"/> By Personal Service (hand-delivered)	

Person of Interest with the Court:	Forms Served:
Name: _____	_____
Served at _____ (location): _____	_____
Date of Service: _____	_____
How Served: <input type="checkbox"/> By Mail (United States Mail) <input type="checkbox"/> By Personal Service (hand-delivered)	

Person of Interest with the Court:	Forms Served:
Name: _____	_____
Served at _____ (location): _____	_____
Date of Service: _____	_____
How Served: <input type="checkbox"/> By Mail (United States Mail) <input type="checkbox"/> By Personal Service (hand-delivered)	

Person of Interest with the Court:	Forms Served:
Name: _____	_____
Served at _____ (location): _____	_____
Date of Service: _____	_____
How Served: <input type="checkbox"/> By Mail (United States Mail) <input type="checkbox"/> By Personal Service (hand-delivered)	

If you need more space, add another sheet of paper.

I declare under penalty of perjury that everything I have stated in this document is true and correct. Minn. Stat. § 358.116.

Dated

County and state where signed

Signature of Person Who Served the Forms

Name: _____

Address: _____

City/State/Zip: _____

Telephone: _____

Email: _____