

Green County Register in Probate Office
2841 6th St.
Monroe, WI 53566
Phone: 608-328-9567

GUARDIANSHIP PROCEDURE
Due to Incompetency,
Protective Placement/Services and Minors

DISCLAIMER: The following information is intended solely as a guideline for those petitioning the Probate Court for temporary or permanent guardianship. It is not meant to be legal advice, nor is it legal advice in any fashion. The following information does not in any way remove from the petitioner the responsibility to research and comply with all applicable statutory requirements for the filing and processing of a guardianship action. For those petitioners who have specific legal questions concerning the filing of a guardianship and legal requirements relating to the same, you may wish to consult an attorney.

A guardianship action for a person deemed incompetent is used to appoint someone to make medical (Guardian of Person) and/or financial (Guardian of the Estate) decisions for the person deemed incompetent. Although attorneys often complete guardianships, the law allows for individuals to petition the court without hiring an attorney. A protective placement action is necessary when an incompetent individual meets the standards for placement/services. Pro se petitioners are responsible for completing all the legal requirements.

TO COMMENCE PROCEEDING FOR ADULT GUARDIANSHIPS: Complete and file the following with the Probate Office.

- Petition for Guardianship due to Incompetency (Form GN-3100)
- Petition for Protective Placement/Services (Form GN-4040 – only used if seeking Protective Placement/Services)
- Order and Notice of Hearing (Form GN-3110). The hearing date to be obtained from the Probate Office at the time the petition is filed with the Probate Office.
- Waiver and Consent to Petition for Guardianship due to Incompetency (Form GN-3115).
- Affidavit of Service (Form GN-3120). To be filed by person who serves a party to the guardianship.
- Order Appointing Guardian ad Litem (Form GF-131) **see below*
- Statement of Acts by Proposed Guardian and Consent to Serve (Form GN-3140). To be filed by proposed guardian(s) **and** proposed standby guardian(s)
- Order for Comprehensive Evaluation (check with Register in Probate to obtain this form). A comprehensive evaluation is necessary to meet the requirements of protective placement. The form must be supplied to the county Adult Protective Services agency who will then complete the evaluation.
- Examining Physician/Psychologist Report (Form GN-3130). A doctor, psychiatrist or psychologist must complete a full mental health examination of the

proposed ward. The report must be filed with the Probate Office at least 96 hours prior to the hearing.

*** A GUARDIAN AD LITEM (ATTORNEY) MUST BE APPOINTED FOR THE PROPOSED WARD TO REPRESENT THE BEST INTERESTS OF THE WARD** (Form GF-131). The Guardian ad Litem will be appointed by the court. The court will make a determination as to who will be responsible for these fees. The Guardian ad Litem will meet with the proposed ward and will make a recommendation to the court as to what is in the best interest of the ward. The Guardian ad Litem will also talk with the proposed guardian(s).

HEARING/GIVING NOTICE:

- A hearing will be scheduled by the Probate Office and an Order and Notice of Hearing (GN-3110) will be signed and a copy provided to the petitioner.
- Service requirements: The petitioner shall serve notice of the Petition for Guardianship (and the Petition for Protective Placement if applicable), the Order and Notice of Hearing and the Order Appointing Guardian ad Litem on the proposed ward by personal service no less than 10 days prior to the hearing. The petitioner shall also provide notice to all other interested persons either in person or by mail at least 10 days prior to the hearing. **ALL INTERESTED PARTIES MUST RECEIVE NOTICE OF THIS HEARING.** See Wis. Stat. § 54.38(2)(a) and (b) for interested persons.

THE COURT HEARING: Forms to have completed and with you at time of hearing:

- Determination and Order on Petition for Guardianship due to Incompetency (Form GN-3170)
- Order on Petition for Protective Placement/Services (Form GN-4060)
- Letters of Guardianship of the Person (Form GN-3200)
- Letters of Guardianship of the Estate (Form GN-3210)
- Affidavit of Service (Form GN-3120)

POST HEARING: If you are appointed Guardian of the Estate, you will be required to complete and file an Inventory (Form GN-3440) of the ward's assets as of the date of appointment. This form must be completed and filed with the Register in Probate within 60 days of appointment. A 0.2% filing fee (minimum of \$20.00 if assets are \$50,000 or less) must accompany the Inventory. Each January you will receive an annual accounting form to complete and file by April 15th. If you are appointed Guardian of the Person, you will be required to complete an Annual Report on the Condition of the Ward (Form GN-3480). Each January you will receive this form. It must also be completed and filed by April 15th.

CERTIFIED COPIES: Certified copies of the Letters of Guardianship are available from the Register in Probate office. The fee for certified copies is \$3.00, plus \$1.00 for each page copied.

FORMS: Guardianship forms are available on the Wisconsin Court System website at www.wicourts.gov and click on "Forms," "Circuit Court," and "Guardianship."

TO COMMENCE PROCEEDINGS IN A MINOR GUARDIANSHIP: Complete and file the following with the Register in Probate office:

- Petition for Guardianship of a Minor (GN-3290)
- Statement of Acts by Proposed Guardian and Consent to Serve (GN-3140)
- Uniform Child Custody Jurisdiction and Enforcement Act Affidavit (GF-150)*
- Waiver and Consent to Petition for Guardianship of Minor – signed by both parents if applicable (GN-3310)
- Order and Notice of Hearing (GN-3300)
- Order Appointing Guardian ad Litem (GF-131)*

*Required only when petitioning for guardianship of the person of a minor.

HEARING/GIVING NOTICE:

- A hearing will be scheduled by the Probate Office and an Order and Notice of Hearing (GN-3300) will be signed and a copy provided to the petitioner.
- Service requirements: The petitioner shall arrange service of the Petition for Guardianship, the Order and Notice of Hearing and the Order Appointing Guardian ad Litem on the proposed minor ward **if the ward is 14 or older** by personal service no less than 10 days prior to the hearing. The petitioner shall also provide notice to all other interested persons, including both the mother and father regardless of custody, either in person or by mail at least 10 days prior to the hearing. **ALL INTERESTED PARTIES MUST RECEIVE NOTICE OF THIS HEARING.** See Wis. Stat. § 54.38(3).

THE COURT HEARING: Forms to have completed and with you at time of hearing:

- Determination and Order on Petition for Guardianship of a Minor (Form GN-3170)
- Order on Petition for Protective Placement/Services (Form GN-4060)
- Letters of Guardianship of the Person (Form GN-3200)
- Letters of Guardianship of the Estate (Form GN-3210)
- Affidavit of Service (Form GN-3120)

POST HEARING: If you are appointed Guardian of the Estate, you will be required to complete and file an Inventory (Form GN-3440) of the ward's assets as of the date of appointment. This form must be completed and filed with the Register in Probate within 60 days of appointment. A 0.2% filing fee (minimum of \$20.00 if assets are \$50,000 or less) must accompany the Inventory. Each January you will receive an annual accounting form to complete and file by April 15th. If you are appointed Guardian of the Person, you will be required to complete an Annual Report on the Condition of the Ward (Form GN-3480). Each January you will receive this form. It must also be completed and filed by April 15th.

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