
GUARDIANSHIP PROCEDURE Due to Incompetence and Petition for Protective Placement/Services

PIERCE COUNTY
PROBATE OFFICE
414 W. MAIN STREET
ELLSWORTH, WI 54011

HOURS:
MONDAY – FRIDAY
8:00 AM – 5:00 PM

PHONE: 715-273-6752

NOTE: This guideline is provided only as a public service and is not meant to be legal advice. The Register in Probate office cannot give legal advice or complete the forms for you; please contact an attorney if you have legal questions.

A guardianship action for an incompetent person is used to appoint someone to make medical and/or financial decision for the incompetent person. 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 PROCEEDINGS: Complete and file the following with the Register in Probate Office:

- GN – 3100 Petition for Guardianship due to incompetence
 - GN – 4040 Petition for Protective Placement/Services (if seeking Protective Placement/Services)
 - GN – 3110 Order and Notice of Hearing (hearing date to be obtained from probate court at time petitions are filed with Probate Office)
 - GN – 3115 Waiver and Consent to Petition for Guardianship due to incompetence
 - GN – 3120 Affidavit of Service
 - GF -- 131 Order appointing Guardian ad Litem ***See below**
 - GN – 3140 Statement of Acts by Proposed Guardian and Consent to Serve
 - GN – 3130 Examining Physician/Psychologist Report. 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 copy must be sent to the Guardian ad Litem.
- Order for Comprehensive Evaluation (Check with your Register in Probate office to see if this Order is required). A comprehensive evaluation is necessary to meet the requirements of protective placement. You must make arrangements with the county Human Services Department to complete this evaluation. Their report must be filed with the Register in Probate four (4) days prior to the court hearing.

*** A GUARDIAN AD LITEM (ATTORNEY) WILL NEED TO BE APPOINTED FOR THE ALLEGED INCOMPETENT PERSON (WARD) TO REPRESENT THE BEST INTERESTS OF THE PROPOSED WARD** (Form GF-131). The petitioner is responsible for obtaining the Guardian ad Litem (GAL). The Court will sign the Order Appointing GAL once filed by the Petitioner. Depending on local practice, a list of attorneys who may act as a GAL may be available from the Register in Probate. The Petitioner is responsible for the GAL fees unless otherwise ordered by the court (check with the Register in Probate for local county practice). The Guardian ad Litem will meet with the proposed ward and the proposed guardian and will make a recommendation to the court as to what is in the best interest of the ward.



HEARING/GIVING NOTICE:

- A hearing will be scheduled by the Probate Court and the Order and Notice of Hearing (GN-3110) filed by the Petitioner will be signed and a copy given provided to the Petitioner.
- Service Requirements: The Petitioner shall serve notice of the Petition for Guardianship (and the Petition for Protective Placement) and the Order and Notice of Hearing 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 THE HEARING.** See Wis. Stat. 54.38(2)(a) and (b) for interested persons. It can be found at <http://www.legis.state.wi.us/rsb/statutes.html>

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

- GN – 3170 Determination and Order on Petition for Guardianship due to incompetence
 - GN – 4060 Order on Petition for Protective Placement/Services
 - GN – 3200 Letters of Guardianship of the Person
 - GN – 3210 Letters of Guardianship of the Estate
 - GN – 3120 Affidavit of Service
- **Note: You must be prepared to provide all evidence required by the court before your petitions can be granted.**

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 the following April 15. If you are appointed guardian of the person, you will be required to complete an annual report on the condition of the ward.

CERTIFIED COPIES: Of Letters of Guardianship are available from the Register in Probate office. The certification fee \$3.00 per certified copy, plus \$1.00 for each page copied. Requests for certified copies may be made in person or by mail. If the request is by mail, please enclose the correct fee **and** a stamped, self-addressed return envelope. Payment must be received before the issuance of certified copies.

FORMS: Guardianship forms are also available on the Wisconsin Court System website at www.wicourts.gov by clicking on "Forms", "Circuit Court", then "Guardianship".

ADDITIONAL RESOURCES: Information concerning guardianships and questions you may have with regard to acting in this capacity may be obtained at Greater Wisconsin Agency on Aging Resources, Inc. website: www.gwaar.org. On the left side of the main page select 'For Seniors and Families', then 'Elder Law and Advocacy Center' then 'Wisconsin Guardianship Support Center'. On the Guardianship Support Center page you will find an Index at the bottom with links that will assist with various topics.