

INTERNET RESOURCE FOR GUARDIANSHIP

- www.gwaar.org

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

SAWYER COUNTY
PROBATE OFFICE
10610 MAIN STREET, SUITE 244
HAYWARD, WI 54843

HOURS:
MONDAY – FRIDAY
8:00 AM – 4:00 PM

PHONE: 715-634-7519

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; please contact an attorney if you have legal questions. This Guideline is subject to change or amendments.

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

- Petition for Guardianship due to Incompetency (Form GN-3100)
- Petition for Protective Placement/Services (Form GN-4040) (if seeking Protective Placement/Services)
- Order and Notice of Hearing (Form GN-3110) (Hearing date to be obtained from probate court at time petitions are filed with the Probate Office)
- Waiver and Consent to Petition for Guardianship due to Incompetency (Form GN-3115)
- Affidavit of Service (Form GN-3120)
- Order Appointing Guardian ad Litem (Form GF-131) *see below
- Statement of Acts by Proposed Guardian and Consent to Serve (Form GN-3140)
- Order for Comprehensive Evaluation (Check with the 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 days prior to the court hearing.
- 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 copy must be sent to the Guardian ad Litem.

***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 an Order and Notice of Hearing (GN-3110) will be signed and copy provided to 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 hearing. The petitioner shall also provide notice to all other interested persons either in person or by mail at least 10 days prior to 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 time of hearing:

- Determination and Order on Petition for Guardianship due to Incompetency (Form GN-3170)
- Order on Petition for Protective Placement/Services (GN-4060)
- Letters of Guardianship of Person (Form GN-3200)
- Letters of Guardianship of Estate (Form GN-3210)
- Affidavit of Service (GN-3120)
- 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 15th. 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 is \$3.00, plus \$1.00 for each page copied and certified.

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

ADDITIONAL RESOURCE: Information concerning guardianships and questions you may have with regard to acting in this capacity may be obtained at the Coalition of Wisconsin Aging Groups website: www.cwag.org/legal/guardian-support.

NOTE: If the ward meets certain income criteria, Sawyer County may be able to assist you with the guardianship procedure. You may contact the Sawyer County Human Services Department and speak with an adult social worker at 715-634-4751, to see if the County can assist.

MINOR GUARDIANSHIP

SAWYER COUNTY
PROBATE OFFICE
10610 MAIN ST., SUITE 244
HAYWARD WI 54843

HOURS:
MONDAY – FRIDAY
8:00 AM – 4:00 PM

PHONE: 715-634-7519

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TO OPEN A TEMPORARY MINOR GUARDIANSHIP: read the forms prior to completing them; once completed, file the following with the Register in Probate office:

- GN – 3290 Petition for Guardianship of Minor
- ~~GN – 3300 Order and Notice of Hearing Petition for Guardianship of Minor~~
- ~~GN – 3310 Waiver and Consent to Petition for Guardianship of Minor~~
- GN – 3140 Statement of Acts by Proposed Guardian and Consent to Serve as Guardian
- GN – 3320 Nomination of Guardian by a Minor (14+ older)
- ~~GN – 3120 Affidavit of Service~~
- GN – 3250 Determination and Order on Petition for Temporary Guardianship
- GN – 3260 Letters of Temporary Guardianship of the Person of Minor
- GN – 3265 Letters of Temporary Guardianship of the Estate of Minor

~~\$250 deposit payable to the Register in Probate for GAL.~~

HEARING:

- The Register in Probate office will schedule a hearing on the temporary guardianship petition no earlier than 48 hours after the petition is filed.
- The Petitioner shall give notice of the petition to the proposed ward before or when the petition is filed. The Petitioner shall give notice of the Order for Hearing on the proposed ward before the hearing or not later than 3 calendar days after the temporary hearing. If notice is served after the hearing, the petitioner shall include the court's order (if entered).
- The Court will appoint a Guardian ad Litem (GAL) and determine who shall pay the GAL's fees.
- The Guardian ad Litem shall attend the hearing in person, by telephone or shall provide a written report to the court concerning the proposed ward.

TIMELINES:

- The temporary guardianship is valid for 60 days and can be renewed for an additional 60 days.
- A Petition to Extend Temporary Guardianship must be filed with the Court prior to the expiration of the first 60 days.

- GN – 3270 Petition to Extend Temporary Guardianship
- GN – 3280 Order on Petition to Extend Temporary Guardianship

- If the Court does not timely receive the Petition to Extend Temporary Guardianship and Order on Petition to Extend Temporary Guardianship, the temporary guardianship will expire.
- The file will be closed and the temporary guardianship will expire after either the first 60 days expiration date (if not extended) or after the second 60 days expiration date.
- During the term of the temporary guardianship, a hearing may be held *prior* to the expiration date to request a permanent guardian.
- Note: pursuant to 54.50(2), Wis. Stats., the court may impose no further temporary guardianship on the ward for at least 90 days after the expiration of the temporary guardianship.

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TO OPEN A PERMANENT MINOR GUARDIANSHIP: complete and file the following:

- GN – 3290 Petition for Guardianship of Minor
- GN – 3300 Order and Notice of Hearing Petition for Guardianship of Minor
- GN – 3310 Waiver and Consent to Petition for Guardianship of Minor
- GN – 3140 Statement of Acts by Proposed Guardian and Consent to Serve as Guardian
\$250 deposit payable to the Register in Probate for GAL.

HEARING/GIVING NOTICE:

- A hearing will be scheduled. Copies of the Petition and the Order for Hearing will be provided to the petitioner.
- The petitioner is responsible for serving the Petition and the Order for Hearing at least 10 days prior to the hearing as follows: by personal service on the proposed ward; by mail or personal service on all interested parties listed on the petition.
- A Guardian ad Litem will be appointed for the minor in a permanent guardianship hearing.

PRIOR TO THE COURT HEARING: file the following documents:

- GN – 3330 Determination and Order on Petition for Guardianship of Minor
- GN – 3340 Letters of Guardianship of the Person of Minor
- GN – 3345 Letters of Guardianship of the Estate of Minor
- GN – 3120 Affidavit of Service, showing that the petitioner complied with sec. 54.38, Wis. Stats., for notice requirements.

CERTIFIED COPIES: The fee for certified copies of the Letters is \$5.00 per certified copy. 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.

ADDITIONAL INFORMATION: After the permanent guardianship hearing, additional information will be sent to the guardian.

NOTE: if you are appointed permanent guardian of the estate of the minor, an inventory is due 60 days after appointment. A statutory inventory filing fee is due when the inventory is filed. The fee is .2% of the assets or a minimum of \$20.00 if the assets are under \$50,000.00. See sec. 814.66, Wis. Stats. The guardian of the estate is required to file an annual account each year with the court.

FORMS: forms can be found at: www.wicourts.gov