
GUARDIANSHIP GUIDELINE

Due to Incompetency and Petition for Protective Placement/Services

BURNETT COUNTY
PROBATE OFFICE
7410 COUNTY ROAD K #110
SIREN, WI 54872

HOURS:
MONDAY – FRIDAY
8:30 AM – 4:30 PM

PHONE: 715-349-2147, ext. 2453

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 Court will appoint a Guardian ad Litem (GAL). 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.

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- **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) (if needed)
- 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".

NOTE: If the ward meets certain income criteria, Burnett County may be able to assist you with the guardianship procedure. You may contact the Burnett County Human Services Department and speak with an adult social worker at 715-349-760 to see if the County can assist.

E-FILING IS NOW AVAILABLE: Individuals are now able to e-File guardianship actions with the Circuit Court. Follow the following steps:

- To register for an eFiling account: www.wicourts.gov
- Click **eFile/eCourts** on the tool bar
- Click on the **Circuit Court eFiling** from the drop down
- Follow the instructions to register for an eFiling account and filing instructions