

# PETITIONING FOR GUARDIANSHIP DUE TO INCOMPETENCY

**\*Disclaimer – the following information is intended solely as a guideline for those petitioning the court for guardianship due to incompetency. It is not meant to be legal advice, nor is it legal advice. The following information does not remove from the petitioner the responsibility to research and comply with all applicable statutory requirements for filing and processing a guardianship action. Should you have specific legal questions concerning the filing of a guardianship, the procedures, or legal requirements related to the filing of a guardianship, you may wish to consult with an attorney.**

1. The necessary forms for commencing a guardianship (see below) can be found by visiting [www.wicourts.gov](http://www.wicourts.gov). Once at the site, select “Forms”, then from the dropdown menu select “Circuit Court Forms”, then “Guardianship Forms” and finally “Due to Incompetency”.
  - Petition for Guardianship due to Incompetency (GN - 3100)
  - Order Appointing Guardian ad Litem (GF – 131)
  - Waiver and Consent to Petition for Guardianship due to Incompetency (GN – 3115)
  - Statement of Acts by Proposed Guardian and Consent to Serve as Guardian (GN – 3140)
  - Order and Notice of Hearing Petition for Guardianship (GN – 3110)
  - Examining Physician/Psychologist Report (GN-3130)
  - Confirmation of Completion of Guardian Training Program (GN – 3135)
2. Complete the necessary forms and file the documents with the Register in Probate along with a \$20 filing fee. Upon filing and approval, the probate staff will indicate a date and time that the petition for guardianship will be heard. A copy of the Order and Notice for hearing Petition for Guardianship will be provided to the petitioner. **The petitioner is responsible for serving a copy of this order together with a copy of the petition upon the proposed ward (no less than 10 days prior to the hearing) and all interested persons as required by law. Failure to provide the required notice to all interested persons will deprive the court of jurisdiction unless notice is waived by the interested person. If you have questions regarding how to achieve service, please review the Wisconsin State Statutes. Once service is effectuated, the petitioner shall file the Affidavits of Service with the Register in Probate Office.**
3. A guardian ad litem will need to be appointed to represent the proposed ward’s best interest. The petitioner is responsible for securing the guardian ad litem representation. The petitioner is financially responsible for services provided by the guardian ad litem.
4. At least three days prior to the hearing, the petitioner shall file:
  - Affidavit of Service (Guardianship) (GN – 3120)
  - Signature Bond (if required) (GN – 3190)
  - *Proposed* Determination and Order on Petition for Guardianship (GN – 3170)
  - *Proposed* Letters of Guardianship of the Person (GN – 3200)

- *Proposed* Letters of Guardianship of the Estate (GN – 3210)

***The petitioner and proposed guardian must be present in court.***

If you are appointed guardian of the estate, you will be required to complete and file an Inventory (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 along with the required filing fee within 60 days of appointment. Each January you will receive an annual accounting form to complete and file by the following April 15<sup>th</sup>. 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 - Copy fee: \$1 per page. Certification fee: \$3.

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 Group's website: <https://gwaar.org/guardianship-resources>.

Note – If the ward meets certain income criteria, Calumet County may be able to assist you with the guardianship procedure. You may contact the Calumet County Human Services Department and speak with a worker at 920-849-1400, to see if the County can assist.

**PLEASE BE ADVISED THAT COURT STAFF CANNOT GIVE LEGAL ADVICE OR ASSISTANCE. If you do not understand how to prepare the forms or how to properly serve notice to the parties, you are advised to obtain legal help.**