

GENESEE COUNTY PROBATE COURT
INSTRUCTIONS FOR APPOINTMENT OF A GUARDIAN
OF THE PERSON AND/OR ESTATE OF AN INDIVIDUAL WITH DEVELOPMENTAL
DISABILITY

PLEASE READ CAREFULLY

COURT PERSONNEL CANNOT GIVE LEGAL ADVICE

You have requested forms for the appointment of a guardian of the person and/or estate of an individual with developmental disability.

All forms must be typed or legibly printed.

The forms must be fully and accurately completed. Failure to comply with the below instructions will result in the Court rejecting your petition. **Should you be unable to understand or complete the forms as directed below, you should then contact an attorney for assistance.**

PUBLIC ACT 386 OF 1998, AS AMENDED BY PUBLIC ACT 52 OF 1999, COURT PERSONNEL SHALL NOT PROVIDE OR OFFER TO PROVIDE LEGAL ADVICE OR LEGAL COUNSEL TO A FIDUCIARY OR AN INTERESTED PERSON AND SHALL NOT COMPLETE A FORM, PETITION, OR DOCUMENT FOR A FIDUCIARY OR INTERESTED PERSON.

FILING PROCEDURE

1. If the individual with developmental disability is currently receiving or is eligible to receive services from Genesee Health System (GHS), contact GHS at 420 West Fifth Avenue, Flint, Michigan 48503, (810) 257-3714 to schedule an appointment for an evaluation and completion of forms.
2. Present the forms which have been typed or printed legibly to the clerks in the Estate and Mental Division.
3. A hearing date will be set by Estate and Mental Division staff. Hearings are held on Tuesdays starting at 11:00 a.m., the exact time will be determined when forms are filed.
4. An attorney will be appointed to represent the individual with alleged developmental disability.
5. A copy of the documents filed with the Court will be given to the petitioner. It is the responsibility of the petitioner to serve the interested parties.
6. **The preparer of the Report to Accompany Petition must testify at the hearing to appoint a guardian.**

DOCUMENTS NECESSARY FOR FILING

When you return to the Court to file your paperwork, please return to the Estate Division and staff there will appoint an attorney and schedule a hearing date. You must bring the following completed documents:

1. Petition for Appointment of Guardian, Individual With Alleged Developmental Disability
2. Report to Accompany Petition to Appoint, Modify or Discharge Guardian of Individual With Developmental Disability
3. Order Appointing Attorney (Court staff will insert the name of the attorney)
4. Notice of Hearing (Court staff will insert the date and time of hearing)
5. Notice of Right to Request Dismissal of Guardian or Modification of Guardianship Order
6. Requirements for Notice Guardianship of an Individual With Alleged Developmental Disability
7. Proof of Service
8. Authorization for Release of Information

PARTIES OF INTEREST

Once you have received a hearing date, there are certain individuals (parties of interest) that you must notify of the proceedings. These individuals are identified for you in the "Requirements For Notice Guardianship of Individual With Alleged Developmental Disability."

Those requiring notification are:

- 1) the respondent (individual with alleged developmental disability)
- 2) the proposed guardian, if he/she is not the petitioner
- 3) the respondent's presumptive heirs
- 4) the preparer of the report or another appropriate person who performed an evaluation
and must testify at the court hearing
- 5) the director of any facility in which the respondent may be residing, or the person who has custody of the respondent
- 6) the respondent's guardian ad litem, if one has been appointed
- 7) the respondent's attorney
- 8) special parties (Veterans Administration and Attorney General)

If Veterans Administration (VA) benefits are payable to the individual with alleged developmental disability, the VA is a party of interest. If there are no known presumptive heirs, the Attorney General (AG) is a party of interest. When the VA or AG are parties of interest and listed on your petition, they must be served, either personally or by mail, at:

Veterans Administration
Patrick V. McNamara Building
477 Michigan Avenue
Detroit, MI 48226

Attorney General
One Michigan Avenue #400
P.O. Box 30213
Lansing, MI 48909

SERVING THE DOCUMENTS

The individual with alleged developmental disability must be **personally** given a copy of the **Petition for Appointment of Guardian, Notice of Hearing, and Notice of Right to Request Dismissal of Guardian**, at least seven (7) days prior to the date of the hearing.

All other interested parties must receive a copy of the **Petition for Appointment of Guardian** and **Notice of Hearing** by **personal service** at least **seven (7)** days prior to the date of the hearing, **or** by **ordinary mail** at least **fourteen (14)** days prior to the hearing.

If there are no known heirs, or the address or whereabouts of the interested parties are unknown, notification of the hearing may be made by **publication** at least **fourteen (14) days** prior to the date of the hearing. The \$95.15 publication fee is paid when the petition is filed. Your money order is to be made payable to the Flint-Genesee County Legal News.

COMPLETING THE PROOF OF SERVICE FORM

In the matter of: Write in the full name of the individual with an alleged developmental disability.

In #2: insert name, address, and date of persons you served by mail.

In #3: insert name, address, and date of persons you personally served.

In #4: insert the name(s) of person(s) whose whereabouts are unknown.

In #5: insert the date the Notice of Right to Request Dismissal of Guardian or Modification of Guardianship Order form was served, and the name of the individual with an alleged developmental disability.

Date and sign the form.

The Proof of Service form is your proof to the Court that the interested parties have been served. The Proof of Service must be completed and **returned to the Court at least five (5) days** prior to the hearing.

The address is: Genesee County Probate Court
900 S. Saginaw Street, Room 502
Flint, MI 48502

I M P O R T A N T

1. The Petitioner and proposed guardian must attend the hearing or your petition will be dismissed, and you will have to begin the process again.
2. The respondent (individual with an alleged developmental disability) must also attend the hearing, unless the Court excuses the respondent from being present only on a showing, supported by an affidavit signed by a physician or psychologist who has recently examined the respondent, that the respondent's attendance would subject him or her to serious risk of physical or emotional harm.
3. Court personnel will provide the petitioner with the Notice of Right to Request Dismissal of Guardian or Modification of Guardianship Order. **This form must be given to the respondent by the petitioner at least seven (7) days prior to the hearing.**

4. The respondent must be **personally** served at least seven (7) days prior to the hearing.
5. The Proof of Service must be signed by the petitioner and returned to the Genesee County Probate Court, 900 S. Saginaw Street, Room 502, Street, Flint, MI 48502, at least five (5) days prior to the hearing.
6. If you have any questions, you may call the Genesee County Probate Court at (810) 257-3528.

DEFINITIONS

- A. **Respondent:** The individual who is the subject of a petition for guardianship filed under this chapter. MCL 330.1600(f); MSA 14.800(600)(f).
- B. **Developmental disability:**
 1. If applied to an individual older than 5 years, a severe, chronic condition that meets all of the following requirements:
 - a. Is attributable to a mental or physical impairment or a combination of mental and physical impairments.
 - b. Is manifested before the individual is 22 years old.
 - c. Is likely to continue indefinitely.
 - d. Results in substantial functional limitations in three or more areas of major life activity.
 - e. Reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated.
 2. If applied to a minor from birth to age five, a substantial developmental delay or a specific congenital or acquired condition with a high probability of resulting in developmental disability as defined above (if services are not provided). MCLA 330.1100a(19)(a)-(b); MSA.
- C. **Mental retardation:** A condition manifesting before the age of 18 years that is characterized by significantly subaverage intellectual functioning and related limitations in two or more adaptive skills. MCLA 330.1100b(15); MSA.
- D. **Plenary guardian:** A guardian who possesses the legal rights and powers of a full guardian of the person, or of the estate, or both. MCL 330.1600(d); MSA 14.800(600)(d).
- E. **Partial guardian:** A guardian who possesses fewer than all of the legal rights and powers of a plenary guardian, and whose rights, powers, and duties have been specifically enumerated by court order. MCL 330.1600(e); MSA 14.800(600)(e).
- F. **Standby guardian:** A guardian designated by the court whose appointment shall become effective without further proceedings immediately upon the death, incapacity, or resignation of the initially appointed guardian. MCL 330.1640(1); MSA 14.800(640)(1).