

## Administrative Rule 59: Guardianship Qualifications Packet

Rule 59 applies to all long-term guardianships of adults; it **doesn't** apply to emergency appointments unless requested by the Court.

Documents need to be submitted to the Court before the hearing date.

See [Guardianship of Minor Children](#) site for juvenile guardianship processes.

**Administrative Rule 59:** [ndcourts.gov/legal-resources/rules/ndsupctadminr/59](https://ndcourts.gov/legal-resources/rules/ndsupctadminr/59). Review the Rule to make sure you're complying with the requirements.

**Nonprofessional Guardians** need to submit four documents to the Court:

### 1) Guardianship Online Training

The required online training course is available at [guardianship.ndcourts.gov](https://guardianship.ndcourts.gov). The course is free and will likely take a little more than an hour. Each guardian must take the training, and you receive a printable certificate upon completion.

### 2) Criminal History Record Check (fingerprints **aren't** required)

If you're a North Dakota resident, the request form is on the Attorney General's website: [attorneygeneral.nd.gov/public-safety/criminal-history-records](https://attorneygeneral.nd.gov/public-safety/criminal-history-records). Select the link to "Request a criminal history record check." Read the information, then select the link for the "Request for Criminal History Record Information" form. (If you live in a different state, contact your local police department to determine how to obtain a record check.) Have the Record Check mailed to your home or business address. Mail the \$15 payment to the address on the form:

Criminal Records Section  
ND Bureau of Criminal Investigation  
PO Box 1054  
Bismarck ND 58502-1054

When you receive your history report cross out your birthdate and social security number, if they are listed, before you submit it to the Court. [Rule 3.4 of the ND Rules of Court](#) allows only the last four digits of a social security number and a birth year.

### 3) Declaration Forms\*

The North Dakota Legal Self Help Center webpage has fillable declaration forms: [ndcourts.gov/legal-self-help/adult-guardianship/guardian-of-adult-qualifications-and-affidavits](https://ndcourts.gov/legal-self-help/adult-guardianship/guardian-of-adult-qualifications-and-affidavits). There are different forms for professional and nonprofessional guardians.

### 4) Affidavit of Service or Declaration of Service\*\* that shows you provided a copy to all of the parties.

## Ongoing Notifications

Everyone that provides guardianship services is required to notify the court administrators when a guardian has been charged with a criminal offense or if there has been a substantiated instance of abuse, neglect, or exploitation by a guardian. You may call your [local courthouse](#) to find the contact information for the [court administrator](#).

## Service of Required Documents

Include an Affidavit of Service or a Declaration of Service with your information submitted to the Court. ***In any proceeding, copies of the documents you submit to the court must be sent to the interested parties.*** The parties to be served depends on the proceeding:

- For proceedings other than an emergency appointment, the guardian must provide copies of the documents to the petitioner, the visitor, the guardian ad litem, the individual subject to guardianship, and all of the individuals identified in [NDCC §30.1-28-09](#).
- In established cases that have an active proceeding, such as a successor guardian appointment, examine case documents to see if the Court has appointed a current visitor or guardian ad litem for the current proceedings. If so, a copy of the documents should also be provided to them. (In addition to the individual under guardianship, current guardian, and interested parties designated in the Order.)
- In instances where a guardianship has already been established, and there are no current proceedings, the guardian must provide copies of the documents to the individual under guardianship, the individual's attorney (if any), and any interested parties designated by the Court in the Order of appointment or that have requested notice of the proceedings.

## Who is a Professional Guardian?

Professional guardian appointments require additional qualifications. For the purposes of this rule, a professional guardian is any individual who:

- Provides guardianship services for hire to one or more adults; or
- Works for a guardianship entity and provides guardianship services; or
- Serves as a guardian for three or more adults; or
- Serves in a role as public guardian or administrator.

## Additional Information for Professional Guardians

- Individuals may become certified guardians and maintain their certification through the Center for Guardianship Certification: [guardianshipcert.org](http://guardianshipcert.org).
- Organizations may be accredited for providing adult guardianship services by the Council on Accreditation: [coanet.org](http://coanet.org).
- Professional guardians should e-file their Rule 59 documents into each of their cases.

## **E-Filing Information for Professional Guardians**

For all documents, the Security Code is “Public”

- 1) **Declaration (*previously Affidavit*)\***:
  - a. Filing Code: Declaration
  - b. Description: Guardian Qualifications (guardian name)
- 2) **Certificate of Completion of Online Training:**
  - a. Filing Code: Certificate
  - b. Description: Guardian Online Training (guardian name)
- 3) **Criminal History Record Report:**
  - a. Filing Code: Probate Filing
  - b. Description: Criminal History Record Check (guardian name)
- 4) **Affidavit of Service or Declaration of Service\*\*:**
  - a. Filing Code: Service Documents Do Not Use for Service of Motion
  - b. Description: Affidavit of Service to (names); or Declaration of Service to (names)

### ***INFORMATION AND SAMPLE FORMS ATTACHED***

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\* As of October 2023, the titles of the fillable forms at [ndcourts.gov/legal-self-help/adult-guardianship/guardian-of-adult-qualifications-and-affidavits](https://ndcourts.gov/legal-self-help/adult-guardianship/guardian-of-adult-qualifications-and-affidavits) are updated from “affidavits” to “declarations.” Neither the previous affidavit forms nor the current declaration forms are required to be signed in the presence of a notarial officer (*notarized*). Both have the same force and effect as a notarized document because they meet the requirements of [Rule 11\(a\)\(2\) of the North Dakota Rules of Civil Procedure](#) for unsworn affidavits and declarations. The titles of the fillable forms are updated to “declarations” to correspond to the e-filing code for unsworn declarations.

\*\* A sample affidavit of service form is attached. Service instructions and declaration of service forms are also available at <https://www.ndcourts.gov/legal-self-help/adult-guardianship> at the end of the “After Adult Guardianships are Established” section.

## **Administrative Rule 59 - GUARDIANS**

**Section 1. Purpose.** This rule establishes qualifications and training requirements for nonprofessional and professional guardians appointed under N.D.C.C. ch. 30.1-28. For purposes of this rule, "nonprofessional guardian" means an individual who serves as guardian for two or fewer individuals at the same time, and "professional guardian" means an individual or entity that serves as guardian for three or more individuals at the same time, an individual or entity appointed to serve as a public guardian or administrator, or an individual or entity that holds itself out as providing guardianship services for hire. This rule does not apply to emergency guardians appointed under N.D.C.C. §30.1-28-10.1.

**Section 2. Qualifications – Nonprofessional Guardian.** An individual proposed to serve as a nonprofessional guardian:

- a) Must submit an affidavit stating that the proposed guardian has completed the online guardianship training program established by the North Dakota supreme court and file a certificate of completion with the appointing court before letters of guardianship are issued;
- b) Unless waived by the court, must provide a criminal history record check report to the appointing court before the hearing on the petition to appoint a guardian; and
- c) Must provide to the appointing court before the hearing on the petition to appoint the guardian an affidavit stating whether the proposed guardian has been investigated for offenses related to theft, fraud, or the abuse, neglect, or exploitation of an adult or child and must provide a release authorizing access to any record information maintained by an agency in this or another state or a federal agency.

**Section 3. Qualifications - Professional Guardian (Entity).** An entity proposed to serve as a professional guardian:

- a) Must be accredited through the Council on Accreditation or its employed guardians must possess certification through the Center for Guardianship Certification;
- b) Must provide to the court considering the petition for appointment as a guardian an affidavit stating whether any individual who will provide guardianship services for the ward has been investigated for a criminal offense related to fraud, theft, or abuse, neglect or exploitation of an adult or child or there has been a substantiated instance of abuse, neglect, or exploitation of an adult or child by the guardian;
- c) Must provide to the court considering the petition for appointment as a guardian an affidavit stating whether any individual who will provide guardianship services for the ward has been the subject of a substantive disciplinary order issued by a licensing entity or by an agency accredited through the Council on Accreditation;
- d) Must provide to the court considering the petition for appointment as a guardian an affidavit indicating the entity under the auspices of which any individual who will provide guardianship services has obtained a release authorizing access to any record information maintained by an agency in this or another state or a federal agency, a criminal history record check report and the results of a background inquiry for offenses related to theft, fraud, or the abuse, neglect, or exploitation of an adult or child with respect to any individual who will provide guardianship services and indicating the results of the report and inquiry; and
- e) Must provide to the court considering the petition for appointment as a guardian an affidavit indicating that all individuals employed by the entity to serve as a guardian have completed the online guardianship training program established by the North Dakota supreme court.

**Section 4. Qualifications - Professional Guardian (Individual).** An individual proposed to serve as a professional guardian, whether or not employed by a professional guardian entity:

- a) Must possess certification through the Center for Guardianship Certification;
- b) Must submit an affidavit that the proposed guardian has completed the online guardianship training program established by the North Dakota Supreme Court and file a certificate of completion with the appointing court before letters of guardianship are issued;
- c) Unless waived by the court, must provide a criminal history record check report to the appointing court

- before the hearing on the petition to appoint a guardian; and
- d) Must provide to the appointing court before the hearing on the petition to appoint the guardian an affidavit stating whether the proposed guardian has been investigated for a criminal offense related to fraud, theft, or abuse, neglect or exploitation of an adult or child, there has been a substantiated instance of abuse, neglect, or exploitation of an adult or child by the guardian, or the guardian has been the subject of any disciplinary proceeding by a licensing entity or by an agency accredited through the Council on Accreditation, and must provide a release authorizing access to any record information maintained by an agency in this or another state or a federal agency.

**Section 5. Criminal convictions - effect on appointment as guardian.**

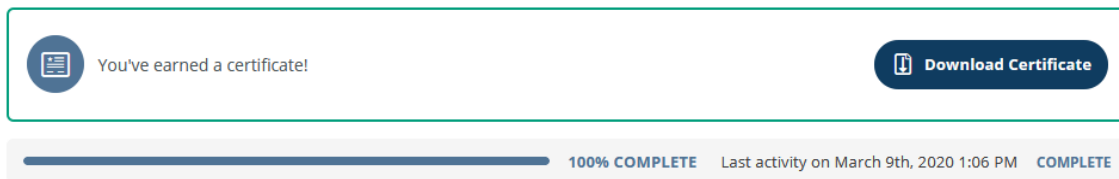
- a) An individual may not be appointed as a professional and nonprofessional guardian if the individual has been found guilty of, pled guilty to, or pled no contest to:
  - 1) An offense described in N.D.C.C. ch. 12.1-16, homicide: §12.1-17-01, simple assault, if a class C felony under subdivision a of subsection 2 of that section; §2.1-17-01.1, assault; §12.1-17-01.2, domestic violence: §12.1-17-02, aggravated assault; §12.1-17-03, reckless endangerment; §12.1-17-04, terrorizing: §12.1-17-06, criminal coercion: §12.1-17-07.1, stalking: §12.1-17-12, assault or homicide while fleeing a peace officer: ch. 12.1-18, kidnapping: §12.1-20-03, gross sexual imposition: §12.1-20-03.1, continuous sexual abuse of a child; §12.1-20-04, sexual imposition: §12.1-20-05, corruption or solicitation of minors: §12.1-20-05.1, luring minors by computer or other electronic means: §12.1-20-06, sexual abuse of wards: §12.1-20-06.1, sexual exploitation by therapist: §12.1-20-07, sexual assault: §12.1-20-12.3, sexual extortion: §12.1-21-01, arson: §12.1-22-01, robbery: or §12.1-22-02, burglary, if a class B felony under subdivision b of subsection 2 of that section; ch. 12.1-27.2, sexual performances by children: ch. 12.1-41, Uniform Act on Prevention of and Remedies for Human Trafficking: or §12.1-29-01, promoting prostitution: §12.1-29-02, facilitating prostitution: §12.1-31-05, child procurement: §12.1-31-07, endangering an eligible adult: §12.1-31-07.1, exploitation of an eligible adult: §14-09-22, abuse of a child: §14-09-22.1, neglect of a child, subsection 1 of section §26.1-02.1-02.1, fraudulent insurance acts: or an offense under the laws of another jurisdiction which requires proof of substantially similar elements as required for conviction under any enumerated North Dakota statutes: or
  - 2) An offense, other than an offense identified in subsection 5(a)(1), if the appointing court determines that the individual seeking appointment as a professional or nonprofessional guardian has not been sufficiently rehabilitated.
- b) For the purposes of subsection 5(a)(2), the court:
  - 1) May not consider a claim that the individual has been sufficiently rehabilitated until any term of probation, parole, or other form of community corrections or imprisonment without subsequent charge or conviction has elapsed, unless sufficient evidence is provided of rehabilitation: and
  - 2) Must treat completion of a period of five years after final discharge or release from any term of probation, parole, or other form of community corrections, or from imprisonment, without subsequent conviction, as prima facie evidence of sufficient rehabilitation.
- c) The offenses enumerated in subsection 5(a)(1) have a direct bearing on the proposed professional or nonprofessional guardian's ability to provide guardianship services.

**Section 6. Notification - professional and nonprofessional guardians.** The guardian must notify the unit administrator in each administrative unit in which the guardian provides guardianship services that the guardian has been charged with a criminal offense related to fraud, theft, or abuse, neglect or exploitation of an adult or child or there has been a substantiated instance of abuse, neglect, or exploitation of an adult or child by the guardian. Where the guardian is or was employed by an entity, the entity is also required to provide notification.

**Section 7. Rule Implementation.** This rule applies to all guardianships established after the effective date. For active guardianships established prior to the effective date of this rule, the guardian must complete the requirements above and must submit the required documentation to the court with jurisdiction over the guardianship within 30 months from the March 1, 2018 effective date of this rule.

## Guardianship Training Video

North Dakota Courts hosts a training for all proposed guardians to review prior to appointment. Each guardian must sign up with their individual email address in order to get a certificate of completion in their name. If you are the guardian of an adult, you will need to take the training titled: “Adult Guardianship Training”. This and other trainings are available here: <https://guardianship.ndcourts.gov/>. After you sign up with your email address and password, you may take your time going through the video. Your progress will be automatically saved so you may exit the course and then return later to complete the remaining sections. When you have gone through the entire training, which may take 1-2 hours, you will see a box similar to this:



For technical assistance with the training, please contact:

Email: [webmaster@kat.marketing](mailto:webmaster@kat.marketing)

Call: 701.224.9208

Or visit the [Frequently Asked Questions](#) page.

Remember to send your certificate of completion to the Court, along with your affidavit and criminal history record check. You may go back anytime to reprint your certificate.



## **Requesting a North Dakota Criminal History Record Check**

By law, state agencies and professional licensing boards may require an applicant to complete a criminal history record check prior to employment or licensure. A North Dakota criminal history record check may be name-based or fingerprint based. **Fingerprinting is not required for the guardianship of adult's criminal history record check.**

### **The Record Check Request**

Complete and submit the original signed form SFN 50744 along with the required fee (\$15) by mail to the Bureau of Criminal Investigations (BCI) at the address on the form. Payment by check or money order (NO CASH), should be **made payable to "ND Attorney General"**. <https://attorneygeneral.nd.gov/public-safety/criminal-history-records/requesting-criminal-history-record-check>. (sample attached)

### **Required Information**

Enter the guardian's contact information in the REQUESTER section - the report will be mailed to you. Enter your information again as the subject in the "RECORD CHECK WILL BE CONDUCTED ON INDIVIDUAL LISTED BELOW" section.

1. Full name, including maiden name, former name and any known aliases;
2. Date of Birth;
3. Social Security Number OR the subject's fingerprints; and
4. Subject's current address OR a signed [authorization form](#). (You only need the authorization form if you are asking for a background check on a third party.)

### **Processing Time**

It takes approximately 7-10 business days to process and complete a criminal history record check. If you require an expedited response, you must include a pre-paid self-addressed overnight/priority mail type envelope and payment only in the form of a certified cashier's check or money order.

BCI contact information:

Criminal Records Section  
North Dakota Bureau of Criminal Investigation  
PO Box 1054  
Bismarck ND 58502-1054  
(701) 328-5500



**NON-CRIMINAL JUSTICE REQUEST FOR CRIMINAL HISTORY RECORD INFORMATION**

OFFICE OF ATTORNEY GENERAL  
BUREAU OF CRIMINAL INVESTIGATION  
SFN 50744 (07-2018)

FOR BCI USE ONLY
Check Number
Amount
Receipt Number
Receipt Date

**INSTRUCTIONS**

1. Please type or print legibly and ensure that all information is complete. **Incomplete or illegible requests will be returned.**
2. Record request only covers North Dakota criminal history records.
3. State law (NDCC § 12-60-16.6) requires the subject's name and at least two other provided items of information match the data in the criminal history record system before a record may be released. Providing maiden or former names is very important. Please ensure Social Security Number and Date of Birth are provided and are correct. A set of fingerprints is not required, but may be submitted.
4. The required **\$15.00** fee [U.S. Dollars] per record check must be included with this request. The **check or money order** must be made payable to the **North Dakota Attorney General**.
5. To complete the criminal history record check, we must have a signed authorization form (SFN 51156) from the subject **OR** the subject's current address. If a signed authorization form is not provided, state law requires BCI provide notice to the subject if a record is disseminated. NDCC § 12-60-16.8)
6. Return the request to:
 

**Criminal Records Section  
North Dakota Bureau of Criminal Investigation  
4205 State Street  
PO Box 1054  
Bismarck ND 58502-1054  
(701) 328-5500**

*Use street address when shipping by next day service.*

**REQUESTER INFORMATION - RESULTS WILL BE MAILED TO INDIVIDUAL OR COMPANY INDICATED IN THIS BLOCK**

Mail to Attention of		Telephone Number	
Name/Company			
Address	City	State	ZIP Code

**RECORD CHECK WILL BE CONDUCTED ON INDIVIDUAL LISTED BELOW**

Last Name	First Name (no initials)	Middle Name
Last Name(s) (AKA/Maiden/Former)	First Name	Middle Name
Date of Birth (MM/DD/YYYY)	Social Security Number	BCI State ID Number (if known)
Specific Reportable Criminal Event Identified by Date, Offense, and Agency or Court (if known)		
Current Address (if current address is not provided, a signed authorization form must be attached)		
City	State	ZIP Code

Your social security number is requested to permit the North Dakota Bureau of Criminal Investigation to conduct a criminal history record information background investigation under NDCC § 12-60-16.6. Disclosure of your social security number is voluntary. However, not providing this information will result in the requirement that other information be provided, including a reportable criminal event or the submission of fingerprints.

**FOR BCI USE ONLY**

SID Number	Released Date	Record <input type="checkbox"/> Yes <input type="checkbox"/> No	Parole/Probation <input type="checkbox"/>	Offender <input type="checkbox"/>	Offender Letter <input type="checkbox"/>
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**INFORMATION CONTAINED ON THIS RECORD REQUEST FORM IS SUBJECT TO THE NORTH DAKOTA OPEN RECORDS LAW.**



STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ JUDICIAL DISTRICT

**IN THE MATTER OF THE GUARDIANSHIP OF**

\_\_\_\_\_.

Case No. \_\_\_\_\_

**AFFIDAVIT OF PROPOSED NONPROFESSIONAL GUARDIAN AND  
AUTHORIZATION TO ACCESS RECORD INFORMATION**

I, \_\_\_\_\_, state as follows:

1. I am the proposed nonprofessional guardian. I understand that as a nonprofessional guardian I may not hold myself out as providing guardianship services for hire, I am not a public administrator, and I may serve as guardian for two or fewer individuals.

2. I completed the online North Dakota Guardianship Training Course on \_\_\_\_\_ (date). A copy of my Certificate of Completion is attached.

3.  I **have not been** investigated for offenses related to the abuse, neglect or exploitation of an adult or child, or theft or fraud in North Dakota or any other state.

I **have been** investigated for offenses related to the abuse, neglect or exploitation of an adult or child, or theft or fraud in \_\_\_\_\_ (list

state(s)). Explain:

4. A copy of my criminal history record check report is attached.
5. I hereby authorize the release to this court or its designee of any record information maintained by a federal agency, an agency of North Dakota, or an agency of another state kept in connection with an investigation of me for offenses related to the abuse, neglect or exploitation of an adult or child, or theft or fraud. This consent is executed voluntarily and without duress or obligation on the date below.
6. If appointed guardian, I understand I have an ongoing duty to notify the trial court administrator of the administrative unit in which I am appointed if I am charged with a criminal offense related to fraud, theft, or abuse, neglect or exploitation of an adult or child or if there is a substantiated instance of abuse, neglect, or exploitation of an adult or child against me.
7. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Affidavit is true and correct.

Signed on \_\_\_\_\_ (date), in \_\_\_\_\_ (County),  
\_\_\_\_\_ (State), \_\_\_\_\_ (Country).

\_\_\_\_\_  
Signature of Proposed Nonprofessional Guardian

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip Code

Telephone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

STATE OF NORTH DAKOTA  
COUNTY OF \_\_\_\_\_

IN DISTRICT COURT  
\_\_\_\_\_ JUDICIAL DISTRICT

**IN THE MATTER OF THE GUARDIANSHIP OF**

\_\_\_\_\_  
**Case No.** \_\_\_\_\_

**DECLARATION OF SERVICE BY MAIL**

*(May serve multiple persons ONLY IF envelopes are mailed same day from same Post Office.)*

**The person serving court documents by mail states:**

1. My name is \_\_\_\_\_ *(name of person who mailed documents)*. I am at least 18 years of age.

**2. List of Court Documents Served:**

- Affidavit of Proposed Nonprofessional Guardian and Authorization to Access Record Information;
- Certificate of Completion of Adult Guardianship Training; and
- Criminal history record check report(s) for \_\_\_\_\_ *(list each state for which you obtained criminal history record check reports)*.

**3. Service by Mail:**

I served a true and correct copy of each of the court documents listed in Paragraph 2 by mailing them, enclosed in an envelope, by  Certified Mail (OR)  First-Class mail, postage prepaid, and by depositing them in the United States Mail, directed to each person listed in Paragraph 5.

**4. Date and Post Office Location of Service by Mail:**

Date Court Documents Were Served by Mail: \_\_\_\_\_

United States Post Office Location:

\_\_\_\_\_  
*(city)* *(county)* *(state)*

5. **Person or Persons Served by Mail:**

1. Name of Person Served: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

2. Name of Person Served: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

3. Name of Person Served: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

4. Name of Person Served: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

6. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Declaration of Service by Mail is true and correct.

Signed on \_\_\_\_\_ (date) in \_\_\_\_\_ (city),  
\_\_\_\_\_ (county), \_\_\_\_\_ (state), \_\_\_\_\_ (country).

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Email Address