

Instructions for Requesting Appointment of a Guardian Ad Litem (GAL) as Part of Process to Transfer a North Dakota Guardianship or Conservatorship of an Adult to Another State

Don't include these instructions when you serve or file the completed forms.

IMPORTANT! READ BEFORE USING THESE FORMS AND INSTRUCTIONS

ND Legal Self Help Center staff and court employees can't help you fill out forms.

If you're unsure how to proceed, or need legal advice or legal representation, consult a lawyer licensed to practice in North Dakota.

To protect your rights, carefully read this information and any instructions to which you're referred.

When you represent yourself, you're expected to know and follow the law, including:

- State or federal laws that apply to your case;
- Case law, also called court opinions, that applies to your case; and
- Court rules that apply to your case, which may include:
 - North Dakota Rules of Civil Procedure;
 - North Dakota Rules of Court;
 - North Dakota Rules of Evidence;
 - North Dakota Administrative Rules and Orders; and
 - Any local court rules.

Links to the state laws, case law, and court rules can be found at www.ndcourts.gov.

When you represent yourself, you're held to the same requirements and responsibilities as a lawyer, even if you don't understand the rules or procedures. If you're unsure if these forms and instructions suit your circumstances, consult a lawyer.

- If you would like to learn more about finding a lawyer to represent you, go to www.ndcourts.gov/legal-self-help/finding-a-lawyer.

A glossary with definitions of legal terms is available at www.ndcourts.gov/legal-self-help.

These instructions and forms aren't a complete statement of the law. They cover the basic procedure for requesting appointment of a Guardian Ad Litem (GAL) as part of the process to transfer an existing North Dakota guardianship of an adult to another state. There is no guarantee that all judges and courts will accept forms available through the ND Legal Self Help Center. The Center isn't responsible for any consequences that may result from the forms or information provided. Use at your own risk.

You may use these forms if:

1. The guardian, and/or conservator of an **adult** appointed by a North Dakota state district court is requesting that the entire guardianship and/or conservatorship case be transferred to the court of another state. (*This is called transferring jurisdiction.*)

AND

2. You're the guardian, conservator, or other interested person who wants to ask the North Dakota state district court to appoint a Guardian Ad Litem (GAL) for the **adult** ward and/or protected person.

Requesting a Guardian Ad Litem (GAL) for the Ward and/or Protected Person

The court may appoint a Guardian Ad Litem (GAL) for the ward and/or protected person upon the request of the guardian, conservator, ward, protected person, or any interested person.

A GAL is a lawyer appointed by the North Dakota state district court to advocate for the best interests of the ward and/or protected person.

ND Laws and Rules

North Dakota Century Code Chapter 28-35: Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act contain requirements for transferring guardianships of adults. Chapter 28-35 is available at www.legis.nd.gov/cencode/t28c35.html.

- For requirements for petitioning to transfer guardianship jurisdiction from North Dakota to another state, see Section 28-35-15: Transfer of Guardianship or Conservatorship to Another State. (www.legis.nd.gov/cencode/t28c35.pdf#nameddest=28-35-15)

North Dakota Century Code Chapter 28-35 may reference the **North Dakota Rules of Civil Procedure, the North Dakota Rules of Court, or the North Dakota Rules of Evidence**. The rules are available at www.ndcourts.gov/legal-resources/rules.

The North Dakota Century Code and North Dakota rules of court can also be found in print in many North Dakota public and academic libraries.

Step One:

Complete the Guardian Ad Litem (GAL) Request and (*Proposed*) and Order For Appointment of Guardian Ad Litem Forms.

A Guardian Ad Litem (GAL) is a lawyer appointed by the North Dakota state district court to advocate for the best interests of the ward or the protected person. The GAL is paid by the ward's or protected person's estate.

Appointing a GAL is optional when the Court is deciding whether to transfer jurisdiction of a guardianship and/or conservatorship to another state.

If you decide to ask the Court to appoint a GAL for the ward or protected person, you'll first need to find a GAL.

No list of GAL's specifically for guardianships or conservatorships of adults exists through the North Dakota Court System. However, a GAL roster for use in child custody proceedings may be useful as a starting point.

- www.ndcourts.gov/district-court/parenting-investigator-legal-guardian-ad-litem-roster

Request for Appointment of Guardian Ad Litem by Other Interested Person:

Caption (*top of form*):

- Complete the Caption EXACTLY as the Caption for the Notice of Petition or Petition to Transfer Guardianship/Conservatorship is completed. (*If you don't have a copy of the either document, contact the Clerk of Court.*)

Paragraphs 1 through 5:

- Checkmark the appropriate box or boxes.
- Completely fill out all of the form.

Date and Signature:

- Sign and date this form.
 - Completely fill out the lines under the signature line.
 - If a co-guardian or co-conservator appointed in the same case is joining the petition with you, they date, sign, and complete the co-guardian/co-signature lines.
-

(Proposed) Order for Appointment of Guardian Ad Litem:

Caption (*top of form*):

- Complete the Caption EXACTLY as the Caption for the Notice of Petition or Petition to Transfer Guardianship/Conservatorship is completed. (*If you don't have a copy of the either document, contact the Clerk of Court.*)
- Fill out the information following the Title of the form as completely as you can.

DON'T sign and date this form.

- If the Court appoints a GAL AND uses your proposed order, the judge will sign and date the form.
-

Step Two:

Make Copies of Completed Forms; Serve Copies on ALL Persons Who Must Receive Notice of Documents Filed in the Case.

Count the number of persons required to receive notice of documents filed in the case:

- For Guardianships:
 - The ward;
 - The ward's living spouse, if any;
 - The ward's living adult children, if any;
 - Any person, corporation, or institution who is serving as the ward's guardian, attorney in fact, representative payee for public benefits, and conservator;
 - The ward's attorney; and
 - All interested person's named in the guardianship order.
- For Conservatorships:
 - The protected person;
 - The protected person's living spouse, if any;
 - If no living spouse, the protected person's living parents, if any;
 - Any other guardian or conservator;
 - Any government agency paying benefits to the protected person; and
 - All interested person's named in the guardianship order.
- For Guardianships and Conservatorships (Combined in one case):
 - People listed above for both Guardianships and Conservatorships.

Make a copy of the following for each person:

- Request for Appointment of Guardian Ad Litem by Other Interested Person; and
- (*Proposed*) Order for Appointment of Guardian Ad Litem.

Serve one copy on each person required to receive notice:

You may serve by hand delivery or by mail.

Before the court will act on your petition, you must provide proof that copies of the completed documents were mailed or hand-delivered to all persons required to receive notice.

A completed, dated and signed affidavit of service is your proof.

Affidavit of service forms are included with this form set.

Service by Hand Delivery:

You may arrange for a person who is at least 18 years or older AND not a party or interested in the guardianship and/or conservatorship to hand the copies of documents to the person to be served.

The person who handed copies of documents to the person to be served completes, signs and dates the **Affidavit of Service by Hand Delivery** form.

Service by hand delivery is complete when the copies of documents are handed to the person to be served.

Service by Mail:

You may arrange for a person who is at least 18 years or older to mail copies of documents to the person to be served.

Put the copies in an envelope. Address the envelope with the last known address of the person to be served. List your address as the return address on the envelope. The person who is at least 18 years old takes the envelope to a United States Post Office and mails the envelope. First Class postage must be prepaid.

The person who took the copies of documents to the Post Office and paid the First Class postage completes, signs and dates the **Affidavit of Service by Mail** form.

Service by mail is complete upon mailing.

Step Three:

File the Original, Completed Forms with the Clerk of District Court.

File the following original, completed forms with the Clerk of the District Court that currently has authority over the guardianship and/or conservatorship:

- Request for Appointment of Guardian Ad Litem by Other Interested Person; and
- (*Proposed*) Order for Appointment of Guardian Ad Litem.

Step Four:

The Judge Decides Whether to Appoint a Guardian Ad Litem (GAL).

If the Judge DOESN'T Appoint a Guardian Ad Litem (GAL):

If the Judge doesn't appoint a GAL for the ward and/or protected person, the case will continue forward without one.

If the Judge APPOINTS a Guardian Ad Litem (GAL):

If the Judge appoints a GAL for the ward and/or protected person, the Judge will sign an order for appointment.

- The judge or judicial referee may decide to sign your proposed Order for Appointment of Guardian Ad Litem, or may decide to sign a different order.

The order for appointment will list the duties and responsibilities of the GAL.

Don't include these instructions when you serve or file the completed forms.

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE MATTER OF THE GUARDIANSHIP/CONSERVATORSHIP OF

_____,
AN INCAPACITATED INDIVIDUAL/PROTECTED PERSON

Case No. _____

REQUEST FOR APPOINTMENT OF GUARDIAN AD LITEM BY OTHER INTERESTED PERSON

1. My name is _____ and I am
the ward's/protected person's _____.

2. The guardian/co-guardians conservator/co-conservators petitioned the court on
_____, 20____ to transfer the guardianship/conservatorship to another
state.

3. I ask this court to appoint a Guardian ad Litem to advocate for the ward's/protected
person's best interests during petition proceedings.

4. The appointment of a Guardian ad Litem is necessary for the following reasons:

5. I ask that _____ be appointed as Guardian ad Litem for the ward/protected person. The proposed Guardian ad Litem's address, telephone number and email address are:

Dated _____, 20_____.

Signature of Requestor

Printed Name

Address

City, State, Zip Code

Telephone Number

Email Address

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE MATTER OF THE GUARDIANSHIP/CONSERVATORSHIP OF

AN INCAPACITATED INDIVIDUAL/PROTECTED PERSON

Case No. _____

ORDER FOR APPOINTMENT OF GUARDIAN AD LITEM

Date petition to transfer the guardianship/conservatorship was filed:

Name of Judge:

Courthouse/city in which to appear:

Date of hearing:

Time of hearing:

Name of attorney appointed as guardian ad litem:

Guardian ad litem's address:

Telephone No.:

1. The Petition to Transfer Guardianship/Conservatorship was filed as indicated above. The petition will be heard by the above indicated judge on the date and time and location listed above.
2. The attorney listed above is appointed to act as guardian ad litem.
3. The guardian ad litem shall explain the proceeding to the ward/protected person using language, communication, and terms which can be understood by the ward/protected person, including the nature and consequences of the proceeding, the rights of the ward/protected person, and available legal options.

4. The guardian ad litem shall advocate for the best interests of the ward/protected person.

The attorney appointed as guardian ad litem may not represent the ward/protected person in a legal capacity.

5. THE GUARDIAN AD LITEM SHALL SUBMIT A RESPONSE TO THE PETITION AT LEAST 5 DAYS PRIOR TO THE HEARING.

6. The court will determine who will be responsible for the costs of the guardian ad litem's services.

7. The guardian ad litem shall have access to the legal, financial, and medical records, including psychiatric, mental health, psychological, and chemical dependence records, of the ward/protected person.

BY THE COURT:

Judge of the District Court

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE MATTER OF THE GUARDIANSHIP/CONSERVATORSHIP OF

AN INCAPACITATED INDIVIDUAL/PROTECTED PERSON

Case No. _____

AFFIDAVIT OF SERVICE BY HAND DELIVERY

(A separate affidavit is required for each person served.)

The person serving court documents by hand delivery states:

1. My name is: _____ *(person who served documents by hand delivery)*. I am at least 18 years of age. **I am not a party or interested in the above named matter.**

2. **Service by Hand Delivery:**

I served a true and correct copy of each of the court documents listed in Paragraph 4 to _____ *(name of person served)* by *(choose one)*:

Giving the court documents directly to him/her.

Leaving the court documents with: _____ *(name)*, a person of suitable age and discretion who lives at the same address.

I know the person I served is the person intended to be served because: *(explain how you identified the person)* _____

3. **Date, Time, and Address of Service by Hand Delivery:**

Date: _____ Time: _____ a.m. *(or)* p.m.

Address:

_____ *(street address)*

_____ *(city)*

_____ *(zip code)*

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

- Request for Appointment of Guardian Ad Litem by Other Interested Person; and
- Proposed Order for Appointment of Guardian Ad Litem

5. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Affidavit of Service by Hand Delivery is true and correct.

STATE OF _____)

COUNTY OF _____) ss.

COUNTRY OF _____)

Signed on _____, 20____.

Signature

Printed Name

Address

City, State, Zip Code

Telephone Number: _____

Email Address: _____

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE MATTER OF THE GUARDIANSHIP/CONSERVATORSHIP OF

AN INCAPACITATED INDIVIDUAL/PROTECTED PERSON

Case No. _____

AFFIDAVIT 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: _____ *(person who mailed documents)*. I am at least 18 years of age.

2. List of Court Documents Served:

- Request for Appointment of Guardian Ad Litem by Other Interested Person; and
- Proposed Order for Appointment of Guardian Ad Litem.

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 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 Affidavit of Service by Mail is true and correct.

Signed on _____, 20____ in _____ (city),
_____ County, _____ (state).

_____ Signature	_____ Printed Name
_____ Address	_____ City, State, Zip Code
_____ Telephone Number	_____ Email Address