

**FORMS FOR ESTABLISHING, MAINTAINING AND TERMINATING
ADULT GUARDIANSHIPS**

(N.D.C.C. Chapter 30.1-26 and Chapter 30.1-28)

IMPORTANT! READ BEFORE USING FORMS

Court employees cannot help you fill out the form(s). If you are unsure how to proceed, you should consult a lawyer.

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

You have the choice to be represented by a lawyer of your choice at your own expense. You should see a lawyer if you have questions about how to fill out these forms.

You may go to court without a lawyer, but you will have to abide by the state and/or federal laws that apply to your case, the appropriate court rules, including 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 rules and state laws can be found at www.ndcourts.gov under the Research link.

This information about the forms is not a complete statement of the law. The information covers basic procedure for establishing, maintaining and terminating adult guardianships. For legal information, please talk to a lawyer.

The requirements for adult guardianships are found in **North Dakota Century Code (N.D.C.C.) Chapter 30.1-26 and Chapter 30.1-28**. Please refer to these Chapters when filling out the forms.

DEFINITIONS:

See **N.D.C.C. § 30.1-26-01**, generally.

Emergency Appointment: A temporary appointment of a guardian that can last no more than 90 days. When a petition for an appointment of an emergency guardian is received by the court, a Guardian ad Litem is appointed to advocate for the best interests of the proposed ward. (**N.D.C.C. § 30.1-28-10.1**)

Ex Parte Appointment: An emergency appointment of a guardian that is ordered without a hearing and without giving notice to the proposed ward or other interested parties. The proposed ward must be given notice within 48 hours of the ex parte appointment. A hearing must be held within 10 days of the ex parte appointment. **(N.D.C.C. § 30.1-28-10.1(2))**

Guardian: A person appointed by the court to make personal decisions for an incapacitated person.

Guardian ad Litem: A lawyer appointed by the court to advocate for the best interests of the proposed ward. **(N.D.C.C. Chapter 30.1-28)**

Incapacitated Person: An adult person who is impaired by reason of mental illness or deficiency, physical illness or disability, or chemical dependency to the extent that the person lacks capacity to make or communicate responsible decisions concerning that person's matters of residence, education, medical treatment, legal affairs, vocation, finance, or other matters, or which incapacity endangers the person's health or safety.

Letters of Guardianship: A document signed by the court that identifies the authority and limitations of the guardian to make decisions on behalf of the ward; identifies any other powers or authority given to the guardian by the court; and identifies any limitations the court puts on the ward in matters where powers are not granted to the guardian. **(N.D.C.C. § 30.1-28-05)**

Petitioner: A person who presents an adult guardianship petition to a North Dakota District Court.

Proposed Ward: An individual, who is alleged to be an incapacitated person, for whom an adult guardianship is sought.

Successor Guardian: A guardian appointed when the first appointed guardian is unable or unwilling to continue to serve as guardian.

Visitor: A person appointed by the court to interview the proposed guardian and the proposed ward. The visitor gives a written report to the court, which includes recommendations on powers to be granted to the proposed guardian. The visitor is a person in nursing or social work with no special interest in the guardianship proceedings. **(N.D.C.C. Chapter 30.1-28)**

Ward: An adult for whom a state court appointed a guardian.

FORMS FOR ESTABLISHING ADULT GUARDIANSHIPS:

Forms for Establishing Emergency Adult Guardianships

A North Dakota District Court may appoint an emergency guardian. The emergency appointment can last for no more than 90 days. The emergency appointment can happen with or without prior notice to the proposed ward. Requirements can be found in **N.D.C.C. Chapter 30.1-28**. See particularly **N.D.C.C. §§ 30.1-28-09 and 30.1-28-10.1**.

Form Title	Purpose
Petition for Appointment of Emergency Guardian	Formal request to the court for appointment of an emergency guardian. Requests for ex parte appointments must include an affidavit or other sworn testimony consistent with N.D.C.C. § 30.1-28-10.1(2) .
Order – Emergency Guardian – Ex Parte Appointment	Proposed order of the court appointing an emergency guardian until a full hearing is held on the petition for appointment of an emergency guardian. The proposed order is not effective until it is signed by the court.
Letters – Emergency Guardianship Pending Hearing	Proposed letters of emergency guardianship, which, if signed, would be in effect until a full hearing is held on the petition for appointment of an emergency guardian. This document is not effective until it is signed by the court.
Order – Emergency Guardianship	Proposed order of the court appointing an emergency guardian after the full hearing is held on the petition for appointment of an emergency guardian. An emergency guardian cannot be appointed for more than 90 days. The proposed order is not effective until it is signed by the court.
Letters – Emergency Guardianship	Proposed letters of emergency guardianship after the full hearing is held on the petition for appointment of an emergency guardian. This document is not effective until it is signed by the court.

Forms for Establishing Adult Guardianships

Any person interested in the welfare of an allegedly incapacitated person may petition for the appointment of a guardian. An emergency guardian may petition for appointment of a long-term guardian. Requirements can be found in **North Dakota Century Code (N.D.C.C.) Chapter 30.1-26 and Chapter 30.1-28.**

Form Title	Purpose
Notice of Hearing and Statement of Rights	Gives the date and time of the guardianship hearing, name and address of the Guardian ad Litem, and the name of the proposed guardian. Gives important information about the guardianship process to the proposed ward.
Petition for Appointment of a Guardian	Formal request to the court for appointment of a guardian for an alleged incapacitated person.
Order for Appointment of Guardian ad Litem	Proposed order of the court appointing a Guardian ad Litem. The proposed order is not effective until it is signed by the court.
Guardian ad Litem's Report	A form a Guardian ad Litem may use to submit the required report to the court.
Order Appointing a Visitor	Proposed order of the court appointing a visitor. The proposed order is not effective until it is signed by the court.
Report of Visitor	A form a Visitor may use to submit the required report to the court.
Order Appointing a Physician/Clinical Psychologist	Proposed order of the court appointing a physician or clinical psychologist. The proposed order is not effective until it is signed by the court.
Report of Physician/Clinical Psychologist	A form a physician or clinical psychologist may use to submit the required report to the court.
Findings of Fact and Order Appointing Guardian/Co-Guardians	After hearing all of the evidence, the proposed explanation of facts the judge found to be true and the legal consequences of those facts. The proposed findings of fact and order are not effective until signed by the court.
Letters of Guardianship	Proposed letters of guardianship after the full hearing is held on the petition for appointment of a guardian. This document is not effective until it is signed by the court.

Forms for After Guardianships are Established

Once a guardian is appointed, the guardian is required to inventory and report the ward's assets. After a guardianship is established, changes to the guardianship may be necessary. Guardianships may be terminated, guardians may resign, be removed, and successor guardians may be appointed. Requirements may be found in **North Dakota Century Code (N.D.C.C.) Chapter 30.1-26 and Chapter 30.1-28.**

Form Title	Purpose
Beginning Inventory Report	Within 90 days of the date of the order appointing the guardian, the guardian must provide a beginning inventory of all assets owned by the ward or in which the ward has an interest. Copies must be provided to the ward and interested parties included in the appointment order.
Notice of Annual Report to Ward and Interested Parties	The guardian is required to file an annual report with the court. Copies must be provided to the ward and interested parties included in the appointment order. This form includes both the notice of the report and the report.
Notice and Motion for Appointment of Successor Guardian	Formal request to the court to appoint a successor guardian. This is a request to modify the original or most recent guardianship order. The current guardian or any interested person may make the request.
Order Appointing Successor Guardian	Proposed order of the court appointing a successor guardian. The proposed order is not effective until it is signed by the court.
Notice and Motion for Change of Venue	Formal request to the court to transfer the guardianship to a court in a different county. This is a request to modify the original or most recent guardianship order. See also N.D.C.C. Chapter 28-35.
Order for Change of Venue	Proposed order of the court transferring the guardianship to the court of a different county. The proposed order is not effective until it is signed by the court.
Petition for Termination of Guardianship – Death of Ward	Formal request to the court to end the guardianship and discharge the guardian because the ward died.

Order Confirming Termination of Guardianship – Death of Ward	Proposed order of the court ending the guardianship and discharging the guardian because the ward died. The proposed order is not effective until it is signed by the court.
Petition for Termination of Guardianship and Discharge of Guardian	Formal request to the court to end the guardianship and discharge the guardian because the guardianship is no longer needed.
Order Terminating Guardianship and Discharging Guardian	Proposed order of the court ending the guardianship and discharging the guardian because the guardianship is no longer needed. The proposed order is not effective until it is signed by the court.
Notice of Guardianship Review	Notice of a guardianship review scheduled by the court. Notice of a hearing to decide if the guardianship should continue, if the guardian should be reappointed or a new guardian appointed. A form for a sworn statement of the guardian is included.
Order of Reappointment and Continuation of Guardianship	Proposed order of the court after a guardianship review hearing. The proposed order is not effective until it is signed by the court. (N.D.C.C. § 30.1-28-04(5))
Order of Termination of Guardianship	Proposed order of the court after a guardianship review hearing. The proposed order is not effective until it is signed by the court. (N.D.C.C. § 30.1-28-04(5))
Findings of Fact and Order Appointing Successor Guardian Following Review	After hearing all of the evidence offered during the review, the proposed explanation of facts the judge found to be true and the legal consequences of those facts. The proposed findings of fact and order are not effective until signed by the court.