

The PROCESS for ESTABLISHING GUARDIANSHIP of an ADULT

I. FILING THE PETITION

Any person may file a petition** for guardianship with or without a petition for protective placement/services in County Probate Court (there may be a fee, check with your County).

The court assigns a case number, appoints a Guardian ad Litem (GAL)* and sets a date for hearing.

Petitioner serves the Order and Notice for Hearing and the Guardianship/Protective Placement/Services Petition(s) on the proposed ward and on all interested persons at least 10 business days before the hearing. Petitioner files Affidavit of Service with court.

Grandparent may file petition for visitation.

**** Forms are available at www.wicourts.gov**

II. BEFORE THE HEARING

GAL interviews proposed ward & nominated guardian; reviews records; determines whether ward needs/requests defense attorney; makes recommendation to the court about fitness of nominated guardian and whether petition should be granted or dismissed; and files a report. Court appoints Advocacy /Adversary Counsel, if proposed ward needs/requests a lawyer.*

Petitioner gathers evidence; prepares witnesses; ensures that proposed ward is examined by a physician or psychologist; and arranges transportation of proposed ward to hearing.

Physician and/or psychologist examine the proposed ward and files report with court. Report is provided to all interested parties at least 96 hours before hearing.

Proposed ward may request an independent examination by physician or psychologist.

If Petition for Protective Placement filed, comprehensive evaluation of proposed ward is conducted by the county and a report filed with court.

III. AT THE HEARING

Petitioner, nominated guardian, defense attorney (if any), and GAL attend. Witnesses appear in person or by phone, testify and are cross-examined. Case may be heard by court commissioner, judge or jury.

A guardianship action must be completed w/ in 90 days of its filing

Bond posted by Guardian of Estate if required by court.

Letters of Guardianship issued to Guardian(s) by court.

**If the petition is granted and the ward has assets, the ward pays GAL fees, defense attorney fees (if any) and, unless inequitable, petitioner's attorney fees. If the petition is granted and the ward has no assets, the petitioner pays their own attorney's fees and the county pays GAL fees and defense attorney fees (if any). If the petition is denied, the petitioner pays their own attorney's fees, and the GAL fees and defense attorney fees (if any).*

IV. AFTER THE HEARING

If court finds the proposed ward incompetent as defined by statute, court appoints a Guardian of Person and/or Estate, and orders Protective Placement/Services (if needed). If proposed ward not found incompetent, petition is dismissed.

Ward appeals decision to Court of Appeals.

V. AFTER COURT APPOINTMENT

Guardian of Estate files Guardianship Inventory within 60 days of appointment.

Guardian of Estate files Annual Account for previous year by April 15 of each year unless otherwise ordered by the court.

Guardian of Person files Annual Report each year (deadline varies by county).

If ward is protectively placed, Court appoints GAL for ward's annual review. GAL meets with ward and consults with the Guardian of the Person.

GAL files report. Court holds summary hearing or evidentiary hearing.

If appropriate, Guardianship/ Protective Placement is terminated.