

INSTRUCTIONS

TERMINATING GUARDIANSHIP/CONSERVATORSHIP AND/OR DISCHARGING A GUARDIAN/CONSERVATOR

Forms you will need for your Petition to Terminate Guardianship/Conservatorship and/or Discharge a Guardian/Conservators

- Petition to Terminate Guardianship/Conservatorship and/or Discharge a Guardian/Conservator
- Order Terminating Guardianship/Conservatorship and/or Discharging Guardian/Conservator
- Notice of Hearing on Petition for Terminating or Modifying Guardianship/Conservatorship (GAC 26-U)
- Affidavit of Service (Form GAC 2-U)



Do not use these forms if you want to discharge the current guardian or conservator and you already have a successor guardian/conservator willing to take over. Successor Guardianship/Conservatorship forms are available. If you do not know if you should be filling out this form, then you should seek legal advice.

Overview of Steps

1. Complete the court forms, following all of the steps in these instructions.
2. File the original forms with Court Administration (filing fee or fee waiver is required).
3. Arrange for service.
4. Appear at the hearing, if a hearing is scheduled.

Important Notices and Resources

The Court has forms and instructions, for some types of cases, as a general guide to the court process. These instructions explain the steps in more detail and answer common questions, but are not a full guide to the law. Court employees may be able to give general information on court rules and procedures, but they cannot give legal advice.

Got a question about court forms or instructions?

- Visit www.MNCourts.gov/SelfHelp.
- Call the Tenth Judicial District Self Help Center at (763) 760-6699.

Not sure what to do about a legal issue or need advice?

- Talk with a lawyer.
- Visit <https://mncourts.gov/Help-Topics/Find-a-Lawyer.aspx>

Helpful materials may be found at your public county law library. For a directory, see <http://mn.gov/law-library/research-links/county-law-libraries.jsp>. For more information, contact your court administrator or call the Minnesota State Law Library at 651-297-7651.

General Information About Guardianship/Conservatorship

The information contained in this document is not intended as legal advice but as a general guide to explain the legal process. **If you do not understand** any of these procedures, talk to an attorney. **Court staff cannot give legal advice.**

When should you use this form?

- You want to terminate the guardianship
- You want to terminate the conservatorship
- You want to discharge the guardian
- You want to discharge the conservator
- You want to discharge a co-guardian and reissue letters to other co-guardian
- You want to discharge a co-conservator and reissue letters to other co-conservator

***DO NOT** use this form if you want to discharge the current guardian or conservator and you already have a successor guardian/conservator willing to take over. Successor Guardianship/Conservatorship forms are available.

When does a Guardianship or Conservatorship terminate?

- When the person subject to guardianship/conservatorship dies
- When the court finds that less restrictive options exist other than a guardianship/conservatorship
- When the court finds the person subject to guardianship is restored to capacity
- When the court finds the person subject to conservatorship has the ability to make financial decisions, manage his/her own property, or the property is no longer subject to waste
- When the person subject to guardianship/conservatorship is a minor and reaches the age of majority
- When the guardianship/conservatorship is for a limited duration (a set period of time) and the period of time expires
- Upon other order of the court

When can a guardian and/or conservator be discharged?

- When a guardianship/conservatorship terminates (see above)
- When a guardian/conservator dies
- When a guardian/conservator requests permission to resign
- When it is the best of interest of the person subject to guardianship/conservatorship to remove the current guardian and/or conservator
- Upon other good cause ordered by the court

*Read the Guardianship and Conservatorship Manual. The Manual can be found at the following link <http://mncourts.gov/GetForms.aspx?c=21&f=442>. This resource provides an overview of guardianships and conservatorships, and the legal process for terminating a guardianship/conservatorship, discharging a guardian/conservator, and appointing a successor guardian/conservator.

Legal Terms:

Court Visitor: A neutral person appointed by the court to meet with the person subject to guardianship/conservatorship and to personally serve the Petition and Notice of Hearing and Notice of Rights on them. The Court Visitor explains the court forms to the person subject to guardianship/conservatorship, assesses their health and personal wellbeing, and prepares a written report with recommendations to the court.

Guardian: Person appointed by the court to make personal decisions for the person subject to guardianship, such as where to live, medical decisions, training and education, etc.

Person Subject to Guardianship: A minor or incapacitated adult who has a court appointed guardian, lacks sufficient understanding or capacity to make or communicate responsible personal decisions, and who has an inability to meet personal needs for medical care, nutrition, clothing, shelter, or safety.

Conservator: Persons appointed by the court to make financial decisions for the protected person. A conservator typically has the power to enter into contracts, pay bills, invest assets, and perform other financial functions for the person subject to conservatorship.

Person Subject to Conservatorship: a person who has a court appointed conservator because they lack the ability to make decisions regarding their financial affairs or estate.

Termination: The act of bringing a guardianship/conservatorship to an end.

Less Restrictive Alternatives: A least restrictive alternative is an option which allows a person to keep as much autonomy and self-determination as possible while still protecting the person. If a less restrictive alternative can provide proper protection for the person, it must be used to avoid guardianship or conservatorship. Some examples include, but are not limited to: protective orders, representative payee for certain government benefits, supported decision making, community or residential services, establishment of a trust, joint bank accounts, or advance directives for health care.

Discharging: The act of removing a guardian/conservator.

Respondent: The Person Subject to the Guardianship or the Person Subject to the Conservatorship.

Step 1
**Fill out the Petition to Terminate
Guardianship/Conservatorship and/or
Discharge Guardian/Conservator**

How to Fill out the Petition:

- Fill out the case caption.
 - Write the County where the current case is in and the Court File Number. The Court File Number can be found by looking at <http://mncourts.gov/Access-Case-Records.aspx>.
 - Check the box for whether the matter is a Guardianship, Conservatorship, or both.
 - Write in the name of the person subject to guardianship and/or person subject to conservatorship.
 - Under “Petition to:” check the appropriate box based on what you are asking the Court do. To end the guardianship/conservatorship, check the box to terminate guardianship and/or conservatorship and discharge guardian and/or conservator. If you want to remove a current guardian/conservator, check the box to discharge the guardian and/or conservator.
- Fill out the areas of the *Petition* as completely as possible.

The following instructions will help in completing the *Petition*. For example, read paragraph #1 below for help in answering Paragraph #1 on the *Petition*.

1. The person who is asking the court to terminate and/or discharge is the **Petitioner**. Write the Petitioner’s full name; address or P.O. Box; telephone number; interest in the matter; and relationship to the person subject to guardianship and/or person subject to conservatorship in the matter.
2. The person subject to guardianship and/or person subject to conservatorship is the **Respondent**. Write the Respondent’s name, address, telephone number, age and date of birth.
3. The Guardian/Conservator is the person appointed by the Court to make personal or financial decisions for the Respondent. There may be more than one guardian/conservator. Write the name, address, and telephone number of the Guardian/Conservator. Check the box whether the person is the guardian, conservator, or both.
4. Check the box if a Guardian, Conservator, or both was appointed and write the date of the order.
5. In the next section, you must tell the Court why you are requesting to terminate and/or discharge the guardian/conservator. Explain what has changed since the Guardian/Conservator was appointed. Check all that apply.
 - a. Check the box if the guardianship/conservatorship was for a minor and the minor turned 18 years old.
 - b. Check the box if the Court ordered the guardianship/conservatorship for a limited period of time and that time has expired.

- c. Check the box if the Guardian, Conservator, or Respondent died. Check the box indicating who died and write the deceased person's name. You must file the death certificate with the Court.
 - d. Check the box if there is a guardianship and the Respondent is no longer in need of a guardian. Explain how the Respondent has the ability to make their own decisions and care for themselves or how less restrictive alternatives make the guardianship unnecessary.
 - e. Check the box if there is a conservatorship and the Respondent is no longer in need of a conservator. Explain how the Respondent has the ability to make their own financial decisions, why Respondent no longer has property or financial assets, or how less restrictive alternatives make the conservatorship unnecessary.
 - f. Check the box if the Guardian/Conservator is requesting permission to resign. Check the box indicating whether the Guardian, Conservator, or both request permission to resign and write their name. Explain why he/she is asking to resign and no longer able, willing, or best suited to be the guardian/conservator.
 - g. Check the box if the Guardian/Conservator should be removed for good cause. Check the box indicating whether the Guardian, Conservator, or both should be removed. Explain how removal is in the best interest of the Respondent or other good reasons to support removal. Some examples include, but are not limited to: failed to perform guardianship/conservatorship duties, mishandled the Respondent's finances, or neglected the Respondent.
6. If you are the Conservator and filing the Petition, then you must log into My Minnesota Conservatorship "MMC" to prepare the Final Account. Check the box if you filed the Final Account.
- CAUTION: Some judges will not hear your petition to terminate a conservatorship or discharge a conservator until the Final Account has been filed. Check with Court Administration for their local practice.**
7. Check the box if the Guardian/Conservator performed his/her duties and responsibilities. NOTE: This box should be checked unless you are requesting to remove the guardian/conservator for failing to perform their guardianship/conservatorship duties and responsibilities.
8. Write the name of the Guardian/Conservator you are requesting to be discharged.
9. Check the box if there is a co-guardianship/co-conservatorship in place and one of the co-guardians/co-conservators should be discharged. Check the box indicating whether the Co-Guardian, Co-Conservator, or both should be discharged and write their name.

10. Check the box if the Respondent still needs a guardianship/conservatorship after the current guardian/conservator is discharged and you do not know anyone willing to serve as successor guardian/conservator.
11. Write any additional information you think might help the judge better understand the case.

WHEREFORE, Petitioner respectfully requests the Court:

The “Wherefore” section is where you tell the Court what you are requesting. Check all the boxes that apply.

1. Check the box if you are asking the Court to appoint the Respondent an attorney. Only the Respondent is entitled to a court-appointed attorney.
2. Check the box if you are asking the Court to appoint a court visitor. “Court visitor” is defined in the Legal Terms section on page 3 of the instructions.
3. Check the appropriate boxes for the type of relief you are asking the judge to order. These requests must be consistent with what you filled out earlier in the *Petition*.

The Signature Block / Penalty of Perjury

When you sign your *Petition*, you are signing under penalty of perjury. Perjury is the crime of intentionally lying or misrepresenting the truth. By signing under penalty of perjury, you are stating that the information in your *Petition* is true.

I declare under the penalty of perjury that everything that I have stated in this document is true and correct. Minn. Stat. § 358.116.

Dated: _____, 20__

County and State where signed

Petitioner Signature

Name: _____

Address: _____

City/State/Zip: _____

E-mail address: _____

Date and sign the *Petition*. Write the name of the county and state you were in when you signed it. Print your contact information below your signature.

Step 2

Fill out the Proposed Order Terminating Guardianship/Conservatorship and/or Discharging Guardian/Conservator

Fill out the case caption as you did in Step 1. Leave the first paragraph blank.

Check with Court Administration in the county you are filing in to see if they require the Findings of Fact and the Order to be filled out before you file the Order.

Step 3

Fill out the Notice of Hearing on Petition for Terminating or Modifying Guardianship/Conservatorship (GAC 26-U)

Fill out the case caption as you did in Step 1.

On the first line, write the Petitioner's name.

In the last paragraph, write in Court Administration's phone number.

When you file the documents with Court Administration, the judge will review your *Petition* and decide whether to schedule a hearing. If a hearing is scheduled, Court staff will fill out the bottom half of the *Notice of Hearing* and return it to you for service.

Step 4

Make Copies and File Originals with Court Administration

NOTE: Originals must be filed with Court Administration. Make a copy of everything you file for your records. Copies must also be given to the Respondent and all interested persons (See Step 5).

File the following documents with Court Administration and pay any filing fee:

- (1) *Petition to Terminate Guardianship/Conservatorship and/or Discharge Guardian/Conservator,*
- (2) *Proposed Order to Terminate Guardianship/Conservatorship and/or Discharge a Guardian/Conservator,* and
- (3) *Notice of Hearing on Petition for Terminating or Modifying Guardianship/Conservatorship* (Form GAC 26-U)

Information on specific filing fees can be found at: <http://mncourts.gov/Help-Topics/Court-Fees/District-Court-Fees.aspx>.

Step 5

Serve Copies and File Affidavit of Service (Form GAC 2-U)

Find out from Court Administration if the judge scheduled a hearing.

Hearing Scheduled

If a hearing is scheduled, you will need to wait for Court Administration to return the *Notice of Hearing on Petition for Terminating or Modifying Guardianship/Conservatorship* (Form GAC 26-U). Once you receive it, you must serve a copy of the *Notice of Hearing and Petition to Terminate Guardianship/Conservatorship and/or Discharge a Guardian/Conservator* on the Respondent and all interested persons.

Hearing Not Scheduled

If a hearing is not scheduled, you need to serve a copy of the *Petition to Terminate Guardianship/Conservatorship and/or Discharge a Guardian/Conservator* on the Respondent and all interested persons.

Service

You must serve the Respondent and all interested persons at least 14 days before the hearing date. Service can be done either by first-class mail or personal service. You may complete service. **NOTE:** Papers cannot be served on a legal holiday.

Once service is complete, fill out the *Affidavit of Service* (Form GAC 2-U) and file the *Affidavit of Service* with Court Administration.

If a Court Visitor is appointed, the Court Visitor will serve the Respondent.

Step 6

Go to Your Hearing, if One is Scheduled

If the judge schedules a hearing, you must appear at the hearing and be ready to testify to the facts included in your *Petition*. It is important to be on time and be prepared. For more information on how to prepare for the hearing, review Section IX, C, of the *Conservatorship and Guardianship Manual* (Form GAC 101).

STATE OF MINNESOTA
COUNTY OF _____

DISTRICT COURT
TENTH JUDICIAL DISTRICT
PROBATE DIVISION

Court File No. _____
Case Type: Guardianship/Conservatorship

In Re: Guardianship
 Conservatorship of

Person Subject to
Guardianship/Conservatorship

Petition to:

- Terminate Guardianship & Discharge
Guardian
 Terminate Conservatorship & Discharge
Conservator

OR

- Discharge Guardian
 Discharge Conservator

TO THE HONORABLE JUDGE OF THE DISTRICT COURT:

1. Petitioner's: Name: _____
Address _____

Telephone number: _____
Interest in this matter: _____
Relationship to the Respondent: _____

2. Respondent's: Name: _____
Address: _____

Telephone number: _____
Age and date of birth: _____

3. Contact Information for Guardian/Conservator:

Name: _____
Address: _____

Name: _____
Address: _____

Telephone number: _____

Telephone number: _____

Guardian Conservator

Guardian Conservator

4. A Guardian Conservator was appointed by order of this Court dated _____
_____.

5. You must tell the Court why you are requesting to terminate and/or discharge the guardian/conservator. Explain what circumstances have changed since the guardian/conservator was appointed.

- a. The Respondent was a minor and reached the age of majority on _____.
- b. The Guardianship and/or Conservatorship was limited to _____ months.
- c. Guardian Conservator Respondent _____ is deceased. A death certificate is included with this Petition as Exhibit A.
- d. The Respondent is no longer in need of a guardian. The Respondent is no longer an incapacitated person and is able to provide for his/her own care or less restrictive options are available. This is supported by the following facts:

- e. The Respondent is no longer in need of a conservator. The Respondent is able to manage his/her own property, the property is no longer subject to waste or dissipation, or less restrictive options are available. This is supported by the following facts:

- f. Guardian Conservator _____ requests permission to resign because he/she is no longer able, willing, or best suited to be guardian and/or conservator. This is supported by the following facts:

- g. Guardian Conservator _____ should be removed because it is in the best interest of the Respondent or for other good cause. This is supported by the following facts:

6. The Conservator filed a Final Account with the Court.
7. The Guardian and/or Conservator performed his/her duties and responsibilities under the law.
8. Guardian and/or Conservator, _____ should be discharged.
9. A co-guardianship and/or co-conservatorship is in place.
 Co-Guardian Co-Conservator, _____, will remain as Guardian and/or Conservator. New letters should be issued by the Court.
10. A Successor Guardian and/or Successor Conservator needs to be appointed by the Court. There is no known person willing to be appointed for a successor guardianship and/or conservatorship.
11. Other (include other facts you think the Court should know.)

WHEREFORE, Petitioner respectfully requests the Court:

1. Appoint an attorney to represent the Respondent.
2. Appoint a court visitor to report to the Court regarding the Respondent.

3. Issue an order to:

- Terminate or confirm termination of the Guardianship Conservatorship.
- Discharge Guardian _____.
- Discharge Conservator _____.
 - Discharge the bond after the receipt for assets have been filed with the Court.
- Discharge Co-Guardian/Co-Conservator _____, while _____ will remain as Guardian Conservator.
The Court shall issue new letters.
- Appoint Successor Guardian Successor Conservator.

I declare under the penalty of perjury that everything that I have stated in this document is true and correct. Minn. Stat. § 358.116.

Dated: _____, 20__

County and State where signed

Petitioner Signature

Name: _____

Address: _____

City/State/Zip: _____

Telephone: _____

E-mail address: _____

STATE OF MINNESOTA
COUNTY OF _____

DISTRICT COURT
TENTH JUDICIAL DISTRICT
PROBATE DIVISION

Court File No. _____
Case Type: Guardianship/Conservatorship

In Re: Guardianship
 Conservatorship of

Order:

- Terminating Guardianship & Discharging Guardian
- Terminating Conservatorship & Discharging Conservator

**Person Subject to
Guardianship/Conservatorship**

OR

- Discharging Guardian
- Discharging Conservator

This matter came on for hearing before the district court on _____ on a petition seeking to Terminate Guardianship & Discharge Guardian; Terminate Conservatorship & Discharge Conservator OR Discharge Guardian; Discharge Conservator for the Respondent named above. Petitioner appeared personally with the Petitioner's attorney, _____. The Respondent appeared personally with the Respondent's attorney, _____. The matter, having been considered by the Court, and the Court being duly advised in the premises now makes the following:

FINDINGS OF FACT

1. Termination and/or discharge of the guardian/conservator is appropriate because:

- a. The Respondent was a minor and reached the age of majority on _____ (date).
- b. The Guardianship and/or Conservatorship was limited to _____ months.
- c. The Guardian Conservator Respondent _____ is deceased. A death certificate is included with this Petition as Exhibit A.
- d. The Respondent is no longer in need of a guardian. The Respondent is no longer an incapacitated person and is able to provide for his/her own care or less restrictive options are available. This is supported by the following facts:

- e. The Respondent is no longer in need of a conservator. The Respondent is able to manage his/her own property, the property is no longer subject to waste or dissipation, or less restrictive options are available. This is supported by the following facts:

- f. The Guardian Conservator _____ requests permission to resign because he/she is no longer able, willing, or best suited to be guardian and/or conservator. This is supported by the following facts:

- g. The Guardian Conservator _____ should be removed because it is in the best interest of the Respondent or for other good cause. This is supported by the following facts:

2. The Court followed the same procedures to safeguard the rights of the Respondent as applied for a petition for guardianship/conservatorship.
3. The Conservator filed a Final Account with the Court.
4. The Guardian and/or Conservator performed his/her duties and responsibilities under the law.
5. The Guardian and/or Conservator, _____ should be discharged.

6. A co-guardianship and/or co-conservatorship is in place.
- Co-Guardian Co-Conservator, _____, will remain as Guardian and/or Conservator. New letters should be issued by the Court.
7. A Successor Guardian and/or Conservator needs to be appointed by the Court. There is no known person willing to be appointed for a successor guardianship and/or conservatorship.
8. Other:
- _____
- _____
- _____

CONCLUSIONS OF LAW

1. Petitioner presented evidence establishing a prima facie case that:
- The Guardianship should be terminated.
- The Conservatorship should be terminated.
- The Guardian _____ should be discharged.
- The Conservator _____ should be discharged.
- The Co-Guardian/Co-Conservator _____, should be discharged while _____ will remain as Guardian Conservator. The Court should issue new letters.
2. Other:
- _____
- _____
- _____

ORDER

NOW, THEREFORE, IT IS ORDERED:

1. Termination
- The Guardianship is terminated.

The Conservatorship is terminated.

2. Restoration of Rights

All the rights and powers of the Respondent are restored effective immediately.

3. Discharge

The Guardian _____ is discharged.

The Conservator _____ is discharged. The final account has been settled and allowed by the court under separate order.

The Conservator _____ shall be discharged by separate order of the court upon the final account being settled and allowed.

The Co-Guardian/Co-Conservator _____, is discharged while _____ remains as Guardian Conservator. The Court shall issue new letters.

4. Court Appointed Attorney

The court appointed attorney for the Respondent, if any, is discharged.

5. Other

BY THE COURT:

Judge of the District Court Date

State of Minnesota

County of _____

District Court
Probate Division
Judicial District: Tenth

Court File No. _____
Case Type: Guardianship/Conservatorship

In Re: Guardianship
 Conservatorship of

**Notice of Hearing on
Petition for Terminating or Modifying**
 Guardianship
 Conservatorship

The petition of _____ has been filed seeking the termination or modification of the guardianship conservatorship of the above-named person subject to guardianship conservatorship. This hearing will determine the continuing need for a guardianship or conservatorship.

A hearing on the petition will be held at _____ o'clock _____ m. on _____ at _____

The Petitioner must serve this notice by mailing a copy of this notice at least 14 days before the date of the hearing to the person subject to guardianship/conservatorship, and to all other interested persons entitled to notice under Minn. Stat. § 524.5-102, subd. 7.

The person subject to guardianship/conservatorship has the right to be represented by an attorney. The person subject to guardianship/conservatorship may either obtain an attorney or contact the court for appointment of an attorney. If the person subject to guardianship/conservatorship has funds, those funds will be used to pay for the attorney. If there are no funds available to pay for an attorney, contact the court at _____.

Dated: _____

Court Administrator

By: _____

State of Minnesota

**District Court
Probate Division**

County _____

Judicial District: _____
Court File Number: _____
Case Type: Guardianship/Conservatorship

In Re: the Guardianship /
 Conservatorship of

Affidavit of Service
(Guardianship/Conservatorship)

My name is _____, and I am at least 18 years old. I served papers for this case as follows:

Person under Guardianship or Conservatorship:	Forms Served:
Name: _____	_____
Served at _____	_____
(location): _____	_____
Date Of Service: _____	_____
How Served: <input type="checkbox"/> By Mail (United States Mail) <input type="checkbox"/> By Personal Service (hand-delivered)	

Person of Interest with the Court:	Forms Served:
Name: _____	_____
Served at _____	_____
(location): _____	_____
Date of Service: _____	_____
How Served: <input type="checkbox"/> By Mail (United States Mail) <input type="checkbox"/> By Personal Service (hand-delivered)	

Person of Interest with the Court:	Forms Served:
Name: _____	_____
Served at _____ (location): _____	_____
Date of Service: _____	_____
How Served: <input type="checkbox"/> By Mail (United States Mail) <input type="checkbox"/> By Personal Service (hand-delivered)	

Person of Interest with the Court:	Forms Served:
Name: _____	_____
Served at _____ (location): _____	_____
Date of Service: _____	_____
How Served: <input type="checkbox"/> By Mail (United States Mail) <input type="checkbox"/> By Personal Service (hand-delivered)	

Person of Interest with the Court:	Forms Served:
Name: _____	_____
Served at _____ (location): _____	_____
Date of Service: _____	_____
How Served: <input type="checkbox"/> By Mail (United States Mail) <input type="checkbox"/> By Personal Service (hand-delivered)	

If you need more space, add another sheet of paper.

I declare under penalty of perjury that everything I have stated in this document is true and correct. Minn. Stat. § 358.116.

Dated

County and state where signed

Signature of Person Who Served the Forms

Name: _____

Address: _____

City/State/Zip: _____

Telephone: _____

Email: _____