



Instructions for filing a Petition for Guardianship of Incapacitated Individual

General Instructions

An individual shall complete the petition, as petitioner or as the proposed Guardian. Please complete the petition legibly, typed or written in ink. All of the required documents and forms should be filed with the court at the same time. The Clerk of Court cannot, by law, accept a petition for filing unless it is filled out completely and all necessary documents are included.

Legal Advice – By law, court personnel are prohibited from giving legal advice. If you have questions regarding the petition, or are unable to properly complete the forms, you should seek assistance from a qualified attorney. The clerk can provide you with a list of attorneys admitted to practice in Tribal Court, including legal aid offices.

Costs – The costs associated with filing a Petition for Guardianship of Incapacitated Individual are:

- Filing Fee - \$50.00
- If you (the petitioner) believe you are indigent, you must file an Affidavit for Waiver/Suspension of Fees. Ask the clerk, and a copy of the form will be provided free of charge.
- If the petition is granted, you will receive one certified copy of the Letters of Authority. Additional copies are \$10.00 per certified copy.
- Fees cannot be returned if the petition is denied.

Hearings – The initial hearing on a Petition will generally take place within 14 days after filing of the Petition. The purpose of the initial hearing is to ensure that the petition is properly before the court and that all interested parties have been notified. If warranted, the Court may order the guardianship on a temporary basis pending the full hearing, The Court will then schedule a full hearing on the Petition at least 30 days later. This is to allow time for the attorney guardian ad litem (GAL) to meet with the proposed ward.

Petitioner – If the proposed guardian is different from that of the petitioner, the petitioner must name the proposed guardian on line 12. Include the proposed guardian's information and relationship to the individual. The petitioner is to sign the petition, as they are the one requesting the guardianship. The petitioner is required to be present at the hearing,

Line-by-Line Instructions

Do not complete the information within the caption of the case. The Clerk of Court will complete this section upon filing. The petition for guardianship shall include the following, as best the petitioner is able to ascertain in good faith:

1. Include your full legal name, and relationship to the proposed ward.
2. Include the proposed ward's date of birth, indicate whether they are male or female, and their current residence.
3. Include a copy of the proposed ward's tribal enrollment card.
4. Pursuant to Tribal Code Chapter 33, this Court has jurisdiction over guardianships of any person subject to the civil jurisdiction of the Tribal Code.
5. Check the box on line 5 if there is, or has been, an action involving the proposed ward regarding competency, conservatorship, guardianship or adult protection filed in this court or another court. Indicate what tribal or state court the case was filed in and the approximate date of the filing, and whether or not it remains.
6. Check the box on line 6 if the proposed ward has a patient advocate/power of attorney for health care, power of attorney, or conservator. List the name of the individual and their current residence and any designations that are not sufficient to meet the proposed ward's needs.
7. You must list the proposed ward's spouse, parents, and all other Interested Parties in the case. Note that an Interested Party is not simply someone who cares about the individual; an Interested Party is someone who has a legal interest in the proceedings. No one with a legal interest can be excluded, and you must include the address for each Interested Party. Attach additional pages if necessary. Interested Parties include the individual's adult children, adult siblings, and any relatives with the same degree of kinship as the proposed guardian, or a closer degree of kinship. For example, if the proposed guardian is an aunt to the individual, you must list all of the individual's aunts and uncles. The court will serve all interested parties with a copy of the petition and the notice of hearing.
8. On line 8, check box A and/or B, regarding the basis as to why you are filing the guardianship.
9. On line 9, you are to explain the facts in detail why you believe a guardianship is necessary.
10. If there is a medical or other emergency or the proposed ward is in imminent danger so that earlier appointment of an emergency/temporary guardian is necessary, you may request appointment of a temporary guardian by completing line 10 of the Petition.
11. On line 11, indicate whether or not you are requesting appointment of the individual, the individual's estate, or both the individual and his/her estate.

12. If you as Petitioner are nominating a person other than yourself as Guardian, list the proposed Guardian's name, address and relationship to the proposed ward on line 12.
13. On line 13, list all of the individual's assets and liabilities, as well as all sources of income.
14. On line 14, list all of the individual's physicians and their information.
15. On line 15, list all of the names and addresses of any social services or mental health providers of the individual.

Signatures – The petitioner(s) must sign the petition. If the petitioner is not the proposed guardian, the proposed guardian must also sign the petition. The Petition must be signed in the present of the Court. If possible, all signatures shall be notarized.