

## **Checklist to petition for the appointment of a guardian for an adult**

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- You must complete a form before you file it. These instructions will help you complete the forms.
- The judicial services representative cannot complete a form for you.
  - Attach a copy of any document referred to in the form.
    - Keep a copy of all documents for your records.
    - Attend all court hearings.
    - Some forms may not apply in your case.
  - Check with your court about local requirements.

### **(1) Coversheet**

- Print your name, address, phone number and email address and those of the other parties and attorneys (if known).
- You are not claiming damages, so leave that line blank or print “none.” The respondent has the right to demand a jury trial, but the petitioner does not, so check “no.”
- Because you are not requesting damages, check “Tier 2. No monetary damages are requested.”
- On page 2, check the box next to “Guardianship.” If you are also filing a petition to appoint a conservator, check the box next to “Conservatorship.” This determines your filing fee. If you are filing both petitions at the same time, you will have to pay only one filing fee.

### **(2) Petition to Appoint a Guardian for an Adult**

- Print your name and contact information at the top of the first page. Mark whether you are the petitioner or the attorney for the petitioner.
- Print the county name and the court address in the blank lines.
- Print the name of the person for whom you are seeking the guardian. This person is known as the respondent.
- Mark the box if you need the court to appoint an attorney for the respondent. If the respondent does not have an attorney of his or her choosing, the court must appoint an attorney and will do so through the [Guardianship Signature Program](#). See also Paragraph (20).

- Mark the box if you need the court to assign a court visitor. If you propose that the respondent be excused from the hearing, the court will need to assign a court visitor. See also Paragraph (21).
- The judicial services representative will assign a case number and a judge when the case is filed.
- Paragraph (1): Print the name of the proposed guardian and the name of the respondent on the blank lines.
- Paragraph (2): If the respondent is 18 or older, the court has jurisdiction.
- Paragraph (3): Paragraph (3) is required. Make sure that it is true before proceeding.
- Paragraph (4): Paragraph (4) is required. Make sure that it is true before proceeding.
- Paragraph (5): Print the information about the respondent.
- Paragraph (6): Print the information about the proposed guardian.
- Paragraph (7): Print the information about a person who will always know how to contact the guardian.
- Paragraph (8): The proposed guardian has priority for appointment as determined under Utah Code Section 75-5-311. The list in Paragraph (8) reflects that priority. Mark all of the correct boxes about the proposed guardian's relationship to the respondent. If the proposed guardian is the nominee of someone who is permitted to nominate a guardian, mark the last box and describe that nomination on the blank line.
- Paragraph (9): If anyone other than the proposed guardian has been nominated to be the respondent's guardian, print that person's name in the blank line and mark the correct boxes to show who nominated that person. (Only certain people can nominate someone to serve as guardian.) If no one has been nominated, enter "no one." If the proposed guardian has been nominated, enter "no one" because the proposed guardian's nomination should be shown in Paragraph (8).
- Paragraph (10): Mark the correct box to show whether the proposed guardian is higher than everyone else who has a priority for appointment in Paragraph (8). Or whether there are good reasons not to follow the priority list. If the proposed guardian is not highest on the priority list, describe why the proposed guardian should be appointed before others who are higher.
  - For example, if the proposed guardian is the respondent's adult child and the respondent is not married and has not nominated anyone to be guardian, then the proposed guardian has the highest priority. But if, in that example, the respondent is married, the respondent's spouse has a higher priority than the respondent's adult child.

- Paragraph (11): List any other guardianship or conservatorship orders that are in place or cases that are pending in this or any other state.
- Paragraph (12): Mark the correct boxes to show the respondent's inabilities.
- Paragraph (13): Incapacity is measured by functional limitations: what the respondent can and cannot do for himself or herself. Describe the respondent's functional limitations.
- Paragraph (14): You must describe facts which leave no serious doubt about the respondent's incapacity. Describe those facts on the blank lines and attach supporting documents to help prove those facts.
- Paragraph (15): Describe why a guardianship is necessary or desirable as a means of providing the respondent with continuing care and supervision.
- Paragraph (16): If you are not asking for a full guardianship, mark the box next to Paragraph (16) and then mark as many of the other boxes in the paragraph to describe the limited authority that the proposed guardian will need. If the guardian will need authority other than those listed, describe that authority on the blank lines. (Do not mark the box next to Paragraph (17)).
- Paragraph (17): If nothing less than a full guardianship is adequate to provide the respondent with continuing care and supervision, mark the box next to Paragraph (17) and describe why this is true. (Do not mark the box next the Paragraph (16).)
- Paragraph (18): Estimate as best you can the value of the respondent's assets.
- Paragraph (19): Estimate as best you can the respondent's monthly income from all sources.
- Paragraph (20): The respondent must be represented by an attorney of the respondent's choosing or the court must appoint an attorney. Mark the correct box to show whether the respondent has an attorney. If the respondent has an attorney, print the attorney's name on the blank line. If the respondent does not have an attorney, file a Request to Appoint an Attorney along with the petition. The court will appoint an attorney through the [Guardianship Signature Program](#).
- Paragraph (21): The respondent must be present at the hearing or excused by the court. If you are requesting that the court excuse the respondent from attending the hearing, the court must first assign a court visitor to make inquiries unless you present clear and convincing evidence from a physician that the respondent has fourth stage Alzheimer's disease, extended comatosis, and/or an intellectual disability with an IQ score under 20 to 25. Mark the correct boxes to show whether the respondent will attend the hearing and whether you have that evidence. If you are requesting that the respondent be excused from the hearing, file with the petition either a Physician's Statement Supporting Request to Excuse

Respondent from the Hearing or a Request to Assign a Court Visitor, as appropriate.

- The court must appoint a visitor if the respondent will not attend the hearing and you do not present clear and convincing evidence from a physician that the respondent has fourth stage Alzheimer's disease, extended comatosis, and/or an intellectual disability with an IQ score under 20 to 25.
  - If your case is in the Second, Third, Fourth or Seventh Judicial District, the court may appoint a volunteer court visitor. In other judicial districts, you will need to find a visitor for the court to appoint. For more information, see our webpage on [Volunteer Court Visitors](#).
- Paragraph (22): Print the name of the proposed guardian on the blank line. Mark the correct box to show whether guardian should serve with or without a bond. If you are requesting that the guardian post a bond, print the amount of the bond on the blank line. The amount of the bond should be the sum of the assets estimated in Paragraph (18) plus one year's income estimated in Paragraph (19). The rest of Paragraph (22) is required. Make sure that it is true before proceeding.
- Attach Schedule A, any physicians' statements and evaluations, any witnesses' affidavits and any other documents and forms.
- Date and sign the form.
- File the original form and attachments with the judicial services representative.
- The judicial services representative will assign a judge, a case number and a hearing date and time.
- Make and serve a copy of the Petition and Notice of Hearing, Rights and Adverse Consequences of a Guardianship on everyone named in Schedule A.

**(3) Schedule A**

- Schedule A is a list of all of the categories of people who must be served with a copy of the Petition to Appoint a Guardian for an Adult and of the Notice of Hearing, Rights and Adverse Consequences of a Guardianship.
- Print your name and contact information at the top of the first page. Mark whether you are the petitioner or the attorney for the petitioner.
- Print the county name and the court address on the blank lines. Complete the heading exactly as it appears in the petition.
- Print the names and contact information of the people described in the form. If there is no individual in a category—for example, if the respondent is not married—leave those lines blank. If there are more individuals in a category than

there is space—for example, if the respondent has more than two adult children— attach additional sheets of paper and describe the category for those individuals. If an individual who would have been served has died, identify that person and mark the box next to “deceased.”

- Paragraph (1) and Paragraph (2): Some individuals have to be served personally and some by first class mail. The clerk will post notice of the hearing in three public places. All of this has to be done at least 10 days before the hearing.
- Date and sign the form.
- File the original form along with the petition with the judicial services representative.

**(4) Notice of Hearing, Rights and Adverse Consequences of a Guardianship**

- Note that there is one form for the respondent and another form for everyone else, although the information in the forms is similar. Prepare this form for each individual listed on Schedule A.
- Print your name and contact information at the top of the first page.
- Print the county name and the court address on the blank lines. Complete the heading exactly as it appears in the petition.
- On the blank line print the name and address of the person who will be served with the notice.
- On the blank line print the name of the proposed guardian.
- On the blank lines print the date and time for the hearing. The room name or number if there is one and the name of the judge. The judicial services representative will give you this information when you file the petition.
- Date and sign the form.
- File the original form along with the petition with the judicial services representative.
- Make and serve a copy of the Petition to Appoint a Guardian for an Adult and of the Notice of Hearing, Rights and Adverse Consequences of a Guardianship on everyone named in Schedule A.

**(5) Proof of Service**

- Once you have served everyone named in Schedule A, you must file with the court proof that you have served them.
- The respondent must be personally served by a method permitted by [URCP 4](#). The respondent’s spouse and parents must be personally served if they can be

found in Utah. For anyone who is personally served, complete and file a Proof of Service form.

- Everyone else can be served by first class mail or other method permitted by [URCP 5](#). For anyone served by first class mail or other method, complete and file a Certificate of Service form. Several people can be named on one form.
- For more information and forms, see our webpage on [Proof of Service](http://www.utcourts.gov/howto/service/service_of_process.html#Proof) ([http://www.utcourts.gov/howto/service/service\\_of\\_process.html#Proof](http://www.utcourts.gov/howto/service/service_of_process.html#Proof))

#### **(6) Witness Affidavit**

- This form is not required, but the petitioner must present clear and convincing evidence of the respondent's incapacity, and affidavits from the people who know the respondent may help. An affidavit is a statement of fact made under oath or affirmation before a notary public, court clerk, or other person authorized to administer an oath. The person completing the affidavit (affiant) may complete the form anywhere, but must not date and sign it except before a notary public, court clerk, or other person authorized to administer an oath.
- Print the affiant's name and contact information at the top of the first page. Mark whether the affiant is the petitioner, respondent, interested person or a witness.
- Print the county name and the court address on the blank lines. Complete the heading exactly as it appears in the petition.
- Paragraph (1): Describe the affiant's relationship to the respondent. For example, spouse, child, friend, etc.
- Paragraph (2): The affiant should write their own statement, using their own words. Print clearly.
- Take the document and photo identification to a notary public, court clerk or other person authorized to administer an oath. That person will administer an oath or affirmation and have the affiant date and sign the document in their presence. That person will also countersign the document.
- If the affiant is a witness for a party or interested person, s/he should give the completed document to that person to file with the court.
- If the petitioner is the affiant, the affidavit can be filed and served with the petition. If you do this, list the affidavit, along with the other documents being served, on the Proof of Service form or the Certificate of Service form.
- File the original affidavit and Certificate of Service form with the judicial services representative.

**(7) Report on Clinical Evaluation**

- The petitioner must present clear and convincing evidence of the respondent's incapacity. Although this form is not required, an evaluation and report by a physician probably will be. If the petitioner wants the examiner to use the report form:
  - Deliver to the examining physician:
    - a copy of the order (if the examination is ordered by the judge) along with any instructions from the judge;
    - blank report form "Report on Clinical Evaluation" for the examining physician to complete; and
    - instructions to the physician who examines and evaluates the respondent.
  - The physician will evaluate the respondent, complete the report form, and deliver the report to the person who requested the examination.
  - That person must:
    - File the original form with the judicial services representative.
    - Serve the respondent's attorney.
    - Complete and file the certificate of service, unless the form is served with the petition.

**(8) Physician's Statement Supporting Request to Excuse Respondent from the Hearing**

- Utah law requires the respondent to attend the hearing, unless excused by the judge. The judge can excuse the respondent only upon the report of a court visitor or if there is clear and convincing evidence from a physician that the respondent has fourth stage Alzheimer's disease, extended comatosis, or an intellectual disability and an intelligence quotient score under 20 to 25.
  - Print the physician's name and contact information at the top of the first page.
  - Print the county name and the court address on the blank lines. Complete the heading exactly as it appears in the petition.
  - Deliver the form to the examining physician to complete.
  - Paragraph (1): Print the name of the state in which the physician is licensed.
  - Paragraph (2): Mark the boxes that identify the respondent's condition.
  - Date and sign the form.
  - Return the form to the petitioner or the petitioner's attorney.
  - The petitioner or the petitioner's attorney must:

- File the original form with the judicial services representative.
- Serve the respondent's attorney.
- Complete and file the certificate of service, unless the form is served with the petition.

**(9) Objection to the Petition**

- The petitioner does not file this form, but any interested person might.

**(10) Attend the Hearing**

- Be sure to attend the hearing.

**(11) Proposed Findings of Fact and Conclusions of Law and Proposed Order**

- There are two documents: the Findings of Fact and Conclusions of Law; and the Order, and they are usually prepared together. However they might be completed at different times, depending on how the case is decided.
- If no one has objected to the guardianship, have the Findings of Fact, Conclusions of Law and Order ready for the judge at the hearing.
- Print your name and contact information at the top of the first page. Mark whether you are the petitioner or respondent or the attorney for the petitioner or respondent.
- Print the county name and the court address on the blank lines. Complete the heading exactly as it appears in the petition. Note that in the order the "respondent" is now referred to as the "protected person."
- If no one has objected to the guardianship, complete the rest of the Findings of Fact, Conclusions of Law and Order so that they agree with the petition and have the Findings of Fact, Conclusions of Law and Order ready for the judge at the hearing.
- If someone has objected to the guardianship, do not complete the rest of the documents unless you are told to do so. Either the judge will complete the rest of the documents or tell one of the parties to do so.
- Attach any required documents or forms.
- If there is a hearing, the judge will decide the issues and will tell one of the parties to prepare the Findings of Fact, Conclusions of Law and Order. Listen carefully to the judge's decision. The documents must agree with that decision, and you may have to prepare them.
- If you are told to prepare the Findings of Fact, Conclusions of Law and Order, complete all of them except the judge's signature. What you write in the documents must agree with what the judge decided.

- Date and sign the proposed Findings of Fact, Conclusions of Law and Order under the phrase: “approved as to form.”
- Within 15 days after being told to prepare the documents, serve them on the other party by one of the methods described in the certificate of service. [URCP 5](#) governs service.
- The other party has 5 days in which to object.
- File the original Findings of Fact, Conclusions of Law and Order and the Certificate of Service with the judicial services representative after the time to object has ended.

**(12) Notice of Order**

- If you prepared the order, or if the judge says you have to serve the signed order:
  - Print your name and contact information at the top of the form. Mark whether you are the petitioner or respondent or the attorney for the petitioner or respondent.
  - Print the county name and the court address on the blank lines. Complete the heading exactly as it appears in the order.
  - Attach the Findings of Fact, Conclusions of Law, and Order.
  - Date and sign the form.
  - Complete the Certificate of Service.
  - Serve the form and any attachments on the other party by one of the methods described in the certificate of service. [URCP 5](#) governs service.
  - File the original form and attachments with the judicial services representative.

**(13) Forms for [guardianship and Conservatorship Pre-appointment Test](#)**

- Rule 6-501 requires that, before a person can be appointed as guardian, the person must take a test about their authority and responsibilities and file a Certificate of Completion with the court. The law does not require a test for a professional guardian or a parent appointed as guardian of their child, however a judge may require completion of the test by anyone appointed as guardian.
- The test is not meant to screen anyone out of their role as guardian; it is meant to reinforce some of the responsibilities of the office. It is permitted to complete the test before appointment and file the form with the petition.
- The form must be completed and filed before the court enters its order appointing a guardian.
- For more information and forms, see our website: [http://www.utcourts.gov/howto/seniors/g\\_and\\_c.asp](http://www.utcourts.gov/howto/seniors/g_and_c.asp)

**(14) Acceptance of Appointment**

- Print your name and contact information at the top of the first page.
- Print the county name and the court address on the blank lines. Complete the heading exactly as it appears in the order.
- Mark the correct box to show whether you are accepting the appointment as guardian or conservator or both.
- Paragraphs (2) through (5): Recognize the significance of these paragraphs. By accepting the appointment you are agreeing to do these things. You may be assuming other responsibilities not stated here.
- Date and sign the form.
- Complete the Certificate of Service.
- Serve the form on the other party by one of the methods described in the certificate of service. [URCP 5](#) governs service.
- File the original form with the judicial services representative.

**(15) Letter of Limited Guardianship**

- Print your name and contact information at the top of the form. Mark whether you are the petitioner or the attorney for the petitioner.
- Print the county name and the court address on the blank lines. Complete the heading exactly as it appears in the order.
- Print the guardian's name on the blank line.
- Mark the correct boxes to show the authority granted to the guardian. This list must agree with the list approved by the judge in the order of appointment. This might be the same as asked for in the petition or it might be different.
- If the order of appointment grants authority not described in the list, describe that authority on the blank lines.
- Present the form to the judicial services representative, and s/he will date and sign the form.
- The letter is evidence of your authority to make decisions for the protected person. You should have at least one certified copy of the order with you at all times, but it may be convenient to have the court make several certified copies.
- Some people and organizations that provide services for the protected person—such as banks, physicians, residential facilities, etc.—may need a copy of the letter for their records. They may need a photocopy, which you or they can make. They may need a certified copy. Only the court can make a certified copy. If you

have several certified copies, give them one. If you give them your last certified copy, you will have to return to the court to get more.

**(16) Letter of Full Guardianship**

- Print your name and contact information at the top of the form. Mark whether you are the petitioner or the attorney for the petitioner.
- Print the county name and the court address on the blank lines. Complete the heading exactly as it appears in the order.
- Print the guardian's name on the blank line.
- Present the form to the judicial services representative, and s/he will date and sign the form.
- The letter is evidence of your authority to make decisions for the protected person. You should have at least one certified copy of the order with you at all times, but it may be convenient to have the court make several certified copies.
- Some people and organizations that provide services for the protected person—such as banks, physicians, residential facilities, etc.—may need a copy of the letter for their records. They may need a photocopy, which you or they can make. They may need a certified copy. Only the court can make a certified copy. If you have several certified copies, give them one. If you give them your last certified copy, you will have to return to the court to get more.