CHICAGO VOLUNTEER LEGAL SERVICES

Because equal access to justice is everyone's fight

Adult Guardianship Petitioner Case Instructions

(Updated July 2023)

STEP 1: Client Intake

- If the initial intake has not been completed, call the client and go through the Adult Guardianship Questionnaire.
- If the questionnaire has already been completed, skip this step.

STEP 2: Fill Out Forms

- Using the Adult Guardianship Questionnaire & Memo, compile and complete the necessary documents to petition for guardianship. The starred forms are optional and depend on the circumstances of the case. Further explanation on some forms is included below.

For Filing:

- Probate Division Cover Sheet
- Petition for Appointment of Guardian of a Person with a Disability (CCP-0200)
- Motion to Waive GAL/Appoint Pro Bono GAL
- Summons (CCP-0201)
- Civil Legal Services Provider (CLSP) form
- *Notice of Motion

For Court:

- *CCP-211 (Should be in the file)
- Oath and Bond of Representative – No Surety (CCP-0313)
  - This form is not e-filed but sent to the Judge before court
- Order Appointing Plenary Guardian of a Person with a Disability (CCP-0204A)
  - This form is not e-filed but sent to the Judge before court
- Statement of Rights (CCP-0214)
  - This form is not e-filed but sent to the Judge before court

- <u>Petition for Appointment Guardian of a Person with a Disability</u>:
  - *Does Petitioner expect the Alleged Person w/a Disability to appear in court?*
    - If no, a GAL will be required.
    - Check yes if Respondent able to appear on Zoom
    - Most Guardianship court proceedings are being handled via Zoom, but your judge may require an in-person appearance. Review your judge's Standing Order or contact CVLS for more information.
  - The values in line 4 (a) and (b) will likely be $0.00 unless Respondent receives Social Security income.
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        - Use Section B if no assets – (strike A and C) as Petitioner is seeking Guardianship of Person Only
    - 2 Petitioners – modify "Guardian" to read "Co-Guardians" where it appears.
    - Exhibit A:
        - Exhibit A should include the name, relationship, and last known address for every individual entitled to notice of a guardianship proceeding. This typically includes the parents and the Respondent's siblings age 18 or older.
        - Include the last known address for these individuals, even if this address is old and the client does not think it is accurate anymore.

- Oath & Bond – No Surety
    - You will not need this until the plenary court date, but it is easiest to have the client sign all the paperwork at one time.
    - Must be notarized
    - Is NOT e-filed but is sent with proposed Order and other documents to the Judge before your court date.

- Summons
    - Complete once Petition is filed and accepted w case number and court date

STEP 3: Have client sign the forms

- After all forms are completed, have the client or other relevant individuals sign and send back the forms.
- Note, the Oath & Bond requires that the client sign in front of a notary. CVLS has notaries available for scheduling signing appointments.

STEP 4: E-File the documents

- Set up an e-filing account with Odyssey or preferred e-filing provider.
- Combine the Probate Division Cover Sheet, Petition(s) for Appointment of Guardian of a Person with a Disability w Exhibit A into one PDF. Your initial filing will include this and the CLSP. You will deal with all other documents after this initial filing has been accepted.
- For more information on e-filing procedures and the process for obtaining a court date, see the "Adult Guardianship E-Filing Instructions" document. This document explains the e-filing process, how and when to submit to the court the remaining forms, and how to obtain a court date.

STEP 5: Service

- **Summons**
    - **Note: Respondent must be served with the Petition at least 14 days before the hearing date via *Personal Service* (not substitute service). The Sheriff's Office requires at least 4 weeks to perform traditional service, so keep that in mind when preparing the paperwork.**

- Once you receive your hearing date and judge assignment, fill in that information on the Summons Form (CCP-201).
- E-file your Summons (see the "Adult Guardianship E-Filing Instructions" for more detail)
- Once you receive the file-stamped Summons (make sure the Clerk's Seal is on pg. 2), you can place the Summons with the Sheriff for service. This can be done in person on the 7th Floor of the Daley Center or online at https://sheriffefile.ccsheriff.org/.
    - **In person:** Bring (2) copies of the filed Petition, (1) copy of the CLSP, and (2) copies of the Summons to the Sheriff's Office located on the 7th Floor of the Daley Center. Let the cashier know you would like to place a Summons for service and provide them with your documents.
    - **Counter Service (Most Reliable):** If Respondent is able to travel, you may choose to meet your client and Respondent at the Sheriff's Office and serve Respondent via counter service. Bring (2) copies of the filed Petition, (1) copy of the CLSP, and (2) copies of the Summons to the Sheriff's Office located on the 7th Floor of the Daley Center. Let the cashier know you would like to serve Respondent via Counter Service and provide them with your documents. They will ask you to wait and a plain clothes Sheriff's Deputy will come out to serve Respondent with the paperwork. **Make sure to get the receipt as this has the service number on it.**
    - **E-file:**
        - Visit https://sheriffefile.ccsheriff.org/ to create an attorney account.
        - Click "create e-file" in the top menu.
        - Enter the full case number
        - Plaintiff Type – Select Individual
            - Plaintiff First Name – enter "Estate of"
            - Plaintiff Last Name – Enter Respondent's full name
        - Document Type – Select Probate
        - Select your name from the list of Attorney Profiles
        - Next court date: enter your hearing date
        - Circuit Court File Date: enter the date you filed the Petition
        - Fee Waiver – select yes and upload your CLSP
        - Click "create"
        - Click "Add Individual Service"
            - Enter Respondent's First and last name where indicated
            - Enter address listed on Summons where Respondent should be served
            - Service notes: you can use these to provide the Sheriff with instructions such as best time for service, Petitioner's phone number, etc. They may or may not read them.
            - Click "Choose file" to upload the e-filed Summons, Notice of Rights (from the Summons), and Petition.

        - Click "Save Service"
    - Click "Proceed to Payment Authorization"
    - Click "Finalize/Authorize Payment"
    - You will receive an email later that says whether your payment was accepted or rejected. If it is rejected, that means the Sheriff will not serve the documents. They will provide notes as to why it was rejected. You may need to re-submit the paperwork or have the judge issue an Alias Summons at your scheduled hearing date and try again by completing and submitting an Alias Summons.
    - The Sheriff's Office will not notify you when Respondent is served. You must visit https://sheriffefile.ccsheriff.org/civilprocess to check on the status of service.
- **Notice to Exhibit A**
    - Mail notice of the hearing date to all parties listed on Exhibit A at least 14 days before your hearing date. You can use a simple Notice of Motion Form to do this, which you will e-file with the court.
    - Send a copy of the Zoom instructions with your Notice

STEP 5: Prepare the client for court

- After everything has been filed and you have a court date, prepare the client for appearing for the hearing.
- Prepare the client that the judge will ask the following questions:
    - if they are over the age of 18,
    - if they are a resident of the United States,
    - if they have ever been convicted of a felony, and
    - if a court has ever found they suffer from an unsound mind.
- If Respondent plans to appear in court (preferred), prepare the client that the judge will speak to Respondent ask Respondent questions, too.
    - Rights in guardianship proceedings and whether Respondent agrees to Petitioner being appointed.
    - It is okay if Respondent is unable to communicate effectively with the judge*
- Due to COVID-19, all court hearings are occurring virtually via Zoom. If the client is not familiar with Zoom, it is a good idea to schedule a practice Zoom with them in advance of the court date to work out any issues. You can set up the practice Zoom to have a password and waiting room feature just like there will be on the day of court.
- If the client requires an interpreter during court, you will need to request that in advance of court.
    - To request an interpreter, email Joseph Fleming (joseph.fleming@cookcountyil.gov) and Daniel Duffy (Danielquinn.duffy@cookcountyil.gov).
        - The email must include the case name, case number, court calendar, name of the assigned judge, and the language needed.
    - Requests for Spanish and Polish interpreters must be made at least 48 hours in advance of the hearing. However, it is best to request these interpreters at

least one week in advance. If you do not receive confirmation that an interpreter has been scheduled by 48 hours before the hearing date, it is a good idea to follow up with the court.

- **Send Courtesy Copies of your documents to the Judge via email**
    - Emails are listed in the Probate Reference Guide
    - Send the following:
        - Petition
        - Affidavit of Service
        - Motion to Waive GAL
        - CCP-211 (original must be delivered to Court after hearing)
        - Executed Oath & Bond- No Surety (original must be delivered to Court after hearing)
        - Proposed Order Appointing Guardian
        - Statement of Rights

STEP 6: Attend court

- Attending court for an adult guardianship petitioner case is generally a quick and simple process.
- Most judges will bring parties into their Zoom courtroom one case at a time.
    - Make sure your and your client's names on Zoom show the case name and number (Example: John Smith, CVLS – Martinez 22P1234)
    - The Judge will ask everyone to state their name for the record. Introduce yourself and your client(s) and let the Judge know you are there for hearing on the Petition for Appointment of Guardian of a Person with a Disability.

STEP 7: Wrapping up

- After the guardianship is entered, you will receive a copy of the court order via email.
- Send closing Order to the client with a blank Annual Report Regarding Ward. CVLS can provide a sample closing letter.
- You will also receive Letters of Office via email after Court, though these can take much longer. If the client needs them quickly, they can bring the Order to the 12th Floor of the Daley Center and request originals.