

GUARDIANSHIP OF ALLEGED INCOMPETENT INSTRUCTIONS

All forms must be typewritten (forms on our web site can be filled in before printing)

These forms are being provided as a public service of the Butler County Probate Court, and are intended as a guideline only, not as a comprehensive list of duties. If you choose to represent yourself and use these forms, please be advised that state law prohibits the staff of Butler County Probate Court from providing legal advice.

A person can apply to be Guardian of the Person, Guardian of the Estate or Guardian of the Person & Estate of an alleged incompetent when the applicant believes that an adult is incompetent.

Incompetent is defined as “any person who is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person’s self or property or fails to provide for the person’s family or other persons for whom the person is charged by law to provide, or any person confined to a correctional institution within this state.”

The proposed ward must be examined by a licensed physician or licensed clinical psychologist prior to the guardianship being filed. The licensed physician or licensed clinical psychologist must complete and sign the Statement of Expert Evaluation (Form 17.1) and it must be filed at the time of filing the Application for Appointment of Guardian of Alleged Incompetent (Form 17.0) - this report must also be typewritten.

The proposed ward must have been examined within 3 months of the filing of the Expert Evaluation.

The applicant or attorney is responsible for providing the court with the correct address where the ward is at **currently** in order to complete the necessary service. If the ward is residing in his/her home, residing in the home of another person or in an institution, the Court must be advised in order to perfect service.

Service of Notice of Hearing on Appointment of Guardian to the Next of Kin **must** be served by the applicant or the attorney for the applicant. **The attorney or applicant must file proof of service (green cards) with the Court at least seven days prior to the scheduled hearing.**

Service of Notice of Hearing on Appointment of Guardian to the proposed ward will be issued by the clerk.

A bond is required for the personal assets of the ward. The amount of bond required is double the amount of the personality (any asset other than real estate). If the only asset is real estate, a signature bond in the amount of \$200.00 is required. The bond must be fully executed and signed by both the principal (applicant) and the bonding company representative *prior* to filing it with the court. **The Letters of Guardianship will not be issued without the required bond being posted.**

A filing fee of \$230.00 (person only) or \$260.00 (person & estate or estate only) deposit is required at the time of filing. Please confirm the amount with the cost clerk (513/887-3293) prior to filing

This fee must be paid in cash, check or money order

The forms may be obtained by downloading from this website. For your convenience, the forms may be completed on line and then printed for filing.

Complete the following forms for the initial filing:

Application for Appointment of Guardian of Alleged Incompetent (17.0)

- Complete application in its entirety

Next of Kin of Proposed Ward (15.0)

- List all *next of kin* (those people who are closest blood relatives) of the alleged incompetent.
- Be sure to specify *complete* addresses of all those listed.

Statement of Expert Evaluation (17.1)

- Applicant must have a Licensed Physician or a Licensed Clinical Psychologist evaluate the alleged incompetent and complete the form.
- Date of evaluation must have been within 3 months of filing of the application.

Authorization to Release Confidential Information (BC500)

- Must be completed, signed, and filed by *all* applicants with the Application for Appointment of Guardian except when the applicant is a corporation or an attorney authorized to practice law in the State of Ohio.

Waiver of Notice and Consent (15.1)

- If possible, have all next of kin listed on Form 15.0 who are over the age of 18 and reside within the State of Ohio sign a Waiver of Notice and Consent
- If unable to obtain all waivers, certified mail service must be completed on those that did not sign waivers (See form 16.4)

Fiduciary's Acceptance (15.2)

- Complete name of proposed ward, read, sign and date.

Judgment Entry Setting Hearing on Application for Appointment (15.01)

- The clerk will fill in the date and time of the hearing

Notice to Prospective Ward of Application and Hearing (17.3)

- The Court will complete service on the proposed incompetent
- The attorney or applicant **must** provide the daytime address for the proposed ward

Notice of Hearing for Appointment of Guardian of Alleged Incompetent (17.4)

- List all next of kin of the alleged incompetent who reside in the State of Ohio but have not waived notice and who reside in the State of Ohio
- **The Attorney or applicant must** serve a copy of form 17.4 by certified mail to all next of kin located in Ohio who have not waived notice and then bring the certified mail return (green card) from each individual to the hearing

The following are required at the hearing:

Guardian's Bond (15.3)

- When applying for a Guardianship, the applicant must execute and file a bond for double the amount of the personality (any asset other than real estate) prior to the guardianship being approved
- If the only asset is real estate a \$200.00 signature bond is sufficient
- Bond must be executed by the applicant (principal) and the surety company prior to filing

Oath of Guardian (15.9)

- Must be signed in front of the Magistrate or Judge

Judgment Entry – Appointment of Guardian of an Incompetent (17.5)

- The court will sign if the guardianship is granted.

Letters of Guardianship (15.4)

- The clerk will certify if guardianship is granted

After the hearing:

Guardian's Inventory (15.5)

This form is *not* a part of the Guardianship Packet but is available on our web-site.

- If the guardianship is for the Estate or Person & Estate, the guardian must file an Inventory specifically listing the assets of the incompetent and their value(s)
- The inventory is due 3 months from date of appointment

Additional Forms Not in the Packet but are available on the web-site:

Application and Order Authorizing Expenditure of Funds (15.7)

This form is *not* a part of the Guardianship Packet but is available on our web-site.

- A Guardian's Inventory must be filed prior to any expenditure of funds being approved.
- All expenditures made by the guardian must be approved by the court if a Guardianship of the Estate or Person and Estate is established
- List who is to be paid, purpose of the expenditure, and amount of expenditure.
- The Affidavit of Income and Expenses (BC523) must be filed with each expenditure

- **Additional Costs are due at this time**

Affidavit of Income and Expense (BC523)

This form is *not* a part of the Guardianship Packet but is available on our web-site.

- Must be filed each time an Expenditure of Funds is filed
- Must be completed and signed in front of a notary.

Guardian's Account (15.8)

This form is *not* a part of the Guardianship Packet but is available on our web-site.

- From the date of their appointment, the Guardian of the Estate is responsible for filing of an biannual account (every two years).
- You must specifically list the assets of the ward that were listed on the Inventory (15.5) plus all income and then list all disbursements made.
- Cancelled checks and bank statements are required at the time of filing the account (these will be returned to you)

- **Additional Costs are due at this time**

Bank Certificates (15.81)

This form is *not* a part of the Guardianship Packet but is available on our web-site.

- Have an employee of each bank where Guardianship funds are deposited complete form
- Attach this form (15.81) to the Guardian's Account (15.8).

Guardian's Report (17.7)

This form is *not* a part of the Guardianship Packet but is available on our web-site.

- Guardian must complete form.
- Make sure to complete the *front* and *back* of the form and to sign in the appropriate area.
- This must be filed every two years from the date of appointment

Statement of Expert Evaluation (In Support of Guardian's Report) (17.1)

This form is *not* a part of the Guardianship Packet but is available on our web-site.

- Guardian must have a Licensed Physician, Psychologist, Clinical Social Worker *or* Mental Retardation Team evaluate the ward and complete the form.
- The evaluation must be within three months of the date of the report.
- This Evaluation (17.15) must be filed together with the Guardian's Report (17.7)