

BAY COUNTY PROBATE COURT
1230 Washington Ave. Suite 715
Bay City, MI 48708
Phone: 989-895-4205 Option #3 Fax: 989-895-4194

**Procedure to file a
Petition to Appoint Guardian of an Alleged Incapacitated Individual**

The forms must be fully and accurately completed. The failure to comply with the below instructions will result in the Court rejecting your petition. **Should you be unable to understand or complete the forms as directed below, you should then contact an attorney for assistance.**

Per Public act 386 of 1998, as amended by public act 52 of a 1999: **"Court personnel shall not provide or offer to provide legal advice or legal counsel to a fiduciary or an interested person and shall not complete a form, petition, or document for a fiduciary or interested person"**.

1. Filing Procedure:

1. Present the forms which have been typed or printed legibly in blue or black ink to the Clerk of the Probate Court, 1230 Washington Ave. Ste. 715 Bay City, MI 48708. We may be reached by phone at (989) 895-4205 - Option #3
2. A hearing date will be set by the Clerk.
3. A Guardian Ad Litem (GAL) will be appointed to visit the alleged incapacitated individual.
4. It is the responsibility of the petitioner to file the original documents with the court and serve the interested persons.

2. Fees:

The court will accept:

Cash, money orders, personal check, or Credit/ Debit card (a service fee applies for payments by card)

1. Petition to Appoint Guardian -- \$175.00

Other fees that may apply:

2. Guardian Ad Litem (GAL) fee -- TBD by GAL

3. Doctor's Statement/Report of Physician:

It is required that a statement by a physician or mental health professional shall accompany the petition to appoint a guardian.

The statement must:

1. Be an original document, on doctor's letterhead, typed, dated, and signed by the doctor.

2. Describe the alleged protected individual's condition or ailment, and state the prognosis. Also it must indicate if the individual has the ability to give informed consent regarding their personal and/or medical decisions.
3. Indicate whether or not the person is able to attend a court hearing.

Or:

4. Form PC 630 (Report of Physician or Mental Health Professional) may be used.
5. The report must be recent - within 30 days of filing the petition.

4. **Order for appointment of guardian ad litem/attorney:**

The court **must**, by law, appoint a Guardian Ad Litem (GAL) to represent the interests of the alleged incapacitated individual **unless** the person has his/her own attorney. It will be the GAL's responsibility to visit the person, file a written report, and make a recommendation as to whether or not a guardian is needed; and file a proof of service with the court. The GAL will generally call to make an appointment to visit the alleged incapacitated individual.

The GAL is not an employee of the Court, but a licensed practicing attorney assigned by the Court. **It is your responsibility to contact the GAL and discuss the fee. You must forward the paperwork to the GAL. The petitioner is responsible to pay the GAL.**

5. **Notice of Hearing:**

Notice of Hearing form shows the date, time, place, and assigned Judge. **You, the petitioner, must attend the hearing or your petition will be dismissed; and you will have to begin the process again.** The alleged incapacitated individual must also attend the hearing unless the doctor's letter indicates that the person cannot attend the hearing.

6. **Proof of Service:**

It is your responsibility to "serve" the parties with a copy of the petition and notice of hearing. If you do not complete service, your hearing will have to be adjourned. The Proof of Service form must be completed and returned to the Court **at least two (2) days prior to the day of the hearing.** The alleged incapacitated individual must be served **personally** at least seven (7) days prior to the regular hearing for a guardian. The other interested parties must be served in one of the following manners:

1. By personal service at least 7 days prior to the date of the hearing
2. By certified mail at least 14 days prior to the hearing
3. By publication at least 14 days prior to the date of the hearing if the address or whereabouts of interested persons are unknown. When publishing for unknown whereabouts, you will also be required to file a Declaration of Intent to Give Notice by Publication (one per unknown individual).

The parties interested in a Petition for Appointment of a guardian of an incapacitated individual are:

1. The individual alleged to be incapacitated
2. The spouse of the alleged incapacitated individual
3. The children of the alleged incapacitated individual

4. Living parents
5. If no spouse, child, or parent is living, the presumptive heirs of the person
6. An agent or attorney in fact having power of attorney (meeting the requirements of MCL 700.5405; MSA 27.15405) of the alleged incapacitated individual, and the person who has care & custody of the alleged incapacitated individual
7. The nominated guardian
8. Person who files a request for notice pursuant to MCL 700.5104(1)
9. Special parties (Attorney General)

If there are no known presumptive heirs, the Attorney General is a party of interest. When the Attorney General is a party of interest on your petition, they must be served; either personally or by mail at:

**Attorney General
Public Administration
P.O. Box 30213
Lansing, MI 48909**

7. **Hearing:**

Your hearing date is a time certain, failure to appear for a scheduled hearing will result in your petition being dismissed; and the loss of your filing fee.

8. **Copies:**

It is your responsibility to make copies of this paperwork for all interested parties. Submit the originals and at least one copy of the paperwork to the Court when you file your case. If you prefer that the Court make the copies for you, the charge is \$1/page.

9. Forms needed when filing an Adult Guardianship:

- o Petition for Appointment of Guardian of Incapacitated Individual
- o Notice to Alleged Incapacitated Individual on Petition to Appoint Guardian
- o Statement of Physician or Mental Health Professional
- o Order Appointing Guardian Ad Litem/Attorney/Lawyer-Guardian Ad Litem
- o Notice of Hearing
- o Proof of Service