

INSTRUCTIONS FOR APPOINTMENT OF GUARDIAN OF ALLEGED ADULT INCOMPETENT

These instructions are a guideline only and should not be considered legal advice. Applicants should not rely upon them as a comprehensive list of guardianship duties. Applicants are encouraged to seek legal counsel as complex matters may arise.

The Clermont County Probate Court has the authority to appoint Guardians of the Person, Estate, or Person and Estate for an Adult (aka Ward) believed to be incompetent as defined by statute. The Adult must be a resident of Clermont County. Guardians of the Person may be residents of another state. The Person applying for Guardianship of the Estate or Guardianship of the Person and Estate must be a Resident of the State of Ohio. The Court will not take applications for Adults who are not residents of Clermont County.

Any Applicant seeking the appointment of a Guardian of the Estate or Guardian of the Person and Estate must be able to secure a bond in the amount of twice the value of the *personal property*, meaning any asset other than real estate. Obtaining pre-approval for a bond is strongly recommended. The Court encourages Applicants for Guardianship of the Estate or Guardianship of the Person and Estate to seek legal advice and representation.

Current filing fees for Guardianships are \$290. Applicants must pay this fee in cash, check, money order, or certified check. Checks or money orders will be payable to the Clermont County Treasurer. The Clermont County Probate Court does not accept credit or debit cards.

Applicants shall apply in person and may obtain the forms from the Court at 2379 Clermont Center Drive Batavia, Ohio or by downloading the forms from the website <https://probatejuvenile.clermontcountyohio.gov/>. All forms should be typewritten or legibly printed.

PROCEDURAL STEPS

<p>STEP 1: COMPLETE THE FOLLOWING FORMS FOR THE INITIAL FILING</p>	
<p>Application for Appointment of Guardian of Alleged Incompetent (Form 17.0) List the First, Middle, and Last Name of the Adult alleged to be incompetent; the legal settlement of the Adult; reason for incompetency; the date of birth and the assets of the Adult. Mark the appropriate box for type of guardianship, whether the guardianship is limited or non-limited and whether the guardianship is indefinite or definite. Most Guardianships of an Adult Incompetent for Person Only are non-limited and indefinite. State the relationship between the Adult and the Applicant and whether the Applicant has been charged or convicted of any crimes. Mark any appropriate boxes regarding a Power of Attorney or Military information for the Adult.</p>	<p>At the time of initial filing</p>

<p>Fiduciary’s Acceptance (Form 15.2) Sign and date. Note: The Court will hold Applicant responsible for the duties described on this form.</p>	<p>At the time of initial filing</p>
<p>Next of Kin of Proposed Ward (Form 15.0) List all next of kin. Next of Kin generally will consist of spouse, children, children of deceased children, and living parents. Be sure to specify the complete home address of all those listed and the mailing address if different from the home address. If there is a spouse and children of the Adult, please specify if the spouse is parent of all or any children.</p>	<p>At the time of initial filing</p>
<p>Statement of Expert Evaluation (Form 17.1) The Applicant must have a Licensed Physician or a Licensed Clinical Psychologist evaluate the Adult and complete the form.</p>	<p>At the time of initial filing</p>
<p>Affidavit of Indigency and Entry Authorizing Payment of Court Costs (Form 117.0) Consult with the Deputy Clerk to confirm eligibility as indigency is based on the Adult’s monthly income. This form is only accepted if applying for guardian of the person only.</p>	<p>At time of initial filing, if applicable</p>
<p>Waiver of Notice and Consent (Form 15.1) The next of kin of the Adult who live in Ohio will sign this form waiving notice of hearing and consenting to the appointment of a guardian. If the Applicant is unable to obtain all waivers from the persons listed on the next of kin form, certified mail service must be completed on those that did not sign waivers who live in Ohio. (See form 17.4)</p>	<p>At or before the time of the hearing, if applicable</p>
<p>Notice of Hearing For Appointment of Guardian of Alleged Incompetent Person (Form 17.4) After selecting a hearing date, the Applicant will prepare the Notice of Hearing to serve on all next of kin who are Ohio residents and who did not sign Form 15.1. The Applicant will serve the Notice of Hearing For Appointment of Guardian of Alleged Incompetent Person by certified mail only on the persons required to be listed on Form 17.4. A copy of the Form 17.4 must be retained by the Applicant for a later filing.</p>	<p>At the time of initial filing, if applicable</p>
<p>Authorization to Release Confidential Information (Form 271.00) The Applicant will complete the form, sign in presence of a witness, and have witness sign. The Deputy Clerk will take the Applicant to be fingerprinted.</p>	<p>At time of initial filing</p>
<p>Guardian’s Handbook The Deputy Clerk will provide a Guardian’s Handbook and a Receipt of Guardian’s Handbook for the Applicant to sign. The Deputy Clerk will also provide an Acknowledgement of Guardian’s Education for the Applicant to sign.</p>	<p>At time of initial filing</p>
<p>Notice to Prospective Ward of Application and Hearing, Oath of Guardian, Magistrate’s Decision, Judgment Entry and Letters of Guardianship The Deputy Clerk will prepare these documents.</p>	<p>After time of initial filing, but before the hearing</p>

<p>Court Investigator’s Report on Proposed Guardianship (Form 17.8) The Court Investigator will complete the form after evaluating the Adult.</p>	<p>After time of initial filing, but before the hearing</p>
<p>Notification of Compliance with Guardian Education Requirements (Form 27.2) Every Applicant is required to complete the 6 hour Fundamentals of Adult Guardianship course offered by the Ohio Supreme Court before the Court will issue Letters of Guardianship. The course is available online at https://www.supremecourt.ohio.gov/Boards/judCollege/adultGuardianship/.</p>	<p>At or before the time of the hearing</p>
<p>Waiver of Service of Magistrate’s Decision, Waiver of Service of Judgment Entry, Waiver of Time Limits, Waiver of Objection. (Form 17.5W) The Applicant, and each person listed as the next of kin, regardless of state of residency, may sign the Waiver of Service of Magistrate’s Decision, Waiver of Service of Judgment Entry, Waiver of Time Limits, Waiver of Objection.</p>	<p>At or before the time of the hearing</p>
<p>Affidavit in Proof of Service (Form 200.10) Should the Applicant need to serve the next of kin, the Applicant will submit an Affidavit in Proof of Service with a copy of Form 17.4, Notice of Hearing For Appointment of Guardian of Alleged Incompetent Person attached to show that the Applicant served the next of kin by certified mail.</p>	<p>At or before the time of the hearing, if applicable</p>
<p>Guardian’s Bond (Form 15.3) For Guardianship of the Estate of an Adult, the Applicant is required to sign and date the bond form. The bond amount is twice the value of the Adult’s personal property, meaning any asset other than real estate. Once signed and dated by the Applicant, the bond form needs to be signed by the agent of the surety company. The completed bond form may be left with the court any time prior to the hearing.</p>	<p>At, before the time of the hearing or after the hearing but before the Court issues Letters of Guardianship, if applicable</p>

STEP 2: FILING OF FORMS WITH DEPUTY CLERK

Applicants must apply in person. The Applicant will be required to submit to fingerprinting at the time of application. If an Attorney is filing on behalf of the Applicant, the Applicant will be required to appear at the Court for fingerprinting within five days of the filing of the Application for Appointment of Guardian of Alleged Incompetent. The Deputy Clerk will require the payment of the filing fee at the time of the initial filing unless the Applicant submits an Affidavit of Indigency and Entry Authorizing Payment. At the time of the initial filing, the Applicant will sign the Acknowledgment of Guardianship Education Requirement and receive and sign the Receipt for Guardians’ Guidebook. The Deputy Clerk will process the documents required at the time of the initial filing, process the payment, if applicable, assign a case number, and set a hearing on the Application for Appointment of Guardian of Alleged Incompetent.

STEP 3: SERVICE OF NOTICE ON ALLEGED INCOMPETENT

The Notice to Prospective Ward of the Application and Hearing will be served by the Court Investigator at least seven days prior to the hearing date. If the Applicant would like to be present during the visit, or if the Adult goes to school, camp, day program, or anywhere else during the day, please inform the Court of the best days and times for the Court Investigator to serve the Adult notice of hearing. The Court Investigator will complete service and file the Court Investigator's Report on Proposed Guardianship.

STEP 4: THE HEARING – WHAT TO EXPECT

Hearings will not go forward if the next of kin who live in Ohio have not been properly served, or have not waived notice of hearing. If the Application For Appointment of Guardian of Alleged Incompetent is uncontested, the Magistrate will review the Statement of Expert Evaluation and the Court Investigator's Report on Proposed Guardianship. Upon the testimony and evidence presented, the Magistrate will issue a decision. The Guardian and any Attorney representing the Adult may sign the Waiver of Service of Magistrate's Decision, Waiver of Service of Judgment Entry, Waiver of Time Limits, Waiver of Objections. The Court will serve a copy of the Magistrate's Decision upon those individuals who have not waived service by signing Form 17.5W. The Judge will review the Decision and issue a Judgment Entry no sooner than 14 days after the filing of the Magistrate's Decision. The Deputy Clerk will issue Letters of Guardianship upon the posting of any applicable bond, and if no bond is required, the Letters of Guardianship shall be simultaneously filed with the Magistrate's Decision provided the education requirement has been completed.

If the Application For Appointment of Guardian of Alleged Incompetent is contested, the Magistrate will conduct a hearing and will permit the parties to provide testimony and any exhibits. It may be necessary to re-set the hearing or continue the matter in progress. The Magistrate will issue a decision upon hearing all testimony and reviewing all exhibits provided to the Court. The Judge will review the Decision and issue a Judgment Entry no sooner than 14 days after the filing of the Magistrate's Decision. The Deputy Clerk will issue Letters of Guardianship upon the posting of any applicable bond, and if no bond is required, the Letters of Guardianship shall be simultaneously filed with the Magistrate's Decision provided the education requirement has been completed.