

Instructions for Establishing a Conservatorship of a Minor Child (Because the Child is Under 18 Years Old – Also Called Minority)

IMPORTANT! READ BEFORE USING THESE FORMS AND INSTRUCTIONS

ND Legal Self Help Center staff and court employees can't help you fill out the form(s).

Carefully read this information and any instructions to which you're referred.

If you're unsure how to proceed, or need legal advice or legal representation, consult a lawyer licensed to practice in North Dakota. If you're unsure if these forms and instructions suit your circumstances, consult a lawyer.

- Go to ndcourts.gov/legal-self-help/finding-a-lawyer for information about finding a lawyer to represent you.

When you represent yourself, you're expected to know and follow the law, including:

- State or federal laws that apply to your case;
- Case law, also called court opinions, that applies to your case; and
- Court rules that apply to your case, which may include:
 - North Dakota Rules of Civil Procedure;
 - North Dakota Rules of Court;
 - North Dakota Rules of Evidence;
 - North Dakota Administrative Rules and Orders; and
 - Any local court rules.

Links to the state laws, case law, and court rules can be found at ndcourts.gov.

When you represent yourself, you're held to the same requirements and responsibilities as a lawyer, even if you don't understand the rules or procedures.

A glossary with definitions of legal terms is available at ndcourts.gov/legal-self-help.

These instructions and forms aren't a complete statement of the law. They cover the basic process of petitioning a North Dakota state district court to establish a conservatorship over a minor child because the child is under 18 years old. There is no guarantee that all judges and courts will accept forms available through the ND Legal Self Help Center. The Center isn't responsible for any consequences that may result from the forms or information provided.

Use at your own risk.

WARNING – Appointment of a conservator can have serious legal and financial consequences for both the conservator and the minor child. Consult a lawyer and carefully consider all of your options before you represent yourself in a petition to appoint a conservator in a North Dakota state district court.

Overview of the Process to Establish a Conservatorship of a Minor Child Because the Child is under 18 Years Old

- Step One. Gather the Information Needed to Complete the Forms**
- 1) Where to file the petition (*which North Dakota county*);
 - 2) Information about the proposed conservator(s), minor child, and minor child's financial affairs;
 - 3) If requesting appointment of a Guardian ad Litem for the minor child, the name and contact information of the Guardian Ad Litem;
 - 4) Names and current addresses of people who are required to receive notice that you're asking a district court to appoint a conservator.
- Step Two. Prepare the Petition for Appointment of a Conservator/Co-Conservators for a Minor Child**
- Also prepare the Confidential Information Form.
- Step Three. If Requesting Appointment of a Guardian ad Litem for the Minor Child, Prepare Proposed Order to Appoint a Guardian ad Litem**
- The proposed order isn't effective until signed by the judge or judicial referee after completing Step Four.
- Step Four. File the Petition, Confidential Information Form and Proposed Order to Appoint; Get a Hearing Date**
- Pay the \$160.00 filing fee or file the completed petition to waive filing fees.
- Step Five. Prepare the Notice of Hearing**
- Make copies to serve in Step Six.
- Step Six. Serve the Notice of Hearing with a Copy of the Petition and Signed Order to Appoint**
- Arrange to serve the people identified to receive notice in Step One.
- Step Seven. File the Notice of Hearing, Declaration(s) of Service, and/or Certificate(s) of Service**
- Declaration(s) of service or Certificate(s) are proof of service.
- Step Eight. Attend the Hearing(s)**
- The petitioner is required to prove the claims in their petition. The minor child has the right to present evidence and cross-examine witnesses.

*****The conservatorship automatically ends when the child turns 18 years old.*****

What is a Conservatorship?

A conservatorship is a court process where a North Dakota state district court judge or judicial referee decides whether an individual is unable to manage their property or financial affairs (*or both*) to the point where a conservator must be appointed to take either limited or full control.

The conservator can be an individual, or individuals, or a business entity, such as a bank.

Who May Use This Set of Forms to Bring a Conservatorship Case?

This set of forms may be used when a minor child has property or financial affairs (*or both*) that the child can't manage on their own **ONLY because the child is under 18 years old. (A *minor child is under 18 years old.*)**

If you're one of the following, you may bring the conservatorship case (*also called Petitioner*):

- The minor child's parent, or parents.
- The minor child's guardian. A guardian is appointed by a court to act in the place of the minor child's parents.
- The minor child's custodian. (*Custodian isn't specifically defined for conservatorships in North Dakota law. You may wish to start your legal research with [N.D.C.C. Chapter 47-24.1](#) Uniform Transfers to Minors Act, or consult a [lawyer](#) for assistance.*)
- Any person who is interested in the estate, affairs, or welfare of the minor child.
- Any person who would be adversely affected by lack of effective management of the property or financial affairs of the minor child.

If the judge or judicial referee assigned to the conservatorship case decides, based on the evidence presented, that the minor child is under 18 years old AND:

- Owns money or property that requires management or protection that requires a conservator to be appointed; or
- Has or may have business affairs which may be jeopardized or prevented by the minor child's age; or
- Needs funds for the minor child's support and education and protection is necessary or desirable to get or provide the funds,

the judge or judicial referee will appoint a conservator, or co-conservators. After appointment, the minor child is usually called the protected person.

The conservatorship automatically ends when the child turns 18 years old.

Laws and Rules

The requirements for conservatorships are found in **North Dakota Century Code (N.D.C.C.) Chapter 30.1-01, Chapter 30.1-03, Chapter 30.1-26 and Chapter 30.1-29**. Refer to these Chapters when filling out the forms.

Rule 13 of the North Dakota Supreme Court Administrative Rules allows a District Court Judicial Referee, rather than a District Court Judge, to hear and decide conservatorship cases.

Only a lawyer licensed to practice in North Dakota who has agreed to represent you can give you legal advice. Legal advice includes interpreting how laws and rules apply to your situation.

A Judicial Referee May Hear and Decide the Conservatorship Case

Rule 13 of the North Dakota Supreme Court Administrative Rules allows conservatorship cases to be heard and decided by a Judicial Referee, rather than a District Court Judge.

A Judicial Referee is a judicial officer, appointed by the presiding District Court Judge, who has the authority to hear and decide conservatorship cases.

If a Judicial Referee is assigned to the conservatorship case, any party to the case may request that a District Court Judge hear and decide the case instead. **The party must file a written request with the Clerk of Court within seven days after service of the notice of hearing.**

If the conservatorship case is heard and decided by a Judicial Referee, the Judicial Referee will issue findings of fact and an order. The Judicial Referee's findings of fact and order have the same effect as the findings of fact and order of a District Court Judge until superseded by a written order of a District Court Judge.

If any party to the conservatorship case wants a review of the Judicial Referee's findings of fact and order, **the party must file a written request for a review, stating the specific reasons for the review, with the Clerk of Court within seven days after service of notice of the right to review.**

The party requesting review must give notice of their request to all other parties. Any party who wishes to respond to the request for review must file their written response within fourteen days after service of the notice of the request for review.

Forms for Establishing a Conservatorship of a Minor Child Because the Child is Under 18 Years Old

Forms you'll need:

If you meet the requirements for using this forms set, complete the following 3 forms.

Form Title	Purpose
Petition for Appointment of a Conservator/Co-Conservators for a Minor Child (<i>Child Under 18 Years Old</i>)	Formal request to the court for appointment of a conservator(s) for a minor child because the child is under 18 years old.
Confidential Information Form	Lists the full confidential information that isn't allowed to appear in other documents filed with the court. This form is a part of the court record that isn't seen by the public.
Notice of Hearing	Gives the date and time of the conservatorship hearing, name and address of the Guardian ad Litem (if requesting appointment), and the name of the proposed conservator(s). Gives important information about the conservatorship process to the minor child.

Forms you may need (*list continues on next page*):

If you're requesting appointment of a Guardian ad Litem, you'll need one of the following forms. The court where you plan to file your petition may require you to file one or more of the other following forms. Check with the clerk of court for special requirements.

Form Title	Purpose
Order for Appointment of Guardian ad Litem	<p>Proposed order of the court appointing a Guardian ad Litem. A Guardian ad Litem is a lawyer appointed by the district court to advocate for the best interests of the minor child.</p> <p>If you're requesting appointment of a Guardian ad Litem, you'll need this form. The proposed order isn't effective until it is signed by the court.</p>

Form Title	Purpose
Declaration of Service by Personal Delivery	Proves copies were served in person of the Notice of Hearing, Petition for Appointment of a Conservator/Co-Conservators for a Minor Child, and, if requesting a Guardian ad Litem, the signed Order for Appointment of Guardian ad Litem.
Declaration of Service by Mail	Proves copies were served by mail of the Notice of Hearing, Petition for Appointment of a Conservator/Co-Conservators for a Minor Child, and, if requesting a Guardian ad Litem, the signed Order for Appointment of Guardian ad Litem.
Declaration for Service by Publication	If unable to locate the address or identify a person required to be served, petitioner's sworn statement of diligent efforts and attempts to serve before serving the Notice of Hearing by publication.
Findings of Fact and Order Appointing Conservator/Co-Conservators for a Minor Child (<i>Child Under 18 Years Old</i>)	After hearing all of the evidence, the proposed explanation of facts the judge or judicial referee found to be true and the legal consequences of those facts. The proposed findings of fact and order aren't effective until signed by the court.
Letters of Conservatorship (<i>Child Under 18 Years Old</i>)	If the judge or judicial referee appoints a conservator(s) after the full hearing is held on the petition, the court will issue letters of conservatorship that identifies the authority and limitations of the conservator to make decisions on behalf of the minor child. The proposed letters of conservatorship isn't effective until it is signed by the conservator(s) and the court.

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Eight Steps to Establish a Conservatorship of a Minor Child Because the Child is Under 18 Years Old

Step 1 – Gather the information needed to complete the forms.

First, review [N.D.C.C. § 30.1-29-03](#) to decide where to file the petition. This is called venue.

Second, review [N.D.C.C. § 30.1-29-04](#) and the Petition for Appointment of a Conservator/Co-Conservators for a Minor Child (*Child Under 18 Years Old*) form for information that must be included in the petition. At minimum, gather the following:

- Information about the minor child;
- Information about the minor child's property with an estimate of the property's value, including any compensation, insurance, pension, or allowance to which the child is entitled;
- Name and address of the nearest relative to the minor child know to you, the Petitioner;
- If a court has appointed a guardian for the minor child, information about the guardian or co-guardians;
- If the minor child has a representative payee, information about the representative payee;
- Information about the person or persons, if any, designated in a power of attorney;
- If an attorney recently represented the minor child, information about the attorney;
- Information about the proposed conservator or co-conservators;
- The priority of appointment for the proposed conservator or co-conservators (see [N.D.C.C. § 30.1-29-10](#));
- Whether you're requesting a limited or full conservatorship;
- Description of the less intrusive alternatives to conservatorship you, the Petitioner, considered before starting a conservatorship case; and
- The reason(s) why appointment of a conservator/co-conservators for the minor child is necessary (see [N.D.C.C. § 30.1-29-01](#)).

Third (*skip this step if you don't plan to ask the court to appoint a Guardian ad Litem*), gather the name and contact information of the Guardian ad Litem you'll propose to the court in **Step 4**. Contact the Guardian ad Litem to get their consent, fees and any other information you consider necessary.

Duties of the Guardian ad Litem are found in [N.D.C.C. § 30.1-29-07\(2\)](#).

- A Guardian Ad Litem roster published by the North Dakota State Court Administrators Office is available at ndcourts.gov/district-court/parenting-investigator-legal-guardian-ad-litem-roster.
- The Guardian Ad Litem roster is specifically for use in child custody proceedings, but may be useful as a starting point for locating a Guardian ad Litem for conservatorship proceedings.

Fourth, review [N.D.C.C. § 30.1-29-05](#) to compile a list of people to whom you must provide notice of the conservatorship case. Gather the names and current addresses of the following:

- The minor child;
- The minor child's parents;
- Any other guardian, if any;
- Any other conservator, if any;
- The Guardian ad Litem, if requesting appointment of a Guardian ad Litem;
- Any government agency paying benefits to the minor child, if you, the Petitioner, have knowledge of the existence of the benefits; and
- Any person who has filed a request for notice under [N.D.C.C. § 30.1-29-06](#).

Step 2 – Prepare the Petition for Appointment of a Conservator/Co-Conservators for a Minor Child form and the Confidential Information Form.

Petition for Appointment of a Conservator/Co-Conservators for a Minor Child (*Child Under 18 Years Old*) form:

Caption (*top of form*):

- Fill in the name of the county in North Dakota where you'll file the petition.
- Fill in the name of the Judicial District where you'll file the petition. (*The county is within the Judicial District.*) County and Judicial District information and maps are available at ndcourts.gov.
- Fill in the full, legal name of the minor child.
- The case number will be assigned by the clerk of court when the petition is filed in **Step 4**.

Complete all sections of the form.

- If you need additional space, don't write on the back of the form. Write on one side of a new sheet (or sheets) of paper and attach to the completed petition.

- **DON'T INCLUDE** the following information in the Petition:
 - Social Security Number
 - Taxpayer-Identification Number
 - Financial Account Number
- When completing the Petition, if you need to refer to a social security number, taxpayer-identification number, or a financial account number, use only the following:
 - Last 4 digits of Social Security Number
 - Last 4 digits of Taxpayer-Identification Number
 - Last 4 digits of Financial Account Number

Date and Signature:

- Date and sign the form. Complete all lines below your signature.

Make copies of the completed petition:

- Make a copy for each of the people to whom you'll provide notice from **Step 1**.
- Make an additional copy for your records.

Confidential Information Form:

Caption (*top of form*):

- Fill out the Caption exactly as you filled out the Caption of the Petition for Appointment of a Conservator/Co-Conservators for a Minor Child (*Child Under 18 Years Old*) form.

Complete all applicable sections of the form.

Date and sign this form.

Make a copy of the Confidential Information Form for your records. The original will be filed with the Clerk of District Court in **Step 4**.

This form is filed as a confidential document. This form isn't included in the court documents that are available to the public.

The Confidential Information Form is **only** provided to the Clerk of District Court.

Step 3 – If Requesting Appointment of a Guardian ad Litem, Prepare the Order for Appointment of Guardian ad Litem form.

A Guardian ad Litem is a lawyer appointed by the judge or judicial referee to advocate for the best interests of the minor child in the conservatorship case.

A Guardian ad Litem **isn't required to be appointed** in a conservatorship case.

If you asked for a Guardian ad Litem to be appointed in Paragraph 2 of your Petition for Appointment of a Conservator/Co-Conservators for a Minor Child form, you must complete this form.

This is your proposed order of the court appointing a Guardian ad Litem. The proposed order isn't effective until signed by the judge or judicial referee.

Caption (top of form):

- Fill out the top of each proposed order exactly as you filled out the caption of the Petition for Appointment of a Guardian form.

Complete all applicable sections of the form.

- **Don't** fill in the date the petition is filed, the name of the judge/judicial referee or the date and time of the hearing.

DON'T sign the proposed order.

Make copies of the completed proposed order:

- Make a copy for each of the people to whom you'll provide notice from **Step 1**.
- Make an additional copy for your records.

Step 4 – File the original, completed Petition for Appointment of a Conservator/Co-Conservators for a Minor Child form, Confidential Information Form, and, if requesting a Guardian ad Litem, Order for Appointment of Guardian ad Litem form. Get a hearing date and time.

Take your completed petition, completed Confidential Information Form, and, if you're requesting Guardian ad Litem, completed proposed Order for Appointment of Guardian ad Litem to the Clerk of District Court's office in the North Dakota county where you plan to file the petition. (*See Paragraph 2 of your Petition.*)

If the clerk of court accepts your petition for filing, you'll be required to pay an \$160.00 filing fee, unless the court grants you a fee waiver. A form set for requesting a fee waiver is available at ndcourts.gov/legal-self-help/fee-waiver.

If your documents are accepted by the Clerk of District Court's office for filing, a case number is assigned. Make sure the case number is written on your original, completed petition and all of the copies you made.

After the petition is accepted for filing, the court will set a date for the hearing.

If you requested appointment of a Guardian ad Litem, the court will also appoint an attorney to act as Guardian ad Litem for the minor child.

Step 5 –Prepare the Notice of Hearing.

The District Court ISN'T required to prepare the Notice of Hearing for you. You, the Petitioner, are required to complete Step 5 and Step 6.

Caption (*top of form*):

- Fill in the top of the form exactly as it appears in the Petition for Appointment of a Conservator/Co-Conservators for a Minor Child (*Child Under 18 Years Old*) form.
- Write in the case number assigned in **Step 4**.

Complete all applicable sections of the form.

Date and sign the form.

Make copies of the completed notice:

- Make a copy for each of the people to whom you'll provide notice from **Step 1**.
- You'll need an additional copy for your records.

Step 6 – Serve the completed Notice of Hearing, along with a copy of the Petition for Appointment of a Conservator/Co-Conservators for a Minor Child and, if requesting a Guardian ad Litem, a copy of the signed Order for Appointment of Guardian ad Litem.

The District Court ISN'T required to serve these documents for you. You, the Petitioner, are required to complete Step 5 and Step 6.

All persons required to get notice from **Step 1** must be given a copy of the following:

- Notice of Hearing;
- Petition for Appointment of a Conservator/Co-Conservators for a Minor Child; and
- Signed Order for Appointment of Guardian ad Litem (*if requesting a Guardian ad Litem*).

You, the petitioner, are responsible for ensuring notice is given as required by [N.D.C.C. § 30.1-29-05](#) and [N.D.C.C. § 30.1-03-01](#).

Service on the Minor Child and Parents by Personal Service:

If the minor child or the minor child's parents are found within North Dakota, they must be personally served at least 14 days before the hearing.

You, the petitioner, can't personally serve the documents yourself.

You arrange for personal service as follows:

- The person who personally serves a copy of the Notice of Hearing, a copy of the Petition, and a copy of the Order Appointing Guardian ad Litem (*if requesting a Guardian ad Litem*) **must be at least 18 years old and not a party to the petition or an interested party.**
- The person who serves the copies of the notice and other documents must complete a Declaration of Service by Personal Delivery. This is your proof of service of the notice and other documents.
 - If the Sheriff personally serves the documents, the Sheriff will provide a completed certificate of service.
- Make a copy of each declaration or certificate for your records. You'll file the original declaration(s) of service or certificate(s) of service with the court in **Step 7**.

Service by Personal Delivery:

If the minor child or the minor child's parents can't be found within North Dakota they may be personally served at least 14 days before the hearing.

All other persons listed in **Step 1** may be personally served, whether or not they're found within North Dakota. See [N.D.C.C. § 30.1-03-01](#).

You, the petitioner, can't personally serve the documents yourself.

You arrange for personal service as follows:

- The person who personally serves a copy of the Notice of Hearing, a copy of the Petition, and a copy of the Order Appointing Guardian ad Litem (*if requesting a Guardian ad Litem*) **must be at least 18 years old and not a party to the petition or an interested party.**
- The person who serves the copies of the notice and other documents must complete a Declaration of Service by Personal Delivery. This is your proof of service of the notice and other documents.
 - If the Sheriff personally serves the documents, the Sheriff will provide a completed certificate of service.
- Make a copy of each declaration or certificate for your records. You'll file the original declaration(s) of service or certificate(s) of service with the court in **Step 7**.

Service by Mail:

If the minor child or the minor child's parents can't be found within North Dakota they may be served by mail.

All other persons listed in **Step 1** may be served by mail, whether or not they can be found in North Dakota. See [N.D.C.C. § 30.1-03-01](#).

Notice by mail must happen at least 14 days before the hearing.

You, the petitioner, arrange for service by mail as follows:

- The person who mails a copy of the Notice of Hearing, a copy of the Petition, and a copy of the Order Appointing Guardian ad Litem (*if requesting a Guardian ad Litem*) **must be at least 18 years old.**
- The copies of the notice and other documents must be mailed by certified or ordinary first-class mail addressed to the person's office or place of residence.
- The person who mails the copies of the notice and other documents must complete a declaration of service by mail. This is your proof of service of the notice and other documents.
- Make a copy of each declaration of service by mail for your records. You'll file the original declaration(s) of service with the court in **Step 7**.

Service by Publication in a Newspaper:

If, after a diligent search, you're unable to find the address or identity of any of the other persons listed in listed in **Step 1, except the minor child**, you may give notice of the hearing by publication in a newspaper. See [N.D.C.C. § 30.1-03-01](#) and [Rule 4\(e\) of the North Dakota Rules of Civil Procedure](#).

The notice must be published at least once a week for three consecutive weeks. The last publication of the notice must happen at least 10 days before the hearing:

- Publish the Notice of Hearing in a newspaper that has general circulation in the North Dakota county where the hearing is scheduled to be held.
- You, the petitioner, must request an affidavit of publication from the newspaper after publishing is complete. This is your proof of publication of the notice.
- You, the petitioner, must complete a declaration for service by publication. The purpose of a declaration for service by publication is to describe to the court the diligent efforts to locate the person(s).
- Make a copy of the affidavit of publication you received from the newspaper and your completed and signed declaration for service by publication for your records.
- You'll file the original declaration for service by publication and the affidavit of publication with the court in **Step 7**.

Step 7 – File the Notice of Hearing, declaration(s) of service, and/or certificate(s) of service with the Clerk of Court.

At least 14 days before the date of the hearing, file the following **original** documents with the clerk of court in the county where the hearing is to be held:

- Notice of Hearing;
- All declarations of service; and
- All certificates of service.

If you served the Notice of Hearing by publication in a newspaper, at least 10 days before the date of the hearing, file the following documents with the clerk of court:

- The affidavit of publication you received from the newspaper; and
- The original declaration for service by publication.

Step 8 – Attend the hearing. There may be more than one hearing before the judge or judicial referee makes a decision.

You, the petitioner, must be prepared to present evidence proving the claims you made in your Petition for Appointment of a Conservator/Co-Conservators for a Minor Child (*Child Under 18 Years Old*).

You must also prove that notice of the hearing and a copy of the Petition was given to all persons required to receive notice. (See **Step 7.**)

Depending on your circumstances, there may be more than one hearing held before the judge or judicial referee decides whether to appoint a conservator or co-conservators.

As the Petitioner, you're required to prove your case by a preponderance of the evidence.

Preponderance of the evidence is the burden of proof by which you must convince the judge or judicial referee that a conservator should be appointed for a minor child when the child is under 18 years old and:

- The child owns money or property that requires management or protection that requires a conservator to be appointed; or
- The child has or may have business affairs which may be jeopardized or prevented by the minor child's age; or
- The child needs funds for the minor child's support and education and protection is necessary or desirable to get or provide the funds

Black's Law Dictionary (9th Edition, 2009) partially defines preponderance of the evidence as "the greater weight of the evidence, not necessarily established by the greater number of witnesses testifying to a fact but by evidence that has the most convincing force."

The minor child has the right to present their own evidence, and to cross-examine your witnesses.

Preparing for a hearing is often a complex and confusing process. You're held to the same requirements as an attorney, even if you don't understand the rules or procedures. **You'll need to conduct additional research to prepare.**

Review pre-trial and trial guidebooks for self-represented litigants and lawyers. Your local public or academic library may have resources available.

The judicial officer presiding over the hearing(s) will issue a written order granting or denying the appointment of a conservator or co-conservators.

Requirements After the Judge or Judicial Referee Appoints a Conservator or Co-Conservators

Read the Findings of Fact and Order Appointing the Conservator or Co-Conservator:

If the judge or judicial referee appoints a conservator or co-conservator, the findings of fact and order of appointment identifies the authority and limitations of the conservator(s) to make decisions on behalf of the minor child. The findings of fact and order also identifies any limitations the court puts on the minor child in matters where powers aren't granted to the conservator(s).

As the conservator/co-conservators, you must follow the requirements in the findings of fact and order.

Letters of Conservatorship:

Along with the findings of fact and order of appointment, the judge or judicial referee will issue a document called the letters of conservatorship. To accept the duties of conservator, the conservator and co-conservator, if any, appointed by the judge or judicial referee must sign the letters of conservatorship.

The letters of conservatorship is a short version of the findings of fact and order of appointment.

When the conservator(s) needs to present proof of their authority while carrying out their duties, they present a certified copy of their letters of conservatorship.

Purchase certified copies of your letters of conservatorship from the clerk of court.

Beginning Inventory Report and Annual Report:

Within 90 days of the court's order appointing a conservator, the conservator(s) must provide a beginning inventory report to the court of the estate of the minor child.

The conservator(s) must file an annual report with the court.

Forms and instructions are available at ndcourts.gov/legal-self-help/conservatorship.

The Conservatorship ends when the minor child turns 18 years old, or by order of the court, whichever happens first.