

## Instructions to Transfer a North Dakota Guardianship or Conservatorship of an Adult to Another State

Do not include these instructions when you serve or file the completed forms.

### IMPORTANT! READ BEFORE USING THESE FORMS AND INSTRUCTIONS

ND Legal Self Help Center staff and court employees cannot help you fill out forms.

If you are unsure how to proceed, or need legal advice or legal representation, consult a lawyer licensed to practice in North Dakota.

To protect your rights, carefully read this information and any instructions to which you are referred.

**When you represent yourself, you must abide by the following:**

- 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 [www.ndcourts.gov](http://www.ndcourts.gov).

**When you represent yourself, you are held to the same requirements and responsibilities as a lawyer, even if you don't understand the rules or procedures.** If you are unsure if these forms and instructions suit your circumstances, consult a lawyer.

A glossary with definitions of legal terms is available at [www.ndcourts.gov/legal-self-help](http://www.ndcourts.gov/legal-self-help).

***These instructions and forms are not a complete statement of the law. They cover the basic procedure for asking a North Dakota state district court to transfer an existing North Dakota guardianship of an adult to another state. There is no guarantee that all judges and courts will accept forms available through the ND Legal Self Help Center. The Center is not responsible for any consequences that may result from the forms or information provided.***

**Use at your own risk.**

## Purpose

When a guardian or conservator wants to transfer a guardianship or conservatorship established by a North Dakota district court to another state's court, the guardian or conservator must petition the North Dakota district court for permission to transfer jurisdictions. (References to guardian or conservator also include co-guardians and co-conservators.)

If the North Dakota district court approves the transfer, the court will issue an order transferring the guardianship or conservatorship to the other state and terminating the North Dakota guardianship or conservatorship.

Please note that these forms can **only** be used to transfer a guardianship or conservatorship of a ward or protected person who is **eighteen (18) years of age or older**.

If you are a Guardian or Conservator representing yourself, you may complete and sign the forms. If you are unsure how to proceed or unsure if these forms are suitable for your situation, you should consult an attorney.

## ND Laws and Rules Related to Transferring Guardianship/Conservatorship of an Adult

North Dakota Century Code Chapter 28-35: Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act contain requirements for transferring guardianships of adults. Chapter 28-35 is found online at <http://www.legis.nd.gov/cencode/t28c35.html>.

- For requirements for petitioning to transfer guardianship jurisdiction from North Dakota to another state, see Section 28-35-15: Transfer of Guardianship or Conservatorship to Another State. (<http://www.legis.nd.gov/cencode/t28c35.pdf#nameddest=28-35-15>)

North Dakota Century Code Chapter 28-35 may reference the North Dakota Rules of Civil Procedure, the North Dakota Rules of Court, or the North Dakota Rules of Evidence. The rules can be found online at <http://www.ndcourts.gov/rules/>.

The North Dakota Century Code and North Dakota rules of court can also be found in print in many North Dakota public and academic libraries.

## Requesting a Guardian Ad Litem for the Ward/Protected Person

The court may appoint a guardian ad litem for the ward or protected person upon the request of the ward or protected person, or any interested person. A guardian ad litem is a lawyer appointed by a North Dakota District Court to advocate for the best interests of the ward or protected person.

Guardian Ad Litem request forms are available with this packet of forms and available at [www.ndcourts.gov/legal-self-help/conservatorship/transfer](http://www.ndcourts.gov/legal-self-help/conservatorship/transfer).

### Forms in the Packet

The forms in the Transfer a North Dakota Guardianship or Conservatorship to Another State packet include:

1. Petition to Transfer Guardianship/Conservatorship from North Dakota to Another State;
2. Confidential Information Form;
3. Provisional Order Granting/Denying Petition to Transfer Guardianship/Conservatorship to Another State;
4. Rule 3.2 Notice of Petition;
5. Notice of Motion for Final Order Confirming Transfer and Terminating Guardianship/Conservatorship;
6. Motion for Final Order Confirming Transfer and Terminating Guardianship/Conservatorship;
7. Final Inventory Report;
8. Final Order Confirming Transfer and Terminating North Dakota Guardianship/Conservatorship; and
9. Certificate of Mailing/Hand Delivery.

**Step One: Petition the North Dakota district court to transfer the North Dakota guardianship/conservatorship to another state and give notice of the petition as required by North Dakota Century Code Section 28-35-15(2).**

- Complete the following forms:
  - 1. Petition to Transfer Guardianship/Conservatorship from North Dakota to Another State;
  - 2. Confidential Information Form;
  - 3. Provisional Order Granting/Denying Petition to Transfer Guardianship/Conservatorship to Another State (*fill out the caption (top) only*); and
  - 4. Rule 3.2 Notice of Petition.

- Serve copies of the following completed forms on all parties who are required to receive notice (review the North Dakota guardianship/conservatorship order):
  - **1.** Petition to Transfer Guardianship/Conservatorship from North Dakota to Another State;
  - **3.** Provisional Order Granting/Denying Petition to Transfer Guardianship/Conservatorship to Another State; and
  - **4.** Rule 3.2 Notice of Petition.

(**Do Not** serve a copy of form **2.** Confidential Information Form. The Confidential Information Form is **only** filed with the Clerk of District Court.)

- Complete form **9.** Certificate of Mailing/Hand Delivery.
  - The completed form **9.** Certificate of Mailing/Hand Delivery is your proof to the District Court that you served all parties who are required to receive notice.
  - The Certificate of Mailing/Hand Delivery must show how and when each party was served a copy of the Petition, the Rule 3.2 Notice of Petition and the Provisional Order.
  - More information about service is found on Page 6 of 6.
- File the following original, completed forms with the Clerk of the District Court that established the guardianship or conservatorship:
  - **1.** Petition to Transfer Guardianship/Conservatorship from North Dakota to Another State;
  - **2.** Confidential Information Form;
  - **3.** Provisional Order Granting/Denying Petition to Transfer Guardianship/Conservatorship to Another State;
  - **4.** Rule 3.2 Notice of Petition; and
  - **9.** Certificate of Mailing/Hand Delivery
- The people on whom you served the petition, the provisional order, and notice of petition have either 14 or 17 calendar days to answer. They may request that the District Court schedule a hearing before deciding whether to grant the provisional order.
  - A person served by hand delivery has 14 calendar days to answer in writing.
  - A person served by mail has 17 calendar days to answer in writing.

- If a hearing is requested and scheduled, attend the hearing. Be prepared to prove your Petition to Transfer Guardianship/ Conservatorship from North Dakota to Another State.
- If no hearing is requested and scheduled, the court will decide whether to grant the provisional order based only on the documents filed.

**Step Two: The North Dakota district court issues a provisional order granting or denying the petition to transfer.**

- If the North Dakota district court grants your petition, the court will issue a provisional order transferring the guardianship/conservatorship of an adult to the other state.

**Step Three: Petition the other state for a provisional order accepting transfer of the North Dakota guardianship/conservatorship.**

- You will need to work directly with the other state to fulfill the other state court's requirements.

**Step Four: Motion the North Dakota district court for a final order confirming the transfer to the other state and terminating the North Dakota guardianship/conservatorship.**

- Complete the following forms:
  - **5.** Notice of Motion for Final Order Confirming Transfer and Terminating Guardianship/ Conservatorship;
  - **6.** Motion for Final Order Confirming Transfer and Terminating Guardianship/ Conservatorship;
  - **7.** Final Inventory Report;
  - **8.** Final Order Confirming Transfer and Terminating North Dakota Guardianship/ Conservatorship (Proposed); and
  - **9.** Certificate of Mailing/Hand Delivery.
- Serve copies of the completed Notice of Motion, Motion and Final Order (proposed) on all parties who are required to receive notice. (Review the guardianship/conservatorship order.)
- File the original, completed Notice of Motion, Motion, Final Order (Proposed), and Certificate of Mailing/Hand Delivery with the Clerk of the District Court.

- The Certificate of Mailing/Hand Delivery must show how and when each party was served a copy of the Notice of Motion, Motion and Final Order.
- You will also need to file:
  - The other state court's provisional order accepting transfer of jurisdiction of the guardianship/conservatorship.

**Step Five: The North Dakota district court issues a final order granting the transfer and terminating the North Dakota Guardianship/Conservatorship.**

- If the North Dakota district court grants your motion, the court will issue a final order transferring the guardianship/conservatorship of an adult to the other state. The final order will terminate the North Dakota guardianship/conservatorship.
  - The court may require you to file additional documents necessary to terminate the North Dakota guardianship/conservatorship.

**Service of Copies of Completed Forms**

All interested persons designated in the order appointing you as Guardian/Conservator must receive a copy the completed forms in the packet.

Copies may be mailed by first class, postage prepaid, **or** hand-delivered.

Before the court will act on your motion to allow payment of room and board, you must provide proof that copies of the completed documents were mailed or hand-delivered to all interested persons. The Certificate of Mailing/Hand Delivery gives the court proof that copies were provided.

The completed Certificate of Mailing/Hand Delivery form must be signed in the presence of a Notary Public or a clerk of court. A notary public may be available at your local bank, credit union or public library.

**Do not include these instructions when you serve or file the completed forms.**