

INSTRUCTIONS FOR OBJECTION OF TERMINATION OF GUARDIANSHIP AND DISCHARGE OF GUARDIAN/CO-GUARDIANS OF MINOR AND DEMAND FOR HEARING (18 Years Old, Adopted, Married, or Deceased)

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).

If you're 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're referred.

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 www.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. If you're unsure if these forms and instructions suit your circumstances, consult a lawyer.

- For more information about finding a lawyer, go to www.ndcourts.gov/legal-self-help/finding-a-lawyer.

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

These instructions and form aren't a complete statement of the law. They cover basic procedure for objecting to termination of the guardianship of a child and/or discharge of the guardian(s), when the reason for termination is the child turned 18 years old, was adopted, was married, or died. 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.

Who May Use this Form?

1. You may use this form **ONLY IF** you were served a Notice of Petition and Petition for Termination of Guardianship and Discharge of Guardians/Co-Guardians; **AND**
2. The termination of guardianship is requested because of one of the following reasons:
 - The child turned 18 years old;
 - The child was adopted;
 - The child was married and is under 18 years old; or
 - The child died; **AND**
3. The Juvenile Court has waived, or decided not to hold, the in-court hearing; **AND**
4. You want to object to the termination of the guardianship and/or the discharge of the Guardians/Co-Guardians and demand an in-court hearing.

What if I Don't Meet the Requirements to Use this Form?

If you object to termination of the guardianship and/or discharge of the guardian(s), BUT the reason for termination ISN'T one of the 4 reasons listed above, you CAN'T use this form.

If you've been served a Notice of Hearing and a petition for termination of the guardianship, YOU MUST ATTEND THE HEARING if you want to object.

There are NO forms or other information available through the ND Legal Self Help Center for this situation. You may wish to consult an attorney for advice.

Who Can Help Me Fill Out this Form?

ND Legal Self Help Center staff and Court employees **can't** help you fill out any forms or help you create any legal documents.

As a self-represented individual, you must make all decisions related to this form, including:

- Whether you should use this form;
- What words to write on this form; and
- Whether the words you've written on this form are sufficient or correct.

If you would like assistance filling out this form, or deciding if this form suits your situation, consult a lawyer licensed to practice in North Dakota.

Ask the lawyer about Limited Legal Representation. Lawyers licensed to practice in North Dakota may agree to help you with part of your Juvenile Court guardianship case, such as preparing legal documents, while you handle the rest. You and the lawyer must agree in writing to Limited Legal Representation.

OVERVIEW OF THE PROCESS FOR OBJECTING TO TERMINATION OF GUARDIANSHIP AND/OR DISCHARGE OF GUARDIAN/CO-GUARDIANS AND DEMAND FOR HEARING

Step One. Within 10 Days After Service of the Notice of Petition and Petition for Termination of Guardianship and Discharge of Guardian/Co-Guardians, File a Written Objection to the Termination and/or Discharge and Demand for Hearing with the Juvenile Court.

Count 10 calendar days from the day after you received Notice of Petition and Petition in the mail.

Step Two. The Juvenile Court Schedules an In-Court Hearing.

After you file your written objection and demand for hearing WITHIN 10 CALENDAR DAYS, you'll receive a notice of hearing by mail with the date, time and location of the in-court hearing.

You **must attend** the in-court hearing and be prepared to prove what you wrote in your written objection and demand for hearing.

Step Three. The Judge or Judicial Referee Decides Whether to Terminate the Guardianship.

The guardianship isn't terminated and the guardian(s) not discharged UNTIL the Judge or Judicial Referee issues written findings of fact and order terminating the guardianship and discharging the guardian(s).

What Laws and Rules Do I Need to Know to Use this Form?

[Section 27-20.1-16](#) and [Section 27-20.1-17](#) of the North Dakota Century Code govern terminating a guardianship of a minor.

[The North Dakota Rules of Juvenile Procedure](#) control how a Juvenile Court action moves through the Juvenile Court. You're expected to know and follow the rules.

Laws constantly change through legislation, administrative rulings and court decisions. To determine how a law applies to your situation, review the applicable law or laws, administrative rulings and court decisions. Notes of court decisions related to North Dakota law can be found in the print editions of the North Dakota Century Code. Print editions of the North Dakota Century Code are found in many North Dakota public and academic libraries.

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 the laws and rules apply to your situation.

What Definitions Do I Need to Know to Use this Packet of Forms?

*****The following definitions are intended to be helpful, BUT they're NOT intended to constitute legal advice OR address every possible meaning of the terms in this section.*****

Adopted – An individual who was legally made the child of someone other than a biological parent.

Child – (See Also: Minor) In North Dakota Juvenile Court proceedings, an individual who is under age eighteen and is not married.

Deceased – An individual who has died.

Guardian (or Co-Guardians) – 1) An individual (or individuals) appointed by the North Dakota Juvenile Court to act in place of the child's parent(s); or 2) An individual (or individuals) originally appointed by the North Dakota District Court to act in place of the child's parent(s), and the case was transferred to North Dakota Juvenile Court.

Judicial Referee – A judicial officer, appointed by the presiding District Court judge, who has the authority to preside in Juvenile Court proceedings. The findings and order of the judicial referee have the effect of the findings and order of a District Court judge until superseded by a written order of a District Court judge.

Married – Union of two individuals which is recognized as marriage by the laws of the state or other jurisdiction in which the marriage took place. (See [Chapter 14-03 of the North Dakota Century Code](#) for North Dakota's marriage laws.)

Minor – (See Also: Child) An individual who is under age eighteen.

Original Petitioner & Original Respondent – The names of the person(s) listed as Petitioner and Respondent in the Caption (top of document) of the original petition for guardianship.

A Judicial Referee May Hear and Decide the Petition for Termination

[Rule 13 of the North Dakota Supreme Court Administrative Rules](#) allows guardianship cases in Juvenile Court to be heard and decided by a Judicial Referee, rather than a District Court Judge.

If a Judicial Referee is assigned to the guardianship 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 (7) days after service of the notice of hearing.**

If the guardianship 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 (replaced) by a written order of a District Court Judge.

If any party to the guardianship 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 (7) 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 (14) days after service of the notice of the request for review.

Form for Objecting to the Petition for Termination of the Guardianship and Discharge of the Guardian/Co-Guardians and Demand for Hearing

Form Title	Purpose
Objection to Termination of Guardianship and Discharge of Guardian/Co-Guardians and Demand for Hearing (Form 7)	Completed by the individual who wants to object to the termination of the guardianship and/or discharge of the Guardian/Co-Guardians, and demand that the Juvenile Court schedule an in-court hearing.

STEPS IN THE PROCESS

You MUST complete ALL steps. Don't skip steps!

If you were served a copy of the Notice of Petition and Petition for Termination of Guardianship and Discharge of Guardian/Co-Guardians for one of the following reasons:

- The child turned 18 years old;
- The child was adopted;
- The child was married and is under 18 years old; or
- The child died; **AND**

the Notice of Petition states that the in-court hearing is waived, you may file your written objection to the petition and demand that the Juvenile Court schedule an in-court hearing before terminating the guardianship and discharging the Guardian/Co-Guardians.

STEP ONE: Complete and File Form 7 Within 10 Days of Service of the Notice

TIPS FOR COMPLETING THE FORM

- Complete every paragraph that requires you to type or write in a space, unless the instructions specifically tell you to leave a space blank.
- Write in your own words why you object to ending the guardianship and/or discharging the guardian(s).
- Stick with the facts: who, what, when, where and how.
 - Avoid opinions.
- Remember, at the hearing you must prove what you type or write in your form.
- If you're unable to complete the fillable form online, you may print and handwrite.
 - You must use blue or black ink. Don't use pencil.
 - Your handwriting **MUST** be readable.

You MUST complete and file your written objection with the Juvenile Court WITHIN 10 DAYS after you were served a copy of the Notice of Petition and Petition.

To calculate 10 days after service:

- DON'T include the date on which you were served.
- Count every calendar day, including Saturdays, Sundays and legal holidays.
- If the last day is a Saturday, Sunday or legal holiday, move forward to the next day that isn't a Saturday, Sunday or legal holiday.

Form 7: Objection to Termination of Guardianship and Discharge of Guardian/Co-Guardians and Demand for Hearing

- **Top of Form (Caption)**
 - Complete exactly as the caption appears in the Notice of Petition you were served.** You MUST checkmark (✓) the SAME reason for termination of the guardianship.
- **To Complete Form 7: Objection to Termination of Guardianship**
 - Paragraph 1** – fill in your full name and checkmark (✓) the box that describes your relationship to the child. If you checkmark “An interested person, specifically,” you MUST type or write your relationship.
 - Paragraph 2** – checkmark (✓) the SAME reason you checkmarked in the caption.
 - Paragraph 3** – if this paragraph isn't correct for your situation, you CAN'T use this form. You don't type or write anything in this paragraph.
 - Paragraph 4** – type or write the specific facts that demonstrate your objection to termination based on:
 - The reason checkmarked in the petition;
 - The documentation the guardian(s) provided for the reason for termination; and/or
 - The information contained in the final accounting.
 - Paragraph 5** – this is your request for an in-court hearing. You don't type or write anything in this paragraph.
 - Paragraph 6** – **Read this paragraph carefully!** When you sign and date this form, you're declaring, under penalty of perjury, to the Juvenile Court and all participants in the case that all of the information you included on the form is accurate and true.

- **Date and Signature**

- Type or write the date you sign the form, and the county, state, and county where you sign the form;
- Sign the form; and
- Print your name, address, telephone number, and email address.

IMPORTANT! Make at least 1 copy of each of the completed forms for your records.

File the following ORIGINAL, COMPLETED form with the Clerk of Court:

- **Form 7:** Objection to Termination of Guardianship and Discharge of Guardian/Co-Guardians and Demand for Hearing

File any supporting documentation with the Clerk of Court, if applicable:

- If you chose to include supporting documentation with your completed Form 7, file copies of the supporting documentation when you file Form 7.
 - You may not have any supporting documentation, and supporting documentation isn't required to be filed with Form 7.

The written objection MUST be filed WITHIN 10 DAYS after you're served a copy of the Summons and Petition for Guardianship.

STEP TWO: The Juvenile Court Scheduled an In-Court Hearing

If your written objection is filed within the 10 day deadline, the Juvenile Court will schedule an in-court hearing. You'll receive a notice of hearing by mail with the date, time and location of the in-court hearing.

You **must attend** the in-court hearing and be prepared to prove what you wrote in your written objection and demand for hearing.

STEP THREE: The Juvenile Court Decides Whether to End the Guardianship

Until the judge or judicial referee signs an order stating that the guardianship is terminated and the guardian(s) is/are discharged, the guardianship and guardian(s) remain in place.

After the judge or judicial referee reviews all documents filed and, if an in-person hearing is held, following the hearing, the judge or judicial referee will issue findings of fact and an order.

You'll receive a copy of the findings of fact and order by mail with the decision.

STATE OF NORTH DAKOTA

IN JUVENILE COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE INTEREST OF _____, DOB _____, A CHILD.

_____)
 _____)
 (Original) PETITIONER(S),)
 _____)
 Vs _____)
 _____ (child))
 _____ (mother))
 _____ (father))
 _____)
 (Original) RESPONDENT(S).)

Case No. _____

OBJECTION TO TERMINATION OF GUARDIANSHIP AND DISCHARGE OF GUARDIAN/CO-GUARDIANS AND DEMAND FOR HEARING

1. I, _____ (full name), am

(choose one):

- The child's mother.
- The child's father.
- The child's appointed guardian/co-guardian.
- The child and I am 14 years old or older.
- An interested person, specifically (relationship): _____.

2. I was served the Notice and a copy of the Petition for Termination of Guardianship and Discharge of Guardian/Co-Guardians of Child. The petition states that the reason for termination of the guardianship is (choose the reason indicated in the petition):

- The child is 18 years of age.
- The child is adopted.
- The child is married.
- The child is deceased.

5. I request that the court immediately set a date for hearing.
6. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Objection to Termination of Guardianship and Discharge of Guardian/Co-Guardians and Demand for Hearing is true and correct.

Signed on _____ (Date), in _____ (County),
_____ (State), _____ (Country).

Signature

Printed Name

Address

City, State, Zip Code

Telephone Number

Email Address