

# INSTRUCTIONS FOR GUARDIANSHIP OF A CHILD IN JUVENILE COURT FOR A CHILD IN NEED OF PROTECTION (CHIPS)

## 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 are 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 Juvenile Procedure;
  - 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'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.

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 aren't a complete statement of the law.*** They cover basic procedure for asking a North Dakota Juvenile Court to appointment a guardian of a child because the child is in need of protection. There's 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 – Guardianship appointments by a North Dakota Juvenile Court can have serious legal consequences for the child, the parents and the guardian. It's strongly recommended that you consult a lawyer and carefully consider all of your options before you represent yourself in a Juvenile Court guardianship action.**

**\*\*\*Criminal History Background Checks\*\*\***

All proposed guardians of children and all other adults that live, or will live, in the household of the proposed guardians are required to obtain a criminal history background check through the [North Dakota Department of Human Services](#). A criminal history doesn't automatically disqualify the proposed guardian.

Go to Page 23 for information about the criminal history background check process. (You may begin this process at any time after the petition is accepted for filing.)

The juvenile court considers the criminal history of the proposed guardian and any other adults living in the household when deciding if appointing the proposed guardian is in the best interests of the child or children.

**YOU MAY USE THIS PACKET OF FORMS IF:**

1. The child's parents **DON'T** consent **in writing** to the Juvenile Court appointing a guardian of their child;
2. One or more of the child's parents are **living** and their parental rights **HAVEN'T** been terminated by court order;
3. The child is in need of protection from the child's parent or parents;
  - a. A child in need of protection child is partially defined as being without proper parental care or control, subsistence, education as required by law, or other care or control; has been placed for care or adoption in violation of law; or has been abandoned. (*The full definition of a child in need of protection is found below.*)

**AND**

4. You want the Juvenile Court to appoint you the child's guardian.

## **SOCIAL SERVICES IS NOTIFIED OF POTENTIAL ABUSE & NEGLECT**

When a petition for guardianship that is based on a child in need of protection (CHIPS) is filed in Juvenile Court, a Juvenile Court officer files a report of suspected abuse and neglect with county social services. North Dakota Juvenile Court staff are mandated reporters of potential abuse and neglect of a child.

County social services reviews the report and decides whether to intervene. Generally, if the child is in a safe environment, county social services won't intervene in the case or take any action other than an administrative review.

## **OTHER JUVENILE COURT GUARDIANSHIP FORMS PACKETS:**

Two other forms sets are available at [www.ndcourts.gov/legal-self-help/minor-guardianship/juvenile-court](http://www.ndcourts.gov/legal-self-help/minor-guardianship/juvenile-court) for petitioning a North Dakota Juvenile Court to appoint you the guardian of a child.

### **Written Consent of Parents forms packet:**

- Requires the written consent of all living parents whose parental rights haven't been terminated by court order.

### **All Parents Deceased or Parental Rights Terminated forms packet:**

- All of the child's parents are either:
  - Deceased; **or**
  - Their parental rights were terminated by court order.

## **HELP PREPARING FORMS**

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

### **As a self-represented individual, you must make all decisions related to the forms, including:**

- What words to write; and
- Whether the words you've written are sufficient or correct.

**If you'd like assistance filling out your forms, 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, such as preparing legal documents, while you handle the rest of the case. You and the lawyer must agree in writing to Limited Legal Representation.

## **POWERS AND DUTIES OF A GUARDIAN APPOINTED BY A NORTH DAKOTA JUVENILE COURT**

Before beginning this process, carefully review the powers and duties of a guardian of child.

The powers and duties of a guardian of a child appointed by a North Dakota Juvenile Court are listed in Section 27-20.1-15 of the North Dakota Century Code and [here](#).

### **OVERVIEW OF THE PROCESS TO APPOINT A GUARDIAN FOR A CHILD IN NEED OF PROTECTION**

- Step One.        The Petitioner(s) Review the Powers and Duties of a Guardian Appointed by a North Dakota Juvenile Court**
  
- Step Two.        Gather the Information Needed to Complete the Forms**
  
- Step Three.     Prepare the Petition for Guardianship and the Affidavit in Support of Petition for Guardianship**
  
- Step Four.       File the Petition for Guardianship and the Affidavit in Support of Petition for Guardianship with the Court**
  
- Step Five.       Juvenile Court Reviews the Petition for Guardianship and Affidavit in Support of Petition to Decide if the Guardianship can Move Forward**
  
- Step Six A.      If the Juvenile Court Approves the Petition, a Summons is Issued and a Guardian ad Litem Appointed for the Child**  
If the Juvenile Court doesn't approve the petition to move forward, the case ends. The order denying the petition may be appealed.
  
- Step Six B.      If the Juvenile Court Requires, Serve the Summons and Copies of the Petition for Guardianship**
  
- Step Seven.     Obtain a Criminal History Background Check**
  
- Step Eight.      Prepare Your Case**
  
- Step Nine.       Attend All Hearings**
  
- Step Ten.        Findings of Fact and Order; Letters of Guardianship**
  
- Step Eleven.    Appeal of the Findings of Fact and Order**
  
- Step Twelve.    Requirements After Court Appointment of a Guardian for the Child**

## **LAWS & RULES**

**Chapter 27-20.1 of the North Dakota Century Code** [www.legis.nd.gov/cencode/t27c20-1.pdf](http://www.legis.nd.gov/cencode/t27c20-1.pdf) gives the requirements for a Juvenile Court to appoint a guardian of a child.

**Chapter 27-20.2 of the North Dakota Century Code** [www.legis.nd.gov/cencode/t27c20-2.html](http://www.legis.nd.gov/cencode/t27c20-2.html) includes additional requirements for a Juvenile Court to appoint a guardian of a child.

**Chapter 50-11.3 of the North Dakota Century Code** [www.legis.nd.gov/cencode/t50c11-3.html](http://www.legis.nd.gov/cencode/t50c11-3.html) relates to criminal history background checks for proposed guardians of children, the adults who live or will live with the proposed guardian.

### **Indian Child Welfare Act (ICWA): 25 U.S.C. §§ 1901-1963**

([uscode.house.gov/browse/prelim@title25/chapter21&edition=prelim](http://uscode.house.gov/browse/prelim@title25/chapter21&edition=prelim)) is a federal law that applies to children who are members or citizens of a Native American tribe or eligible for membership or citizenship in a Native American tribe and the biological child of a member or citizen of the tribe.

**Rule 13 of the North Dakota Administrative Rules** [www.ndcourts.gov/legal-resources/rules/ndsuptadminr/13](http://www.ndcourts.gov/legal-resources/rules/ndsuptadminr/13) allows a Judicial Referee to hear and decide the petition for guardianship, rather than a District Court Judge.

**The North Dakota Rules of Juvenile Procedure** apply to guardianships in North Dakota Juvenile Courts. The rules are available at [www.ndcourts.gov/legal-resources/rules/ndrjuvp](http://www.ndcourts.gov/legal-resources/rules/ndrjuvp).

**The North Dakota Rules of Civil Procedure** may be used to fill in gaps in Juvenile Court process that Chapter 27-20.1 and the North Dakota Rules of Juvenile Procedure do not cover. The rules are available at [www.ndcourts.gov/legal-resources/rules/ndrcivp](http://www.ndcourts.gov/legal-resources/rules/ndrcivp).

- You'll need to determine if the processes and procedures in the Rules of Civil Procedure are inconsistent or in conflict with Chapter 27-20.1 and the North Dakota Rules of Juvenile Procedure.
- You'll need to be prepared to explain to the Juvenile Court why a rule or rules from the Rules of Civil Procedure apply.

**The North Dakota Rules of Court** apply to civil matters in North Dakota district courts. The rules are available at [www.ndcourts.gov/legal-resources/rules/ndrct](http://www.ndcourts.gov/legal-resources/rules/ndrct).

**The North Dakota Rules of Evidence** apply to matters in North Dakota Juvenile Courts. The rules are available at [www.ndcourts.gov/legal-resources/rules/ndrev](http://www.ndcourts.gov/legal-resources/rules/ndrev).

**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.

## **DEFINITIONS**

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

**Allege** – To assert or claim a fact is true, although final proof hasn't yet been provided.

**Alleged Father** – A man who alleges himself to be, or is alleged to be, the genetic father or a possible genetic father of a child, but whose paternity hasn't been determined. An alleged father isn't a man whose parental rights have been terminated or declared not to exist, a male donor. (See Presumed Father below.)

**Child** – An individual who is under age eighteen and is not married.

**Child in Need of Protection (CHIPS)** – A child who:

1. Is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or emotional health, or morals, and the need for service or protection isn't due primarily to the lack of financial means of the child's parents, guardian, or other custodian;
2. Has been placed for care or adoption in violation of law;
3. Has been abandoned by the child's parents, guardian, or other custodian;
4. Is without proper parental care, control, or education as required by law, or other care and control necessary for the child's well-being because of the physical, mental, emotional, or other illness or disability of the child's parent or parents, and that such lack of care isn't due to a willful act of commission or act of omission by the child's parents, and care is requested by a parent;
5. Is in need of treatment and whose parents, guardian, or other custodian have refused to participate in treatment as ordered by the Juvenile Court;
6. Was subject to prenatal exposure to chronic or severe use of alcohol or any controlled substance as defined in North Dakota Century Code [Chapter 19-03.1](#) in a manner not lawfully prescribed by a practitioner;

7. Is present in an environment subjecting the child to exposure to a controlled substance, chemical substance, or drug paraphernalia as prohibited by North Dakota Century Code [Section 19-03.1-22.2](#).
8. Is a victim of human trafficking as defined in North Dakota Century Code [Title 12.1](#).

**Clear and Convincing Evidence** – The burden of proof, by which the petitioner must prove that appointment of the guardian is in the child’s best interest and either:

- All of the child’s parents are deceased, or any living parent's parental rights have been terminated by court order, but the child’s deceased parent(s) didn’t leave a will;
- All of the child’s living parents whose parental rights haven’t been terminated by court order consent to appointment of the guardian in writing;
- All of the child’s parents are living, but their parental rights have been terminated by court order; OR
- The child is a child in need of protection. (See Child in Need of Protection (CHIPS) above).

**Custodian** – A person, other than a parent or legal guardian, who stands in loco parentis to the child or a person to whom legal custody of the child has been given by order of a court.

**Fit and willing relative or other appropriate individual** – A relative or other individual who has been determined, after consideration of an assessment that includes a criminal history record investigation under [Chapter 50-11.3](#), to be a qualified person under [Chapter 27-20.1](#) and [Chapter 30.1-27](#), and who consents in writing to act as a legal guardian.

**Guardian/Co-Guardians** – An individual, or individuals, appointed by the Juvenile Court to act as the child’s parent.

**Guardian ad Litem (GAL)** – An individual appointed by the Juvenile Court to advocate for the best interests of the child.

**Indian Child** – An unmarried person under age eighteen who is either:

1. A member or citizen of a federally recognized Indian tribe; or
2. Eligible for membership or citizenship in a federally recognized Indian tribe and is the biological child of a member or citizen of the federally recognized Indian tribe.

(See Indian Child Welfare Act (ICWA) in Laws and Rules.)

**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.

**Known Father** – A man who is listed on the child’s birth certificate as the father.

**Letters of Guardianship** – A document signed by the Juvenile Court that identifies the authority and limitations of the guardian to make decisions on behalf of the child; identifies any other powers or authority given to the guardian by the court.

**Presumed Father** – A man who is recognized as the father of a child until that status is rebutted or confirmed in a judicial proceeding. A man is presumed to be the father of a child if:

1. He and the mother of the child were married to each other and the child was born during the marriage;
2. He and the mother of the child were married to each other and the child was born within three hundred days after the marriage is terminated by death, annulment, declaration of invalidity, divorce, or after a decree of separation;
3. Before the birth of the child, he and the mother of the child married each other in apparent compliance with law, even if the attempted marriage is or could be declared invalid, and the child is born during the invalid marriage or within three hundred days after its termination by death, annulment, declaration of invalidity, divorce, or after a decree of separation;
4. After the birth of the child, he and the mother of the child married each other in apparent compliance with law, whether or not the marriage is or could be declared invalid, and he voluntarily asserted his paternity of the child, and:
  - a. The assertion is in a record filed with the state department of health;
  - b. He agreed to be and is named as the child's father on the child's birth certificate;OR
  - c. He promised in a record to support the child as his own; OR
5. For the first two years of the child's life, he resided in the same household with the child and openly held out the child as his own.

(See Alleged Father above.)

**Relative** –

1. The child's grandparent, great-grandparent, sibling, half-sibling, aunt, great-aunt, uncle, great-uncle, nephew, niece, or first cousin;
2. An individual with a relationship to the child, derived through a current or former spouse of the child's parent, similar to a relationship described in Number 1;
3. An individual recognized in the child's community as having a relationship with the child similar to a relationship described in Number 1; OR
4. The child's stepparent.

**Venue** – The location (county) where the Juvenile Court will hear and decide the guardianship case. For guardianship cases for a child in need of protection, the case may be filed in one of the following:

1. The North Dakota county where the child is present when the guardianship case starts;
2. The North Dakota county where the child has lived for the majority of the thirty days before the date of the alleged need of protection happened; OR
3. The North Dakota county where the alleged of protection happened.

## **PARTIES IN A JUVENILE COURT GUARDIANSHIP**

**Petitioner** – The person, or persons, starting the Juvenile Court guardianship proceedings by filing a petition for guardianship with a North Dakota Juvenile Court.

There may be more than one Petitioner on the same petition for guardianship.

**Respondent** – The person or persons who must respond to the petition, or are required to be part of the guardianship proceedings.

Required Respondents:

- The child;
- The child’s parents, guardians or legal custodians.

**Interested Persons** – Persons who may participate in Juvenile Court guardianship proceedings.

- Guardian ad litem (GAL);
- The child’s Indian custodian, if the child is an Indian Child;
- The child’s Indian tribe through the tribal representative, if the child is an Indian Child;
- Foster parents;
- Pre-adoptive parents;
- Relatives providing care for the child;
- Other persons named by the court.

## **A JUDICIAL REFEREE MAY HEAR AND DECIDE THE GUARDIANSHIP**

Rule 13 of the North Dakota Supreme Court Administrative Rules allows guardianship petitions 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 petition, 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 guardianship petition 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 guardianship petition 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.

## **FEES**

**You won’t be required to pay a filing fee.**

**Other fees may apply.** The fees include, but aren’t limited to:

- Service fees                      Varies
- Copy of documents      Varies
- The proposed guardian(s) and all adults that all other adults that live or will live in the household of the proposed guardian(s) are required to obtain a criminal history background check. See Page 22 for contact information to obtain the cost.

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## FORMS FOR APPOINTING A GUARDIAN FOR A CHILD IN NEED OF PROTECTION

### Forms you'll need for your petition:

Form Title	Purpose
Petition for Guardianship ( <i>Child in Need of Protection Alleged</i> ) (Form #: JCG Dep 1)	Completed by the person who wants to be appointed the Guardian, also called the Petitioner.  Two people who want to be appointed Co-Guardians may complete the Petition together. They are also called Co-Petitioners. Both Co-Petitioners <b>must</b> sign the petition.
Affidavit in Support of Petition for Guardianship ( <i>Child in Need of Protection Alleged</i> ) (Form #: JCG Dep 2)	Completed by the Petitioner and filed at the same time as the Petition for Guardianship.  If two people want to be appointed Co-Guardians, each Co-Petitioner <b>must</b> complete their own, separate affidavit.

### Forms you may need:

Form Title	Purpose
Exhibit A: Petition for Guardianship Additional Presumed or Alleged Fathers (Form #: JCG Gen 1)	If the child has more than one presumed or alleged father, this form is completed by the Petitioner and filed at the same time as the Petition for Guardianship.  If two people want to be appointed Co-Guardians, each Co-Petitioner <b>must</b> sign Exhibit A.
Affidavit of Service by Personal Delivery (Form #: JCG Gen 3)	Proves copies of the Summons, Petition for Guardianship, Affidavit in Support of Petition for Guardianship, and signed Order Appointing GAL were served in person.  If the Juvenile Court requires the Petitioner to arrange for service, the Petitioner gives this form to the person who personally delivered the copies to the Respondent.
Affidavit of Service by Mail (Form #: JCG Gen 4)	Proves copies of the Summons, Petition for Guardianship, Affidavit in Support of Petition for Guardianship, and signed Order Appointing GAL were served in by mail.  If the Juvenile Court requires the Petitioner to arrange for service, the Petitioner gives this form to the person who mailed the copies to the Respondent.

## Proposed Summons and Orders you may need:

The Court where you plan to file your petition may require you to file one or more of the following forms. Check with the Court for special requirements.

Form Title	Purpose
Summons ( <i>Hearing Scheduled</i> ) (Form #: JCG Gen 2)	Gives the date and time of the guardianship hearing and the name of the proposed Guardian/Co-Guardians. Gives important information about the guardianship process to the Respondents.
Order Appointing GAL (Proposed) (Form #: JCG Prop 1 )	Proposed order of the court appointing a Guardian ad Litem. The proposed order is not effective until it is signed by the court.
Findings of Fact and Order Appointing Guardian of Child ( <i>Hearing Held</i> ) (Proposed) (Form #: JCG Prop 2)	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 Guardianship (Proposed) (Form #: JCG Prop 4)	Proposed letters of guardianship after the full hearing is held on the petition for appointment of a guardian. The letters aren't effective until it is signed by the court.

## STEPS FOR JUVENILE COURT APPOINTMENT OF A GUARDIAN FOR A CHILD IN NEED OF PROTECTION

### **STEP ONE:** Review the Powers and Duties of a Guardian Appointed by a North Dakota Juvenile Court

If you're appointed guardian of the child by the North Dakota Juvenile Court, the powers and duties apply.

The powers and duties of a guardian of a child appointed by a North Dakota Juvenile Court are listed in Section 27-20.1-15 of the North Dakota Century Code and [here](#).

## **STEP TWO: Gather the Information Needed to Complete the Forms**

**First**, decide where to file the Petition. See “Venue” in the Definitions section above.

**Second**, review [Section 27-20.1-06 of the North Dakota Century Code](#) and the Petition for Guardianship (*Child in Need of Protection Alleged*) form for information that must be included in the Petition. At minimum, gather the following:

- Information about you, the Petitioner.
  - Including your occupation and qualifications to be the guardian.
- Information about you, the Co-Petitioner, if any.
  - Including your occupation and qualifications to be the guardian.
- Information about the child.
  - Get a certified copy of the child’s birth certificate.
  - If the child’s birth certificate is unavailable, be prepared to explain why.
- Information about whether the child is an Indian Child as defined by the Indian Child Welfare Act. See “Indian Child” in the Definitions section above.
- Information about the child’s real estate, personal property, and income, so far as they are known to you.
- Information about the mother, and all known, presumed, and alleged fathers.
  - If any parent is deceased, you’ll need a copy of the death certificate.
  - If any parent is living, but their parental rights are terminated, you’ll need a certified copy of the court order terminating their parental rights.
- Information about the persons with whom the child currently lives.
- Information about the persons with whom the child lived during the last 5 years.
- Information about the adults currently living with you, the proposed Guardian/Co-Guardians, and about the adults who may live with you.
- Information about any court proceeding that you, the Petitioner/Co-Petitioners, have participated that concerned custody or visitation of the child.
- Information about any other proceeding that could affect this guardianship case.

**Third**: gather the supporting documentation for your petition.

To obtain the child’s birth certificate: Keep track of your attempts to obtain a certified copy of the child’s birth certificate. If you’re unable to get a certified copy, you’ll need to explain why in your petition.

- If the child was born in North Dakota, contact the North Dakota Department of Health, Division of Vital Records for information on how to obtain a certified copy of the birth certificate.
  - Telephone: (701) 328-2360; Email: [vitalrec@nd.gov](mailto:vitalrec@nd.gov); Website: [ndhealth.gov/vital](http://ndhealth.gov/vital)

- If the child was born in another state or country, contact the appropriate entity in that state or country for information on how to obtain a certified copy of the birth certificate.

If you're able to obtain a copy, rather than a certified copy, you may include the copy with your petition. You'll still need to explain in your petition why you were unable to obtain a certified copy of the birth certificate.

To obtain a death certificate: If a parent is deceased, you'll need to file a copy of the death certificate with your petition.

- If the parent died in North Dakota, contact the North Dakota Department of Health, Division of Vital Records for information on how to obtain a copy of the death certificate.
  - Telephone: (701) 328-2360
  - Email: [vitalrec@nd.gov](mailto:vitalrec@nd.gov)
  - Website: [ndhealth.gov/vital](http://ndhealth.gov/vital)
- If the parent died in another state or country, contact the appropriate entity in that state or country for information on how to obtain a copy of the death certificate.

If a parent's parental rights are terminated, you'll need to file a certified copy of the court order terminating the parent's parental rights.

- If a North Dakota Juvenile Court terminated the parent's parental rights, all juvenile court records are confidential. You may either:
  - Ask a party in the Juvenile Court case to obtain a certified copy for you (see [Rule 5](#) and [Rule 6](#) of the North Dakota Rules of Juvenile Procedure for parties and interested persons); OR
  - File a written request with the Juvenile Court explaining why you have a legitimate interest in obtaining a certified copy of the order terminating the parent's parental rights.
    - The requirements for the written request are in [Rule 19 of the North Dakota Rules of Juvenile Procedure](#) and [Section 27-20.2-21 of the North Dakota Century Code](#).
- If another state court or tribal court terminated the parent's parental rights, contact the other state or tribal court for information on how to obtain a certified copy of the order terminating the parent's parental rights.

If you plan to refer to documents in your petition that support why you believe the child is in need of protection, you may include copies of your supporting documentation when you file your petition.

**STEP THREE:** Prepare the Petition for Guardianship (*Child in Need of Protection Alleged*) and the Affidavit in Support of Petition for Guardianship (*Child in Need of Protection Alleged*).

**TIPS FOR COMPLETING FORMS**

- Complete every paragraph that requires you to type or write in a space.
- Write in your own words why you are asking the Juvenile Court to appoint you the guardian.
- Stick with the facts: who, what, when, where and how.
  - Avoid opinions.
- Remember, you'll need to prove what you type or write in your petition.

**Petition for Guardianship (*Child in Need of Protection Alleged*) form:**

The Petitioner or Petitioners complete this form. If there are two Petitioners, both **MUST** sign the form.

Caption (top of form):

- County – the North Dakota county where you'll file the petition. See "Venue" above in the Definitions section for determining the County.
- Judicial District – 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 [www.ndcourts.gov/court-locations](http://www.ndcourts.gov/court-locations).
- "In the Interest of" – the child's full name.
- "DOB" – the child's full birthdate.
- Case Number – leave blank. The case number will be assigned by the clerk of court when you file the petition in Step 4.
- Petitioner(s) – Your full name. If there are two Petitioners, the full name of each Petitioner.
- Respondent(s) – The full names of the child and each living parent. (If a living parent's parental rights are terminated by court order, DON'T list that parent.)
  - Review [Rule 5 of the North Dakota Rules of Civil Procedure](#) for any other people you must list as a Respondent.

To complete the Petition for Guardianship (Child in Need of Protection Alleged) form:

- Read each paragraph completely.
  - When you date and sign this form, you're swearing that all of the information on the form is accurate and true.
- Complete all paragraphs that require you to type or write information.
- If the child has more than one presumed or alleged father, complete the **Exhibit A: Petition for Guardianship Additional Presumed or Alleged Fathers form**.
  - The Petitioner and Co-Petitioner, if any, **MUST** sign and date this form.

Date and Signature:

- The Petitioner signs and dates this form.
- If there is a Co-Petitioner, the Co-Petitioner **MUST** sign and date this form.

Verification of Petitioner(s):

- The Petitioner and Co-Petitioner, if any, must complete the verification section of the form.

**Affidavit in Support of Petition for Guardianship (*Child in Need of Protection Alleged*) form:**

The Petitioner completes this form. If there are two Petitioners, each **MUST** complete a separate form.

Caption (top of form):

- Complete **exactly** as you completed the Petition for Guardianship (Child in Need of Protection Alleged) form.
- To complete the Petition for Guardianship (Child in Need of Protection Alleged) form;
- Read each paragraph completely.
  - When you date and sign this form, you are swearing that all of the information on the form is accurate and true.
- Complete all paragraphs that require you to type or write information.

Date and Signature:

- Each Petitioner dates and signs their own completed affidavit form.

Make one copy of the completed petition, affidavit in support of the petition, and any other exhibits you are filing with the petition. Keep the copies for your records.

**STEP FOUR:** File the Petition for Guardianship (*Child in Need of Protection Alleged*), the Affidavit in Support of Petition for Guardianship (*Child in Need of Protection Alleged*), and Supporting Documentation with the Court.

File the following **ORIGINAL, completed forms** with the Court:

- The Petition for Guardianship (Child in Need of Protection Alleged)
- Exhibit A: Petition for Guardianship Additional Presumed or Alleged Fathers
  - Required only if the child has more than one presumed or alleged father.
- The Affidavit in Support of Petition for Guardianship (Child in Need of Protection Alleged).

File the following **supporting documentation** with the Court:

- A certified copy of the child’s birth certificate.
  - If unable to obtain a certified copy, your petition **MUST** explain why.
- If a parent is deceased, a copy of the parent’s death certificate.
- If a parent’s parental rights are terminated, a certified copy of the court order terminating the parent’s parental rights.
- Other supporting documentation you referred to in your petition, if any.

You won’t be charged a filing fee.

A case number will be assigned.

**STEP FIVE:** Juvenile Court Reviews the Petition for Guardianship and Affidavit in Support of Petition to Decide if the Guardianship can Move Forward.

Petitions for guardianship must be reviewed by the Juvenile Court before the guardianship case can move forward to Step 6.

**First**, a Juvenile Court Director, or designee, reviews the petition for guardianship to make sure it includes all of the information required from [Section 27-20.1-06 of the North Dakota Century Code](#). The Director will also review the documents you filed to make sure you included an affidavit in support of the petition for guardianship and any other required supporting documentation.

If you’re missing the affidavit in support of the petition for guardianship or any required supporting documentation, you will have 30 days to file the missing documents.

**Second**, after the review by the Juvenile Court Director, or designee, the Juvenile Court Judge or Judicial Referee reviews the petition for guardianship to make sure it complies with [Section 27-20.1-06 of the North Dakota Century Code](#).

The Juvenile Court Judge or Judicial Referee reviews the affidavit in support of the petition for guardianship to determine if it contains sufficient statements showing child in need of protection.

**Third**, the Juvenile Court Judge or Judicial Referee will issue an order approving or denying the petition to move forward.

If the order approves the petition for guardianship a summons will be issued and the case will move forward.

If the order denies the petition for guardianship the case ends. You may appeal this decision to the North Dakota Supreme Court.

## **STEP SIX A: Summons Issued; Guardian ad Litem Appointed for the Child.**

### **Summons Issued:**

If your petition is approved for filing, the Juvenile Court will issue a summons with a date, time and location of the first hearing on your petition for guardianship.

A copy of the summons is served on each Respondent. A copy of the Petition for Guardianship must be served with the summons.

If the child is an Indian Child, the child's tribe and any Indian custodian is also served a copy of the summons. (See "Indian Child Welfare Act" in the Laws and Rules section above.)

### **Guardian ad Litem Appointed for Child:**

If the petition is approved for filing, the Juvenile Court shall appoint a Guardian ad Litem for the child. A Guardian ad Litem provides the Juvenile Court Judge or Judicial Referee with independent information and recommendations on the best interests of the child.

Review [Rule 17 of the North Dakota Rules of Juvenile Procedure](#) for the duties of the Lay Guardian ad Litem. In general, they have access to the child and interview all concerned. They file a report with the court with recommendations for court outcomes that are in the best interest of the child.

**STEP SIX B: If the Juvenile Court Requires, Serve the Summons and Copies of the Petition for Guardianship on Respondents and Required Interested Parties.**

**GENERALLY, THE JUVENILE COURT WILL SERVE THE SUMMONS ON ALL PARTIES AND REQUIRED INTERESTED PERSONS.**

If the Juvenile Court serves the summons, **skip Step 6B and go to Step 7.**

**HOWEVER, THE JUVENILE COURT MAY REQUIRE YOU, THE PETITIONER, TO ARRANGE TO HAVE THE SUMMONS SERVED.**

**If the Juvenile Court requires you, the Petitioner, to arrange to have the summons served, complete Step 6B.**

**Summons (*Hearing Scheduled*) form:**

If the Juvenile Court doesn't provide you a summons, you'll need to prepare the Summons (*Hearing Scheduled*) form.

Get the hearing date, time, location, and name of the Judge or Judicial Referee from the Juvenile Court.

Caption (top of form):

- Complete **exactly** as you completed the Petition for Guardianship (*Child in Need of Protection Alleged*) form.

To complete the Summons:

- Complete all paragraphs that require you to type or write information.

Date and Signature:

- DON'T sign or date.
- Take your completed Summons (*Hearing Scheduled*) form to the Juvenile Court for the Judge's or Judicial Referee's signature.

**Gather the names and current addresses of the following:**

- The child;
- The child’s parents;
  - If a parent is deceased, you don’t serve that parent a summons.
  - If a parent is living, but their parental rights are terminated by court order, you don’t serve that parent a summons.
- The child’s custodian, if any;
- The Guardian ad Litem appointed by the Juvenile Court in Step 6A;
- If the child is an Indian Child, as defined by the Indian Child Welfare Act:
  - The child’s Indian custodian, if any; and
  - The child’s tribe, through the tribal representative.

Review [Rule 4](#) and [Rule 5](#) of the North Dakota Rules of Juvenile Procedure for any other people required to be served the summons.

**Make copies of the completed and signed Summons, the filed Petition for Guardianship and the filed Affidavit in Support of Guardianship.**

Make one copy for each of the people you’ll serve.

Keep one copy for your records.

**Arrange for service of copies of the completed and signed Summons, the filed Petition for Guardianship and the filed Affidavit in Support of Guardianship.**

**The Petitioner CAN’T personally serve the documents themselves.**

You, the Petitioner arrange for the following:

- The child;
- The child’s parents;
  - If a parent is deceased, you don’t serve that parent a summons.
  - If a parent is living, but their parental rights are terminated by court order, you don’t serve that parent a summons.
- The child’s custodian, if any;
- The Guardian ad Litem appointed by the Juvenile Court in Step 6A;
- If the child is an Indian Child, as defined by the Indian Child Welfare Act:
  - The child’s Indian custodian, if any; and
  - The child’s tribe, through the tribal representative; and
- Any other people you identified as required to be served,

To be served copies of the following:

- The completed and signed Summons (*Hearing Scheduled*);
- The filed Petition or Guardianship (*Child in Need of Protection Alleged*);
- The filed Exhibit A: Petition for Guardianship Additional Presumed or Alleged Fathers
  - Required only if the child has more than one presumed or alleged father
- The Affidavit in Support of Petition for Guardianship (*Child in Need of Protection Alleged*).

**If a party is within North Dakota and can be found**, the documents must be served on the party at least twenty-four hours before the hearing. The summons and petition may be served in one of the following ways:

- **By Personal Service (Sheriff)**: Arrange for personal service by the sheriff of the county where the party resides. (You'll be charged a fee.) The sheriff will provide an affidavit of service. The affidavit must be filed with the Juvenile Court.
- **By Personal Service (Adult)**: Arrange for personal service by a person who is at least 18 years of age and not a party to nor interested in the action. (You may be charged a fee.) The person who served the documents must fill out an Affidavit of Service by Personal Delivery and date and sign the affidavit. The Affidavit of Service by Personal Delivery must be filed with the Juvenile Court.
- **By Obtaining the Party's Signature**: You may ask the party to admit to service of the summons and petition. Ask the party to fill out and sign an Admission of Service. The Admission of Service must be filed with the Juvenile Court.

**If the party is within North Dakota and can't be found, but the party's address is known or can be located with reasonable diligence**, the summons and petition may be served upon the party at least five days before the hearing in one of the following ways:

- **By Mail**: Certified Mail, Return Receipt Requested (Restricted Delivery). The envelope should be marked "Deliver to Addressee Only." The person who mailed the documents must fill out an Affidavit of Service by Mail and date and sign the affidavit. The return receipt showing delivery is filed with the Juvenile Court, along with the Affidavit of Service by Mail.
- **By Third-Party Commercial Delivery**: Addressed to the party and requiring a signed receipt and resulting in delivery to the party. The person who sent the documents by third-party commercial delivery must fill out an Affidavit of Service by Third-Party Commercial Delivery and date and sign the affidavit. The signed receipt showing delivery is filed with the Juvenile Court, along with the Affidavit of Service by Mail.

**If the party is outside North Dakota but can be found or the party's address is known, or the party's whereabouts or address can located with reasonable diligence**, service of the summons and petition may be served upon the party at least five days before the hearing in one of the following ways:

- **By Personal Service (Sheriff)**: Arrange for personal service by the sheriff of the county where the party resides. (You'll be charged a fee.) The sheriff will provide an affidavit of service.
- **By Personal Service (Adult)**: Arrange for personal service by a person who is at least 18 years of age and not a party to nor interested in the action. (You may be charged a fee.) The person who served the documents must fill out an Affidavit of Service by Personal Delivery and date and sign the affidavit. The Affidavit of Service by Personal Delivery must be filed with the Juvenile Court.
- **By Mail**: Certified Mail, Return Receipt Requested (Restricted Delivery). The envelope should be marked "Deliver to Addressee Only." The person who mailed the documents must fill out an Affidavit of Service by Mail and date and sign the affidavit. The return receipt showing delivery is filed with the Juvenile Court, along with the Affidavit of Service by Mail.
- **By Third-Party Commercial Delivery**: Addressed to the party and requiring a signed receipt and resulting in delivery to the party. The person who sent the documents by third-party commercial delivery must fill out an Affidavit of Service by Third-Party Commercial Delivery and date and sign the affidavit. The signed receipt showing delivery is filed with the Juvenile Court, along with the Affidavit of Service by Mail.

### **Service by Publication**

If, after reasonable diligence, you're unable to locate a party, you may ask the Juvenile Court to order service by publication. If the Juvenile Court orders service by publication, the hearing must not be earlier than five days after the date of the last publication.

Instructions and forms for making a motion for permission to serve by publication are available at [www.ndcourts.gov/legal-self-help/service-in-a-juvenile-action](http://www.ndcourts.gov/legal-self-help/service-in-a-juvenile-action).

### **Obtain Proof of Service of the Juvenile Court Summons and Guardianship Petition:**

Proof of service of the summons and petition on all parties is required. A completed affidavit of service or a completed admission of service is your proof of service.

The following Affidavit of Service forms for this packet of forms are available at [www.ndcourts.gov/legal-self-help/minor-guardianship/juvenile-court](http://www.ndcourts.gov/legal-self-help/minor-guardianship/juvenile-court):

- Affidavit of Service by Personal Delivery (Form: JCG Gen 3)
- Affidavit of Service by Mail (Form: JCG Gen 4)

#### **File Proof of Service with the Juvenile Court:**

The document(s) showing proof of service must be filed with the Juvenile Court. The Juvenile Court won't act on your petition until you provide proof of service.

#### **STEP SEVEN: Obtain a Criminal History Background Check.**

**You may begin this process at any time after the petition is accepted for filing.**

Obtain a criminal history background check through the [North Dakota Department of Human Services](http://www.ndcourts.gov/legal-self-help/minor-guardianship/juvenile-court). All of the required forms are available at the [North Dakota Department of Human Services](http://www.ndcourts.gov/legal-self-help/minor-guardianship/juvenile-court) webpage.

The proposed guardian or guardians and all other adults living in the household of the proposed guardian or guardians must obtain and pass a criminal history background check.

There are three state forms each proposed guardian and adult living in the household of the proposed guardian must fill out.

The three state forms are:

- SFN 829: Personal Authorization for Criminal History Record Information Inquiry
- SFN 60688: Criminal History Record Check Request Form
- SFN 836: Fingerprint Identity Verification

The "agency" should be listed as " \_\_\_\_\_ Judicial District Juvenile Court". The contact person can be the Juvenile Court officer that is working with you.

If you have questions or need assistance with the forms, contact the [North Dakota Department of Human Services](http://www.ndcourts.gov/legal-self-help/minor-guardianship/juvenile-court). The ND Legal Self Help Center can't provide any assistance.

Once the forms are filled out, make an appointment with your Regional Human Service Center to be fingerprinted. Take the completed SFN 377, SFN 838, SFN 60688 and SFN 836 to the fingerprinting appointment.

A map and contact information for the Regional Human Service Centers is found online at [www.nd.gov/dhs/services/childfamily/cbcu/index.html](http://www.nd.gov/dhs/services/childfamily/cbcu/index.html).

Once the fingerprinting is complete, the Regional Human Service Center will submit your completed forms and fingerprint cards to the North Dakota Department of Human Services Criminal Background Check Unit.

You will need to pay a \$41.25 fee for each background check. The fee must be paid directly to the North Dakota Department of Human Services. Neither the Regional Human Service Center nor the Juvenile Court can accept payment of the fee.

The fee can be paid by check or money order and must be made payable to NDDHS.

The mailing address is:

Children and Family Services-CBCU  
North Dakota Dept. of Human Services  
600 E Boulevard Ave Dept 328  
Bismarck ND 58505-0250

When payment for the fee is received by the North Dakota Department of Human Services, the Criminal Background Check Unit will initiate the criminal history background check. The results of the background check will be sent to the Juvenile Court and filed with the court.

For more information about this process, go to  
[www.nd.gov/dhs/services/childfamily/cbcu/index.html](http://www.nd.gov/dhs/services/childfamily/cbcu/index.html).

You may contact the CBCU directly by email at [dhscfscbc@nd.gov](mailto:dhscfscbc@nd.gov), or by telephone at (701) 328-7575.

## **STEP EIGHT: Prepare Your Case.**

You, the petitioner, must prove the allegations in your guardianship petition and the grounds (reasons) for the child in need of protection.

**Caution!** Preparing a case is often a complex and confusing process. You're held to same requirements and responsibilities as a lawyer, even if don't understand the rules or procedures.

**You'll need to conduct additional research to prepare.**

At minimum, you'll need to review and research the laws and rules listed in Laws and Rules section above.

To research how the North Dakota Supreme Court has interpreted laws related to Juvenile Court proceedings, you may find the Juvenile Court Case Compendium a useful starting point. The Juvenile Court Case Compendium is available at [www.ndcourts.gov/legal-resources/legal-research](http://www.ndcourts.gov/legal-resources/legal-research).

**Subpoenas:** Review Rule 13 of the North Dakota Rules of Juvenile Procedure carefully! If you require a witness to appear at a hearing or require production of documents, electronically stored information or other tangible things, you may need the Clerk of Court to issue a subpoena. Only a Clerk of Court or a lawyer for a party may issue a subpoena.

**Evidence:** You're required to follow the North Dakota Rules of Evidence when presenting your own evidence and when objecting to the evidence presented by other parties.

An [Evidence Research Guide](#) is available at [www.ndcourts.gov/legal-self-help](http://www.ndcourts.gov/legal-self-help).

You may also wish to review the guides for self-represented individuals for gathering and presenting evidence at [rcdvcpc.org/resources/self-represented-litigants-series.html](http://rcdvcpc.org/resources/self-represented-litigants-series.html).

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

ODIN is a shared library database of many North Dakota academic, public, state agency, and special libraries. Search ODIN for resources that may be available in a North Dakota library near you. ([www.odin.nodak.edu/](http://www.odin.nodak.edu/))

If the book is available for interlibrary loan through ODIN, ask the librarian or library staff of your local North Dakota library how to request the book.

Following are a selection of library resources on ODIN that may be of interest to you:

- [A Short & Happy Guide to Evidence](#), Sydney Beckman, West Academic Publishing, 2018.
- [Courtroom Evidence Handbook: 2018-2019 Student Edition](#), Steven Goode, Olin Wellborn III, West Academic Publishing, 2018.
- [Objections at Trial](#), Ronald Carlson, Edward Imwinkelried, Myron Bright, National Institute for Trial Advocacy, c2015.
- [Represent Yourself in Court: How to Prepare & Try a Winning Case](#), Paul Bergman, Sara Berman, NOLO, 2016.

## **STEP NINE: Attend All Hearings.**

### **Attend Each Hearing in Person:**

If you need to request to appear at the hearing some other way, a request form is available at [www.ndcourts.gov/other-courts/juvenile-court](http://www.ndcourts.gov/other-courts/juvenile-court).

There may be more than one hearing, depending on the specific circumstances of the case.

Be prepared to prove your case at every hearing.

Organize the information, documents, etc. that you think you'll need for the hearing. At minimum, prepare an outline of your remarks and arguments.

Review pre-trial and trial guidebooks for self-represented litigants and lawyers. See Step 8 for more information.

### **Arrive Early to the Courthouse on the Date of the Hearing:**

Don't miss your hearing date and time. If you have a serious, unavoidable reason you can't get to court on the date and time scheduled for trial, call the Juvenile Court as soon as you can.

### **Conduct of the Hearing:**

The Judge, or Judicial Referee, hears both sides and then issues a final order. Sometimes, the final order is issued at the end of the hearing. Often, the final order is issued at a later date.

In general, a hearing proceeds in the following order:

- Opening Statements
  - Each party gives an opening statement. Usually, the petitioner goes first.
- Petitioner Presents Witnesses and Evidence
  - The petitioner presents their case first. The respondent may cross-examine witnesses and object to the petitioner's evidence.
- Respondent Presents Witnesses and Evidence
  - The respondent presents their case after the petitioner. The petitioner may cross-examine witnesses and object to the respondent's evidence.
- Closing Arguments
  - Each party gives a closing statement. Usually the Respondent goes first.

### **Before You Leave the Courthouse:**

Make sure you understand what happens next. Ask if you aren't sure what, if anything, you need to do next.

## **STEP TEN: Findings of Fact and Order and Letters of Guardianship.**

A guardian isn't appointed until the Juvenile Court Judge or Judicial Referee issues Findings of Fact and Order stating that the Petitioner proved by clear and convincing evidence that the child is in need of protection and a guardianship is in the child's best interest.

The Letters of Guardianship are proof of the appointed guardian's authority.

**THE JUDGE OR JUDICIAL REFEREE MAY PREPARE THEIR OWN FINDINGS OF FACT AND ORDER AND LETTERS OF GUARDIANSHIP.**

If the Judge or Judicial Referee prepares their own Findings of Fact and Order and Letters of Guardianship, you will be mailed a signed copy. **Skip Step 10 and go to Step 11.**

**HOWEVER, YOU, THE PETITIONER, MAY BE REQUIRED TO PREPARE PROPOSED FINDINGS OF FACT AND ORDER AND LETTERS OF GUARDIANSHIP FOR THE JUDGE OR JUDICIAL REFEREE TO SIGN.**

**If the Judge or Judicial Referee requires you, the Petitioner, to prepare proposed Findings of Fact and Order and Letters of Guardianship, **complete Step 10.****

**Proposed Findings of Fact and Order Appointing Guardian of a Child:**

Review [Rule 7.1 of the North Dakota Rules of Court](#) carefully!

If the Judge or Judicial Referee finds that the child is a child in need of protection, a guardianship is in the child's best interest, and appoints a guardian, you, the petitioner, may be required to prepare and file the proposed Findings of Fact and Order Appointing Guardian of a Child.

The proposed Findings of Fact and Order Appointing Guardian of a Child must also be served on all parties and proof of service filed with the Juvenile Court.

Findings of fact are the Judge or Judicial Referee's written determination of the facts made from the evidence presented. This explains what facts the Judge or Judicial Referee found to be true.

The Order is the ruling of law made by the Judge or Judicial Referee based on, or in connection with, the findings of fact. These are the legal consequences of the facts the Judge or Judicial Referee found to be true.

The Judge or Judicial Referee will decide whether the petitioner's proposed Findings of Fact and Order Appointing Guardian of a Child are appropriate. If the Judge or Judicial Referee decides they are appropriate, the Judge or Judicial Referee will sign and date the Findings of Fact and Order Appointing Guardian of a Child.

The Findings of Fact and Order Appointing Guardian of a Child aren't official until signed and dated by the Judge or Judicial Referee.

The following proposed Findings of Fact and Order Appointing Guardian of a Child form for this packet of forms is available at [www.ndcourts.gov/legal-self-help/minor-guardianship/juvenile-court](http://www.ndcourts.gov/legal-self-help/minor-guardianship/juvenile-court):

- Findings of Fact and Order Appointing Guardian of a Child (Form: JCG Prop 2)

### **Proposed Letters of Guardianship:**

If the Judge or Judicial Referee appoints a guardian, you, the petitioner, may be required to prepare and file the proposed letters of guardianship.

Letters of guardianship is the document issued by the Juvenile Court that identifies the authority and limitations of the guardian to make decisions on behalf of the child and identifies any other powers or authority given to the guardian by the court.

The Judge or Judicial Referee will decide whether the petitioner's proposed letters of guardianship are appropriate. If the Judge or Judicial Referee decides they are appropriate, the Judge or Judicial Referee will sign and date the letters of guardianship. The letters of guardianship aren't official until signed and dated by the Judge or Judicial Referee.

The following proposed Letters of Guardianship form for this packet of forms is available at [www.ndcourts.gov/legal-self-help/minor-guardianship/juvenile-court](http://www.ndcourts.gov/legal-self-help/minor-guardianship/juvenile-court):

- Letter of Guardianship (Form: JCG Prop 4)

(Buy several certified copies of the signed and dated letters of guardianship. A certified copy has a clerk's stamp on it stating that the document is a duplicate of the original on file with the Juvenile Court. The guardian may be required to provide a certified copy of the letters of guardianship when dealing with schools, government agencies, and other entities.)

### **STEP ELEVEN: Appeal of the Findings of Fact and Order.**

There are two ways to request a review of a final Findings of Fact and Order in a Juvenile Court guardianship proceeding. Petitioners and Respondents may use either option.

#### **Review of a Judicial Referee Final Findings of Fact and Order by a District Court Judge:**

If a Judicial Referee issued the final Findings of Fact and Order in a Juvenile Court guardianship, a party in the guardianship proceeding may file a written request for review by a District Court judge.

If a party decides to file a request, the written request for review must:

- Be filed with the Juvenile Court within seven (7) days after service of the Notice of the Right to Review; and
- State the reasons the party requests the review.

The District Court Judge who reviews the Judicial Referee’s final Findings of Fact and Order may:

- Adopt the Judicial Referee’s findings in the final Findings of Fact and Order;
- Send the final Findings of Fact and Order back to the Judicial Referee for additional findings; or
- Reject the Judicial Referee’s findings in the final Findings of Fact and Order.
  - If the District Court Judge rejects the Judicial Referee’s findings, the Judge must issue their own findings of fact, with or without a hearing.

Parties aren’t required to request a review of a Judicial Referee’s final Findings of Fact and Order. A party may skip this option and appeal the final order to the North Dakota Supreme Court.

### **Appeal a Juvenile Court Final Order to the North Dakota Supreme Court**

Petitioners and respondents may appeal a Juvenile Court final Findings of Fact and Order in a guardianship proceeding to the North Dakota Supreme Court.

The Notice of Appeal must be filed with the Clerk of the Supreme Court within thirty (30) days of the final Findings of Fact and Order in the Juvenile Court guardianship proceeding.

A guide to the North Dakota Supreme Court appeals process is available at [www.ndcourts.gov/legal-self-help](http://www.ndcourts.gov/legal-self-help). Scroll to the “Appeals” section and click on the “Appeal a District Court Decision to the Supreme Court” link.

## **STEP TWELVE: Requirements After the Juvenile Court Appoints a Guardian.**

### **Beginning Inventory Report:**

Within 90 days of the Juvenile Court’s order appointing a guardian, the guardian must provide a beginning inventory report of all assets owned by the child or in which the child has an interest.

The Beginning Inventory Report is filed with the Juvenile Court using the Juvenile Court case number.

The guardian must mail a copy of the Beginning Inventory Report to the following:

- The child, if the child is age fourteen or older;
- The child's parents, unless the parents' rights have been terminated or the parents are deceased; and
- Any interested persons designated by the court in its order.

A form and instructions for the beginning inventory report is available at [www.ndcourts.gov/legal-self-help/minor-guardianship](http://www.ndcourts.gov/legal-self-help/minor-guardianship).

### **Guardian's Annual Report:**

The guardian must file an annual report with the court. The requirements of the report are in [Section 27-20.1-15 of the North Dakota Century Code](#).

The Annual Report is filed with the Juvenile Court using the Juvenile Court case number.

The guardian must mail a copy of the Annual Report to the following:

- The child, if the child is age fourteen or older;
- The child's parents, unless the parents' rights have been terminated or the parents are deceased; and
- Any interested persons designated by the court in its order.

A form set for the annual report is available at [www.ndcourts.gov/legal-self-help/minor-guardianship](http://www.ndcourts.gov/legal-self-help/minor-guardianship).

### **Payment of Room and Board from Child's Funds Not Allowed in Certain Circumstances:**

Funds from the child's estate can't be used to pay for the child's room and board when room and board is being furnished by the guardian/co-guardian, or the guardian's/co-guardian's spouse.

A court order is required to allow funds from the child's estate to be used for room and board in these instances. (See [N.D.C.C. § 27-20.1-15\(2\)\(b\)](#).)

**A guardian's authority and responsibility terminates upon the death, resignation, or removal of the guardian, or upon the minor child's death, adoption, marriage, or attainment of majority (age 18), but termination doesn't affect the guardian's liability for prior acts or the guardian's obligation to account for funds and assets of the minor child.**