E-filing

 All e-filing to and from the Office of Public Guardian to the court will be through the e-mail address: nsc.opgefile@nebraska.gov

Petitioner

- Individual files petition with court
- Notice of Nomination of Public Guardian (CC 16:2.89) provided to Office of Public Guardian (OPG), court, interested parties (Neb. Ct. R. Sec. 6-1433.01(A)).

Office of Public Guardian

- Files "Acknowledgment of Notice of Nomination Caseload Capacity
 Available Pending Hearing" (CC 16:2.90) or "Acknowledgment of Notice of
 Nomination Verification of No Caseload Capacity" (CC 16:2.91)
- Within 14 judicial days of receiving Notice of Nomination

Court

NO OPG CASELOAD CAPACITY:

- Good cause to deny OPG appointment
- Appearance of OPG will not be required
- Court files "Order Denying the Appointment of the Public Guardian" (CC 16:2.122)

Court

- Court may request case be placed on OPG waiting list; "Request for Waiting List Assignment" (CC 16:2.97)
- If request to be on OPG waiting list, court shall make "Order Appointing Court Visitor or Guardian Ad Litem" (CC 16:2.121), within 10 days of the request to be placed on waiting list.

Court

- OPG HAS CASELOAD CAPACITY PENDING HEARING:
- Court appoints a visitor or GAL; "Order Appointing Court Visitor or Guardian Ad Litem" (CC 16:2.121)
- Within 10 judicial days of "Acknowledgment of Notice of Nomination -Caseload Capacity Available Pending Hearing" (CC 16:2.90)

Court Visitor or Guardian Ad Litem

- Appointed by court within 10 days of receiving "Acknowledgment of Notice of Nomination - Caseload Capacity Available Pending Hearing" (CC 16:2.90); or request to be on OPG Waiting List;
- Interview potential incapacitated person (PIP), petitioner, providers, interested parties and complete screening tool for gathering independent information
- Submits confidential "Court Visitor or Guardian Ad Litem Report" (CC 16:2.93) to court within 60 days of Petition
- Submits a "Notice of Availability of the Court Visitor or Guardian Ad Litem Report" (CC 16:2.92) to the court, OPG, petitioner, GAL (if appointed for potential incapacitated person (PIP) in case), PIP attorney and PIP
- •Submits to the court the screening tool & any supplemental documents as confidential documents

Court

- Receives the "Court Visitor or Guardian Ad Litem Report" (CC 16:2.93) as a confidential document
- Receives the screening tool and any supplemental documents as confidential documents
- Emails a copy of the "Court Visitor or Guardian Ad Litem Report" (CC 16:2.93) to the OPG

Office of Public Guardian

- Within 5 judicial days of "Notice of Availability of the Court Visitor or Guardian Ad Litem Report" (CC 16:2.92), OPG will provide to the court a "Verification of Caseload Capacity Subsequent to Court Visitor or Guardian Ad Litem Report" (CC 16:2.95) or "Verification of No Caseload Capacity Subsequent to Court Visitor or Guardian Ad Litem Report" (CC 16:2.98) to confirm there is/is not caseload capacity
- Provide the court with the "Notice of Designation of Deputy Public Guardian and Associate Public Guardians" (CC 16:2.96) form.
- Provide the court with background check information

Court

• NO CASELOAD CAPACITY BY OPG:

- Good cause to "Order Denying the Appointment of the Public Guardian" (CC 16:2.122)
- Appearance of OPG will not be required
- Court may request the case to be placed on a waiting list; "Request for Waiting List Assignment" (CC 16:2.97)
- Court appoints a guardian or conservator (not OPG)

Petitioner, PIP, GAL (case) and/or OPG Objection

• CASELOAD CAPACITY AVAILABLE BY OPG:

- Review "Court Visitor or Guardian Ad Litem Report" (CC 16:2.93) for any Objection to information
- If there is an Objection to Report, "Objection to Court Visitor or Guardian Ad Litem Report" (CC 16:2.88) to be filed with court within 10 judicial days of "Notice of Availability of the Court Visitor or Guardian Ad Litem Report" (CC 16:2.92)

Office of Public Guardian

OPG MAY FILE OBJECTION TO APPOINTMENT IF OTHER OPTIONS

- Review "Court Visitor or Guardian Ad Litem Report" (CC 16:2.93)
 to insure OPG is last resort (no other individual available for
 guardian/conservator), least restrictive and requested OPG
 services are necessary
- Within 10 judicial days of "Notice of Availability of the Court Visitor or Guardian Ad Litem Report" (CC 16:2.92)
- If OPG determines other options are available file with court "Objection to the Appointment of the Public Guardian Due to Other Options" (CC 16:2.94)



HEARING

- Scheduled between 70-90 days after petition;
- Court to review:
- If petition is for initial PIP capacity, court will make determination of need for g/c;
- If petition is for a successor g/c, court shall determine appropriateness of g/c;
- Court to determine whether Public Guardian is appropriate:
- If OPG has no caseload capacity, good cause exists for the denial of OPG appointment; and the appearance of OPG shall no longer be required.
- If OPG has no caseload capacity, the court may request for PIP to be placed on waiting list;
- If OPG has caseload capacity (or OPG has no caseload capacity but court request to be placed on waiting list is pending) and OPG Objects to Appointment due to Other Options Available, court is to determine if other options are available and if good cause exists to deny OPG appointment;
- If OPG has caseload capacity and OPG does not Object to Appointment (or court determines, despite Objection to the Appointment, that the appointment meets statutory and court rule requirements), the court may appoint the Public Guardian as a guardian or conservator. In addition to the statutory requirements, the order of appointment shall provide:
- •1) Proper notice has been given to the OPG;
- •2) The petitioner has acted in good faith and due diligence to identify a guardian or conservator who would serve in the best interest of the alleged incapacitated person;
- •3) The appointment of the Public Guardian is necessary and does not exceed the caseload limitations as set forth by statute;
- •4) The visitor or guardian ad litem report has provided supporting evidence that no person is available for appointment as guardian or conservator, all options available to support the individual in the least restrictive manner possible has been explored, and guardianship is a last resort; and
- •5) There is no other alternative than to appoint the Office of Public Guardian.