

## Changes for Guardian and Conservator Cases: 2020

The Supreme Court updated the rules of Guardianships and Conservatorships as of April 1, 2020. This memo notifies you of a number of changes.

There are nine (9) packets available for guardians and conservators to complete their annual reports. Each packet is customized. Note the addition of 4 new packets. (MA, MB, MD and ME).

Guardians of a minor are now required to file one of the new packet M's because the information requested about minors is now different from the information requested about (adult) wards. Guardians for a minor must now file the packet M that matches their authority. For example, guardians for minors who are also the conservator used to file Packet D and they will now file Packet MD. Because there have been no changes specific to minors in Packet C, a conservator for a minor who has previously filed Packet C will continue to file Packet C.

### Packet Descriptions:

**NOTE:** Guardians for a minor must file the appropriate packet from the “Packets for Minors” as listed below:

Packets for Adults		Packets for Minors	
A	Packet for Guardian of an Adult	MA	Packet for Guardian of a Minor
B	Packet for Guardian of an Adult with Approved Budget	MB	Packet for Guardian of a Minor with Approved Budget
C	Packet for Conservator (Adult or Minor)	C	Packet for Conservator (Adult or Minor)
D	Packet for Guardian and Conservator of an Adult	MD	Packet for Guardian and Conservator of a Minor
E	Packet for Guardian of an Adult -- No Authority Over the Estate	ME	Packet for Guardian of a Minor – No Authority Over the Estate

### HIGHLIGHTS:

- **Packets A, B, D & E:** The “Annual Report of Guardian on Condition of Ward” is revamped. The revisions are designed to more accurately reflect the information that is necessary for the court to review while also eliminating questions requesting information too sensitive for filing in a public document.
- **Packet B:** The table requiring the guardian to fill in the details of the approved budget was removed. The “budget” report in the packet was reformatted. The “Annual Report of Guardian on Condition of Ward” report was moved to the front of the packet for consistency with all other packets. A new Budget request only needs to be filed if the income and/or expenses have changed (increased or decreased) by 10% or more from last approved budget, if the variance is authorized by the court.

*This variance will allow for generally expected changes in income and/or expenses, which the persons can anticipate to occur in the normal course of living.*

- **Packet E:** Guardians with No Authority Over the Estate will no longer be required to file an Inventory. The inventory form has been removed from this packet.

- **Packets MA, MB, MD and ME:**

Current guardians or guardians and conservators for a minor, will be required to file one of these packets.

*There is a separate packet for filing of annual reports when the ward is a minor. The questions more accurately reflect the information relevant to a minor's circumstances.*

- **All Packets with financial reporting:**

- Certification Proof of Possession form is no longer a required document necessary to file with the annual reports. It is removed from the packets. *It is now discretionary with the court, so some courts may still require the form be filed annually.*
- Inventory form is updated to make it easier to complete and read. *Note: Any new account will be identified by the guardian/conservator as a new account on this form.*
- The accounting portion of the packets allow the guardian/conservator to attach a spreadsheet (i.e. Excel, QuickBooks, Quicken, or a simple table from another word processing program like Word, WordPerfect), instead of the packet's accounting page, *as long as all of the same information is included.*
- Bank and brokerage statements are still required to be filed with the court, however, copies are no longer required to be sent to Interested Persons, *unless the court orders otherwise.*
- Personal and Financial Information form is no longer required to be filed with the annual reports, and has been removed from the packets. An Updated Financial Information form (new form) is now required to report any changes to accounts (i.e. new account, account number change, financial institution change, closing of an account, change of title).

*This change eliminates the need to fill out the ward's date of birth and social security numbers more than one time, and reduces the risk of sensitive identifying information getting into the wrong hands. Another form is only required when the information in the original form is obsolete.*

## NEW PROCEDURES:

- **Interested persons: (Opting Out rather than Opting In)**

- Guardians and conservators appointed after **March 31, 2020**, are required to send annual reports to ALL interested persons.
- Beginning **January 1, 2021**, ALL guardians and conservators are required to send annual reports to ALL interested persons, *regardless of whether they previously filed the interested party form.*
- The interested party form previously required to be filed in order to *opt in* to receive annual reports is removed and replaced by a form entitled “Waiver of Notice” to *opt out*.
- Beginning **April 1, 2020**, when the guardian/conservator files the initial inventory with the court, they will send a Waiver of Notice form to each interested person.
- Interested persons who do not wish to receive annual reports can *opt out* by filing the “Waiver of Notice” form which eliminates the requirement for the guardian/conservator to send:
  - Annual Report of Guardian including accounting and assoc. docs.
  - Annual Report of Conservator including accounting and assoc. docs.
  - Application for approval of fees.
  - Application for approval of accounting.
  - Notices of hearings for each of the above.

**NOTE:** The “Waiver of Notice” form ONLY applies to the items listed above.

- Any interested person who has opted out may opt back in at any time by filing the “Request for Notice” form with the court.

*The revision of this rule eliminates the requirement for the guardian/conservator to “find” someone to be an interested person and have them file the “Notice of Interested Party” form.*

- **One time reporting requirement for appointments made before 2020 cases:**

- The guardian/conservator appointed before **April 2020**, has until **the end of 2020** to file with the court an Interested Person Update form. The form lists the identity of interested persons and addresses.

- **Guardian ad litem: Discretionary**

- The appointment of a guardian ad litem is no longer mandatory. The court has the discretion to appoint a guardian ad litem when the court believes the interests of the ward are inadequately represented.
- As all interested persons will be receiving annual reports, unless they waive their right to notice, the number of interested persons per case is expected to increase, thus limiting the number of times a guardian ad litem appointment will be ordered.

- **Quick Reference Guides: Discretionary**

- Quick Reference Guides are no longer required to be handed out. They remain available on the Supreme Court website.

- **Annual Reports: Filing deadlines**

- The filing deadlines for annual reports will now reference the date upon which the court order appointing the guardian/conservator was filed rather than the date Letters were issued.
- The Letters will note the filing deadline of 1 year and 30 days after the date the order issued. This will allow the guardian/conservator to account for assets collected immediately after appointment and have a complete record of financial statements available for filing the last month prior to the deadline.

**NOTE:** Appointments made prior to April 1, 2020, annual report due dates won't change.

- **Annual Reports: Bank Statements**

- Bank and brokerage statements are still required to be filed with the court, however, copies are no longer required to be sent to interested persons, *unless the court orders otherwise.*

- **Annual Document Reviews:**

- If an objection to the annual report is filed by an interested person, the matter will be set for a court hearing.
- Annual reports are subject to review by the clerk magistrates etc. within the court system, unless waived by the court.
- If the review by the clerk magistrate etc. finds a *problem or concern*, the judge will be so informed by the clerk magistrate etc.
- *Problem or concern* is not defined.
- It is within the judge’s discretion to determine if the problem or concern warrants scheduling an evidentiary hearing or other response.

- **Attorney fees: Expenses**

- Guardians and Conservators are allowed to pay up to \$1,000.00 annually toward attorney fees without having to obtain advance approval from the court.
- If the guardian or conservator is an attorney, no fees may be paid without prior court order.

*The fees remain subject to court approval after they have been paid. This allows the guardian/conservator to obtain legal assistance for completing annual reports or other legal matters without having to obtain pre-approval to pay the attorney.*

- **Individual Claims:**

- Individual claims by the guardian/conservator against the estate of the ward/protected person are permitted in an amount up to \$500.00 per year without prior court approval. (Example: Guardian pays \$150.00 for a coat on the guardian’s own account. The guardian is reimbursed for that \$150.00, and there were no other reimbursements for the year.)
- The court still retains authority to limit such claims to a lesser amount, and to review whether any payment should have been made.

- **Dates: Deadlines for filing certain notices to the court and interested persons have been expanded.**

Type of Notice	Original Deadline to File	New Deadline to File
Change of address of ward/protected person	3 days	10 days
Notice of death of ward/protected person	3 days	10 days
Limited Guardian becomes representative payee ( <b>note:</b> Letters should be amended and initial inventory filed.)	7 days	10 days
Receipt of Letters form completed by each financial institution	10 days after letters are issued	30 days after letters are issued
Standby guardian’s notice of assumption of authority	3 days	10 days

- **Financial Institutions: Acknowledgements**

- Financial institutions will complete a “Receipt of Order” form acknowledging they received a copy of the order of appointment.
- Financial institutions will complete a “Receipt of Letters” form acknowledging they received a copy of the Letters.

*Having two forms will lesson or reduce confusion for filing acknowledgments.*

- **Personal and Financial Information Form:**

- Personal and Financial Information form (Appendix 11) is no longer required to be filed with the annual reports, and has been removed from the packets. An Updated Financial Information form (new form) is now required to report any changes to accounts (i.e. new account, account number change, financial institution change, closing of an account, change of title).

*This change eliminates the need to fill out the ward’s date of birth and social security numbers more than one time, and reduces the risk of sensitive identifying information getting into the wrong hands. Another form is only required when the information in the original form is obsolete.*

Included with this memo is a document entitled **INTERESTED PERSONS UPDATE**. This form is a ONE-TIME required document. It must be completed and returned to the clerk’s office with the annual report.

**INTERESTED PERSONS  
UPDATE**

**COMPLETE THE INFORMATION BELOW.**

Include **EVERYONE**, including yourself, who fits into these categories. If there is no one to list for any particular category, please **DO NOT LEAVE THE SPACE BLANK**. Either write "None" or "NA". This form must be signed and dated by you when completed and filed.

IN THE COUNTY COURT OF \_\_\_\_\_ COUNTY, NEBRASKA

IN THE MATTER OF

Case No. \_\_\_\_\_

\_\_\_\_\_  
Ward/Minor Ward/Protected Person

**INTERESTED PERSONS UPDATE**

WARD/MINOR WARD/  
PROTECTED PERSON:

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Phone number \_\_\_\_\_ E-mail Address \_\_\_\_\_

PARENTS:

Mother \_\_\_\_\_  
Address \_\_\_\_\_  
Phone number \_\_\_\_\_ E-mail Address \_\_\_\_\_

Father \_\_\_\_\_  
Address \_\_\_\_\_  
Phone number \_\_\_\_\_ E-mail Address \_\_\_\_\_

SPOUSE:

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Phone number \_\_\_\_\_ E-mail Address \_\_\_\_\_

CHILDREN:

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Phone number \_\_\_\_\_ E-mail Address \_\_\_\_\_

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Phone number \_\_\_\_\_ E-mail Address \_\_\_\_\_

OTHER:

Name \_\_\_\_\_ Relation \_\_\_\_\_  
Address \_\_\_\_\_  
Phone number \_\_\_\_\_ E-mail Address \_\_\_\_\_

Name \_\_\_\_\_ Relation \_\_\_\_\_  
Address \_\_\_\_\_  
Phone number \_\_\_\_\_ E-mail Address \_\_\_\_\_

OTHER INTERESTED PERSON(S)\*: List the name(s) and address(es) of all interested persons of the ward/minor ward/protected person that are not listed above.

Name \_\_\_\_\_

Address \_\_\_\_\_

Phone number \_\_\_\_\_ E-mail Address \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

Phone number \_\_\_\_\_ E-mail Address \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

Phone number \_\_\_\_\_ E-mail Address \_\_\_\_\_

OTHER PERSON authorized to manage the ward's/minor ward's/protected person's financial resources, if other than the guardian(s)/conservator(s):

Name \_\_\_\_\_ Relation \_\_\_\_\_

Address \_\_\_\_\_

Nature of power \_\_\_\_\_

Phone number \_\_\_\_\_ E-mail Address \_\_\_\_\_

See attached (more names and addresses than above)

\_\_\_\_\_  
Signature of Guardian and/or Conservator

Date \_\_\_\_\_

\_\_\_\_\_  
Print or Type Name of Guardian and/or Conservator

\_\_\_\_\_  
Street Address/P.O. Box of Guardian and/or Conservator

\_\_\_\_\_  
Bar Number and Firm Name (attorneys only)

\_\_\_\_\_  
City/State/ZIP Code of Guardian and/or Conservator

\_\_\_\_\_  
Phone

\_\_\_\_\_  
E-mail Address