

GUARDIANSHIP OF ADULT INCAPACITATED PACKET

COURT OF INDIAN OFFENSES FOR THE SOUTHERN PLAINS REGION

Mailing Address:
P.O. Box 368
Anadarko, Oklahoma 73005

Phone: 405/247-8527 or 8508
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Physical Location:
Highway 281 North & Parker McKenzie Drive
Anadarko, Oklahoma
(located inside the Anadarko Agency)

The forms in this packet are to be used as a template, if you are seeking a guardianship of an adult incapacitated. Please read the instructions carefully before completing the forms. The Court Clerks CANNOT accept petitions that does not conform to the instructions included in this packet.

Should you need assistance in preparing the petition, you must consult with an attorney at your own expense. This court does not have legal aid. The Court Clerks are prohibited by Ethical Code and Court Rules to provide legal advice and help parties prepare or type court documents. Different situations may require special procedures and the Court Clerks CANNOT advise you on how to proceed or what forms may be necessary in specific situations.

PACKET CONTAINS:

Instruction Sheet

Petition Form

Entry of Appearance & Waiver Form

Guardianship Flowchart

Sample Guardianship of Adult Incompetent Petition

Sample Entry of Appearance & Waiver



Website: <http://www.bia.gov/WhoWeAre/RegionalOffices/SouthernPlains/>



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Instructions for Filing a Petition for Guardianship (Adult)

IMPORTANT INFORMATION – PLEASE READ!

These standard instructions are informational purposes only and do not constitute legal advice about your case. If you do not understand this information, please contact an attorney.

STEP 1: Complete forms.

- Petition for Guardianship
- Entry of Appearance and Waiver
- Summons

NOTE: Forms must be typed double-spaced and on letter size paper. The forms provided in this packet are guides to be used in preparing your documents for filing divorce. The forms must be re-typed. Forms must include all the required information (addresses, telephone numbers, email addresses, etc.) It is YOUR responsibility to provide the required information on the forms.

STEP 2: Obtain copies of required documents.

- Tribal Enrollment Verification (Tribal ID, Certificate Degree of Indian Blood, or Letter from Tribe) for adult incapacitated
- Birth Certificates for adult incapacitated

NOTE: Obtaining these documents is YOUR responsibility.

STEP 3: Obtain a Money Order or Cashier's Check for filing.

- \$60.00 filing fee
- \$25.00 service fee per interested party

NOTE: Money Order or Cashier's Check made payable to "Bureau of Indian Affairs". No personal checks are accepted. Insure that you receive a receipt for the filing fee from the Court Clerk at the time of filing.

STEP 4: Submit forms, documents and filing fee for filing to the Court Clerk.

- Petition for Guardianship
- Entry of Appearance and Waiver (must be filed by the Defendant at least one (1) day after filing the Guardianship)
- Summons
- Tribal Enrollment Verification (Tribal ID, Certificate Degree of Indian Blood, or Letter from Tribe) for the adult incapacitated
- Birth Certificates for the adult incapacitated
- Money Order or Cashier's Check (\$60.00 filing fee plus service fee made payable to "Bureau of Indian Affairs")

NOTE: If all forms, documents, and filing fees are not submitted at the time of filing, it will be returned back to you, until you obtain ALL required forms, documents and filing fees for filing. Petition for Guardianship must be signed in front of the Court Clerk or a notary public.

GUARDIANSHIP FLOW CHART: Guardianship Process

"PETITION FOR GUARDIANSHIP" - The petitioner prepares and files the *petition* with the Court Clerk. This is the document filed by the petitioner to start the guardianship action.

If Entry of Appearance and Waiver(s) is NOT filed with the Petition for Guardianship.

If Entry of Appearance and Waiver(s) (for ALL interested parties) is filed with the Petition for Guardianship.

▼

"SUMMONS" - The Court Clerk will prepare *summons* to all interested parties advising him/her that that have 30 days to answer to the petition.

▼

"SERVICE OF PROCESS" - Serve all interested parties defendant with copy of the petition and summons sent certified mail.

▼

"ANSWER" - Defendant must respond to the petition within 30 days. The *answer* states whether or not the defendant agrees with the petition. If the defendant doesn't file an answer, the Court assumes that the defendant agrees to the terms in the petition.

▼

"NOTICE OF HEARING" - The petitioner and all interested parties will receive a *notice of hearing* advising the parties of the scheduled guardianship hearing date and time.

▼

"GUARDIANSHIP HEARING" - The Judge will review the case file and ask a few basic factual question to the petitioner and interested parties. The Judge will rule on matters of the case and will act in the best interest of the incompetent adult or child(ren) in determining guardianship.

▼

"GUARDIANSHIP ORDER" - The petitioner will receive a certified *guardianship order* in the mail 2 weeks after the hearing. The guardianship order is an official document of the decision of the Judge.

▼

"ANNUAL GUARDIANSHIP REVIEW" - Annually you will receive notice of hearing advising the parties of the scheudled review hearing date and time to review the guardianship case.



**IN THE COURT OF INDIAN OFFENSES FOR THE SOUTHERN PLAINS REGION
ANADARKO, OKLAHOMA**

IN THE MATTER OF THE)
GUARDIANSHIP OF:)
)
_____,)
DOB: _____;)
_____ **Tribal Adult Incapacitated.**)

Case No. PG-_____ - _____

PETITION FOR GUARDIANSHIP OF ADULT INCAPACITATED

COMES NOW, _____, Petitioner herein, Pro Se and for this cause of action, the Petitioner alleges and states the following:

1. That the Court of Indian Offenses for the Southern Plains Region has personal and subject matter jurisdiction to hear and decide this matter in accordance to 25 CFR 11.116 and 11.610;
2. That _____, adult incapacitated herein, is an enrolled member of the _____ Tribe of Oklahoma. A copy of the adult incompetent's Tribal enrollment card/Certificate Degree of Indian Blood is submitted along with the petition to the Court.
3. That the adult incapacitated is _____ years old and was born on _____, _____. A copy of the adult incompetent's birth certificate is submitted along with the petition to the Court;
4. That the adult incapacitated resides at _____ (**INCLUDE CITY, STATE & ZIP**) and has lived at this address for _____ (**STATE LENGTH OF TIME IN MONTHS OR YEARS AT THIS ADDRESS**);

That the Petitioner is an enrolled member of the _____ Tribe of Oklahoma and the Petitioner's address is _____; (**INCLUDE CITY, STATE & ZIP**) **OR**
That the Petitioner is non-Indian and the Petitioner's address is _____; (**INCLUDE CITY, STATE & ZIP**)

5. That according to the Petitioner's knowledge, the adult incapacitated, does not have a Court appointed guardian and a guardian needs to be appointed for the reason that: (**EXPLAIN IN DETAIL WHY A GUARDIAN NEEDS TO BE APPOINTED**)
6. That the adult incapacitated needs a guardian appointed to provide for her/his care and maintenance and to oversee her/his affairs, both medically and financially;
7. That the Petitioner is the _____ (**STATE RELATIONSHIP**) of the adult incapacitated;
8. That the closest blood relatives names, addresses and relationship to the adult incapacitated, so far as know to the Petitioner are:
(**LIST EACH CLOSEST BLOOD RELATIVE'S NAME, FULL ADDRESS (INCLUDE CITY, STATE & ZIP) AND THE RELATIONSHIP THEY ARE TO THE CHILD**)
9. That the Petitioner is capable and willing to assume the responsibility of being the guardian of the adult incapacitated;

10. That the Petitioner is a fit and proper person to be appointed guardian to oversee the care and maintenance of the adult incapacitated;

****ONLY ADD 10. IF YOU ARE REQUESTING A TEMPORARY ORDER****

11. That a temporary order needs to be issued for the reason that **(EXPLAIN IN DETAIL WHY AN EMERGENCY FOR THE TEMPORARY ORDER EXISTS.)**

WHEREFORE, the Petitioner prays that the Court will issue an order appointing the Petitioner guardian of said adult incapacitated and that a hearing be set on this matter as soon as the Court deems necessary.

NAME, Petitioner
FULL ADDRESS (include city, state & zip)
TELEPHONE NO.
EMAIL ADDRESS (if available)

VERIFICATION

I, _____, being duly sworn to tell the truth and being of lawful age above 18 years of age, hereby states that I have prepared and read this petition and verify that all of the factual allegations contained in this petition are in fact true and correct to the best of my knowledge and belief, **UNDER PENALTY OF PERJURY.**

NAME, Petitioner

SUBSCRIBED AND SWORN TO BEFORE ME THIS ____ DAY OF _____,
20 ____.

(SEAL)

Court Clerk/ Deputy

**IN THE COURT OF INDIAN OFFENSES FOR THE SOUTHERN PLAINS REGION
ANADARKO, OKLAHOMA**

IN THE MATTER OF THE)
GUARDIANSHIP OF:)
)
_____,)
DOB: _____;)
_____) **Tribal Adult Incapacitated.**)

Case No. PG- _____ **-** _____

SUMMONS

TO: Interested Party Name
Interested Party Address
Interested Party City/State/Zip Code

YOU ARE HEREBY SUMMONED in the above named action and directed to file a written Answer to the attached Petition with the Court Clerk of this Court, within thirty (30) days after service of this Summons, which is herewith served upon you.

A copy of your Answer must also be delivered to the Petitioner or his/her attorney/advocate and proof of such service with your Answer must be filed in this Court.

If you fail to Answer this Petition within the time stated, judgment by default can be rendered against you for the relief demanded by the Petitioner.

(SEAL)

Court Clerk/Deputy
CFR Court
P.O. Box 368
Anadarko, Oklahoma 73005
Phone: 405/247-8511

Petitioner or Petitioner's Attorney:
Petitioner Name
Petitioner Address
Petitioner City/State/Zip Code
Phone: Petitioner Telephone Number

YOU MAY SEEK THE ADVICE OF AN ATTORNEY/ADVOCATE ON ANY MATTER CONNECTED WITH THIS SUIT OR YOUR ANSWER. SUCH ATTORNEY SHOULD BE CONSULTED IMMEDIATELY SO THAT AN ANSWER MAY BE FILED WITHIN THE TIME LIMIT STATED IN THIS SUMMONS.

CERTIFICATION

I, the undersigned Court Clerk, hereby certify that I emailed, faxed, hand delivered or mailed, a true and correct copy of this document and copy of the petition to the following interested party:

Certified Mail – Restricted Delivery

Article No. _____

Interested Party Name _____

Interested Party Address _____

Interested Party City/State/Zip Code _____

(SEAL)

Court Clerk/Deputy Court Clerk

**IN THE COURT OF INDIAN OFFENSES FOR THE SOUTHERN PLAINS REGION
ANADARKO, OKLAHOMA**

IN THE MATTER OF THE)
GUARDIANSHIP OF:)
)
_____,)
DOB: _____;)
_____) **Tribal Adult Incapacitated.**)

Case No. PG-_____-_____

ENTRY OF APPEARANCE AND WAIVER

I, the undersigned relative of _____, being one of the persons having a right to the appointment of guardianship over the person of _____, do hereby waive my rights to said appointment in favor of the _____, Petitioner herein, and I respectfully pray that the Court will appoint Petitioner, as guardian over the above listed person and estate. Should I have objected to said appointment of the Petitioner, I am aware that I had the right to file an answer to said petition and appear in Court to make my objections known and that I waive that right.

Dated this _____ day of _____, 20_____.

Signature

Please print your name & address:

Telephone: _____

SHOULD YOU AGREE TO SIGN THIS WAIVER, PLEASE SIGN IN FRONT OF A NOTARY PUBLIC OR COURT CLERK AND RETURN TO THIS OFFICE EITHER BY MAIL OR IN PERSON.

State of Oklahoma;)
County of _____)

Before me, the undersigned Notary Public, came _____ this ___ day of _____, 20___, to me known to be the identical person who executed the above and foregoing Entry of Appearance and Waiver, and personally acknowledged to me that he/she has read, understood, and signed the same, and that he/she executed the same as his/her free and voluntary act and deed for the uses and purposes therein set forth. IN WITNESS THEREOF I have hereunto affixed my signature and official seal the date heretofore stated.

(SEAL)

NOTARY PUBLIC

My Commission Expires: _____

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ DAY OF _____, 20_____.

COURT CLERK/DEPUTY

**IN THE COURT OF INDIAN OFFENSES FOR THE SOUTHERN PLAINS REGION
ANADARKO, OKLAHOMA**

IN THE MATTER OF THE)
GUARDIANSHIP OF:)
)
JANE DOE,) **Case No. PG- ____ - ____**
DOB: 08/01/2000;)
Tribal Adult Incompacitate.)

PETITION FOR GUARDIANSHIP OF ADULT INCAPACITATED

COMES NOW, Janey Doe, Petitioner herein, Pro Se and for this cause of action, the Petitioner alleges and states the following:

1. That the Court of Indian Offenses for the Southern Plains Region has personal and subject matter jurisdiction to hear and decide this matter in accordance to 25 CFR 11.116 and 11.610;
2. That Jane Doe, adult incapacitated herein, is an enrolled member of the Native Tribe of Oklahoma. A copy of the adult incapacitated's Tribal enrollment card is submitted along with the petition to the Court;
3. That the adult incapacitated is 80 years old and was born on April 1, 1933. A copy of the adult incapacitated's birth certificate is submitted along with the petition to the Court;
4. That the adult incapacitated's resides at 1234 Native Drive, Anadarko, Oklahoma 73005 and has lived at this address for 3 months;
5. That the Petitioner is an enrolled member of the Native Tribe of Oklahoma and the Petitioner's address is 1234 Native Drive, Anadarko, Oklahoma 73005;
6. That according to the Petitioner's knowledge, the adult incapacitated, does not have a court appointed guardian and a guardian needs to be appointed for the reason that:

The biological parents of Jane Doe are deceased and the closest blood relatives live in another state;
7. That the adult incapacitated needs a guardian appointed to provide for her care and maintenance and to oversee her affairs, both medically and financially;
8. That the Petitioner is the daughter of the adult incapacitated;

9. That the closest blood relatives names, addresses and relationship to the adult incapacitated, so far as known to the Petitioner are:

Janey Doe, Daughter
P.O. Box 0000
Fort Sill, Oklahoma 73503

Johnny Doe, Son
P.O. Box 0000
Fort Sill, Oklahoma 73503

10. That the Petitioner is capable and willing to assume the responsibility of being the guardian of the adult incapacitated;

11. That the Petitioner is a fit and proper person to be appointed guardian to oversee the care and maintenance of the adult incapacitated;

WHEREFORE, the Petitioner prays that the Court will issue an order appointing the Petitioner as guardian of said adult incapacitated and that a hearing be set on this matter as soon as the Court deems necessary.

JANEY DOE , Petitioner
1234 Native Drive
Anadarko, Oklahoma 73005
(405)247-0000
janeyd@yahoo.net

VERIFICATION

I, Janey Doe, being duly sworn to tell the truth and being of lawful age above 18 years of age, hereby states that I have prepared and read this petition and verify that all of the factual allegations contained in this petition are in fact true and correct to the best of my knowledge and belief, **UNDER PENALTY OF PERJURY.**

Janey Doe, Petitioner

SUBSCRIBED AND SWORN TO BEFORE ME THIS ____ DAY OF _____,
20____.

(SEAL)

Court Clerk/ Deputy

SAMPLE