

ADVOCACY SERVICES BUREAU

STATE OF NEW YORK

**COMMISSION ON QUALITY OF CARE
AND ADVOCACY
FOR PERSONS WITH DISABILITIES**

GUARDIANSHIP

**PROCEDURES FOR APPLYING FOR GUARDIANSHIP
OF A DEVELOPMENTALLY DISABLED/MENTALLY RETARDED PERSON**

A. Guardianship Forms

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|-----|---------|--|
| 1. | GMD- 1 | Petition for Appointment of Guardian |
| 2. | GMD-1A | Affidavit of Proposed Guardian |
| 3. | GMD- 2A | Affidavit(Certification) of Examining
Physician/Psychologist |
| 4. | GMD- 2B | Affirmation (Certification of Examining Physician) |
| 5. | GMD-3 | Waiver of Process and Renunciation |
| 6. | GMD-4 | Consent: Oath and Designation of Standby
(Alternate, 2 nd Alternate) |
| 7. | GMD-5 | Decree Appointing Guardian |
| 8. | GMD-6 | Decree Appointing Limited Guardian of Property |
| 9. | GMD-7 | Citation to Show Cause |
| 10. | GMD-7A | Affidavit of Service |

- | | | |
|-----|------------------------|---|
| 11. | GMD -8 | Notice of Petition & Affidavit of Service by Mail |
| 12. | OCFS-3909 | Office of Children & Family Services Request for
Information Guardianship Form |
| 13. | Form for Certification | |

These forms are standard and are used in every Surrogate's Court. A list of Surrogate's Courts and their addresses and telephone numbers is provided.

B. Preparation of Forms

The process for applying for guardianship commences with the filing of a form called a Petition for Appointment of Guardian (GMD-1). The petition is the principal document to be prepared in the guardianship process. It should explain to the Surrogate's Court the need for the appointment of a guardian, and it should inform the court of the people who are interested in the welfare of the developmentally disabled/mentally retarded individual. The petition should include the following information: (pg 1-11). **Please Note: When question does not apply type N.A. No line should be left blank.**

GMD-1 Petition for Appointment of Guardian

Captions:

- | | |
|------------------------------------|--|
| <u>County of:</u> | This is the location of the Surrogate Court. |
| <u>Guardian for:</u> | The name of the respondent/ person with mental retardation/developmental disabilities. |
| <u>Appointment of Guardian of:</u> | Check appropriate box . |
| <u>Surrogate Court County of:</u> | Again, the County where court is located. |

Statements:

1. Check disability of respondent & then your (petitioners') name, phone number, address, date of birth, relationship to respondent . The statements are repeated again for the co-petitioner (usually both parents).
2. (a) Name, permanent address, date of birth and marital status of person for whom you wish to be the guardian. (Respondent)
2. (b) Check which applies: Respondent is or is not admitted to a group home or facility as defined in Section 1.03 (OMRDD administered or licensed facility).
Complete facility name, address, Facility Director's name, Director of MHLS name and MHLS office address (see listing further on in this document).
3. Name, date of birth (death if appropriate) address, of parents, of the respondent.
4. Name, relationship, address, of the respondent's adult children and the respondent's siblings.
5. Name and address of the respondent's primary physician.
6. If parents are deceased, names and addresses of distributives (see glossary).
7. Name and address of person with whom the respondent resides. If it is a group home state the name and then "as listed in # 2".
8. State why no family member is applying to become a guardian or standby. This usually is a situation of some other caretaker, worker steps forward to become guardian .

9. This statement stands alone.
10. Check (a) or (b) **or** (a) & (b). Make grammatical choices to the sentence and add information in space provided IE: “to make medical and other decisions for the respondent as the need arises”.
11. Complete (a) – (d) only if you are petitioning to be guardian of the property or guardian of person and property. If not applying for guardian of property type “N.A.” in all parts.
12. Check appropriate box for disability. Complete Physician (s)/Psychologist names and dates that they signed their affidavits.
13. If applying for limited guardian of property (control of respondent’s funds after respondent keeps \$300 per month), then complete information. If not applying for limited guardian of property put “N.A.”.
14. Put “N.A.” for both sections (a). Complete (b) – (d) with the names addresses of those whom you have chosen for standby, alternate etc. Check person, property etc. that corresponds with what you have chosen for yourself. In other words, if you are applying to be guardian of “person” then the standby etc. will be guardian of person.
15. Check statement that applies. Note, it is best that the respondent **attends** the hearing.
16. This statement stands alone unless there is information to the contrary.
17. Check appropriate verb **has/have** or **does/do not have**.
(b) Attach an affidavit **only** if you have knowledge that anyone named as potential guardian (s) was indicated on the Child Abuse Registry.

- 18. Stands by itself.
- 19. Complete **only** if the respondent is under the age of 18.
- 20. This statement stands alone if true.
- 21. Enter “None” or specify.

Requested Relief :

- (a) Check appropriate box for type of guardianship. ***Granted to:*** Enter petitioner(s) name (s).
- (b) ***Appointment of:*** Enter name of standby guardian and check appropriate box for type of guardianship.
- (c) ***Appointment of:*** Enter name of alternate standby guardian and check appropriate box for type of guardianship.
- (d) ***Appointment of:*** Enter name of second alternate standby guardian and check appropriate box for type of guardianship.
- (e) Check either “**be**” or “**not be**” dispensed with...
- (f) This statement stands alone.
- (g) If applying to be guardian of property name two banks as choices for the Judge to order the deposit of respondent’s funds.
- (h) Statement stands alone.
- (i) Add additional relief or “N.A.”

Dated:

Signature(s) as Petitioner (s)

Print name(s) of Petitioner (s)

Corporate Petitioner (IE: ARC) if Applicable

County of: This is the County in which the petitioner now signs the petition before a Notary public.

Signature of

Attorney if

Applicable: If you are petitioning on your own (pro se), then type "N.A."

COMBINED OATH AND DESIGNATION

County of: This is the County in which the petitioner, as proposed guardian, signs the oath and designation before a Notary Public.

1. Make appropriate grammatical changes.
2. ***Surrogate's Court of:*** Enter County where the court is located.

Enter Addresses and Sign before a Notary Public

Combined Corporate Consent if a Corporation like ARC is the Petitioner

GMD-1A Affidavit of Proposed Guardian

Captions:

County of: This is the location of the Surrogate Court.

Guardian for: The name of the respondent/person with mental retardation/developmental disabilities.

Proposed Guardian of: Check appropriate box.

State of NY County of: This is the County in which you sign the affidavit before a Notary Public.

Surrogate Court County of: Again, the County where court is located.

The undersigned: Names of the petitioners now called proposed guardians

Statements:

1. Check appropriate disability.
2. Complete as directed.
3. Complete as directed.
4. Educational background.
5. (a), (b), & (c) stand alone unless you have something to add after *except*:
6. Check appropriate disability.
7. Stands alone.
8. Stands alone.
9. State why it is in the respondents best interest e.g.: you will make medical decisions and advocate on the individual's behalf....

Signature before a Notary Public

Print Name

GMD –2A & GMD- 2B Affidavit(Certification)of Examining Physician/Psychologist

After downloading all of the forms in PDF format from the CQC web site <http://www.cqcapd.state.ny.us/guardianshipforms/guardfrm.htm>, these two forms can be e-mailed to the respective clinicians. This will enable the clinicians to complete the forms on a computer and print. The questions are self-explanatory and the doctors should be very complete in their answers. These affidavits make-up your proof as to why the respondent needs a guardian and further, the clinicians will be certifying that the individual cannot make any medical decisions including end of life decisions.

GMD-3 Waiver of Process and Renunciation

This waiver should be completed and signed by someone who may be eligible to become a guardian but who wishes to renounce that right. Such a case may involve one parent who is not interested in becoming the guardian. Or perhaps one of the siblings not named as a standby, alternate etc, is not interested and the court clerk requests that the person sign a waiver. If the individual does not want to sign a waiver, that person must be given a citation (GMD-7) inviting them to appear at the guardianship hearing.

Captions:

County of: This is the location of the Surrogate Court.

Guardian for: The name of the respondent/ person with mental retardation/developmental disabilities.

The undersigned : Name of individual waiving the right to become guardian (spouse, sibling etc.).

Statements:

Address: Enter address of individual signing the waiver.

Check Interest: Parent spouse etc.

1. Stands alone.
2. Stands alone.

3. Enter the petitioner (s) (proposed guardian (s) name (s). Check type of guardianship (same as listed for petitioner).

Enter standby name and check type of guardianship (same as listed for petitioner).

Enter alternate standby, if applicable, and check type of guardianship (same as listed for petitioner).

Enter second alternate standby, if applicable, and check type of guardianship (same as listed for petitioner).

Date:

Signature before a Notary Public

Print Name

GMD-4 Consent : Oath and Designation of Standby (Alternate, 2nd Alternate)

One GMD-4 form must be completed by each standby, alternate standby and second alternate standby.

Captions:

County of: This is the location of the Surrogate Court.

Guardian for: The name of the respondent/ person with mental retardation/developmental disabilities.

State of NY County of: This is the County in which you sign the affidavit before a Notary Public.

Statements:

Enter name and check either standby, alternate standby or second alternate standby. Check type of guardianship (same as listed for petitioner).

- Check the type of guardianship (same as listed for petitioner).
1. Check either standby, alternate standby or second alternate standby. Check **again** either standby, alternate standby or second alternate standby. Check type of guardianship (same as listed for petitioner).
 2. Court of: This is the location of the Surrogate Court.

Permanent address of the proposed standby, alternate standby or second alternate standby

Signature before a Notary Public

Print Name

GMD-5 Decree Appointing Guardian

Decree is the formal name given to the Surrogate's decision on the guardianship petition. It is a statement signed by the Surrogate that acknowledges the facts ascertained during the proceeding, formally orders the appointment of the guardian(s), and authorizes the issuing of the Letters of Guardianship. In many counties you will be required to submit a proposed decree. However, you may postpone the completion of this document until after the hearing and further instruction from the court clerk. The clerk may agree to complete the decree for the Surrogate's signature. The decree should contain the following information:

Captions:

For the County of: This is the location of the Surrogate Court.

At: City or Town.

On: Month & Day, 20: Year

Honorable: Name of presiding Surrogate Judge.

Guardianship of The name of the respondent/ person with mental retardation/developmental disabilities.

File No. This is the number placed on the petition by the clerk at the time that you bring your paperwork to the court.

Statements:

Petition of: Name of petitioners.

Verified: Enter day eg. Fourth,

Of: Enter month, 20: Year

Guardian of the: Choose type.

Of: Respondent's Name.

A: Choose disability.

Certifications of: Doctors Names and dates of certifications (see GMD-2A & GMD -2B).

Before this court on: Month, Day, Year

Found that: Respondent's Name.

Is a: Choose disability.

<u>Incapable of managing:</u>	Make grammatical corrections.
<u>By reason of:</u>	Choose disability.
<u>Guardian of:</u>	Choose type of guardianship.
<u>Ordered that:</u>	Name(s) of petitioners or proposed guardian(s).
<u>Guardian of the:</u>	Choose type of guardianship.
<u>Of:</u>	Name of the Respondent.
<u>Money etc:</u>	Complete only if guardian of property.
<u>Jointly with:</u>	Complete only if guardian of property.
<u>Ordered that:</u>	Name(s) of petitioners or proposed guardian(s).
<u>Ordered that:</u>	Name of Standby.
<u>Ordered that:</u>	Name of alternate standby.
<u>Ordered that:</u>	Name of second alternate standby.

GMD-6 Decree Appointing Limited Guardian of Property

This decree applies only in the instance when the petitioner requests that he she be appointed limited guardian of property. You may postpone the completion of this document until after the hearing and further instruction from the court clerk. The clerk may agree to complete the decree for the Surrogate's signature.

Complete GMD-6 in the same fashion as described above for GMD-5.

GMD-7 Citation to Show Cause

The Citation or Notice is an invitation from the Surrogate Court to attend an Article 17A hearing regarding a guardianship petition. The following persons must receive notice of the proceedings by citation:

- a. Any parent who has not consented and has not waived notice.
- b. The person with developmental disability/mental retardation. If the person lives in a facility, the director of the facility must get a citation.
- c. The court may direct further notice as it deems proper.

A competent adult (over age 18) must personally deliver the citation. The adult must sign an Affidavit of Proof of Service (GMD-7A) and submit it to the court.

Although you will have to arrange for the hand delivery of this citation, you can bring a blank copy to the Surrogate Clerk at the time of the filing of your petition. Typically, the guardianship clerk completes and signs the citation. The citation includes the following:

Captions:

File No.: This is the number placed on the petition by the clerk at the time that you bring your paperwork to the court.

CourtCounty: County where Surrogate Court is located.

To: Individual to be served e.g. Person with developmental disability/mental retardation.

Statements:

<u>Filed by:</u>	Name of petitioners or proposed guardians.
<u>Who is domiciled at:</u>	Address of petitioners or proposed guardians.
<u>Court/County:</u>	County in which Court is located.
<u>At:</u>	Address of Court.
<u>On:</u>	Month, Day, Year
<u>At:</u>	Time: e.g. 9:00
<u>In the:</u>	Fore
<u>Letters of guardianship to the:</u>	Check type of Guardianship (same as listed by petitioner).
<u>Of:</u>	Person with developmental disability/mental retardation.
<u>Granted to:</u>	Petitioners or proposed guardians.
<u>Appointment of:</u>	Name of standby guardian.
<u>Standby Guardian of the:</u>	Check type of Guardianship (same as listed by petitioner).
<u>Of:</u>	Person with developmental disability/mental retardation.
<u>Appointment of:</u>	Name of alternate standby guardian.
<u>Alternate Standby of the:</u>	Check type of Guardianship (same as listed by petitioner).
<u>Of:</u>	Person with developmental disability/mental retardation.
<u>Appointment of:</u>	Name of second alternate standby guardian.
<u>Second Alternate Standby of the:</u>	Check type of Guardianship (same as listed by petitioner).
<u>Of:</u>	Person with developmental disability/mental retardation.
<u>Dated Attested , Sealed:</u>	Completed by the Clerk.
<u>Hon:</u>	Completed by the Clerk.
<u>Chief Clerk:</u>	Completed by the Clerk.

Telephone: Completed by the Clerk.

Attorney Name & address: If applicable.

GMD-7A Affidavit of Service

A competent adult (over age 18) must sign an Affidavit of Proof of Service (GMD-7A) and submit it to the court after having personally served the individual named on the citation. The affidavit must include the following:

Captions:

County of: County Where Court is located.

Guardian for: Person with developmental disability/mental retardation.

A: Choose disability.

County of: County in which the person signs the affidavit.

Statements:

...being duly sworn: Name of individual signing the affidavit.

resides at: Address of individual signing affidavit.

Physical Description:

Complete: Name, Sex, Skin Color, Hair Color, Approximate Age, Approximate Height, Approximate Weight, Date, Time & Place for each person served with the citation e.g. person with developmental disability or group home director.

Signature before a Notary Public

Print Name

GMD –8 Notice of Petition & Affidavit of Service by Mail

If the person with developmental disability/mental retardation is residing in a developmental center or any other home or residence operated or certified by the Office of Mental Retardation and Developmental Disabilities (OMRDD), the Mental Health Legal Services must receive notice of the petition. This state agency participates in court proceedings to protect the rights of persons in institutions and other state certified residential programs. The MHLS attorney or representative assigned to represent the institutionalized individual will usually submit a report to the Surrogate's Court which will either agree with the proposed guardianship or note objections. The MHLS representative may be present at a hearing if one is held, although this is not a requirement.

A Notice of Petition along with a copy of the petition must be sent by certified mail, return receipt requested to:

- a. Mental Health Legal Services (MHLS) in the judicial department where the facility is located. (see list).
- b. **If the clerk does not require notice by citation**, then the director of the developmental center or any other home or residence operated by OMRDD.
- c. One other person if designated by the developmentally disabled/mentally retarded person in writing.

Captions:

County of: County Where Court is located.

Guardian for: Person with developmental disability/mental retardation.

File No.: This is the number placed on the petition by the clerk at the time that you bring your paperwork to the court.

Statements:

1. On the: e.g. fourth day of month, 20: year, *Name:* of Petitioners,

Address: of petitioners.

County of: County Where Court is located.

Returnable: This date will be given to you by the clerk.
Day, Month, Year in the forenoon.

Check box: Name of petitioner/proposed guardian.

Check box: Name of standby.

Check box: Name of alternate standby if appropriate.

Check box: Name of second alternate standby if appropriate.

Of the: Check the type of guardianship (same as listed for petitioner).

Complete as directed. For Example: it may be the Director of Mental Hygiene Legal Services, the Director of the group home etc.

Date:

Note Well: Keep a copy of the Notice of Petition for return to the court with the affidavit below

Affidavit of Mailing of Petition

This affidavit must be completed by the petitioner/proposed guardian and returned to the court with a copy of the Notice of Petition (GMD-8). One affidavit will suffice to certify that all of the parties listed on the notice did in fact get mailed a copy of the notice of petition.

Captions:

County of: County in which the person signs the affidavit.

Statements:

Petitioner/Proposed Guardians name

Residing at: Petitioners/Proposed Guardians Address

Choose: he, she, they

Day, Month, Year

Choose: he, she, they

Signature before a Notary Public

Print Name

If Appropriate

Attorney Name, Address, Phone#

List of Mental Hygiene Legal Services Departments:

Mail notice of your 17A Petition to the appropriate Judicial Department serving the respondent's County of residence. This must be mailed by certified mail, returned receipt requested.

Mental Hygiene Legal Service
First Judicial Department
60 Madison Avenue - 2nd Floor
New York, New York 10010
Director
Phone: (212) 779-1734
Fax: (212) 779-1894

Counties Covered: **Bronx, Manhattan**

Mental Hygiene Legal Service
Second Judicial Department
170 Old Country Road
Mineola, New York 11501
Director
Phone: (516) 746-4545
Fax: (516) 746-4372

Counties Covered: **Dutchess, Kings, Nassau, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, Westchester**

Mental Hygiene Legal Service
Third Judicial Department
40 Steuben Street, Suite 501
Albany, NY 12207
Director
Phone (518) 474-4453
Fax (518) 473-5849

Counties Covered: **Albany, Broome, Chemung, Chenango, Clinton, Cortland, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Madison, Montgomery, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, Schuyler, Sullivan, St. Lawrence, Tioga, Tompkins, Ulster, Warren, Washington**

Mental Hygiene Legal Service

Fourth Judicial Department

Administrative Offices

50 East Avenue - Suite 402

Rochester, New York 14604

Director

Phone: (585) 530-3050

Fax: (585) 530-3079

Counties Covered: **Allegany, Cattaraugus, Cayuga, Chautauqua, Erie, Genesee, Herkimer, Jefferson, Lewis, Livingston, Monroe, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, Seneca, Steuben, Wayne, Wyoming, Yates**

OCFS-3909 Office of Children & Family Services

Request for Information Guardianship Form

This form must be completed by all proposed guardians, standbys etc. Some courts may fingerprint proposed guardians. After completing the form as directed, **do not mail**. However, take it to the court at the time that you file your petition.

Form for Certification

All courts require that the petitioners complete this certification after using computer-generated forms.

Congratulations! You have completed all of the necessary forms for an Article 17 A petition in the Surrogate Court

Filing the Forms

The completed petition, physician/ psychologist affidavits, and other forms and supporting documents should be brought to the clerk of Surrogate's Court or to the guardian clerk in the county where the person alleged to be developmentally disabled/mentally retarded is domiciled. For an adult, this will generally be the county in which he or she resides. The permanent residence of the parents, however, is usually considered the domicile of a minor. A fee must be paid at the time of filing. The clerk will review the papers for accuracy, completeness and compliance with statutory law and court rules. Please follow the Checklist.

CHECKLIST

Procedure for Filing Guardianship Papers

Bring the following items to the Surrogate Court in the county where the respondent resides:

1. GMD- 1 Petition for Appointment of Guardian - typed, signed, notarized.
2. Birth Certificate of the respondent (person with developmental disability/mental retardation).
3. GMD-1A Affidavit of Proposed Guardian- typed, signed, notarized.
4. Statements from 2 doctors or (1 doctor and 1 certified psychologist).
GMD- 2A Affidavit (Certification) of Examining Physician/Psychologist
GMD- 2B Affirmation (Certification of Examining Physician).
5. GMD-3 Waiver of Process and Renunciation - If applicable. If unsure, ask the guardianship clerk
6. GMD-4 Consent: Oath and Designation of Standby (Alternate, 2nd Alternate)
7. OCFS-3909 Office of Children & Family Services Request for Information Guardianship Form - completed and signed by all proposed guardians, standbys etc
8. GMD-7 Citation to Show Cause – Complete as much as possible and bring to the court for final completion by the clerk. Bring a blank citation if others must be served notice.
9. Filing fee.
10. Some courts are fingerprinting the proposed guardians.
11. The clerk will assign a number to the papers. This will remain the file number and should appear on all court papers and correspondence.
12. The clerk will assign a return date that indicates when the court will review the papers. Objections to the petition, if any, should be made by this date.
13. The clerk will sign the citations and return copies of them to you. They must be served (personally delivered) at least ten days before the return date.
14. Affidavits of proof of service must be returned to the court prior to the date you are to return to court.

15. The court may appoint a guardian ad litem (attorney) for the respondent (person with developmental disability/mental retardation). Whether a guardian ad litem is appointed is a matter of court discretion and will depend on the particular situation. In addition, some courts assume the fee for the guardian ad litem and others may charge the petitioner a fee for the guardian ad litem (\$250). If the respondent resides in a facility, Mental Hygiene Legal Services will serve as the guardian ad litem

Questions to ask the clerk:

1. Who must get a citation or notice of petition?
2. How should the Affidavit of Service forms be returned to the court? (by mail or personally delivered)?
3. Do green receipt cards from certified mail need to be returned to court with the Affidavit of Service forms?
4. How will I be notified of the hearing date?
5. Who should come to the hearing?
6. Any additional personal questions...

Reminder:

The Affidavit of Service forms for the delivery of citations and notices must be brought to the court at least 3 days before the hearing date.

Hearing

1. A hearing is required in the following cases:

- a. When only one parent applies and the other parent has not consented.
 - b. When someone other than a parent applies and each parent has not consented.
 - c. When the person for whom guardianship is desired is over age 18.
 - d. In any case in the court's discretion.
2. The hearing is usually informal and held in the judge's chambers.
The following persons may be present:
- a. Person who brings the petition.
 - b. Proposed guardian.
 - c. Parents.
 - d. Judge.
 - e. Court reporter.
 - f. Guardian ad litem.
 - g. The person alleged to be developmentally disabled/mentally retarded.
 - h. Persons who have received a citation.
 - i. Any other person in the judge's discretion.
3. In order to appoint a guardian, the court must be satisfied that:
- a. the person is incapable of managing himself or herself and/or his or her affairs by reason of developmental disability/mental retardation and cannot make medical decisions, particularly end of life decisions ;
 - b. such condition is permanent in nature;
 - c. guardianship is in the best interests of the developmentally disabled/mentally retarded person.

4. The Surrogate will decide whether to grant the request for guardianship.

Decree

Decree is the formal name given to the Surrogate's decision on the guardianship petition. It is a statement signed by the Surrogate that acknowledge the facts ascertained during the proceeding, formally orders the appointment of the guardian(s), and authorizes the issuing of the Letters of Guardianship. In many counties you will be required to submit a proposed decree.

1. The decree should contain the following information:
 - a. A detailed statement of the papers filed with the clerk
 - b. A brief summary of the hearing.
 - c. A statement of the types of letters of guardianship to be issued e.g. guardian of person, of property or limited guardianship).
 - d. Any limitations or restraints on the property of developmentally disabled/mentally retarded person.
 - e. Any limitations on the authority of the guardian.
2. You may receive a copy of the decree upon request. The court will issue letters of guardianship. This is the legal form, which gives the guardian authority to act with regard to person and/or property.

IF YOU NEED ADDITIONAL HELP

Guardianship procedures can be simple. Guardianships can, however, become quite complex if contested by the person with developmental disability/mental retardation, the

guardian ad litem, MHLS, or parent or other relative. If the guardianship in which you are involved is complex, you may wish to consult an attorney. You may further wish to consult an attorney to discuss whether guardianship is necessary and to discuss benefits and drawbacks of guardianship and the various alternatives to guardianship. You may be able to consult an attorney through the Bar Association Lawyer Referral Service in your county to assess the complexity of your case and obtain an estimate of its costs.

If you are unable to fill out the required forms or follow the procedure provided, or would further like to discuss guardianship, we suggest that you obtain assistance from one of the following:

1. Protection and Advocacy Offices --

NYS Commission on Quality of Care
401 State Street
Schenectady, NY 12305
(518) 388-2887

New York Lawyers for the public Interest
151 west 30th Street, 11th floor
New York, New York 10001
(212) 244-4664

2. Surrogate's Court Clerk.

The clerks of the Surrogate's Courts will provide general information about guardianship procedures and will review the petitions and supporting papers for compliance with statutory requirements and court rules. They cannot, however, represent you, give legal advice or fill out your forms.

3. Consumer Organizations (such as The NYS ARC).

GLOSSARY

Acknowledge

To recognize the validity of a legal document in the same manner as a deed is acknowledged or proved and authenticated.

Decedent

A deceased person.

Distributees

Any person entitled to take or share in the property of a deceased person who has no will under the laws of New York State.

Domicile

A fixed, permanent and principal home to which a person, wherever temporarily located, always intends to return.

Guardian

Guardian of the person and/or guardian of the property; person to whom letters of guardianship have been issued by a court of New York.

Guardian ad Litem

An attorney appointed by the court to represent and protect the rights and interests of an infant or incapacitated person in a particular proceeding.

Incapacitated Person

Although not formally declared incompetent by a court, any person who is incapable of adequately protecting his or her rights

Letters of Guardianship

The court's official grant of power to the guardians entitling them to control and manage the property and/or the person of their ward.

Notary Public

A public official who acknowledges, attests or certifies writings to make them authentic under his official seal.

Petitioner

The person bringing the application for appointment as guardian.

Process

Citation, subpoena and any other court mandate of the Surrogate's Court by which the petitioner is given authority to request that a person come to court.

Pro Se

In his or her own behalf (without an attorney).

Return Date

The date determined by the court for the review of court papers submitted by the petitioner.

Surrogate

The judge of the Surrogate's Court.

Information on CITATIONS

Who Gets One?

If person applying is:

BOTH PARENTS

* The person with a disability
(if over age 14)

ONE PARENT

* The person with a disability
(if over age 14)

and

**Absent parent if didn't sign waiver and he/she
hasn't abandoned the disabled child**

**SOMEONE OTHER THAN
THE PARENTS**

* The person with a disability
(if over age 14)

**The parents, if didn't sign waiver
Adult siblings, if didn't sign waiver
Spouse and adult children
(if applicable) if didn't sign waiver**

**Grandparents, if have custody
of the disabled person and**

Adult children (if any)

Spouse of disabled person,

**Grandparents (if the parents
are deceased), would each sign if
they consent**

Information on WAIVER

Who Gets One?

If person applying is:

BOTH PARENTS

No waiver is needed

ONE PARENT

**Absent parent signs
if he/she consents**

**SOMEONE OTHER THAN
THE PARENTS**

The parents, if alive,

Adult siblings,

Adult children (if any)

Spouse of disabled person,

**Grandparents (if the parents
are deceased), would each sign**

Information on NOTICE

Who Gets One?

I

**If the disabled person has
ever lived in a facility
licensed by OMRDD or OMH:**

**The Director of the Facility
and
The Director of the appropriate Mental Hygiene
Legal Services Office**

II

If person applying is:

BOTH PARENTS OR ONE PARENT

**Adult Siblings, if not
involved in the procedure**

SOMEONE OTHER THAN PARENTS

**No notice is needed if the disabled
person has never lived in a facility**

**NEW YORK STATE
COMMISSION ON QUALITY OF CARE
AND ADVOCACY
FOR PERSONS WITH DISABILITIES**

401 State Street
Schenectady, New York 12305
(518) 388-2892



Revised Winter 2007

Directory of New York State Surrogate Courts

For locating court addresses and phone numbers online:

<http://www.nycourts.gov/courthelp/cfacts2.html>

County	Address	Phone	Fax
Albany County	c/o Albany Family Court 30 Clinton Avenue Albany, NY 12207	(518) 285-8585	(518) 487-5020
Allegany County	Surrogate Court 7 Court Street Belmont, NY 14813	(585) 268-5815	(716) 268-7090
Bronx County	Surrogate Court 851 Grand Concourse Bronx, NY 14813	(718) 590-3618	(718) 590-2681
Broome County	Surrogate Court 92 Court Street, Court House Binghamton, NY 13901	(607) 778-2111	(607) 778-2308
Cattaraugus County	Surrogate Court 303 Court Street Little Valley, NY 14755	(716) 938-2327	(716) 938-6983
Cayuga County	Surrogate Court 154 Genesee Street Auburn, NY 13021	(315) 255-4316	(315) 255-4324
Chautauqua County	Surrogate Court 3 North Erie Street PO Box C Mayville, NY 14757	(716) 753-4339	(716) 753-4600
Chemung County	Surrogate Court 224 Lake Street Elmira, NY 14902-0588	(607) 737-2873	(607) 737-2898
Chenango County	Surrogate Court 5 Court Street Norwich, NY 13815	(607) 337-1827	(607) 337-1834
Clinton County	Surrogate Court 137 Margaret Street, Suite 315 Plattsburgh, NY 12901	(518) 565-4630	(518) 565-4769
Columbia County	Surrogate Court 401 Union Street Hudson, NY 12534	(518) 828-0315	(518) 828-1603
Cortland County	Surrogate Court 46 Greenbush Street Cortland, NY 13045	(607) 753-5355	(607) 756-3409
Delaware County	Surrogate Court 3 Court Street Delhi, NY 13753	(607) 746-2126	(607) 746-3253
Dutchess County	Surrogate Court	(845) 486-2235	(845) 486-2234

	10 Market Street, Court House Poughkeepsie, NY 12601		
Erie County	Surrogate Court 92 Franklin Street Buffalo, NY 14202	(716) 845-2560	(716) 853-3741
Essex County	Surrogate Court 7559 Court Street PO Box 217 Elizabethtown, NY 12932	(518) 873-3384	(518) 873-3731
Franklin County	Surrogate Court 355 West Main Street Malone, NY 12953	(518) 481-1737	(518) 481-7583
Fulton County	Surrogate Court 223 West Main Street Johnstown, NY 12095	(518) 736-5685	(518) 762-6372
Genesee County	Surrogate Court 1 West Main Street Batavia, NY 14020	(585) 344-2550	(585) 349-8517
Greene County	Surrogate Court 320 Main Street Catskill, NY 12414	(518) 943-2484	(518) 943-1864
Hamilton County	Surrogate Court, Chief Clerk's Office 79 White Birch Lane. PO Box 780 Indian Lake, NY 12842	(518) 648-5411	(518) 648-6286
Herkimer County	Surrogate Court 301 N. Washington Street, 5th Floor Herkimer, NY 13350	(315) 866-1170	(315) 866-1722
Jefferson County	Surrogate Court, Jefferson Co Court 163 Arsenal Street Watertown, NY 13601	(315) 785-3019	(315) 785-5194
Kings County	Surrogate Court 2 Johnson Street Brooklyn, NY 11201	(718) 643-5262	(718) 643-6237
Lewis County	Surrogate Court 7660 N State Street Lowville, NY 13367	(315) 376-5344	(315) 376-4145
Livingston County	Surrogate Court 2 Court Street Geneseo, NY 14454	(585) 243-7095	(585) 243-7583
Madison County	Surrogate Court North Court Street Wampsville, NY 13163	(315) 366-2392	(315) 366-2539
Monroe County	Surrogate Court 99 Exchange Boulevard Rochester, NY 14614	(585) 428-5200	(585) 428-2650
Montgomery County	Surrogate Court 58 Broadway, PO Box 1500	(518) 853-8108	(518) 853-8230

	Fonda, NY 12068		
Nassau County	Surrogate Court 262 Old Country Road Mineola, NY 11501	(516) 571-2082	(516) 571-3864
New York County	Surrogate Court 31 Chambers Street New York, NY 10007	(646) 386-5000	
Niagara County	Surrogate Court 175 Hawley Street Lockport, NY 14094	(716) 439-7130	(716) 439-7319
Oneida County	Surrogate Court 800 Park Avenue Utica, NY 13501	(315) 797-9230	(315) 797-9237
Onondaga County	Surrogate Court 401 Montgomery Street Syracuse, NY 13202	(315) 671-2100	(315) 671-1162
Ontario County	Surrogate Court 27 North Main Street Canandaigua, NY 14424	(585) 396-4055	(585) 396-4576
Orange County	Surrogate Court 30 Park Place Goshen, NY 10924	(845) 291-2193	(845) 291-2196
Orleans County	Surrogate Court 3 South Main Street Albion, NY 14411	(585) 589-4457	(585) 589-0632
Oswego County	Surrogate Court 25 East Oneida Street Oswego, NY 13126	(315) 349-3295	
Otsego County	Surrogate Court 197 Main Street Cooperstown, NY 13326	(607) 547-4213	(607) 547-7566
Putnam County	Surrogate Court Historic Ct. House 44 Gleneida Avenue Carmel, NY 10512	(845) 225-3641 x 332	(845) 228-5761
Queens County	Surrogate Court 88-11 Sutphin Boulevard Jamaica, NY 11435	(718) 298-0500	(718) 520-5048
Rensselaer County	Surrogate Court 80 Second Street Troy, NY 12180	(518) 270-3724	(518) 270-5452
Richmond County	Surrogate Court 18 Richmond Terrace Staten Island, NY 10301	(718) 390-5400	(718) 390-8741
Rockland County	Surrogate Court 1 South Main Street Suite 270 New City, NY 10956	(845) 638-5330	(845) 638-5632

Saratoga County	Surrogate Court 30 McMaster Street Bldg 3 Ballston Spa, NY 12020	(518) 884-4722	(518) 884-4774
Schenectady County	Surrogate Court 612 State Street Schenectady, NY 12305	(518) 285-8455	(518) 377-6378
Schoharie County	Surrogate Court 290 Main Street Schoharie, NY 12157	(518) 295-8387	(518) 295-8451
Schuyler County	Surrogate Court 105 9th Street Watkins Glen, NY 14891	(607) 535-7760	(607) 535-4918
Seneca County	Surrogate Court 48 West Williams Street Waterloo, NY 13165	(315) 539-7531	(315) 539-3267
St. Lawrence County	Surrogate Court 48 Court Street Canton, NY 13617	(315) 379-2217	(315) 379-2372
Steuben County	Surrogate Office 13 Pulteny Square E Bath, NY 14810	(607) 776-7126	(607) 776-4987
Suffolk County	Surrogate Court 320 Center Drive Riverhead, NY 11901	(631) 852-1735	(631) 852-1414
Sullivan County	Surrogate Court 100 North Street Monticello, NY 12701	(845) 794-3000 x 3450	(845) 794-0310
Tioga County	Surrogate Court 20 Court Street PO Box 10 Owego, NY 13827	(607) 687-1303	(607) 687-3240
Tompkins County	Surrogate Court 320 North Tioga Street PO Box 70 Ithaca, NY 14851	(607) 277-0622	(607) 256-2572
Ulster County	Surrogate Court 240 Fair Street Kingston, NY 12401	(845) 340-3350	(845) 340-3352
Warren County	Surrogate Court 1340 State Route 9 Lake George, NY 12845	(518) 761-6515	(518) 761-6511
Washington County	Surrogate Court 383 Broadway Fort Edward, NY 12828	(518) 746-2545	(518) 746-2547
Wayne County	Surrogate Court 54 Broad Street Lyons, NY 14489	(315) 946-5430	(315) 946-5433
Westchester County	Surrogate Court	(914) 824-5624	(914) 995-3728

	111 Dr MLK Blvd 19th Floor White Plains, NY 10601		
Wyoming County	Surrogate Court 147 North Main Street Warsaw, NY 14569	(585) 786-3148	(585) 786-3800
Yates County	Surrogate Court 415 Liberty Street Penn Yan, NY 14527	(315) 536-5130	(315) 536-5190