

SELF-HELP PACKET:

Get an Appointment for GUARDIANSHIP/ CONSERVATORSHIP OF AN ADULT

Preparing the Court Papers (Instructions and Forms)

Appointment of Guardian/Conservator of an Adult

CHECKLIST

You may use these forms if:

- ✓ You want to have the court appoint a guardian/conservator for a adult, AND
- ✓ The adult is a member of the Tohono O'odham Nation, AND
- ✓ A copy of the Petition for Guardianship/Conservatorship is provided to the adult's parents and spouse, if any. The requirements for providing service are in the Rules of Civil Procedure, available on the website at <https://tojcnnsn.gov/rules-and-opinions/>.

An adult generally needs a GUARDIAN:

If the adult is considered an “incapacitated person.” This means any person who is impaired by reason of mental or physical illness, mental deficiency or disorder, or disability due to advanced age, chronic use of drugs, chronic intoxication, or other cause to the extent that he/she lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his/her person.

A Petitioner can also obtain an order from the Court to manage the person, his/her property, and personal business. This is called a “conservatorship.”

An adult generally needs a CONSERVATOR:

1. If the adult owns money or property or receives annual income in excess of \$10,000 that requires management or protection, which cannot be otherwise provided; and/or
2. If the adult has business affairs/assets which may be jeopardized or prevented by his or her being a adult; and/or
3. If the adult needs funds for his or her support and education and protection is necessary or desirable to obtain or provide the funds.



READ ME: Consulting a lawyer or advocate before filing documents with the Court may help prevent unexpected results. A list of lawyers or advocates you may hire to advise you on handling your own case or to perform specific tasks is available on the Judicial Branch website at <https://tojcnnsn.gov/>.

Appointment of a Guardian/Conservator for an Adult

This packet contains court forms and instructions to file for an appointment of a guardian for an adult. Items in **BOLD** are forms that you will need to file with the Court.

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How to ask the court to appoint a guardian/conservator of an adult

Use this packet if you only want to be appointed a guardian/conservator for a person over the age of 18. This packet does NOT help you with the following processes:

- Guardianship or conservatorship for persons under the age of 18 years;
- Testamentary (by will) appointment of a guardian of an adult.

Important Information:

- Follow each step carefully. Each step contains certain forms, and some of these forms have instruction sheets to help you. The whole process will likely take a couple of months from filing to final order.
- The term “guardian” will be used to include “conservator” throughout this document.

Complete the court forms:

1. Fill out all the forms in the packet completely, either by typing the information into the online form, or by handwriting using blue or black ink. “Proposed protected person,” “ward,” and “adult” all refer to the person for whom you are asking a guardian/conservator be appointed.
 - Petition for Appointment of Guardian/Conservator of an Adult. Fill out all the information carefully and notify the people entitled to receive notice about this matter.
 - If you have questions about who is entitled to notice see the Rules of Civil Procedure on Service available on the Court’s website: <https://tojcnnsn.gov/rules-and-opinions/>.
 - Signed, notarized Petition of Person to Be Appointed Guardian/Conservator. This document must be completed by each person who wants to be guardian/conservator (usually the Petitioner).
2. Make 3 copies of all the completed forms listed above. Assemble the copies so that you have 4 complete packets – one set of originals and three sets of copies. The Clerk will keep the original documents; one set of copies will be for the Petitioner’s records, and one set of copies are for serving legal notice on the proposed protected person, and one for any other interested party, such as a spouse or parent.

File the court forms:

3. File the court forms in person at the Judicial Center, or by mailing to:

Clerk of Court
Tohono O'odham Nation Judicial Center
P.O. Box 761
Sells, AZ 85634

4. Complete the Civil Cover Sheet prior to filing with the Clerk. <https://tojc-nsn.gov/forms/>
5. There is a filing fee that is due at the time you file the papers. Please pay the fee at the Court's cashier window. Payment can be made by cash, cashier's check, or money order. Personal checks are not accepted. A list of current fees is available on website at <https://tojc-nsn.gov/court-fees-and-costs/> or by calling the Court at 520-383-6300.

If you are unable to pay the filing fee, require a payment plan, or would like a deferral of the payment, file a Financial Affidavit and Request for Fee Waiver form with the Court. It is available at no charge from the Clerk of Court or on the website at <https://tojc-nsn.gov/wp-content/uploads/2023/09/Financial-Affidavit.pdf>.

6. Take the original Petition for Appointment of Guardian/Conservator of an Adult and 3 sets of copies of the following documents to the Clerk of Court, for processing.



NOTE: The Clerk will keep the originals and return your 3 copies of the documents. The Court will review your request and if appropriate, prepare a Notice of Hearing. You will be notified when the Notice of Hearing is ready to be picked up.

Give Notice:

7. You must give Legal Notice to the proposed ward and other interested parties. See the Rules of Civil Procedure for information about how to give Legal Notice. Be sure to file a proof of service document with the Court and bring a copy to the hearing. The hearing cannot move forward without proof of notice being filed.

Prepare for your hearing:

8. If you do not bring the required documents to the hearing, your hearing may be canceled and reset to another date.

You must bring the original and one copy (for the Court) of the following:

- Petitioner's Tribal, United States, or State issued identification (this is required for all Petitioners).

Need Help?

Court personnel can answer some questions about the procedures involved or what is required in the documents, but only an attorney can give you legal advice.

- You may find a lawyer or advocate who is authorized to practice in the Tohono O’odham Court by clicking on “Legal Practitioners accepting clients” at <https://tojc-nsn.gov/>.

Procedures: What to do before and after the Court Hearing for Appointment of Guardian/Conservator of an Adult

Before the court hearing

Please review the following information and take appropriate action.

1. **Language:** Do you need a court interpreter? At least 30 days before the hearing, if you need the services of a court interpreter, please call the Court at 520-383-6300.
 - Hearing record: All hearings are recorded. If you would like a copy of any hearing, send a signed copy of the form located at <https://tojcnnsn.gov/forms/https://tojcnnsn.gov/wp-content/uploads/2018/10/RequestforInformation.pdf>, to the Clerk of Court.
2. **Prepare testimony:** The Petitioner must present testimony to the court from at least one qualified physician who will submit a written report to the Court. The testimony must be enough to show the presence of the incapacitating conditions and the likelihood of the continued presence of the conditions.

Also, think about what you want to tell the Judge such as:

- why the Guardianship is needed;
- why the proposed Guardian/s should be appointed; and
- if you need other witnesses and whether a witness could help the Judge better understand the need for the guardianship.



NOTE: Ask the witness/es to come to the hearing if you think witness testimony will help your case. For physician witnesses, it is appropriate to submit a written report without the physician coming to Court.

3. **Documents:** Bring the following documents to the Court Hearing:
 - Documents, consisting of:
 - Petition for Appointment of Guardian/Conservator of an Adult
 - Petitioner's Tribal, United States, or State issued identification (this is required for all Petitioners)
 - Service of Notice Documents, consisting of:
 - Notice of Hearing
 - Proof of Notice of Hearing

- Waiver of Notice (if applicable) – signed by all interested parties
- Acceptance of Service (if applicable) – signed by interested person
- Affidavit Supporting Publication (if applicable)
- Affidavit of Publication (if applicable)



NOTE: If you do not bring the required documents to the hearing, your hearing will be canceled and reset to another date.

After the court hearing

Please review the following information and take appropriate action.



NOTE: In order to prove that the Court granted you the authority and appointed you as the legal Guardian of the adult, it is beneficial for you to obtain a certified copy of the Court order by calling the Clerk of Court at 520-383-6300.

<https://tojc-nsn.gov/court-fees-and-costs/>

1. Change of address: Always tell the Court in writing if you or the ward have a change of address.
 - **For Guardian's Change of Address:** If you have been appointed as a Guardian, you must tell Court in writing within 10 court days if your mailing address changes anytime during the term of your appointment. Your change of address notice must include the case number in which you were appointed Guardian. You must give or mail a copy to the adult and all interested parties.
 - **For Ward's Change of Address:** If you have been appointed as a Guardian, you must tell the Court in writing within 10 court days of the change of address of the ward. The change of address notice must include the case number of your Guardianship, and the ward's new address. You must also give or mail a copy to the ward and all interested parties.
 - Your written change of address notice may be personally delivered to the Court or mailed to the Court at:

Clerk of Court
 Tohono O'odham Nation Judicial Center
 P.O. Box 761
 Sells, AZ 85634



NOTE: A Guardian who fails to notify the Court of a change of address may be required to pay costs related to returned documents and may be found in contempt of Court resulting from any failure to notify the Court

2. **Annual Report:** You must file the Adult Guardianship Annual Report (available from the Clerk or on the Court's website at <https://tojcnnsn.gov/forms/>) within one year of your Appointment as Guardian.
 - Every year, at least one week before the anniversary date of your Appointment as Guardian, you must file an Annual Report with the Court.
3. **Termination:** If, at some point in time you want to terminate your Guardianship and be legally discharged as the Guardian of the Adult, you must file a Petition with the Court and give notice to all interested parties.

If the adult is emancipated by court order or dies, you must notify the Court.

1st Person Filing: _____
2nd Person Filing: _____ (if applicable)
Mailing Address: _____
City, State, Zip: _____
Email Address: _____
Telephone: _____

Representing ☐ Self without an Attorney/Advocate **OR**
☐ Attorney/Advocate for ☐ Petitioner ☐ Respondent

**THE JUDICIAL COURT OF THE TOHONO O'ODHAM NATION
CIVIL DIVISION**

In the Matter of the Guardianship: _____ Name of Person to be Protected	Case Number: _____ PETITION FOR APPOINTMENT FOR GUARDIANSHIP/CONSERVATOR OF AN ADULT
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UNDER OATH OR BY AFFIRMATION:

REQUIRED INFORMATION

1. INFORMATION ABOUT THE PETITIONER (the person filing this petition)

Name: _____
Address: _____
Telephone: _____ Date of Birth: _____

My relationship to the person to be protected is:

(examples: mother, father, sister, brother, grandparent, legal guardian)

2. **INFORMATION ABOUT THE PERSON TO BE PROTECTED** (also known as “*the proposed protected person*” or “*the ward*”)

Name: _____

Address: _____

Telephone: _____ Date of Birth: _____

3. **INFORMATION ABOUT THE PROPOSED GUARDIAN/CONSERVATOR:** (Complete this ***only*** if proposed guardian is not the Petitioner.)

Name: _____

Address: _____

Telephone: _____ Date of Birth: _____

Relationship to the person to be protected is _____

(examples: mother, father, sister, brother, grandparent, legal guardian)

The proposed guardian named above has priority for appointment because he/she is:

- ☐ (Already) A conservator or guardian of property or other acts in a similar fiduciary appointed or recognized by the appropriate court of *any other jurisdiction* in which the person to be protected resides.
- ☐ The person nominated to serve as guardian/conservator is in the protected person's most recent durable power of attorney.
- ☐ The spouse of the protected person. Or an adult child of the protected person.
- ☐ A parent of the protected person, or a person nominated by the will of a deceased parent.
- ☐ **OTHER.** Explain: _____

4. **INFORMATION ABOUT ANY OTHER APPOINTED GUARDIAN/CONSERVATOR:**

To the best of my knowledge: (Check one box.)

- ☐ No Guardian or Conservator has been appointed in any other court, and no court proceedings are pending for such appointment;

OR

Case Number: _____

- ☐ Someone *has* been appointed Guardian and/or Conservator, *or* court proceedings are pending. (If this box is checked, provide details below.)

Name: _____

Address: _____

Telephone: _____ Date of Birth: _____

Relationship to the person to be protected is:

(examples: mother, father, sister, brother, grandparent, legal guardian)

Was appointed: GUARDIAN/CONSERVATOR for the ward named in #2 above in:

Name of Court: _____

Located in

City and State: _____

Date Appointed: _____ Other Details: _____

- ☐ To my knowledge **there are no other court cases** concerning the person to be protected,

OR

- ☐ There **are** or **have been** other court cases involving the ward. (If other court cases of **any** type, including *custody* matters, describe below, including name of court, location, type of case, date.)

- ☐ Information about *additional* court cases involving the ward are listed on attachment titled "Additional Cases" made part of this document by this reference.

5. INFORMATION ABOUT NEAREST RELATIVE:

(Check one or both. If the nearest relative is neither the Petitioner nor the proposed guardian/conservator, explain.)

The nearest known relative is: ☐ the Petitioner ☐ the proposed guardian. (If not related, explain.)

Name: _____

Address: _____

Telephone: _____ Date of Birth: _____

Relationship to the person to be protected is:

(examples: mother, father, sister, brother, grandparent, legal guardian)

6. **ASSETS OF THE PROPOSED PROTECTED PERSON** ("the ward"). (Check one box.)

☐ The ward has **no** substantial assets or income.

OR

☐ The ward **has** assets and/or annual income in the approximate amount of \$ _____

List/Describe: _____

7. **REASONS FOR GUARDIAN/CONSERVATORSHIP:** The person to be protected needs a Guardian/Conservator because he or she:

To support your reasons, attach documentation to this Petition from the person's physician, social services, or other agency.

8. **REASONS PERSON CANNOT MANAGE HIS or HER PROPERTY:**

(Check all that apply.)

☐ Mental illness, mental deficiency, or mental disorder

☐ Physical Illness

☐ Disability Due to Age

☐ Substance Abuse/Chronic Intoxication

☐ Other

9. **REQUIRED STATEMENTS TO THE COURT, UNDER OATH OR AFFIRMATION:** Check the box for each TRUE statement. If any of these statements are not true, do NOT file this Petition unless you have been directed to do so by legal counsel.

☐ TRUE **Venue** (the court where you are filing this Petition) is proper because the person to be protected is Native American and lives in or is present on the Nation, or the person to be protected has assets on the Nation.

☐ TRUE I, or the person I request to be appointed in Paragraph 3, am/is a suitable and proper person to act as guardian/conservator and entitled to consideration for appointment.

10. **Court Record.**

- a. Have you ever been convicted of any crime (misdemeanor or felony)? ☐ YES ☐ NO
- b. Do you have any pending court matters, in any court, including civil cases? ☐ YES ☐ NO
- c. If you answer yes to any of the above questions, please complete the following:

<u>Date</u>	<u>City/State</u>	<u>Criminal Charge/Civil Case Type</u>	<u>Outcome</u>
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_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

PERSONS ENTITLED TO NOTICE of this matter and to whom I will give notice of this case:
(See instructions.)

	Name	Address	Relationship to the Ward
A.	_____	_____	_____
B.	_____	_____	_____
C.	_____	_____	_____
D.	_____	_____	_____
E.	_____	_____	_____
F.	_____	_____	_____
G.	_____	_____	_____
H.	_____	_____	_____

☐ Additional people (or agencies) are listed on attachment (titled “Additional Parties Entitled to Notice,” made part of this document by this reference.)

REQUESTS TO THE COURT Petitioner asks the Court to:

1. Schedule a hearing to determine if a guardianship/conservatorship is appropriate;
2. After Petitioner gives notice of the hearing to all interested parties who are entitled or required by law to receive notice, hold a hearing to determine if the Court should order a guardianship/conservatorship;
3. Make a finding that the person needs protection under law including a guardian/conservator;
4. Appoint a guardian/conservator for the proposed protected person;
5. Make any other orders the Court decides are in the best interests of the person to be protected.

VERIFICATION

I/We, _____, being duly sworn, upon my/our
oath, depose and say: Petitioner's Name(s)

That I am/we are the Petitioner(s) in the above-entitled action. I/we have read the above Petition, and know its contents. I/we have stated in this Petition what I/we believe to be true, and upon such information and belief, do affirm these statements to the best of my/our knowledge.

RESPECTFULLY SUBMITTED, this ____ day of _____, 20__

Signature Date

Signature Date

SUBSCRIBED AND SWORN to me before me this _____ day of _____ 20__

Notary Public

MY COMMISSION EXPIRES:
