

## Future Planning: Standby & Successor Guardianship

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### I. Introduction

Planning for the future is an important consideration for guardians and for family members considering petitioning for guardianship for their loved ones. Establishing a standby or successor guardian who can take over in the event of the initial guardian's temporary or permanent inability to act as guardian can make transitions easier and reduce uncertainty for the individual under guardianship, their families, and the courts.

Wisconsin's guardianship statutes provide for either a standby guardian (someone who has been pre-approved by the court to take over either temporarily or permanently if the initial guardian is unable or unwilling to act) or a successor guardian (someone who can take over if the initial guardian is unable or unwilling to act, and no standby has been appointed or is available).

### II. Standby vs. successor guardians

Under Wis. Stat. § 54.52, a standby guardian's appointment is immediately effective upon the death, unwillingness or inability to act, resignation, or court removal of the initial guardian. A standby guardian can also take over temporarily if the initial guardian is unable to perform their duties due to an extended vacation or illness. The standby guardian will have the same powers and duties as the initial guardian.

The initial guardianship petition allows the petitioner to propose a standby guardian, but they can also be added later. Adding a standby guardian later requires a hearing to ensure that the guardian is fit to serve and appropriate for the ward. The ward has all the same rights as at any other hearing relating to their guardianship.

Successor guardianship is governed by Wis. Stat. § 54.54. If the initially appointed guardian dies, is removed by court order, or resigns and no standby guardian is in place, any interested person may file a petition to be a successor guardian. The court may also appoint a suitable person on its own motion, with or without a hearing. If the court appoints the successor without a hearing, the ward and any other interested person may petition for reconsideration.

### III. How is a standby guardian appointed in an existing guardianship?

If a standby guardian wasn't appointed in the initial guardianship petition or if a new standby is proposed, a petition to appoint one can be filed at any time. Standard court forms are available for



the process. These are the forms typically required:

- GN-3435: Petition for Appointment of Standby/Successor (with hearing)
- GN-3140: Statement of Acts and Consent to Serve as Guardian (to be completed by proposed standby/successor, must be notarized)
- GN-3120: Affidavit of Service
- GN-3121: Certificate of Service
- GF-131A: Appointment of Guardian ad Litem
- GN-101: Notice and Order for Hearing

If the current guardian would like to step down, they may also complete GN-3400, “Resignation of Guardian or Conservator.”

Court procedure can vary from county to county; check with the register in probate to see if any additional forms may be needed. Court forms are available from the [state courts website](#).

The probate office will schedule a hearing and return the Notice and Order to the petitioner. The Notice and the petition must be served on interested persons. Most interested persons can receive notice by mail; the ward must be served in person by someone other than the petitioner. The Affidavit of Service is completed by the individual or individuals who serve interested persons, whether by personal service or by mail. The Certificate of Service is completed by whoever serves the ward.

#### IV. How does a standby guardian take over?

When the initial guardian is unable or unwilling to act, either temporarily or permanently, the standby guardian must notify the court that they will be assuming the duties of the guardian; standard form GN-3220, “Notification to Court of Assumption of Duties of Standby Guardian,” may be used for this purpose. The court will issue letters of guardianship to the standby guardian specifying the duration of the standby’s authority. If the appointment of the standby is permanent, the initial guardian or their personal representative must provide a final accounting to the court, the ward, and the new guardian, per Wis. Stat. § 54.66(1).

**QUESTIONS? Call the Wisconsin Guardianship Support Center at 1-855-409-9410 or email at [guardian@gwaar.org](mailto:guardian@gwaar.org).**

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