

INFORMATION/CHECKLIST YOU NEED TO KNOW WHEN FILING A PETITION TO DECLARE SOMEONE DISABLED FOR APPOINTMENT OF A GUARDIAN/CONSERVATOR.

TERMS

Petitioner: The person who files the Petition to determine if an individual is disabled.

Respondent: The person whose ability to make appropriate decisions concerning care for themselves and/or their property may be affected.

1. The Person against whom a Petition to determine if disabled is filed is referred to as the Respondent. His or her rights are legally protected and the law requires a trial a six (6) person jury to determine the nature and extent of the disability, if any.
2. The case will be heard in District Court.
3. The Marshall County Attorney's Office may, upon request, present the case to the jury. A private attorney may be hired by the petitioner to present the case.
4. Unless the Respondent has an attorney who enters an appearance within seven days, an attorney will be appointed by the court to represent the Respondent. See below regarding fees.
5. The person who is disabled must generally be physically residing in the county where the action is being filed unless away because of an emergency.
6. A Jury trial must be held within sixty (60) days of filing a petition. The court may extend this if necessary.
7. The law requires that an "interdisciplinary team" evaluate the disabled person. This team consists of a certified psychologist, certified social worker, and a medical doctor. Each professional is to evaluate the respondent. It is the Petitioner's responsibility to arrange these appointments, get the respondent to the appointment, and in most cases, pay for these services out of the respondent's resources, if possible. The Petitioners must provide the name and address of the medical doctor to the County Attorney's Office.

Before the matter can be tried, all three professionals must submit reports to the Court stating the nature and extent of the disability, if any. Within 10 days of filing the report, **THE FORMS WILL BE SENT TO THE PROFESSIONALS BY DISTRICT COURT.** Thereafter, the Petitioner can begin scheduling the appointments. The sooner the reports are done and filed, the better. Arrangements for all evaluations must be made by the Petitioner.

Physician: This is generally the medical doctor who would be best informed about the Respondent's overall health and condition. Before listing a doctor, you may wish to call the office and make sure that the Doctor is willing to complete the evaluation. (The Statute will not allow a nurse practitioner or physician's assistant to perform the evaluation.)

Psychologist: Marshall County does not have a certified psychologist in its mental health facility. For the psychological evaluation, we are contracted with 4 Rivers Behavioral Health located at 1538 Cuba Road, Mayfield, KY 42066 (270) 251-2924.

Social Worker: Cabinet for Health and Family Services located at 206 North 8th Street, Paducah, KY 42001 (Sherrie Langston, CHFS Adult Guardianship Services, 270-575-7105) is available to serve as evaluator for the social worker. The social worker will generally contact the petitioner to set up the evaluation. This is normally done at the respondent's place of residence.

THE EVALUATION REPORTS MUST BE FILED WITH THE DISTRICT COURT TEN (10) DAYS BEFORE THE JURY TRIAL DATE. DO NOT DELAY IN MAKING THIS APPOINTMENT.

WHO MUST BE GIVEN NOTICE: (The Petitioner must supply all names and addresses)

1. Respondent – at least 48 hours before the Hearing if seeking an emergency appointment.
2. Spouse, if any
3. All living children or, if a child is deceased but have surviving children, those children, Respondent's grandchildren.
4. If no children, then Respondent's parents and/or brothers and sisters.
5. Anyone holding a power of attorney
6. Anyone appointed as a healthcare surrogate.
7. Anyone with legal custody.

8. **Emergency Appointments are only available upon filing a separate Petition. Petitioner must provide a detailed doctor statement relating that an emergency exists and the factual basis for the need.** The District Judge can only grant emergency guardianships after a court hearing, if supported by the evidence. Emergency appointments usually require a danger of serious impairment to the health or safety to the Respondent or his property if immediate action is not taken.

9. Below are a list of costs associated with a guardianship proceeding:

A. Filing Fee \$53.50 payable to Marshall District Court *Payable the day the Petition is filed.
Service Fee \$50.00 payable to Marshall County Sheriff at District Court. *Sheriff MUST serve each Respondent.

B. Attorney for the Respondent

--Attorney represents the Respondent only

--Hire a private counsel or the Court will appoint Counsel. If Respondent meets certain requirements and is without the ability to pay, the fee can be paid by the county. (Financial information must be provided) In some cases, the fees may be advanced subject to repayment in installments. **You should talk with the attorney concerning potential fees.** Note: If a Petition is filed in bad faith and/or without merit, the Petitioner can be required to pay the fees and costs.

C. Professional fees for Evaluation

--Medical Doctor (fee as charged by physician)(may be covered by insurance/Medicare)

--Social Worker (generally no charge)

--Psychologist (\$350.00 min.) If the Respondent is able to pay, he/she must do so. In some cases, the fee may be advanced subject to repayment. If determined by the Court to be indigent, the County will pay but this will require proof of inability to pay.

D. Bond & Recording Fees

--If the disabled person is appointed a guardian/conservator, there is a \$25.00 bond fee *payable to Marshall District Court at the time the guardian is appointed and a \$13.00 recording fee *payable to Marshall County Court Clerk at Marshall District Court.

Poor person: In some instances, if the Respondent is a poor person, as provide by statute, the Court can waive certain fees and costs. This is based upon the Respondent's overall financial position and any one legally obligated to support the Respondent.

10. If the Respondent is found to be disabled or partially disabled, the Court will appoint a Guardian, a Limited Guardian, a Conservator or a Limited Conservator. The Court will outline the duties, authority and limits on this person or persons and they are required to file regular reports about the person's well-being and finances which are reviewed by the Court. Anyone can seek appointment by filing an application. The Petitioner is not automatically appointed.

11. **Reporting assets, property, income and debts.** The Court will require detailed information about the Respondent's overall financial circumstances. To the extent that the Petitioner has a legal right to access this information, he/she should begin obtaining this information.

Date: _____

Petitioner

Person Explaining Process

MARSHALL COUNTY DISABILITY INFORMATION FORM

Pursuant to KRS 387, the law requires the following information. This form must be completed in full with all required fields of information before a petition for guardianship can be filed/processed. **IT IS YOUR RESPONSIBILITY** to obtain this information before meeting with the Marshall County Attorney's office to file paperwork. Items 1, 2, 3 and 4 are needed **IMMEDIATELY**. Other items may be necessary if emergency action is taken or if the Respondent is found to be disabled and a guardian appointed.

READ THE INFORMATION SHEET IN ITS ENTIRETY PRIOR TO COMPLETING THIS FORM.

Respondent: person to be determined disabled
Petitioner: person filing the petition for guardianship

1.) Full legal name of person to be determined if DISABLED (Respondent)

_____ D.O.B. _____

_____ State _____ Zip _____
Address (permanent residence)

Phone _____
How long has he/she lived at this address? _____ (If less than six months, please list prior address.)

2.) Name/Address of hospital/nursing home/treatment facility or other facility having custody:

(Facility Name)

How long has respondent resided in this facility? _____

3.) Reason(s) that you are filing Petition. Please list in as much detail as possible.
Describe disability/problems/treatment:

4.) Family Physician/Primary Care Doctor for Respondent

(Physician Name)

_____ State _____ Zip _____
Address

Date last seen by physician: _____

Do you have a written report from the physician? Yes No

7.) Does Respondent have the following: (*Bring a copy)

Power of Attorney* NO YES WHO: _____

Health Care* NO YES

Surrogate*/

Living Will*

Regular Attorney NO YES WHO: _____

8.) Asset Information:

Does Respondent own or have an interest in:

Real Estate/Land NO YES

Type and Address: _____
(Residence, farm, Rental)

Co-Owner: _____

Current P.V.A. Value \$ _____

Name and Address _____

Co-Owner: _____

Current P.V.A. Value \$ _____

Name and Address _____

Co-Owner: _____

Current P.V.A. Value \$ _____

Personal Property
Savings Account, Checking
C.D., Vehicles, Boats, I.R.A.,
Etc.

Description and Location _____

\$ _____ FMV

11.) Person (Petitioner) requesting guardianship proceedings:

NAME	RELATIONSHIP	DOB/AGE	PHONE	ADDRESS

12.) Are there any other individuals known to you that would also be interested in/want to file to be the guardian/conservator? NO YES

NAME	RELATIONSHIP (IF NOT LISTED ABOVE)	PHONE	ADDRESS

13.) Does respondent have sufficient assets/income to pay for medical/psychological assessments?
 NO YES

14.) Does respondent have medical insurance coverage?
 NO YES

COMPANY NAME	ACCOUNT NUMBER	COMPANY ADDRESS

15.) Is Respondent a Veteran? NO YES

If yes, does Respondent receive any service-related benefits? NO YES

16.) Is Respondent currently obligated to any of the following? Bank Loan Mortgage
 Second Mortgage/line of credit Credit Card