

Foreign Guardianship Procedure

Foreign guardianship cases are when a guardianship case is being received from another State. The Wisconsin Statutes which pertain to foreign guardianships are 54.30(2) to 54.46.

The statute was established after the Jane E. P. case which was a Grant Co Dept of Social Services v Unified Board of Grant and Iowa Co's in 2005. However, this case has been superseded by Chapter 54.

The court doesn't have jurisdiction if the petitioner fails to serve notice; or The foreign court fails to provide certifications and copies within 30 days after receipt of notice or to give indications of compliance within a reasonable period of time. §54.38(1) (b)

Before a foreign guardianship is filed, a \$250 guardian ad litem deposit is due to the Probate office. This will cover the initial deposit for the guardian ad litem. If the final billing is less than the deposit, a refund will be issued to the petitioner. If there is a bill remaining, the petitioner is responsible for the charges.

When the petitioner is ready to file the documents extra copies should be made before filing. The petitioner will need several extra copies to serve on the ward, foreign court and all interested parties including a guardian ad litem. Copies can be made in the probate office at the statutory fee of \$1.00 per page.

The process to file a foreign guardianship:

1. Petition (GN-3800)

The petition can be filed by anyone in the county in which the foreign ward resides or intends to reside. The petitioner may first want to contact the foreign court to arrange for the information and record to be transferred to Marathon County.

2. Appointment of GAL (GF-131)

The guardian ad litem will be responsible for drafting a report for the court, which will need to be filed prior to any hearing or signing of the transfer order.

3. Notice

§54.38(1m) says “notice shall be delivered...” It does not require that the court order notice.

Notice of petition (GN-3810)
Served on the ward by petitioner

Notice of petition (GN-3840)
Served on the interested persons by petitioner

Notice is served on foreign court (GN-3820) by petitioner

4. Affidavit of Service (GN-3120)

Petitioner files an affidavit of service showing that the petition and notice had been served on the ward, interest persons and foreign court.

5. Certification on Request to Transfer Guardianship to Wisconsin (GN-3830)

The foreign court should provide this information within 30 days. If the foreign court doesn't provide the information, then Wisconsin Court doesn't have jurisdiction. If this document is signed and returned, the court signs and takes over as an administration case without a hearing.

If someone is objecting to the guardianship being filed in Marathon County, then the case proceeds as follows:

6. Motion for stay of proceeding (GN-3860)

The party objecting to the transfer will file the Motion for stay along with the hearing notice which will be served on all parties.

7. Motion for Hearing on Petition to Transfer Guardianship to Wisconsin/Notice of Hearing (GN-3850)

A hearing would need to be held if requested by the ward, court or interested person within 30 days of service of the notice and petition. If a hearing is requested, it must be held within 90 days.

At the hearing, the petitioner must be present unless excused or appears by phone. The ward would need to be present unless GAL waives his or her presence. If the ward wishes to attend but is unable to, the hearing must be moved to the ward.

8. Affidavit of Service (GN-3120).

This document must be filed with Marathon County Court prior to the hearing showing that the parties were given notice of the objection and hearing date.

9. Order on Motion for Stay of Proceeding on Request to Transfer Guardianship to Wisconsin (GN-3870)

Extra copies should be provided to the Court so conformed authenticated copies can be returned to the person objecting to the transfer.

10. Affidavit of Service (GN-3120)

This document must be filed showing that all interested parties received a copy of the Order on Motion for Stay of Proceeding on Request to Transfer Guardianship to Wisconsin.

The hearing would be rescheduled and notice would be mailed to all parties by the court.

11. Order on Petition for Receipt and Acceptance of Foreign Guardianship to Transfer Guardianship to Wisconsin (GN-3880).

At the time of the hearing the Judge would complete and sign the order. If this is an administration transfer without objection, the Judge would sign the order after 30 days or upon receipt of the foreign courts certification.

The new foreign guardianship does not have Wisconsin letters which would need to be issued to the guardian. As a work around, the petitioner should also file a Petition for Appointment of Successor Guardian (without hearing) so they can request new letters be issued.

12. Petition for Appointment of Successor Guardian (without hearing) GN-3410.

This document should be filed with Marathon County once signed by the guardian before a notary public.

13. Order for Appointment of Successor Guardian (without hearing) GN-3420.

This form should be completed and provided to the Circuit Court Judge for his or her signature. The Circuit Court Judge may require a signature bond be signed if there is a guardian of the estate.

14. Letters of Guardianship of the Person (GN-3200)

These letters should be completed and forwarded to the Circuit Court Judge along with the Order for Appointment of Successor Guardian.

15. Letters of Guardianship of the Estate (GN-3210)

These letters should be completed and forwarded to the Circuit Court Judge along with the Order for Appointment of Successor Guardian.

16. Notice of Appointment of Successor Guardian (GN-3430)

Once you have been appointed as successor guardian, you will need to provide a copy of the Notice of Appointment of Successor Guardian to the ward and all interested persons.