IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

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| Register in Chancery  Kent County  38 The Green, Ste. 208  Dover, DE 19901  302-735-1930 | Register in Chancery  New Castle County  500 N. King Street, Ste. 11600  Wilmington, DE 19801  302-255-0544 | Register in Chancery  Sussex County  34 The Circle  Georgetown, DE 19947  302-856-5775 |

**Procedures for filing a Petition to Terminate Guardianship for**

**Substitute Decision Making**

* The petition to terminate requires the following:
* A complete petition. The court clerk cannot complete the petition for you. The guardian(s) will need to have their signature(s) notarized. If you appear in the Register’s Office with identification and the correct paperwork, your signature(s) can be notarized by a court clerk in the Register’s Office.
* An affidavit. An affidavit is required specifying the means of substitute decision making to be used. The form is not included with this packet.
* Consent. A consent is required from the individual responsible for utilizing the substitute decision making. The form is not included with this packet.
* Final accounting. If the guardian(s) is/are required to file accountings, a final accounting may be required before the guardian(s) is/are released from their fiduciary duty or bond.
* The filing fee for the petition is $15.00. We accept cash, check or money order (made payable to “Register in Chancery”). It is the petitioner’s responsibility to provide the Court with photocopies of all supporting documentation. If the Register in Chancery’s office makes photocopies for you, we will charge a $1.50 per page fee. When submitting your petition, it must be on regular 8.5 x 11 paper that can be easily scanned onto the computer and it must be one-sided.
* Once the petition is filed, the Court may appoint an attorney *ad litem* to represent the best interest of the person with a disability and file a report with the Court. A hearing may be scheduled after the attorney files his/her report. The cost of the attorney *ad litem*, usually around $750, may be charged to the person with a disability.
* The petitioner(s) is/are responsible for obtaining consents from the interested parties or sending notice of the petition to the interested parties by regular U.S. mail. Please review the enclosed instruction sheet for additional instructions on notifying the interested parties.
* Information can be found online on the following alternatives:
* Surrogate Decision Making <https://delcode.delaware.gov/title16/c025/index.shtml>
* Supported Decision Making <https://www.dhss.delaware.gov/dhss/dsaapd/supported_decision_making.html>

*Form CM73*

*Rev. 10/2020*

**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

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| IN THE MATTER OF:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,  a person with a disability | :  :  :  : | C.M. # \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**Petition to Terminate Guardianship for Substitute Decision Making**

1. Name of person filing the petition: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
2. Name of guardian(s): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
3. Date guardian(s) was/were appointed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
4. Rule 180-C provides that if a guardianship is no longer necessary due to the availability of other measures, and such measures are in the best interest of the person with a disability, the matter may be administratively closed without prejudice.
5. The guardianship should be terminated for the following reason(s):

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Please attach a separate sheet if necessary.

1. The names and addresses of any interested parties including the next-of-kin who would be entitled to inherit through the estate of the person with a disability if that person died intestate.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name of**  **interested party** | **Relationship to person with a disability** | **Address and phone number**  **of interested party** | **Age** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
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1. The guardian(s) was/were relieved of the requirement of filing annual accountings **or** the guardian(s) shall file a final accounting within thirty days of the guardianship being terminated.

WHEREFORE, Petitioner(s) respectfully requests that this Court:

1. Appoint an attorney *ad litem* to represent the best interests of the person with a disability and to file a report with his/her recommendations.
2. Terminate the guardianship of the person and/or property of the person with a disability.
3. Any financial assets titled in the name of the guardianship be retitled to the name of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [Name of person with a disability] alone subsequent to the termination of the guardianship.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Co-Petitioner Signature of Petitioner

(If Applicable)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address Address

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Phone number Phone number

STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ :

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ :

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_\_ by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [Name of affiant].

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public/Chancery Court Clerk

**INSTRUCTIONS FOR NOTIFYING INTERESTED PARTY(IES) OF PETITION TO TERMINATE GUARDIAN IN FAVOR OF SUBSTITUTE DECISION MAKING**

It is the petitioner’s(s’) responsibility to notify the interested party(ies) when a petition to terminate is filed with the Court. This includes notifying all of the parties you listed on the petition.

Each interested party may sign and have notarized a copy of the attached “Consent to Petition”. If any interested party does not sign the form, you must send via U.S. regular mail a copy of the completed “Notice of Petition” and a copy of the petition to all interested parties who did not sign a consent form.

You must file the following documents with the Court:

* 1. Any and all notarized consent forms and
  2. The attached “Affidavit of Mailing” for any notices mailed to individuals who did not sign a consent form.

Any interested party who has not signed a notarized consent must receive notice of your petition by U.S. regular mail at least thirteen (13) days before the Court will consider your petition. This ensures that all interested parties have adequate time to contact the Court with any questions they may have or file any objection to the petition.

If you do not know the address for an interested party, you must make every attempt to locate the address and file the enclosed affidavit of efforts to locate address of interested party with the Register’s Office.

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

|  |  |  |
| --- | --- | --- |
| IN THE MATTER OF:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,  a person with a disability | :  :  :  : | C.M. # \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**INTERESTED PARTY’S CONSENT TO THE**

**PETITION TO TERMINATE GUARDIANSHIP**

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [Name of interested party], whose relationship to the person with a disability is that of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (i.e. mother, brother), hereby consent to the termination of the guardianship of the person with a disability in favor of substitute decision making.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Interested Party’s signature

Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Phone Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ :

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ :

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_\_ by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [Name of affiant].

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public/Chancery Court Clerk

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

|  |  |  |
| --- | --- | --- |
| IN THE MATTER OF:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,  A person with a disability | :  :  :  : | C.M. # \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**AFFIDAVIT OF MAILING**

I/We hereby certify that on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_\_\_\_, I/we did send via U.S. Mail a copy of the Petition to Terminate Guardianship for Substitute Decision Making to the following individuals:

|  |  |
| --- | --- |
| Name | Address |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Guardian Co-Guardian

STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ :

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ :

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_\_ by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [Name of affiant].

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public/Chancery Court Clerk

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

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| Register in Chancery  Kent County  38 The Green, Ste. 208  Dover, DE 19901  302-735-1930 | Register in Chancery  New Castle County  500 N. King Street, Ste. 11600  Wilmington, DE 19801  302-255-0544 | | | Register in Chancery  Sussex County  34 The Circle  Georgetown, DE 19947  302-856-5775 | |
| IN THE MATTER OF:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,  A person with a disability | | | :  :  :  : | C.M. # \_\_\_\_\_\_\_\_\_\_\_\_\_ | |

**NOTICE OF PETITION TO TERMINATE GUARDIANSHIP**

Dear Interested Party:

This is a notice that I am/we are petitioning to terminate the guardianship of the person with a disability in favor of substitute decision making. If you object to the petition, you must immediately contact the Register in Chancery’s Office that has been marked above within thirteen days of the date of this notice.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Petitioner’s Signature Co-Petitioner’s Signature

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

|  |  |  |
| --- | --- | --- |
| IN THE MATTER OF:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,  A person with an alleged disability | :  :  :  : | C.M. # \_\_\_\_\_\_\_\_\_\_\_\_\_ |

**AFFIDAVIT OF EFFORTS TO LOCATE**

**ADDRESS OF INTERESTED PARTY**

I/We, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, petitioner(s) in the above matter, hereby confirm that I/We have been unable, after exercising reasonable diligence, to locate an address for interested party, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [Name of interested party or missing person], in order to provide that interested party with notice of the filing of the guardianship petition and the hearing to be held in this matter.

My/Our last contact with \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [Name of interested party or missing person] was on or around \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [month/year] and to the best of my/our knowledge, the last contact he/she had with the person with an alleged disability was on or around \_\_\_\_\_\_\_\_\_\_\_\_\_[month/year].

My/Our efforts have included the following [please check all that apply]:

performing an internet search for the address of the interested party;

asking other interested parties if they know of the missing person’s current whereabouts;

messaging the missing person through electronic means;

Other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

If I/We subsequently locate the missing interested party, I/We will notify the Court of his/her address.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Petitioner Co-Petitioner

STATE OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ :

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ :

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_\_ by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ [Name of affiant].

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public/Chancery Court Clerk