GUIDELINES FOR FILING A GUARDIANSHIP AND/OR CONSERVATORSHIP

You can request a copy of the Winnebago Tribal Code's Guardianship and Conservatorship Code, which is located in Title 18 of the Winnebago Tribal Code, from the Tribal Court. You should review that Code prior to filing your Petition.

REQUEST A GUARDIANSHIP IF – You are only looking for legal decision-making power for the Ward, and not for authority to spend the money of or handle the property of the Ward.

REQUEST A CONSERVATORSHIP IF – You are only looking for the authority to spend the money of or handle the property of the Ward, and not for legal decision-making power for the Ward.

REQUEST BOTH A GUARDIANSHIP AND CONSERVATORSHIP IF – You are looking for legal decision-making power for the Ward and for the authority to spend the money of or handle the property of the Ward, and not for legal decision-making power for the Ward.

In the Petition, you can ask for an EMERGENCY order which will be considered before any hearing is held, and would be based solely on the information you put in to the Petition. You can also ask for a TEMPORARY order which would be considered before a final hearing, but after the Ward is given notice that you have requested a Guardianship and/or a Conservatorship.

At the final hearing, the judge will decide if you should be awarded what you are asking for in your Petition. If there is anyone that disagrees with what you are asking for (including the Ward), you must be prepared to present witnesses and evidence to show why you should get what you are asking for.

If you are appointed as a Guardian and/or a Conservator, you will have reports you will need to file from time to time. The Court will give you forms to fill out for your reports. If you do not file these reports when required, you could be removed from your position.

If you have any questions, you should consult an attorney to help you.

IN THE WINNEBAGO TRIBAL COURT

IN RE GUARDIANSHIP AND CONSERVATORSHIP OF	)	CASE # _____
	)	
	)	**PETITION FOR GUARDIANSHIP AND CONSERVATORSHIP (ADULT)**
_____	)	
Alleged Ward	)	

Pursuant to Title 18 of the WINNEBAGO TRIBAL CODE, I am requesting a guardianship, conservatorship, or both, and state under oath and penalty of perjury the following:

1) Information about the person over whom the guardianship or conservatorship (the "Ward") is being requested:

Name: _____
Date of Birth: _____
Is the Ward a member of the Winnebago Tribe? Yes / No
Is the Ward eligible to be a member of the Winnebago Tribe? Yes / No
Physical address of the Ward: _____
P.O. Box address of the Ward: _____
Persons with whom Ward is currently residing: _____
Name of the Ward's Spouse: _____
Address of the Ward's Spouse: _____
Name of the Ward's Adult Children: _____
Address of the Ward's Adult Children: _____
Name of the Ward's closest adult relative, if no spouse or children: _____
Address of the Ward's closest adult relative: _____
Name of any person having principal care and custody of the Ward within 60 days before filing of this Petition (if different): _____
Address of person listed above: _____

2) Information about person requesting the guardianship or conservatorship (the "Petitioner"):

Name: _____
Mailing Address: _____
Relationship to the Ward: _____
I am a member of the Winnebago Tribe: Yes / No
I am eligible to be member of the Winnebago Tribe: Yes / No
I reside within the Winnebago Indian Reservation: Yes / No

3) I am asking to be appointed as the Ward's:
( ) Guardian, meaning authority to make legal decisions for the Ward.
( ) Conservator, meaning authority to control the finances of the Ward.
( ) Both Guardian and Conservator.

4) For the Court to enter an order of Guardianship over an adult, the Petitioner must show that the Ward is a person whose decision-making capacity is so impaired that the person is unable to care for the person's personal safety or to attend to or provide for necessities if the person such as food, shelter, clothing, or medical care, without which physical injury or illness might occur. For the Court to enter an order of Conservatorship, the Petitioner must show that the Alleged Ward is a person whose decision-making capacity is so impaired that the person is unable to make, communicate, or carry out important decisions concerning the person's financial affairs. The following detailed facts show why it would be in the best interest of the Ward listed above that a guardianship and/or conservatorship order be entered:

_____

_____

_____

_____

_____

_____

_____

5) I am providing the following information required by Title 18:

A) I have been convicted of a felony in any jurisdiction: Yes / No

B) I have acted as guardian or conservator in any jurisdiction for any person within three years of the filing of the petition in this matter: Yes / No

C) I have reviewed and have a working knowledge of the powers and duties imposed upon a guardian and/or a conservator, as applicable. Yes / No

D) I have acted in a fiduciary capacity pursuant to a power-of-attorney for any person in any jurisdiction within three years of the filing of this Petition: Yes / No

E) I have been listed in an elder abuse or sex offender registry in any jurisdiction at any time, or any enterprise in which I have an interest has ever been listed in an elder abuse or sex offender registry in any jurisdiction at any time: Yes / No

F) I have been appointed as guardian or conservator for any person within three years prior to the filing of this Petition, and I have failed to file any Report of Guardian or Conservator in any jurisdiction later than three months after the report was due: Yes / No

G) I have ever been removed as a guardian or conservator for any person in any jurisdiction at any time: Yes / No

H) I have ever received anything of value exceeding a total of $100 in any one year, by gift, devise, or bequest from any individual, or estate of an individual, to whom I am not related by

blood or marriage, and for whom the enterprise or myself served at any time as guardian, conservator, trustee, or attorney-in-fact: Yes / No

I) I have been named as a personal representative, trustee, or other type of beneficiary of any individual to whom I am not related by blood or marriage and for whom I served as guardian, conservator, trustee, or attorney-in-fact: Yes / No

J) I have an interest in any enterprise providing housing, health care, or comfort care services to any individual: Yes / No

6) If I answered "Yes" to any of the questions listed in Paragraph 5 above, a full description of the reasons for the "Yes" answer is below:

_____

_____

_____

_____

_____

_____

_____

_____

7) *This section is to be completed only if requesting a conservatorship order*:

Estimated present value of Alleged Ward's real estate: _____

Estimated value of Alleged Ward's personal property: _____

Estimated gross annual income of Alleged Ward: _____

Total amount of money payable to the Alleged Ward by any third party, entity, or agency of the Winnebago Tribe of Nebraska tribal government, or federal, or state government, if any: _____

8) I ( ) am / ( ) am not requesting a emergency guardianship and/or conservatorship order to be immediately entered in the above matter. I believe an emergency guardianship and or conservatorship, to be entered without hearing and notice to any party, is necessary for the following reasons:

_____

_____

_____

_____

_____

_____

9) I ( ) am / ( ) am not requesting a temporary guardianship and/or conservatorship order to be entered in the above matter, prior to a final hearing, but not before notice to all parties and a hearing is held. I believe an temporary guardianship and/or conservatorship is necessary for the following reasons:

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

10) I ( ) am / ( ) am not requested to be compensated as Guardian and/or Conservator from the assets of the Ward.

11) I understand that if appointed as guardian and/or conservator, I will be required to file reports regarding the Ward on a regular basis. Failing to file those reports could result in me being removed as guardian and/or conservator. I further understand that if I steal, divert, or grossly abuse the funds or property of the Ward, I could be subject to civil sanctions including a penalty of up to $5,000 in addition to being required to reimburse the funds or property taken.

_____ _____
Signature of Petitioner Date

Subscribed to and sworn before me this _____ day of _____, 20_____.

S E A L

_____
Notary Public

IN THE WINNEBAGO TRIBAL COURT

IN RE GUARDIANSHIP AND CONSERVATORSHIP OF	)	CASE # _____
	)	
	)	**ACCEPTANCE OF GUARDIANSHIP**
_____	)	
Ward	)	

Pursuant to WINNEBAGO TRIBAL CODE §18-217, I hereby state under penalty of perjury that I am the Petitioner in the above-captioned matter, that I have requested to be appointed as guardian for the above-listed Ward and that, if appointed on a temporary or permanent basis, that I will faithfully discharge the duties imposed by law on me according to the best of my ability.

_____ _____

Signature of Petitioner Date

Subscribed to and sworn before me this _____ day of _____, 20_____.

S E A L _____

Notary Public