

This is a tier 2 case.

Name

Address

City, State, Zip

Phone

Email

I am ☐ Petitioner

☐ Petitioner's Attorney

(Utah Bar #: _____)

If you do not respond to this document within applicable time limits, judgment could be entered against you as requested.

Check your email. You will receive information and documents at this email address.

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

In the Matter of Protection for

Respondent

Petition to Appoint a Guardian for an Adult - Severe Intellectual Disability
(Utah Code 75-5-604)

☐ **Attorney for the respondent requested**

☐ **Court visitor requested**

Case Number

Judge

1. The alleged incapacitated person in a guardianship case is the respondent. I ask the court to appoint a guardian for _____. (name of respondent)

Information about the respondent.

Address

City, State, Zip

Phone

Email

Date of Birth

2. I ask the court to appoint as guardian: (select all that apply)

☐ Me, the petitioner in this matter.

☐ A co-guardian _____. (name)

☐ Another person or institution _____. (name)

Information about the proposed guardian.

Proposed guardian's relationship to the respondent

Proposed co-guardian's relationship to the respondent, if applicable

Address

Address

City, State, Zip

City, State, Zip

Phone

Phone

Email

Email

Date of Birth

Date of Birth

Choice of Guardian

3. Utah law gives a list of people who have priority to be the guardian for a respondent. The proposed guardian listed above should be appointed because they are the: (Choose all that apply.)

☐ parent of the respondent (Utah Code 75-5-610)

☐ adult sibling of the respondent

☐ grandparent of the respondent

☐ adult relative of the respondent with whom the respondent has resided for more than six months before the filing of the petition

☐ one of the closest adult relatives of the respondent

☐ specialized care professional who does not profit financially or otherwise from or receive compensation for acting as guardian, except for the direct costs of

providing guardianship services, and does not otherwise have a conflict of interest in providing those services.

☐ competent person or suitable institution

☐ Office of Public Guardian

☐ Other: _____(describe)

4. Has any other person (other than the proposed guardian) been nominated to serve as guardian for the respondent?

☐ No.

☐ Yes. _____ (name) has been nominated to be the guardian. The nomination was made by: (Choose all that apply.)

☐ the respondent's spouse;

☐ the respondent's parent;

☐ the respondent's caregiver.

5. The court should appoint the proposed guardian because: (choose one)

☐ the proposed guardian is highest in priority by Utah law (see paragraph 3 above).

☐ there are good reasons not to follow the priority list: (explain)

6. Are there any other guardianship or conservatorship orders or pending cases about the respondent?

☐ No.

☐ Yes. Describe any pending cases:

7. Has Adult Protective Services received a referral about the respondent or about the proposed guardian or conservator? (Utah Code 75-5-605)

[] No.

[] Yes. Describe:

Severe Intellectual Disability

Utah law states that an adult with a severe intellectual disability means an adult who has: (Utah Code 75-5-601)

- Lifelong functional limitations to the extent that the adult is incapacitated
- Received a diagnosis from a physician or psychologist of a severe intellectual disability that has existed since the adult was a minor.

8. The respondent's severe intellectual disability is shown by the following lifelong functional limitations: (Describe examples of the respondent's inabilities and functional limitations, so that, even with appropriate help, they are unable to meet the essential requirements for financial protection or physical health, safety, or self-care.)

9. The respondent's severe intellectual disability is proved by the following clear and convincing evidence:

[] a diagnosis from a physician or psychologist of a severe intellectual disability

AND

[] the following documents: (Attach supporting documents to support the things listed under paragraph 8, including statements of any witnesses who are familiar with the respondent and evaluations of respondent's physician or other evaluator.)

Guardianship

10. What alternatives to guardianship have been tried and why are they not adequate to protect the respondent?

(Examples of alternatives to guardianship include power of attorney, appointing a social security representative payee, creating a living trust, special needs trust, appointing a health care agent, completing an advanced health care directive)

11. Utah law prefers a full guardianship for a respondent with a severe intellectual disability. (Utah Code 75-5-609)

The respondent needs a guardian with the power **to make decisions** about the respondent's: (choose all that apply)

- ☐ physical health and medical needs, treatment, and services.
- ☐ mental health and mental health counseling, treatment and services.
- ☐ living situation and residence.
- ☐ care, comfort, and maintenance.
- ☐ training and education.
- ☐ clothing, furniture, vehicles, and other personal effects.

The respondent needs a guardian with the power to **perform the following duties**: (choose all that apply)

- ☐ commence protective proceedings if the property needs protection.
- ☐ give consent necessary to enable the respondent to receive medical or other professional care, counsel, treatment, or service.
- ☐ _____ (name) should be notified if the respondent receives significant health care or treatment.
- ☐ institute proceedings to compel a person to perform their duty to support the respondent;
- ☐ receive money and tangible property deliverable to the respondent and apply the money and property for the respondent's support, care, and education;
- ☐ Other: (Describe additional authority that the guardian should have.)

Respondent Rights

12. Utah law states that the respondent must have a lawyer to represent them in a guardianship proceeding. The respondent has the right to choose their own lawyer. If they do not choose a lawyer, the court will appoint one for them.

The respondent: (Choose one)

- ☐ chose _____ (name) as the lawyer to represent them in this proceeding. (Utah Code 75-5-606(1)(a)).
- ☐ has not chosen a lawyer and needs the court to appoint one. **I am filing a Request to Appoint an Attorney form with this petition.**
- ☐ has not chosen a lawyer and I am asking the court to waive the attorney requirement. Utah law states an attorney for the respondent may only be waived if **all** the following items are met:
- The respondent is the child, grandchild, or sibling of the petitioner,
 - The value of the respondent's entire estate does not exceed \$2,000,
 - The respondent attends the hearing,
 - The respondent is given the opportunity to communicate, to the extent possible, at the hearing, and
 - The court decides an attorney is not needed in order to protect the interests of the person.

13. Utah law states that the respondent must be present at the hearing or hear all evidence. If the respondent is unable to come to the hearing, the court will order an investigation by a court visitor. (Utah Code 75-5-607)

The respondent:

- ☐ is able to attend the hearing by phone or video.
- ☐ is able to attend the hearing in a courthouse.

OR

- ☐ is not able to attend the hearing with or without accommodations and a Court Visitor needs to be appointed to investigate. **I am filing a Request to Appoint a Court Visitor form with this petition.** The respondent is unable to attend the hearing because: (explain)
-
-

Respondent Finances

14. An asset is a resource, item, or property that a person owns. The estimated value of the respondent's assets is:

General Description	Estimated Value	Unknown
Home and other real estate	\$	[]
Bank accounts	\$	[]
Investments (example: money market, retirement accounts, mutual funds)	\$	[]
Personal property (example: vehicles, jewelry, furniture, electronics, other)	\$	[]
Other (example ABLE account)	\$	[]
Total	\$	[]

15. Income is money received on a recurring basis, such as monthly. The estimated monthly income the respondent receives from all sources is:

General Description	Estimated Value	Unknown
Wages or pension	\$	[]
Social Security Income (SSI)	\$	[]
Rental Income Received	\$	[]
Dividends, annuities, or other earned interest	\$	[]
Inheritance or trust funds	\$	[]
Other	\$	[]
Total	\$	[]

Request to the Court

16. I ask the court to:

- schedule a hearing on this petition;
- give notice as required by Utah Code Section 75-5-605;
- enter an order declaring the respondent to be an incapacitated person with a severe intellectual disability;

- appoint the people listed in paragraph 2 as guardians with the authority requested in paragraph 11;
- allow the guardian to serve without bond, or with bond as ordered by the court;
- issue a Letter of Guardianship to the guardian describing the guardian's authority.

17. The court has jurisdiction under Utah Code 75-5-604.
18. The court has venue because the respondent lives or is present in the county listed at the top of this form, or the respondent is admitted to an institution by an order of this court.
19. I will send a copy of this petition and a notice of hearing to all the people listed on the **People Who Must be Notified in Guardianship and Conservatorship Proceeding** form by the method listed on that form.

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

Date

Signature ► _____

Printed Name _____