



## ADULT GUARDIANSHIP PACKET

MIAMI TRIBE OF OKLAHOMA DISTRICT COURT

The forms in this packet are prepared for your use as a guide or as the actual document you will file when seeking guardianship of an adult. Please read the instructions carefully before completing the forms.

Remember that the Court Clerks cannot accept petitions that do not conform to the instructions in this packet. Should you need assistance in preparing the petition, you must consult an attorney at your own expense or your local legal aid. The Court Clerks are prohibited by Ethical Code and Court Rules to provide legal advice and in helping parties complete or prepare court documents. Court Clerks cannot advise you on how to proceed or what forms may be necessary in specific situations.

Read all the instructions before completing forms to ensure that you qualify to file a petition in the Miami Tribe of Oklahoma District Court. In order to file in the Miami Tribe of District Court, you, the Petitioner, must be an enrolled member of the Miami Tribe.

### PACKET CONTAINS

- INSTRUCTION SHEET
- CONTACT INFORMATION SHEET
- PETITION FOR APPOINTMENT OF A GUARDIAN
- CONSENT TO JURISDICTION
- ENTRY OF APPEARANCE AND WAIVER

#### Court Clerk's Office Hours:

8:00 AM – 4:30 pm (closed 12:00 pm – 1:00 pm) Monday – Thursday

8:00 AM – 3:00 pm (closed 12:00 pm – 1:00 pm) Friday

Closed on all Federal holidays

#### Court Clerk's Office Mailing Address:

P.O. Box 1326

Miami, Oklahoma 74355-0970

#### Court Clerk's Office Contact Information:

Email: [mlankford@miamination.com](mailto:mlankford@miamination.com)

Phone: (918) 541-1456

Fax: (918) 512-7929

These standard instructions are informational purposes only and do not constitute legal advice about your case. If you do not understand this information, please contact an attorney.

1. Petition for Appointment of a Guardian MUST be signed in front of the Court Clerk or a Notary Public when you are ready to file.
2. COMPLETE FORMS
  - Contact Information Sheet
  - Petition for Appointment of a Guardian (required)
  - Consent to Jurisdiction (If Petitioner is non-Indian)
  - Entry of Appearance and Waiver (if there are relatives who waive their guardianship rights)

**NOTE: All required fields MUST be filled in, if the field does not apply to you then insert 'N/A'. Blanks WILL NOT be accepted. Forms MUST be legible and completed using blue or black ink.**

3. OBTAIN COPIES OF REQUIRED DOCUMENTS. (This is the YOUR responsibility)
  - Tribal Enrollment Verification(s)
  - ID(s)
  - Birth Certificate for adult incapacitated
  - Medical Documents
4. FILING FEE

A Filing Fee of \$35.00 MUST be paid at the time of filing your petition. Filing Fees MUST be made in the form of a Cashiers' Check or Money Order made payable to "Miami Tribe of Oklahoma District Court" or cash in the exact amount. The Court does not keep cash on hand to make change.
5. Submit original Petition for Appointment of a Guardian, other completed forms and all required documents for the Court file. The Court Clerk will provide you one copy of the petition for your own records.
6. If all forms, documents and filing fees are not submitted at the time of filing, it will be returned to you, until you obtain ALL required forms, documents and filing fees for filing.

## COMMON LEGAL TERMS

**Alleged Incapacitated Person (AIP)** - The alleged incapacitated person (or AIP) is the individual over whom the petitioner(s) is/are seeking guardianship.

**Full Guardianship** - Full guardianship is a “complete in every respect” type of guardianship in which the guardian is able to exercise all rights and powers of the incapacitated person in terms of the area of responsibility he or she is granted, including the right to make medical decisions or financial decisions on behalf of the incapacitated person.

**Guardian** - A guardian is an individual appointed by the court with authority over the person and/or the estate of an adjudicated incapacitated person. A guardian may have general or limited authority.

**Incapacity** - Inability to govern oneself and/or to manage one’s affairs. Incapacity may be general (as to all areas) or limited (as to specific areas only).

**Incapacitated Person** - An individual adjudicated by the Court as unable to govern himself or herself and/or unable to manage his or her affairs. Also known as a protected person or ward.

**Petitioner**- is the person who filed the Petition for Appointment of Guardian.

**Proof of Service** - Proof of Service is documentation showing that parties actually received the papers that you sent to them. Service is established for all parties other than the alleged incapacitated person by a certification that the documents were sent by regular mail and certified mail, and the regular mail was not returned to you. If the signed return receipt (green cards) are received, these may be attached to the certification of service. As to the alleged incapacitated person, you must file a certification stating that he or she was personally served.

**Respondent**- is the person answering the Petition (if any).

**Service** - Delivery of papers in a legally appropriate way. For example, notice of a petition for guardianship is served upon the alleged incapacitated person by personal service, meaning that copies of the papers are personally delivered.

## WHAT HAPPENS AFTER A PETITION IS FILED?

1. After receiving the petition, the Clerk or Judge's office will issue a Notice of the Petition for Guardianship, Scheduling Order, and a Summons.

The Notice will inform interested parties (the Petitioner, Alleged Incapacitated Person, and their relative(s) identified under #4 of the Petition) of the guardianship proceeding.

The Scheduling Order will identify the deadline for when an interested party must respond to the Petition (if he or she wants to respond) and specify the date and time of the hearing.

The Summons will order the parties to appear before the Court for the hearing.

2. The Clerk of Court will ensure that the parties are served with the Notice of the Petition for Guardianship, the Scheduling Order, the Summons, and the Petition. The Clerk will also execute an Affidavit of Service.
3. If the AIP or a relative wants to respond to the Petition in writing, they must file their response with the Court by the deadline established in the Scheduling Order. No response is required. An interested party can respond to the Petition at the hearing.
4. The Petitioner must appear at the hearing and should be prepared to present evidence as to why the Guardianship is necessary and in the AIP's best interest. Other preparation includes:
  - a. Be prepared to present evidence of why the guardianship is needed.
  - b. Be prepared to show the court that the Proposed Guardian is a fit and proper person to serve as a guardian.
  - c. Be prepared respond to any opposition presented by the AIP or their relatives.
  - d. Discuss the Petition and Proposed Guardian with the AIP's loved ones/relatives and, if possible, get their support.
5. Likewise, the AIP and/or their relatives must appear at the hearing if they want their views heard. A relative or AIP who does not agree with the Petition should be prepared to present evidence as to why the Guardianship is not necessary and in the AIP's best interests. A relative who agrees with the Petition may submit the Entry of Appearance and Waiver.
6. If the Court decides that the guardianship is necessary and in the AIP's best interests, the Judge will issue a formal order appoints a guardian and governs the guardianship.

**CONTACT INFORMATION SHEET**

To ensure that the Miami Tribe of Oklahoma has the most current contact information on file, please complete this form and return it with your Petition. Please keep our office updated on any changes that may occur to this information sheet.

**PETITIONER #1 INFORMATION**

Name: Last: \_\_\_\_\_ First: \_\_\_\_\_ Middle: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Contact Number: \_\_\_\_\_ Alternate Number: \_\_\_\_\_  
Email: \_\_\_\_\_  
Tribal Affiliation: \_\_\_\_\_

**ATTORNEY**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Contact Number: \_\_\_\_\_ Email: \_\_\_\_\_

**PETITIONER #2 INFORMATION**

Name: Last: \_\_\_\_\_ First: \_\_\_\_\_ Middle: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Contact Number: \_\_\_\_\_ Alternate Number: \_\_\_\_\_  
Email: \_\_\_\_\_  
Tribal Affiliation: \_\_\_\_\_

**ATTORNEY**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Contact Number: \_\_\_\_\_ Email: \_\_\_\_\_

**INCAPACATED ADULT'S INFORMATION**

Name: Last: \_\_\_\_\_ First: \_\_\_\_\_ Middle: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Contact Number: \_\_\_\_\_ Alternate Number: \_\_\_\_\_  
Email: \_\_\_\_\_  
Tribal Affiliation: \_\_\_\_\_

**ATTORNEY**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Contact Number: \_\_\_\_\_ Email: \_\_\_\_\_

**IN THE DISTRICT COURT FOR THE MIAMI TRIBE OF OKLAHOMA**

**IN THE MATTER OF THE GUARDIANSHIP OF:**

**CASE NO.: PG-**\_\_\_\_\_

\_\_\_\_\_  
**An Adult.**

**PETITION FOR APPOINTMENT OF A GUARDIAN**

Petitioner, Proposed Guardian(s) (“Petitioner”), petition this Court for the appointment as the guardian(s) of the person and estate of Alleged Incapacitated Individual. In support of the Petition, Petitioner shows the Court:

**1. JURISDICTION**

This Court has jurisdiction over this matter for the reasons set forth.

- a. The above-named adult is a member of or is eligible for enrollment in the Miami Tribe of Oklahoma. Enrollment number \_\_\_\_\_. (*proof of enrollment attached*)

**2. INFORMATION ABOUT THE PETITIONER(S)**

The Petitioner(s) are:

- There is only one Petitioner
- Married to each other
- Other (Describe Relationship): \_\_\_\_\_
- Reside as common law spouses
- Are not married to each other

\_\_\_\_\_  
The Petitioner(s) are the \_\_\_\_\_ of the adult and;  
(Relationship to adult)

- a. Petitioner is an enrolled member of the Miami Tribe of Oklahoma and proof of enrollment is attached or,
- b. Petitioner is not an enrolled member of the Miami Tribe of Oklahoma and has willingly signed the Consent to Jurisdiction to participate in the proceedings and is affirmatively willingly submitting to the jurisdiction of the Miami Tribe of Oklahoma District Court.
- c. Petitioner has not filed bankruptcy within the past seven (7) years.
- d. Petitioner has not committed a felony and is not under any Order to register as a Sex Offender.

**3. INFORMATION ABOUT ALLEGED INCAPACITATED INDIVIDUAL**

The Adult is:

Age: \_\_\_\_\_  Male  Female Date of Birth: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

Marital Status:  Single  Married  Divorced  Separated  Widowed

Current Address: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  
City State Zip

Currently residing with: \_\_\_\_\_

Relationship: \_\_\_\_\_ Duration: \_\_\_\_\_

a. The adult is in need of a guardian because he/she lacks sufficient understanding or capacity to make or communicate informed decisions concerning his/her person due to: *(medical document's attached)*

- Mental illness
- Physical illness or disability
- Physical illness or disability
- Chronic intoxication
- Mental deficiency

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

b. The adult receives money from \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ per month.

c. The following are specific facts about the adult's condition and specific examples of the adult's recent conduct that demonstrate the need for the appointment of a guardian:

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**4. RELATIVES**

The following information relates to the adult’s closest blood relatives whom are entitled to notice of the filing of this Petition:

No other entitled relative(s)

Name	Address	Relation

**5. REAL PERSONAL PROPERTY** (land, home, property held in trust, or any title held by the adult including property held in common with others or joint tenancies):

Adult does not own any real property.

Real Property Address	Tax Parcel Number	Present Value

Other (specify): \_\_\_\_\_

**6. PERSONAL PROPERTY** (possessions, assets, or business interests of any kind) (check one):

Adult does not own any personal property.

**List Property** (includes vehicles, pensions/retirement, insurance, bank accounts, furniture, businesses, etc. Do not list more than the last four digits of any account number)

List Property	Present Value

Other (specify): \_\_\_\_\_





**THEREFORE**, the Petitioner(s) respectfully requests an Order appointing Petitioner(s) as the Legal Guardian of the above-named adult.

I have read the Petition for Appointment of Guardian and the statements are true, accurate, and complete to the best of my knowledge and belief.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Signature of Petitioner

\_\_\_\_\_  
Signature of Petitioner

*Subscribed to and sworn to before me on this \_\_\_\_ day  
of \_\_\_\_\_, 20\_\_.*

\_\_\_\_\_  
*Notary Public*

Optional:

**NOMINATION BY THE ALLEGED INCAPACITATED INDIVIDUAL**

In the event the court finds that I require a guardian, I nominate:

\_\_\_\_\_  
Address: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  
City State Zip

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Allegedly Incapacitated Person

**IN THE DISTRICT COURT FOR THE MIAMI TRIBE OF OKLAHOMA**

**IN THE MATTER OF THE GUARDIANSHIP OF:**

**CASE NO.: PG-\_\_\_\_\_**

**An Adult.**

**CONSENT TO JURISDICTION**

I, \_\_\_\_\_, hereby expressly recognizes that the benefit sought or presently enjoyed from the Miami Tribe of Oklahoma regarding the above-named matter is a privilege and a benefit to the undersigned and not a property interest or matter of right. In consideration of, and as a condition precedent to, the grant, issuance or continued enjoyment of this privilege and benefit, regardless of whether the undersigned is of Indian or non-Indian blood, descent or legal character, I hereby stipulate and agree that jurisdiction over all matters and disputes arising out of the exercise of such a benefit and privilege shall vest in the Miami Tribe of Oklahoma District Court. I further stipulate to be bound by all Miami Tribe of Oklahoma laws governing such benefits, privileges and activities. I further expressly waive all future rights to contest the jurisdiction of the Courts of Miami Tribe over the above-named matter.

Signed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

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

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Court Clerk

IN THE DISTRICT COURT FOR THE MIAMI TRIBE OF OKLAHOMA

IN THE MATTER OF THE GUARDIANSHIP OF:

CASE NO.: PG-\_\_\_\_\_

\_\_\_\_\_  
An Adult.

ENTRY OF APPEARANCE AND WAIVER

COMES NOW, \_\_\_\_\_, the undersigned relative of the above-named adult and enters a voluntary appearance in this cause and submits to the jurisdiction of the Miami Tribe of Oklahoma, do hereby waive my rights to said appointment in favor of \_\_\_\_\_, Petitioner herein, and I respectfully pray that the Court will appoint Petitioner, as guardian over the above listed person and estate. Should I have objected to said appointment of the Petitioner, I am aware that I had the right to file an answer to said petition and appear in Court to make my objections known and that I waive that right.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Signature  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email: \_\_\_\_\_

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

My Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
Notary

\_\_\_\_\_  
Court Clerk