

Missing Persons – Guidelines for a Guardian

Reporting

Guardians and caregivers are mandatory reporters under [NDCC §50-25.2-03](#) and must report conditions or circumstances that reasonably would result in abuse or neglect. Even if the guardian assumes that a long-term care facility or other party has reported the person missing, the guardian is still required to report to protective services. The North Dakota Bureau of Criminal Investigation states that “missing persons” includes a person who disappears under circumstances where they may be considered at risk. Particular care is exercised in instances where the missing person may be insufficiently prepared to take care of himself or herself. See their [missing person policy](#) for more information.

Provide a copy of your Letters and be open in discussing the person’s abilities, both cognitive and physical, with the following agencies:

1) Report to **Police Department/Sheriff’s Office**

Should be done **immediately**. The statute for Missing Person Reports, [NDCC §12-68](#), states that law enforcement must not refuse to accept a report even if the person under guardianship has been missing for only a short time, or when foul play is not indicated.

- a) Give them a picture of the person along with a physical description and ID numbers, as well as a current list of their prescriptions.
- b) Give the police all known contacts of the person, and let them know of possible places you think the person may be drawn.
- c) Request a Silver Alert.
- d) Ask them to ping the cell phone if the person has one.
- e) The law enforcement agency will enter all of the information into federal and state-wide databases.

2) Report to **Protective Services** or appropriate investigative agency:

These contacts should be made immediately if the person has run away, absconded from treatment or a locked facility, has wandered away and is now lost, or any situation where the person’s location is unknown and is likely to be at risk.

- a) Vulnerable Adult Protective Services can send the description to community partners, facilities, etc. where the person may turn up for assistance:
<https://fw2.harmonyis.net/NDLiveIntake/>.
- b) If the person has a developmental disability diagnosis, then Protection & Advocacy is the appropriate agency to contact: 701-328-2950.
- c) Consider if other states’ protective services agencies should be notified.

3) Contact **Hospitals/Emergency Rooms**

Persons under guardianship may seek these services and institutions should be contacted in the communities to which the person may be drawn.

Other Contacts to Consider

The following contacts should be made at the guardian's discretion, when circumstances indicate that the person not be located immediately. Share your Letters and physical description of the person, but **do not share** confidential information with these groups. Give them your direct contact information.

- 1) Service providers in the community, starting with the Human Service Zone staff – they will flag the person's file.
 - a) Call emergency/homeless shelters in areas where the person may be drawn.
 - b) Consider Regional Human Service Center and county eligibility employees.
 - c) Notify the person's pharmacy if appropriate; it may be important to know if they have or have not filled critical medications.
 - d) Consider other agencies that you think the person may contact.
- 2) Consider other parties such as legal representatives, family, or care providers.
 - a) The person may contact them, or they may have ideas of where to search.
 - b) Representative payees, conservators, and powers of attorney for healthcare should be informed of the situation.
- 3) Contact the person's landlord; they will work with you on preserving the person's belongings and may help watch for the person. There may be lease provisions to review.

Guardianship, Estate, and Benefit Protections

- 1) Secure the person's personal belongings.
 - a) Work with the court on disposing of belongings.
 - b) Consider use of storage or returning items to family. Consult [NDCC §47-30.2](#) regarding reporting of unclaimed property if appropriate.
- 2) Work with fiduciaries and financial benefit providers on suspending benefits and returning funds if necessary. The Social Security Administration and the Veterans Administration require guardians to notify them **as soon as possible**.
 - a) The person will retain eligibility, but monthly stipends may be suspended.
 - b) The agencies or county eligibility workers will help determine whether or not to pay the following month's rent and other bills.

- 3) Report to the Court within 90 days.
 - a) Depending on the person's history, the court may have a hearing to consider termination of the guardianship.
 - b) Include information on whether or not the search efforts have been exhausted. There are fillable forms available on the self-help site: www.ndcourts.gov.

- 4) Other:
 - a) Guardianship fees should be reasonable and commensurate with services provided. If no services are provided, no fee should be charged even if the case is not yet terminated.
 - b) Guardians are required to safeguard the person's rights and may intervene only if necessary for the safety of the person under guardianship, [NDCC §30.1-28-12\(5\)](#) paragraphs (b) and (c).) Consider this guidance when making decisions for people that may have relocated to a different city or state.

Instructions for Notice of Missing/Absent Ward

IMPORTANT! READ BEFORE USING THESE FORMS AND INSTRUCTIONS

ND Legal Self Help Center staff and court employees can't help you fill out forms.

If you're unsure how to proceed, or need legal advice or legal representation, consult a lawyer licensed to practice in North Dakota.

To protect your rights, carefully read this information and any instructions to which you're referred.

When you represent yourself, you're expected to know and follow the law, including:

- State or federal laws that apply to your case;
- Case law, also called court opinions, that applies to your case; and
- Court rules that apply to your case, which may include:
 - North Dakota Rules of Civil Procedure;
 - North Dakota Rules of Court;
 - North Dakota Rules of Evidence;
 - North Dakota Administrative Rules and Orders; and
 - Any local court rules.

Links to the state laws, case law, and court rules can be found at www.ndcourts.gov.

When you represent yourself, you're held to the same requirements and responsibilities as a lawyer, even if you don't understand the rules or procedures. If you're unsure if these forms and instructions suit your circumstances, consult a lawyer.

- If you would like to learn more about finding a lawyer to represent you, go to www.ndcourts.gov/legal-self-help/finding-a-lawyer.

A glossary with definitions of legal terms is available at www.ndcourts.gov/legal-self-help.

These instructions and forms aren't a complete statement of the law. They cover the basic procedure for a Guardian to give notice to a North Dakota state district court when a Ward is missing or absent. There's no guarantee that all judges and courts will accept forms available through the ND Legal Self Help Center. The Center isn't responsible for any consequences that may result from the forms or information provided.

Use at your own risk.

Don't include these instructions when you serve or file the completed forms.

Purpose

These forms may be used by a current Guardian to give notice to the North Dakota State District Court when a Ward is missing or absent.

This set of forms also includes a form to give notice to the North Dakota State District Court when a Ward is recovered.

If you're a Guardian representing yourself, you complete and sign the forms. The forms are filed with the North Dakota State District Court that current has authority over the guardianship.

If you're unsure how to proceed or unsure if these forms are suitable for your situation, consult an attorney.

Read "Missing Wards – Guidelines for a Guardian"

BEFORE completing the forms packet, read "Missing Wards – Guidelines for a Guardian" prepared by the Office of the State Court Administrator. This document is included at the beginning of this forms packet.

This document provides helpful guidelines and suggestions that you, the Guardian, may find useful.

Forms to Give Notice of the Missing/Absent Ward

The forms to give notice to the North Dakota State District Court that the Ward is missing or absent are:

- Form 1: Notice of Missing/Absent Ward;
- Form 2: Order Regarding Missing/Absent Ward (Proposed);
- Form 4: Declaration of Service by Hand Delivery; and
- Form 5: Declaration of Service by Mail.

Forms to Give Notice When the Missing/Absent Ward is Recovered

The forms to give notice to the North Dakota State Court when the missing or absent Ward is recovered are:

- Form 3: Notice of Recovery of Missing/Absent Ward;
- Form 4: Declaration of Service by Hand Delivery; and
- Form 5: Declaration of Service by Mail.

Steps to Give Notice of the Missing/Absent Ward

When the Ward is missing or absent, complete these steps to give notice to the North Dakota State District Court that currently has authority over the guardianship.

Step 1: You, the Guardian, Prepare Form 1 and Form 2

Form 1: Notice of Missing/Absent Ward

- **Top of Form (Caption)**
 - Enter the county and district court names.
 - Fill in legal name of the ward.
 - Enter the case number from your Letters of Guardianship.
- **Complete Paragraphs 1 through 8 of the Form**
- **Date and Signature**
 - Date and sign the form.
 - Complete the lines following the signature line.

Form 2: Order Regarding Missing/Absent Ward (Proposed)

This is your proposed Order Regarding Missing/Absent Ward. The Judge or Judicial Referee assigned to the guardianship case will ultimately decide whether or not to use this document.

- **Top of Form (Caption)**
 - Fill in the Caption exactly as the Caption for Form 1: Notice of Missing/Absent Ward.
- **Leave the Rest of the Form Blank**
 - If the Judge or Judicial Referee uses this form as the Judge's or Judicial Referee's order, they will complete and sign the form.

(This space left intentionally blank.)

Step 2: You, the Guardian, Arrange for Service of Completed Forms

Before the North Dakota State District Court can act on your Notice, the ward and all interested persons designated in the order appointing you as Guardian must receive a copy of each of the following completed forms and any supporting documents you plan to file:

Form 1: Notice of Missing/Absent Ward; and

Form 2: Order Regarding Missing/Absent Ward (Proposed).

Copies may be hand-delivered, **or** mailed by first class, postage prepaid.

Before the court can act on your Notice, you must provide proof that copies of the completed documents were hand-delivered or mailed to the ward and all interested persons.

An affidavit of service gives the court proof that copies were provided.

Two affidavit of service forms are included in this forms packet.

Form 4: Declaration of Service by Hand Delivery

- Checkmark (✓) ONLY the first and second documents in Paragraph 4.

Form 5: Declaration of Service by Mail

- Checkmark (✓) ONLY the first and second documents in Paragraph 2.

If you arrange to have the copies served hand-delivered, the individual who hand-delivers the copies completes **Form 4: Declaration of Service by Hand Delivery**.

If you arrange to have the copies served by mail, the individual who takes the envelopes to the United States Post Office and pays the first-class postage completes **Form 5: Declaration of Service by Mail**.

For more information about service of documents and blank affidavit of service forms, go to www.ndcourts.gov/legal-self-help and scroll to the “District Court Civil” section. Click on “Service Instructions and Forms” and review the information and forms in the “Service After a Civil Action Has Started” section.

Step 3: File the Original, Completed Forms with the Clerk of Court

File the original, completed **Form 1: Notice of Missing/Absent Ward**, **Form 2: Order Regarding Missing/Absent Ward (Proposed)**, any supporting documentation, and the declaration(s) of service with the clerk of court of the North Dakota State District Court that currently has jurisdiction of the guardianship.

Steps to Give Notice the Ward is Recovered

When the missing or absent Ward is recovered, complete these steps to give notice of the recovery to the North Dakota State District Court that currently has authority over the guardianship.

Step 1: You, the Guardian, Prepare Form 3

Form 3: Notice of Recovery of Missing/Absent Ward

- **Top of Form (Caption)**
 - Enter the county and district court names.
 - Fill in legal name of the ward.
 - Enter the case number from your Letters of Guardianship.
- **Complete Paragraphs 1 through 7 of the Form**
- **Date and Signature**
 - Date and sign the form.
 - Complete the lines following the signature line.

Step 2: You, the Guardian, Arrange for Service of Completed Form 3

Before the North Dakota State District Court can act on your Notice of Recovery, the ward and all interested persons designated in the order appointing you as Guardian must receive a copy of each of the following completed form and any supporting documents you plan to file:

Form 3: Notice of Recovery of Missing/Absent Ward.

Copies may be hand-delivered, **or** mailed by first class, postage prepaid.

Before the court can act on your Notice of Recovery, you must provide proof that copies of the completed document were hand-delivered or mailed to the ward and all interested persons.

An affidavit of service gives the court proof that copies were provided.

Two affidavit of service forms are included in this forms packet.

Form 4: Declaration of Service by Hand Delivery

- Checkmark (✓) ONLY the third document in Paragraph 4.

Form 5: Declaration of Service by Mail

- Checkmark (✓) ONLY the third document in Paragraph 2.

If you arrange to have the copies served hand-delivered, the individual who hand-delivers the copies completes **Form 4: Declaration of Service by Hand Delivery**.

If you arrange to have the copies served by mail, the individual who takes the envelopes to the United States Post Office and pays the first-class postage completes **Form 5: Declaration of Service by Mail**.

For more information about service of documents and blank affidavit of service forms, go to www.ndcourts.gov/legal-self-help and scroll to the “District Court Civil” section. Click on “Service Instructions and Forms” and review the information and forms in the “Service After a Civil Action Has Started” section.

Step 3: File the Original, Completed Form 3 with the Clerk of Court

File the original, completed **Form 3: Notice of Recovery of Missing/Absent Ward**, any supporting documentation, and the declaration(s) of service with the clerk of court of the North Dakota State District Court that currently has jurisdiction of the guardianship.

Don't include these instructions when you serve or file the completed forms.

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE MATTER OF THE GUARDIANSHIP OF

_____.

Case No. _____

NOTICE OF MISSING/ABSENT WARD

1. My name is _____.

2. My address is _____

_____.

3. On _____ (date), I was appointed the Guardian for the above-named Ward.

4. This is a notice to the Court that the Ward has been missing/absent since _____
_____ (date). This is what happened (explain):

5. These are the steps I've taken to find the Ward (*explain*):

6. (*Choose one*)

I am confident I will locate the Ward within _____ (*timeframe*)

because (*explain*):

I am not confident I can locate the ward because (*explain*):

7. (Choose one)

I have reported this to the proper investigative agency.

I **have not** reported this to an investigative agency because (*explain*):

8. I will provide a copy of this Notice of Missing/Absent Ward to the people entitled to notice under Chapter 30.1-28 of the North Dakota Century Code (N.D.C.C.) and file proof of service of this Notice with the Court.

Dated _____

Signature of Guardian

Printed Name of Guardian

Address

City, State, Zip Code

Telephone Number(s): _____

Email Address: _____

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE MATTER OF THE GUARDIANSHIP OF

_____.

Case No. _____

ORDER REGARDING MISSING/ABSENT WARD

FINDINGS

1. The Guardian filed a Notice of Missing/Absent Ward in this guardianship.
2. The court has taken the Notice into consideration.
3. Based on the Notice that was filed, the Court orders:

ORDER

4. The Court hereby orders as follows (*select all that apply*):

The Guardian will be allowed additional time to locate the Ward. The Guardian will file a report with the Court by _____, indicating whether the Ward has been located.

The guardianship shall be terminated because (*explain*):

A warrant will be issued for (*explain*):

An order for pick-up will be issued (*explain*):

A review hearing is scheduled for _____ at
_____ am/pm to determine whether the guardianship should continue.

BY THE COURT:

Judge of District Court

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE MATTER OF THE GUARDIANSHIP OF

_____.

Case No. _____

NOTICE OF RECOVERY OF MISSING/ABSENT WARD

1. My name is _____.

2. My address is _____

_____.

3. I am the Guardian of the above-named Ward.

4. On _____ (date), I filed notice with this Court that the
Ward was missing/absent since _____ (date).

5. This is a notice to the Court that the Ward was recovered on _____

(date). This is what happened (*explain*):

6. The Ward's current condition is as follows (*describe relevant health, financial, etc. status of Ward*):

7. I will provide a copy of this Notice of Recovery of Missing/Absent Ward to the people entitled to notice under Chapter 30.1-28 of the North Dakota Century Code (N.D.C.C.) and file proof of service of this Notice with the Court.

Dated _____

Signature of Guardian

Printed Name of Guardian

Address

City, State, Zip Code

Telephone Number(s): _____

Email Address: _____

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

JUDICIAL DISTRICT

IN THE MATTER OF THE GUARDIANSHIP OF

Case No. _____

DECLARATION OF SERVICE BY HAND DELIVERY

(A separate affidavit is required for each person served.)

The person serving court documents by hand delivery states:

1. My name is _____ *(person who served documents by hand delivery)*. I am at least 18 years of age. **I am not a party or interested in the above named matter.**

2. **Service by Hand Delivery:**

I served a true and correct copy of each of the court documents listed in Paragraph 4 to

_____ *(name of person served)* by *(choose one)*:

Giving the court documents directly to him/her.

Leaving the court documents with: _____

(name), a person of suitable age and discretion who lives at the same address.

I know the person I served is the person intended to be served because: *(explain how you*

identified the person) _____

3. **Date, Time, and Address of Service by Hand Delivery:**

Date: _____ Time: _____ a.m. *(or)* p.m.

Address:

_____ *(street address)*

_____ *(city)*

_____ *(zip code)*

4. **List of Court Documents Served** (put a ✓ in the box next to each document(s) served):

- Notice of Missing/Absent Ward
- Order Regarding Missing/Absent Ward (Proposed)
- Notice of Recovery of Missing/Absent Ward

5. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Declaration of Service by Hand Delivery is true and correct.

Signed on _____ (Date) in _____ (County),
_____ (State), _____ (Country).

Signature

Printed Name

Address

City, State, Zip Code

Telephone Number: _____

Email Address: _____

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

IN THE MATTER OF THE GUARDIANSHIP OF

_____.

Case No. _____

DECLARATION OF SERVICE BY MAIL

(May serve multiple persons ONLY IF envelopes are mailed same day from same Post Office.)

The person serving court documents by mail states:

1. My name is: _____ *(person who mailed documents)*. I am at least 18 years of age.

2. **List of Court Documents Served** *(put a ✓ in the box next to each document(s) served):*

- Notice of Missing/Absent Ward
- Order Regarding Missing/Absent Ward (Proposed)
- Notice of Recovery of Missing/Absent Ward

3. **Service by Mail:**

I served a true and correct copy of each of the court documents listed in Paragraph 2 by mailing them, enclosed in an envelope, by First-Class mail, postage prepaid, and by depositing them in the United States Mail, directed to each person listed in Paragraph 5.

4. **Date and Post Office Location of Service by Mail:**

Date Court Documents Were Served by Mail: _____

United States Post Office Location:

(city)

(county)

(state)

5. **Person or Persons Served by Mail:**

1. Name of Person Served: _____

Mailing Address: _____

City, State, Zip Code: _____

2. Name of Person Served: _____

Mailing Address: _____

City, State, Zip Code: _____

3. Name of Person Served: _____

Mailing Address: _____

City, State, Zip Code: _____

6. I declare, under penalty of perjury under the law of North Dakota, that everything I stated in this Declaration of Service by Mail is true and correct.

Signed on _____ (Date) in _____ (County),
_____ (State), _____ (Country).

Signature

Printed Name

Address

City, State, Zip Code

Telephone Number: _____

Email Address: _____