

Petition for the Restoration of an Individual Found to Be in Need of a Guardian and/or Conservator

INSTRUCTIONS

I. Specific Instructions

1. This form is to be used for filing a Petition for the Reinstatement of a Ward (formerly Incapacitated Adult) pursuant to O.C.G.A. §29- 4-42 and O.C.G.A. §29-5-72.
2. The burden of proof is on the petitioner to show by a preponderance of the evidence that there is no longer a need for a guardianship and/or conservatorship.
3. According to Probate Court Rule 5.6 (A), unless the court specifically assumes the responsibility, it is the responsibility of the moving party to prepare the proper citation and deliver it properly so it can be served according to law. Pages after 5 which are labeled court are to be completed by the moving party, unless otherwise directed by the “Court”.

II. General Instructions

General instructions applicable to all Georgia probate court standard forms appear in are available in each probate court.

PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

IN RE:	)	ESTATE NO. _____
)	
_____,	)	PETITION FOR RESTORATION OF
WARD	)	AN INDIVIDUAL FORMERLY FOUND TO
	)	BE IN NEED OF A GUARDIAN AND/OR
	)	CONSERVATOR

TO THE HONORABLE JUDGE OF THE PROBATE COURT:

[NOTE: Unless there are two or more petitioners, the affidavit on page 9 must be completed by a physician, psychologist, or licensed clinical social worker based upon an examination within 15 days prior to the filing of this petition.]

1.

Petitioner, _____, is
 _____ a. the Ward
 _____ b. the (relationship) _____ of the ward, and
 is domiciled at (address) _____
 County, State of _____, telephone number _____, and

(Initial either a. or b. below):

_____ a. (Second Petitioner, if any) _____,
 is the (relationship) _____ of the ward, and is domiciled
 at (address) _____ County, State of
 _____ telephone number _____, show that

or

_____ b. attached hereto as page 4 and made a part of this petition is the completed affidavit of
 _____, a physician or
 psychologist licensed to practice in Georgia or a licensed clinical social worker, who has
 examined the ward within fifteen days prior to the filing of this petition, show that:

2.

The ward is domiciled at (address) _____
_____ County, State of _____, and is presently located at _____,
and
can be contacted at (telephone number): _____.

3.

The proposed ward no longer is in need of a guardian and/or conservator because:

(NOTE: the Petition cannot be granted unless sufficient facts are presented which support the claim for the restoration of the Ward. While an attached physician's/psychologist's/social worker's affidavit is permissible, the Petitioner(s) MUST specifically allege sufficient facts to support the granting of this Petition.)

4.

(Name(s) or n/a) _____
_____ currently serve(s) as the guardian and (Name(s) or n/a) _____
_____ as the conservator.

5.

Additional Data: Where full particulars are lacking, state here the reasons for any such omission.

WHEREFORE, petitioner(s) pray(s):

1. that service be perfected as required by law;
2. that the court appoint legal counsel and an evaluator for the ward and order an evaluation as required by law;
3. that upon receipt of the evaluation report, the court order a hearing to determine the continued need for a guardian and/or conservator for the ward; and
4. that the ward's rights be restored.

Signature of first petitioner

Signature of second petitioner, if any

Printed Name

Printed Name

Address

Address

Telephone Number

Telephone Number

Signature of Attorney: _____

Typed/printed name of Attorney: _____

Address: _____

Telephone: _____ State Bar # _____

VERIFICATION

GEORGIA, _____ COUNTY

Personally appeared before me the undersigned petitioner(s) who on oath state(s) that the facts set forth in the foregoing petition are true.

Sworn to and subscribed before
me this ____ day of _____, 20____.

First Petitioner

NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name

Sworn to and subscribed before
me this ____ day of _____, 20____.

Second Petitioner, if any

NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name

STATE OF GEORGIA

COUNTY OF _____

PROBATE COURT OF _____ COUNTY

RE: Petition for RESTORATION of _____, a Ward.

AFFIDAVIT OF PHYSICIAN, PSYCHOLOGIST, OR LICENSED CLINICAL SOCIAL WORKER

I, being first duly sworn, depose and say that I am a physician licensed to practice under Chapter 34 of Title 43 of the Official Code of Georgia Annotated, a psychologist licensed to practice under Chapter 39 of Title 43 of the Official Code of Georgia Annotated, or a Licensed Clinical Social Worker; that my office address is _____, Georgia, that I have examined the above-named ward on the _____ day of _____, 20_____, and that I found him/her to

(initial all applicable):

- _____ a. (for restoration regarding guardianship:) now have sufficient capacity to make or communicate significant responsible decisions concerning his/her health or safety.
- _____ b. (for restoration regarding conservatorship:) now have sufficient capacity to make or communicate significant responsible decisions concerning the management of his/her property.
- _____ c. (for retention of guardianship:) still lack sufficient capacity to make or communicate significant responsible decisions concerning his/her health or safety.
- _____ d. (for retention of conservatorship:) still lack sufficient capacity to make or communicate significant responsible decisions concerning the management of his/her property.

The following facts support said diagnosis:

(RESTORATION FORM, cont.)

WITNESS MY HAND AND SEAL this _____ day of _____, 20_____.

Sworn to and subscribed before me this
_____ day of _____, 20_____.

Signature of (Physician)(Psychologist)(Social Worker)

Notary Public

Typed Name

My commission expires on the _____ day
of _____, 20_____.
(NOTARIAL SEAL AFFIXED)

NOTE: The examination on which this affidavit is based must occur WITHIN FIFTEEN DAYS prior to the filing of the petition.

**Petition for the Restoration of an Individual Found to Be in Need of a Guardian and/or
Conservator**

Pages after 5 which are labeled "Court" are to be completed by the moving party, unless otherwise directed by the court.

NOTICE:

**THE FOLLOWING PAGES ARE TO BE
COMPLETED BY THE PETITIONER (MOVING
PARTY) UNLESS OTHERWISE DIRECTED BY
THE COURT. SEE PROBATE COURT RULE 5.6
(A).**

PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

IN RE:	)	ESTATE NO. _____
)	
_____,	)	PETITION FOR RESTORATION OF
WARD	)	AN INDIVIDUAL FORMERLY FOUND TO
	)	BE IN NEED OF A GUARDIAN AND/OR
	)	CONSERVATOR

ORDER FOR EVALUATION

The above and foregoing petition having been read and considered, and it appearing that there is sufficient evidence to believe that the ward may no longer be in need of a guardian and/or conservator within the meaning of O.C.G.A. §29-4-1 and/or §29-5-1, it is hereby ordered that _____, (physician) (psychologist) (licensed clinical social worker), is appointed to evaluate the above-named ward at ____ o'clock __.M., on _____ 20____ at (location) _____.

IT IS FURTHER ORDERED that the above-named ward shall submit to an evaluation at the time and place stated above;

IT IS FURTHER ORDERED that the evaluator shall explain the purpose of the evaluation to the ward;

IT IS FURTHER ORDERED that a Clerk/deputy clerk shall immediately notify the ward of these proceedings by having all pleadings, as well as this order and the notice of proceedings to appoint guardian and/or conservator, personally served on the ward.

SO ORDERED this _____ day of _____, 20_____.

Probate Judge

CERTIFICATE OF MAILING OF ORDER AND NOTICE OF PROCEEDINGS

ESTATE NO. _____

This is to certify that I have this day served the petitioner(s); the ward’s guardian ad litem (if any) and attorney with a copy of the petition, order, and notice of proceedings to restore rights of ward by placing a copy of same in an envelope addressed to each and depositing same in the U.S. Mail, first-class, with adequate postage thereon.

This _____ day of _____, 20____.

PROBATE CLERK/DEPUTY CLERK

CERTIFICATE OF MAILING OF ORDER FOR DISMISSAL

ESTATE NO. _____

This is to certify that I have this day served the ward with a copy of the (petition and)* order for dismissal by placing a copy of same in an envelope addressed to the ward and depositing same in the U.S. Mail, first-class, with adequate postage thereon. I have also served a copy of the order for dismissal in the same manner upon the persons required in said order to be so served.

This _____ day of _____, 20____.

PROBATE CLERK /DEPUTY CLERK

* not necessary if dismissal is after evaluation.

PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

IN RE:	)	ESTATE NO. _____
)	
_____ ,	)	PETITION FOR RESTORATION OF
WARD	)	AN INDIVIDUAL FORMERLY FOUND TO
	)	BE IN NEED OF A GUARDIAN AND/OR
	)	CONSERVATOR

NOTICE TO WARD OF PROCEEDINGS TO RESTORE RIGHTS

TO: _____: this is to notify you of a proceeding initiated in this court by _____ seeking to restore your rights and to inform you of your right to independent counsel. If you wish to retain your own attorney, you must notify this court within two days; otherwise, an attorney will be appointed for you by the court.

You are further notified that _____ has been appointed by the Court to evaluate you. If you wish your rights restored, you must submit to an evaluation by being present at: (location) _____ at _____ o'clock _____ .M. on _____ , 20_____ which is not sooner than the fifth day after the service of notice on you.

YOU ARE FURTHER NOTIFIED:

YOU AND YOUR ATTORNEY HAVE THE RIGHT TO ATTEND ANY HEARING HELD ON THIS MATTER.

Witness my hand and seal this _____ day of _____, 20_____.

PROBATE CLERK/DEPUTY CLERK

PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

IN RE: _____) ESTATE NO. _____
)
)
WARD _____,) PETITION FOR RESTORATION OF
) AN INDIVIDUAL FORMERLY FOUND TO
) BE IN NEED OF A GUARDIAN AND/OR
) CONSERVATOR

RETURN OF SHERIFF

I have this day served _____ personally with a copy of
the within petition, order and notice.

This _____ day of _____, 20_____.

Deputy Sheriff _____ County, Georgia

PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

IN RE:	)	ESTATE NO. _____
)	
_____,	)	PETITION FOR RESTORATION OF
WARD	)	AN INDIVIDUAL FORMERLY FOUND TO
	)	BE IN NEED OF A GUARDIAN AND/OR
	)	CONSERVATOR

APPOINTMENT OF ATTORNEY AND GUARDIAN AD LITEM, IF APPLICABLE

It appearing that this Court has not been notified of the retention of counsel by the ward within the prescribed two-day period, _____ telephone number _____, is hereby appointed as attorney for the ward in this matter.

(initial if applicable)

_____ IT IS FURTHER ORDERED that _____ is appointed as guardian ad litem for the ward, and said individual shall

- _____ a. attend the restoration hearing and make a recommendation to the Court.
- _____ b. file a written recommendation/report with the Court prior to the hearing and shall (be excused from appearing at) (attend) the hearing.

This _____ day of _____, 20_____.

Probate Judge

EVALUATOR'S REPORT REGARDING RESTORATION

GUARDIANSHIP/CONSERVATORSHIP PROCEEDINGS

ESTATE NO. _____

PETITIONER(S) _____

WARD _____

In compliance with the Order of the Probate Court of _____
County dated _____, 20_____, I performed an evaluation of the above-named ward
on _____, 20 _____. This evaluation took place at (location) _____
_____ beginning at _____ o'clock.
The evaluation continued for _____ minutes. I explained the purpose of the evaluation
to the ward.

The following questions, instruments, or tests were utilized in the evaluation:

Below is a list of all persons and other sources of information consulted in evaluating the ward:

The following is a description of the ward's mental and physical state and condition, including all observed
facts considered by me:

The following is a description of the overall social condition of the ward, including support, care, education,
and well-being:

The following are my findings as to the needs of the ward and their foreseeable duration:

(initial all applicable)

_____ a. I find that the ward continues to be incapacitated by reason of: _____

_____ to the extent that said proposed ward lacks sufficient capacity to make or communicate significant responsible decisions concerning his/her health and safety.

_____ b. I find that the ward continues to be incapacitated by reason of: _____

_____ to the extent that said proposed ward lacks sufficient capacity to make or communicate significant responsible decisions concerning the management of his/her property.

_____ c. I find that the ward now has sufficient capacity to make or communicate significant decisions concerning his/her health and safety.

_____ d. I find that the ward now has sufficient capacity to make or communicate significant responsible decisions concerning the management of his/her property.

Physician licensed under Chapter 34 of Title 43 of the
Official Code of Georgia Annotated
or
Psychologist licensed under Chapter 39 of Title 43 of the
Official Code of Georgia Annotated
or
Licensed Clinical Social Worker

Sworn to and subscribed before me

This _____ day of _____, 20_____.

Notary Public/Clerk, Probate Court
My Commission Expires _____

NOTE: This report must be filed with the Probate Court no later than (7) days after the date of examination.

PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

IN RE:	)	ESTATE NO. _____
)	
_____,	)	PETITION FOR RESTORATION OF
WARD	)	AN INDIVIDUAL FORMERLY FOUND TO
	)	BE IN NEED OF A GUARDIAN AND/OR
	)	CONSERVATOR

ORDER FOR DISMISSAL

The above and foregoing petition having been read and considered pursuant to O.C.G.A. §29-4-11 and/or O.C.G.A. §29-5-11 of the Official Code of Georgia Annotated, and (initial one):

_____ a. Based on the allegations made in the petition and prior to the court-ordered evaluation, it appears that there is not probable cause to believe that the ward no longer is in need of a guardian or conservator within the meaning of O.C.G.A. §29-4-1 and/or O.C.G.A. §29-5-1, therefore, it is

ORDERED that the petition is dismissed.

IT IS FURTHER ORDERED that a copy of the petition, the affidavit, if any, and this order be served on the ward by first-class mail, and a copy of this order be served in the same manner upon the petitioner(s) or his/her/their attorney, if any.

_____ b. Based on the allegations made in the petition and after review and consideration of the court-ordered evaluation report filed with this court, this court finds that there is not probable cause to support a finding that the ward no longer is in need of a guardian or a conservator within the meaning of O.C.G.A. §29-4-1 and/or O.C.G.A. §29-5-1; therefore, it is

ORDERED that the petition is dismissed.

IT IS FURTHER ORDERED that a copy of this order and the court-ordered evaluation report be served on the ward, his attorney, his guardian ad litem, if any, and to the petitioner(s) or her/her/their attorney, if any, by first class mail.

So ordered this _____ day of _____, 20_____.

Probate Judge

PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

IN RE:	)	ESTATE NO. _____
)	
_____ ,	)	PETITION FOR RESTORATION OF
WARD	)	AN INDIVIDUAL FORMERLY FOUND TO
	)	BE IN NEED OF A GUARDIAN AND/OR
	)	CONSERVATOR

ORDER AND NOTICE OF HEARING

After review and consideration of the petition and the court-ordered evaluation report filed with this court, the court finds that there is probable cause to support a finding that the ward no longer is in need of a guardian and/or conservator within the meaning of O.C.G.A. §29-4-1 and/or O.C.G.A. §29-5-1,

THEREFORE, it is ordered and adjudged that:

1. A hearing shall be set for _____ o'clock __.M. on _____, 20____, which is not less than 10 days from the date that this notice is mailed, to determine the need for the restoration of the ward's rights, to be held (in the Probate Court of _____ County, courtroom _____, (address) _____, Georgia) (at the following location: _____). The ward shall be represented by _____, attorney, at such hearing.
2. A copy of this order and a copy of the evaluation report shall be sent to the ward, his/her attorney and guardian ad litem, if any, and to the petitioner(s) and his/her/their attorney, if any. These copies shall be sent by a Clerk/deputy clerk, first-class mail, as soon as practicable after the signing of this order.

So ordered this _____ day of _____, 20_____.

Probate Judge

STIPULATION AND WAIVER BY WARD'S ATTORNEY

GEORGIA, _____ COUNTY ESTATE NO. _____

TO THE PROBATE COURT OF SAID STATE AND COUNTY

IN RE: PETITION FOR THE RESTORATION OF RIGHTS OF
_____, WARD

The undersigned, as the attorney representing the above-named ward in these proceedings, (initial all applicable:)

_____ a. does hereby stipulate into evidence the affidavit prepared by (name of affiant evaluator) _____, being the evaluation report Ordered by the Court in this matter, and hereby waives the appearance of such affiant at any hearing concerning the said petition.

_____ b. does hereby stipulate into evidence the affidavit prepared by (name of affiant evaluator) _____, which is the affidavit referred to in Paragraph 1(b) of the petition), and hereby waives the appearance of such affiant at any hearing concerning the said petition.

_____ c. does further waive the appearance of my client the ward at said hearing.

This _____ day of _____, 20_____.

Attorney

Typed/printed name of Attorney: _____

Address: _____

Telephone: _____

State Bar # _____

PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

IN RE:) ESTATE NO. _____
)
)
) PETITION FOR RESTORATION OF
WARD) AN INDIVIDUAL FORMERLY FOUND TO
) BE IN NEED OF A GUARDIAN AND/OR
) CONSERVATOR
)

FINAL ORDER

A hearing was held on the above-referenced petition on _____,
20____, and after considering the pleadings, the evaluation report and the evidence taken at the hearing,
the Court makes the following:

FINDINGS OF FACT

1.

All procedural requirements of O.C.G.A. §29-4-11 and O.C.G.A. §29-4-42; and/or O.C.G.A. §29-5-
11 and O.C.G.A. §29-5-72 have been met.

2.

The above-named ward is no longer in need of a guardian and/or conservator because _____

_____.

The ward now has sufficient capacity to make or communicate significant decisions concerning his/her
health and safety, and now has sufficient capacity to make or communicate significant responsible decisions
concerning the management of his/her property.

CONCLUSIONS OF LAW

The Court finds, by clear and convincing evidence, that the above-named ward (hereinafter referred
to as "former ward") is no longer in need of a guardian or conservator because the ward now has sufficient
capacity to make or communicate significant responsible decisions concerning his/her health or safety, and
now has sufficient capacity to make or communicate significant responsible decisions concerning the
management of his/her property. Therefore it is

ORDERED that _____ is hereby restored to full capacity and the guardianship/conservatorship of said former ward is hereby terminated.

IT IS FURTHER ORDERED that before any guardian and/or conservator, is released from his/her trust, that he/she file a Petition for Discharge and Final Return, with an acknowledgment as executed by the former ward.

IT IS FURTHER ORDERED that a Clerk of this Court shall record the restoration upon all records of this Court, including the previously issued letters of guardianship/conservatorship.

IT IS FURTHER ORDERED that the Clerk of this Court shall, within 30 days of this order, submit a certificate to the clerk of the superior court of each county of this state in which the restored ward owns real property, if any, notifying the clerk to record in the deed records that the ward has been restored to capacity.

IT IS FURTHER ORDERED that a copy of this Order shall be served by first class mail on the former ward, the former ward's attorney; the guardian ad litem, if any; the guardian(s) and/or conservator(s); the petitioner(s); and his/her/their attorney(s).

SO ORDERED this _____ day of _____, 20____.

Probate Judge/Hearing Officer exercising the
jurisdiction of the Probate Court pursuant
to O.C.G.A. §29-4-12(d)(7) and/or §29-5-12(d)(7)

CERTIFICATE OF MAILING OF FINAL ORDER

ESTATE NO. _____

I have this date mailed (or handed) a copy of the above Order to the former ward, his/her attorney, (his/her guardian ad litem), (his/her representatives,) the guardian(s), the conservator(s), the petitioner(s), and (petitioner's attorney).

DATE

PROBATE CLERK/DEPUTY CLERK

CERTIFICATE OF FILING CERTIFICATE OF RESTORATION OF RIGHTS

ESTATE NO. _____

I have this date hand-delivered and/or mailed for filing a Certificate of Restoration of Rights to the Clerk of the Superior Court of each of the following counties, together with payment of any recording costs: _____

PROBATE CLERK/DEPUTY CLERK

ADDRESS

TELEPHONE

Probate Court Return Mailing Address:

CERTIFICATE OF RESTORATION OF RIGHTS

(Pursuant to O.C.G.A. §29-5-13(d))

GEORGIA, _____ County

PROBATE ESTATE NO. _____

CROSS REFERENCE:

DEED BOOK _____

DATE ORDER ISSUED: _____

PAGE NO. _____

GRANTOR: (NAME OF CONSERVATOR(S) OF FORMER WARD)

GRANTEE: (NAME OF FORMER WARD)

The rights of the above Former Ward being restored, the Conservatorship previously created for the above-named former ward is now DISSOLVED.

Original Certificate delivered or mailed to Clerk of Superior Court of _____
_____ County on _____, 20____.

I do hereby certify that the above information is based on the order of the Probate Court issued on the date set out above and that the above information is true and correct.

By: _____
PROBATE CLERK/DEPUTY CLERK