



## Guardianship & Voting

*Restoring Your Right to Vote* (8/2020)

### ❖ Guardianship & Your Voting Rights:

In Wisconsin, your right to vote is guaranteed by our state Constitution. Any person, age 18 or older is eligible to vote. The right to vote could be taken away by a court, usually in a guardianship proceeding, but only if the court decides that the person is *"incapable of understanding the objective of the elective process"*.

What does this mean? That only a court can take away your right to vote. It's important to note that local election officials can't take away your right to vote even if they think you don't understand what an election is...only a court can.

- There is no requirement that you have a complete understanding of the entire election process. You just need to know the basics of what happens in an election.
- You can only lose the right to vote if you are *"incapable"* of understanding the purpose of an election. You should only lose your right to vote if a court finds that you will never be able to understand the what an election is about. A person incompetent in other areas of decision-making but who retains the possibility of learning the purpose of an election, can retain the right to vote.
- The law recognizes that a person who did not, at the time of the guardianship process, understand the purpose of an election, may with instruction now learn about elections and be capable of voting. \*\*So, even if you lost the right to vote, if you can show that now you have learned what elections are for, you can get your right to vote back.

## ❖ You Want to Vote...Here are Your Next Steps:

1) Figure out if you have the right to vote or not? Before you start the process to get back your right to vote, let's make sure you really LOST your right to vote. The court must take away your right to vote, it doesn't happen automatically just because you got a guardian.

\*There is a section on the Guardianship Order that is about your right to vote. There is a box on the form:

**If checked -you can't vote.**

**If it is not checked,-you can vote!**

2) Start the process to get your right to vote back You will have to file legal paper(petition) with the court that took away your right to vote. The legal petition is a simple document you need to complete. (sample copy attached) You will fill in your County name, case name and number (if you know it) and DOB. Once completed, you will need to file this petition with the Probate Court in the County where the guardianship paperwork originally happened. *\*There is no cost or fee for filing this legal petition.*

3) Should I get an Attorney to Help Me? You can do this all on your own, it's not necessary to have an attorney file the paperwork for you. However, if you can get an attorney to help you, that will make everything easier for you. Even if you start this process on your own, you still do have the right to be represented by an attorney. *\*If you want an attorney and can't pay for one, the court is required to appoint one for you. There is a place on the petition paperwork to request an attorney.*

## ❖ **The Court received Your Petition-Now What? Who Finds Out?**

- 1) The court decides who should be notified about the petition and how you will need to notify them. The court may tell the Register in Probate to send a notice or they might tell you to do it.
- 2) If the court tells you to send the notice, make sure you understand what you must do and who you must send notice to. (take notes!) Then make sure you write down who you sent it to, the date you sent it, and whether you sent it regular mail or certified mail. (keep copies of receipts & your notes)

## ❖ **The Court Appointed me a Guardian ad litem (GAL) What is This?**

- A guardian ad litem (GAL) is **not** your attorney. A GAL is someone appointed by the Court who will have your “best interest” represented. A GAL figures out what would be best for you, even if that is not exactly what you may want, but you can discuss your wishes/concerns with them. \*\*If the GAL believes you should get the right to vote back, they can recommend that to the court.

## ❖ **Will I Get a Notice About Appearing in Court?**

**Yes!** The court will send you an official notice in the mail with the date of the hearing, what time it starts and location where it will happen.

## ❖ Will I Need to Testify in Front of a Judge?

**Yes!** A person who wants to get their right to vote back will likely have to testify about their understanding of an election process, so you can have this prepared in your own words to explain why we have elections. This can be a general description, like “we have elections to decide who will [represent us] [make decisions for us] [make laws for us].”

And the answer could then be: “I want to vote so [Joe Biden] [Donald Trump] can make decisions for me.” Or, “I want to vote so [Trump] [Biden] won’t make decisions for me.” Either example above shows that you understand the basic objective of the election process. Practice some sample questions and answers before you go to Court.

### ***Bring Someone with You to Court Too.***

You can ask others to testify in support of you. A friend, family member, caregiver, or teacher who can tell the judge that you understand why we have elections would be helpful.

## **For additional information**

- Disability Rights Wisconsin (DRW) can provide you with a more detailed document to reference if you want to move forward with restoring your right to vote. We are here to help.
- **Contact information:**  
Disability Rights Wisconsin Voter Hotline  
844-DIS-VOTE/ 844-347-8683  
Email: [info@disabilityvote.org](mailto:info@disabilityvote.org)
- See also DRW’s brochure: “Competency, Guardianship, and Voting in Wisconsin” at [disabilityrightswi.org/](http://disabilityrightswi.org/)
- **Wisconsin Disability Vote Coalition:** [disabilityvote.org](http://disabilityvote.org)