

GUARDIAN AND CONSERVATOR

For a MINOR

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Part 1: Preparing the First Court Papers

(Instructions)

GUARDIANSHIP AND CONSERVATORSHIP

GET A PERMANENT APPOINTMENT FOR A MINOR

PART 1: PREPARING THE FIRST COURT PAPERS

(INSTRUCTIONS)

This packet contains court instructions on preparing the first court papers for permanent (longer than 6 months) appointment of a guardian and conservator for a minor. Items in **BOLD** are forms that you will need to file with the Court. Non-bold items are instructions or procedures. Do not copy or file those pages!

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*See the #2 "SERVICE" packet for forms and detailed instructions.

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**INSTRUCTIONS: HOW TO COMPLETE THE FORMS TO ASK THE COURT FOR
PERMANENT (LONGER THAN 6 MONTHS) APPOINTMENT OF A
GUARDIAN AND CONSERVATOR FOR A MINOR**

PLEASE NOTE THE FOLLOWING:

FINGERPRINT REQUIREMENT: Arizona law requires that any person asking to be appointed guardian of a minor to whom he / she is not related must submit a fingerprint card to the court.

- The card will be submitted to the **Arizona Department of Public Safety (DPS)** and to the **FBI** for use in conducting a criminal record check to help the Court determine that person's suitability to act as a guardian of a minor.
- **If** the guardian is unrelated to the ward, due to the time required for the record check, this process, from time of filing to the signing of the court order, may take as long as **four months**.
- **If there is an urgent situation that requires the actions of a Guardian/Conservator in less than that amount of time, or** the guardian/conservator will only be needed for a period of **6 months or less**, see the Self-Service Center packet for "**TEMPORARY ORDERS**" for Guardianship/Conservatorship.
- Refer to the checklist in the **Temporary Orders** packet to help determine whether you need to file for Temporary Orders **only, or in addition to** "permanent" appointment of more than 6 months.

ALSO NOTE:

1. **If the minor is at least age 17 and a half and will only need a guardian-conservator after reaching the age of 18, please see the Self-Service Center packet "**Guardianship and Conservatorship for an Adult - or person at least age 17.5 years old to become effective at age 18.**"**
2. **The minor you say needs a guardian and conservator may be referred to by any of the following terms in the court forms or instructions:**
 - "the ward", "the proposed ward", "the proposed protected (or "incapacitated") person"
 - "the person* to be protected"*, or "the person* needing protection",
 - "the person* needing a guardian and conservator". *or "the minor", etc.

INSTRUCTIONS: HOW TO COMPLETE THE FORMS

Fill out all forms completely *and in* **BLACK INK**.

FORM 1. PROBATE INFORMATION COVER SHEET (form PB10f).

(If two people are applying to serve as co-guardian-conservators, fill out a separate cover sheet for each).

Fill in the information requested about:

- **the ward**, the minor for whom the guardian-conservator is to be appointed,
- **the petitioner**, you, the person filling out and filing these forms, **and**
- **the fiduciary**, the person who is to serve as guardian-conservator (who is usually but not always the petitioner).

Leave “**Case Number**” blank. A case number beginning with the letters “**PB**” will be stamped on the papers by the Clerk of the Court when you file the papers. Use this case number on all other papers you file with the court in this case.

- **Indicate whether an interpreter will be needed, for what language, and for whom;**
- Leave the boxes for “Reasons Fee Not Paid” blank, and
- For “**Nature of Action**”, if filing for **guardian and conservator**, go to **#240** and place a check next to the number **241** to indicate “**for a Minor**”.
- On page 2, fill in the information about the fiduciary (the proposed guardian/conservator) and sign.

FORM 2. PETITION FOR PERMANENT APPOINTMENT OF GUARDIAN and CONSERVATOR for a MINOR

Read carefully and provide all applicable information requested – **in BLACK INK.**

If additional space is needed for any section:

- Write “**See attached**” below the answer space provided, and
- Complete the information on an attached page with the same title as that section, for example: “Other Protective Proceedings”.

At top, left: Fill in the requested information (“Your Name”, etc.) that applies to the Petitioner, the person filing the papers requesting appointment of a guardian and conservator.

In the case caption, under “In the Matter of”, write in the name of the minor(s) for whom the guardian and conservator is to be appointed. Leave “Case Number” blank. The Clerk will stamp a case number on the papers when the Petition and other papers are filed with the court.

- 1. Information about Petitioner:** Provide the information requested in the space provided (even if it duplicates what you filled in at top, left). Describe your connection to the minor(s) for whom the guardian-conservator is to be appointed in the space provided to list your “interest in or relationship to” the persons to be protected.
- 2. Information about the Minors to be protected:** Provide the requested information. Check the box to indicate which, if any, of the minors are legally married.
- 3. Information about the Proposed Guardian-Conservator:**
 - a. If the Petitioner is asking to be appointed guardian and conservator, OMIT this section and go to part “B”. If the Petitioner is naming *someone else* to serve as guardian-conservator, provide the information as applies to that other person.**
 - b. Arizona law establishes a priority list of persons who may serve as guardians and conservators (A.R.S. § 14-5206, and § 14-5410, respectively). Check the box(es) to indicate which applies to the person named to serve as guardian and conservator in the petition. If none of those listed apply, you may review the statutes at a law library or online to determine if the proposed guardian-conservator is otherwise qualified. If so, check the box for “Other”, and briefly describe the “other qualification” in the space provided.**
- 4. Other Protective Proceedings:** This refers only to other court cases involving matters of guardianship or conservatorship for the minors for whom protection is requested in this petition. Check the appropriate box. Provide the information requested about any other guardianship or conservatorship cases. If additional space is needed, write “**See attached**” and complete the information on an attached page with the same title as this section, “**Other Protective Proceedings**”.

5. **Other Court Cases or Administrative Proceedings:** This refers to any other type of court case such as family court cases involving who has authority to make legal decisions for the minors and days and hours the minors will be with one parent or the other ("parenting time"), or administrative proceeding such as a DCS (Arizona Department of Child Safety) hearing. If additional space is needed, write **"See attached"** and complete the information on an attached page with the same title as this section.
6. **Assets and Income:** Check the box to indicate whether the minor(s) have income or assets (bank accounts, land, cash, property that can be exchanged for cash). If "yes", list or describe.
7. **Reasons for Conservatorship:** Check the box for any statement (one or more) that applies.
8. **Disability or Incapacitation:** Check one box to answer "Yes" or "No". If "yes", list the name of any minor named in this petition who will continue to need a guardian **or** conservator *after* reaching the age of 18.
9. **Required Statements to the Court:** According to Arizona law ALL THREE of these statements MUST be true in order for this court to have the power to appoint the person proposed as guardian and conservator for the minor(s) named in this petition. If you are not sure all of the statements are true, you should not proceed unless advised to do so by an attorney licensed to practice in Arizona.
10. **Attachments:** If there was not enough space to provide all the information requested for **any** section of the Petition and you listed or continued the information on an attached page, check this box **and be sure to attach the extra pages**.

Read the **NOTICE** about **who** the law requires you to give notice to about your request for the court to appoint a guardian/conservator for the proposed protected person(s).

11. **Persons Entitled to Notice.** In this section, list every person (or agency) legally entitled to receive notice of your request to have a guardian-conservator appointed for the proposed ward. Arizona law, **A.R.S. § 14-5405**, provides that notice must be given to:
 1. **The proposed ward's parents (IF the ward is 14 or older, the ward too).**
 2. **If the proposed protected minor is married, his or her spouse.**
 3. **Any person who is serving as guardian or conservator** as well as any person who the ward is living with or who is providing care for the ward.
 4. ***In case no other person is notified under #1 or 2 above, notice must be given to at least one of the ward's closest adult relatives*** if any can be found.
 5. **Any person who has filed a *Demand for Notice*** with the Clerk of the Court.

For more detailed information on **how** you are required or permitted by law to give Notice, refer to Self-Service Center packet #2 on **"SERVICE"**.

FORM 3. AFFIDAVIT OF PERSON TO BE APPOINTED (PBGC13f).

- This document required by Arizona law **A.R.S. §14-5106(A)**, must be completed **by the proposed guardian and conservator** and filed with the Petition. The proposed guardian and conservator is usually, *but not always*, the same person as the Petitioner.
- Read carefully, answer truthfully, **and** *attach any required explanations* as instructed.
- **If two people are nominated to serve as co-guardian-conservators**, fill out a separate **Affidavit of Person to be Appointed** *for each*.

FORM 4. CONSENT OF PARENT (with Optional WAIVER OF NOTICE) (PBGCM13f).
and

FORM 5. CONSENT OF (other) PARENT (with Optional WAIVER) (PBGCM13f).

- **If both parents are living and can be located, each parent may complete and sign a CONSENT to the appointment to be filed with the Court.**
- If a parent does not feel the need to receive legal notice of future court proceedings about this guardianship-conservatorship, he or she may optionally choose to check the box to **Waive Notice** of future filings and court proceedings.
- **If you are unable to obtain the signed consent** of one or both parents, be prepared to show the court that you **gave proper legal notice** to both parents.
- **If you were unable to deliver notice** to one or both parents, be prepared to inform the Court of what actions you took to **try** to deliver notice, and to show that you gave notice by publication (running a legal notice advertisement). See the Self Service Center packet #2 on **“SERVICE”** for detailed instructions on giving notice **by publication**.
- Notice does not have to be given to a parent whose rights have been permanently terminated (“severed”), **or** who has been declared legally incompetent by a court order, but note that getting copies of these usually sealed orders to present to the court can be difficult.

OTHER COURT DOCUMENTS IN THE #1 FORMS PACKET:

- **NOTICE OF HEARING** (PBGC18F). **AFTER** you file your papers with the Clerk, you will get the information to fill out the **Notice of Hearing**, and serve the Notice along with the other required papers on those entitled to receive notice of this case. See the separate **“Procedures”** document (PBCM10P) in this packet for information.
- **WAIVER OF NOTICE** and **SERVICEMEMBERS CIVIL RELIEF ACT WAIVER** (PBGC19F). Persons entitled to notice **may** sign a notarized **Waiver of Notice** which will allow you to **NOT** have to serve notice to those persons unless they later file to reverse that waiver. Persons entitled to notice who are unavailable due to active duty military service may also separately choose to waive rights that may exist under the **Servicemembers’ Civil Relief Act** that might delay or otherwise interfere with the court proceeding.

These documents are not filed with the Clerk at the beginning of the case.

NEXT: Read and follow instructions on the separate **“PROCEDURES”** document in this packet for what to do **after** you have completed these forms.

Procedures: What to do after completing all forms To request appointment of permanent guardian and conservator For a minor

Step 1. Make copies and separate into complete sets as follows:

Set 1: Originals for the Clerk of Superior Court, Probate <ul style="list-style-type: none">• Probate information cover sheet• Petition for permanent appointment• Affidavit of person to be appointed• Consent of parent (if applicable)• Consent of (other) parent (if applicable)	Set 2: Copies for judicial officer (deliver at least 5 days before the hearing) <ul style="list-style-type: none">• Petition for permanent appointment• Affidavit of person to be appointed• Consent of parent (if applicable)• Consent of (other) parent (if applicable)
Set 4 & more: Copies for persons (or agencies) to receive notice <ul style="list-style-type: none">• Petition for permanent appointment• Affidavit of person to be appointed• Consent of parent (if applicable)• Consent of (other) parent (if applicable)	Set 3: Copies for you <ul style="list-style-type: none">• Petition for permanent appointment• Affidavit of person to be appointed• Consent of parent (if applicable)• Consent of (other) parent (if applicable)

2. Take the originals and all sets of copies to the clerk of superior court to file at the following location:

**Yuma County Justice Center
Clerk of Superior Court
250 W. 2nd Avenue
Yuma, Arizona 85364**

3. Pay your filing fee and file.

- A list of current fees is available from the Law Library Resource Center and from the Clerk of Superior Court.
- If you cannot afford the filing fee and/or the fee for having the papers served by the sheriff or by publication, you may request a deferral (payment plan) when you file your papers with the Clerk of Superior Court. Deferral applications are available at no charge from the Law Library Resource Center.

4. Get your copies back. The Clerk of Superior Court will file the originals, stamp the copies with a case number to indicate the copies conform to (are the same as) original documents filed with the court, and return the copies to you.

Fingerprint requirement notice

If the proposed guardian is not related to the proposed ward, Arizona law A.R.S. §14-5206 requires the guardian to submit a fingerprint card to the court for use in conducting a criminal background check to help the court determine that person's suitability to act as a guardian of a minor.

- The card must be submitted within 5 days of filing the petition.
- There is a fee for processing fingerprint cards.
- Fingerprinting is not required if the guardian is related to the ward.
- See steps 6 and 7 below for more specific information.

Probate Court Administration will then provide you with printed information about the time, date, and location of the hearing, as well as the name of the judicial officer assigned.

This is important information. Don't lose this document!

Note the following:

- If the proposed guardian-conservator is related to the proposed ward and consent(s) of parents and/or waivers of notice are filed for all parents or parties entitled to notice, the hearing may be scheduled for as little as two weeks from the date you request the hearing.
- If the proposed guardian-conservator is related to the proposed ward, the hearing will be scheduled for approximately 4 weeks from the date you request a hearing, whether requested by phone or in-person.
- If the proposed guardian-conservator is not related to the proposed ward, the hearing will be scheduled for 16 weeks from the date you submit your request, due to the time required for the criminal record check.
- The hearing may be scheduled at a court facility other than the one at which the papers were filed.

6. Get your fingerprints taken: (Again) fingerprinting is only required for a proposed guardian who is not related to the proposed ward, and the completed fingerprint card must be presented within 5 days after a petition for guardianship of a minor is filed.
- A. You may go to a government / law enforcement agency or private company to have your fingerprints taken, including:
- Local law enforcement departments. The Yuma County Sheriff's Department and some local police departments offer this service. Contact your local police department to verify whether they currently offer the service.
 - The Yuma County Sheriff's Office's, at 141 S. 3rd Ave., Yuma, Arizona does fingerprinting from 9:00 a.m. - 11:00 a.m. Monday through Friday (except holidays). The fee is \$3 per card.
 - The Yuma Police Department offers fingerprinting service from 9:00 a.m. – 12:00 p.m. on Thursdays. For additional information call 928-373-4700.
- B. Present valid photo identification or your prints will not be taken.
- C. Tell the person taking your prints that they are for a guardianship of a minor. They will take your fingerprints and give you the fingerprint card.
7. Submit fingerprint card to the Clerk's Office.
- There is a fee for processing a fingerprint card
 - Verify current amount for processing a fingerprint card.
 - The card must be submitted within 5 days of filing the petition.
8. Serve notice: Fill out the Notice of Hearing form (pbgc18f) with the information about time and place of the hearing that you obtained in Step 5 above, and serve notice to everyone who is legally entitled to know about the court case and what you have asked the court to order concerning the person to be protected. To “serve” notice means to deliver notice as required or permitted by law.

Persons entitled to notice may sign a notarized Waiver of Notice , which will allow you to not serve notice to those persons, unless they later file to reverse that waiver.

Notice can (or must) be given in different ways to different persons. Read “Information on Legal Notice” in this packet, and see Law Library Resource Center Packet #2, “Service and Notice of Court Hearing” for court forms and more detailed information on serving notice.

Read this: After giving notice to all interested persons:

- Complete the declaration of notice stating how and when you gave notice.
- Make two (2) copies of the:
 - ✓ Notice of Hearing
 - ✓ Waiver of Notice (If any)
 - ✓ Declaration of Notice provided
- If filing in-person, do so at least 5 days before the hearing.
- If you file the documents before the hearing, the clerk of superior court will stamp and keep one set, and return the copies for you to bring with you to the hearing.
- If you are mailing these documents to the court:
 - Make a copy before mailing to keep and bring to the hearing;
 - It is recommended that you post them 10 full days before the hearing.
 - The probate clerk will file the originals for you and deliver the copies to the judicial officer assigned to the hearing.
 - Remember to bring your copies of the documents to the hearing.

Training: Guardians and Conservators must complete court-approved training before permanent appointment! See "Notice regarding training requirements".

SPECIAL HANDLING for

CONFIDENTIAL DOCUMENTS*

DOCUMENTS DEFINED OR DESIGNATED AS “CONFIDENTIAL DOCUMENTS” SHALL BE SUBMITTED TO THE CLERK IN SEPARATE, UN-SEALED (9”x12”) ENVELOPES.*

The following documents are defined as “Confidential”:

- Medical Reports and Records
- Inventories and Appraisements
- Accountings
- Credit Reports
- Any other document ordered by the court to be “confidential”.

A separate envelope is required for *each* confidential document and
THE FOLLOWING INFORMATION MUST APPEAR ON THE OUTSIDE OF EACH ENVELOPE:

1. **Case Name and Number** (“In the Matter of xxxxx” and “PB 2009xxxxxx”),
2. **Name of the document** (“Annual Accounting”, “Annual Report”, “Medical Records”. etc.)
3. **Name of the party filing the document**, and
4. the words “**Confidential Document**”

“CONFIDENTIAL INFORMATION” in Non-CONFIDENTIAL DOCUMENTS*

DOCUMENTS NOT LABELED AND SUBMITTED AS “CONFIDENTIAL” SHOULD NOT CONTAIN CONFIDENTIAL INFORMATION,* *such as*:

- the **Social Security Number** of a living person, and/or
- any **financial account numbers**, including those for credit card, bank and **brokerage accounts, insurance policy and annuity contract numbers**, etc. as well, *unless only the last 4 digits are displayed*.

The Court may order (or you may *request* that the Court order) that:

1. a document containing confidential information be filed as “a confidential document”,
or
2. confidential information contained in a non-confidential document be *redacted* (covered up or hidden).

*Rule 7, Arizona Rules of Probate Procedure

HELPFUL INFORMATION ON LEGAL NOTICE FOR GUARDIANSHIPS AND CONSERVATORSHIPS

1. WHAT IS “LEGAL NOTICE TO ALL INTERESTED PERSONS”?

After you have filled out and filed the guardianship and/or conservatorship petition and other documents with the Court, you must inform all “interested persons” of what you have filed and what you have asked the court to do. **Interested persons** are people (or agencies) who have a legal right to be notified of court actions that may affect the person said to need the guardian or conservator.

A. WHAT COURT DOCUMENTS AM I REQUIRED TO GIVE NOTICE OF? Copies of which documents have to be delivered according to law?

1. The “**Petition**” explains what you want the court to do and why.
2. The “**Affidavit of Person to be Appointed**” contains information about the person who is to serve as guardian or conservator.
3. The “**Notice of Hearing**” lists the time, date, and location of the court hearing and the name of the Judicial Officer assigned to hear the case.

After notice has been served to all those entitled to receive it and in a manner required or permitted by law, you must then fill out and file a **DECLARATION OF NOTICE PROVIDED** (see section C, below) to tell the Court **who** you gave notice to, **how** notice was given, **what** documents were provided, and when.

B. HOW AM I ALLOWED OR REQUIRED TO GIVE LEGAL NOTICE?

1. **Personal Service** (delivery by sheriff, private process server, or recipient signs an “ACCEPTANCE OF SERVICE”)
2. **Mail or Hand-Delivery** (not always permitted)
3. **Publication** (run a legal notice advertisement. This MAY be permitted if after all reasonable efforts you still cannot find the person or his or her address)

Personal Service requires that a registered process server or the sheriff serves the documents on the interested persons **or** that those persons voluntarily sign an **ACCEPTANCE OF SERVICE** form in the presence of a Notary Public or Deputy Clerk of Court. Personal service is NOT required in all cases. When personal service is required, it means the law is written to make sure that a person who needs notice of a case **gets** the notice. For more detailed information on *personal service*, refer to #4 below.

Mail and Hand-Delivery are less formal methods of giving notice, but are not permitted in all cases. When you are permitted to give notice by mail, 1st class postage-prepaid mail is usually acceptable to the court. Certified mail with return- receipt is an optional extra step you can take to prove delivery. Make sure you are allowed to use mail or hand-delivery in the type of case you are involved in, and for any particular persons you want to give notice to by these methods. See **3C** below for more information.

Publication of Notice is used when you do not know the address of the person to whom you need to give notice, and after you have done everything you could to try to find the person you are still unable to come up with an address. Notice is then published **at least 3 times** in a newspaper in the county where the court hearing is held.

WARNING! If the Court is not satisfied that you have made every reasonable effort to find an address and have the papers personally delivered, you may be required to take additional steps adding delay and expense to your case, and then have to *publish again*.

For more detailed information on Service by Publication, review the “**Procedures: How to Serve Legal Papers by Publication**”, which is in the #2 “**SERVICE**” packet.

C. HOW DO I SHOW THE COURT THAT I GAVE NOTICE?

- **Fill out and file a DECLARATION OF NOTICE PROVIDED** form with the court to show who you gave notice to, when, and how. Fill out this form **after** the documents have been delivered or you have otherwise served notice on all interested persons.
- **Submit other documents required to support the DECLARATION OF NOTICE PROVIDED. Depending on method(s) of service** (how Notice was given), **this may include one or more of the following:** (an)
 1. **Acceptance of Service** signed by the person receiving notice,
 2. **Affidavit of Publication** supplied by the newspaper if serving by publication,
 3. **Affidavit of Service** signed by the process server or sheriff.

D. WHEN CAN I SKIP GIVING LEGAL NOTICE?

1. **When a person entitled or required to receive notice signs a WAIVER** giving up the right to receive notice of court filings and proceedings in this matter. Please note: If an incapacitated *adult* for whom the guardian or conservator is to be appointed signs a Waiver, he or she must attend the hearing for service to be valid.
2. **When the person to receive notice is present at the hearing and will accept service.** Only rely on this method if you are **absolutely** certain the person will be at the hearing and will accept service.

2. WHEN MUST LEGAL NOTICE BE GIVEN? WHAT TIME FRAMES?

Generally, you must give **all** interested persons notice of the court papers **at least 14 days before the hearing**. If you are giving NOTICE BY PUBLICATION, *the date of the first publication* must be **at least 14 days before the hearing**.

Note: The newspaper will provide an **AFFIDAVIT OF PUBLICATION** after all 3 notices have been published to show proof that the ad has run.

3. WHO ARE “INTERESTED PERSONS”?

According to Arizona law (A.R.S. § 14-5309 AND 14-5405) notice must be given to:

- A. **THE PERSON TO BE PROTECTED** (incapacitated adult or a minor): **Personally serve the adult** (or a minor aged 14 or over) **said to need the guardian/conservator.**

Neither **ACCEPTANCE OF SERVICE** nor **WAIVER OF NOTICE** by the person said to need a guardian or conservator is legal **unless** he or she **also attends the court hearing.**

- B. **THE PARENTS AND SPOUSE** (if applicable) **of the person to be protected:**

1. **Personally serve the spouse and parents if they are in Arizona;**
2. **Serve by mail or hand-delivery if not in Arizona; or**
3. **Serve by publication if you do not know and cannot find the address *after all reasonable efforts.* You will have to describe those efforts to the court.**

- C. **OTHERS:** You may give notice by mail, hand-delivery or publication to:

1. **Any adult children of the person to be protected;**
2. **Any person who is serving as the guardian or conservator or who has the care and custody of the person to be protected;***
3. **If the person to be protected has no parent or spouse or adult children, then to the closest adult relative, *if any can be found,* AND**
4. **Any person who has filed a “DEMAND FOR NOTICE” with the Court.***

* This may also include *agencies* such as Adult Protective Services or the VA.

4. **THE METHODS OF PERSONAL SERVICE:**

PLEASE NOTE: “PERSONAL SERVICE” DOES NOT MEAN THAT YOU PERSONALLY HAND-DELIVER THE PAPERS*

*though you **MAY** be able to do that **if** the person receiving them is willing to voluntarily sign an **ACCEPTANCE OF SERVICE** as described below.

- A. **ACCEPTANCE OF SERVICE:** This method requires that you give or mail copies of the court papers and include an “**Acceptance of Service**” form. The other party must sign the “**Acceptance**” in front of a Notary and return it to you, or file it with the court himself (herself), but it can’t be signed in advance of the date you filed the petition with the court.

Signing this form does **not** mean the person agrees; only that he or she admits receiving the papers without being served in person by a Sheriff or Process Server.

- B. **PROCESS SERVER:** You must hire and pay a Registered Process Server yourself. You may locate process servers in the commercial section of the phone book under “PROCESS SERVER”, or online by using the search term “Arizona process servers” or similar, or at the web site of the Arizona Process Servers Association at:

<http://arizonaprocessservers.org/>

- **May offer greater flexibility in serving papers “after-hours” or on short notice.**
- **Are paid directly by you, not through the court.**
- **Fees may not be deferred or waived by the court.**
- **Fees vary. Compare.**

- C. **SHERIFF:** This method requires you to contact the Sheriff's Office in the county where the person to receive notice lives to arrange for a Sheriff's deputy to serve the papers. This method requires you to pay a fee to the Sheriff's office, unless you apply for and receive a fee deferral or waiver. A deferral or waiver application is available through the Court in the county service where notice is to be delivered for persons who cannot afford the cost. The Application will require you to explain **why** your circumstances call for service by sheriff.

5. **HOW DO I LET THE COURT KNOW NOTICE HAS BEEN GIVEN?**

You will be filing the "**Declaration of Notice Provided**" form and supporting documents referred to immediately above and in section "1.C." on page 2 of this document to inform the court of who you gave notice to, when, and how.

6. **WHAT ELSE TO KNOW ABOUT LEGAL NOTICE:**

A. **AFTER "INTERESTED PERSONS" RECEIVE NOTICE, THEY MAY:**

1. **Do nothing**, if they agree with, or at least do not want to file papers or show up in court to disagree with your request, **OR**
2. **File a Response**, *if* they want to:
 - **Object to what the Court has been asked to order,**
 - **Disagree with something stated in the Petition or other court papers, or**
 - **Tell the Judge/Commissioner something besides what is in the Petition.**

Filing a Response requires payment of a filing fee, unless *deferred* (granted a payment plan). If the Response is written, copies must be delivered to all the interested parties. The Self-Service Center has a packet titled "**Guardianship and/or Conservatorship: To Object to a Court Proceeding**" with court forms and instructions to file a response.

- B. **AFTER "NOTICE" COMES THE HEARING.*** Carefully read and follow the directions on the applicable instruction and procedure documents in the #2 **SERVICE** packet to properly serve notice and to then file your proof of service with the Court. See Self-Service Center packet #3, "**Preparing for and Attending the Court Hearing**" for court forms and instructions on how to complete the forms you will need to bring with you to the hearing and helpful information on how to otherwise prepare.

***IMPORTANT: BEFORE THE HEARING** the proposed guardian or conservator, if not a state-licensed fiduciary, must complete court-approved training. See "**Important Notice Regarding Training Requirements**" in this packet.

- C. **OTHER HELP:** Court employees can answer questions about court procedures but only an attorney can give legal advice. The Self-Service Center has a list of lawyers whom you can hire to advise you on how to handle your case yourself, or to help you on a task-by-task basis for a fee.

IMPORTANT NOTICE

TRAINING REQUIREMENTS

Effective September 1, 2012

The Arizona Supreme Court requires that any person who is not a state-licensed fiduciary (or a financial institution) must complete a training program approved by the Supreme Court **before** Letters of Appointment to serve as a guardian, conservator, or personal representative can be issued by the Clerk of the Court, or within 30 days of a temporary or emergency appointment.

TRAINING *SHOULD BE COMPLETED BEFORE* THE COURT HEARING
Additional time may be granted for good reason.

You may access and complete the training FREE online at:
www.azcourts.gov/probate/Training.aspx

Go to the section for “**Non-licensed Fiduciaries**” and click on the link to access a narrated slide-show presentation of the materials applicable to your situation.

You may also pick up a printout of the training materials in English or Spanish from the Self-Service Center. AFTER reviewing the materials, you will need to inform the Court that you have completed the training by filing either the Certificate available at the end of the online training, or the Declaration of Completion form available from the Self-Service Center. If you have questions about the training, contact the Law Library at 928-817-4165.

GUARDIANSHIP AND CONSERVATORSHIP

For a MINOR

1

**For permanent (longer than 6 months)
appointment for a minor**

Part 1: Preparing the First Court Papers

(Forms)

Appointment of Permanent Guardian and Conservator for a Minor

Note: A minor generally needs a Conservator if:

1. The minor owns money or property in excess of \$10,000 that requires management or protection which cannot be otherwise provided;
2. The minor has business affairs/assets which may be jeopardized or prevented by his or her being a minor; and/or
3. The minor needs funds for his or her support and education and protection is necessary or desirable to obtain or provide the funds.

A minor generally needs a guardian if he or she needs the care and supervision of an adult, which is not presently available.

Checklist

You may use this packet if . . .

- ✓ You want the court to appoint a guardian and conservator for a person under the age of 18;*
- ✓ The guardian-conservator will be needed for longer than 6 months (See separate "Temporary Orders" packet if need expected to be for 6 months or less);
- ✓ The minor lives in Yuma County;
- ✓ The parents will either:
 - a. sign a "Voluntary Consent" to the guardianship and conservatorship, or
 - b. after receiving notice of the Petition to Appoint a Guardian and Conservator will not come to court or file papers to object to the appointment.

***Note:** For a person at least 17 and-a-half who will need a Guardian or Conservator as an adult (but not as a minor), you may instead file papers "for an Adult or a person at least 17.5 years of age" for an appointment that will become effective at age 18.

Read me: Consulting a lawyer before filing documents with the court may help prevent unexpected results. A list of lawyers you may hire to advise you on handling your own case or to perform specific tasks, as well as a list of court-approved mediators can be found on the Law Library Resource Center website.

GUARDIANSHIP AND CONSERVATORSHIP

GET A PERMANENT APPOINTMENT FOR A MINOR

PART 1: PREPARING THE FIRST COURT PAPERS

(Forms Only)

This packet contains court forms and instructions to file and get a permanent appointment for a minor. Items in **BOLD** are forms that you will need to file with the Court. Non-bold items are instructions or procedures. Do not copy or file those pages!

Order	Title	# pages
1	Checklist: <i>You may use these forms if . . .</i>	1
2	Table of Contents (this page)	1
3	"Probate Information Cover Sheet"	2
4	"Petition for Permanent Appointment of Guardian and Conservator for a Minor"	6
5	"Affidavit of Person to be Appointed"	3
6	"Consent of Parent" and "Waiver of Notice"	1
7	"Consent of (other) Parent" and "Waiver of Notice"	1
8	"Notice of Hearing"	1
9	(Optional) "Waiver of Notice" and (Optional) "Waiver of Servicemembers Civil Relief Act"	2
10	Guardianship and Conservatorship Training Manual	20

The documents you have received are copyrighted by the Superior Court of Arizona in Maricopa County. You have permission to use them for any lawful purpose. These forms shall not be used to engage in the unauthorized practice of law. The Court assumes no responsibility and accepts no liability for actions taken by users of these documents, including reliance on their contents. The documents are under continual revision and are current only for the day they were received. It is strongly recommended that you verify on a regular basis that you have the most current documents.

**SUPERIOR COURT OF ARIZONA
IN YUMA COUNTY**

FOR CLERK'S USE ONLY

PROBATE COVER SHEET

Case Number: _____

A person needing a guardian or conservator is the "ward." A person who died is the "decedent."

Name(s) of the Ward(s), Decedent(s), Trust(s), or Individual(s):

1. _____
2. _____
3. _____
4. _____

The person who is filing this case is the "petitioner."

Name(s), Address(es), Telephone Number(s), and Email Address(es) of the Petitioner(s):

1. _____
2. _____
3. _____
4. _____

Information About Petitioner's Attorney:

☐ Petitioner is not represented by an attorney, or

Name: _____

BAR #: _____

Telephone: _____

Email: _____

☐ An Interpreter is needed for this language: _____
(List Name(s) of) Person(s) who need interpreter:

Name: _____

Name: _____

Name: _____

STAFF USE ONLY: REASON FEES NOT PAID: ☐ Government Charge ☐ Deferred ☐ Waived

NATURE OF ACTION: Place an "X" next to number which describes the nature of the case. Check only one.

200 ESTATE

- ☐ 201 Formal Appointment of Personal Representative
- ☐ 202 Informal Appointment of Personal Representative
- ☐ 203 Ancillary Administration
- ☐ 204 Affidavit of Succession to Realty
- ☐ 205 Trust Administration
- ☐ 206 Formal Probate of Will
- ☐ 207 Informal Probate of Will
- ☐ 208 Proof of Authority
- ☐ 210 Other _____
Specify
- ☐ 211 Single Transaction/Limited Conservatorship
- ☐ 212 Foreign Domiciliary

220 CONSERVATOR

- ☐ 221 Minor
- ☐ 222 Adult Incapacitated Person

230 GUARDIANSHIP

- ☐ 231 Minor
- ☐ 232 Adult (including those with Dementia, Alzheimer's)
- ☐ 233 Adult Requiring Inpatient Psychiatric Treatment

240 GUARDIANSHIP-CONSERVATOR COMBINATION

- ☐ 241 Minor
- ☐ 242 Adult (including those with Dementia, Alzheimer's)
- ☐ 243 Adult Requiring Inpatient Psychiatric Treatment

250 PUBLIC HEALTH

- ☐ 251 Petition for Court Ordered Isolation or Quarantine
- ☐ 252 Application for Order to Show Cause Re: Release from Isolation or Quarantine
- ☐ 253 Petition for Court Hearing Re: Conditions or Treatment During Isolation or Quarantine
- ☐ 254 Application for Order for Disclosure of Communicable Disease Information
- ☐ 255 Miscellaneous

Today's Date: _____

Signature of Petitioner or Petitioner's Attorney

Notice: Submit this form with new cases only. If there is already a (Yuma County) Probate Court case number and you are filing in an existing Superior Court case in Yuma County, do not submit this form.
--

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____
Licensed Fiduciary Number: _____

FOR CLERK'S USE ONLY

Representing ☐ Self, without a Lawyer or ☐ Attorney for _____

SUPERIOR COURT OF ARIZONA YUMA COUNTY

In the Matter of:

Case Number: _____

Ward/Protected Person's Name, an Adult.

PROBATE INFORMATION FORM for GUARDIANSHIP/CONSERVATORSHIP

☐ **Updated** (Check this box if this is an updated form.)

INSTRUCTIONS:

1. Complete this form to the best of your knowledge and ability and then file it with your application or petition.
2. If you later learn of additional information that you omitted or if you later learn that any information in this form is incorrect, you must file an updated probate information form.
3. For purposes of this form, "Financial Institution" means a national banking association, a holder of a banking permit under Arizona law, a savings and loan association authorized to conduct trust business in Arizona, a title insurance company qualified to do business in Arizona, or a trust company holding a certificate to engage in trust business from the superintendent of financial institutions.
4. Items designated with an asterisk (*) constitute "contact information" under Rule 13, Arizona Rules of Probate Procedure. If contact information changes, you must file a notice of change of contact information.
5. This form is filed as a confidential document, so it is *not* available to the general public. In addition, you are *not* required to provide anyone with this form other than the court.

A. INFORMATION ABOUT THE NOMINATED GUARDIAN (if applicable):

Name: _____

Is this person or entity an Arizona Licensed Fiduciary? ☐ Yes ☐ No

If Yes, write that person or entity's Licensed Fiduciary Number on the line below:

Mailing Address:* _____

Physical Address:* _____

Work Telephone Number:* _____

Email Address:* _____

If the nominated guardian is an Arizona Licensed Fiduciary or a Financial Institution, proceed to section **B** below. Otherwise, complete the remainder of section **A**.

Home Telephone Number:* _____

Cellular Phone Number:* _____

Date of Birth: _____ Social Security Number: _____

Race: _____ Height: _____ Weight: _____

Eye Color: _____ Hair Color: _____ Sex: _____

B. INFORMATION ABOUT THE NOMINATED CONSERVATOR (If applicable or if different from **A**):

Name: _____

Is this person or entity an Arizona Licensed Fiduciary? ☐ Yes ☐ No

If Yes, write that person or entity's Licensed Fiduciary Number on the line below:

Mailing Address:* _____

Physical Address:* _____

Work Telephone Number:* _____

Email Address:* _____

If the nominated conservator is an Arizona Licensed Fiduciary or a Financial Institution, proceed to section **C** below. Otherwise, complete the remainder of section **B**.

Home Telephone Number:* _____

Cellular Phone Number:* _____

Date of Birth: _____ Social Security Number: _____

Race: _____ Height: _____ Weight: _____

Eye Color: _____ Hair Color: _____ Sex: _____

C. INFORMATION ABOUT THE PERSON WHO NEEDS A GUARDIAN OR CONSERVATOR:

Name: _____

Mailing Address:* _____

Physical Address:* _____

Work Telephone Number:* _____

Email Address:* _____

Home Telephone Number:* _____

Cellular Phone Number:* _____

Date of Birth: _____ Social Security Number: _____

Race: _____ Height: _____ Weight: _____

Eye Color: _____ Hair Color: _____ Sex: _____

I, _____ (your name), under the penalty of perjury, do hereby swear that the foregoing information is true and correct to the best of my knowledge and belief.

Date

Signature

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____
Licensed Fiduciary Number: _____

FOR CLERK'S USE ONLY

Representing ☐ Self, without a Lawyer or ☐ Attorney for ☐ Petitioner OR ☐ Respondent

SUPERIOR COURT OF ARIZONA IN YUMA COUNTY

In the Matter of
Guardianship and Conservatorship of:

Case Number: _____

PETITION FOR PERMANENT APPOINTMENT OF GUARDIAN AND CONSERVATOR FOR A MINOR A.R.S. § 14-5201, § 14-5401

_____ A Minor

UNDER OATH OR BY AFFIRMATION

INFORMATION REQUIRED BY ARIZONA LAW (A.R.S. § 14-5401)

1. INFORMATION ABOUT THE PETITIONER (the person filing this petition)

(My) Name: _____

Address: _____

Telephone: _____ Date of Birth: _____

My interest in or relationship to the person(s) to be protected is: _____

(examples: mother, father, sister, brother, grandparent, legal guardian)

2. INFORMATION ABOUT THE MINOR(S) TO BE PROTECTED (also known as the "proposed protected Minor", "the Ward" or "the proposed Ward").

Name: _____ ☐ is married

Address: _____

Telephone: _____ Date of Birth: _____

Name: _____ ☐ is married

Address: _____

Telephone: _____ Date of Birth: _____

Name: _____ ☐ is married

Address: _____

Telephone: _____ Date of Birth: _____

☐ Continues on attachment titled "Additional Minors to be Protected", made part of this document by reference.

3. INFORMATION ABOUT THE PROPOSED GUARDIAN-CONSERVATOR: (Complete this **only** if the proposed guardian-conservator is **not** the same person as the Petitioner.)

Name: _____
 Address: _____
 Telephone: _____ Date of Birth: _____
 Relationship to the proposed Ward(s): _____
 (examples: mother, father, sister, brother, grandparent, legal guardian)

A. The proposed guardian-conservator has priority for appointment as a *CONSERVATOR* under Arizona law A.R.S. § 14-5410, because he or she is:

- ☐ (Already) An appointed conservator, guardian or other similar fiduciary appointed or recognized by the appropriate court of *any other jurisdiction* in which the person to be protected resides.
- ☐ An individual or corporation nominated by the protected person if the protected person is at least fourteen years of age and has, in the opinion of the court, sufficient mental capacity to make an intelligent choice.
- ☐ The spouse of the protected minor.
- ☐ A person nominated by the will of a deceased parent.
- ☐ Any non-parent relative of the protected person with whom the protected minor has resided for more than six months before the filing of the petition.
- ☐ A person nominated by someone who is caring for or paying benefits to the protected minor.
- ☐ A fiduciary who is licensed pursuant to Arizona law **A.R.S. § 14-5651**, other than a public fiduciary.
- ☐ A public fiduciary who is licensed pursuant to Arizona law **A.R.S. § 14-5651**.
- ☐ **OTHER. Explain:** _____

B. The proposed guardian-conservator qualifies for appointment as a *GUARDIAN* under Arizona law, A.R.S. §14-5202 (and sections that follow) **because:** (Check all that apply)

- ☐ Proposed appointee was selected by the WILL of a deceased parent.
- ☐ Proposed appointee was selected by the Minor who is 14 or more years of age.
- ☐ Proposed appointee is a relative of the Minor and has had care and custody of the Minor for at least six (6) months prior to filing this Petition.
- ☐ Proposed appointee was chosen to be the guardian by someone who is caring for the Minor or is paying benefits for the Minor.
- ☐ Proposed appointee is a public fiduciary, a professional guardian, conservator, or the Arizona Veterans' Service Commission.
- ☐ The proposed appointee is not related by blood to the Minor and the person will submit a full set of fingerprints to the court required by **A.R.S. § 14-5206 within five (5) days** of filing this Petition.

4. REASONS FOR CONSERVATORSHIP: A Conservator is needed because the Minor(s):
(Check all that apply):

- ☐ Owns money or property that requires management or protection which cannot otherwise be provided;
- ☐ May have business affairs which may be jeopardized or prevented by his or her minority;
- ☐ Needs funds for his or her support and education, and protection is necessary or desirable to obtain or provide funds.

5. ASSETS OF THE MINOR(s) TO BE PROTECTED:

(Check one box)

- ☐ **There are currently no substantial assets or income belonging to the proposed ward(s), but appointment is necessary to protect expected or potential income or assets.**

OR

- ☐ **The proposed ward(s) has/have assets and/or annual income in the approximate amount of \$ _____ List/Describe:**

6. REASONS FOR GUARDIANSHIP: The appointment of a guardian for the Minor is necessary or desirable to provide continuing care and supervision of the Minor, and is in the best interests of the minor because:

7. PARENTAL RIGHTS. All parental rights of custody regarding the Minor have been terminated or suspended by:

- ☐ **Written consent** of the parent(s) to the guardianship.
- ☐ **Prior court order.** (You must provide the court with a certified copy of the order.)
- ☐ **Abandonment** of the Minor for at least six (6) months prior to the filing of this Petition.
- ☐ **Other circumstances.** Explain:

8. DISABILITY OR INCAPACITATION. Is the Minor (or any proposed protected Minor) disabled or incapacitated to the extent that he or she will continue to need a guardian or conservator AFTER reaching the age of 18?

- ☐ **NO.** No proposed protected minor will need a guardian or conservator after the age of 18.
- ☐ **YES.** At least one proposed protected minor **WILL** need a guardian or conservator after the age of 18.

If "yes", and protection is proposed for *more than one* Minor in this petition, the names of those who will continue to need a guardian or conservator *after* the age of 18 are:

9. INFORMATION ABOUT OTHER CONSERVATOR OR GUARDIAN):

To the best of my knowledge: (Check one box.)

☐ No Guardian or Conservator has been appointed in any other court, and no court proceedings are pending for such appointment;

OR

☐ Someone *has* been appointed Guardian or Conservator, or court proceedings are pending. (If "yes", provide details below.)

Name: _____

Address: _____

Telephone: _____ Date of Birth: _____

Relationship to the person to be protected is: _____

Was appointed ☐ GUARDIAN ☐ CONSERVATOR for the ward named in #2 above in:

Name of Court: _____ Located in:

City and State: _____

Date Appointed: _____ Other Details: _____

10. INFORMATION ABOUT OTHER COURT CASES OR AGENCY INVOLVEMENT

☐ There are or were other court cases or involvement with government, social services or law enforcement agencies involving the ward. (Describe below, including type of case, name of court or agency involved (such as DCS (Arizona Department of Child Safety)), location, and date).

☐ Continues on attachment "Additional Cases or Agency Matters", made part of this document by reference.

11. INFORMATION ABOUT NEAREST RELATIVE:The nearest known relative is ☐ the petitioner ☐ the proposed conservator ☐ NEITHER.

Name: _____

Address: _____

Telephone: _____

Relationship to the person to be protected is: _____

12. OTHER CLAIMS TO CHILD(REN): (Provide the information requested **IF** there are persons [or agencies] with whom the child(ren) have lived or others who might claim rights to the child(ren).)

Name: _____

Address: _____

Telephone: _____

Relationship to the person to be protected is: _____

☐ Continues on attachment titled "Additional Claims", made part of this document by reference.
 (The following statement is required to appear on all petitions for guardianship. A.R.S. § 14-5303(B))

Authority granted to a guardian may include the authority to withhold or withdraw life sustaining treatment, including artificial food and fluid.

NOTICE

ARIZONA LAW § 14-5405 requires that notice of the hearing on a matter of *conservatorship* shall be given to each of the following:

- 1. The protected person or the person allegedly in need of protection if that person is fourteen years of age or older.**
- 2. The spouse, parents and adult children of the protected person or person allegedly in need of protection, or if no spouse, parents or adult children can be located, at least one adult relative of the protected person or the person allegedly in need of protection, if such a relative can be found.**
- 3. Any person who is serving as guardian or conservator or who has the care and custody of the protected person or person allegedly in need of protection.**
- 4. Any person who has filed a demand for notice.**

13. PERSONS ENTITLED TO NOTICE:

☐ **I WILL PROVIDE NOTICE OF THIS MATTER TO THE FOLLOWING PERSONS:**

	Name	Address (Street Address, City, State, Zip)
Proposed Ward: (required if over 14)		
Attorney for Ward: (if applicable)		
Mother of the Ward*		
Father of the Ward*		
Current Guardian: (State relation to the Ward, if any)		
Person the Ward recently lived with:		
Other: (State relation to Ward, if any)		
Other: (State relation to Ward, if any)		

***if parental rights have not been permanently severed/terminated by court order.**

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____
Licensed Fiduciary Number: _____

FOR CLERK'S USE ONLY

Representing ☐ Self, without a Lawyer or ☐ Attorney for ☐ Petitioner OR ☐ Respondent

SUPERIOR COURT OF ARIZONA IN YUMA COUNTY

In the Matter of the
Guardianship and/or Conservatorship of:

Case Number: _____

AFFIDAVIT OF PERSON TO BE APPOINTED GUARDIAN OR CONSERVATOR A.R.S. § 14-5106

☐ an Adult or ☐ a Minor

INSTRUCTIONS: As required by Arizona law A.R.S. § 14-5106, indicate whether statements 1-11 below are true or false, and provide the information requested to complete "12" and "13". Explain any "false" statements on separate page(s) and attach to this document before filing. Sign the document in the presence of a Clerk of the Court or a Notary Public, and file along with the ***Petition for Appointment of Guardian and/or Conservator***.

UNDER PENALTY OF PERJURY, I SWEAR OR AFFIRM:

1. ☐ True or ☐ False. I have not been convicted of a felony in any jurisdiction.
2. ☐ True or ☐ False. I have not acted as a guardian or conservator for another person for at least three years before I filed this Petition.
3. ☐ True or ☐ False. I know and understand the powers and duties I would have as a guardian and/or conservator.
4. ☐ True or ☐ False. I have not had a power of attorney for anyone for at least three years before I filed this Petition.
5. ☐ True or ☐ False. To the best of my knowledge, neither I nor any business in which I have an interest is listed in the Elder Abuse Registry at the Office of the Arizona Attorney General.
6. ☐ True or ☐ False. If I have been a guardian/conservator before, I either filed the required documents on time, or within 3 months of receiving a notice from the court that the report/accounting was due.
7. ☐ True or ☐ False. I have never been removed by the court as a guardian or conservator.

8. ☐ True or ☐ False. Neither I nor any business in which I have an interest has ever received anything of value greater than a total of one hundred dollars in any one year by gift, or will, or inheritance from an individual or the estate of an individual to whom I was not related by blood or marriage and for whom I served at any time as guardian, conservator, trustee, or attorney-in-fact.
9. ☐ True or ☐ False. To the best of my knowledge, neither I nor any business in which I have an interest is named as a personal representative, trustee, devisee (beneficiary of a will), or other type of beneficiary for any individual to whom I am not related by blood or marriage and for whom I have ever served as guardian, conservator, trustee, or attorney-in-fact.
10. ☐ True or ☐ False. I have no interest in any business that provides housing, health care, nursing care, residential care, assisted living, home health services, or comfort care services to any individual.

(Explain every "false" above on separate page(s) and attach to this document before filing.)

11. **My relationship to the proposed person in need of protection is:**
(Examples: parent/grandparent/sister/caregiver/friend)

12. **I met the proposed ward under the following circumstances:**

OATH OR AFFIRMATION OF THE PERSON TO BE APPOINTED GUARDIAN AND/OR CONSERVATOR

I swear or affirm that I have read and understand the contents of this document, and that the information I have provided is true and correct to the best of my knowledge and belief.

Date

Signature

Printed Name

STATE OF _____

COUNTY OF _____

Subscribed and sworn to or affirmed before me this: _____ by
(Date)

_____.

(Notary seal)

Deputy Clerk or Notary Public

NOTE: IF YOU ANSWERED "FALSE" TO ANY QUESTION ABOVE, YOU MUST ATTACH AN EXPLANATION AS INSTRUCTED ON THE NEXT PAGE.
The page following is an instruction page only. Do NOT file it with the Court.

**EXPLANATIONS THAT MUST BE ADDED TO THE AFFIDAVIT OF A PERSON
WHO WANTS TO BE APPOINTED GUARDIAN OR CONSERVATOR**
(Required by Arizona Law: A.R.S. § 14-5106)

For any corresponding numbered statement on the Affidavit which you marked "False", ***explain the following*** on a separate page or pages and attach to your Affidavit. The information provided in the attachment is covered by the same oath or affirmation and penalty of perjury as the Affidavit.

FILE THE EXPLANATIONS WITH THE AFFIDAVIT, BUT DO NOT FILE THIS PAGE.

1. As to each felony for which you have been convicted, list:
 - a. The nature of the offense.
 - b. The name and address of the sentencing court.
 - c. The case number.
 - d. The date of conviction.
 - e. The terms of the sentence.
 - f. The name and telephone number of any current probation or parole officer.
 - g. The reasons why the conviction should not disqualify you from appointment.
2. If you have acted as guardian or conservator within three years before filing this petition, list:
 - a. The names of individuals for whom you are currently serving, and court case numbers.
 - b. The names of individuals for whom your appointment has been terminated within the three-year period, and the court case number.
3. State the total number of persons for whom you have served as a guardian or conservator. If you have acted under a power of attorney for the proposed ward/protected person, explain:
 - a. The date the power of attorney was signed.
 - b. The place where it was signed.
 - c. The actions you have taken pursuant to the power of attorney.
 - d. Whether the power of attorney is currently in effect.
4. If you do not have the required information, please explain how you intend to obtain this information.
5. State the reason for such listing on Elder Abuse Registry and the name of any business in which you have an interest that is listed on the Registry.
6. List the name and location of the court and the name and case number of the files in which you were delinquent in filing the required report.
7. List the name and location of the court, the name and case number of each file, and the circumstances of your removal.
8. State the number of occasions on which you and/or any business in which you have an interest received such gifts, list and describe the gifts, the dates received, and list the value of each.
9. State the number of occasions on which you or any business in which you have an interest have been named as a personal representative, trustee, or other type beneficiary listed.
10. List the name and address of each business and the extent and nature of your interest.

DO NOT FILE THIS SHEET
WITH THE CLERK'S OFFICE
INSTRUCTION SHEET ONLY

Person Filing: _____

Address (if not protected): _____

City, State, Zip Code: _____

Telephone: _____

Email Address: _____

Lawyer's Bar Number: _____

Licensed Fiduciary Number: _____

Representing ☐ Self, without a Lawyer or ☐ Attorney for ☐ Petitioner OR ☐ Respondent

FOR CLERK'S USE ONLY

SUPERIOR COURT OF ARIZONA IN YUMA COUNTY

In the Matter of:

Case Number: _____

CONSENT OF PARENT TO (Check one or both)

☐ **GUARDIANSHIP and/or**

☐ **CONSERVATORSHIP**

OF A MINOR CHILD and

(OPTIONAL) **WAIVER OF NOTICE**

Name of Minor(s)

UNDER PENALTY OF PERJURY:

1. INFORMATION ABOUT ME, the parent:

Name: _____

Address: _____

Telephone: _____

Date of Birth: _____

I am the natural or legally adoptive ☐ **MOTHER** or ☐ **FATHER** of the minor child or children named above, for whom a guardian and/or conservator is to be appointed.

2. I have read the Petition for Appointment of a Guardian and/or Conservator and consent to the appointment of: _____

as ☐ **Guardian,** ☐ **Conservator,** or ☐ **Guardian and Conservator of the minor child(ren).**

3. (Optional) ☐ I WAIVE NOTICE OF ALL FURTHER PROCEEDINGS IN THIS MATTER.

OATH OR AFFIRMATION

I swear or affirm that I have read and understood this document and the information I have provided is true and correct to the best of my knowledge and belief.

Date

Parent's Signature

Parent's Printed Name

STATE OF _____

COUNTY OF _____

Subscribed and sworn to or affirmed before me this: _____ by
(date)

_____.

(notary seal)

Deputy Clerk or Notary Public

Person Filing: _____

Address (if not protected): _____

City, State, Zip Code: _____

Telephone: _____

Email Address: _____

Lawyer's Bar Number: _____

Licensed Fiduciary Number: _____

Representing ☐ Self, without a Lawyer or ☐ Attorney for ☐ Petitioner OR ☐ Respondent

FOR CLERK'S USE ONLY

SUPERIOR COURT OF ARIZONA IN YUMA COUNTY

In the Matter of:

Case Number: _____

CONSENT OF PARENT TO (Check one *or both*)

☐ **GUARDIANSHIP and/or**

☐ **CONSERVATORSHIP**

OF A MINOR CHILD and

(OPTIONAL) **WAIVER OF NOTICE**

Name of Minor(s)

UNDER PENALTY OF PERJURY:

1. INFORMATION ABOUT ME, the parent:

Name: _____

Address: _____

Telephone: _____

Date of Birth: _____

I am the natural or legally adoptive ☐ **MOTHER** or ☐ **FATHER** of the minor child or children named above, for whom a guardian and/or conservator is to be appointed.

2. I have read the Petition for Appointment of a Guardian and/or Conservator and consent to the appointment of: _____

as ☐ **Guardian,** ☐ **Conservator,** or ☐ **Guardian and Conservator of the minor child(ren).**

3. (Optional) ☐ I WAIVE NOTICE OF ALL FURTHER PROCEEDINGS IN THIS MATTER.

OATH OR AFFIRMATION

I swear or affirm that I have read and understood this document and the information I have provided is true and correct to the best of my knowledge and belief.

Date

Parent's Signature

Parent's Printed Name

STATE OF _____

COUNTY OF _____

Subscribed and sworn to or affirmed before me this: _____ by
(date)

_____.

(Notary seal)

Deputy Clerk or Notary Public

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____
Licensed Fiduciary Number: _____

FOR CLERK'S USE ONLY

Representing ☐ Self, without a Lawyer or ☐ Attorney for ☐ Petitioner OR ☐ Respondent

SUPERIOR COURT OF ARIZONA IN YUMA COUNTY

In the Matter of
Guardianship and/or Conservatorship for:

Case Number: _____

NOTICE OF HEARING REGARDING

(Check one box)

☐ an Adult ☐ a Minor

☐ Guardianship ☐ Conservatorship
☐ Guardianship and Conservatorship

THIS IS A LEGAL NOTICE; Your rights may be affected.

An important court proceeding that affects your rights has been scheduled. If you do not understand this notice or the other court papers, contact an attorney for legal advice.

1. **NOTICE IS GIVEN** that the Petitioner has filed with the Court the following Petition and other court paper indicated below (Check the box to indicate whether the Petition was for a Permanent or Temporary appointment, and a second box to indicate whether for Guardian and Conservator, or just one):

Petition for ☐ **Permanent** ☐ **Temporary** Appointment of a ☐ **Guardian and Conservator** (or)
☐ **Guardian or** ☐ **Conservator** (only)

Affidavit of Person to be Appointed

2. **COURT HEARING.** A court hearing has been scheduled to consider the Petition and matters in the court papers as follows:

DATE and TIME _____

PLACE: _____

JUDICIAL OFFICER: _____

3. **RESPONSE TO PETITION.** You are not required to respond to this Petition, but if you choose to respond, you *may* do so by filing a written response *or* by appearing in-person at the hearing. *If you choose to file a written response:*

- File the original with the Court;
- Provide a copy to the office of the Judicial Officer named above; and
- Mail a copy to all interested parties at least five (5) business days before the hearing.

If you object to any part of the Petition or Motion that accompanies this notice, you must file with the court a written objection describing the legal basis for your objection at least three (3) days before the hearing date or you must appear in person or through an attorney at the time and place set forth in the notice of hearing. There is a FEE for filing a response. If you cannot afford the fee, you may file a *Fee Deferral Application* to request a payment plan from the Court.

DATED: _____
(Month/Day/Year)

Petitioner's Signature

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____
Licensed Fiduciary Number: _____

FOR CLERK'S USE ONLY

Representing ☐ Self, without a Lawyer or ☐ Attorney for ☐ Petitioner OR ☐ Respondent

SUPERIOR COURT OF ARIZONA IN YUMA COUNTY

In the Matter of:

Case Number: _____

(Optional) **WAIVER OF NOTICE and
(Optional) WAIVER OF SERVICE MEMBERS
CIVIL RELIEF ACT(SCRA) RIGHTS
regarding:**

An incapacitated or protected **Adult** or ☐ **Minor**

☐ **Guardianship**

(check one or both)

☐ **Conservatorship**

UNDER PENALTY OF PERJURY, I SWEAR OR AFFIRM:

1. **MY RELATIONSHIP** to the incapacitated or protected person named above is:

(examples: parent, grandparent, guardian) _____

2. **I HAVE RECEIVED the Petition and/or other court papers indicated below:**

(Check the box next to [only] the documents you received.)

☐ **Petition for Permanent Appointment of:** ☐ **Guardian** ☐ **Conservator**

☐ **Petition for *Temporary/Emergency* Appointment of:** ☐ **Guardian** ☐ **Conservator**

☐ **Order Appointing Attorney, Health Professional, Court Investigator**

☐ **Affidavit of Person to be Appointed**

☐ **Consent of Parent** (*only* if regarding a minor)

or ☐ Petition for Approval of Accounting ☐ Annual Report of Guardian

☐ Other: _____

3. (Optional) ☐ **I WAIVE NOTICE** of all court filings and proceedings regarding this matter.

I understand that I can reverse this waiver by filing a written document with the court under this case number declaring that I no longer waive notice of hearings and other court proceedings.

4. MILITARY STATUS

☐ I am **NOT** on active duty in the U.S. military;

OR

☐ I **AM** on active duty in the U.S. military.

If you are on active duty with the U.S. military, see the information on your rights under the *Servicemember's Civil Relief Act* and the optional waiver of the right to delay this court proceeding under the Act on the page following.

SERVICEMEMBER'S CIVIL RELIEF ACT (SCRA) INFORMATION AND *OPTIONAL* WAIVER

NOTE: When military duty interferes with the ability to participate in a case, the **Servicemember's Civil Relief Act (SCRA)** may permit a service member to delay or overturn a civil court proceeding. Waiving this right does **NOT** affect your right to later request a change regarding court appointment of a guardian or conservator.

It is generally advisable to consult a military legal assistance attorney before waiving any rights under the Servicemember's Civil Relief Act. If Luke Air Force Base is the military installation closest to you, you can contact the legal office at **623-856-6901**. Otherwise, contact the legal office at the nearest military installation.

IF ACTIVE DUTY MILITARY and you do not wish to delay court proceedings in this matter, check the box below to **WAIVE** any right that may apply under the SCRA to cause the court to delay.

(Optional)

☐ I **WAIVE** any right I may have under the SCRA to delay this matter.

WAIVER OF NOTICE and *(if applicable)* **SERVICEMEMBER'S CIVIL RELIEF ACT (SCRA) WAIVER**

I have read and understand this **Waiver of Notice** and the separate **Servicemember's Civil Relief Act Waiver**. I understand that I am not required to either waive notice **or** any rights that may apply under the SCRA, but **if** I have waived either notice or any rights under the SCRA as indicated above or on the preceding page, I do so voluntarily.

UNDER PENALTY OF PERJURY

I swear or affirm that I have read and understand this document and that the information I have provided is true and correct to the best of my information and belief.

Date

Signature of Person Receiving Documents

Printed Name

STATE OF _____

COUNTY OF _____

Subscribed and sworn to or affirmed before me this: _____ by
(date)

_____.

(Notary seal)

Deputy Clerk or Notary Public

GUARDIANSHIP AND CONSERVATORSHIP TRAINING MANUAL



This program was developed under grant number SJI-11-E-008 from the State Justice Institute. The points of view expressed are those of the faculty and do not necessarily represent the official position or policies of the State Justice Institute.

IMPORTANT NOTICE

TRAINING REQUIREMENT

Effective September 1, 2012

The Arizona Supreme Court requires that any person who is not a state-licensed fiduciary (or a financial institution) must complete a training program approved by the Supreme Court **before** Letters of Appointment to serve as a guardian, conservator, or personal representative can be issued by the Clerk of the Court.

TRAINING SHOULD BE COMPLETED BEFORE THE COURT HEARING.

The fiduciary may for good reason request additional time to complete the training.

You may access and complete the training FREE online at:

<http://www.azcourts.gov/probate/Training.aspx>

Go to the section for “**Non-licensed Fiduciaries**” and click on the link to access a narrated slide-show presentation of the materials applicable to your situation.

AFTER reviewing the materials, you will need to inform the Court that you have completed the training by filing either the Certificate available at the end of the online training, or the Declaration of Completion form available at the end of this training manual, or from either the Probate Filing Counter or the Law Library Resource Center. If you have questions about the training, contact the Probate Clerk at 602-506-3668.

Guardianship Training Manual

After viewing the contents of this manual you will be able to:

- Summarize the major responsibilities of being a Guardian
- Compare and Contrast the roles of guardian and parent
- Explain the difference between best interest and substituted judgment
- Discuss the difficulties involving making decisions for the Ward

Responsibilities of a Guardian

As the guardian, it is your job to ensure that the ward maintains as much independence and autonomy as possible. It is easy to fall into the role of protector, but try to keep in mind that your role is similar to that of a parent to a child. A parent wants to assist a child in navigating the world around them, ensuring they handle the tasks they are capable of handling on their own so they can continue to grow and learn. As the guardian of a disabled or elderly adult, you want to do the same thing. For example, if the ward is capable of maintaining their home without the assistance of a housekeeper or in-home care provider, allow them to do that. Try to allow them as much input into your decisions as possible.

Best Interest/Substituted Judgment

Your role as the guardian is to listen to the ward and ensure that their preferences are being met as long as it does not cause harm. You are in a position to make decisions for the ward in one of two ways; using either substituted judgment or the best interest standard.

➤ Substituted Judgment

When making decisions using substituted judgment you are doing exactly as it sounds; making the decision that the ward would make if they had the mental capacity to do so. You have an obligation to discuss the decision you are going to make with the ward and listen to their preferences in that situation. For example, if the doctor is recommending that the ward have surgery to put in a pacemaker you should discuss this with the ward. Try to put it in terms that they have the ability to understand. Discuss the benefits and the consequences of the decision you are about to make. Listen to their preferences and their reason for making the decision. When using substituted judgment it is also helpful to talk to other family members or friends about conversations they have had with the ward. Has the ward ever talked about their preference for medical treatment? Do they want all measures taken to prolong their life or do they want only pain management? Do they wish to be buried or cremated? Your job is to determine what their preferences were when they were still capable of making those decisions.

➤ Best Interest Decisions

Making decisions using substituted judgment may be easier for a guardian dealing with an elderly disabled ward as opposed to an adult who has been disabled since birth. When dealing with an elderly ward, at one time they were most likely competent and capable of understanding cause and effect relationships. As such, they may have discussed their preferences before becoming disabled; thereby giving you a better understanding of what their wants would be now.

With a ward who has been disabled since birth, it may be more difficult to know their wants as these may never have been clearly expressed. In this situation, or in situations where the ward's preferences may cause serious harm or injury, you would be making your decision based on what you believe to be in the ward's best interest.

Difficult Decisions

It is never easy to make a decision for another adult that goes against their wishes, but you must keep in mind that your friend or family member no longer has the ability to truly understand the consequences of their decision. This is why the court appointed you as guardian – to make the tough decisions. Ultimately the decision is yours, but if you are making a decision that is in contrast to the stated or demonstrated preferences of the ward, you should be prepared to defend that decision.

Coordinating Services

As the guardian, it is your responsibility to ensure that the ward is receiving appropriate medical care, proper education and their overall health and welfare is protected. As a guardian you will be responsible for coordinating medical appointments and being aware of the medical needs of the ward. Do they need hearing aids? What about dentures? Are they diabetic? If so, quarterly appointments with a podiatrist may be useful.

Maybe the ward is a 19-year-old disabled adult. Can they still attend school? What about attending life skills training such as cooking or balancing a checkbook? If the ward has the ability to benefit from this type of training then it is your responsibility to coordinate these services for them.

Ensuring Medical Needs are Being Met

➤ What is informed consent?

The National Guardianship Association (NGA) does an excellent job of discussing the issue of informed consent in their "Standards of Practice." NGA Standard 6 defines informed consent as "a person's agreement to a particular course of action based on a full disclosure of facts needed to make decisions intelligently."

In order for it to be considered informed consent, you must have received adequate information about the issue you are being asked to consider and you must enter into the decision voluntarily and without feeling coerced.

➤ Medical Considerations

The NGA provides an online outline that may be very useful when trying to make medical decisions on behalf of the ward. This outline can be found at

http://www.guardianship.org/documents/Standards_of_Practice.pdf

The pages that follow cover the NGS's Standards of Practice 6.

➤ **Informed Consent**

As a guardian you should have a clear understanding of the issue for which informed consent is being sought. If needed, ask as many questions as it takes to feel comfortable that you understand what is being proposed for the ward. Again, keep in mind the adult/child relationship. What types of questions would an adult ask if someone was suggesting this course of treatment for a child?

➤ **Determine Conditions**

Determine the conditions that necessitate treatment or action. In other words, what is the underlying problem that is causing the doctor to suggest this form of treatment? For example, what if the ward has started exhibiting behavioral outbursts and aggressiveness towards caregivers and the doctor wants to prescribe an anti-psychotic medication that has potential for significant side effects? You might first want to consider if these outbursts are because the ward is in pain and instead of the prescription medication, a simple regimen of over the counter pain medication would be the better solution.

➤ **Ward's Preference**

Advise the ward of the decision that is required and determine, to the extent possible, their current preferences. Determine whether the ward has previously stated preferences in regard to a decision of this nature. This relates back to the substituted judgment vs. best interest standard.

➤ **Alternatives**

Determine the expected outcome of each alternative. Using the example of the prescription medication versus simple medication, is it better to consent to the prescription or to request over the counter pain medication first to rule out the need for pain management?

In addition to the expected outcomes, you should also consider the benefits and risks of each alternative. Finally, you should ask, does this decision need to be made now rather than later?

➤ **Later vs. Sooner**

In relation to making a decision later rather than sooner, you may want to consider a decision to take no action at all. Keep in mind, sometimes this is the best decision.

It may be that the ward is elderly and was presented with an option to have a pacemaker in the past. At the time, the ward was competent and determined that she did not believe the risks of the procedure were worth the benefit. In this situation you would want to consider her reasoning at the time she made this decision and make your decision in the same manner.

➤ **Least Restrictive Decision**

When faced with a decision you may want to determine what the least restrictive alternative is for the situation. As the guardian, your role is to ensure that the ward receives the least restrictive form of intervention to ensure the ward maintains as much independence and autonomy as possible. In the behavioral example given earlier, over the counter pain medication would be the lesser restrictive alternative. Living at home with caregivers as opposed to placement in an assisted living facility or nursing home is another example of a lesser restrictive alternative.

➤ **Second Opinion**

Obtain a second opinion, if necessary. The same rights you have over your own person, you have over the ward. If you feel you need a second medical opinion before making a decision for treatment, by all means, seek a second medical opinion.

➤ **Seek Resources in Family and Friends**

It may be helpful to obtain information or input from family, friends or professional fiduciaries. Again, this goes back to making a decision using informed consent vs. substituted judgment. It is always beneficial to seek out assistance from the resources available in your community. Many professional guardians are willing to consult with you to assist you with a particular problem or issue. Many times they have dealt with a similar situation and can point you in the right direction. All hospitals will have a bioethics team available to consult with you about a particular medical procedure. Be familiar with the resources available within your community and use them.

Written Documentation

Obtain written documentation of all reports relevant to each decision. Always keep in mind that your decision is open to scrutiny by others; other family members, court-appointed counsel, or the courts. You want to ensure that you can always support and/or justify a decision you have made on behalf of the ward.

Ensuring Benefits are Received

You need to ensure that you have applied for and are receiving all of the benefits that the ward may be entitled to receive. This may include applying to Medicare, the Arizona Health Care Cost Containment System, the Arizona Long Term Care System, the Veteran's Administration for benefits, the Department of Developmental Disabilities, any form of supplemental health insurance that may be available to the ward, and Medicare Part D to help with prescription drug coverage.

Ward's Rights

The rights that the ward maintains will be outlined in your order of appointment. In most instances the ward will lose the right to drive, vote, determine where they live, consent to medical treatment or maintain firearms. It should be noted that the right to vote on behalf of the ward does not transfer to the guardian.

Handling Money

The law allows a guardian to handle money on behalf of the ward if there is no conservator appointed. In most instances, if the ward receives more than just Social Security income and has significant assets, such as a home, car or brokerage account, then the court will appoint a conservator. The Order to Guardian indicates that the guardian shall not manage more than \$10,000 on behalf of the ward. This value comes from the statutes related to a guardian of a minor. There is no provision in the law to indicate how much money a guardian can manage on behalf of the adult ward so most courts use the same standard as outlined for minors.

Accepting Gifts from the ward

The disclosure statement you must file as the guardian indicates that you have not accepted a gift from someone, who is not related to you by blood, of more than \$100.00. That being said, it is typically looked at as a conflict of interest for you to accept any gift from the ward without first seeking court approval. Additionally, the statute requires that a conservator receive court approval prior to giving any gifts at all on behalf of a ward or protected person. The general rule is that you should not accept gifts from the ward.

Annual Guardianship Report

➤ Obtain a physician's statement

ARS Section 14-5315(C) requires the annual guardianship report to include "a copy of the ward's physician's or registered nurse practitioner's report to the guardian or, if none exists, a summary of the physician's or the registered nurse practitioner's observations on the ward's physical and mental condition."

➤ Annual Report Due Dates

The annual report is due on the anniversary date that your permanent letters of guardianship were issued. The first report will include the time from the date of your first appoint through the end of the ninth month after the permanent appointment. For example, if you were appointed as the temporary guardian on January 1st and your permanent letters of appointment were issued on February 1st, the time frame for your first annual guardianship report would be from January 1st through November 30th. If you only had permanent letters of appointment issued and they issued on January 30th, the report would be from January 30^h through October 31st. Each report after that will be for an entire year. If the ending date of your first report was October 31st, the time frame for all subsequent reports will be November 1st through October 31st.

➤ Information in the Report

The information contained in the guardianship report includes: the ward's current address; how many times you have seen the ward during the report period; the date you last saw the ward; the name and contact information for physicians and any specialists seen by the ward, including any dates for the most recent visits and the Health Professional's Report; any major changes in the ward's condition since the last report; whether or not you believe the guardianship should continue; an outline of any state or federal benefits received by the ward, and the caseworker assigned to oversee those benefits.

Change of Address Notification

According to the Arizona Rules of Probate Procedure, Rule 10(C)(1)(c), the fiduciary must update the probate information sheet with the new address of the ward within three (3) days of the change of address.

Payment as the Guardian

You are entitled to payment for your time as the guardian. If you intend to seek compensation from the estate of the ward, you are required to file a Notice of Compensation with the court. This will outline what you intend to charge as your hourly rate and why you believe you are entitled to that rate. The court may review your fees on an annual basis. You are also entitled to reimbursement from the ward's estate for any money you pay out of pocket for their benefit. For example, if you pay for a filing fee with the court, you would be entitled to be reimbursed for that expense.

Attorney Fees

➤ Can you hire an attorney?

You may hire an attorney and you are entitled to have the fees for that attorney paid by the ward's estate. Just as you would have to file a Notice of Compensation with the court, any attorney who intends to seek compensation from the ward's estate must also file the notice with the court.

When the Ward Dies

When the ward dies, you must file a Notice of Death with the court within ten (10) days after the date of death. As an operation of law, your authority as the guardian ceases at the time the ward dies. If you are managing any funds on behalf of the ward, such as Social Security benefits, you may be required to return those funds to the Social Security Administration or give them to the individual who will ultimately be responsible for distributing the ward's estate to the ward's beneficiaries.

Thank you for viewing this training manual. The welfare of the ward and/or protected person is of utmost importance to the court. For more information about Probate please visit the Judicial Branch website devoted to Probate at www.azcourts.gov/probate.

Conservatorship Training Manual

After viewing the contents of this manual you will be able to:

- Discuss the role and responsibility of the conservator
- Explain what a surety bond is and why it is required
- List some best practices for managing documents and records
- Discuss the importance of understanding projected sustainability
- Describe the forms required by the court and the general timeline/order in which to submit those forms
- Summarize how substituted judgment is used when making decisions regarding the welfare of the protected person
- Recall the steps needed to take when the protected person dies

Responsibilities of a Conservator

As a conservator, your first priority is to marshal and protect the assets of the conservatorship estate. When the court tells you to marshal an asset, do you know what they mean? The court wants you to take control of the assets, on behalf and for the benefit of, the conservatorship estate. There are a number of different ways that you can do this.

➤ “Certified” Letters

One of the first things you need to do is obtain a current “certified” copy of your letters of appointment. A certified copy is a copy issued by the Clerk of the Court in the county where your letters were issued. The certified copy states that it is a true and complete copy of the original letters on file with the issuing court, and that the conservatorship is currently in effect.

➤ Surety Bonds

When you are appointed conservator, the court will also order that a surety bond be posted to cover all the assets that belong to the protected person. A bond is an insurance policy so that if the conservator misappropriates the money, invests it badly, or makes some other mistake, the ward will not suffer as a result. The price of that insurance policy can be paid from the ward’s money, but the conservator must post the bond.

The amount of the bond will ordinarily be the principal value of the ward’s property plus one year’s anticipated income. If the value of the estate changes, you must request an Order of the Court either reducing or increasing the amount of the bond.

If you misuse the ward’s funds, do not maintain those funds, or if you do not keep accurate records, the court may require that your bonding company reimburse the ward’s account for any losses. The bonding company can then file a lawsuit against the conservator to recover the amount the company was required to pay, including, in some cases, the attorney’s fees incurred by the bonding company in seeking the reimbursement. A conservator can be removed by the court when appropriate. Additionally, a conservator who misappropriates funds or engages in theft or fraud may be criminally prosecuted.

➤ **Record your Letters**

Once you have obtained a surety bond and a certified copy of your conservator letters you will want to record your letters with the county recorder in the county where the protected person resides.

You will also want to record your certified letters in any other county where the protected person may own property. By recording your letters of appointment you are putting the public on notice of your appointment. You are also creating a record that identifies you as the only person entitled to transfer property on behalf of the protected person in the event someone should attempt to sell or make any lien or other encumbrance against the real property.

➤ **Notice of Filing**

Once you have received the recorded copy of your letters of appointment back from the recorder's office (there will be a marking on the document that reflects it has been recorded and where that record can be found for future reference), you will need to file a Notice of Filing with the court to show that you have recorded the letters of appointment.

Marshal an Account

In order to marshal a bank or brokerage account, you will need to notify the financial institution of your appointment. When you first meet with the financial institution be sure to bring the original, stamped letters or the certified copy of your letters of appointment with you. Most banks' legal department will want to see a certified copy of your letters of appointment in order to allow you access to the account. Also, if you have access to the protected person's social security number, date of birth and bank account number(s) be sure to bring those with you as well.

How Should Assets be Titled?

Once you have presented your letters of appointment, the account(s) will be re-titled into the name of the conservatorship. The way the account is titled depends on the organization; some may title the account as "Jane Doe, conservatee, by John Doe, conservator"; others may title it as "Jane Doe" and then the next line will read "John Doe, conservator." The purpose of this is to notify the organization (bank, brokerage firm, Department of Motor Vehicles) that you are the only person who should be dictating how the asset is held, spent, or managed.

Recording Transactions

You should be very careful not to let any other individual have access to any bank accounts you manage. While there is no law that prohibits you from using a debit card or cash to transact business on behalf of the protected person, it is best to avoid using a debit card or cash whenever possible. Debit cards can be easily accessed by another individual and it is difficult to prove that a cash transaction was used for the benefit of the protected person. If it is necessary to use cash for a purchase be sure and keep all receipts to prove the purchase was for the benefit of the protected person.

Re-Title Vehicles

You may also re-title vehicles in the name of the conservatorship. In order to do this, you will need to bring your letters of appointment to the Motor Vehicles Division. The MVD typically requires a certified copy dated within 60 days from the date of the re-title request. Vehicles may be cars, motorcycles, boats, recreational vehicles or motor homes.

Documents to File Within 90 Days

There are certain documents that need to be filed within 90 days of your appointment as conservator. Among these documents is an inventory or appraisal of the protected person's assets.

The value listed on the inventory for a particular asset is the value as of your first date of appointment, whether temporary or permanent. All assets of the protected person's estate should be listed on the inventory and appraisal. This list should include, but is not limited to the assets shown below:

- Bank accounts
- Brokerage accounts
- Annuities
- Life insurance policies (the cash surrender value)
- Real property (homes, vacant land, and burial plots)
- Automobiles
- Jewelry/Artwork/Antiques
- Household items
- Cash/Coins

How to Determine the Value of Assets?

The (cash) value of bank accounts, brokerage accounts, annuities and/or life insurance policies will be the value on the date you were appointed. A reliable way to determine the value of an automobile would be to use the Kelley Blue Book valuation.

➤ Provide a Reasonable Estimate

Determining the value of other assets may be a little more difficult. Appraisals may be obtained for homes, jewelry, artwork or antiques. Appraisals can be very costly so if it is not your intent to liquidate the asset in the very near future, it may be best to provide a reasonable estimate of the assets' value as the value can change significantly in a very short period of time, such as with real estate. If you provide an estimate for the value be sure to make note of this on the inventory.

Assets Detail

➤ How much detail should you include?

You should include as much detail as is necessary to reasonably identify the asset. For example, if the protected person has a checking account at Bank of America, you would document it as "Bank of America" and provide the checking account number.

➤ **Documenting Assets**

When documenting an automobile, you should include the make, model, year and vehicle identification number (VIN). You should include the address and parcel number for real estate.

Documenting household items on an inventory is a little more difficult. Some will include a lump sum value of miscellaneous household property and others will include details such as one sofa, one end table and one coffee table. No matter the amount of detail you choose to include for household items, you should always photograph or video tape the personal property.

Credit Report

As the conservator, you must include a copy of the protected person's credit report from a credit reporting agency when you file your inventory and appraisal. The credit report must be dated within ninety (90) days of filing it with the court. You may obtain a copy of the credit report by writing a letter to the credit reporting agency or you may obtain one free of charge from AnnualCreditReport.com.

Budget

As the conservator, you must include a budget at the time of filing your inventory and appraisal. The first budget will be for the same time frame as your first annual accounting. A new budget must be submitted to the court every year thereafter with the annual accounting.

➤ **Exceeding the Budget**

The budget shall be completed on the form prescribed by the Supreme Court and can be located in the probate section of the Supreme Court's website. You will need to monitor the budget closely to ensure that you are not exceeding any particular expense category by \$2,000 or 10% of the budgeted amount, whichever is less. If you reasonably believe you may exceed the budget, you must notify the court, and all interested parties, of the reason you will exceed the stated budget amount within thirty (30) days.

➤ **Projected Sustainability**

As the conservator, you must disclose to the court whether the estimated expenses of the estate exceed the annual income and if so, whether the other assets available to the protected person are sufficient to sustain the person during the time period the protected person needs care or fiduciary services. In other words, does the protected person have sufficient income and assets to meet their needs for the estimated remainder of their lifetime?

RULE 30.2. SUSTAINABILITY OF CONSERVATORSHIP

A. THE CONSERVATOR SHALL DISCLOSE WHETHER THE ANNUAL EXPENSES OF THE CONSERVATORSHIP EXCEED INCOME AND, IF SO, WHETHER THE ASSETS AVAILABLE TO THE CONSERVATOR LESS LIABILITIES ARE SUFFICIENT TO SUSTAIN THE CONSERVATORSHIP FOR THE DURATION OF TIME THE PROTECTED PERSON NEEDS CARE OR FIDUCIARY SERVICES.

B. THE ESTATE SUSTAINABILITY SHALL BE CALCULATED AS FOLLOWS:

[AVAILABLE ASSETS MINUS LIABILITIES OF THE ESTATE] ***DIVIDED BY***
[ANNUAL EXPENDITURES MINUS ANNUAL INCOME] ***EQUALS*** ESTATE
SUSTAINABILITY

C. IF THE ASSETS ARE NOT SUFFICIENT TO SUSTAIN THE ESTATE, THE CONSERVATOR SHALL ALSO DISCLOSE THE MANAGEMENT PLAN FOR THE NON-SUSTAINABLE CONSERVATORSHIP.

D. THE INFORMATION REQUIRED BY THIS RULE SHALL BE A GOOD FAITH PROJECTION BASED UPON THE INFORMATION THAT IS REASONABLY AVAILABLE TO

In order to determine the potential sustainability of the protected person's estate you will need to use a calculation outlined in the Arizona Rules of Probate Procedure, Rule 30.2 as follows on the succeeding pages.

$$\begin{array}{rcl} \$120,000 + \$20,000 - \$65,000 & & \\ \hline & & = \text{Estate Sustainability} \\ \$45,000 - \$20,000 & & \\ \\ \$75,000 & & \\ \hline & & = \text{Estate Sustainability} \\ \$25,000 & & \text{of 3 years} \end{array}$$

Thus, if based on the conservator's knowledge of the protected person's medical condition and age, the conservatorship is not sustainable, the conservator shall explain how the protected person's expenses will be managed after three years.

The following example describes how the required disclosure is calculated: Assume a protected person's estate consists of a residence with a fair market value of \$120,000, \$20,000 in bank accounts and a \$65,000 mortgage. Further, assume that same protected person has annual expenses (including fiduciary and attorney fees) of \$45,000 and an annual income of \$20,000. From this example we can see the conservatorship is sustainable for 3 years.

Recordkeeping

➤ What types of records should you keep?

You are required to keep records of all income and expenses you manage as the conservator of the protected person's estate. You will need to keep copies of all bank statements, brokerage

statements, invoices, receipts, and any other record you need to support your efforts as conservator.

Receipts are vital in that they show what was actually acquired, not just how much was paid. This can be used by the court to establish the fact that the expense benefited the protected person.

Invoices

Here are a few good practice tips for you as a conservator: first, develop and maintain a bookkeeping and receipt storage system for all the protected person's documents. Second, include a copy of any check used to pay an invoice to a copy of that invoice in your records. This will ensure all parties know the expenses you are making are for the benefit of the protected person.

Original Papers

Documents to maintain:

- Life insurance policies
- Insurance cards
 - Health, Car, Home
- Deeds
- Titles
- Birth certificates
- Death certificates

You should maintain the original papers for all important documents, such as life insurance policies, deeds, titles, birth certificates, death certificates and insurance cards (health insurance, car insurance).

Maintain Records

The length of time you maintain records for the protected person depends on a number of factors. At a minimum, it is recommended you keep all records regarding your activities as a conservator for as long as you are acting as conservator. Keep in mind however, that other laws may require you keep records for longer periods of time.

The typical recommendation is to follow the record retention requirements outlined by the Internal Revenue Service. The most recent information from the IRS indicates “**Note:** Keep copies of your filed tax returns. They help in preparing future tax returns and making computations if you file an amended return.”

- 1) If you owe additional tax and situations (2), (3), and (4), below, do not apply to you; keep records for 3 years.
- 2) If you do not report income that you should report, and it is more than 25% of the gross income shown on your return; keep records for 6 years.
- 3) If you file a fraudulent return; keep records indefinitely.
- 4) If you do not file a return; keep records indefinitely.
- 5) If you file a claim for credit or refund* after you file your return; keep records for 3 years from the date you filed your original return or 2 years from the date you paid the tax, whichever is later.

- 6) If you file a claim for a loss from worthless securities or bad debt deduction; keep records for 7 years.
- 7) Keep all employment tax records for at least 4 years after the date that the tax becomes due or is paid, whichever is later.

Pay/Transfer on Death

As the conservator, you have an obligation to maintain the estate plan of the protected person. Assets titled as payable-on-death or transfer-on-death to an individual are considered part of the protected person's estate plan. When you discover assets that are titled in this manner, you need to use those assets only after all other assets have been exhausted.

For example, if you have a checking account, savings account, brokerage account, and an IRA, and that IRA has a payable on death beneficiary, you must use all the other assets to maintain the protected person's welfare first, before you use the assets held in the IRA. The reason for doing this is to protect that asset and have it available for the beneficiary, thereby fulfilling the protected person's final wish.

This also applies to assets that are specifically gifted to a particular person in either the Last Will and Testament or trust of the protected person. You should be familiar with these documents and any designated beneficiaries named within them.

Restricted Assets

➤ What does it mean if the court “restricts” an asset?

When a court restricts an asset it means that you are not allowed to use, sell, or transfer that asset without the court's approval. The court can restrict any asset of the protected person's estate but typically restricts bank accounts, brokerage accounts or real property. When the court restricts an asset, the restriction is outlined on your letters of appointment so that all parties know what you can and cannot do as conservator.

If the court restricts an asset you will not need to bond for it. However, if you request that the restriction be lifted, the court will order that a bond be posted for that now unrestricted asset.

➤ Proof of Restricted Account

When the court restricts a bank or brokerage account, you must file a “Proof of Restricted Account” form with the court. This form outlines where the account is held, the account number and the current balance of the account. The form is signed by an officer or manager of the financial institution and indicates that the financial institution understands that the court has restricted the account and they will not allow anyone to remove funds from the account without an order from the court.

➤ Restricted Real Property

If there is a restriction on the protected person's real property this will be contained in the conservator's letters of appointment. When such an asset restriction exists, a title company should not allow the conservator to execute a sale document without providing an order from the court authorizing the conservator to do so.

Notice to Service Providers

- **Ensures payments to service providers are made on time**
- **Ensures service providers only take direction from you**

When contacting the protected person's service providers to request future statements be sent to your address for payment, it is good practice to provide a copy of your letters of appointment as conservator for their records. This request should be made as soon as practicable after your appointment. This will ensure that you receive the information necessary to pay the financial obligations of the protected person, as well as ensure that the providers only take direction from you regarding the account.

Change of Address

You should also process a “change of address” request with the United States Postal Service to ensure that you receive all correspondence of the protected person. This will ensure that you are aware of all debts owed by the protected person, and that you are aware of all assets of the protected person.

Annual Account Information

The annual account contains a listing of all financial transactions that have taken place in the previous year of your administration as conservator. It contains information about the beginning value of all assets held by the protected person's estate as of the date of your appointment as well as the ending balance of the assets as of the last date of the account period. The transactions (receipts, disbursements, gains, losses and other adjustments) outline what happened in the middle to cause the beginning and ending balances to change.

➤ Additional Accounts

In addition to the annual account, the conservator is responsible for providing a budget and a sustainability projection account along with the annual account.

➤ When to File the Annual Account

Your account must be filed by the first anniversary date of your permanent appointment. In other words, if you are appointed as the temporary conservator on January 1 and the permanent conservator on February 1, your account must be filed by February 1 the following year, but will include all transactions from January 1 forward.

➤ First Account

The first annual account should include all activity from the date of the first appointment (temporary or permanent if no temporary conservatorship established) through and including the last day of the ninth month following the permanent appointment. Using the example above, if you were appointed as the temporary conservator on January 1 and the permanent conservator on February 1, your account period would be from January 1 through November 30 (the last day of the ninth month following your permanent appointment). If you were appointed as the permanent conservator on January 1, your first account would go from January 1 through October 31.

➤ **Subsequent Accounting**

Each subsequent accounting will be from one day after the ending day through the same ending day as the previous year's accounting. For example, if the first accounting period ends December 31, 2012 then the second accounting period would cover from January 1, 2013 to December 31, 2013.

At the time of death of the protected person, the conservator is required to file the final account within 90 days from the date of death. The time frame for that account will be from the ending date of the previous account through the date of death.

Best Interest vs. Substituted Judgment

Your role as the conservator is to listen to the protected person and ensure that their preferences are being met as long as it does not cause harm. You are in a position to make decisions for the protected person in one of two ways; using either substituted judgment or the best interest standard.

➤ **Substituted Judgment**

You have an obligation to discuss the decision you are going to make with the protected person.

When making decisions using substituted judgment you are doing exactly as it sounds; making the decision that the protected person would make if they had the capacity to do so. To the extent the protected person can understand the issue at hand, you have an obligation to discuss the decision you are going to make with the protected person and listen to their preferences in that situation.

For example, if you believe it would be appropriate to liquidate an asset belonging to the protected person, you should discuss this with them. Try to put it in terms that they have the ability to understand. Discuss the benefits and the consequences of the decision you are about to make. Listen to their preferences and the reason for making the decision.

➤ **Stated Preferences**

When using substituted judgment it is also helpful to talk to other family members or friends about conversations they have had with the protected person. Has the protected person ever talked about their preference for liquidation of their assets? Did they want that particular asset to be set aside as a gift for a friend or family member? Your job is to determine what their preferences were when they were still capable of making those decisions.

Lifetime Disabled vs. Adult Disabled

Making decisions using substituted judgment may be easier for a conservator dealing with an elderly disabled individual as opposed to an adult who has been disabled since birth. When dealing with an elderly individual, they were likely competent and had the ability to understand cause and effect relationships. As such, they have likely discussed their preferences before and you may have a better understanding of what they want.

With an individual who has been disabled since birth, this may be more difficult. In those situations (or in situations where the protected person's preferences may cause serious harm or injury) you would be making your decision based on what you believe to be in the protected person's best interest.

Tough Decisions

It is never easy to make a decision for another adult that goes against their wishes but you must keep in mind that your friend or family member no longer has the ability to truly understand the consequences of their decision. This is why the court appointed you as the conservator – to make the tough decisions.

Ultimately, the decision is yours but if you are making a decision that is in contrast to the stated or demonstrated preferences of the protected person, you should be prepared to defend that decision.

Accepting Gifts from the protected person

The disclosure statement you must file as the conservator indicates that you have not accepted a gift from someone, who is not related to you by blood, of more than \$100.00. That being said, it is typically looked at as a conflict of interest for you to accept any gift from the protected person without first seeking court approval. The general rule is that you cannot and should not accept gifts from the protected person.

➤ Giving Gifts

- The protected person's estate plan
- Whether there is a pattern of prior gifting
- The potential tax savings if the gifts are authorized
- The size of the estate
- The protected person's income and expenses
- The physical and mental condition and life expectancy of the protected person (the court wants to ensure that the gift would not diminish the protected person's ability to meet their needs during the course of their lifetime)
- The likelihood that the protected person's disability may cease or improve
- The likelihood that the protected person would make this gift if they were able to consent (this is an example of how substituted judgment comes into play in your decision making process)
- The ability of the protected person to consent to the gifts

If you are seeking authority to provide a gift to someone from the protected person you should be prepared to supply the court with all the information shown on this page. Keep in mind, if you, as the conservator, authorize and pay a gift without court approval, you could be held liable and be required to reimburse the estate for the value of the gift.

Payment for Conservatorship

You are entitled to payment for your time as the conservator. If you intend to seek compensation from the estate of the protected person you are required to file a Notice of Compensation with the court. This will outline what you intend to charge as your hourly rate and why you believe

you are entitled to that rate. The court may review your fees on an annual basis. You are also entitled to reimbursement from the protected person's estate for any money you pay out of pocket for their benefit. For example, if you pay for a filing fee with the court, you would be entitled to be reimbursed for that expense.

Attorney's Fees

➤ Can You Hire an Attorney?

Yes, you may hire an attorney and you are entitled to have the fees for that attorney paid for by the protected person's estate as long as the court determines that the fees are reasonable and necessary. Just as you would have to file a Notice of Compensation with the court, any attorney who intends to seek compensation from the ward's estate must also file the notice with the court.

When the Protected Person Dies

When the protected person dies, you must file a Notice of Death with the court within ten (10) days after the date of death. You must then file your final accounting with the court within 90 days from the date that the protected person died. The final account will go through the date of death of the protected person.

You may then be required to file a second, supplemental final accounting which shows the court what you did with the assets of the protected person's estate from the date of death until you turn the assets over to either the beneficiaries (on payable on death or transfer on death accounts) or to the individual responsible for managing the estate of the deceased protected person.

Unlike a guardian, your authority as conservator does not end on the day that the protected person dies. You still have the authority and responsibility to manage and protect the assets of the protected person. You want to ensure that you are only paying for necessary expenses of the protected person's estate after they pass away. For example, you may pay for burial or funeral services; you may pay to protect the assets of the protected person (such as insurance on assets or utilities on a home) or the final medical expenses of the protected person.

You want to be very careful in what you pay for and when as there are specific provisions under the law as to what creditors get paid first and what happens if there are not enough assets in the estate to pay all creditors. If you are in doubt, seek legal advice.

Thank you for viewing this training video. The welfare of the ward and/or protected person is of utmost importance to the court. For more information about Probate please visit the judicial branch website devoted to probate at www.azcourts.gov/probate

Your Name: _____
Your Address: _____
Your City, Zip Code: _____
Your Telephone No. _____
Represents ☐ Self OR ☐ Attorney for: _____
State Bar Number (if applicable): _____

FOR CLERK'S USE ONLY

SUPERIOR COURT OF ARIZONA IN YUMA COUNTY

In the Matter of the Estate of _____

Case Number: _____

DECLARATION OF COMPLETION OF TRAINING for NON-LICENSED FIDUCIARIES

A ☐ Deceased or ☐ Protected Person

Rule 27.1 of the Arizona Rules of Probate Procedure requires that a person to be appointed guardian, conservator, or personal representative of an estate, who is neither a state-licensed fiduciary nor a corporation, complete a training program approved by the Supreme Court of this state before permanent **Letters of Appointment** are issued.

UNDER PENALTY OF PERJURY

I state to the Court that in accord with Rule 27.1 of the Arizona Rules of Probate Procedure, I have completed the required training for non-licensed, non-corporate fiduciaries, as indicated below: (Check all that apply and provide applicable information.)

<input type="checkbox"/> Unlicensed Fiduciary	Date completed: _____
<input type="checkbox"/> Conservatorship	Date completed: _____
<input type="checkbox"/> Personal Representative	Date completed: _____
<input type="checkbox"/> Guardianship	Date completed: _____

Date: _____

Signature _____

Printed Name _____

INSTRUCTIONS: Fill out this Declaration completely and provide accurate information. Make at least one copy. You will need to file the original with the Clerk of Court and provide a copy to the Probate Registrar before receiving any *permanent* letters of appointment.