

INSTRUCTIONS FOR APPOINTMENT OF A CONSERVATOR - ADULT

These standard instructions are for informational purposes only and do not constitute legal advice about your case. If you choose to represent yourself, you are bound by the same rules and procedures as you would be if you were an attorney.

GENERAL INFORMATION

- ◆ The Respondent must be a resident in the county in which you are filing the petition, or, if the Respondent does not reside in this state, must own property in the county in which you are filing the petition. (§ 15-14-108, C.R.S.)
- ◆ The person to be protected or a person interested in the welfare of the person to be protected may file the case.
- ◆ A name-based criminal history record check from the Colorado Bureau of Investigation (CBI) and a current credit report of the proposed conservator must be filed with the Court.
- ◆ The Court may appoint a conservator for an adult with or without restrictions if it is determined that the Respondent is unable to manage his/her property due to some type of incapacity. The Petitioner must also show the Respondent has assets which will be wasted without proper management.
- ◆ For additional information, please review § 15-14-401 through § 15-14-433, C.R.S.
- ◆ If you have a disability and need a reasonable accommodation to access the courts, please contact your local ADA Coordinator. Contact information can be obtained from the following website:

http://www.courts.state.co.us/Administration/HR/ADA/Coordinator_List.cfm

COMMON TERMS

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| <input checked="" type="checkbox"/> Petitioner: | A person who files a Petition for the Appointment of a Conservator. |
| <input checked="" type="checkbox"/> Conservator: | A person at least 21, resident or non-resident, who has been appointed to manage the financial affairs of another person. |
| <input checked="" type="checkbox"/> Interested Persons: | Persons identified by Colorado Law who must be given notice of a court proceeding. See Step 3 for a complete list. |
| <input checked="" type="checkbox"/> Letters: | Official document identifying the authority of the Conservator. |
| <input checked="" type="checkbox"/> Conservator Nominee: | A person named in the petition to serve as the Conservator. |
| <input checked="" type="checkbox"/> Respondent: | A person for whom the appointment of a Conservator is required. |
| <input checked="" type="checkbox"/> Ward: | The title of the Respondent once the Court appoints a Conservator. |
| <input checked="" type="checkbox"/> Court Visitor: | A person who will interview the Respondent in person who will explain his/her rights and make recommendations to the Court. |
| <input checked="" type="checkbox"/> Order: | Official document identifying the authority of the Conservator and his/her responsibilities during the Conservatorship. |

If you do not understand this information, please contact an attorney.

FEES

A filing fee of \$ 199.00 is required. If you are unable to pay, you must complete the Motion to File without Payment and Supporting Financial Affidavit (JDF 205) and submit it to the Court. Once you submit the completed JDF 205 form and a blank Order (JDF 206), the Court will decide whether you need to pay the filing fee.

Other fees that a party to the case may encounter are as follows:

- Certification of Orders and Letters \$20.00
- Service Fees Varies
- Copy of Documents \$.75 per page
- The Court must appoint a Court Visitor and may appoint a Guardian ad Litem (GAL) to investigate and report back to the Court, for the purpose of determining if the Conservatorship is in the best interest of the Respondent.
- The Court may also appoint an attorney for the Respondent to serve as an advocate for the Respondent.
- The Petitioner or the Respondent may be required to pay the hourly fee of the Court Visitor, GAL or Respondent's Counsel.

FORMS

To access a form online go to www.courts.state.co.us and click on the "Forms" tab. The packet/forms are available in PDF or WORD by selecting **Guardian & Conservator– New Case - Conservatorship - Adult**. You may complete a form online and print it or you may print it and type or print legibly in black ink.

Read these instructions carefully to determine what forms you may need, as you may need all or some of the listed forms. Check with the Court where you plan to file your case to determine if they have any special requirements.

- JDF 714 Affidavit Regarding Due Diligence and Proof of Publication
- JDF 716 Notice of Hearing by Publication
- JDF 719 Waiver of Notice
- JDF 721 Irrevocable Power of Attorney
- JDF 800 Acknowledgment of Responsibilities
- JDF 805 Acceptance of Office
- JDF 806 Notice of Hearing to Interested Persons
- JDF 807 Notice of Hearing to Respondent (Adult or Minor)
- JDF 812 Notice of Appointment of Guardian and/or Conservator
- JDF 876 Petition for Appointment of Conservator
- JDF 880 Letters of Conservatorship - Adult
- JDF 882 Conservator's Inventory with Financial Plan and Motion for Approval
- JDF 883 Order Regarding Conservator's Financial Plan
- JDF 885 Conservator's Report

You will also need to file one of the following proposed orders depending on what type of conservatorship you are requesting.

- JDF 877 Order Appointing Special Conservator – Adult or Minor
- JDF 878 Order Appointing Conservator for Adult

- The proposed out-of-state conservator must complete this form and have it signed before a Court Clerk of Notary Public.

Letters of Conservatorship - Adult (JDF 880).

- Complete only the caption on the form.
- The Court will complete the remainder of the form and sign it the form following the appointment of the Conservator.

Proposed Order (JDF 877 or JDF 878)

- Select the appropriate Order based on the type of conservatorship you are requesting. The proposed order should match your selection from number 1 on the Petition – JDF 876.
- Complete only the caption on the form.

Step 2: You are ready to file your Papers with the Court.

Provide the Court with the documents completed as described in Step 1 above and pay the \$ 199.00 filing fee. You will need to make copies of the documents for each of the following persons: **Check the list below to determine the “interested persons” applicable to your circumstances.**

1. The Respondent’s spouse, if married.
2. The Respondent’s partner in a civil union, if the civil union has not been dissolved.
3. The Respondent’s parents, if living.
4. The Respondent’s adult children, if any.
5. Any current Guardian or Conservator for the Respondent whether appointed in this state or elsewhere.
6. Any person who has care and custody of the Respondent, including the Respondent’s treating physician.
7. Any adult with whom the Respondent has resided for more than six months within one year before the filing of the Petition. (§ 15-14-304(2)(b)(I)(A), C.R.S.)
8. Any adult relative nearest of kin, if there is no spouse, partner in a civil union, parent, or adult children.
9. Any legal representative of the Respondent
10. Any person the Respondent nominated to be Conservator.

You may receive a hearing date from the clerk at the time of filing your paperwork or you may need to contact the clerk later to obtain the hearing date. The date and time of this hearing is important because you will need it to complete the Notice of Hearing or publication forms described in **Step 3 and Step 4.**

The Court shall appoint a Court Visitor who shall interview the Respondent in person, per § 15-14-406(3)(4)(5), C.R.S. The duties and reporting requirements of the Court Visitor are limited to the relief requested in the petition.

Step 3: Notice to Interested Persons. (By Mail or Publication)

All persons listed in Step 2 must be given notice of the upcoming hearing

Service by Mail.

- If you know the address of the person to whom you are giving notice**, complete the Notice of Hearing to Interested Persons (JDF 806).
- Mail copies of **all** documents filed with the Court, including the Petition for Conservatorship **and** the completed Notice of Hearing to Interested Persons (JDF 806), at least 14 days before the hearing.

- Complete the Certificate of Service portion on the form, listing the names and addresses of all persons to whom you sent the notice and the date you sent it and file the form with the Court at or before your hearing.
- If the address of any interested person is unknown, you must publish the notice of hearing in the newspaper. See Service by Publication instructions below.

Service by Publication.

If you do not have a current address for an interested person, or if their identity is not known and cannot be ascertained with reasonable diligence, you must publish the notice of hearing in the newspaper. Before doing this you may wish to search the Internet, contact prior employers, friends, etc. to locate a current address.

Notice of Hearing by Publication (JDF 716).

- Complete this form and have it published in a newspaper of general circulation in the county where the hearing is to be held.
- The notice must be published once a week for three consecutive weeks, with the last date of publication being at least 14 days before the hearing date.
- The Petitioner must request a publisher's affidavit from the newspaper after publication is completed. This publisher's affidavit, prepared by the newspaper, will serve as proof that the Notice of Hearing by Publication (JDF 716) was published. This publisher's affidavit must be attached to the Affidavit Regarding Due Diligence and Proof of Publication (JDF 714). See form identified below.

Affidavit Regarding Due Diligence and Proof of Publication (JDF 714).

- Complete all sections on this form. The purpose of this form is to describe to the Court your efforts to locate the individuals listed in the Notice of Hearing by Publication (JDF 716).
- The Petitioner must sign this form in the presence of a Court Clerk or Notary Public.

Step 4: Notice of Hearing to Respondent with Personal Service Affidavit.

You must personally serve the Respondent at least 14 days prior to the hearing. **Helpful Hints to complete personal service:**

- Select the Sheriff's Department, a private process server, or someone you know who is 18 years or older, who is not involved in the case, and who knows the rules of service.
- Request the sheriff, private process server, or other person serving the documents to deliver personally to the Respondent the Notice of Hearing (JDF 807) and copies of all documents filed with the Court.
- Request that the sheriff, private process server, or other person serving the documents complete the Personal Service Affidavit.
- The Petitioner should then file with the Court, the Notice of Hearing to Respondent (Adult or Minor) (JDF 807) with the completed Personal Service Affidavit.

Step 5: Hearing

- The Petitioner and Respondent must appear at the hearing, unless excused by the Court for good cause.
- If the Respondent can not attend the hearing for medical or other reasons, the Petitioner must file a Motion to Excuse the Respondent and attach appropriate documentation to support the motion, such as a physician's letter.
- The Respondent may participate in the hearing and present evidence regarding his or her need for protection.
- The Petitioner should be prepared to present evidence showing why the conservatorship is necessary and that the interested persons are aware of the proceeding.

- If the Court appoints a conservator, the Court will issue Letters (JDF 880) as a formal notice of the appointment and provide you with a copy of the Order Appointing Conservator.
- You may need certified copies of the Letters and Order. The number needed will vary, depending on your circumstances.
- Copies of the Order must be provided to all interested persons identified in the Order.

Step 6: Requirements After the Court Appoints a Conservator.

Refer to the Order Appointing Conservator to determine when the Conservator's Inventory with Financial Plan and Motion for Approval and Conservator's Report are due. The Conservator's Inventory with Financial plan and Motion for Approval is normally required within 60 days following the appointment. The Conservator is required to maintain supporting documentation for all receipts and all disbursements during the duration of the appointment.

These completed forms must be provided to the persons listed in the Order of Appointment.

- Complete and sign the Acknowledgment of Responsibilities (JDF 800). Letters of Appointment will not be issued until this form is submitted.
- Complete the Conservator's Inventory with Financial Plan and Motion for Approval (JDF 882).
 - Complete only the caption on the Order Regarding Conservator's Financial Plan (JDF 883).
 - The Court will complete the remainder of the form following review of JDF 882.
- Refer to the Order Appointing Conservator for Adult to determine when the Conservator is required to submit the annual Conservator's Report (JDF 885). The purpose of the Conservator's Report is to give details to the Court and interested persons regarding management of the Ward's financial affairs.
- Refer to the Order Appointing Conservator for Adult regarding completing the Notice of Appointment of Guardian and/or Conservator (JDF 812). The purpose of this form is to notify the Protected Person and persons given notice of the Petition that they have the right to request termination or modification of the Conservatorship.

Note:

A Conservator's Manual is available to assist the newly appointed Conservator. This manual identifies general responsibilities and important Conservatorship issues, along with completed sample forms to assist the preparer.

The responsibilities of the conservator continue until the Court terminates the conservatorship. The Court may terminate the conservatorship if the Ward no longer meets the standard for establishing the Conservatorship. Resignation of a conservator does not terminate the conservatorship until approved by the Court.