

WHAT YOU NEED TO KNOW BEFORE FILING A PETITION TO APPOINT A CONSERVATOR

Oakland County Probate Court

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A series of brochures presented to you by the Oakland County Probate Court

WHAT IS A CONSERVATOR?

A **Conservator** is a person appointed by a probate court and given power and responsibility for the estate (financial assets and property) of an adult (called a *protected individual*).

WHAT IS A GUARDIAN?

A **Guardian** is a person appointed by a probate court and given power and responsibility to make certain decisions about the care of another individual. These decisions might include treatment decisions or where the individual should live. If the individual has a reduced life expectancy due to advanced illness, the guardian may have the power to make an informed decision on behalf of the individual regarding receiving, continuing, discontinuing, or refusing medical treatment. A full guardian can make all decisions for the individual. A limited guardian can only make decisions that the court allows.

WHEN WOULD A CONSERVATOR BE NEEDED?

A conservator may be needed when the individual is unable to manage his or her property and financial affairs effectively because of certain reasons and:

1. He or she has property that will be wasted or used up unless proper management is provided; or
2. Funds are needed for the support, care and welfare of the adult and any of his or her dependents.

A mentally competent adult whose only issue is age or physical limitation may voluntarily petition the court himself or herself for the appointment of a conservator to assist in managing his/her estate.

Some of the reasons that might prevent the individual from being able to manage his or her property and financial affairs are:

1. Mental illness or deficiency
2. Physical illness or disability
3. Chronic use of alcohol or other intoxicants
4. Confinement
5. Detention by a foreign power, or
6. Disappearance.

IS A CONSERVATOR NEEDED FOR AN INDIVIDUAL WHO CANNOT MANAGE HIS OR HER PROPERTY OR FINANCIAL AFFAIRS EFFECTIVELY?

A conservator might not be necessary if someone else already has legal authority (an individual with power of attorney, for example) to make decisions about the individual's estate and there are no problems with the decisions being made.

HOW IS A PROCEEDING FOR A CONSERVATOR STARTED?

Any person who is interested in the individual's welfare may complete a *Petition for Appointment of Conservator* (Form PC 639) and file it, along with the filing fee, with the probate court.

IS A LAWYER NECESSARY?

No, but a lawyer can be helpful, especially if any interested person opposes the appointment of a conservator.

CAN MEDIATION BE USED FOR DISAGREEMENTS ABOUT A CONSERVATOR?

Certain disagreements about a request for a conservator may be mediated outside of the court if all parties agree to attend mediation or if a judge orders parties to attend mediation.

WHAT HAPPENS WHEN THE COURT ACCEPTS THE PETITION FOR FILING?

After the petition is accepted for filing, the court will appoint a *guardian ad litem* to represent the individual in the court proceeding unless the individual has his or her own lawyer or unless a mentally competent adult voluntarily requests the appointment.

It is important for you to cooperate with the guardian ad litem. The guardian ad litem does not have the authority to make decisions for the individual. The individual may have to pay for the guardian ad litem.

If necessary, the court may also order the individual to be examined by a physician or a mental health professional. The court may also send someone (called a *visitor*) to interview the individual. The visitor may be the guardian ad litem, a court officer, employee, court contractor, or volunteer.

CAN THE INDIVIDUAL GET A CONSERVATOR IMMEDIATELY IN AN EMERGENCY?

If the court believes an individual's estate requires immediate protection before appointing a conservator, the court may issue a preliminary protective order. This order may involve the appointment of a special conservator. The order will authorize specific acts that provide for immediate protection of the individual's assets.

Adapted SCAO form PC 667 (11/02)

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