

## **PROTOCOL FOR CONSERVATORSHIP OF A CHILD WHO IS THE SUBJECT OF PROCEEDINGS IN THE JUVENILE COURT**

This protocol outlines the procedures to be followed when it appears that conservatorship may be necessary to protect a child who is the subject of dependency or juvenile justice proceedings in the juvenile court. Conservatorship for a child is appropriate only if the child is so gravely disabled by a mental disorder that the child cannot utilize the necessities of life (food, clothing, shelter) even when they are provided to the child by others.

1. Conservatorship for a child should be exceptionally rare. It should be utilized only as a last resort after all other options have been exhausted and there is no other legal authority in place to authorize involuntary psychiatric treatment or placement. A child's treating psychiatrist can make a referral to the Office of the Public Conservator without following the steps outlined in this protocol. However, the team approach outlined in this protocol can be used in any case where it is deemed to be appropriate.
2. **Team meetings:** A team meeting will be convened to determine whether a referral to the Office of the Public Conservator is recommended. Any member of the team may schedule a team meeting. Notice of the meeting will be given by the person who schedules the meeting.
  - a. For a child who is the subject of a dependency petition, the team will consist of the person who holds educational and/or developmental-services decisionmaking rights ("the rights holder"), the social worker and the social worker's supervisor, County Counsel, the child's attorney, the child's court-appointed special advocate ("CASA"), the CWS staff psychologist, and the Behavioral Health Services Supervising Psychiatrist or designee.
  - b. For a child who is the subject of a juvenile justice petition, the team will consist of the rights holder, the probation officer, the child's attorney, the child's CASA, the prosecutor, and the Behavioral Health Services Supervising Psychiatrist or designee.
  - c. If the child is the subject of both a dependency and a juvenile justice petition, the team will consist of the rights holder, the social worker and the social worker's supervisor, the probation officer, the child's dependency and juvenile justice attorneys, the child's CASA, County Counsel, the prosecutor, the CWS staff psychologist, and the Behavioral Health Services Supervising Psychiatrist or designee.
  - d. If the school district has been or should be playing a role in the child's placement and services, the team will include a representative of the school district.
  - e. If the child is a client of the San Diego Regional Center, the team will include a representative of that agency.

- f. If the court finds the child to be an Indian child for the purposes of the Indian Child Welfare Act, the team will include a representative of the child's tribe.
  - g. Notice of the team meeting will be given to the child; the child's parent(s) or legal guardian(s); the child's treating clinician; a person who has been granted de facto parent status; the child's Indian custodian, if any; and the attorney for any of the above. Any person designated in this subdivision will be allowed to participate in the team meeting if appropriate and in the best interests of the child.
  - h. Additional team meetings will be scheduled as necessary to address the child's continuing needs, particularly as the child transitions from one placement to another. Notice of the additional team meetings will be given to the parties listed above.
3. **Referral:** Any person involved in the case may raise the issue of conservatorship. However, only a person authorized by the Lanterman-Petris-Short Act ("LPS") can make the formal referral to the Office of the Public Conservator. For a child who is the subject of proceedings in the juvenile court, the referral will normally be made by the child's treating psychiatrist or by the Behavioral Health Services Supervising Psychiatrist.
  4. **Information sharing:** Notwithstanding the confidential nature of juvenile court proceedings, information from the juvenile case file may be shared with the Office of the Public Conservator and with any member of the child's mental health team. This communication may include the exchange of relevant documents, including but not limited to court orders, reports, school records, medical records, and mental health records. The information must be kept in a confidential manner by the person who receives it, unless otherwise authorized by law or ordered by the court. This exchange of information does not constitute a waiver of any applicable privilege. See Welfare and Institutions Code section 827(a)(1)(K) and San Diego County Superior Court Rules 6.6.4 and 6.9.19.
  5. **Appointment of conservator:** The social worker or probation officer will maintain contact with the Office of the Public Conservator about the status of the conservatorship proceedings. If a permanent conservator is appointed for the child, the social worker or probation officer will file an ex parte application to give notice to the juvenile court and all parties in the case that a conservator has been appointed for the child, including the conservator's name and contact information.
  6. **Notice of hearings:** After a conservator has been appointed for a child, that person is entitled to notice of all further hearings in the juvenile court regarding the child. Notice shall be given by mail to the Office of the Public Conservator: 5560 Overland Avenue, Suite 130, San Diego, CA 92123. The conservator is encouraged to attend and provide input at all juvenile court hearings.
  7. **Suspension of juvenile court proceedings:** In making decisions about the suspension of proceedings, the juvenile court will follow rule 5.643 of the California Rules of Court. The juvenile court will retain concurrent jurisdiction during the LPS conservatorship

proceedings unless the conservator determines that juvenile justice proceedings in the juvenile court would be detrimental to the well-being of the child and communicates that determination to the juvenile court. The conservator should articulate the specific, negative effect that the juvenile justice proceedings would have on the child. If the determination is that juvenile justice proceedings would be detrimental to the well-being of the child, the juvenile court will suspend its jurisdiction during the time that the child is the subject of LPS conservatorship proceedings.

8. **Administration of psychotropic medications:** If a conservator is appointed for the child, the juvenile court retains authority to make orders regarding psychotropic medications (Welf. & Inst. Code, §§ 369.5, 739.5) until it terminates juvenile court jurisdiction over the child. The mental health court has the authority to make orders regarding psychotropic medications if and when (1) juvenile court jurisdiction terminates and the child remains in a conservatorship or (2) the juvenile court suspends its jurisdiction over a ward while the child is in a conservatorship. (See Welf. & Inst. Code, § 5358.2.)