



## SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

CENTRAL DIVISION, CENTRAL COURTHOUSE, 1100 UNION ST., SAN DIEGO, CA 92101

CENTRAL DIVISION, MADGE BRADLEY, 1409 4<sup>TH</sup> AVE., SAN DIEGO, CA 92101

### GENERAL INFORMATION FOR SELF-REPRESENTED LITIGANTS (CONSERVATORSHIP OF THE PERSON)

The following information is intended to answer general questions a self-represented litigant may have about conservatorships of the person. This is not a complete reference or procedural guide, nor is it intended to take the place of legal advice from an attorney. It is your responsibility to read and comply with the applicable laws, use current forms, and be prepared to present your case.

#### What is a conservatorship?

A Conservatorship is a court proceeding in which a judge appoints a family member, friend or other responsible person (conservator) to care for another adult (conservatee) who cannot care for himself/herself and/or his/her finances.

#### Conservatorship of the Person

When the court appoints you as the conservator, you will:

1. Arrange for the conservatee's care and protection;
2. Decide where the conservatee will live; and
3. Are in charge of the following:
  - health care
  - food
  - clothes
  - personal care
  - housekeeping
  - transportation
  - recreation

#### Conservatorship of the Estate

When the court appoints you to be the conservator of an estate, you will:

1. Manage the conservatee's finances;
2. Protect the conservatee's income and property;
3. Make a list (inventory) of everything in the estate;
4. Make sure the conservatee's bills are paid;
5. Invest the conservatee's money;
6. Make sure the conservatee gets all the benefits he or she is eligible for;
7. Make sure the conservatee's taxes are filed and paid on time;
8. Keep exact financial records; and
9. Make regular reports of the financial accounts to the court and other interested persons.

**Note: If you are petitioning for a conservatorship of the estate, this packet may be useful but the information contained may not be applicable.**

#### Limited Conservatorship

A **limited conservatorship** is set up for adults with **developmental disabilities** who cannot fully care for themselves, but who do not need the higher level of care or help given under a general conservatorship. In most cases, a limited conservator has less authority than a general conservator. A limited conservator has authority to do only those things that are granted at the time of appointment. The judge decides which responsibilities the conservatee will keep and which ones the conservator will have.

**Note: If you are petitioning for a limited conservatorship, use the Self-Help Packet for Limited Conservatorship (SDSC #PKT-030).**

## What do I have to do to become a conservator of the person?

To become the conservator of the person, you first have to file a petition and other forms with the court. You must fill out the following forms, available in the Probate Business Office and online at [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov) (click on Probate, then Forms):

### Included in the Conservatorship of the Person Packet (SDSC #PKT-045):

- Petition for Appointment of Probate Conservator (JC Form #GC-310)
- Citation for Conservatorship (JC Form #GC-320)
- Confidential Supplemental Information (JC Form #GC-312)
- Confidential Conservator Screening (JC Form #GC-314)
- Referral Information and List of Relatives (SDSC Form #PR-020)
- Duties of Conservator and Acknowledgment of Receipt of Handbook for Conservators (Probate - Guardianships and Conservatorships) (JC Form #GC-348)

### What do I have to do after I fill out the forms?

- ✓ Make two copies of each completed form.
- ✓ File your forms with the Probate Business Office at the location listed on page 1. There is a filing fee due at the time you file your papers. (Refer to sections “Is there a fee to file a conservatorship?” and “What if I don’t have enough money to pay for the fees?” below.)
- ✓ The clerk will keep the original set of forms along with one copy. The second set of copies will be returned to you along with the scheduled hearing information.
- ✓ Serve a copy of the filed Petition for Appointment of Probate Conservator (JC Form #GC-310) on the proposed conservatee and all those entitled to notice as required by law. (Refer to the section “Serving Proposed Conservatee and All Required Parties” below.)
- ✓ Review “What happens after the hearing?” and “Investigations” on page 4.

### Is there a fee to file a conservatorship of the person?

Yes. There are court costs – the filing fee and the investigation fee, if required. The current fee amounts can be found on the court’s Fee Schedule (SDSC Form #ADM-001), available in the Probate Business Office and online at [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov).

### What if I don’t have enough money to pay the fee?

If you cannot afford the fees, you can request a fee waiver from the court. All of the required forms can be found in the Fee Waiver Packet – Guardianships and Conservatorships (SDSC PKT #041) which is available in the Probate Business Office and online at [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov) (click Probate, then Forms). If your request is granted, all court related fees will be waived.

### Serving Proposed Conservatee and Required Parties

The law requires that the proposed conservatee, certain relatives, and agencies be served (given) a copy of the Petition for Appointment of Probate Conservator (JC Form #GC-310) with the related hearing information. This is sometimes referred to as “giving notice”. **Someone else – NOT YOU – must serve the documents. You must follow the rules for service carefully, otherwise notice may be deemed insufficient.**

- **Personal Service** – The **proposed conservatee** must be personally served. This means someone else – not you – personally hands them a copy of the Petition for Appointment of Probate Conservator (JC Form #GC-310) along with a copy of the Citation for Conservatorship (JC Form #GC-320) that was returned to you after filing your paperwork with the Probate Business Office. Personal service must be given at least **15 days** before the hearing.

Once served, the person who has given notice must complete the proof of personal service on page 2 of the Citation for Conservatorship (JC Form #GC-320). The completed proof of personal service must be filed with the Probate Business office at least **four days** before the hearing.

- **Service by Mail** – The following parties must be served:
  - Conservatee’s spouse or registered domestic partner;
  - All relatives listed in the Petition for Appointment of Probate Conservator (JC Form #GC-310);
  - Public Guardian, if the proposed conservator is not nominated and has no prior relationship with the proposed conservatee.

- Public Conservator, if the proposed conservatee is currently under an LPS Conservatorship and the attorney representing the conservatee in the LPS matter;
- Director of Mental Health, if the proposed conservatee is a patient in, or on leave of absence from, a state institution under the Jurisdiction of the California Department of Mental Health or the California Department of Developmental Services.
- Veterans Administration, if the proposed conservatee is receiving benefits from them.

This means someone else – not you – mails them a copy of the Petition for Appointment of Probate Conservator (JC Form #GC-310) along with the Notice of Hearing – Guardianship or Conservatorship (JC Form #GC-020). Service by mail must be given at least **15 days** before the hearing.

Once mailed, the person who did the mailing must complete the proof of service on page 2 of the Notice of Hearing – Guardianship or Conservatorship (JC Form #GC-020). The completed proof of service must be filed with the Probate Business office at least **four days** before the hearing.

**What if I don't know where the proposed conservatee's relatives are?**

If you do not know where the proposed conservatee's relatives are, including the spouse or registered domestic partner, you must make a reasonable and diligent effort to locate them. Some suggestions to find them include:

- ✓ Asking all family members, friends, acquaintances, and employers;
- ✓ Searching the real and personal property indexes in the recorder's and assessor's offices in the county where the person last resided;
- ✓ Looking in the phone book;
- ✓ Calling telephone information;
- ✓ Searching on the Internet (e.g. social media).

If you have done everything you can to locate a party and you still cannot locate them, you can ask the court to allow you to proceed without giving notice. To do this, you must complete the Declaration of Diligent Search and Request to Dispense with Notice (SDSC Form #FLF-002), which is available in the Probate Business Office and online at [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov). Your declaration must be filed with the Probate Business Office at least **four days** before the hearing.

**What happens before the court hearing date?**

Before your court hearing date, a probate examiner will review the paperwork submitted by you and make notes for the probate judge. These notes are referred to as "probate notes." A copy of the probate notes will be available online at [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov) (click on the Probate tab, then Examiner Notes) about two weeks prior to the hearing.

If there are defects (things that are missing and/or corrections to be made), they will be noted by the probate examiner. Ordinarily the defects need to be corrected before your petition will be granted by the judge. If defects are noted and have not been corrected before the hearing date, attend the hearing to assure the judge you still want the conservatorship. The court may continue the hearing to a later date to allow you time to correct the defects. Contact the probate examiner listed on your probate notes for information on how to correct defects. All corrections must be made at least **four days** before the hearing.

The probate examiners can be contacted by phone or email. Instructions are available online at [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov) (click on the Probate tab, then Examiner Notes).

**What if there is a need for a temporary conservator before the hearing?**

The court may appoint a temporary conservator under the following circumstances:

1. There is an immediate and compelling need for the appointment;
2. The Petition for Appointment of Probate Conservator (JC Form #GC-310) is filed at the same time;
3. All notice has been given as required by law (at least **five days** prior to the hearing for temporary conservatorship).

If the above criteria can be met, you may file the following documents to request the appointment of a temporary conservator:

- Petition for Appointment of Temporary Conservator (JC Form #GC-311)
- Notice of Hearing – Guardianship or Conservatorship (JC Form #GC-020)
- Proof of Personal Service of Notice of Hearing – Guardianship or Conservatorship (JC Form #GC-020(P))
- Order Appointing Temporary Conservator (JC Form #GC-141)
- Letters of Temporary Guardianship or Conservatorship (JC Form # GC-150)

## **What happens after the hearing?**

If the court grants your petition for conservatorship at the hearing, submit the Order Appointing Probate Conservator (JC Form #GC-340) and Letters of Conservatorship (JC Form #GC-350) to the Probate Business Office. Once processed, these forms are evidence of your authority to act on behalf of the conservatee. Obtaining a certified copy of the Letters of Conservatorship (JC Form #GC-350) is advisable.

After the court issues your Letters of Conservatorship (JC Form #GC-350) you will have **30 days** to file the Notice of Conservatee's Rights (JC Form #GC-341) and **60 days** to file the Determination of Conservatee's Appropriate Level of Care (JC Form #GC-355) with the Probate Business Office.

If you or the conservatee moves residences you must inform the court in writing, as follows:

- **Conservator:** You must file the Notice of Change of Address or Other Contact Information (JC Form #MC-040) with the Probate Business Office.
- **Conservatee:** You must file Pre-Move Notice of Proposed Change of Personal Residence of Conservatee or Ward (JC Form #GC-079) with the Probate Business Office prior to the physical move of the conservatee. Once the conservatee has physically moved to the new residence, you must file the Post-Move Notice of Change of Residence of Conservatee or Ward (JC Form #GC-080).

Whoever is appointed will be the conservator until the conservatee passes away or an order is made terminating the conservatorship. If the conservatee passes away, you must notify all persons entitled to notice and file a Notice of the Conservatee's Death and proof of service with the court (JC Form #GC-399). The conservatorship will be terminated by operation of law, unless conservatorship of the estate was also established.

All forms are available in the Probate Business Office or online at [www.courts.ca.gov](http://www.courts.ca.gov).

## **Investigations**

When a Petition for Appointment of probate conservator is filed, the court will determine if an investigation is required prior to the hearing. If one is required, a court investigator will be assigned to the case and will contact the parties.

Pursuant to Prob. Code § 1850, the court will conduct periodic investigations after the initial appointment, as resources permit.

The court will assess a fee for each investigation. The fee amounts can be found on the court's Fee Schedule (SDSC Form #ADM-001), available on the court's website, [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov), or you can ask staff in the Probate Business Office. If you cannot afford the fee for the investigation and if you have not already done so, you may file a request to waive the fee. (Refer to the section "What if I don't have enough money to pay the fees?")

## **Need legal advice?:**

Contact an attorney of your choice. If you need help locating an attorney in San Diego County, you may contact the Lawyer Referral & Information Service of the San Diego County Bar Association at their website [www.sdcbba.org](http://www.sdcbba.org) or by calling (619) 231-8585.

## **Need general legal information or assistance with completing court forms?:**

### **Legal Aid Society of San Diego, Inc. – Conservatorship Clinic**

This free clinic is open to the members of the public who need assistance in a Conservatorship of the Person actions or information about alternatives to Conservatorship. Assistance is provided on a first come, first served basis. For more information, call (877) 534-2524.