



SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

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

GENERAL INFORMATION FOR SELF-REPRESENTED LITIGANTS - LIMITED CONSERVATORSHIP OF THE PERSON

The following information is intended to answer general questions that a self-represented litigant may have about limited 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 the proposed conservator's responsibility to read and comply with the applicable laws, use current forms, and be prepared to present the 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**). There are several types of conservatorships. One type is called a **limited conservatorship**. A limited conservatorship is established when a judge appoints a responsible person to assist an adult with a developmental disability who is unable to provide for their personal and/or financial needs.

Who decides if an adult has a developmental disability?

An adult with a developmental disability is someone who has a pervasive disability that originates before age 18 and constitutes a substantial impediment for the individual. The local **Regional Center** will evaluate the proposed conservatee to determine if they are developmentally disabled. If the Regional Center accepted the person as a consumer before age 18, then the person automatically qualifies as a person with a developmental disability. If the person has never been evaluated or accepted as a Regional Center consumer, the person will need to be assessed.

There are two types of Limited Conservatorships (or a combination of the two):

Limited Conservatorship of the Person:

A **limited conservatorship** is for adults with developmental disabilities who cannot fully care for themselves. The limited conservator shall secure for the limited conservatee habilitation or treatment, training, education, medical and psychological services, and social and vocational opportunity as appropriate and that will assist the limited conservatee in the development of maximum self-reliance and independence. A limited conservator does not have any of the following powers or controls over the limited conservatee unless those powers or controls are specifically requested in the petition for appointment of a limited conservator and granted by the court:

1. To fix the residence or specific dwelling of the limited conservatee.
2. Access to the confidential records and papers of the limited conservatee.
3. To consent or withhold consent to the marriage of, or the entrance into a registered domestic partnership by, the limited conservatee.
4. The right of the limited conservatee to contract.
5. The power of the limited conservatee to give or withhold medical consent.
6. The limited conservatee's right to control his or her own social and sexual contacts and relationships.
7. Decisions concerning the education of the limited conservatee.

Limited Conservatorship of the Estate:

A conservatorship of the estate is not needed if either of the following apply:

- The developmentally disabled adult receives public assistance such as Supplemental Security Income (SSI) or Social Security Administration (SSA), but has no other assets.
- If the developmentally disabled adult earns wages.

A limited conservatorship of the estate may be needed if the developmentally disabled adult has other assets, such as an inheritance or a settlement from a lawsuit that is not in a special needs trust. A bond is required in most conservatorships of the estate to guarantee proper performance of duties of the conservator of the estate.

Note: This informational form addresses limited conservatorships of the person only.

What needs to be done to become a limited conservator of the person?

To become the limited conservator of the person, the proposed conservator first must complete and file the following forms, available in the Probate Business Office and on the court's website at www.sdcourt.ca.gov (click on Probate, then Forms):

Included in the Limited Conservatorship of the Person Packet (SDSC #PKT-030):

- 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 Form (JC Form #GC-314).
- Referral Information and List of Relatives (SDSC Form #PR-020).
- Confidential Declaration on Medical Ability to Attend Hearing – Probate Conservatorship (JC Form #GC-325).
- Confidential Capacity Assessment and Declaration – Probate Conservatorship (JC Form #GC-335).
- Everyday Activities Attachment to Confidential Capacity Assessment and Declaration – Probate Conservatorship (JC Form #GC-335A).
- Duties of Conservator and Acknowledgment of Receipt of Handbook for Conservators (Probate - Guardianships and Conservatorships) (JC Form #GC-348).

What needs to be done after the forms are completed?

The documents must be filed by one of the following methods:

- E-Filing: www.sdcourt.ca.gov/sdcourt/onlineservices/efiling
Refer to Electronic Filing Requirements (Probate) ([SDSC Form #PR-188](#))
- In Person or by Mail (The original documents and one copy are needed):
Superior Court of California, County of San Diego
Probate Business Office, Room 330
1100 Union Street
San Diego, CA 92101

Is there a fee to file for a limited 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 on the court's website at www.sdcourt.ca.gov.

What if the proposed conservator cannot afford to pay the fee?

If the proposed conservator cannot afford the fees, a fee waiver may be requested 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 on the court's website at www.sdcourt.ca.gov (click Probate, then Forms). If the 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 THE PROPOSED CONSERVATOR – must serve the documents. the rules for service must be followed carefully, otherwise notice may be deemed insufficient.**

- **Personal Service** – The **proposed conservatee** must be personally served. This means someone else – **NOT THE PROPOSED CONSERVATOR** – personally hands the proposed conservatee 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 the proposed conservator after filing the 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 3 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 court days** before the hearing.

- **Service by Mail** – All of 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).
 - San Diego Regional Center, if the proposed conservatee is a person with developmental disabilities, notice of the hearing and a copy of the petition must be delivered at least **30-days** before the hearing.
 - 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 Lanterman-Petris-Short (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 THE PROPOSED CONSERVATOR** – mails everyone listed above 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 the proposed conservator does not know where the proposed conservatee's relatives are?

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

- ✓ Ask all family members, friends, acquaintances, and employers.
- ✓ Search the property indexes in the recorder's and assessor's offices in the county where the person last resided.
- ✓ Search on the Internet (e.g. social media).
- ✓ Look in the phone book.

If the proposed conservator has done everything possible to locate a party but cannot locate them, the proposed conservator can ask the court to allow the petition to proceed without giving notice. To do this, the proposed conservator must complete the Declaration of Diligent Search and Request to Dispense with Notice (SDSC Form #PR-182), which is available in the Probate Business Office and on the court's website at www.sdcourt.ca.gov. The declaration must be filed with the Probate Business Office at least **four court days** before the hearing.

What happens before the court hearing date?

- **Capacity Assessment** – Prior to the hearing, the proposed conservatee's capacity will need to be evaluated and the assessing clinician will need to complete a Confidential Capacity Assessment and Declaration – Probate Conservatorship (JC Form #GC-335). The Everyday Activities Attachment to Confidential Assessment and Declaration– Probate Conservatorship (JC Form #GC-335A) may also be required. If the proposed conservatee is medically unable to attend the court hearing, a Confidential Declaration on Medical Ability to Attend Hearing Declaration – Probate Conservatorship (JC Form #GC-325) will need to be filed.
- **Court-Appointed Attorney** – The court will appoint an attorney to represent the proposed conservatee. The attorney will meet with the proposed conservatee and may contact other relatives or friends to find out if a conservatorship is appropriate. The attorney will file a report with the court. The attorney represents the proposed conservatee (not the proposed conservator) and will advocate for the proposed conservatee's wishes and/or best interests. The proposed conservator should receive a copy of the court-appointed attorney's report before the hearing.
- **Regional Center Report** – Regional Center will also prepare a report on the proposed conservatee and submit it to the court. The Regional Center may visit the proposed conservatee and relatives as part of the investigation. The proposed conservator should receive a copy of the Regional Center's report before the hearing.
- **Court Investigation** - The court will determine if a court 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, first-degree relatives, or second-degree relatives if there are no first-degree relatives. The court investigator will issue a report on the appropriateness of the conservatorship. The proposed conservator should receive a copy of the court investigator's report before the hearing. The court will assess a fee for the investigation. The fee amounts can be found on the court's Fee Schedule (SDSC Form #ADM-001), available on the court's website at www.sdcourt.ca.gov.
- **Probate Examiner Notes** - A probate examiner will review the paperwork submitted and make notes for the probate judge. These notes are referred to as "probate notes." A copy of the probate notes will be available on the court's website at 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. If defects are noted and have not been corrected before the hearing date, the court may continue the hearing to a later date to allow the proposed conservator time to correct the defects. The probate examiner listed on the probate notes should be contacted for information on how to correct defects. All corrections must be made at least **four court days** before the hearing. The probate examiners can be contacted by phone or email. Instructions are available on the court's website at 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, if there is an immediate and compelling need for the appointment. The Petition for Appointment of Probate Conservator (JC Form #GC-310) must be filed concurrently. Notice must be given at least **five court-days** prior to the hearing for temporary conservatorship. The following additional forms are required to request the appointment of a temporary conservator:

- Petition for Appointment of Temporary Conservator (JC Form #GC-111).
- 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 the proposed conservator's petition for conservatorship at the hearing, the Order Appointing Probate Conservator (JC Form #GC-340) and Letters of Conservatorship (JC Form #GC-350) must be submitted to the Probate Business Office. Once processed, these forms are evidence of the conservator's 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 the Letters of Conservatorship (JC Form #GC-350) the conservator has **30 days** to file the Notice of Conservatee's Rights (JC Form #GC-341) and **120 days** to file the Confidential Conservatorship Care Plan--Part 1 and Part 2 (Medical Information) (JC Form #GC-355 and #GC-356) with the Probate Business Office.

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

- **Conservator:** File the Notice of Change of Address or Other Contact Information (JC Form #MC-040) with the Probate Business Office.
- **Conservatee:** 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, file the Post-Move Notice of Change of Residence of Conservatee or Ward (JC Form #GC-080).

Annual or Biennial Court Investigations:

Pursuant to Probate Code section 1850, the court will conduct periodic investigations after the initial appointment, as resources permit. The court investigator will determine if the conservatee still meets the criteria for appointment of a conservator and if the terms of the appointment order should be modified to reduce or expand the conservator's powers and duties to ensure the conservatorship is still the least restrictive alternative needed. If there are any concerns, a Review Hearing may be set.

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 at www.sdcourt.ca.gov, or staff in the Probate Business Office can be asked. If the conservator cannot afford the fee for the investigation and if the conservator has not already done so, a request to waive the fee may be filed. (Refer to the section "What if the proposed conservator cannot afford to pay the fees?")

Termination of Conservatorship:

Whomever is appointed as conservator will remain as the conservator until the conservatee passes away or an order is made terminating the conservatorship. If the conservatee passes away, the conservator 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 established. If there is an estate, a final accounting is required.

Need legal advice?

The court cannot provide legal advice. For help locating an attorney in San Diego County, contact the Lawyer Referral & Information Service of the San Diego County Bar Association at www.sdcba.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 action or who are seeking information about alternatives to Conservatorship. Assistance is provided on a first come, first served basis. For more information, call (877) 534-2524.