

# Guardianship and Conservatorship

## Overview, Cost and Getting Started



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## **Overview**

Guardianship and Conservatorship are two special relationships that can be established by the courts to address the requirements of persons who are incapacitated and/or need protection. A Guardian protects the person; a Conservator protects property. A person can be appointed as Guardian, Conservator or Guardian and Conservator. The person who initiates the Guardianship/Conservatorship proceeding is called the Petitioner. The person for whom the Guardian/Conservator is appointed is called the Ward.

**Minors.** Guardianship and Conservatorship are simpler with minors than with adults, because a minor is already a protected person by virtue of his age.

A minor needs someone to act as a parent, so a Guardianship proceeding is appropriate whenever someone is needed to fill that role. Guardianship of minors is done in Juvenile Court.

A minor needs a Conservator when he has assets or income that might otherwise be wasted, such as the settlement from a personal injury claim. The point of the Conservatorship is to protect the minor's assets so they will be available when the minor reaches age eighteen.

**Adults.** Guardianship and Conservatorship are more complicated with adults, because an adult is presumed to be able to manage his own affairs. An adult needs a Guardian and/or Conservator when he has been found to be unable either to make or to communicate responsible life and healthcare decisions, and/or unable to handle his own financial affairs and therefore incapacitated and in need of protection, generally due to physical or mental illness or substance abuse.

Being declared incapacitated is a substantial infringement on a person's basic rights, so for this reason a physician must examine the person and provide a report to the court, an investigator must visit both the person needing protection and the proposed Guardian/Conservator and issue his report, and the Court will appoint an attorney to represent that person's interests in court.

The relationship between Guardian and Ward is essentially the same as a parent to a child, with the focus being the best interests of the incapacitated person.

The court has an interest in ensuring that the assets of an incapacitated person are not wasted or squandered, and so a Conservator must be appointed. A bond is required to protect any assets that are not deposited into a restricted account.

## **Costs**

**Your Attorney's Fee.** The fee to your attorney to prepare the documents and represent you throughout the proceedings varies depending on the nature and complexity of the case.

Guardianship for a minor, because it is fairly simple, is amenable to a flat legal fee. Conservatorship for a minor can be simple as well, if the point is just to protect funds until the minor turns eighteen, such as in the case of a personal injury settlement. If no attorney was involved in the settlement, the insurance carrier will usually handle the Conservatorship for you or pay the attorney's fee to do so.

In adult cases, the lowest fee would be on a Guardianship only for a person with no significant assets or income and who is not contesting the matter.

A Guardianship and Conservatorship for an elderly couple is significantly more complicated. The complexity grows with the number and amount of assets and/or income that needs to be tracked down and managed. Multiple hearings may be required to ensure that all of the couple's assets and/or income is protected.

**Associated Expenses.** Some of the expenses associated with these matters are:

1. Filing fee to the court to initiate the process(\$279 as of 10/1/20)
2. Certification fees for the final documents(\$30 each as of 10/1/20)
3. Costs for service of process. This varies depending on the difficulty of serving the person and the distance that must be traveled, but usually costs a minimum of about \$100.00 per person. The proposed Ward(s) must be personally served. Other parties entitled to notice can sign a waiver so that notices may be mailed to them.
4. Cost for notice by publication. If any party refuses to sign a waiver and cannot otherwise be served, service can be by publishing in a newspaper over a period of several weeks. The cost generally runs between \$175.00 and \$225.00.
5. Fee for the court-appointed investigator (\$400.00)(Adult cases only)

**Additional Professional Fees(adult cases only).** In addition to the fee you pay your attorney, you can expect to incur the following professional fees:

- Fee to Physician to examine the proposed Ward and prepare a report
- Fee to the attorney who will represent the proposed Ward's interests (depending on ability to pay)

**Getting Started**

The form that follows requests the information that is required for Guardianships and Conservatorships. Not every item is needed for every case. For example, the form allows for two different Petitioners seeking to appoint two different Guardians and two different Conservators. Usually one person petitions to be appointed as the sole Guardian and/or Conservator. The best way to proceed is to review the form and fill in what you can and what you think may apply. When you meet with your attorney you will go through the form together and ensure that the information that applies to your case has been provided. You should also plan on bringing the information concerning any assets and/or income, as well as having all applicable identification information.

**Petitioner:** The Petitioner is the person asking the court to appoint a Guardian or Conservator.

Petitioner Name

Petitioner Date of Birth

Petitioner Mailing Address 1

Petitioner Mailing Address 2

Petitioner Physical Address 1

Petitioner Physical Address 2

Petitioner Home Telephone #

Petitioner Work Telephone #

Petitioner SS#

Petitioner Race

Petitioner Height

Petitioner Weight

Petitioner Hair

Petitioner Eyes

Relationship: The Petitioner is the \_\_\_\_\_ of the person who needs a guardian.

**Co-Petitioner:** Two people may petition the court to have both appointed as Guardians. Although it is possible to have two people appointed as Conservators, the court prefers to have one person serve in this role.

Co-Petitioner Name

Co-Petitioner Date of Birth

Co-Petitioner Mailing Address 1

Co-Petitioner Mailing Address 2

Co-Petitioner Physical Address 1

Co-Petitioner Physical Address 2

Co-Petitioner Home Telephone #

Co-Petitioner Work Telephone #

Co-Petitioner SS#

Co-Petitioner Race

Co-Petitioner Height

Co-Petitioner Weight

Co-Petitioner Hair

Co-Petitioner Eyes

Relationship: The Co-Petitioner is the \_\_\_\_\_ of the person who needs a guardian/conservator.

Does Petitioner or Co-Petitioner have another attorney? If so, who?

**Proposed Ward:** The Ward is the Minor or Incapacitated Person, the person whom the Petitioner says needs protection.

Ward 1 Name

Ward 1 DOB

Ward 1 Present Mailing Address 1

Ward 1 Present Mailing Address 2

Ward 1 Present Physical Address 1

Ward 1 Present Physical Address 2

Ward 1 Permanent Address 1

Ward 1 Permanent Address 2

Ward 1 Daytime Address or Location

Ward 1 Daytime Address or Location

Ward 1 Telephone #

Is the Ward a citizen of another country?

If so, which country?

Ward 1 SS#

Yes  No Has Ward served in the military?

Does Ward speak a language other than English, or have a communication problem?

Yes  No Is Ward married? If so, where is Ward's spouse?

**Second Proposed Ward:** There may be two proposed wards, such as in the case of an elderly couple where both are incapacitated and/or have joint assets requiring protection.

Ward 2 Name

Ward 2 DOB

Ward 2 Present Mailing Address 1

Ward 2 Present Mailing Address 2

Ward 2 Present Physical Address 1

Ward 2 Present Physical Address 2

Ward 2 Permanent Address 1

Ward 2 Permanent Address 2

Ward 2 Daytime Address or Location

Ward 2 Daytime Address or Location

Ward 2 Telephone #

Is the Ward a citizen of another country?

If so, which country?

Ward 2 SS#

Yes  No Has Ward served in the military?

Does Ward speak a language other than English, or have a communication problem?

Yes  No Is Ward married? If so, where is Ward's spouse?

**People Entitled to Receive Notice:** These are the Ward if age fourteen or older, the Ward's spouse, parents and adult children, any current guardian or conservator or person acting in that role, or anyone who has filed a formal demand to receive notice. If there is no one fitting these descriptions, an adult relative of the proposed Ward must receive notice. Use an additional sheet of paper if required for additional names.

Noticee 1 Name

Noticee 1 Address 1

Notictee 1 Address 2

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Relationship: This person is the \_\_\_\_\_ of the person who needs a guardian.

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Notictee 2 Name

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Notictee 2 Address 1

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Notictee 2 Address 2

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Relationship: This person is the \_\_\_\_\_ of the person who needs a guardian.

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Notictee 3 Name

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Notictee 3 Address 1

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Notictee 3 Address 2

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Relationship: This person is the \_\_\_\_\_ of the person who needs a guardian.

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Notictee 4 Name

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Notictee 4 Address 1

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Notictee 4 Address 2

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Relationship: This person is the \_\_\_\_\_ of the person who needs a guardian.

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Notictee 5 Name

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Notictee 5 Address 1

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Notictee 5 Address 2

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Relationship: This person is the \_\_\_\_\_ of the person who needs a guardian.

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Notictee 6 Name

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Notictee 6 Address 1

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Notictee 6 Address 2

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Relationship: This person is the \_\_\_\_\_ of the person who needs a guardian.

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**Ward Assets/Income:** Attach additional sheets if required.

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The Ward has no significant Assets or Income

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The Ward has the following Assets and/or Income:

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**Proposed Guardian:** This is the person that the Petitioner is asking the court to appoint as Guardian. Usually this is the Petitioner.

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Proposed Guardian 1 Name

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Proposed Guardian 1 Date of Birth

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Proposed Guardian 1 Mailing Address 1

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Proposed Guardian 1 Mailing Address 2

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Proposed Guardian 1 Physical Address 1

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Proposed Guardian 1 Physical Address 2

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Proposed Guardian 1 Home Telephone #

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Proposed Guardian 1 Work Telephone #

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Proposed Guardian 1 SS#

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Proposed Guardian 1 Race

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Proposed Guardian 1 Height

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Proposed Guardian 1 Weight

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Proposed Guardian 1 Hair

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Proposed Guardian 1 Eyes

**Proposed Co-Guardian:** This is the person that the Petitioner is asking the court to appoint as a Co-Guardian. Usually this is the Co-Petitioner.

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Proposed Guardian 2 Name

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Proposed Guardian 2 Date of Birth

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Proposed Guardian 2 Mailing Address 1

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Proposed Guardian 2 Mailing Address 2

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Proposed Guardian 2 Physical Address 1

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Proposed Guardian 2 Physical Address 2

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Proposed Guardian 2 Home Telephone #

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Proposed Guardian 2 Work Telephone #

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Proposed Guardian 2 SS#

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Proposed Guardian 2 Race

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Proposed Guardian 2 Height

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Proposed Guardian 2 Weight

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Proposed Guardian 2 Hair

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Proposed Guardian 2 Eyes

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**Proposed Conservator:** This is the person that the Petitioner is asking the court to appoint as Conservator. Usually this is the Petitioner.

Proposed Conservator 1 Name

Proposed Conservator 1 Date of Birth

Proposed Conservator 1 Mailing Address 1

Proposed Conservator 1 Mailing Address 2

Proposed Conservator 1 Physical Address 1

Proposed Conservator 1 Physical Address 2

Proposed Conservator 1 Home Telephone #

Proposed Conservator 1 Work Telephone #

Proposed Conservator 1 SS#

Proposed Conservator 1 Race

Proposed Conservator 1 Height

Proposed Conservator 1 Weight

Proposed Conservator 1 Hair

Proposed Conservator 1 Eyes

**Proposed Co-Conservator:** This is the person that the Petitioner(s) is/are asking the court to appoint as a Co-Conservator. Usually this is the Co-Petitioner. Because the court prefers to have one person responsible for protecting assets and income, petitioning for the appointment of two conservators will complicate matters.

Proposed Conservator 2 Name

Proposed Conservator 2 Date of Birth

Proposed Conservator 2 Mailing Address 1

Proposed Conservator 2 Mailing Address 2

Proposed Conservator 2 Physical Address 1

Proposed Conservator 2 Physical Address 2

Proposed Conservator 2 Home Telephone #

Proposed Conservator 2 Work Telephone #

Proposed Conservator 2 SS#

Proposed Conservator 2 Race

Proposed Conservator 2 Height

Proposed Conservator 2 Weight

Proposed Conservator 2 Hair

Proposed Conservator 2 Eyes

**Status of Guardianships/Conservatorships:**

- No Guardian and/or Conservator has been appointed in any other court, and no court proceedings are pending for such appointment; OR
- Someone has been appointed Guardian and/or Conservator, or court proceedings are pending. Explain who, when, in what court, and if the appointee is guardian or conservator:

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**Reasons for Guardianship:** The person needs a guardian because of (check one or more reasons that you think apply):

- Minority (under age eighteen)
- Mental illness, mental deficiency, mental disorder;
- Physical illness or disability;
- Chronic use of drugs;
- Chronic intoxication;
- Other (explain):

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**Reasons for Requested Person to Be Appointed Guardian:** Why is the person who is proposed to be the Guardian/Conservator suitable?

- Appointee is the spouse of the incapacitated person;
- Appointee was selected by the incapacitated person to be the guardian;
- Appointee is an adult child of the incapacitated person;
- Appointee is the parent of the incapacitated person/minor;
- Appointee is a relative of the incapacitated person/minor and has lived with the person more than six months before filing this petition;
- Appointee was chosen to be the guardian by someone who is caring for the incapacitated person/minor or is paying benefits for the incapacitated person/minor;
- Appointee is a private fiduciary, a professional guardian, conservator, or the Arizona Department of Veterans' Services.
- Other:

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**Reasons Petitioner Is Asking for a Guardianship Order:** (What makes the Petitioner interested in the Ward's welfare?)

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**Reasons for Conservatorship:** The person needs a Conservator because he or she has property which will be wasted or used up unless proper management is provided, and (check the boxes that apply):

- He or she needs funds for his or her support, care and welfare;
- Funds are needed for the support, care and welfare of those entitled to be supported by the person.

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**Reasons Person Cannot Manage His or Her Property:** (check all that you believe apply):

- Minority (under age eighteen)
  - Mental illness, mental deficiency, or mental disorder;
  - Physical illness or disability;
  - Chronic use of drugs;
  - Chronic intoxication;
  - Confinement;
  - Detention by a foreign power;
  - Disappearance.
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