

GUIDELINES FOR ADULT CONSERVATORSHIPS

The information in this packet is not intended to be legal advice. It is a brief explanation of the basic procedure that is required to obtain conservatorship of an adult. This packet is provided for you because the Probate Court cannot always discuss these issues fully with each person interested in adult conservatorships. Probate Court personnel cannot give you legal advice about your particular situation. The information contained here is the only information court personnel can give you about this procedure.

In addition to the written information on guidelines for adult conservatorships, this packet includes:

1. Instructions titled "Petition For Appointment of Conservator"
2. Petition for Appointment of a Conservator (PC 639)
3. Waiver and Consent (PC 561)
4. Acceptance of Appointment (PC 571)
5. Bond of Fiduciary (PC 570)
6. Inventory (PC 577)

There are other forms which you may or may not need to file in a conservatorship proceeding. These forms are available if you need them. If you need any additional copies of the enclosed forms, you may either copy the forms yourself or you may obtain copies from the Probate Court.

Petition:

A Petition for Appointment of a Conservator and/or a Protective Order is filed. Be sure that all sections of the form are filled out. Use only black or blue ink. If you need assistance in filling out this form, consult with an attorney.

Who may Petition:

The following persons may petition for the appointment of a conservator or other appropriate protective order:

1. The person to be protected.
2. A person interested in that person's estate, affairs, or welfare, including the person's parent, guardian, custodian, and the Family Independence Agency, or;
3. A person who would be adversely affected by lack of effective management of the person's property and affairs.

Exception: If the person to be protected is mentally competent, but due to age or physical infirmity desires the appointment of a conservator to assist in the management of his/her property and affairs, ONLY THAT PERSON may petition.

Who may be appointed:

The following persons are entitled to consideration for appointment, in the order listed:

- a. A conservator, guardian of property, or other like fiduciary appointed or recognized by the appropriate court of another jurisdiction in which the protected person resides;
- b. An individual or corporation nominated by a protected person who, in the court's opinion, has sufficient mental capacity to make an intelligent choice;
- c. The spouse of the protected person;
- d. An adult child of the protected person;
- e. A parent of the protected person, or a person nominated by the Last Will and Testament of a deceased parent;
- f. A relative of the protected person with whom the person has resided for more than 6 months before the filing of the petition;
- g. A person nominated by the person who is caring for the protected person or paying benefits to the protected person;
- h. Any other person determined by the court to be suitable and qualified.

Notice of Hearing

At the time the petition is filed, a hearing will be scheduled with the probate judge to appoint the conservator and/or issue a protective order. A copy of the notice of hearing is to be served on all interested parties along with a copy of the petition. A proof of service must be filed with the court showing that all interested parties received a copy of the petition and notice of hearing, or the judge will not hear the case and a new hearing date will be set.

Guardian Ad Litem

The court will appoint a Guardian Ad Litem to conduct an investigation and represent the best interests of the person.

Waiver and Consent

If the interested parties wish, they may sign a "Waiver/Consent" form and file it with the court. By signing this form, they agree to the appointment of the conservator and/or the issuance of a protective order and waive their right to notice of the hearing.

Appointment of Conservator

At the hearing, the judge takes testimony and evidence to appoint the conservator and/or issue a protective order. If the judge is satisfied that there is a need for a conservator and/or a protective order, he/she will sign an order to that effect. If all interested parties have filed waivers, the judge may sign an order without holding a hearing.

Acceptance of Appointment

The conservator shall sign an Acceptance of Appointment, unless the court determines that a bond is necessary. Once the court receives the Acceptance of Appointment or the bond, the judge will sign the Letters of Conservatorship.

Powers of Conservator

The conservator has a right to the possession of all the property of the ward's estate and shall immediately take possession following his/her appointment. The conservator may expend or distribute income or principal of the estate, without court authorization or confirmation, for the support, education, care or benefit of the protected person and that person's dependents, pursuant to the following:

- a. The conservator shall consider recommendations relating to appropriate standards of support, education and benefit of the protected person made by a parent or guardian. No sums shall be expended if the conservator knows that the parent or guardian is deriving personal financial benefit, or the recommendations are clearly not in the protected person's best interests.
- b. The conservator shall expend or distribute sums reasonably necessary for the protected person's support, education, care or benefit with due regard to the size of the estate, the probable duration of the conservatorship and the likelihood that the protected person at some future time may be fully able to manage his/her affairs and preserve the estate.
- c. The conservator may expend funds of the estate for the support of persons legally dependent on the protected person and others who are members of the protected person's household who are unable to support themselves and who are in need of support.
- d. Funds so expended may be paid by the conservator to any person, including the protected person, to reimburse for expenditures which the conservator might have made or in advance for services to be rendered to the protected person when it is reasonable to expect that they will be performed and where advance payments are customary or necessary.

- e. The conservator may, without court authorization or confirmation, invest and reinvest funds of the estate.

Inventory

Within 56 days after the appointment, the conservator shall prepare and file an Inventory of the estate and send copies to all of the interested parties. The Inventory shall list the estate assets with reasonable detail and set forth each item's fair market value as of the date of the appointment.

Account of Fiduciary

Once each year, the conservator is required to file an annual account detailing all income and disbursement action during the previous year. The first accounting is filed one year after the initial appointment and begins with the total value of the estate taken from the Inventory. Each additional year that the estate remains open, the conservator is required to file annual accountings.

Termination of Conservatorship

The protected person, the protected person's personal representative, the conservator, or any other interested person may petition the court to terminate the conservatorship.

A protected person is entitled to the same rights and procedure as in an original proceeding for a protective order.

After notice and hearing, the court may terminate the conservatorship upon determining that the disability of the protected person has ceased.

Upon termination of the conservatorship, the conservator, after meeting all prior claims and expenses of administration, shall pay over and distribute all funds and properties to the former protected person as soon as possible. A conservator may account to the court or may account to the former protected person or the person's personal representative.

If the protected person has died

If the protected person has died, the conservator shall:

- a. Deliver to the court for safekeeping any Last Will and Testament of the deceased protected person that may have come into the conservator's possession;
- b. Inform the personal representative, an heir at law, or if there is not a known heir, the attorney general, or a beneficiary named in the Last Will and Testament that he/she has done so, and;

- c. Retain the estate for delivery to a duly appointed personal representative of the decedent or other persons entitled to the estate.

Fees

| | |
|---|-------------------------------|
| Filing Fee: | \$175.00 |
| Any additional petition(s), no matter how entitled: | \$20.00 |
| Annual Account of Fiduciary: | \$20.00 (each reporting year) |

PLEASE NOTE: If you need assistance in filling out forms, consult an attorney. Court staff may give general information as to the guardianship process, but court personnel are prohibited by law from preparing forms for you.

INSTRUCTIONS FOR COMPLETING "PETITION FOR APPOINTMENT OF CONSERVATOR"

Please type or print neatly in black or blue ink. Items A through S must be read and filled in (when required) before your petition can be filed with the court. Please read the instruction for each item. Then fill in the correct information for that item on the form.

- A** Enter the name of the individual who you believe needs a conservator. Provide the last four digits of his or her social security number on MC 97 as instructed.
- B** Enter your name in the first line. Enter your relationship to the individual (or your interest) in the second line.
- C** Enter the date the individual was born on form MC 97 as instructed, what county the individual is a resident of, the address of the place where the individual normally lives, and the county the individual's property is in.
- D** Check this box if there is or has been a case in the family division of the circuit court involving the individual in **A**. Examples of a family division case are personal protection, abuse or neglect or a name change. If you have checked this box, enter the name of the court, the case number of the action, the name of the judge assigned to that case. Then place a check in the box indicating whether that case is still pending or not.
- E** Check the boxes that apply and provide the name(s) and address(es). If the individual has a power of attorney and you have a copy of the document, make a copy for the court.
- F** Check the boxes that you believe apply to the individual.
- G** Explain in as much detail as possible the specific facts about the individual's conduct or condition that lead you to believe he or she needs a conservator. Give specific examples of his or her conduct that supports what you checked in **F** and that demonstrate the need for a conservator. This information is extremely important for the court in making a decision about the need to appoint a conservator. If you are the guardian asking for authority to sell or otherwise dispose of your ward's real property, state the reasons why it is in the ward's best interest to do so.
- H** Specify the approximate value of any real property, personal property, insurance, and monthly income of the individual. An example of real property is a house. Examples of personal property are home furnishings, bank accounts, and checking accounts.
- I** Check whether the individual is currently receiving benefits from governmental agencies and the amount(s).
- J**-**K** Check all the boxes that apply and enter the names, relationships, addresses and telephone numbers of each relative of the individual. If any of the adults named in **J** are under legal incapacity, enter the names in **K**. If you check the last box in **J** (item 9), you must notify the Attorney General by sending a copy of this form to: Attorney General, Public Administration, PO Box 30755, Lansing, Michigan 48909.
- L** Enter the address and telephone number where the individual is currently located. This address and telephone number may or may not be the home of the individual. For example, if the individual is currently in the hospital, enter the name, address, and telephone number of the hospital.
- M** If there is an emergency that requires that a preliminary protective order be entered before the hearing, check the box and state the reason(s).
- N** Enter the name, address, and telephone number of the person you want to be appointed as conservator of the individual. Enter the relationship, if any, that this person has to the individual. If you are the guardian asking for authority to sell or otherwise dispose of your ward's real property, leave this blank and complete **Q**.
- O** Check this box only if you checked **M**.
- P** Check this box if you want the individual's property protected but you do not want a conservator appointed.
- Q** Check this box if you want the guardian appointed special conservator to dispose of real property.
- R** Enter today's date and sign your name.
- S** If the individual wants to nominate someone to be the conservator, check the box and enter the name, address, and telephone number of the person the individual is nominating. The individual must sign and date the form.

| | | |
|---|---|---------------------------|
| STATE OF MICHIGAN PROBATE COURT COUNTY | PETITION FOR <input type="checkbox"/> APPOINTMENT OF CONSERVATOR <input type="checkbox"/> PROTECTIVE ORDER | CASE NO. and JUDGE |
|---|---|---------------------------|

Court address _____ Court telephone no. _____

A In the matter of _____ Put last 4 digits of SSN in
First, middle, and last name **XXX-XX-Ref. No. row 2 on MC 97.**
Last four digits of SSN

Petitioner's name, address, and telephone no.

Petitioner's attorney, bar no., address, and telephone no.

B 1. I, _____, am interested in this matter
Name
 and make this petition as _____
State interest/relationship

C 2. The individual was born _____, resides in _____ County
Put DOB in Ref. No. row 1 on MC 97.
Date
 at _____
Address
 _____ and has property in _____ County.
City, state, zip

D 3. An action within the jurisdiction of the family division of circuit court involving the family or family members of the above individual has been previously filed in _____ Court, Case Number _____, was assigned to Judge _____, and remains is no longer pending.

E 4. The individual has a power of attorney. (Specify name and address below.)
 a guardian. (Specify name and address below.)
 a representative payee for social security. (Specify name and address below.)

Name and address

F 5. a. The individual is an adult unable to manage his/her property and business affairs effectively because of
 mental illness chronic use of drugs confinement
 mental deficiency chronic intoxication disappearance
 physical illness or disability detention by a foreign power _____
 and either
 the adult has property that will be wasted or dissipated unless proper management is provided, or
 the adult or his/her dependents are in need of money for support, care, and welfare, and protection is necessary to obtain or provide money.
 b. The adult petitioner is mentally competent but because of age or physical infirmity is unable to manage his/her property and affairs effectively, and recognizing the disability, requests appointment of a conservator.

5. (continued)

- c. The individual is a minor who
 - owns money or property that requires management or protection that cannot otherwise be provided.
 - has or may have business affairs that may be jeopardized or prevented by minority.
 - needs money for support and education, and protection is necessary or desirable to obtain or provide money.
- d. I am the guardian of the ward and it is in the ward's best interests to sell or otherwise dispose of the ward's real property or interest in real property.

G 6. The statements in item 5 are supported by the following facts: _____
(Attach a separate sheet if necessary.)

H 7. The individual to be protected has an estate approximately valued at:

\$ _____ \$ _____ \$ _____ \$ _____
Real property Personal property Insurance Monthly income

I 8. The individual to be protected is receiving the following benefits from governmental agencies:

- Social Security \$ _____ SSI \$ _____ MDHHS \$ _____
- Veterans Administration \$ _____, claimant number _____
- Other: _____ \$ _____

J 9. The individual to be protected has

- a spouse whose name and address are listed below.
- child(ren) whose name(s) and address(es) are listed below.
- descendants of deceased child(ren) whose name(s) and address(es) are listed below.
- if no child(ren) or descendants of deceased child(ren), parents whose name(s) and address(es) are listed below.
- if none of the above, presumptive heirs whose name(s) and address(es) are listed below.
- none of the above (must notify the Attorney General - see instructions for the address of the Attorney General).

| NAME | ADDRESS AND TELEPHONE NUMBER | | | | RELATIONSHIP | AGE (if minor)* |
|------|------------------------------|-------|-----|---------------|--------------|-----------------|
| | Street address | | | | | |
| | City | State | Zip | Telephone no. | | |
| | Street address | | | | | |
| | City | State | Zip | Telephone no. | | |
| | Street address | | | | | |
| | City | State | Zip | Telephone no. | | |
| | Street address | | | | | |
| | City | State | Zip | Telephone no. | | |

*If person is a minor, provide the date of birth on form MC 97a and put the Ref. No. from that form in the box above with the age.

10. None of the persons named above are under any legal incapacity except

Name, incapacity, and representative of the person, if any

11. The individual is currently found at _____
Address or location Telephone no.

12. It is necessary that a preliminary protective order be entered pending the regular hearing because

I REQUEST that the court:

13. Appoint _____
Name, address, and telephone no.

who has priority as _____, as conservator of the estate to be protected.
Priority relationship

14. Preserve and apply the individual's property pending the appointment of a conservator as follows:

15. Enter a protective order that provides _____

16. Appoint the guardian as special conservator with authority to sell or otherwise dispose of the ward's real property or interest in real property.

I declare under the penalties of perjury that this petition has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Date

Petitioner signature

Date

Attorney signature

17. **NOMINATION BY PERSON TO BE PROTECTED:** I am 14 years of age or older. I nominate as my conservator

Name, address, and telephone no.

Date

Signature of person to be protected

| | | |
|--|---|---------------------------|
| STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT COUNTY | PROTECTED PERSONAL IDENTIFYING INFORMATION | CASE NO. and JUDGE |
|--|---|---------------------------|

Court address _____ Court telephone no. _____

| | | |
|-------------------------------|---|-------------------------------|
| Plaintiff's/Petitioner's name | v | Defendant's/Respondent's name |
|-------------------------------|---|-------------------------------|

In the matter of _____

This form is nonpublic because it contains personal identifying information (PII) that is protected from public inspection under MCR 1.109(D)(9)(a). Use this form to provide PII only for a person who is a defendant, respondent, or decedent. If the person is a plaintiff, petitioner, or other individual, use form MC 97a.

Instructions:

- When PII (such as date of birth) must be filed with the court on a public document, DO NOT include it on that public document. Instead, you must provide it on this form.
- **Provide only** the protected PII required for your particular case. For example, if you are filing a public document that requires you to provide a date of birth to the court, complete only that field on this form.

Name of form/document that this MC 97 is being filed with: _____

Printed name of individual completing form and date _____

Instructions: Provide the name of the person that the PII applies to, followed by the specific PII that is required to be provided. For Other, specify the type of PII in addition to the PII itself. Use the below reference number (Ref. No.) in the public document in place of the protected PII. For example, insert "Ref. No. 1" in place of the DOB in the public document.

| Ref. No. | Name (required) |
|----------|--|
| 1 | Date of birth |
| 2 | National ID no. / Last 4 digits of SSN XXX-XX-_____ |
| 3 | Driver's License / State-issued ID no. |
| 4 | Passport no. |
| 5 | Other |

| Ref. No. | Instructions: List the name of the financial institution and the account number. List the paragraph that references the account, if needed for clarity. Use reference number (Ref. No.) when necessary to refer to account in public documents. | | |
|----------|---|-------------|---------------|
| 6 | Financial institution | Account no. | Paragraph no. |
| 7 | Financial institution | Account no. | Paragraph no. |
| 8 | Financial institution | Account no. | Paragraph no. |
| 9 | Financial institution | Account no. | Paragraph no. |

| | | |
|---|-----------------------|-----------------|
| STATE OF MICHIGAN PROBATE COURT COUNTY CIRCUIT COURT - FAMILY DIVISION | WAIVER/CONSENT | FILE NO. |
|---|-----------------------|-----------------|

In the matter of _____

1. I am interested in the matter as _____ .

2. I waive notice of the hearing and consent to the application/petition for _____
Nature of application/petition and name of applicant/petitioner

_____, and I declare that I have received a copy of this application/petition.

3. I waive notice of the hearing concerning _____
Nature of hearing

Date

Signature

Attorney name (type or print) Bar no.

Name (type or print)

Address

Address

City, state, zip Telephone no.

City, state, zip Telephone no.

NOTE: Do not use for waivers pursuant to MCL 700.3310.

Do not write below this line - For court use only

| | | |
|---|----------------------------------|---------------------------|
| STATE OF MICHIGAN PROBATE COURT COUNTY | ACCEPTANCE OF APPOINTMENT | CASE NO. and JUDGE |
|---|----------------------------------|---------------------------|

Court address _____ Court telephone no. _____

In the matter of _____
First, middle, and last name

1. I have been appointed _____ of the person/estate.
Type of fiduciary

2. I accept the appointment, submit to personal jurisdiction of the court, and agree to file reports and to perform all required duties.

3. For a period of _____ days from the date of my appointment, I exclude from the scope of my responsibility
not to exceed 91 days

the following real estate or ownership interest in a business entity: _____
Describe real property or business interest

because I reasonably believe the real estate or other property owned by the business entity is or may be contaminated by a hazardous substance, or is or has been used in an activity directly or indirectly involving a hazardous substance that could result in liability to the estate or otherwise impair the value of property held by the estate.

Date

Signature

Attorney name (type or print) _____ Bar no. _____ Name (type or print) _____

Attorney Address _____ Address _____

City, state, zip _____ Telephone no. _____ City, state, zip _____ Telephone no. _____

Put DOB in row 10 on MC 97a. _____
Date of birth

| | | |
|---|--------------------------|-----------------|
| STATE OF MICHIGAN PROBATE COURT COUNTY CIRCUIT COURT - FAMILY DIVISION | BOND OF FIDUCIARY | FILE NO. |
|---|--------------------------|-----------------|

Estate of _____

1. The principal has been appointed _____, accepts the duties of this appointment and, with the surety(ies), agrees to pay \$ _____ to the State of Michigan as obligee for the benefit of the persons interested in the estate if the principal fails to discharge all duties according to law.
Type of fiduciary
2. The surety(ies) agree to be jointly and severally liable on the bond with the principal and with each other.
3. The surety(ies) consent to the jurisdiction of the court that issued letters of authority to the principal in a proceeding pertaining to the principal's fiduciary duties.
4. If this is a bond for a special personal representative who is subsequently appointed personal representative, the obligations and liabilities of this bond remain in effect.

Date

Principal signature

Attorney name (type or print) Bar no.

Principal name (type or print)

Address

Address

City, state, zip Telephone no.

City, state, zip Telephone no.

Surety signature

Surety signature

Surety name (type or print)

Surety name (type or print)

Address

Address

City, state, zip Telephone no.

City, state, zip Telephone no.

Date

Principal signature

Principal name (type or print)

Address

Address

City, state, zip Telephone no.

City, state, zip Telephone no.

Surety signature

Surety signature

Surety name (type or print)

Surety name (type or print)

Address

Address

City, state, zip Telephone no.

City, state, zip Telephone no.

Oath of Personal Surety The surety acknowledges personal worth of the amount of the penalty in the bond over and above all debts and legal exemptions.

Subscribed and sworn to before me on _____, _____ County, Michigan.
Date

My commission expires: _____ Signature: _____
Date Notary public/Deputy probate register

Notary public, State of Michigan, County of _____

Do not write below this line - For court use only

I have examined and approve this bond.

Date Judge/Probate register Bar no.

No new letters of authority are to be issued.

| | | |
|---|--|---------------------------|
| STATE OF MICHIGAN PROBATE COURT COUNTY | INVENTORY <input type="checkbox"/> AMENDED (DECEDENT ESTATE) | CASE NO. and JUDGE |
|---|--|---------------------------|

Court address _____ Court telephone no. _____

In the matter of _____
First, middle, and last name of decedent

Personal representative's name, address, and telephone no.

Personal representative's attorney, bar no., address, and telephone no.

I, _____, personal representative, submit the following as a
Name (type or print) _____ complete and accurate inventory of all the assets of the estate and the fair market valuations as of _____
Date of death

PERSONAL PROPERTY AND REAL PROPERTY DESCRIPTION If property has been used to secure a loan (including an equity line of credit), show the nature and amount of the lien. Definitions and instructions for completing the inventory are on page 2 of this form. The values of all property are calculated as of the decedent's date of death. *For real property only, if the date of death is on or after March 28, 2013, the gross value of a parcel can be reduced by any lien amount on that parcel; however, the remaining inventory value of that parcel cannot be less than zero. For personal property, the gross value and inventory value are the same. (Attach separate sheet if necessary.)

| Legal description of real property | Gross value | Lien amount | Inventory value (less lien)* |
|------------------------------------|--------------------------|-------------|------------------------------|
| Legal description of real property | Gross value | Lien amount | Inventory value (less lien)* |
| Description of personal property | Gross value | Lien amount | Inventory value |
| Description of personal property | Gross value | Lien amount | Inventory value |
| Description of personal property | Gross value | Lien amount | Inventory value |
| Description of personal property | Gross value | Lien amount | Inventory value |
| Description of personal property | Gross value | Lien amount | Inventory value |
| Totals | Total Gross Value | | Total Inventory Value |

I declare under the penalties of perjury that this inventory has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Date

Attorney signature

Signature

DEFINITIONS:

- **Real property** means land, including a building or house that is built on the land.
- **Personal property** means everything that a person owns except real property. Personal property includes bank accounts and checking accounts.

INSTRUCTIONS TO COMPLETE THE INVENTORY:

1. List all real and personal property in the column "**Personal Property and Real Property Description.**"
2. When listing real property, provide the legal description of the property and the name of any other owner.
 - a. If real property has been used to secure a loan (including an equity line of credit), show the nature and amount of the lien, and reduce the gross value (value as of date of death) by the amount of the lien, but the inventory value cannot be less than zero.
 - b. If the value of real property is determined by an appraisal, include the appraiser's name and address and a description of the property appraised.
 - c. If this form is filed in a guardianship, real property that the ward owns jointly or in common with others must be listed along with the type of ownership. The court may require additional information to support the value of property that is stated in the inventory.
 - d. For each parcel of real property, calculate the value individually.
3. When listing personal property, provide enough detail to adequately determine the value. Some items should be listed separately and some items should be combined under one category. Provide the name and address of each financial institution listed. The address of a financial institution shall be either that of the institution's main headquarters or the branch used most frequently by the personal representative.

Do not provide financial account numbers on this form. If an account number is necessary to distinguish between accounts, put it on form MC 97.

- a. Examples of items that should be listed and valued separately are:
 - Automobiles
 - Jewelry
 - Bank accounts
 - Antiques
 - Any other individual item of high value
 - Life insurance if payable to the estate
 - Annuities
 - Mutual funds
 - Stocks and bonds
- b. Examples of items that can be listed in categories are household items such as dishes, flatware, curtains, linens, utensils, clothing, furnishings, etc. These items can be grouped into several categories or combined into one category.
- c. If personal property has been used to secure a loan, show the nature and amount of the lien, but do not deduct the lien amount from the gross value (value as of the date of death) of any item of personal property.
- d. If the value of personal property is determined by an appraisal, include the appraiser's name and address and a description of the property appraised.
- e. If this form is filed in a guardianship, personal property that the ward owns jointly or in common with others must be listed along with the type of ownership. The court may require additional information to support the value of property that is stated in the inventory.