



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 - 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 the party'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) who cannot care for their personal and/or financial needs.

Conservatorship of the Person

When the court appoints a person as the conservator, the person will be responsible for the following:

1. Arranging for the conservatee's care and protection.
2. Deciding where the conservatee will live.
3. Overseeing all of the following:
 - health care
 - food
 - clothes
 - personal care
 - housekeeping
 - transportation
 - recreation

Conservatorship of the Estate

When the court appoints a person to be the conservator of an estate, the person will be responsible for all of the following:

1. Managing the conservatee's finances.
2. Protecting the conservatee's income and property.
3. Making a list (inventory) of everything in the estate.
4. Ensuring that the conservatee's bills are paid.
5. Investing the conservatee's money.
6. Ensuring the conservatee receives all the benefits for which the conservatee is eligible.
7. Ensuring the conservatee's taxes are filed and paid on time.
8. Keeping exact financial records.
9. Making regular reports of the financial accounts to the court and other interested persons.

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

Limited Conservatorship

A **limited conservatorship** is for adults with **developmental disabilities** who cannot fully care for themselves, but who do not need the higher level of care or support provided 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 petitioning for a limited conservatorship, the Limited Conservatorship of the Person packet (SDSC #PKT-030) should be used.

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

To petition to become a conservator of the person, 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), must be completed and filed with the court:

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 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 filled out?

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

- E-Filing: www.sdcourt.ca.gov/sdcourt/online/services/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 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 on the court's website at www.sdcourt.ca.gov.

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

If the proposed conservator cannot afford the fees, a fee waiver can 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 PERSON FILING THE PETITION – 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 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 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 the proposed conservatee 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 to locate a party and is not able to 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 – 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.
- **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 by the proposed conservator 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 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 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 will have **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:** The Notice of Change of Address or Other Contact Information (JC Form #MC-040) must be filed with the Probate Business Office.
- **Conservatee:** The Pre-Move Notice of Proposed Change of Personal Residence of Conservatee or Ward (JC Form #GC-079) must be filed with the Probate Business Office prior to the physical move of the conservatee. Once the conservatee has physically moved to the new residence, the Post-Move Notice of Change of Residence of Conservatee or Ward (JC Form #GC-080) must be filed.

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 the conservator can ask staff in the Probate Business Office. 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 also 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.