

INSTRUCTIONS AND COURT PROCEDURE
FOR PETITION FOR CONSERVATOR

- Complete Petition and have doctor/medical health professional or mental health profession complete the Report of Physician or Mental Health Professional and file the documents in Probate Court.
- If you are not nominating the public conservator for appointment as conservator, it will be necessary to complete the release form, have it signed by the person nominated as conservator and submit it with a copy of their driver's license or Michigan identification card.
- Pay \$175.00 filing fee.
- Obtain hearing date from Probate Court.
- Complete and file Notice of Hearing form.
- Complete and file Proof of Service form indicating that the Petition and Notice of Hearing have been served on all interested parties.
 - The person requiring the conservator must be served personally
 - All other parties may be served by first class mail

Prior to the hearing an attorney will be appointed as a Guardian Ad Litem for the person to be protected. The guardian ad litem will interview the person and make a written recommendation to the court. You will be billed separately for the attorney's services. Normally the fee for the Guardian Ad Litem service is \$75.00.

- Attend hearing
- Pay \$12.00 for certified copy of Letters of Conservatorship. (After hearing and after appointment as conservator.)

**WHAT YOU NEED TO KNOW BEFORE
FILING A PETITION TO
APPOINT A CONSERVATOR**

» **What is a conservator?**

A conservator is a person appointed by a probate court and given power and responsibility for the estate (financial assets and property) of an adult (called a *protected individual*).

» **What is a guardian?**

A guardian is a person appointed by a probate court and given power and responsibility to make certain decisions about the care of another individual. These decisions might include treatment decisions or where the individual should live. If the individual has a reduced life expectancy due to advanced illness, the guardian may have the power to make an informed decision on behalf of the individual regarding receiving, continuing, discontinuing, or refusing medical treatment. A **full guardian** can make all decisions for the individual. A **limited guardian** can only make decisions for the individual that the court allows.

» **When would a conservator be needed?**

A conservator may be needed when the individual is unable to manage his or her property and financial affairs effectively because of certain reasons and:

- 1) he or she has property that will be wasted or used up unless proper management is provided; or
- 2) funds are needed for the support, care, and welfare of the adult and any of his or her dependents.

A mentally competent adult who, because of age or physical limitation, may voluntarily petition the

court himself or herself for the appointment of a conservator to assist in managing his/her estate.

Some of the reasons that might prevent the individual from being able to manage his or her property and financial affairs are:

- 1) mental illness or deficiency;
- 2) physical illness or disability;
- 3) chronic use of alcohol /other intoxicants;
- 4) confinement;
- 5) detention by a foreign power; or
- 6) disappearance.

» **Is a conservator needed for an individual who cannot manage his or her property or financial affairs effectively?**

A conservator might not be necessary if someone else already has legal authority (an individual with power of attorney, for example) to make decisions about the individual's estate and there are no problems with the decisions being made.

» **How is a proceeding for a conservator started?**

Any person who is interested in the individual's welfare may complete a Petition for Appointment of Conservator (form PC 639) and file it, along with the filing fee, with the probate court.

» **Is a lawyer necessary?**

No, but a lawyer can be helpful, especially if any interested person opposes the appointment of a conservator.

» **Can mediation be used for disagreements about a conservator?**

Certain disagreements about a request for a guardian may be mediated outside the court if all parties agree to attend mediation or if a judge order parties to attend mediation. The court clerk can tell you if

mediation services are available in your court.

» **What happens when the court accepts the petition for filing?**

After the petition is accepted for filing, the court will appoint a *guardian ad litem* to represent the individual in the court proceeding unless the individual has his or her own lawyer or unless a mentally competent adult voluntarily requests the appointment.

It is important for you to cooperate with the guardian ad litem. The guardian ad litem does not have the authority to make decisions for the individual. The individual may have to pay for the guardian ad litem.

If necessary, the court may also order the individual to be examined by a physician or a mental health professional. The court may also send someone (called a *visitor*) to interview the individual. The visitor may be the guardian ad litem or a court officer or court employee.

» **Can the individual get a conservator immediately in an emergency?**

If the court believes an individual's estate requires immediate protection before appointing a conservator, the court may issue a preliminary protective order. This order may involve the appointment of a special conservator. The order will authorize specific acts that provide for immediate protection of the individual's assets.

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.
- (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; 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 the guardian appointed special conservator to dispose of real property.
- (R)** Enter today's date, sign your name, and enter your address and telephone number.
- (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 OF _____

PETITION FOR
 APPOINTMENT OF CONSERVATOR
 PROTECTIVE ORDER

FILE NO. _____

A Estate of _____ **XXX-XX-**
Individual alleged to need protection (frist, middle, and last name) Last four digits of SSN

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
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 detention by a foreign power
 mental deficiency chronic intoxication disappearance
 physical illness or disability confinement _____
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.
 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.)

(SEE SECOND PAGE)

USE NOTE: If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.

Do not write below this line - For court use only

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/DOB (if minor)
	Street address					
	City	State	Zip	Telephone no.		
	Street address					
	City	State	Zip	Telephone no.		

K 10. None of the persons named above are under any legal incapacity except _____
 Name, incapacity, and representative of the person, if any

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

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

I REQUEST that the court:

N 13. Appoint _____
 Name, address, and telephone no.
 who has priority as _____, as conservator of the estate to be protected.
 Priority relationship

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

P 15. Enter a protective order that provides _____

Q 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.

R /s/ _____ Date _____
 Attorney signature

 Attorney name (type or print) Bar no. /s/ _____
 Petitioner signature

 Attorney address _____ Petitioner address _____

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

S 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 _____
/s/ _____
 Signature of person to be protected

STATE OF MICHIGAN
PROBATE COURT
COUNTY OF _____

REPORT OF PHYSICIAN
OR MENTAL HEALTH PROFESSIONAL

FILE NO. _____

In the matter of _____, alleged incapacitated individual

1. I am a licensed physician. mental health professional. My speciality is _____
if any

2. I last examined the individual on _____

3. Based on that examination and her/his medical record, the individual suffers from the following physical or psychological infirmities:

4. These infirmities interfere in the following ways with the individual's ability to receive or evaluate information in making decisions:

5. The following is a list of all medications the individual is receiving, the dosage of each medication, and a description of the effects of each medication upon the individual's behavior:

6. I believe the individual, due to these described conditions, is not presently able to make informed decisions in the following areas:

- check all that apply determining where to live. handling personal financial affairs.
 consenting to supportive services. authorizing or refusing medical treatment.

7. The prognosis for improvement in the individual's conditions is _____
My recommendation for the most appropriate rehabilitation plan is attached.

8. Further comments are attached on a separate sheet.

Date

Signature

Address

Name (type or print)

City, state, zip Telephone no.

USE NOTE: If this form is being filed in the circuit court family division, please enter the court name and county in the upper left-hand corner of the form.

Do not write below this line - For court use only

GUARDIAN/CONSERVATOR RECORDS CHECK RELEASE FORM

In the Matter of: _____

File No. _____

Please be advised that the Iosco County Probate Court routinely completes guardian/conservator investigations as required by law. Pursuant to this requirement, it is the policy of this court to complete a criminal history check. Please provide the following information regarding the proposed guardian/conservator. **PRINT CLEARLY.** Attach a copy of your driver's license or photo identification.

NAME: _____ RACE: _____ GENDER: _____

MAIDEN/FORMER NAME: _____
(Please list all names previously used)

DATE OF BIRTH: _____ SOCIAL SECURITY NUMBER: _____

COMPLETE NAMES OF ALL OTHER CHILDREN AND ADULTS LIVING IN HOUSEHOLD:

By my signature below I hereby authorize Iosco County Probate Court to complete a criminal history records check.

DATED: _____

(Signature of proposed guardian/conservator)

Street Address

City, State, Zip

STATE OF MICHIGAN
PROBATE COURT
COUNTY OF

NOTICE OF HEARING

FILE NO.

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

TAKE NOTICE: A hearing will be held on _____ at _____,
Date Time

at _____ before Judge _____
Location Bar no.

for the following purpose(s): (state the nature of the hearing)

If you require special accommodations to use the court because of a disability, or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

_____	_____	Date	_____
Attorney name	Bar no.	Petitioner name	_____
_____	_____	Address	_____
Address	_____	City, state, zip	Telephone no.
City, state, zip	Telephone no.	City, state, zip	Telephone no.

USE NOTE TO COURT: If this hearing is for a guardianship matter involving an Indian child as defined in MCR 3.002(12), you must comply with MCR 5.109(2).

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STATE OF MICHIGAN PROBATE COURT COUNTY OF	PROOF OF SERVICE	FILE NO.
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In the matter of _____

1. Titles of the papers served or mailed: _____

2. According to court rule, I served by first-class mail registered mail (copy of return receipt attached)
 certified mail (copy of return receipt attached) the papers described above on:

Name	Complete address of service	Date

3. According to court rule, I served by **personal service** the papers described above on:

Name	Complete address of service	Date and Time

4. After diligent search and inquiry, I have been unable to find and serve the following interested persons. I have served these persons by publication. Attached are copies of form PC 617.

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

Service fee	Miles traveled	Fee	
\$		\$	
Incorrect address fee	Miles traveled	Fee	TOTAL FEE
\$		\$	\$ 0.00

Date _____

Signature _____

Name (type or print) _____

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