

# **GUARDIAN AND CONSERVATOR**

**For a MINOR**

**1**

**Part 1: Preparing the First Court Papers**

**(Instructions)**

# GUARDIANSHIP AND CONSERVATORSHIP

## GET A PERMANENT APPOINTMENT FOR A MINOR

### PART 1: PREPARING THE FIRST COURT PAPERS

#### (INSTRUCTIONS)

This packet contains court instructions on preparing the first court papers for permanent (longer than 6 months) appointment of a guardian and conservator for a minor. Items in **BOLD** are forms that you will need to file with the Court. Non-bold items are instructions or procedures. Do not copy or file those pages!

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\*See the #2 "SERVICE" packet for forms and detailed instructions.

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## Law Library Resource Center

### INSTRUCTIONS: HOW TO COMPLETE THE FORMS TO ASK THE COURT FOR PERMANENT (LONGER THAN 6 MONTHS) APPOINTMENT OF A GUARDIAN AND CONSERVATOR FOR A MINOR

#### PLEASE NOTE THE FOLLOWING:

**FINGERPRINT REQUIREMENT:** Arizona law requires that any person asking to be appointed guardian of a minor to whom he / she is not related must submit a fingerprint card to the court.

- The card will be submitted to the **Arizona Department of Public Safety (DPS)** and to the **FBI** for use in conducting a criminal record check to help the Court determine that person's suitability to act as a guardian of a minor.
- **If** the guardian is unrelated to the ward, due to the time required for the record check, this process, from time of filing to the signing of the court order, may take as long as **four months**.
- **If there is an urgent situation that requires the actions of a Guardian/Conservator in less than that amount of time, or** the guardian/conservator will only be needed for a period of **6 months or less**, see the Self-Service Center packet for "**TEMPORARY ORDERS**" for Guardianship/Conservatorship.
- Refer to the checklist in the **Temporary Orders** packet to help determine whether you need to file for Temporary Orders **only, or in addition to** "permanent" appointment of more than 6 months.

#### ALSO NOTE:

1. **If the minor is at least age 17 and a half and** will only need a guardian-conservator **after** reaching the age of 18, please see the Self-Service Center packet "**Guardianship and Conservatorship for an Adult - or person at least age 17.5 years old to become effective at age 18.**"
2. **The minor you say needs a guardian and conservator may be referred to by any of the following terms in the court forms or instructions:**
  - "the ward", "the proposed ward", "the proposed protected (or "incapacitated") person"
  - "the person\* to be protected"\*, or "the person\* needing protection",
  - "the person\* needing a guardian and conservator". \*or "the minor", etc.

### **INSTRUCTIONS: HOW TO COMPLETE THE FORMS**

Fill out all forms completely *and in* **BLACK INK**.

#### **FORM 1. PROBATE INFORMATION COVER SHEET (form PB10f).**

(If two people are applying to serve as co-guardian-conservators, fill out a separate cover sheet for each).

##### **Fill in the information requested about:**

- **the ward**, the minor for whom the guardian-conservator is to be appointed,
- **the petitioner**, you, the person filling out and filing these forms, **and**
- **the fiduciary**, the person who is to serve as guardian-conservator (who is usually but not always the petitioner).

Leave “**Case Number**” blank. A case number beginning with the letters “**PB**” will be stamped on the papers by the Clerk of the Court when you file the papers. Use this case number on all other papers you file with the court in this case.

- **Indicate whether an interpreter will be needed, for what language, and for whom;**
- Leave the boxes for “Reasons Fee Not Paid” blank, and
- For “**Nature of Action**”, if filing for **guardian and conservator**, go to **#240** and place a check next to the number **241** to indicate “**for a Minor**”.
- On page 2, fill in the information about the fiduciary (the proposed guardian/conservator) and sign.

**FORM 2. PETITION FOR PERMANENT APPOINTMENT OF GUARDIAN and CONSERVATOR for a MINOR (PBGCM11f)**

Read carefully and provide all applicable information requested – **in BLACK INK.**

**If additional space is needed for any section:**

- Write “**See attached**” below the answer space provided, and
- Complete the information on an attached page with the same title as that section, for example: “Other Protective Proceedings”.

**At top, left:** Fill in the requested information (“Your Name”, etc.) that applies to the Petitioner, the person filing the papers requesting appointment of a guardian and conservator.

**In the case caption**, under “In the Matter of”, write in the name of the minor(s) for whom the guardian and conservator is to be appointed. Leave “Case Number” blank. The Clerk will stamp a case number on the papers when the Petition and other papers are filed with the court.

- 1. Information about Petitioner:** Provide the information requested in the space provided (even if it duplicates what you filled in at top, left). Describe your connection to the minor(s) for whom the guardian-conservator is to be appointed in the space provided to list your “interest in or relationship to” the persons to be protected.
- 2. Information about the Minors to be protected:** Provide the requested information. Check the box to indicate which, if any, of the minors are legally married.
- 3. Information about the Proposed Guardian-Conservator:**
  - a. If the Petitioner is asking to be appointed guardian and conservator, OMIT this section and go to part “B”. If the Petitioner is naming someone else to serve as guardian-conservator, provide the information as applies to that other person.**
  - b. Arizona law establishes a priority list of persons who may serve as guardians and conservators (A.R.S. § 14-5206, and § 14-5410, respectively). Check the box(es) to indicate which applies to the person named to serve as guardian and conservator in the petition. If none of those listed apply, you may review the statutes at a law library or online to determine if the proposed guardian-conservator is otherwise qualified. If so, check the box for “Other”, and briefly describe the “other qualification” in the space provided.**
- 4. Other Protective Proceedings:** This refers only to other court cases involving matters of guardianship or conservatorship for the minors for whom protection is requested in this petition. Check the appropriate box. Provide the information requested about any other guardianship or conservatorship cases. If additional space is needed, write “**See attached**” and complete the information on an attached page with the same title as this section, “**Other Protective Proceedings**”.

5. **Other Court Cases or Administrative Proceedings:** This refers to any other type of court case such as family court cases involving who has authority to make legal decisions for the minors and days and hours the minors will be with one parent or the other (“parenting time”), or administrative proceeding such as a DCS (Arizona Department of Child Safety) hearing. If additional space is needed, write **“See attached”** and complete the information on an attached page with the same title as this section.
6. **Assets and Income:** Check the box to indicate whether the minor(s) have income or assets (bank accounts, land, cash, property that can be exchanged for cash). If “yes”, list or describe.
7. **Reasons for Conservatorship:** Check the box for any statement (one or more) that applies.
8. **Disability or Incapacitation:** Check one box to answer “Yes” or “No”. If “yes”, list the name of any minor named in this petition who will continue to need a guardian **or** conservator *after* reaching the age of 18.
9. **Required Statements to the Court:** According to Arizona law ALL THREE of these statements MUST be true in order for this court to have the power to appoint the person proposed as guardian and conservator for the minor(s) named in this petition. If you are not sure all of the statements are true, you should not proceed unless advised to do so by an attorney licensed to practice in Arizona.
10. **Attachments:** If there was not enough space to provide all the information requested for **any** section of the Petition and you listed or continued the information on an attached page, check this box **and be sure to attach the extra pages.**

Read the **NOTICE** about **who** the law requires you to give notice to about your request for the court to appoint a guardian/conservator for the proposed protected person(s).

11. **Persons Entitled to Notice.** In this section, list every person (or agency) legally entitled to receive notice of your request to have a guardian-conservator appointed for the proposed ward. Arizona law, **A.R.S. § 14-5405**, provides that notice must be given to:
  1. **The proposed ward’s parents (IF the ward is 14 or older, the ward too).**
  2. **If the proposed protected minor is married, his or her spouse.**
  3. **Any person who is serving as guardian or conservator** as well as any person who the ward is living with or who is providing care for the ward.
  4. ***In case no other person is notified under #1 or 2 above, notice must be given to at least one of the ward’s closest adult relatives*** if any can be found.
  5. **Any person who has filed a *Demand for Notice*** with the Clerk of the Court.

For more detailed information on **how** you are required or permitted by law to give Notice, refer to Self-Service Center packet #2 on **“SERVICE”**.

**FORM 3. AFFIDAVIT OF PERSON TO BE APPOINTED (PBGC13f).**

- This document required by Arizona law **A.R.S. §14-5106(A)**, must be completed **by the proposed guardian and conservator** and filed with the Petition. The proposed guardian and conservator is usually, *but not always*, the same person as the Petitioner.
- Read carefully, answer truthfully, **and** *attach any required explanations* as instructed.
- **If two people are nominated to serve as co-guardian-conservators**, fill out a separate **Affidavit of Person to be Appointed** *for each*.

**FORM 4. CONSENT OF PARENT (with Optional WAIVER OF NOTICE) (PBGCM13f).**

and

**FORM 5. CONSENT OF (other) PARENT (with Optional WAIVER) (PBGCM13f).**

- **If both parents are living and can be located, each parent may complete and sign a CONSENT to the appointment to be filed with the Court.**
- If a parent does not feel the need to receive legal notice of future court proceedings about this guardianship-conservatorship, he or she may optionally choose to check the box to **Waive Notice** of future filings and court proceedings.
- **If you are unable to obtain the signed consent** of one or both parents, be prepared to show the court that you **gave proper legal notice** to both parents.
- **If you were unable to deliver notice** to one or both parents, be prepared to inform the Court of what actions you took to **try** to deliver notice, and to show that you gave notice by publication (running a legal notice advertisement). See the Self Service Center packet #2 on "**SERVICE**" for detailed instructions on giving notice **by publication**.
- Notice does not have to be given to a parent whose rights have been permanently terminated ("severed"), **or** who has been declared legally incompetent by a court order, but note that getting copies of these usually sealed orders to present to the court can be difficult.

**OTHER COURT DOCUMENTS IN THE #1 FORMS PACKET:**

- **NOTICE OF HEARING** (PBGC18F). **AFTER** you file your papers with the Clerk, you will get the information to fill out the **Notice of Hearing**, and serve the Notice along with the other required papers on those entitled to receive notice of this case. See the separate "**Procedures**" document (PBCM10P) in this packet for information.
- **WAIVER OF NOTICE** and **SERVICEMEMBERS CIVIL RELIEF ACT WAIVER** (PBGC19F). Persons entitled to notice **may** sign a notarized **Waiver of Notice** which will allow you to **NOT** have to serve notice to those persons unless they later file to reverse that waiver. Persons entitled to notice who are unavailable due to active duty military service may also separately choose to waive rights that may exist under the **Servicemembers' Civil Relief Act** that might delay or otherwise interfere with the court proceeding.

**These documents are not filed with the Clerk at the beginning of the case.**

**NEXT:** Read and follow instructions on the separate "**PROCEDURES**" document (PBGCM10p) in this packet for what to do **after** you have completed these forms.

## Procedures: What to do after completing all forms To request appointment of permanent guardian and conservator For a minor

Step 1. Make copies and separate into complete sets as follows:

<p>Set 1: Originals for the Clerk of Superior Court, Probate</p> <ul style="list-style-type: none"><li>• Probate information cover sheet (pb10f)</li><li>• Petition for permanent appointment (pbgcm11f)</li><li>• Affidavit of person to be appointed (pbgc13f)</li><li>• Consent of parent (if applicable) (pbgcm13f)</li><li>• Consent of (other) parent (if applicable) (pbgcm13f)</li></ul>	<p>Set 2: Copies for judicial officer (deliver at least 5 days before the hearing)</p> <ul style="list-style-type: none"><li>• Petition for permanent appointment</li><li>• Affidavit of person to be appointed</li><li>• Consent of parent (if applicable)</li><li>• Consent of (other) parent (if applicable)</li></ul>
<p>Set 4 &amp; more: Copies for persons (or agencies) to receive notice</p> <ul style="list-style-type: none"><li>• Petition for permanent appointment</li><li>• Affidavit of person to be appointed</li><li>• Consent of parent (if applicable)</li><li>• Consent of (other) parent (if applicable)</li></ul>	<p>Set 3: Copies for you</p> <ul style="list-style-type: none"><li>• Petition for permanent appointment</li><li>• Affidavit of person to be appointed</li><li>• Consent of parent (if applicable)</li><li>• Consent of (other) parent (if applicable)</li></ul>

2. Take the originals and all sets of copies to the clerk of superior court to file at any of the following superior court locations in Maricopa County:

Downtown Phoenix:  
Central Court Building, 1<sup>st</sup> floor  
201 West Jefferson  
Phoenix, AZ 85003

Northeast Phoenix:  
Northeast Regional Court Facility  
18380 North 40<sup>th</sup> Street  
Phoenix, AZ 85032

Surprise:  
Northwest Regional Court Facility  
14264 West Tierra Buena Lane  
Surprise, AZ 85374

Mesa:  
Southeast Court Facility, 1<sup>st</sup> floor  
222 East Javelina Avenue  
Mesa, AZ 85210

3. Pay your filing fee and file.

- A list of current fees is available from the Law Library Resource Center and from the Clerk of Superior Court's website.
- If you cannot afford the filing fee and/or the fee for having the papers served by the sheriff or by publication, you may request a deferral (payment plan) when you file your papers with the Clerk of Superior Court. Deferral applications are available at no charge from the Law Library Resource Center.

4. Get your copies back. The Clerk of Superior Court will file the originals, stamp the copies with a case number to indicate the copies conform to (are the same as) original documents filed with the court, and return the copies to you. Note your case number beginning with “pb” and use it on every paper you file with the court in this matter from now on.

Fingerprint requirement notice

If the proposed guardian is not related to the proposed ward, Arizona law A.R.S. §14-5206 requires the guardian to submit a fingerprint card to the court for use in conducting a criminal background check to help the court determine that person’s suitability to act as a guardian of a minor.

- The card must be submitted within 5 days of filing the petition.
- There is a fee for processing fingerprint cards.
- The card may only be presented to probate court administration, east court building, 3<sup>rd</sup> floor, 101 west Jefferson, Phoenix, AZ 85003.
- Fingerprinting is not required if the guardian is related to the ward.
- See steps 6 and 7 below for more specific information.

5. Get a court hearing date:
  - A. If filing in downtown Phoenix at 201 West Jefferson, after filing, walk to the East Court Building, 3<sup>rd</sup> floor, to Probate Court Administration Customer Service Counter to immediately ask to schedule a hearing or . . .
  - B. If filing at a court location where there is no calendar clerk available:
    - Wait until 2 to 3 days after filing (so Clerk of Superior Court can see information in data system).
    - Call 602-506-5510 and tell the calendar clerk you need to schedule a hearing.
    - Provide the case number.
    - The calendar clerk will provide you with the date, time, and location of the hearing, as well as the name of the judicial officer assigned to conduct the hearing.
    - Please write it down! Don’t lose it!

Or . . .
  - C. If filing at a court location where there is no calendar clerk available and you do not want to wait the 2-3 days:
    - Bring your documents to the downtown Phoenix Probate Court Administration Customer



Service Counter (East Court Building, 3<sup>rd</sup> floor, 101 West Jefferson, Phoenix, AZ) in person to schedule the hearing.

- Present one clerk-stamped (conformed) copy of the following documents to probate court administration:
  - ❖ Petition for appointment of guardian and conservator for an minor (pbgcm11f),
  - ❖ Affidavit of person to be appointed (pbgc13f),
  - ❖ Consent of parent (pbgcm13f) (if applicable)
  - ❖ Consent of parent (pbgcm13f) (for other parent, if applicable)

Probate Court Administration will then provide you with printed information about the time, date, and location of the hearing, as well as the name of the judicial officer assigned. This is important information. Don't lose this document!

Note the following:

- If the proposed guardian-conservator is related to the proposed ward and consent(s) of parents and/or waivers of notice are filed for all parents or parties entitled to notice, the hearing may be scheduled for as little as two weeks from the date you request the hearing.
  - If the proposed guardian-conservator is related to the proposed ward, the hearing will be scheduled for approximately 4 weeks from the date you request a hearing, whether requested by phone or in-person.
  - If the proposed guardian-conservator is not related to the proposed ward, the hearing will be scheduled for 16 weeks from the date you submit your request, due to the time required for the criminal record check.
  - The hearing may be scheduled at a court facility other than the one at which the papers were filed.
6. Get your fingerprints taken: (Again) fingerprinting is only required for a proposed guardian who is not related to the proposed ward, and the completed fingerprint card must be presented within 5 days after a petition for guardianship of a minor is filed.
- A. You may go to a government / law enforcement agency or private company to have your fingerprints taken, including:
- Local law enforcement departments. The Maricopa County Sheriff's Department and some local police departments offer this service. Contact your local police department to verify whether they currently offer the service.

- The Maricopa County Sheriff's Office's ID Unit, at 201 West Jefferson Street in Phoenix, (West Court Building, 4th floor) does fingerprinting from 7:30 a.m. - 4:30 p.m. Monday through Friday (except holidays). The fee is \$8 per card.
  - The Phoenix Police Department offers fingerprinting service from 8:00 a.m. – 4:00 p.m. Monday through Friday (except holidays). For additional information see the City of Phoenix's web page or call 602-534-1127.
  - Numerous private companies offering fingerprinting services can be found in the online or printed yellow pages under "fingerprinting services".
- B. Present valid photo identification or your prints will not be taken.
- C. Tell the person taking your prints that they are for a guardianship of a minor and pay the fee (usually \$8.00-\$20.00). They will take your fingerprints and give you the fingerprint card (usually a white card with blue lines and text) to present to the court.
7. Submit fingerprint card to Probate Court Administration and pay fee.
- There is a fee for processing a fingerprint card
  - Verify current amount for processing a fingerprint card.
  - The card must be submitted within 5 days of filing the petition.
  - The card may only be presented to Probate Court Administration, East Court Building, 3<sup>rd</sup> floor, 101 West Jefferson, Phoenix, AZ 85003 in downtown Phoenix.

Probate Court Administration will help you complete the fingerprint card with the following information:

- Court case number, (begins with "PB")
- Hearing date
- Name of the hearing officer
- The phrase "pursuant to A.R.S. § 14-5206" in the "reason fingerprinted" section.

(Do not complete the "employer and address" section.)

8. Serve notice: Fill out the Notice of Hearing form (pbgc18f) with the information about time and place of the hearing that you obtained in Step 5 above, and serve notice to everyone who is legally entitled to know about the court case and what you have asked the court to order concerning the person to be protected. To "serve" notice means to deliver notice as required or permitted by law.

Persons entitled to notice may sign a notarized Waiver of Notice (pbgc19f), which will allow you to not serve notice to those persons, unless they later file to reverse that waiver.

Notice can (or must) be given in different ways to different persons. Read “Information on Legal Notice” (pbgc20h) in this packet, and see Law Library Resource Center Packet #2, “Service and Notice of Court Hearing” for court forms and more detailed information on serving notice.

Read this: After giving notice to all interested persons:

- Complete the declaration of notice stating how and when you gave notice.
- Make two (2) copies of the:
  - ✓ Notice of Hearing
  - ✓ Waiver of Notice (If any)
  - ✓ Declaration of Notice provided
- If filing in-person, do so at least 5 days before the hearing.
- If you file the documents before the hearing, the clerk of superior court will stamp and keep one set, and return the copies for you to bring with you to the hearing.
- If you are mailing these documents to the court:
  - Make a copy before mailing to keep and bring to the hearing;
  - It is recommended that you post them 10 full days before the hearing.
  - The probate clerk will file the originals for you and deliver the copies to the judicial officer assigned to the hearing.
  - Remember to bring your copies of the documents to the hearing.

Training: Guardians and Conservators must complete court-approved training before permanent appointment! See “Notice regarding training requirements”.

## SPECIAL HANDLING for

### CONFIDENTIAL DOCUMENTS\*

DOCUMENTS DEFINED OR DESIGNATED AS “CONFIDENTIAL DOCUMENTS” SHALL BE SUBMITTED TO THE CLERK IN SEPARATE, UN-SEALED (9”x12”) ENVELOPES.\*

The following documents are defined as “Confidential”:

- Medical Reports and Records
- Inventories and Appraisements
- Accountings
- Credit Reports
- Any other document ordered by the court to be “confidential”.

A separate envelope is required for *each* confidential document and  
THE FOLLOWING INFORMATION MUST APPEAR ON THE OUTSIDE OF EACH ENVELOPE:

1. **Case Name and Number** (“In the Matter of xxxxx” and “PB 2009xxxxxx”),
2. **Name of the document** (“Annual Accounting”, “Annual Report”, “Medical Records”. etc.)
3. **Name of the party filing the document**, and
4. the words “**Confidential Document**”

### “CONFIDENTIAL INFORMATION” in Non-CONFIDENTIAL DOCUMENTS\*

DOCUMENTS NOT LABELED AND SUBMITTED AS “CONFIDENTIAL” SHOULD NOT CONTAIN CONFIDENTIAL INFORMATION,\* *such as:*

- the **Social Security Number** of a living person, and/or
- any **financial account numbers**, including those for credit card, bank and **brokerage accounts, insurance policy and annuity contract numbers**, etc. as well, *unless only the last 4 digits are displayed.*

The Court may order (or you may *request* that the Court order) that:

1. a document containing confidential information be filed as “a confidential document”,  
or
2. confidential information contained in a non-confidential document be *redacted* (covered up or hidden).

\*Rule 7, Arizona Rules of Probate Procedure

## HELPFUL INFORMATION ON LEGAL NOTICE FOR GUARDIANSHIPS AND CONSERVATORSHIPS

### 1. WHAT IS “LEGAL NOTICE TO ALL INTERESTED PERSONS”?

After you have filled out and filed the guardianship and/or conservatorship petition and other documents with the Court, you must inform all “interested persons” of what you have filed and what you have asked the court to do. **Interested persons** are people (or agencies) who have a legal right to be notified of court actions that may affect the person said to need the guardian or conservator.

#### A. WHAT COURT DOCUMENTS AM I REQUIRED TO GIVE NOTICE OF? Copies of which documents have to be delivered according to law?

1. The “**Petition**” explains what you want the court to do and why.
2. The “**Affidavit of Person to be Appointed**” contains information about the person who is to serve as guardian or conservator.
3. The “**Notice of Hearing**” lists the time, date, and location of the court hearing and the name of the Judicial Officer assigned to hear the case.

**After** notice has been served to all those entitled to receive it and in a manner required or permitted by law, you must then fill out and file a **DECLARATION OF NOTICE PROVIDED** (see section C, below) to tell the Court **who** you gave notice to, **how** notice was given, **what** documents were provided, and when.

#### B. HOW AM I ALLOWED OR REQUIRED TO GIVE LEGAL NOTICE?

1. **Personal Service** (delivery by sheriff, private process server, or recipient signs an “ACCEPTANCE OF SERVICE”)
2. **Mail or Hand-Delivery** (not always permitted)
3. **Publication** (run a legal notice advertisement. This MAY be permitted if after all reasonable efforts you still cannot find the person or his or her address)

**Personal Service** requires that a registered process server or the sheriff serves the documents on the interested persons **or** that those persons voluntarily sign an **ACCEPTANCE OF SERVICE** form in the presence of a Notary Public or Deputy Clerk of Court. Personal service is NOT required in all cases. When personal service is required, it means the law is written to make sure that a person who needs notice of a case **gets** the notice. For more detailed information on *personal service*, refer to #4 below.

**Mail and Hand-Delivery** are less formal methods of giving notice, but are not permitted in all cases. When you are permitted to give notice by mail, 1st class postage-prepaid mail is usually acceptable to the court. Certified mail with return- receipt is an optional extra step you can take to prove delivery. Make sure you are allowed to use mail or hand-delivery in the type of case you are involved in, and for any particular persons you want to give notice to by these methods. See **3C** below for more information.

**Publication of Notice** is used when you do not know the address of the person to whom you need to give notice, and **after** you have done everything you could to try to find the person you are still unable to come up with an address. Notice is then published **at least 3 times** in a newspaper in the county where the court hearing is held.

**WARNING! If the Court is not satisfied that you have made every reasonable effort to find an address and have the papers personally delivered, you may be required to take additional steps adding delay and expense to your case, and then have to *publish again*.**

For more detailed information on Service by Publication, review the “**Procedures: How to Serve Legal Papers by Publication**”, which is in the #2 “**SERVICE**” packet.

**C. HOW DO I SHOW THE COURT THAT I GAVE NOTICE?**

- **Fill out and file a DECLARATION OF NOTICE PROVIDED** form with the court to show who you gave notice to, when, and how. Fill out this form **after** the documents have been delivered or you have otherwise served notice on all interested persons.
- **Submit other documents required to support the DECLARATION OF NOTICE PROVIDED. Depending on method(s) of service** (how Notice was given), **this may include one or more of the following:** (an)
  1. **Acceptance of Service** signed by the person receiving notice,
  2. **Affidavit of Publication** supplied by the newspaper if serving by publication,
  3. **Affidavit of Service** signed by the process server or sheriff.

**D. WHEN CAN I SKIP GIVING LEGAL NOTICE?**

1. **When a person entitled or required to receive notice signs a WAIVER** giving up the right to receive notice of court filings and proceedings in this matter. Please note: If an incapacitated *adult* for whom the guardian or conservator is to be appointed signs a Waiver, he or she must attend the hearing for service to be valid.
2. **When the person to receive notice is present at the hearing and will accept service.** Only rely on this method if you are **absolutely** certain the person will be at the hearing and will accept service.

**2. WHEN MUST LEGAL NOTICE BE GIVEN? WHAT TIME FRAMES?**

Generally, you must give **all** interested persons notice of the court papers **at least 14 days before the hearing**. If you are giving NOTICE BY PUBLICATION, *the date of the first publication* must be **at least 14 days before the hearing**.

**Note:** The newspaper will provide an **AFFIDAVIT OF PUBLICATION** **after** all 3 notices have been published to show proof that the ad has run.

**3. WHO ARE “INTERESTED PERSONS”?**

According to Arizona law (A.R.S. § 14-5309 AND 14-5405) notice must be given to:

- A. **THE PERSON TO BE PROTECTED** (incapacitated adult or a minor): **Personally serve the adult** (or a minor aged 14 or over) **said to need the guardian/conservator.**

Neither **ACCEPTANCE OF SERVICE** nor **WAIVER OF NOTICE** by the person said to need a guardian or conservator is legal **unless** he or she **also attends the court hearing.**

- B. **THE PARENTS AND SPOUSE** (if applicable) **of the person to be protected:**
1. **Personally serve the spouse and parents if they are in Arizona;**
  2. **Serve by mail or hand-delivery if not in Arizona; or**
  3. **Serve by publication if you do not know and cannot find the address *after all reasonable efforts.* You will have to describe those efforts to the court.**

- C. **OTHERS:** You may give notice by mail, hand-delivery or publication to:

1. **Any adult children of the person to be protected;**
2. **Any person who is serving as the guardian or conservator or who has the care and custody of the person to be protected;\***
3. **If the person to be protected has no parent or spouse or adult children, then to the closest adult relative, *if any can be found,* AND**
4. **Any person who has filed a “DEMAND FOR NOTICE” with the Court.\***

\* This may also include *agencies* such as Adult Protective Services or the VA.

#### 4. **THE METHODS OF PERSONAL SERVICE:**

**PLEASE NOTE: “PERSONAL SERVICE” DOES NOT MEAN THAT YOU PERSONALLY HAND-DELIVER THE PAPERS\***

\*though you **MAY** be able to do that **if** the person receiving them is willing to voluntarily sign an **ACCEPTANCE OF SERVICE** as described below.

- A. **ACCEPTANCE OF SERVICE:** This method requires that you give or mail copies of the court papers and include an “**Acceptance of Service**” form. The other party must sign the “**Acceptance**” in front of a Notary and return it to you, or file it with the court himself (herself), but it can’t be signed in advance of the date you filed the petition with the court.

Signing this form does **not** mean the person agrees; only that he or she admits receiving the papers without being served in person by a Sheriff or Process Server.

- B. **PROCESS SERVER:** You must hire and pay a Registered Process Server yourself. You may locate process servers in the commercial section of the phone book under “PROCESS SERVER”, or online by using the search term “Arizona process servers” or similar, or at the web site of the Arizona Process Servers Association at:

<http://arizonaprocessservers.org/>

- **May offer greater flexibility in serving papers “after-hours” or on short notice.**
- **Are paid directly by you, not through the court.**
- **Fees may not be deferred or waived by the court.**
- **Fees vary. Compare.**

- C. **SHERIFF:** This method requires you to contact the Sheriff's Office in the county where the person to receive notice lives to arrange for a Sheriff's deputy to serve the papers. This method requires you to pay a fee to the Sheriff's office, unless you apply for and receive a fee deferral or waiver. A deferral or waiver application is available through the Court in the county service where notice is to be delivered for persons who cannot afford the cost. The Application will require you to explain **why** your circumstances call for service by sheriff.

## 5. HOW DO I LET THE COURT KNOW NOTICE HAS BEEN GIVEN?

You will be filing the "**Declaration of Notice Provided**" form and supporting documents referred to immediately above and in section "1.C." on page 2 of this document to inform the court of who you gave notice to, when, and how.

## 6. WHAT ELSE TO KNOW ABOUT LEGAL NOTICE:

### A. AFTER "INTERESTED PERSONS" RECEIVE NOTICE, THEY MAY:

1. **Do nothing**, if they agree with, or at least do not want to file papers or show up in court to disagree with your request, **OR**
2. **File a Response**, *if* they want to:
  - **Object to what the Court has been asked to order**,
  - **Disagree with something stated in the Petition or other court papers**, or
  - **Tell the Judge/Commissioner something besides what is in the Petition.**

Filing a Response requires payment of a filing fee, unless *deferred* (granted a payment plan). If the Response is written, copies must be delivered to all the interested parties. The Self-Service Center has a packet titled "**Guardianship and/or Conservatorship: To Object to a Court Proceeding**" with court forms and instructions to file a response.

- B. **AFTER "NOTICE" COMES THE HEARING.\*** Carefully read and follow the directions on the applicable instruction and procedure documents in the #2 **SERVICE** packet to properly serve notice and to then file your proof of service with the Court. See Self-Service Center packet #3, "**Preparing for and Attending the Court Hearing**" for court forms and instructions on how to complete the forms you will need to bring with you to the hearing and helpful information on how to otherwise prepare.

**\*IMPORTANT: BEFORE THE HEARING the proposed guardian or conservator, if not a state-licensed fiduciary, must complete court-approved training. See "Important Notice Regarding Training Requirements" in this packet.**

- C. **OTHER HELP:** Court employees can answer questions about court procedures but only an attorney can give legal advice. The Self-Service Center has a list of lawyers whom you can hire to advise you on how to handle your case yourself, or to help you on a task-by-task basis for a fee, and a list of mediators who may be able to help resolve disputes as well. You will find both lists online.

The **Probate Lawyers Assistance Project (PLAP)** offers a 30-minute consultation for a low flat fee or free, depending on financial situation. Consultations are by appointment only, on Wednesdays, at the offices of the Maricopa County Bar Association at 303 East Palm Lane in Phoenix. Call **602-732-2834** to schedule an appointment.



# IMPORTANT NOTICE

## TRAINING REQUIREMENTS

Effective September 1, 2012

The Arizona Supreme Court requires that any person who is not a state-licensed fiduciary (or a financial institution) must complete a training program approved by the Supreme Court **before** Letters of Appointment to serve as a guardian, conservator, or personal representative can be issued by the Clerk of the Court, or within 30 days of a temporary or emergency appointment.

**TRAINING *SHOULD BE COMPLETED BEFORE* THE COURT HEARING**  
*Additional time may be granted for good reason.*

**You may access and complete the training FREE online at:**  
[www.azcourts.gov/probate/Training.aspx](http://www.azcourts.gov/probate/Training.aspx)

Go to the section for “**Non-licensed Fiduciaries**” and click on the link to access a narrated slide-show presentation of the materials applicable to your situation.

**You may also pick up a printout of the training materials in English or Spanish from the Self-Service Center. AFTER reviewing the materials, you will need to inform the Court that you have completed the training by filing either the Certificate available at the end of the online training, or the Declaration of Completion form available from the Self-Service Center. If you have questions about the training, contact the Probate Clerk at 602-506-3668.**