

**GUARDIANSHIP and/or
CONSERVATORSHIP**

TRANSFERRING

IN

TO ARIZONA

To Transfer an Out-of-State Adult Guardianship
and/or Conservatorship **TO** Arizona

Part 1: INSTRUCTIONS

GUARDIANSHIP AND/OR CONSERVATORSHIP TRANSFERRING AN OUT-OF-STATE CASE TO ARIZONA

(Instructions)

This packet contains court forms to request to **transfer** a guardianship and/or conservatorship **from** another state **TO** the Superior Court of Arizona in Maricopa County. **You will need to carefully follow the separate packet of "INSTRUCTIONS" to complete these forms and this procedure.** The documents should appear in order as follows:

| Order | File No. | Title | # pages |
|-------|----------|--|---------|
| 1 | PBTX10p | PROCEDURES for Transferring an Out-of-State Case <u>TO</u> Arizona | 5 |
| 2 | PBTX15h | INFORMATION on How to Transfer the Case | 3 |

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Guardianship and/or Conservatorship Procedures for transferring an out-of-state case to Arizona

In order to transfer a guardianship and/or conservatorship that was originally established by the court of another state to the supervision of the Superior Court in Arizona, the following is required: A Certified copy of each of the following or its equivalent from the out-of-state court which originally ordered the guardianship and/or conservatorship:

- a. "Provisional Order Authorizing Transfer to Arizona," *
- b. "Order of Appointment" or "Letters of Appointment" *

*or whatever that state calls the documents that granted authority to (a) ask Arizona to accept the transfer, and (b) to act as guardian and/or conservator in that state.

Step 1. Complete the forms (in the separate forms packet):
Fill out all the forms completely and in black ink.

- Probate cover sheet (form PB10f). (1 original only. No copies needed.)
- Probate information sheet (PB11f). (1 original only. No copies needed.)
For both these forms, complete everything except "Case Number." The case number will be stamped with a Probate Case Number starting with the letters "PB" by the Clerk of Superior Court when you file the papers. You will use this case number on all future court papers you file with the Clerk in this case.
- Petition for acceptance of transfer (PBTX11f). Read and fill out this form carefully. If you omit required information, the Court may be unable to act and your request may be delayed or denied.
- Affidavit of person to be appointed (PBGC11f) (Required by Arizona law, A.R.S. §14-5106(A)). This document must be completed by the person who wants to serve as guardian and/or conservator and filed with the petition for acceptance of transfer.

Step 2. Make copies. Make 3 copies of:

- the Petition for Acceptance of Transfer, (PBTX11f)
- the Affidavit of Person to be Appointed, (PBGC11f) and
the certified copies of the papers from the other state:
- the Provisional Order Approving Transfer*,
- the Order of Appointment or Letters of Appointment*

* Or that state's equivalent by any other name.

Step 3. Separate your documents into 4 complete sets as follows:

| | |
|---|---|
| <p>Set 1: Originals for the Clerk of Superior Court</p> <ul style="list-style-type: none"> • Probate Cover Sheet, • Probate Information Sheet, • Petition for Acceptance of Transfer, • Affidavit of Person to be Appointed, <p>+ “original” certified copies from other state of:</p> <ul style="list-style-type: none"> • Provisional Order Approving Transfer • Letters or Order of Appointment* | <p>Set 2: Copies for Judicial Officer (deliver no less than 5 days before the hearing)</p> <ul style="list-style-type: none"> • Petition for Acceptance of Transfer, • Affidavit of Person to be appointed. <p>+ copies of certified copies from other state of:</p> <ul style="list-style-type: none"> • Provisional Order Approving Transfer,* • Letters or Order of Appointment* |
| <p>Set 3: Copies for Persons entitled to Notice</p> <ul style="list-style-type: none"> • Petition for Acceptance of Transfer, • Affidavit of Person to be Appointed <p>+ copies of certified copies from other state of:</p> <ul style="list-style-type: none"> • Provisional Order Approving Transfer,* • Letters or Order of Appointment* | <p>Set 4: Copies for You</p> <ul style="list-style-type: none"> • Petition for Acceptance of Transfer, • Affidavit of Person to be appointed. <p>+ copies of certified copies from other state of:</p> <ul style="list-style-type: none"> • Provisional Order Approving Transfer,* • Letters or Order of Appointment* |
| <p>* Or their equivalent from the other state by any other name</p> | |
| <p>Note that you will be adding other documents to some of these sets in later steps.</p> | |

Step 4. File the documents. 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:

All court filing locations open Monday-Friday, 8:00 am to 5:00 pm.

Downtown Phoenix:
Central Court Building, 1st Floor
201 West Jefferson
Phoenix, AZ 85003

Northeast Phoenix:
Northeast Regional Court Facility
18380 North 40th Street
Phoenix, AZ 85032

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

Mesa:
Southeast Court Facility, 1st Floor
222 East Javelina Avenue
Mesa, AZ 85210

Step 5. Pay Filing Fees. There are fees for filing petitions, responses, requests, motions, objections, and various forms with the court. Cash, AMEX/VISA/MasterCard debit or credit cards, or money order made payable to the “Clerk of Superior Court” are acceptable forms of payment.

A list of current fees is available from the Law Library Resource Center website or 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.

Step 6. Note your case number, beginning with “PB.”.

The Clerk of Superior Court will stamp the originals as well as each set of copies with a case number which begins with the letters "PB." Use this number on all future filings with the court in this case.

The Clerk will keep and file the originals and return all sets of stamped copies to you:

- 1 set for the assigned judicial officer (to be delivered later)
- 1 set for you to keep for your records,
- 1 set for person(s) legally entitled to notice in both the state where the guardianship and/or conservatorship is being transferred from, and any additional persons entitled to notice in Arizona.*

*You will need to make an extra copy of this set for EACH person entitled to notice. See sections 3-5 of the "Essential Information" document (PBTX15h) in this packet for information on who must be given notice, when, and how.

Step 7. Get a court hearing date: Call 602-506-5510 three to five business days after filing or go immediately to Probate Court Administration, downtown Phoenix, 101 West Jefferson, East Court Building.

Note: The Probate calendar clerks who set the hearing dates are available full-time only at the downtown Phoenix location on the third (3rd) floor of the East Court Building at 101 West Jefferson, Phoenix, AZ 85003.

A. If filing in downtown Phoenix, at 201 West Jefferson, after filing, walk to the East Court Building, 3rd Floor of 101 W. Jefferson, Probate Administration Customer Service Window to ask to schedule a hearing.

Or,

B. If filing at a court location where there is no Calendar Clerk available,

- Wait until 2 or 3 days after filing (so Clerk can see information in the data system)
- Call 602-506-5510 and tell the Clerk you need to schedule a hearing.
- Provide your case number to the Clerk.
- The Clerk will tell you the date, time, and location of the hearing as well as the name of the Judicial Officer assigned to conduct the hearing.
- Please write down the date, time, and location of the hearing! Do not lose it.....Or....

C. If filing at a court location where there is no Calendar Clerk, and you do not want to wait 3 to 5 days:

- Bring your documents to the downtown Phoenix Probate Administration (East Court Building, 101 West Jefferson, 3rd Floor) Customer Service Counter in person to schedule the hearing.
- Present one Clerk-stamped conformed copy of the documents to Probate Administration:

Whether you phone Probate Court Administration or go in person, make sure you have the:

- PB Case Number that was stamped on the sets of copies that you received back from the Clerk of Superior Court when you filed your case
- Request for Hearing Date" (PBTX13f) form on which to write down the date, time and place of the Hearing, and the

- “Notice of Hearing” form (PBTX18f) on which you will also fill in the date, time and place of the Hearing, and include with the papers served on all persons entitled to Notice.

Step 8. Get a court-appointed lawyer. If there is not already a lawyer representing an adult ward in this matter, Arizona law (A.R.S. § 14-5303) requires that one be appointed by the court.

Call the Office of Public Defense Services at 602-506-7228 between 8:00 A.M. and 5:00 P.M., Monday through Friday, to arrange for the appointment.

What to say when you call:

“I need the name of a lawyer to be appointed in an adult guardianship (and/or conservatorship).”

Be prepared to provide the following information:

- The probate case number (begins with “PB”).
- The name of the person who needs the guardian (and/or conservator).
- The address and telephone number where that person is currently living.
- The date and time of the scheduled court hearing and the name of the Judicial Officer (Judge or Commissioner) who will be hearing the matter.

Step 9. Get the order appointing the lawyer: Complete the form titled “Order Appointing Attorney” (PBTX14f) with the name of the attorney (court-appointed or private) and other information except for the Judge’s signature and the date.

Hand-deliver the original and one copy of the Order Appointing Attorney to the Probate Registrar at the location where you filed your papers, or mail it to: Probate Registrar, Central Court Building, 1st Floor, 201 West Jefferson, Phoenix, AZ 85003.

Hand-deliver or mail this to the Registrar at least 30 days before the scheduled date of the court hearing. If mailing, include a self-addressed stamped envelope so the Probate Registrar can mail the Order back after it is signed.

Step 10. Make copies. Refer to section 3 of the separate “Essential Information” document (mentioned in #6 above) for more information on who must be given Notice to determine how many copies will be needed. You will need to:

- Add a completed “Notice of Hearing” form to the set of copies “for persons entitled to Notice,” and to
- Make as many sets of extra copies as are required to supply one to every person entitled to receive Notice as described in step 6 above and as listed in the Essential Information document.
- Be sure to make a copy for any lawyer appointed to represent the ward.

Step 11. Serve notice. Now you are ready to give notice of the court papers and the hearing to everyone who is entitled to know about the court case before the hearing date. There are important procedures and time lines for this, which you must follow.

Notice to Petitioner

Read this:

At least 5 days before your hearing date you must provide the following documents to the assigned Judicial Officer:

1. A copy of the Petition and other documents listed in "Set 2: Copies for Judicial Officer."
2. Proof of Notice form showing that all other persons who were entitled to know about this hearing have been notified, or an Affidavit of Publication if you were not able to locate any person who was entitled to notice of this hearing, or a Waiver of Notice and consent to appointment from a person who is entitled to receive notice.
3. An original and one copy of the Order that you want the Judicial Officer to sign at the hearing.

Warning:

Failure to provide required documents to the Court five days prior to your hearing date may result in your hearing being delayed or continued by the Court.

Who? Refer to section # 3 of the Essential Information document (PBTX15h) in this packet, and packet #2, Service and Notice of Court Hearing for more detailed information on "Service." This packet contains forms and instructions to voluntarily accept or waive service, serve notice by publication (running a legal notice advertisement), etc.

How? Refer to Essential Information section #4, and the Service packet referenced above.

When? At least 14 days before the hearing. See Essential Information #4.

Step 12. Deliver judge's copies at least 5 days before hearing.

About the hearing: Unless one of the persons entitled to Notice has filed an objection to the transfer, the hearing may be designated a "Non-Appearance Hearing." If it is a non-appearance hearing, this means that though there is a time scheduled at which you may appear before the court, you are not required attend.

Step 13. Assuming all documents are in order, all required steps followed, and all legal requirements met, this Court will issue a provisional (temporary or conditional) Order Accepting Transfer, Order of Appointment and Letters of Appointment.

Step 14. You will then need to present a certified copy of the Provisional Order Accepting Transfer from Arizona to the out-of-state court along with the Provisional Orders of Appointment and Provisional Letters of Appointment of Guardian/Conservator to request a final order from the out-of-state court approving the transfer to Arizona.

Note: You will also need to follow whatever procedures are necessary in sending state to close the guardianship and/or conservatorship case there.

Next Step: After you have received the final order from the out-of-state court approving the transfer, go to Packet 3, "The Court Order" for forms and instructions to complete the process to get permanent orders of guardianship and/or conservatorship in Arizona.

GUARDIANSHIP AND/OR CONSERVATORSHIP TRANSFERRING AN EXISTING OUT-OF-STATE CASE TO ARIZONA

INFORMATION ON HOW TO TRANSFER THE CASE

The case transfer steps are as follows:

1. **OBTAIN AN ORDER:**

Obtain an Order from the court of the **other** state where the guardianship and/or conservatorship case is presently located authorizing the guardian/conservator to petition the Court in Arizona to accept the transfer of the case from that state to Arizona. You must have a **CERTIFIED COPY** of the Order authorizing the transfer of the petition to the court in Arizona.

2. **PETITION THE COURT:**

File your **“Petition for Acceptance of Transfer of Guardianship and/or Conservatorship from Another State to Arizona”** along with your certified order with the Probate Department of the Superior Court in the Arizona county to which you want to transfer the case.

3. **NOTICE:**

You must give **NOTICE** of the **Petition for Acceptance of Transfer** to everyone who is entitled to receive Notice in the state where the guardianship or conservatorship is coming FROM, as well as give notice to any additional persons legally entitled to receive Notice of a guardianship or conservatorship petition in Arizona. See Arizona Revised Statutes (A.R.S.) §14-5309 [guardianship] or A.R.S. § 14-5405 [conservatorship], which provides that for an adult guardianship or conservatorship case, Notice shall be given to:

- a. **The ward** (the protected or incapacitated person), and that person’s spouse and parents or adult children.
- b. Any person who is serving as guardian or conservator who has the care and custody of the ward.
- c. In case no other person is notified under subsections a or b above, Notice must be given to at least one of the ward’s closest adult relatives, if any can be found.
- d. If any person has filed a **Demand for Notice** with the Clerk of the Court for Probate, then Notice must also be given to that person.

4. METHOD OF NOTICE:

- a. **At least 14 days prior** to the hearing on the **Petition for Acceptance of Transfer**, Notice **shall be personally served** on the ward and that person's parents, spouse and/or children, if they are present in Arizona.
- b. If the ward's spouse and parents are *not* present in Arizona, then Notice shall be given as provided for in A.R.S. §14-1401:
 - i. By mailing a copy of the Notice **at least 14** days before the time set for the hearing by certified or ordinary first class mail addressed to the person being given Notice at that person's place of residence or office, if known, or if a **Demand for Notice** has been given, Notice shall be mailed to the address given in the Demand for Notice, or;
 - ii. By delivering a copy to the person being notified personally at least **14** days before the time set for the hearing, or;
 - iii. If the address or identity of any person is not known and cannot be determined with reasonable effort, then Notice shall be given by publication, publishing at least 3 times prior to the date set for the hearing, in a newspaper of general circulation in the County where the hearing is to be held. The *first* publication must occur at least 14 days before the hearing.
- c. The Court, for good cause shown, may provide for a different method of giving notice for any hearing.

5. PROOF OF NOTICE:

Proof of having given notice must be provided at or before the hearing and shall be filed with the Clerk of the Court.

6. NON-APPEARANCE HEARING:

The hearing on the Petition for Acceptance of Transfer shall be set as a *Non-Appearance* hearing unless an Objection to the Petition is filed or the Court on its own motion sets the matter for an *Appearance* hearing. This means that a time has been scheduled in which you *MAY* appear before the court, however if it is a *Non-Appearance* Hearing you are not *required* to attend.

7. ORDER GRANTING THE PETITION:

After the hearing, the Court shall enter an Order *provisionally* granting the Petition to Accept Transfer and provisionally appointing the proposed guardian or conservator in Arizona as well, **unless:**

- a. An objection is made and the objector establishes that the transfer would be contrary to the best interests of the ward, or;
- b. The proposed guardian or conservator is not eligible for appointment in Arizona.

8. **FILE ARIZONA'S PROVISIONAL ORDERS IN THE FOREIGN JURISDICTION:**
The Court where the guardianship or conservatorship case originated must enter a final order that transfers the guardianship or conservatorship case to Arizona and close the case in that state. You must follow the procedures required by that state to obtain a **Final Order Approving Transfer** (to Arizona) and terminating the case there, but note that you will likely need to present certified copies of the Arizona **Provisional Orders Accepting Transfer** and the **Provisional Orders Appointing Guardian or Conservator** to the court in the sending state to obtain those final orders.

9. **FILE THE SENDING STATE'S FINAL COURT ORDERS IN ARIZONA:**
The Petitioner must file a certified copy of the other state's **Final Order(s)** with the Arizona Court, and request that the Arizona court enter a **Final Order Accepting Transfer of Guardianship and/or Conservatorship** and **Order Appointing Permanent Guardian and/or Conservator**.

10. **WITHIN 90 DAYS . . .**

Within 90 days after entering an **Order Accepting** the Guardianship and/or Conservatorship, the Arizona court shall determine whether the guardianship or conservatorship needs to be modified to conform to the laws of Arizona.

11. **ANNUAL REPORTS and/or ACCOUNTINGS:**

On or before the one year anniversary of the date of issuance of the Arizona **"Provisional Letters of Appointment"** (not the "Order of Appointment"), an **Annual Report** must be filed by the guardian, and/or an **Accounting** by the conservator.

See the Superior Court Self-Service Center's **Annual Report** and/or **Accounting** packets for more detailed information. You may also contact Probate Court Administration at **602-506-3668**.

NEXT: See the **"PROCEDURES"** document (PBTX10P) in this packet for specific information on what forms to fill out, number of copies required, what to do with the copies, etc.,