

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.,