

## Procedures: How to ask the Court to Discharge (Remove) a Guardian or Conservator and/or to Terminate Guardianship and/or Conservatorship of an Adult

### Step

- 1 Complete the Petition for termination and/or discharge. Write neatly. Use black ink. Sign the Petition in front of a Clerk of the Superior Court or a Notary Public. (See separate "Instructions" document for help in completing the Petition.
- 2 File the original and copies of the petition with the Probate Administration Customer Service Counter at the Court location where your case is assigned. If you are not sure of which of the four Probate Court locations listed below your case is assigned to, call 602-506-3668, provide the case number and ask.

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

How many copies – and for whom?

You will need to bring or send the original Petition plus 1 copy for:

- ✓ The Judicial Officer assigned to the case,
- ✓ Yourself, and
- ✓ Anyone defined as an "interested person" as listed below, who has not filed a waiver of his or her right to receive notice.
  - The current spouse of the ward (the incapacitated or protected adult);
  - Any adult children of the protected adult;
  - Any other person who is currently serving as court-appointed guardian or conservator for the protected adult;
  - Any other person (or agency) legally entitled to notice of court actions in this case, AND
  - If you are stating the protected adult is now capable of handling his or her own affairs, a copy for him or her as well.

Filing the Petition in person: the Clerk will keep the original, stamp the copies, and return the copies to you; and direct you to Probate Court Administration.

- A. If filing in downtown Phoenix at 201 West Jefferson, after filing, walk to East Court Building, 3<sup>rd</sup> 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, 3<sup>rd</sup> Floor) Customer Service Counter in person to schedule the hearing.
- Present one Clerk-stamped conformed copy of the documents to Probate Administration:

Filing by mail: If you are mailing the documents, include One 8.5" x 11" self-addressed, stamped envelope so the hearing date and copies of the Petition can be mailed back to you.

- The Probate Clerk will stamp the original and copies, file the original, and give the copies to Probate Court Administration.
- Probate Court Administration will schedule a hearing.
- Date-stamped copies of the Petition and the hearing date and time will be mailed to you. You will need to fill in the Hearing date and time on the "Notice of Hearing," which you will provide along with a copy of the Petition, to all interested parties.

3 Give notice of the hearing to everyone entitled to notice.

- Provide a copy of the Petition and Notice of Hearing to all interested persons.
- You do not need to give "formal notice" by process server or sheriff.
- First-class mail with enough postage to ensure delivery is sufficient.
- Certified mail with return-receipt is not required but provides proof of delivery.
- Mail or deliver the Petition and the Notice of Hearing at least 14 days before the hearing.

Note: If you cannot locate an "interested party" who has not signed a "Waiver of Notice", you may give notice by publication that is, by running a legal notice advertisement. See A.R.S. §14-1401 (A) (3) and the Law Library Resource Center packet on "Service When You Cannot Find the Other Party" for more information.

4 After giving notice to all interested persons

- Complete the Affidavit of Notice stating how and when you gave notice.
- Make two (2) copies of the:
  - ✓ Notice of Hearing
  - ✓ Affidavit of Notice
  - ✓ The Court Order Discharging and/or Terminating;
- You may file these papers with the Court before the hearing or bring them with you to the hearing.
- If you file the documents before the hearing, the Clerk will stamp the original and copies and return the copies for you to bring the copies 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 Clerk of Superior Court 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.

5 Attend the hearing: Be prepared to tell the Judge or Commissioner why the guardianship and/or conservatorship should end and/or why the guardian and/or conservator should be discharged, and if applicable, why the funds or property should be released.

Note: If you or the Ward/protected adult live out-of-state, you may ask the court in writing to allow you and/or the Ward to “appear” by telephone. It is up to the Judge whether you can appear telephonically, or whether you and/or the Ward must appear in person.

At the Hearing: If your petition includes a request for release of funds and the Court grants your request, the Judge will sign the Order authorizing the release of the restricted funds. You or the former ward can request a certified copy of the Order from the Probate Registrar Clerk of Superior Court to give to the bank or financial institution where the restricted account is located. -- Note: If funds are located at multiple banks or other financial institutions, you may need multiple certified copies of the Order.

- When you get the certified copy of the Order the bank or other financial institution will release the funds to you or to the replacement (“successor”) conservator or to the formerly protected person. Remember to take valid photo identification with you to the bank or other financial institution for the release of funds.

Note: Having the new and the old conservator (or the formerly protected person and the former conservator) go to the bank together may be helpful in reducing the amount of time required to release funds or change account information.

- Be sure that you and the former conservator or former ward agree upon the amount released.
- Have the former protected person or successor conservator sign the Receipt of Restricted Funds in front of a Notary Public. Most banks have Notary Public service.
- Mail or Deliver a Receipt of Restricted Funds to the Court. The Order will also require you to file a Receipt of Restricted Funds within 30 days from the date of the court Order, signed by the former protected person or the successor (replacement) conservator.
- Mail the Receipt to Probate Court Administration at the address where you filed.

This is to prove to the Court that:

- You followed the court order, and
- The amount everyone thought was in the account was actually there, and
- The money was released to the former protected person or successor conservator.

All forms referred to in these Instructions are available for purchase at the Law Library Resource Center.