

## Procedures: How to File a Petition for Release of Restricted Funds

### A. Information about a Petition for Release of Restricted Funds:

Often the Court will order that some or all of the funds of a protected adult or minor must be placed in a restricted account. This means that the funds cannot be used for anything until released by order of the Court. If the conservator wants to use the funds to buy something for the protected adult or the minor, the conservator must ask the Court in a petition for permission to use the funds.

Usually the Court will say what the funds can be used for, and how much money can be spent. The Court will usually not allow a parent to use the minor's money for the necessities/costs of daily living, such as clothing, food, or housing, since the parents have the obligation by law to provide these things for the minor.

### B. Instructions

1. Complete and then file a Petition for Release of Restricted Funds and state exactly what you want to buy and how much you reasonably think it would cost. Print neatly and use black ink. Then file the original with the Clerk of Superior Court at the same court location (Phoenix or Mesa) where your case is pending.

Make 4 copies of the Petition for the Clerk to conform (date-stamp) for you. You need to keep one copy, give another to the Judicial Officer who will hear your case, and the other copies are to give notice to all interested parties (see below).

2. After you file the Petition, you must schedule a hearing. If filing in downtown Phoenix at 201 West Jefferson Street, after filing walk to East Court Building 3<sup>rd</sup> Floor, to Probate Court Administration to immediately ask to schedule a hearing. If filing at a court location where there is no Calendar Clerk available: wait until 2 to 3 days after filing so Probate Court Administration can see information in data system); call 602-506-5510 and tell the Calendar Clerk you need to schedule a hearing; and provide the case number.
3. Give notice of the hearing to everyone entitled to notice. You must give a copy of the Petition and Notice of Hearing to all interested persons. For more information about giving Notice, see the Law Library Resource Center forms on Service. You do not need to give formal notice by personal service, but you do need to mail or deliver the Notice of Hearing. First class postage-prepaid mail is sufficient. Certified or Registered mail with return receipt is an extra step you can take to prove that the person you want notified actually received the notice. You can also give notice by Publication. People who should be given notice to include:
  - The protected minor if he/she is 14 years or older, or to the protected adult;
  - A minor's spouse, or if minor is unmarried to any living parent of the minor; or to the spouse or adult child of an adult;
  - The guardian, if the minor or adult has one, unless the conservator is also the guardian;
  - To the guardian ad litem if one was appointed by the court.

4. Complete and file other court papers. Next complete the Proof of Notice stating how and when you gave notice to interested persons. Make 2 extra copies of each of the following documents. Then file the originals with the Clerk of Superior Court and get the copies back conformed (date-stamped) by the Clerk.
  - Notice of Hearing: File original and get back 2 conformed copies; and
  - Proof of Notice and/or Waiver of Notice: File original and get back 2 conformed copies.
5. Give copies of everything to the Judicial Officer. At least 10 days before your court hearing, mail or hand-deliver the following documents to the Judicial Officer who is hearing your case. All the copies you give to the Judicial Officer must be conformed by the Clerk of Superior Court given back to you when you filed the originals. Make sure you keep copies for yourself to bring to the hearing.
  - Copy of the Petition;
  - Copy of Notice of Hearing;
  - Copy of Proof of Notice and/or Waiver of Notice; and
  - Original and 2 copies of the proposed Order Releasing Funds.
6. Attend the hearing. Be ready to tell the Judge or Judicial Officer what you want to spend the money for, how much you think it will cost, and why this is in the best interests of the minor or protected adult.
7. Court Order. If the Judge or Judicial Officer grants your Petition, the order will tell you how much money you are authorized to spend, and what you can spend it on. You need to go back to the Clerk of Superior Court and get a certified copy of the Order. The fee for the certified copy may be found on the Clerk of Superior Court website under "Certification" <http://clerkofcourt.maricopa.gov/fees.asp#miscellaneous> . You will use the certified copy to give to the bank or financial institution where the restricted account is located. You will need the certified copy of the order before the bank or financial institution will release the money.
8. Release of funds. When you get the certified copy of the Order, the bank or institution will release the funds to you. Be sure you only spend the money on what the Judge or Judicial Officer said you could spend the money on.
9. Mail to the Court a Proof of Expenditure. The order will also require you to file a Proof of Expenditure within a certain amount of time after the Order releasing the funds. This is to prove to the court what you bought, what it was for, and how much you paid.

You will have to file the originals of the actual receipts for what you bought too, so be sure that you do not throw them away. Mail the Proof of Expenditure to Probate Court Administration at the address where you filed the case -- Downtown Phoenix or Mesa. Also, you will have to mail a copy of the Proof of Expenditure to the same people you gave notice of the hearing to, so the Court will know if anyone with an interest in this matter has an objection to what you did.

10. Other help. If you still have questions about this procedure, you can ask a lawyer for legal advice. You can look up a lawyer in the telephone book under "attorneys." Also, the Law Library Resource Center has a list of lawyers who will help you help yourself for a fee. The list shows where the lawyers are located, how much they charge to look over the court papers or answer your questions, and what their experience is.