

Frequently Asked Questions

About Conservatorship

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an Organization to Explore
Substitute Decision-Making*

What is a conservator?

A **conservator** is someone who has been given legal authority by a court to handle the financial affairs of an individual who is unable to manage his or her own finances. A **protected person** is a person who has a conservator. The court will appoint a conservator when it has been determined that an individual is not able to manage his or her own finances usually due to a medical condition such as a developmental disability, dementia, brain injury or stroke. The court appoints a conservator when there is a need to pay for needed care, to manage money or to recover stolen assets and when there is no less restrictive alternative than a conservatorship.

The conservator acts as an agent of the court. The conservator has a fiduciary responsibility to conserve and manage the protected person's estate and is accountable to the court for the management of the estate.

Who can serve as a conservator?

Although the law establishes a priority for who can be appointed, ultimately, the court determines who should be conservator based on the best interests of the protected person. The conservator may be a family member, friend, professional, corporation, non-profit agency or an institution such as a bank. By statute, a conservator must submit to a criminal history and maltreatment record background check, with certain exceptions. In addition, a prospective conservator's credit history must be sufficient to qualify him or her to be bonded.

What are the powers and duties of a conservator?

A conservator only has the powers and duties granted by the court. The protected person retains powers not granted to the conservator. The court order appointing the conservator must be reviewed to know what authority the conservator has been given. The conservator may or may not be given the power over the protected person to: pay charges for care and support of the protected person and dependents; take control of the estate (financial assets); collect and manage assets; pay debts; approve contracts; apply for governmental benefits; revoke a power of attorney or void financial transactions made prior to the establishment of the conservatorship. With additional court approval, a conservator may sell real estate, institute a lawsuit or conduct estate planning for the protected person.

How does a conservatorship get established?

Any interested person, including a family member or friend, may ask the court to appoint a conservator. A court hearing is required and advance notice must be given to the protected person and to persons interested in the protected person. The court must appoint an attorney to represent the protected person at the hearing. At the hearing, evidence must be presented to support the need for a conservator. The process may take several months.

Who pays for the cost of the conservatorship?

Court costs, attorneys' fees for both the petitioner and the proposed protected person, and any ongoing conservator fees are all paid from the protected person's estate. Conservators are allowed to charge a fee for their services. When the protected person has no funds to pay for conservator services, typically there is no need for conservatorship as there are no assets to conserve and the protected person's finances can be managed using a less restrictive alternative.

What protections are there under conservatorship?

Conservators are under the court's supervision. After appointment, a conservator is required to file with the court an inventory of the protected person's assets. Every year thereafter, the conservator files an accounting to the court which lists all of money that has come into the estate and all the money that has been paid out of the estate. Verifications of assets and expenditures are also filed. The court audits the accountings. Periodically the conservator appears in front of the court to review the accounting. The accountings are public information and can be reviewed by any concerned person.

Concerns regarding the actions of a conservator can be addressed to the probate court that appointed the conservator or by filing a complaint of abuse or neglect of a vulnerable adult with the county's adult protection unit. In the event of mismanagement or theft, a claim can be made against the conservator's bond.

Are there alternatives to conservatorship?

Informal assistance from trusted family and friends, powers of attorney, trusts, authorized representatives for economic assistance applications, automated bill payments or banking services, and representative payees for Social Security, Veteran Administration or railroad retirement income can all serve as effective alternatives to conservatorship. Your county may have other options for money management for people with low income.

Seek Competent Legal Advice

The Minnesota Association for Guardianship and Conservatorship (MAGiC) has provided this brochure for general informational purposes only. This brochure is not intended as legal advice. Contact an attorney who practices in this area to obtain advice with respect to any particular legal issue or problem.

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