

Petition for the Appointment of a Guardian and/or Conservator for a Proposed Ward

INSTRUCTIONS

I. Specific Instructions

1. This form is to be used for filing a Petition for the Appointment of a Guardian and/or Conservator for a Proposed Ward pursuant to O.C.G.A. §29- 4-10 and O.C.G.A. §29-5-10.
2. In any case involving the creation of a conservatorship when the proposed ward owns real property, a certificate of creation of conservatorship will be completed by the clerk of the probate court and filed with the clerk of the superior court of each county of this state in which the proposed ward owns real property within 30 days of the date of such order.
3. The burden of proof is on the petitioner to present clear and convincing evidence that the proposed ward lacks sufficient capacity to make or communicate significant responsible decisions concerning his or her health or safety and is in need of a guardianship and/or that the proposed ward lacks sufficient capacity to make or communicate significant responsible decisions concerning the management of his or her property and is in need of a conservatorship.

II. General Instructions

General instructions applicable to all Georgia probate court standard forms appear in Volume 255 of the Georgia Reports and are available in each probate court.

PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

IN RE:)	ESTATE NO. _____
)	
_____,)	PETITION FOR APPOINTMENT OF
PROPOSED WARD)	A GUARDIAN AND/OR
)	CONSERVATOR FOR A
)	PROPOSED WARD

TO THE HONORABLE JUDGE OF THE PROBATE COURT:

[NOTE: Unless there are two or more petitioners, the affidavit on page 9 must be completed by a physician, psychologist, or licensed clinical social worker based upon an examination within 15 days prior to the filing of this petition.]

1.

Petitioner, _____, is the
 (relationship) _____ of the proposed ward, and is domiciled
 at (address) _____
 _____ County of _____,
 State of _____, telephone number _____, and

(Initial either a. or b. below):

_____ a. (Second Petitioner, if any) _____,
 is the (relationship) _____ of the proposed ward, and is domiciled at
 (address) _____, County of _____,
 State of _____ telephone number _____, show that:

or

_____ b. attached hereto as page 9 and made a part of this petition is the completed affidavit of
 _____, a physician or
 psychologist licensed to practice in Georgia or a licensed clinical social worker, who has
 examined the proposed ward within fifteen days prior to the filing of this petition, show
 that:

2.

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The proposed ward, age _____, date of birth _____, social security no. _____, is domiciled at (address) _____
_____ County, State of _____, and is presently located at _____,
_____ which is a (type of facility, if applicable) _____
and can be contacted at (telephone number): _____.

(initial if applicable)

_____ It is anticipated that the proposed ward will be moved within the next _____
days to the following address: _____
_____, telephone number _____.

_____ The proposed ward is a citizen of a foreign country, being _____

(if a guardianship or conservatorship is granted, pursuant to The Vienna
Convention, the Probate Court must notify the consul).

3.

The proposed ward is in need of a guardian and/or conservator by reason of the following
incapacity:

_____ to the extent that the proposed ward (initial one or both):

- _____ a. (for guardianship:) lacks sufficient capacity to make or communicate significant responsible decisions concerning his/her health or safety.
- _____ b. (for conservatorship:) lacks sufficient capacity to make or communicate significant responsible decisions concerning the management of his/her property.

The facts which support the claim of the need for a guardian and/or conservator are as follows:

(NOTE: the Petition cannot be granted unless sufficient facts are presented which support the claim for the need for the appointment of a guardian or conservator. While an attached physician's/psychologist's/social worker's affidavit is permissible, the Petitioner(s) MUST specifically allege sufficient facts to support the granting of this Petition.)

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4.

It is in the best interest of the proposed ward that _____
_____ be appointed guardian and _____
_____ appointed conservator.

5.

The foreseeable duration of the incapacity will be: _____ and the Court
should allow the proposed ward to retain the following rights and powers: _____

_____.

6.

(NOTE: The law requires notice to be given to the spouse, if any, and to all living children, if any, whose addresses are known. If there are no living adult children whose addresses are known, then list at least two adults in the following order of priority: lineal descendants of the proposed ward; parents and siblings of the proposed ward; and friends of the proposed ward. In determining the persons to whom notice is required to be given according to the foregoing rules, the petitioner(s) should not be counted as persons receiving notice.)

Pursuant to law, the names, addresses, telephone numbers and relationships of the persons to be notified are as follows:

NAME	AGE (or over 18)	ADDRESS	TELEPHONE	RELATIONSHIP
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

7.

a. As to the guardianship, prior to the filing of this Petition, to the best of my/our knowledge, the following individual(s) has/have been nominated to serve under a living will, durable power of attorney for healthcare, order relating to cardiopulmonary resuscitation, or other instrument that deals with the management of the person of the proposed ward in the event of incapacity. If any, please provide their name(s), addresses(es), indicate the nature of their interest, whether they are willing to act or have failed to act under said appointment: _____

b. As to the guardianship, prior to the filing of this Petition, to the best of my/our knowledge, the following individual(s) has/have been nominated in writing to serve as guardian by the proposed ward, his/her spouse, adult child, or parent. If any, please provide their name(s), addresses(es), indicate the nature of their interest, whether they are willing to act under said appointment, and whether the individual(s) is/are an owner, operator, or employee of a care giving institution in which the proposed ward currently is receiving care: _____

8.

a. As to the conservatorship, prior to the filing of this Petition, to the best of my/our knowledge, the following individual(s) has/have been nominated to serve under a power of attorney, trust, or other instrument that deals with the management of the property of the proposed ward in the event of incapacity. If any, please provide their name(s), addresses(es), the nature of their interest, and indicate whether they are willing to act or have failed to act under said appointment:

b. As to the conservatorship, prior to the filing of this Petition, to the best of my/our knowledge, the following individual(s) has/have been nominated in writing to serve as conservator by the proposed ward, his/her spouse, adult child, or parent. If any, please provide their name(s), addresses(es), the nature of their interest, and indicate whether they are willing to act or have failed to act under said appointment, and whether the individual(s) is/are an owner, operator, or employee of a caregiving institution in which the proposed ward currently is receiving care :

(initial if applicable)

_____ The above individual(s) may have the following ownership or financial conflict of interest in serving as conservator: NOTE: A CONFLICT OF INTEREST MAY EXIST IF THE PROPOSED CONSERVATOR IS A CO-OWNER OF A JOINT ACCOUNT OR REAL PROPERTY WITH THE PROPOSED WARD. (list) _____

9.

Regarding other petitions for guardianship and/or conservatorship, (initial if applicable)

_____ a. (Name) _____, residing
at _____ has been
appointed as an emergency or permanent guardian/conservator for the proposed
ward in the following county and state: _____.

_____ b. A ruling on a Petition for the appointment of an emergency or permanent
guardian/conservator is pending in the following county and state: _____
_____.

_____ c. A petition for emergency or permanent guardianship/conservatorship has been
denied or dismissed within the prior two years by a court in the following county
and state: _____
_____.

_____ d. A petition for emergency or permanent guardianship/conservatorship has been
denied or dismissed within the prior two years by a court in this state; however,
there has been a significant change in the condition or circumstances of the
proposed ward as shown by the affidavit or evaluation, attached as Exhibit "A."

10.

All known income and assets of the proposed ward are shown on page 11 attached hereto.

11.

A guardian ad litem should be appointed, because the following additional powers pursuant to
O.C.G.A. §29-4-23 (b) and O.C.G.A. §29-5-23(c) are requested, with the reasons for such request:

12.

Additional Data: Where full particulars are lacking, state here the reasons for any such omission.

13.

It is in the best interest of the proposed ward that the within nominated guardian and/or conservator be appointed.

WHEREFORE, the petitioner(s) pray(s):

1. that service be perfected as required by law;
2. that the court appoint legal counsel and an evaluator for the proposed ward and order an evaluation as required by law;
3. that upon receipt of the evaluation report, the court order a hearing to determine the need for a guardian and/or conservator for the proposed ward; and
4. that a guardian and/or conservator be appointed for the proposed ward.

Signature of first petitioner

Signature of second petitioner, if any

Printed Name

Printed Name

Address

Address

Telephone Number

Telephone Number

Signature of Attorney: _____

Typed/printed name of Attorney: _____

Address: _____

Telephone: _____

State Bar # _____

VERIFICATION

GEORGIA, _____ COUNTY

Personally appeared before me the undersigned petitioner(s) who on oath state(s) that the facts set forth in the foregoing petition are true.

Sworn to and subscribed before
me this ____ day of _____, 20 ____.

First Petitioner

NOTARY/CLERK OF PROBATE COURT

Printed Name

Sworn to and subscribed before
me this ____ day of _____, 20 ____.

Second Petitioner, if any

NOTARY/CLERK OF PROBATE COURT

Printed Name

CONSENT TO SERVE AS GUARDIAN/CONSERVATOR

RE: Petition for the appointment of guardian and/or conservator for _____

I/We, _____ having been nominated as guardian
and I/we, _____, having been nominated as
conservator of the above-named proposed ward, do hereby consent to serve as such.

Proposed Guardian/Conservator

Proposed Guardian/Conservator

Print Name

Print Name

Address

Address

Telephone

Telephone

Proposed Guardian/Conservator

Print Name

Address

Telephone

STATE OF GEORGIA

COUNTY OF _____

PROBATE COURT OF _____ COUNTY

RE: Petition for appointment of a guardian and/or conservator for _____.

AFFIDAVIT OF PHYSICIAN, PSYCHOLOGIST, OR LICENSED CLINICAL SOCIAL WORKER

I, being first duly sworn, depose and say that I am a physician licensed to practice under Chapter 34 of Title 43 of the Official Code of Georgia Annotated, a psychologist licensed to practice under Chapter 39 of Title 43 of the Official Code of Georgia Annotated, or a Licensed Clinical Social Worker; that my office address is _____, Georgia, that I have examined the above-named proposed ward on the _____ day of _____, 20_____. **NOTE: The examination on which this affidavit is based must occur WITHIN FIFTEEN DAYS prior to the filing of the petition.** I have found him/her to be incapacitated by reason of: _____ to the extent that said proposed ward

(initial all applicable):

- _____ a. (for guardianship:) lacks sufficient capacity to make or communicate significant responsible decisions concerning his/her health or safety.
- _____ b. (for conservatorship:) lacks sufficient capacity to make or communicate significant responsible decisions concerning the management of his/her property.

The following facts support said diagnosis:

(cont.)

The foreseeable limits on the duration of such incapacity are:

WITNESS MY HAND AND SEAL this _____ day of _____, 20_____.

Sworn to and subscribed before me this
_____ day of _____, 20_____.

Signature of (Physician)(Psychologist)(Social Worker)

Notary Public

My commission expires on the ____ day Typed Name _____

of _____, 20_____.
(NOTARIAL SEAL AFFIXED)

NOTE: The examination on which this affidavit is based must occur WITHIN FIFTEEN DAYS prior to the filing of the petition.

**ASSETS, INCOME, OTHER SOURCES OF FUNDS, LIABILITIES, AND EXPENSES OF
PROPOSED WARD**

PROPOSED WARD: _____

REAL PROPERTY

(Indicate if property is jointly owned and with whom)

Description	County	State	Approximate equity
Parcel 1 _____	_____	_____	\$ _____
Parcel 2 _____	_____	_____	\$ _____
Parcel 3 _____	_____	_____	\$ _____

INCOME FROM ALL SOURCES

	Yearly Total
Social Security per year	\$ _____
SSI (Supplemental Security Income) per year	\$ _____
Retirement benefits per year	\$ _____
VA benefits per year	\$ _____
Other income per year, including, e.g., alimony, annuity, or trust distributions	\$ _____
Interest, dividend, or investment income	\$ _____
YEARLY TOTAL OF ALL INCOME	\$ _____

PERSONAL AND INTANGIBLE PROPERTY

(Indicate if property is jointly owned and with whom)

Approximate Current Value

1. Checking/Savings/Money Market/Certificates of Deposit/Liquid Accounts:

Bank/Financial Institution/Broker	Acct. No.	Joint Owner (if any)	
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____

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2. Stocks/Bonds/Investments (including retirement and profit-sharing accounts):

a. held by brokers:

Brokerage Firm or Institution	Acct. No.	Joint Owner (if any)	
_____			\$ _____
_____			\$ _____
_____			\$ _____
_____			\$ _____
_____			\$ _____

b. privately held:

Company/Issuer	No. of Shares	Joint Owner (if any)	
_____			\$ _____
_____			\$ _____
_____			\$ _____
_____			\$ _____
_____			\$ _____

3. Automobiles:

Year/Make/Model	V.I.N.	Joint owner (if any)	
_____			\$ _____
_____			\$ _____
_____			\$ _____

4. Other assets of significant value:

Description	Joint owner (if any)	
_____		\$ _____
_____		\$ _____
_____		\$ _____

TOTAL VALUE OF PERSONAL AND INTANGIBLE PROPERTY \$ _____

DEBTS AND OTHER LIABILITIES

The proposed ward owes the following debts/liabilities:

1. Secured debts:

Obligor/Payee	Collateral	Solely/Jointly Owed	Approx. Current Balance
_____			\$ _____
_____			\$ _____
_____			\$ _____
_____			\$ _____

2. Unsecured debts:

Obligor/Payee	Acct. No.	Solely/Jointly Owed	Approx. Current Balance
_____			\$ _____
_____			\$ _____
_____			\$ _____
TOTAL DEBTS AND OTHER LIABILITIES OF PROPOSED WARD			\$ _____

AVERAGE MONTHLY LIABILITIES AND EXPENSES

Household:

Care Facility/Rent/Mortgage payments:	\$ _____
Property taxes/Insurance	\$ _____
Utilities/Lawn Care/Pest Control	\$ _____
Miscellaneous household/food	\$ _____
Total credit account and other debt payments	\$ _____
Other (specify)	\$ _____

Automotive/Transportation

Fuel and Repairs	\$ _____
Tags and license fees, Insurance	\$ _____
Bus/Train/Taxi fares	\$ _____

Minors or Other Dependents of the Proposed Ward

Child Care	\$ _____
School Tuition/Supplies/Expenses/Lunches	\$ _____
Clothing/Diapers/Grooming/Hygiene	\$ _____
Medical/Dental/Prescription	\$ _____
Entertainment/Activities	\$ _____

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Other Insurance

Health \$ _____
Life/Disability \$ _____
Other (specify) \$ _____

Proposed Ward's Other Expenses

Laundry/Clothing/Grooming/Hygiene \$ _____
Medical/Dental/Prescriptions/Medications \$ _____
Entertainment/Vacations/Subscriptions/Dues \$ _____
Personal Caretakers/Cleaning personnel \$ _____
Other (specify) \$ _____

Total Expenses \$ _____

Payments to Creditors:

Is the proposed ward behind in any debt payments? (yes) (no)

If so, payee and amount: _____

SUMMARY

1. Average Monthly Income \$ _____

2. Average Monthly Expenses <\$ _____>

ACKNOWLEDGMENT OF SERVICE

PROPOSED WARD _____

ESTATE NO. _____

Due and legal service of the Petition for Appointment of a Guardian and/or Conservator is hereby acknowledged by the following interested persons as shown in paragraph 6, in addition to any nominated guardian(s) and/or conservator(s). The undersigned acknowledges that he/she has received a copy of the Petition and all further service and notice is waived.

SIGNATURE(S)

Sworn to and subscribed before
me this ____ day of _____, 20____.

NOTARY/CLERK OF PROBATE COURT

Printed Name

Sworn to and subscribed before
me this ____ day of _____, 20____.

NOTARY/CLERK OF PROBATE COURT

Printed Name

Sworn to and subscribed before
me this ____ day of _____, 20____.

NOTARY/CLERK OF PROBATE COURT

Printed Name

Sworn to and subscribed before
me this ____ day of _____, 20____.

NOTARY/CLERK OF PROBATE COURT

Printed Name

Sworn to and subscribed before
me this ____ day of _____, 20____.

NOTARY/CLERK OF PROBATE COURT

Printed Name