

FREQUENTLY ASKED QUESTIONS REGARDING CONSERVATORSHIP

1). WHAT IS CONSERVATORSHIP?

Conservatorship is a legal relationship whereby the probate court gives one person (the "Conservator") the power to make financial decisions for another (the "Protectee"). In Kansas and Missouri, a Conservator may be appointed when the court determines that an individual lacks the capacity to manage his or her financial affairs.

2). WHEN IS A CONSERVATORSHIP APPROPRIATE?

Conservatorship will be deemed appropriate by a court when impaired judgment or capacity poses a major threat to an individual's financial welfare. A medical examination by a licensed physician is necessary to establish the condition of the proposed protectee. The need for a Conservator is, however, a legal decision and can only be determined by a court of law.

3). IS THERE A DIFFERENCE BETWEEN GUARDIANSHIP AND CONSERVATORSHIP?

Yes. A Guardian is responsible for taking care of the Ward's personal decisions. A Conservator protects and manages the financial estate of the Protectee. A Guardian and Conservator may be the same person.

4). HOW CAN I BECOME CONSERVATOR?

To obtain conservatorship, you may want to contact a lawyer who is familiar with this type of legal proceeding. A petition for the appointment of conservator must be filed with the court in the county of the proposed Protectee's residence or in the county in which has real property. Thereafter, an attorney will be appointed by the court to represent the proposed Protectee, and a trial to determine the capacity of the proposed Protectee will then be scheduled. If the court determines the Protectee is incapacitated, the proposed conservator will be issued "Letters of Conservatorship" upon the filing of a sworn oath and a surety bond. The Letters of Conservatorship provides the legal authority for the Conservator to take control and possession of the Protectee's property.

5). ONCE I BECOME CONSERVATOR, HOW LONG WILL MY APPOINTMENT LAST?

Depending upon the type of appointment, a Conservator may serve anywhere from a few weeks to an undetermined number of years. Generally, the Conservatorship will terminate in one of the following four ways: (1) upon the death of the Protectee or Conservator; (2) upon the restoration of capacity to the Protectee; (3) upon the resignation of the Conservator; or (4) upon the removal of the Conservator by the court.

6). WHAT KINDS OF DUTIES AND RESPONSIBILITIES DO I HAVE AS CONSERVATOR?

The role of the Conservator is to take possession and control of all assets belonging to the Protectee. The money and other assets must be carefully managed and used for the care, comfort, support and welfare of the Protectee. Assets must be protected and, where appropriate, invested in safe, non-speculative investments. Depending upon the nature of the assets, the Conservator may have additional responsibilities regarding the administration and disposition of real and personal property, intangible property and business property.

Additionally, the Conservator is responsible for filing annual accounting with the court detailing the Protectee's income and expenses and other such financial information as the court may require.

7). IS A CONSERVATOR PERSONALLY LIABLE FOR THE DEBTS OF THE PROTECTEE?

No, a Conservator is not legally liable for the debts of the Protectee. To ensure this, the Conservator should always indicate his or her status as "Conservator" when signing documents on behalf of the Protectee.

8). ARE THERE ALTERNATIVES TO CONSERVATORSHIP?

Yes. There are several less restrictive alternatives to conservatorship. These include Representative Payee arrangements, durable general powers of attorney for financial decisions, and various types of trust agreements. These options may avoid or delay the need for a court-ordered Conservator.