

# Conservatorships for Minors

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## **What is a conservator?**

A conservator is a person given Probate Court authority to be responsible for the assets of a minor. A conservator may be nominated by a petition or by a deceased parent's will.

## **When is a conservator needed?**

When the minor has money, property or property interests that require protection or management because the minor is not an adult.

## **When is a conservator not needed?**

When a minor is entitled to receive money or personal property not exceeding \$5,000 per year. The money or property may be given to:

- The minor if he/she is married,
- The person who resides with and has the care and custody of the minor,
- The guardian of the minor,
- A state or federally insured financial institution holding the savings account in the sole name of the minor with notice of the deposit to the minor.

## **Who may petition the court for the appointment of a conservator?**

Minors who are at least 14 years old or any other person interested in the protection of the minor's assets. Also, other persons who would be adversely affected by the lack of proper management of the protected person's estate.

## **Where and how is the petition filed?**

All petitions are filed at the Oakland County Probate Court counter and a conservatorship petition filing fee is \$100. All petitions and other forms are also available at the counter for your convenience.

## **What happens after the petition is filed?**

A hearing date will be set by the court and petitioners must serve a *Notice of Hearing* on the minor (if at least 14 years old) and all other interested persons. The petitioner must also file the *Proof of Service* and *Petition and Notice of Hearing* with the court prior to the hearing. (Please note the case will be dismissed if the proper parties have not been

served or the *Proof of Service* not filed).

A guardian ad litem or CASA (Court Appointed Special Advocate) may be appointed to protect the interests of the minor. They will be given court documentation as proof of their authority.

The court will conduct a hearing to determine whether a conservator is in the best interest of the minor. If appointed, the conservator must then file an *Acceptance of Appointment* and/or bond as required by the court. Please note that the conservator cannot act until the court issues *Letters of Authority*.

## **What contact will the conservator have with the court after appointment?**

The conservator must file with the court a complete inventory of the minor's assets within 56 days of appointment. This inventory must be served upon the minor (if at least 14 years old) and other interested persons. The conservator must also file an itemized accounting of all income, expenses and assets at least annually with the court within 56 days of the anniversary date of the appointment. This accounting must be served upon the minor (if at least 14 years old) and other interested persons.

The court may request that a conservator be able to prove income and expenses by receipts and cancelled checks. The filing fee for the account is \$15 and a completed *Verification of Funds* form must be filed with the court annually.

## **What are the duties of the conservator?**

The conservator must accumulate, preserve and protect the assets of the minor. They must expend reasonable sums as necessary for the care and support of the minor and ask permission before selling or otherwise disposing of the minor's real estate.

Conservators may be held responsible for improper management of the funds if it is as a result of bad faith or negligent handling.

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***When may a conservatorship be terminated?***

Upon petition by anyone including the minor who is at least 14 years old for good cause or when the minor reaches 18 or is deceased. A petition to remove a conservator and to appoint a successor may also be filed.

Before the conservator can be discharged, however, the conservator must file a final account, the court must approve this account and be satisfied that the assets have

been properly protected and preserved. The court must also be satisfied that the minor (if now an adult) has received the remaining assets.

The responsibilities of the conservatorship have significant legal effect on the rights of the minor and do expose the conservator to personal liability. It is always recommended that any person seeking to be appointed or who has actually been appointed as conservator consult an attorney prior to accepting this appointment.

Stay tuned!