

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
PROBATE DIVISION
INFORMATION FOR GUARDIANS AND CONSERVATORS

To help you perform your duties properly, described below are the general duties and obligations of a guardian and conservator.

1. A guardian or conservator is appointed upon the adjudication of an individual (respondent) as incapacitated (guardian) or disabled (conservator). If you have been appointed guardian, the respondent is known as a “ward.” If you have been appointed conservator, the respondent is known as a “protectee.” If you have been appointed both guardian and conservator, the respondent is known as both a “ward and protectee.”

2. An incapacitated person lacks the legal ability to make medical or psychiatric treatment decisions, to make placement decisions, to vote, to drive an automobile and to marry. A disabled person lacks the legal ability to handle his or her own financial resources. If the respondent is adjudicated to be only partially incapacitated or disabled, the extent to which the respondent’s rights are limited will be specified by court order. It is the guardian’s and conservator’s duty to prevent the ward or protectee from exercising rights limited or rescinded by adjudication.

3. As guardian, you have the duty to take charge of the person of the ward and to provide for the ward’s care, treatment, habilitation, education, support and maintenance; and the powers and duties shall include (a) assuring that the ward resides in the best and least restrictive setting reasonably available; (b) assuring that the ward receives medical care and other services that are needed; (c) promoting and protecting the care, comfort, safety, health, and welfare of the ward; and (d) providing required consents on behalf of the ward. To the extent possible, you should encourage the ward to participate in decisions, act on his or her own behalf, and develop or regain the ability to manage his or her own affairs. You will be required to file a personal status report annually concerning the care, welfare, placement, and plans for future care of your ward.

4. As conservator, you must take possession of your protectee’s property to the extent authorized by the court. You must use reasonable efforts to 1) find the income, assets, and liabilities of the protectee; 2) identify the needs and preferences of the protectee; 3) work with the guardian and others close with protectee; 4) prepare a plan for the management of assets; 5) provide oversight to any income and assets of the protectee under the control of the protectee. (130)The property, income and bank accounts must be kept separate from your own funds in your name as conservator for the protectee. You must invest the protectee’s funds according to law and you are personally liable for imprudent or unauthorized investments. You may only spend the protectee’s funds for purposes authorized by statute or court order. You may apply for an order of continuing support and maintenance authorizing you to spend a budgeted sum each month for the protectee. You will be required to file an annual accounting (called a settlement) showing in detail all receipts and expenditures occurring during the preceding year, the present address of the protectee, your current address, services being provided to the protectee, significant actions taken by you, your opinion as to the continued need for conservatorship and any recommended changes, any compensation requested, and a plan for the coming year. Each

entry must be explained and each expenditure must be authorized by statute or court order. You may not sell, trade, lease, mortgage, transfer or discard your protectee's property without court approval, even though the protectee is your child or other relative. You may not revoke or amend a durable power of attorney of which the protectee is the principal.

5. Your authority as guardian and conservator (described in paragraphs 3 and 4 above) may be limited by the order appointing you. **Consult your attorney as to legal limitations resulting from your ward's or protectee's adjudication and as to the extent of your authority.**

6. In the event the ward or protectee dies or you or the ward or protectee move from one address to another, you have a duty to notify the court in writing of such death or new address as soon as possible.

7. You are under a duty, at all times, to act in the best interests of your ward-protectee and to avoid conflicts of interest which impair your ability so to act. You must also be reasonably accessible to your ward. If you fail to perform any of your duties as guardian or conservator, you are liable to be removed from office and may be held personally liable for any loss or damage sustained by the ward or protectee by reason of your failure.

8. In certain cases, expenses of bond and other costs may be saved by placing funds in restricted deposits and/or securing waiver of filing the annual settlement. Consult your attorney.

9. **Under Missouri law, a conservator who is not a licensed attorney cannot represent the protectee's estate in connection with court proceedings, whether appearing in court or preparing pleadings to be filed with the court.** You must retain an attorney to perform those legal services required of you. On order of the court, the attorney may be compensated for services reasonably necessary from the protectee's estate. If only limited funds or public assistance (SSI) is available, you may qualify for free legal aid.

Date

Signature

Form
10194a
Revised
8.28.18