

# INSTRUCTIONS FOR FILING A PETITION FOR APPOINTMENT OF CO-GUARDIAN/CONSERVATOR OR SUCCESSOR GUARDIAN/CONSERVATOR

These standard instructions are for informational purposes only and do not constitute legal advice about your case. If you choose to represent yourself, you are bound by the same rules and procedures as you would be if you were an attorney.

## GENERAL INFORMATION

- A person who is interested in the welfare of the Ward/Protected Person may petition the court for the appointment of a co-guardian/successor guardian or a co-conservator/successor conservator. The petitioner may nominate himself/herself for appointment, or the petitioner may nominate someone else. The person(s) nominated must be 21 years of age or older.
- A Petition for Appointment of Co-Guardian/Successor Guardian (JDF 857) or a Petition for Appointment of Co-Conservator/Successor Conservator (JDF 879) can be used when a guardian or conservator has already been appointed by the court, and after the fact, there is a need to: **(1)** add an additional guardian/conservator (or multiples) to serve together with the existing guardian/conservator; **OR (2)** appoint a new guardian/conservator to take the place of the original guardian/conservator if that person is no longer able to serve due to death, resignation or removal.
- **Co-Guardian/Conservator:** A co-guardian/conservator is appointed to serve along-side of the already-existing guardian/conservator. Persons serving together as co-guardian or co-conservator have equal authority to act unless otherwise specified by the court. The court may appoint a co-guardian/conservator to start serving immediately, or to start serving upon the happening of some designated event.
- **Successor Guardian/Conservator:** A successor guardian/conservator replaces a prior guardian/conservator. The court may appoint a successor guardian/conservator to serve in the event of a vacancy due to the death, resignation, or removal of the original guardian/conservator. The court may also make the appointment of a successor guardian/conservator in contemplation of a vacancy, to serve if the vacancy occurs. The successor guardian/conservator has the same power and authority as the prior guardian/conservator unless otherwise specified by the court.
- A name-based criminal history record check from the Colorado Bureau of Investigation (CBI) and a current credit report of the proposed co-guardian/conservator or successor guardian/conservator must be filed with the court along with JDF 805 —Acceptance of Office.
- A legible copy of a driver's license, passport or other government-issued identification for the proposed co-guardian/conservator or successor guardian/conservator must be filed along with the petition.
- For **Adult** Guardianship or Conservatorship case **only**, A Colorado Adult Protective Services (CAPS) – CAPS Check Written Authorization form **must** be complete and signed by the proposed guardian/conservator (the nominee) and **filed with the Court**. That form can be found on the Colorado Department of Humans Services website or by clicking this link: [\[CAPS Check Form\]](#).
- **NOTE:** Do **NOT** attempt to register an account with CAPS or Request a CAPS Check yourself. Simply download the Written Authorization Form, **complete it and file it with the court**. The court is responsible for processing the CAPS Check with the Colorado Adult Protective Services (CAPS). If you have questions, please contact the court directly.
- For additional information, please review §15-14-112, C.R.S.
- If you have a disability and need a reasonable accommodation to access the courts, please contact your local ADA Coordinator. Contact information can be obtained from the following website: [\[www.coloradojudicial.gov/ada-coordinators\]](http://www.coloradojudicial.gov/ada-coordinators).

## COMMON TERMS

- **Petitioner:** A person who files a Petition for the Appointment of Co-Guardian/Conservator or Successor Guardian/Conservator.
- **Guardian:** A person at least 21, resident or non-resident, who has qualified as a Guardian of a minor or incapacitated person based on an appointment by the Court. The guardianship may be permanent or emergency.
- **Conservator** A person at least 21, resident or non-resident, who has been appointed to manage the financial affairs of another person.
- **Letters:** A formal notice identifying the authority of the Guardian or Conservator.
- **Ward:** A person for whom a Guardian has been appointed.
- **Protected Person:** A person for whom a Conservator has been appointed.
- **Order:** Official document identifying the authority of the Guardian or Conservator and his/her responsibilities during the Guardianship or Conservatorship.
- **Court Visitor:** A person who investigates the appropriateness of what is requested in the petition, interviews the Ward/Protected Person and other persons as needed, and makes recommendations to the court.

**If you do not understand this information, please contact an attorney.**

## FEES

No filing fee is required.

Other fees that a party to the case may encounter are as follows:

- Certification of Orders \$ 20.00
- Service Fees Varies
- Copy of Documents \$ .75 per page

## FORMS

To access a form online go to [\[www.coloradojudicial.gov/self-help-forms\]](http://www.coloradojudicial.gov/self-help-forms) and select the guardian and conservator category. You can also search by the JDF form number. You may complete a form online and print it or you may print it and type or print legibly in black ink.

Read these instructions carefully to determine what forms you may need, as you may need all or some of the listed forms. Check with the court where you plan to file your case to determine if they have any special requirements.

- JDF 705 Probate Case Information Sheet
- JDF 711 Notice of Hearing
- JDF 712 Notice of Hearing Without Appearance Pursuant to C.R.P.P. 24
- JDF 714 Affidavit Regarding Due Diligence and Proof of Publication
- JDF 716 Notice of Hearing by Publication
- JDF 719 Waiver of Notice
- JDF 721 Irrevocable Power of Attorney

- JDF 800 Acknowledgment of Responsibilities
- JDF 805 Acceptance of Office
- JDF 812 Notice of Appointment of Guardian and/or Conservator
- JDF 830 Letters of Guardianship - Minor
- JDF 849 Letters of Guardianship - Adult
- JDF 850 Guardian's Report - Adult
- JDF 857 Petition for Appointment of Co-Guardian or Successor Guardian
- JDF 858 Order Appointing Co-Guardian or Successor Guardian
- JDF 863 Letters of Conservatorship – Minor
- JDF 879 Petition for Appointment of Co-Conservator or Successor Conservator
- JDF 880 Letters of Conservatorship – Adult
- JDF 882 Conservator's Inventory with Financial Plan and Motion for Approval
- JDF 884 Order Appointing Co-Conservator or Successor Conservator
- JDF 885 Conservator's Report

## For Adult Guardianship and Conservatorship case only:

A Colorado Adult Protective Services (CAPS) – CAPS Check Written Authorization form **must** be completed and signed by the proposed guardian/conservator (the nominee) and **filed with the Court**. That form can be found on the Colorado Department of Humans Services website or by clicking this link: [\[CAPS Check Form\]](#).

**NOTE:** Do **NOT** attempt to register an account with CAPS or Request a CAPS Check yourself. Simply download the Written Authorization Form, **complete it and file it with the court**. The court is responsible for processing the CAPS Check with the Colorado Adult Protective Services (CAPS). If you have questions, please contact the court directly.

## STEPS TO FILING YOUR CASE

### Step 1: Complete Forms.

Selecting these instructions indicates that you are planning on filing for the appointment of a co-guardian/successor guardian or a co-conservator/successor conservator. Complete the caption on all forms filed. **Make sure that you make a copy of all the forms you file with the court for your own records.**

- **Petition for Appointment of Co-Guardian or Successor Guardian (JDF 857) OR Petition for Appointment of Co-Conservator or Successor Conservator (JDF 879)**
  - The Petitioner must complete **all** applicable sections on the form.
  - The Petitioner must sign this form.
- **Acceptance of Office (JDF 805)**
  - Complete all applicable sections on the form and attach the name-based criminal history check and current credit report for the proposed co-guardian/successor guardian or proposed co-conservator/successor conservator.
  - Attach a legible copy of the proposed co-guardian's/successor guardian's or co-conservator's/successor conservator's driver's license, passport or other government-issued identification. Redact (strike-out) the driver's license number or other identification number.
  - Obtain and attach a name-based criminal history record check for the proposed guardian from

Colorado Bureau of Investigation (CBI). To obtain a name-based criminal history check, contact CBI at 690 Kipling Street Denver, CO 80215, (303) 239-4300, or at [[www.cbi.state.co.us](http://www.cbi.state.co.us)] and click on CBIRecords Check.

- Obtain a current credit report of the nominee. Below are a few credit reporting agencies:
    - Equifax, Inc., P.O. Box 740241, Atlanta, GA 30374, 1-800-685-1111, or at [[www.equifax.com](http://www.equifax.com)].
    - Experian, P.O. Box 2002, Allen, TX 75013, 1-888-397-3742, or at [[www.experian.com](http://www.experian.com)].
    - TransUnion, P.O. Box 2000, Chester, PA 19022, 1-800-916-8800, or at [[www.transunion.com](http://www.transunion.com)].
  - Redact (strike-out) all social security numbers identified on the criminal history check and the credit report as well as all financial account numbers.
  - The costs for all criminal history checks and credit reports must be paid by the proposed co-guardian/successor guardian or proposed co-conservator/successor conservator.
  - The proposed co-guardian/successor guardian or proposed co-conservator/successor conservator must sign the Acceptance of Office.
- **Waiver of Notice (JDF 719)**
- This form can be completed and signed by any interested person (except the Ward/Protected Person) who wishes to waive notice of any hearings or matters before the court.
- **Irrevocable Power of Attorney (JDF 721)**
- This form is required **only** if the proposed co-guardian/successor guardian or proposed co-conservator/successor conservator lives out-of-state.
  - The proposed out-of-state co-guardian/successor guardian or co-conservator/successor conservator must complete this form and sign it before a Court Clerk or Notary Public.
- **CAPS Check Written Authorization Form – For *Adult* Guardianship and Conservatorship cases *only***
- A Colorado Adult Protective Services (CAPS) – CAPS Check Written Authorization form must be completed and signed by the proposed guardian/conservator (the nominee) and **filed with the Court**. That form can be found on the Colorado Department of Humans Services website or by clicking this link: [[CAPS Check Form](#)]. **NOTE: Do NOT attempt to register an account with CAPS or Request a CAPS Check yourself. Simply download the Written Authorization Form, complete it and file it with the court.** The court is responsible for processing the CAPS Check with the Colorado Adult Protective Services (CAPS). If you have questions, please contact the court directly.
- **Letters of Guardianship – Adult (JDF 849), Letters of Guardianship – Minor (JDF 830), Letters of Conservatorship – Adult (JDF 880), Letters of Conservatorship – Minor (JDF 863)**
- Only complete the caption on the form.
  - The Court will complete the remainder of the form and sign it following the appointment of the co-guardian/successor guardian or the co-conservator/successor conservator.
- **Order Appointing Co-Guardian or Successor Guardian (JDF 858) OR Order Appointing Co- Co-Conservator or Successor Conservator (JDF 884)**
- Complete only the caption on the form.

## Step 2: You are Ready to File your Papers with the Court.

Provide the court with the documents completed as described in Step 1 that apply to your circumstances. No filing fee is required.

### **Step 3: Get a Hearing Date and Give Notice to Interested Persons.**

You will need to set a hearing date on your petition. Contact the court to get a date set for your hearing. Once you have a date set for the hearing, you will need to give notice of the hearing to interested persons, and provide interested persons with a copy of your petition (and any documents attached to the petition) as follows:

Examples of interested persons is as follows (this is not necessarily a complete list):

1. The Ward/Protected Person.
2. The spouse of the Ward/Protected Person, if married.
3. The partner of the Ward/Protected Person in a civil union, if the civil union is not dissolved.
4. The parents of the Ward/Protected Person, if any.
5. The adult children of the Ward/Protected Person, if any.
6. Any Guardian or Conservator currently acting for the Ward/Protected Person.
7. Any person who has care and custody of the Ward/Protected Person, including the Ward/Protected Person's treating physician.
8. Any adult with whom the Ward/Protected Person has resided for more than six months within one year before the filing of the Petition.
9. Any adult relative nearest of kin, if there is no spouse, partner in a civil union, parent, or adult children.
10. Any legal representative of the Ward/Protected Person.
11. Any nominated person as guardian or conservator by the Ward/Protected Person.

The court may choose to appoint a Court Visitor per §15-14-305(3)(4)(5), C.R.S. to investigate the appropriateness of what is requested in your petition and make recommendations to the court. The duties and reporting requirements of the Court Visitor are limited to the relief requested in the petition.

#### **Service by Mail**

- **If you know the address of the persons to whom you are giving notice**, complete the **Notice of Hearing (JDF 711)**. Mail the Notice of Hearing (JDF 711) along with a copy of your petition to all interested persons entitled to notice at least 14 days prior to the hearing.
- Complete the Certificate of Service portion on JDF 711, listing the names and addresses of all persons to whom you sent the notice and petition, and the date you sent it and file JDF 711 with the Court at or before your hearing.

#### **Service by Publication**

**If you do not have a current address for an interested person, or if their identity is not known** and cannot be ascertained with reasonable diligence, you must publish the notice of hearing in the newspaper. Before doing this you may wish to search the Internet, contact prior employers, friends, etc. to locate a current address. **If you cannot obtain the address for an interested person, complete the following:**

- **Notice of Hearing by Publication (JDF 716)**
  - Complete this form and have it published in a newspaper of general circulation in the county where the hearing is to be held.
  - The notice must be published once a week for three consecutive weeks, with the last date of publication being at least 14 days before the hearing date.

- The Petitioner must request a publisher's affidavit from the newspaper after publication is completed. This publisher's affidavit, prepared by the newspaper, will serve as proof that the Notice of Hearing by Publication (JDF 716) was published. This publisher's affidavit must be attached to the Affidavit Regarding Due Diligence and Proof of Publication (JDF 714). See form identified below.
- **Affidavit Regarding Due Diligence and Proof of Publication (JDF 714)**
  - Complete all sections on this form. The purpose of this form is to describe to the Court your efforts to locate the individuals listed in the Notice of Hearing by Publication (JDF 716).
  - The Petitioner must sign this form.

## Hearing Without Appearance

If you expect your petition to be unopposed/uncontested, you can request a hearing without appearance on your petition (it is up to the court whether to allow a hearing without appearance). A hearing without appearance is not an actual "hearing" and no one is required to show up to court. A hearing without appearance date is simply a date that the court sets on its calendar to take action on your petition. If no objections are received by the hearing without appearance date, the court will take action on your petition. If someone objects to your hearing without appearance, the matter will be set for a regular appearance hearing. **You cannot set your petition for a hearing without appearance if it is contested/opposed or if you expect it to be contested/opposed.**

If you want to set your petition for a hearing without appearance, you will need to complete the **Notice of Hearing Without Appearance Pursuant to C.R.P.P. 24 (JDF 712)**. Complete all sections of JDF 712, file it with the court, and send a copy of JDF 712 to all interested parties along with a copy of your petition. **You must select a date for the hearing without appearance** and enter that date on the form (JDF 712). The date you select must be at least 14 days from the date that you serve the notice and petition on interested persons.

- Complete the Certificate of Service portion on JDF 712, listing the names and addresses of all persons to whom you sent the notice and petition, and the date you sent it and file JDF 712 with the court at or before your hearing.
- See above under step 3 for the rules regarding service of the Notice of Hearing Without Appearance Pursuant to C.R.P.P. 24 (JDF 712) and the petition by mail or by publication. The rules are the same as for the Notice of Hearing (JDF 711).

## Step 4: Hearing

- If you are required to appear for a hearing on your Petition, you should be prepared to present evidence as to the reasons why the appointment of a co-guardian/successor guardian or a co-conservator/successor conservator is appropriate, and why you (or other persons nominated) are appropriate to be appointed.
- If the Court appoints a co-guardian/successor guardian or co-conservator/successor conservator, the Court will issue Letters of Guardianship or Conservatorship (JDF 830, 849, 863 or 880 depending on your situation) as a formal notice of the appointment and provide you with a copy of the Order Appointing Co-Guardian/Successor Guardian (JDF 858) or the Order Appointing Co-Conservator/Successor Conservator (JDF 884)
- You may need certified copies of the Letters and Order. The number needed will vary, depending on your circumstances.
- Copies of the Order must be provided to all interested persons identified in the Order.

## Step 5: Requirements after the Court Appoints a Co-Guardian/Successor

## **Guardian or Co-Conservator/Successor Conservator.**

- Complete, sign, and file the Acknowledgment of Responsibilities (JDF 800) with the court. Letters of Appointment will not be issued until this form is filed.
- **Complete, sign, and file** the Probate Case Information Sheet (JDF 705) **with the court, if you've not already done so.** Letters of Appointment will not be issued until this form is **filed.**
- Refer to the Order Appointing Co-Guardian/Successor Guardian, Order Appointing Co-Conservator/Successor Conservator, or the Order appointing the original guardian/conservator to determine when the Guardian's Report, Conservator's Report, and Conservator's Inventory with Financial Plan are due.
- Within 30 days after the co-guardian/successor guardian or co-conservator/successor conservator is appointed, the Notice of Appointment of Guardian and/or Conservator (JDF 812) must be served on all persons who were given notice of the Petition, and the Notice must be filed with the court. The purpose of this Notice is to notify the Ward/Protected Person and persons given notice of the Petition that they have the right to request termination or modification of the guardianship/conservatorship.
- The Ward/Protected Person may not be moved outside the State of Colorado without an Order from the Court.

### **Notes:**

- A manual is available to assist the newly appointed Guardians and Conservators. These manuals identify general responsibilities and important guardianship/conservatorship issues, along with completed sample forms to assist the preparer.
- The responsibilities of the guardian terminate upon the death, resignation, or removal of the guardian or upon the Minor's death, adoption, marriage, or attainment of majority. Resignation of a guardian does not terminate the guardianship until approved by the Court.