

# INSTRUCTIONS FOR APPOINTMENT OF A GUARDIAN - ADULT

**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

- ◆ You may file your Petition in the county where the Respondent resides. If the Respondent has been admitted to an institution pursuant to a court order, you may file your Petition in the county where the court that issued the order is located.
- ◆ If you are asking for an emergency guardianship or for a temporary substitute guardian, you may file your Petition in the county where the Respondent is present.
- ◆ A person interested in the welfare of the Respondent may file the case.
- ◆ A name-based criminal history record check from the Colorado Bureau of Investigation (CBI) and a current credit report of the proposed guardian (the nominee) must be filed with the Court along with JDF 805 – Acceptance of Office.
- ◆ A Colorado Adult Protective Services (CAPS) – CAPS Check Written Authorization form **must** be complete and signed by the proposed guardian (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 Written Authorization 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.

- ◆ The Court may appoint a guardian for an adult with or without restrictions when the Respondent is determined to be incapacitated.
- ◆ An incapacitated adult is defined as one who is unable to effectively receive or evaluate information or both or make or communicate decisions to such an extent that the individual lacks the ability to satisfy essential requirements for physical health, safety, or self-care, even with appropriate and reasonably available technological assistance.
- ◆ For additional information, please review §15-14-301 through §15-14-318, 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: [http://www.courts.state.co.us/Administration/HR/ADA/Coordinator\\_List.cfm](http://www.courts.state.co.us/Administration/HR/ADA/Coordinator_List.cfm)

## COMMON TERMS

- ☒ Petitioner: A person who files a Petition for the Appointment of a Guardian.
- ☒ 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.
- ☒ Interested Persons: Persons identified by Colorado Law who must be given notice of a guardianship proceeding.
- ☒ Letters: A formal notice identifying the authority of the Guardian.

- Guardian Nominee: A person named in the petition to serve as the Guardian.
- Respondent: A person for whom the appointment of a Guardian is required.
- Ward: A person for whom a Guardian has been appointed.
- Court Visitor: A person who will interview the Respondent in person who will explain his/her rights and make recommendations to the Court.
- Order: Official document identifying the authority of the Guardian and his/her responsibilities during the Guardianship.

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

## FEES

A filing fee of \$199.00 is required. If you are unable to pay, you must complete the Motion to File without Payment and Supporting Financial Affidavit (JDF 205) and submit it to the Court. Once you submit the completed JDF 205 form and a blank Order (JDF 206), the Court will decide whether you need to pay the filing fee.

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
- The Court must appoint a Court Visitor to investigate and report back to the Court, for the purpose of determining if the Guardianship is in the best interest of the Respondent.
- The Court may also appoint an attorney for the Respondent to serve as an advocate for the Respondent.
- The Petitioner or Respondent may be required to pay the hourly fee of the Court Visitor or Respondent's Counsel.

## FORMS

To access a form online go to [www.courts.state.co.us](http://www.courts.state.co.us) and click on the "Forms" tab. The packet/forms are available in PDF or WORD by selecting **Guardianship & Conservatorship - New Case - Guardianship - Adult**. 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 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 806 Notice of Hearing to Interested Persons
- JDF 807 Notice of Hearing to Respondent (Adult or Minor)
- JDF 812 Notice of Appointment of Guardian and/or Conservator
- JDF 841 Petition for Appointment of Guardian for Adult
- JDF 849 Letters of Guardianship - Adult



- ◆ 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 guardian.
- The proposed guardian must sign the Acceptance of Office.

**Waiver of Notice (JDF 719).**

- This form can be completed and signed by any interested person (except the Respondent) who wishes to waive notice of any hearings or matters before the Court.
- This form cannot be completed by the Respondent. See Notice requirements in **Step 4**.

**Irrevocable Power of Attorney (JDF 721).**

- This form is required **only** if the proposed guardian lives out-of-state.
- The proposed out-of-state guardian must complete this form and sign it before a Court Clerk or Notary Public.

**CAPS Check Written Authorization Form**

- A Colorado Adult Protective Services (CAPS) – CAPS Check Written Authorization form **must** be completed and signed by the proposed guardian (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 Written Authorization 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).**

- Only complete the caption on the form.
- The Court will complete the remainder of the form and sign it following the appointment of the Guardian.

**Proposed Order (JDF 843 or JDF 848)**

- Select the appropriate Order based on the type of guardianship you are requesting. The proposed order should match your selection from number 1 on the Petition – **JDF 841**.
- 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 above and pay the filing fee. You will need to make copies of the documents for each of the following persons. **Check the list below to determine the “interested persons” applicable to your circumstances.**

1. The spouse of the incapacitated person, if married.
2. The partner of the incapacitated person in a civil union, if the civil union is not dissolved.
3. The parents of the incapacitated person, if any.
4. The adult children of the incapacitated person, if any.
5. Any Guardian or Conservator currently acting for the incapacitated person.
6. Any person who has care and custody of the incapacitated person, including the Respondent’s treating physician.
7. Any adult with whom the Respondent has resided for more than six months within one year before the

filing of the Petition, §15-14-304(2)(b)(I)(A)

8. Any adult relative nearest of kin, if there is no spouse, partner in a civil union, parent, or adult children.
9. Any legal representative of the Respondent
10. Any nominated person as guardian by the Respondent.

You may receive a hearing date from the clerk at the time of the filing your paperwork or you may need to contact the clerk later to obtain the hearing date. The date and time of this hearing is important, as you will need it to complete the Notice of Hearing or publication forms described in **Step 3 and Step 4**.

The Court shall appoint a Court Visitor who shall interview the Respondent in person, per §15-14-305(3)(4)(5), C.R.S. The duties and reporting requirements of the Court Visitor are limited to the relief requested in the petition.

### **Step 3: Notice to Interested Persons. (By Mail or Publication)**

All persons listed in Step 2 must be given notice of the upcoming hearing.

#### **Service by Mail.**

- If you know the address of the person to whom you are giving notice, complete the Notice of Hearing to Interested Persons (JDF 806).
- Mail copies of **all** documents filed with the Court (including the Petition for Guardianship) and completed Notice of Hearing to Interested Persons (JDF 806), at least 14 days before the hearing.
- Complete the Certificate of Service portion on the form, listing the names and addresses of all persons to whom you sent the notice and the date you sent it and file the form with the Court at or before your hearing.
- If the address of any interested person is unknown, you **must** publish the notice of the hearing in the newspaper. See Service by Publication instructions below.

#### **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.

#### **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.

### **Step 4: Notice of Hearing to Respondent with Personal Service Affidavit.**

You must personally serve the Respondent at least 14 days prior to the hearing. **Helpful Hints to complete personal service:**

- Select the Sheriff's Department, a private process server, or someone you know who is 18 years or older, who is not involved in the case, and who knows the rules of service.
- Request the sheriff, private process server, or other person serving the documents to deliver personally to the Respondent the Notice of Hearing (JDF 807) and copies of all documents filed with the Court.
- Request that the sheriff, private process server, or other person serving the documents complete the Personal Service Affidavit on the second page of the Notice of Hearing (JDF 807) and return it to the Petitioner.
- The Petitioner should then file with the Court, the Notice of Hearing to Respondent (Adult or Minor) (JDF 807) with the completed Personal Service Affidavit.

### Step 5: Hearing.

- The Petitioner and Respondent must appear at the hearing, unless excused by the Court for good cause.
- If the Respondent cannot attend the hearing for medical or other reasons, the Petitioner must file a Motion to Excuse the Respondent and attach appropriate documentation to support the motion, such as a physician's letter.
- The Respondent may participate in the hearing to present evidence regarding his or her incapacitation.
- The Petitioner should be prepared to present evidence as to why this Guardianship is necessary and that the interested persons are aware of the proceedings and that they consent to the Guardianship.
- If the Court appoints a Guardian, the Court will issue Letters (JDF 849) as a formal notice of the appointment and provide you with a copy of the Order Appointing Guardian.
  - 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 6: Requirements after the Court Appoints a Guardian.

- 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 Guardian for Adult to determine when the care plan and annual guardian report is due. The annual report is generally due within 60 days after appointment or as otherwise directed by the court. The purpose of the annual report is to report to the Court and interested persons the well-being of the Ward. The Guardian's Report must be provided to the persons listed in the Order of Appointment.
- Refer to the Order Appointing Guardian for Adult regarding completing the Notice of Appointment of Guardian and/or Conservator (JDF 812). The purpose of this form is to notify the Ward and persons given notice of the Petition that they have the right to request termination or modification of the Guardianship.
- The Ward may not move outside the State of Colorado without an Order from the Court.

**Note:** A Guardian's Manual is available to assist the newly appointed Guardian. This manual identifies general responsibilities and important Guardianship issues, along with completed sample forms to assist the preparer.

**The responsibilities of the Guardian terminate upon the death of the Ward or upon order of the Court. The Court may terminate the Guardianship if the Ward no longer meets the standard for establishing the Guardianship.**