

PROCEDURES: HOW TO FILE A PETITION FOR RELEASE OF RESTRICTED FUNDS

A. INFORMATION ABOUT A PETITION FOR RELEASE OF RESTRICTED FUNDS:

Often the Court will order that some or all of the funds of a protected adult or minor must be placed in a restricted account. This means that the funds cannot be used for **anything** until released by order of the Court. If the conservator wants to use the funds to buy something for the protected adult or the minor, the conservator **must** ask the Court in a petition for permission to use the funds.

Usually the Court will say what the funds can be used for, and how much money can be spent. The Court will usually not allow a parent to use the minor's money for the necessities/costs of daily living, such as clothing, food, or housing, since the parents have the obligation by law to provide these things for the minor.

B. INSTRUCTIONS

1. **Complete and then file a Petition for Release of Restricted Funds:** Complete the PETITION FOR RELEASE OF RESTRICTED FUNDS and state exactly what you want to buy and how much you reasonably think it would cost. Print neatly and use **black ink**. Then file the **original** with the Probate Clerk of Court at the same court location (Phoenix or Mesa) where your case is pending.

Make **4 copies** of the PETITION for the clerk to conform (date-stamp) for you. You need to keep one copy, give another to the Commissioner who will hear your case, and the other copies are to give notice to all interested parties (see below).

2. **Schedule a hearing on the Petition:** After you file the PETITION, you must schedule a hearing. This means that Probate Court Administration sets a hearing date, time and place, for you to tell the Judge or Commissioner what you want to buy, why, and how much you think it will cost. After the hearing has been set, complete the NOTICE OF HEARING.

3. **Give notice of the hearing to everyone entitled to notice:** You **must give a copy** of the PETITION and NOTICE OF HEARING to **all interested persons**. For more information about giving Notice, see the Self-Service Center forms on Service. You do not need to give formal notice by **personal service**, but you do need to **mail or deliver** the NOTICE OF HEARING. First class postage-prepaid mail is sufficient. Certified or Registered mail with return receipt is an extra step you can take to prove that the person you want notified actually received the notice. You can also give notice by Publication. People who should be given notice to include:

- The protected minor if he/she is 14 years or older, or to the protected adult;
- A minor's spouse, or if minor is unmarried to any living parent of the minor; or to the spouse or adult child of an adult;
- The guardian, if the minor or adult has one, unless the conservator is also the guardian;
- To the guardian ad litem if one was appointed by the court.

4. Complete and file other court papers: Next complete the PROOF OF NOTICE stating how and when you gave notice to interested persons. Make **2 extra copies** of each of the following documents. Then file the **originals** with the Probate Clerk of Court, and get the copies back conformed (date-stamped) by the Clerk.

- **Notice of Hearing:** File **original** and get back **2 conformed copies; AND**
- **Proof of Notice and/or Waiver of Notice:** File **original** and get back **2 conformed copies.**

5. Give copies of everything to the commissioner: At least **10 days before your court hearing**, mail or hand-deliver the following documents to the commissioner who is hearing your case. All the copies you give to the Commissioner must be conformed by the Clerk of the Court given back to you when you filed the originals. Make sure you keep copies for yourself to bring to the hearing.

- Copy of the PETITION;
- Copy of NOTICE OF HEARING;
- Copy of PROOF OF NOTICE and/or WAIVER OF NOTICE; **AND**
- Original **and 2 copies** of the proposed ORDER RELEASING FUNDS.

6. Attend the hearing: Be ready to tell the Judge or commissioner what you want to spend the money for, how much you think it will cost, and why this is in the best interests of the minor or protected adult.

7. Court Order: If the Judge or commissioner grants your Petition, the order will tell you how much money you are authorized to spend, and what you can spend it on. You need to go back to the Probate Clerk of the Court and get a certified copy of the Order. The fee for the certified copy is \$18.00. You will use the certified copy to give to the bank or financial institution where the restricted account is located. You will need the certified copy of the order before the bank or financial institution will release the money.

8. Release of funds: When you get the certified copy of the Order, the bank or institution will release the funds to you. Be sure you only spend the money on what the Judge or commissioner said you could spend the money on.

9. Mail to the Court a Proof of Expenditure: The order will also require you to file a PROOF OF EXPENDITURE within a certain amount of time after the Order releasing the funds. This is to prove to the court what you bought, what it was for, and how much you paid.

You will have to file the **originals of the actual receipts** for what you bought too, so be sure that you do not throw them away. Mail the PROOF OF EXPENDITURE to Probate Court Administration at the address where you filed the case -- Downtown Phoenix or Mesa.

Also, you will have to mail a **copy** of the PROOF OF EXPENDITURE to the same people you gave notice of the hearing to, so the court will know if anyone with an interest in this matter has an objection to what you did.

10. Other help: If you still have questions about this procedure, you can ask a lawyer for legal advice. You can look up a lawyer in the telephone book under "attorneys". Also, the Self-Service Center has a list of lawyers who will help you help yourself for a fee. The list shows where the lawyers are located, how much they charge to look over the court papers or answer your questions, and what their experience is.

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____
Licensed Fiduciary Number: _____

FOR CLERK'S USE ONLY

Representing Self, without a Lawyer or Attorney for Petitioner OR Respondent

SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

In the Matter of: (check one or both)
 Guardianship Conservatorship of

PB Number: _____

PETITION FOR RELEASE OF FUNDS FROM RESTRICTED ACCOUNT

_____ a minor or an adult

1. **APPOINTMENT:** The following person was appointed (name) _____
and accepted appointment as (check one box):

- Guardian and conservator on (date) _____;
- Guardian (date) _____
- Conservator (date) _____.

2. **BIRTH DATE.** The minor or adult was born on (date) _____

3. **RESTRICTED FUNDS:** The minor/adult has exactly \$ _____ in a restricted account, (account number) # _____ deposited with (name of bank or financial institution)

4. **NO PREVIOUS WITHDRAWALS.**

- No previous withdrawals have been made from the account without a written order of this Court. (If this statement is true, check the box. If the statement is not true, see a lawyer for help.)

5. **REASON THE FUNDS ARE NEEDED.**

- The minor/adult needs funds from the restricted account for the following reasons and in the following amounts:

REASON/PURPOSE	AMOUNT
a. _____	\$ _____
b. _____	\$ _____
c. _____	\$ _____

6. NO OTHER SOURCE OF FUNDS.

There is no other source of funds to pay for these needs, and no parent or other person is under a legal obligation to satisfy this need. (If this statement is true, check the box. If the statement is not true, see a lawyer for help.)

REQUEST TO THE COURT

PETITIONER ASKS THAT THE COURT DO THE FOLLOWING THINGS AFTER NOTICE AND HEARING:

1. Direct the release of restricted funds in the amounts and for the purposes requested in this Petition;
2. Require proof to be filed with this Court within a reasonable period of time that the released funds have been used for the purposes described in this Petition;
3. Make any other orders the Court decides are in the best interests of the minor/adult.

OATH OR AFFIRMATION AND VERIFICATION

I swear or affirm that the information on this document is true and correct under penalty of perjury.

Signature

Date

STATE OF _____

COUNTY OF _____

Subscribed and sworn to or affirmed before me this: _____ by
(date)

_____.

(notary seal)

Deputy Clerk or Notary Public

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____
Licensed Fiduciary Number: _____



Representing Self, without a Lawyer or Attorney for Petitioner OR Respondent

Case No. PB _____

REQUEST FOR HEARING DATE AND INSTRUCTIONS FOR PETITION FOR RELEASE OF FUNDS FROM RESTRICTED ACCOUNT

1. **Court Location:** Remember at which court location you will file the papers, because that is where the hearing will be held:

DOWNTOWN PHOENIX
Probate Court Administration
125 W. Washington. 1st Floor
Phoenix, AZ 85003-2205

NORTHEAST FACILITY
Probate Court Administration
18380 N. 40th St.
Phoenix, AZ 85032

SOUTHEAST FACILITY
Court Administration
222 E. Javelina Avenue
1st Floor, Ste. 1350
Mesa, AZ 85210-6201

NORTHWEST FACILITY
Court Administration
Northwest Regional Court Facility
14264 West Tierra Buena Lane
Surprise, AZ 85374

2. **Court Documents:** After you file the petition with the Clerk's Office, take the following documents to Probate Court Administration at the address listed in Number 1 above:

- a. Two court-stamped copies of the Petition for Release of Funds from Restricted Account, AND
- b. Two completed copies of this Request Form.

3. **Scheduling your hearing:** Court administration will set a hearing date and time and check the box before the name of the judicial officer who will hear this matter from the list below.

HEARING DATE AND TIME: _____, at _____ am. / pm.

HEARING ADDRESS: _____

JUDGE/COMMISSIONER: _____

4. **Completing your Notice of Hearing Form:** After Court Administration returns this form to you, you can complete your Notice of Hearing form by adding the date and time of the hearing and the name of the judicial officer scheduled to hear your matter to the Notice of Hearing form. Then you are ready to serve or give notice of the Petition and all the required papers to all the required persons.

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____
Licensed Fiduciary Number: _____

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SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

In the Matter of: _____ Case Number: PB _____

DECLARATION SUPPORTING PUBLICATION

 An Adult A Minor Deceased

UNDER PENALTY OF PERJURY, I STATE THESE FACTS:

1. I am the Petitioner or Applicant and make these statements to show the circumstances why notice by Publication was used, and to show how service by publication was done.

2. Here are the names of people entitled to notice of this matter to whom I gave notice by publication:
 - Name: _____
Last Known Address: _____
Last Date I Tried to Find Person: _____
Relationship to Protected or Deceased person: _____

 - Name: _____
Last Known Address: _____
Last Date I Tried to Find Person: _____
Relationship to Protected or Deceased person: _____

 - Name: _____
Last Known Address: _____
Last Date I Tried to Find Person: _____
Relationship to Protected or Deceased person: _____

- **Name:** _____
Last Known Address: _____
Last Date I Tried to Find Person: _____
Relationship to Protected or Deceased person: _____

3. I made a diligent search to find out the residence and whereabouts of all persons entitled to notice but failed to find any information concerning the residence or whereabouts of one or more of those persons.

4. I contacted the persons listed below to find out the location of the persons entitled to notice. (Note: There is no exact minimum number of persons you must contact. It may be more or less than five as required to satisfy the Court you have made every reasonable effort to locate every person entitled to notice.). Attach additional pages as necessary to show all the persons you contacted.

Name of Person Entitled to Notice: _____

Name of Person I Contacted: _____

Address of Person I Contacted: _____

Name of Person Entitled to Notice: _____

Name of Person I Contacted: _____

Address of Person I Contacted: _____

Name of Person Entitled to Notice: _____

Name of Person I Contacted: _____

Address of Person I Contacted: _____

Name of Person Entitled to Notice: _____

Name of Person I Contacted: _____

Address of Person I Contacted: _____

Name of Person I am Looking for: _____

Name of Person I Contacted: _____

Address of Person I Contacted: _____

5. ABOUT THE PUBLICATION.

NOTICE OF HEARING was published in a newspaper in this County on the following dates.

A. _____, B. _____, C. _____.

PROOF OF PUBLICATION IS ATTACHED. (REQUIRED)

(Attach an "Affidavit of Publication" supplied by the newspaper that published the notice.)

By signing this document, I state to the Court, under penalty of perjury that the information presented is true and correct to the best of my knowledge and belief.

Date Signed

Petitioner's Signature

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____
Licensed Fiduciary Number: _____

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SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

In the Matter of:

Case Number: PB _____

(Optional) **WAIVER OF NOTICE** and
(Optional) **WAIVER OF SERVICE MEMBERS
CIVIL RELIEF ACT(SCRA) RIGHTS**
regarding:

An incapacitated or protected **Adult** or **Minor**

Guardianship (check one or both)
 Conservatorship

UNDER PENALTY OF PERJURY, I SWEAR OR AFFIRM:

1. **MY RELATIONSHIP** to the incapacitated or protected person named above is:

(examples: parent, grandparent, guardian) _____

2. **I HAVE RECEIVED the Petition and/or other court papers indicated below:**

(Check the box next to [only] the documents you received.)

- Petition for Permanent Appointment of:** **Guardian** **Conservator**
 Petition for *Temporary/Emergency* Appointment of: **Guardian** **Conservator**
 Order Appointing Attorney, Health Professional, Court Investigator
 Affidavit of Person to be Appointed **Consent of Parent** (*only* if regarding a minor)

or Petition for Approval of Accounting Annual Report of Guardian

Other: _____

3. (Optional) **I WAIVE NOTICE** of all court filings and proceedings regarding this matter.

I understand that I can reverse this waiver by filing a written document with the court under this case number declaring that I no longer waive notice of hearings and other court proceedings.

4. MILITARY STATUS

I am **NOT** on active duty in the U.S. military;

OR

I **AM** on active duty in the U.S. military.

If you are on active duty with the U.S. military, see the information on your rights under the Servicemember's Civil Relief Act and the optional waiver of the right to delay this court proceeding under the Act on the page following.

SERVICEMEMBER'S CIVIL RELIEF ACT (SCRA) INFORMATION AND *OPTIONAL* WAIVER

NOTE: When military duty interferes with the ability to participate in a case, the **Servicemember's Civil Relief Act (SCRA)** may permit a service member to delay or overturn a civil court proceeding. Waiving this right does **NOT** affect your right to later request a change regarding court appointment of a guardian or conservator.

It is generally advisable to consult a military legal assistance attorney before waiving any rights under the Servicemember's Civil Relief Act. If Luke Air Force Base is the military installation closest to you, you can contact the legal office at **623-856-6901**. Otherwise, contact the legal office at the nearest military installation.

IF ACTIVE DUTY MILITARY and you do not wish to delay court proceedings in this matter, check the box below to WAIVE any right that may apply under the SCRA to cause the court to delay.

(Optional)

I WAIVE any right I may have under the SCRA to delay this matter.

WAIVER OF NOTICE and *(if applicable)* **SERVICEMEMBER'S CIVIL RELIEF ACT (SCRA) WAIVER**

I have read and understand this **Waiver of Notice** and the separate **Servicemember's Civil Relief Act Waiver**. I understand that I am not required to either waive notice **or** any rights that may apply under the SCRA, but **if** I have waived either notice or any rights under the SCRA as indicated above or on the preceding page, I do so voluntarily.

UNDER PENALTY OF PERJURY

I swear or affirm that I have read and understand this document and that the information I have provided is true and correct to the best of my information and belief.

Date

Signature of Person Receiving Documents

Printed Name

STATE OF _____

COUNTY OF _____

Subscribed and sworn to or affirmed before me this: _____ by
(date)

_____.

(notary seal)

Deputy Clerk or Notary Public

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____
Licensed Fiduciary Number: _____

FOR CLERK'S USE ONLY

Representing Self, without a Lawyer or Attorney for Petitioner OR Respondent

SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

In the Matter of: _____

Case Number: PB _____

DECLARATION OF NOTICE PROVIDED Regarding A Matter of Guardianship and/or Conservatorship

A Protected Adult or Minor

UNDER PENALTY OF PERJURY

1. **DOCUMENTS PROVIDED:** I provided copies of the following court documents to the persons named below. (Check only those that apply.)

Petition for *Permanent* *Temporary* Appointment of a **Guardian and Conservator** (or)
 Guardian or Conservator (only)
for **Adult** or **Minor**

Affidavit of Person to be Appointed **Conservator's Account**
 Consent of Parent to Appointment **Consent of (other) Parent to Appointment**
 Notice of Hearing **Annual Report of Guardian**
 Other: _____ **Other:** _____

2. **TO WHOM I GAVE NOTICE:** These are the people to whom I gave copies of all the documents indicated above. State the relationship between the person who has or will have the guardian and/or conservator, and the person you gave the copies to.

(If this is about a petition to appoint a guardian and/or conservator for an adult, be sure to include the court-appointed attorney and the court investigator among those to whom you give notice and list below. Use extra paper if necessary.)

A. **Person Given Notice (Name):** _____

B. **Relation to Protected Person:** _____

C. **Date Mailed or Delivered:** _____

D. **Method of Delivery:** (Check at least one box and complete the information below)

- Personal service** (File "**Acceptance of Service**" or affidavit of process server or sheriff)
 1st class mail, postage prepaid
 Certified mail (if applicable, attach green return receipt card to this paper)
 Hand delivery by: (name) _____

- A. **Person Given Notice (Name):** _____
- B. **Relation to Protected Person:** _____
- C. **Date Mailed or Delivered:** _____
- D. **Method of Delivery:** (Check at least one box and complete the information below)
 - Personal service** (File **“Acceptance of Service”** or affidavit of process server or sheriff)
 - 1st class mail, postage prepaid**
 - Certified mail** (if applicable, attach green return receipt card to this paper)
 - Hand delivery by:** (name) _____

- A. **Person Given Notice (Name):** _____
- B. **Relation to Protected Person:** _____
- C. **Date Mailed or Delivered:** _____
- D. **Method of Delivery:** (Check at least one box and complete the information below)
 - Personal service** (File **“Acceptance of Service”** or affidavit of process server or sheriff)
 - 1st class mail, postage prepaid**
 - Certified mail** (if applicable, attach green return receipt card to this paper)
 - Hand delivery by:** (name) _____

- A. **Person Given Notice (Name):** _____
- B. **Relation to Protected Person:** _____
- C. **Date Mailed or Delivered:** _____
- D. **Method of Delivery:** (Check at least one box and complete the information below)
 - Personal service** (File **“Acceptance of Service”** or affidavit of process server or sheriff)
 - 1st class mail, postage prepaid**
 - Certified mail** (if applicable, attach green return receipt card to this paper)
 - Hand delivery by:** (name) _____

- A. **Person Given Notice (Name):** _____
- B. **Relation to Protected Person:** _____
- C. **Date Mailed or Delivered:** _____
- D. **Method of Delivery:** (Check at least one box and complete the information below)
 - Personal service** (File **“Acceptance of Service”** or affidavit of process server or sheriff)
 - 1st class mail, postage prepaid**
 - Certified mail** (if applicable, attach green return receipt card to this paper)
 - Hand delivery by:** (name) _____

UNDER PENALTY OF PERJURY

By signing this document I state to the Court under penalty of perjury that the information presented is true and correct to the best of my knowledge and belief.

Date

Signature

Printed Name

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____
Licensed Fiduciary Number: _____

FOR CLERK'S USE ONLY

Representing Self, without a Lawyer or Attorney for Petitioner OR Respondent

SUPERIOR COURT OF ARIZONA IN COCONINO COUNTY

In the Matter of (check one or both)
 Guardianship or Conservatorship of

Case No. PB _____

ORDER RELEASING FUNDS FROM A RESTRICTED ACCOUNT AND REQUIRING PROOF OF USE OF FUNDS

_____ a Minor or an Adult

**This is an important court order that could affect your legal rights. Read it carefully.
If you do not understand it, see a lawyer for help.**

THE COURT FINDS:

- PETITION FILED:** A "PETITION FOR RELEASE OF FUNDS" from a restricted account was filed by the guardian and/or conservator.
- NOTICE OF PETITION:** Notice of the Petition was: given as required by law AND/OR waived by the following interested persons: _____ ,

- The **Petition for Release of Funds from the Restricted Account** has been reviewed by the Court, and the Court finds that the protected person is in need of funds for the reasons set forth in the Petition and that no parent or person is obligated to satisfy this need and that funds are not available from any other source for these purposes.

THE COURT ORDERS:

- Directing (name of the financial institution) _____
to issue a check payable from account # _____
In the amount of : _____
Made payable to Guardian/Conservator: _____
(Name)

- 2. Directing the Guardian and/or Conservator to use the money for the following purposes, and to file receipts as proof that the funds have been used for the purposes within _____ days of this order.

PURPOSE	AMOUNT
_____	\$ _____
_____	\$ _____
_____	\$ _____

- 3. Ordering that this case shall be reviewed by court staff by (date) _____ to determine compliance of the Guardian and/or Conservator with this order.

Done in open court: _____

JUDICIAL OFFICER

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____
Licensed Fiduciary Number: _____

FOR CLERK'S USE ONLY

Representing Self, without a Lawyer or Attorney for Petitioner OR Respondent

SUPERIOR COURT OF ARIZONA IN MARICOPA COUNTY

In the Matter of
Guardianship and/or Conservatorship for

Case Number: PB _____

NOTICE OF HEARING

Regarding Petition for Discharge, Termination,
and/or Release of Funds

an Adult a Minor

THIS IS A LEGAL NOTICE. Your rights may be affected.
An important court proceeding that affects your rights has been scheduled. If you do not understand this notice or the other court papers, contact an attorney for legal advice.

1. **NOTICE IS GIVEN** that a Petition and other court paper(s) indicated below have been filed with the Court, and a hearing scheduled for review of the petition indicated by the boxes checked below.

Discharge of (check one or both) **Guardian** **Conservator**
Petition for **Termination of** (check one or both) **Guardianship** **Conservatorship**
 Release of Funds **Other:** _____

Note: "Discharge" means to dismiss or release a guardian or conservator from his or her duties.
"Termination" ends the guardianship or conservatorship and closes the case with the court.

2. **COURT HEARING.** A court hearing has been scheduled to consider the Petition and matters in the court papers as follows:

DATE and TIME

PLACE:

JUDICIAL OFFICER:

3. **RESPONSE TO PETITION.** You are not required to respond to this Petition, but if you choose to respond, you *may* do so by filing a written response *or* by appearing in-person at the hearing. *If you choose to file a written response:*

- File the original with the Court;
- Provide a copy to the office of the Judicial Officer named above; and
- Mail a copy to all interested parties at least five (5) business days before the hearing.

If you object to any part of the Petition or Motion that accompanies this notice, you must file with the court a written objection describing the legal basis for your objection at least three (3) days before the hearing date or you must appear in person or through an attorney at the time and place set forth in the notice of hearing. There is a FEE for filing a response. If you cannot afford the fee, you may file a *Fee Deferral Application* to request a payment plan from the Court.

DATED: _____
(Month/Day/Year)

Petitioner's Signature

Person Filing: _____
 Address (if not protected): _____
 City, State, Zip Code: _____
 Telephone: _____
 Email Address: _____
 Lawyer's Bar Number: _____
 Licensed Fiduciary Number: _____

FOR CLERK'S USE ONLY

Representing Self, without a Lawyer or Attorney for Petitioner OR Respondent

SUPERIOR COURT OF ARIZONA MARICOPA COUNTY

In the Matter of (check one or both)
 Guardianship Conservatorship of

PB Number: _____

PROOF OF USE OF FUNDS RELEASED FROM RESTRICTED ACCOUNT AND PROOF OF MAILING

_____ a Minor or an Adult

1. **RELEASE OF FUNDS:** The Court ordered the release of funds from a restricted account on (date) _____ in the total amount of \$ _____.
2. **USE OF FUNDS.** I spent the released money as follows: **(The originals of the receipts are attached to this court document.)** (Attach another sheet of paper if necessary.)

DESCRIPTION OF USE OF FUNDS	AMOUNT
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
TOTAL	\$ _____

3. **NOTICE TO INTERESTED PERSONS.** I gave notice of my actions by mailing or hand-delivering copies of this document and the receipts to the following person(s):

NAME	ADDRESS	RELATIONSHIP TO MINOR/ADULT
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Date: _____

Signed: _____

INFORMATION ON LEGAL NOTICE FOR GUARDIANSHIPS AND CONSERVATORSHIPS FOR MINORS

1. WHAT IS LEGAL NOTICE: After you have completed **AND** filed the guardianship and conservatorship Petition and other court papers with the Court, you must tell **all** interested persons about the papers and Court hearing.

A. WHAT COURT DOCUMENTS DO I NEED TO GIVE NOTICE ABOUT? These are the documents you need to give the people who are entitled to notice:

- **NOTICE OF HEARING:** This document provides information about the hearing including the date, location, and the name of the Judge/Commissioner who will hear the case.
- **PETITION:** This document explains what you want the Judge/Commissioner to do and why.

It is recommended that you give people entitled to notice copies of all documents you filed with the court so you know you gave those people copies of the right documents. You then must list in the PROOF OF NOTICE (see section C, below) the names of all the documents you gave copies of, and the people you gave the copies to.

B. WHAT ARE THE WAYS TO GIVE LEGAL NOTICE?

- **“Personal Service”** means giving formal notice that is required in some cases for some persons. It requires that a registered process server or the sheriff serves the documents on the interested persons or that a person accepts service of the papers. When personal service is required, it means the law is written to make sure that a person who needs notice of a case is given that notice.

Note: See **Step 4** for instructions on how to give personal service.

- **Mail or hand delivery** is a less formal but important way of giving notice to other persons in some cases. When you are required to give notice by mail, 1st class postage-prepaid mail is usually acceptable. Certified or Registered mail with return receipt is an extra step you can take to prove that the person you want to have notice received the notice.

Note: Service by **mail or hand delivery** is only allowed in some cases, so make sure you read the instructions to see if you can use this method of service.

- **Publication of Notice** is when you do not know the address of the person to whom you need to give notice. For publication, you need to try to find the person who is supposed to get notice, and prove to the Court you did everything you could to try to find the person or the person’s address. Then, you must publish the Notice at least **3 times** in a newspaper in the county where the Court hearing is held. **See ARS § 14-1401(A)(3).**

C. HOW DO I SHOW THAT I GAVE LEGAL NOTICE?

- PROOF OF NOTICE is the document you sign and file with the Court to prove you gave notice to **all** interested persons, and how you did it. You must fill out this form after you have served the documents on all interested persons (See **Step 1A**). There are other documents that go with the PROOF OF NOTICE to show that service was made. These documents may include the following:

- 1) AFFIDAVIT OF PUBLICATION,
- 2) AFFIDAVIT OF SERVICE signed by the process server or sheriff, **OR**
- 3) ACCEPTANCE OF SERVICE.

D. WHEN CAN YOU SKIP GIVING LEGAL NOTICE?

- WAIVER OF NOTICE is when a person required to get notice waives that right and signs the WAIVER OF NOTICE. Generally, but not always, a person who is required to be **personally served** can accept service by signing the WAIVER OF NOTICE. However, if the minor who needs the guardian and conservator signs the Waiver, that minor must also attend the hearing or service is not good, **OR**
- Party is present at the hearing and will accept service. Only rely on this method if you are **absolutely** certain the person will be at the hearing and will accept service.

2. TIME FRAMES TO GIVE LEGAL NOTICE:

Generally, you must give **all** interested persons notice of the court papers at least **14 days** before the hearing. If you are giving NOTICE BY PUBLICATION, the first publication must be at least **14 days** before the hearing.

Note: The newspaper will not provide the AFFIDAVIT OF PUBLICATION to you until all **3 notices** have been published.

3. WHO IS ENTITLED TO LEGAL NOTICE:

Here is a guide when, and to whom, you must give notice of guardianship and conservatorship of a minor: (ARS 14-5207 and 14-5405):

- **MINOR WHO NEEDS PROTECTION** (called a ward): Notice must be **personally served** the minor who needs protection, if the minor can be found within the State of Arizona, and is **14 years** or older. If the ward does not live in the State of Arizona, you can give Notice by **personal service, registered mail or publication**.

Note: WAIVER of NOTICE by the person is not legal unless the minor attends the court hearing in person. If the minor is younger than 14 years of age, you do not need to give notice of the court papers, but it wouldn't hurt to mail a copy of the court papers to the minor.

- **PARENTS OF PERSON WHO NEEDS PROTECTION:** If the parents of the minor who needs protection can be found within the State of Arizona, they must be **personally served**. Otherwise, you can give notice by **mail, hand-delivery or publication**.
- **OTHERS:** Give Notice by **mail, hand-delivery, or publication** to the following:
 - 1) Any person serving as guardian or conservator,
 - 2) Any person who has the care and custody of the minor who needs protection, **AND**
 - 3) Anyone who has filed with the court a DEMAND FOR NOTICE, such as creditors.

Note: Notice must be given at least **14 days** before the hearing date.

4. THE METHODS OF PERSONAL SERVICE:

There are several ways to give personal service that will be accepted by the Court.

- **Acceptance of Service:** The person must sign the acceptance form in front of a notary and return it to you, but the signature date cannot be earlier than the date you filed the court papers. The signature on this form does **not** mean the person agrees with the papers. It means that he or she admits receiving the papers, without being served in person by a Sheriff or Process Server.
- **Process Server:** You generally must pay this person or company to do this for you. A process server will give the papers to the person at home, work, or other location. The process server will give the Court a sworn Affidavit stating that the person was served. The disadvantage of this method is the cost and that it requires the process server to find the person. If you decide to use this method, look under "PROCESS SERVER" in the Yellow Pages to find someone who can serve your papers.
- **Sheriff:** This method requires you to contact the Sheriff's Office in the County where the person lives to arrange for a Sheriff's deputy to serve the papers. This method requires you to pay a

fee to the Sheriff's office, unless you receive a Waiver or Deferral, which is available through the Court for persons who cannot afford the cost of Service. The Waiver or Deferral will require you to explain to the Sheriff why your circumstances call for this method.

5. WHAT ELSE TO KNOW ABOUT LEGAL NOTICE: Even if you are required to PERSONALLY SERVE someone, you still have to give notice by **mail** or **hand-delivery** to other interested persons. You will still have to sign and file the PROOF OF NOTICE to show the Judge/Commissioner that you gave notice to everyone as required by law.

6. HOW DOES A PERSON WHO GETS NOTICE OBJECT TO THE PETITION: Sometimes a person, including the minor who is 14 years or older, who receives notice wants to object to the Petition, or tell the Judge/Commissioner something besides what is in the Petition. For more information on objecting to a court process, see Guardianship and/or Conservatorship Packet 3 called **To Object to a Court Proceeding**, which includes Court forms and instructions to file a written Response.

7. COMPLETE THE NOTICE OF HEARING AND PROOF OF NOTICE: After Notice is done, you must complete the PROOF OF NOTICE form. Be sure to list the copies of papers given, and the names of the persons to whom you gave the copies. Also list the date you gave the person copies, the type of service, and the relationship between the person to whom you gave copies and the person for whom the guardian and conservator is or will be appointed. (This person is called the ward). Be sure the attorney for the ward (protected person gets copies, if applicable).

Make **2 copies** of the NOTICE OF HEARING, the PROOF OF NOTICE, the ACCEPTANCE OF SERVICE (if any), the WAIVER OF NOTICE (if any), and assemble them in **3 packets**: the originals and 2 complete sets of copies.

8. FILE THE NOTICE OF HEARING, ANY WAIVER, AND PROOF OF NOTICE:

A. PREPARE TO FILE: At least **10 business days** before the scheduled hearing date, file the following with the Clerk of the Court, Probate Registrar:

- NOTICE OF HEARING,
- PROOF OF NOTICE, **AND**
- Any WAIVER OF NOTICE or ACCEPTANCE OF SERVICE, if applicable.

B. GO TO THE CLERK: Take the **original and 2 copies** of the NOTICE OF HEARING PROOF OF NOTICE and WAIVER OF NOTICE/ACCEPTANCE OF SERVICE (if applicable) to the Probate Registrar who will file the original and stamp "copy" on each of the **2 copies** and return them to you.

C. GO TO PROBATE ADMINISTRATION: Take **1 conformed** (date-stamped) **copy** of the NOTICE OF HEARING, PROOF OF NOTICE and WAIVER OF NOTICE/ACCEPTANCE OF SERVICE (if applicable). Probate Administration will give these to the Judge/ Commissioner who will hear the case.

Note: Keep a copy of each document for your records and bring them with you to the court hearing.

9. NEXT STEPS: Now you are ready to prepare for the court hearing, and get the rest of the paperwork in order.

10. OTHER HELP: If you still have questions about this procedure, you can ask a lawyer for legal advice. You can look up a lawyer in the telephone book under "attorneys." Also, the Self-Service Center has a list of lawyers who will help you help yourself. The list shows where the lawyers are located, how much they charge to look over the court papers or answer your questions, and what their experience is. **All forms referred to in these instructions are available at the Self-Service Center.**

PROCEDURES: HOW TO SERVE LEGAL PAPERS BY PUBLICATION

In matters of GUARDIANSHIP, CONSERVATORSHIP, PROBATE OF ESTATE, and the SALE OF REAL PROPERTY

(Arrange for service AFTER you have filed your papers in court.)

STEP 1 COMPLETE ATTACHED LETTER to NEWSPAPER describing the documents that need to be referenced by the newspaper, and submit copies of those documents along with the letter to the paper.

A. IF YOU HAVE A COURT ORDER WAIVING/DEFERRING COSTS of PUBLICATION, YOU MUST PUBLISH IN *The Record Reporter*.

MAIL OR DELIVER the letter that is attached to this form, a copy of the documents you filed with the Clerk, and the **CERTIFIED ORDER WAIVING/ DEFERRING COSTS of PUBLICATION** to:

The Record Reporter, 2025 N. Third Street, #155, Phoenix AZ 85004.

You may also **fax** the documents to **(602) 417-9910**,

- OR -

B. IF YOU ARE PAYING THE COST of PUBLICATION, YOU MAY USE ANY NEWSPAPER OF "GENERAL CIRCULATION" in this county. Note that:

1. There are **numerous** eligible publications **other than** the one mentioned above;
2. The Arizona Corporation Commission maintains a list of eligible publications along with their contact information online at:
<http://www.azcc.gov/Divisions/Corporations/Newspaper-list-for-publishing.pdf>.
3. **Fees vary.** You may call and ask for "Legal Advertising" to compare prices .

STEP 2 WHEN TO FILE:

- **Wait** (about **5 weeks**) for the newspaper to send you an **AFFIDAVIT OF PUBLICATION**, which will include the notice that was published, and the dates of publication. **Some** newspapers will file this document with the Court for you. If the newspaper sends you **TWO** copies or an original, it is intended for **you** to file one. Always verify with the Probate Clerk that the **AFFIDAVIT OF PUBLICATION gets filed**.

STEP 3 GATHER THE PAPERWORK: (Caution: Be aware of confusingly similar document names.)

- Complete the **DECLARATION SUPPORTING PUBLICATION** (PB25f), found in the Forms packet, to describe the efforts you made to locate and serve notice **before** resorting to publication.
- If the newspaper has **not** already filed the **AFFIDAVIT OF PUBLICATION**, **make sure it gets filed** by submitting it with the **DECLARATION SUPPORTING PUBLICATION**.
- **Copy** of both of the above (Affidavit and Declaration) documents for your records.

STEP 4 FILE YOUR DOCUMENTS WITH THE COURT:

- The original **DECLARATION SUPPORTING PUBLICATION**, and
 - The original of **AFFIDAVIT OF PUBLICATION** (*unless the newspaper filed it for you*).
- (And **bring a copy** of the **AFFIDAVIT OF PUBLICATION** to the hearing.)

LETTER TO NEWSPAPER

Print Your Name: _____

Your Address: _____

Date: _____

Name of Newspaper

Address

To Whom It May Concern:

I need to publish notice in the newspaper about the following matter: Probate Court Case No. _____, which concerns the following: (check one box)

Guardianship and/or Conservatorship matter about (name of person with guardian and/or conservator) _____, OR

Estate of _____, deceased, OR
Print Name

Sale of Real Property _____ . Please Note: The first publication
Print street address of subject property

of this NOTICE must be published at least fourteen (14) days before the scheduled hearing, or by _____.
Print Date

Enclosed is a copy of the following documents stamped by the Clerk of Court (check all that apply):

"Notice of Hearing" for matter about guardian and/or conservator, OR Petition, OR

"Notice to Creditors" for probate of an estate, OR

(If no Will) An **Application for Appointment of Personal Representative without a Will**, OR

(If a Will) An **Application for Informal Probate of a Will and for Appointment of a Personal Representative**.

Please publish Notice in your newspaper about this court case once a week for three successive weeks. Also enclosed is (check one box)

A check or money order in the amount of \$_____ for the cost of the publication as requested, OR,

A certified copy of the Order from the court waiving/deferring the publication costs.

When you receive this letter, please call me at _____ to tell me when the first publication will occur. When all three weeks of publication have been completed, please file the original and send me one copy of the **Affidavit of Publication**.

Sincerely,

Your Signature
Enclosures