

INSTRUCTIONS: HOW TO ASK THE COURT TO APPOINT A TEMPORARY CONSERVATOR IN AN EMERGENCY

Step 1. Before filing an *Emergency Petition*, you must first file a regular petition for appointment of a conservator for the person to be protected. The following form is available for requesting appointment of a conservator for an adult: PG-100 *Petition for Appointment of a Guardian or Conservator for an Adult*. Instructions for the PG-100 form are in the PG-500 Packet. The court system does not currently have a petition form for requesting appointment of a conservator for a minor.

You can file both the regular petition and the emergency petition at the same time.

Step 2. Fill out the attached *Emergency Petition* (PG-102).

- a. On the "AT" line at the top of the form, write the city where the court is located.
- b. On the "Respondent" line, write the full name of the person who needs a conservator.
- c. Case Number. If you are filing this petition at the same time you file the regular petition, leave the "CASE NO." line blank. If you are filing this petition later, write the case number that the court assigned to the regular petition.
- d. Paragraph 1. You are the "petitioner," so fill in information about yourself.
- e. Paragraph 3. Check the box indicating whether a petition to protect the respondent from financial abuse has been filed. Such a petition might be filed if, for example, someone is taking the respondent's money or property or using the respondent's money or property in a way that does not benefit the respondent. The forms for asking for protection from this type of abuse are PG-800 to PG-850. See the PG-850 instructions.
- f. Paragraph 4. Explain where the respondent (the person who needs a conservator) is currently located. Describe what the place is (for example: "at his apartment," or "at her daughter's house"), and then give the address and telephone number of that place.
- g. Paragraph 5. Check the appropriate box and describe the money or property that is in danger of being wasted or dissipated, the financial affairs that need to be managed, or the source of the money that is needed for support.¹ Be as specific and complete as possible.
- h. Paragraph 6. Explain why the respondent is not able to take care of this on his or her own.
- i. Paragraph 8. Write the name, address, etc. of the person you think should be appointed temporary conservator.

¹ AS 13.26.445.

This paragraph also asks what this person's priority for appointment under AS 13.26.465 is. According to Alaska Statute 13.26.465, people have priority for appointment as conservator in the following order:

- (1) an individual or qualified conservator nominated by the protected person if the protected person is 14 or more years of age and had, in the opinion of the court, sufficient mental capacity to make an informed choice;
- (2) the spouse of the protected person;
- (3) an adult child or a parent of the protected person;
- (4) a relative of the protected person with whom the protected person has resided for more than six months during the year before the filing of the petition;
- (5) a relative or friend of the protected person who has demonstrated a sincere and longstanding interest in the welfare of the protected person;
- (6) a private professional conservator;
- (7) the public guardian.

If, for example, you recommend that respondent's adult child be the conservator, write "#3" on the "priority for appointment" line. Then, on the next lines, list the name and address of everyone with a higher priority. Also, list anyone with an equal priority. If there is no one with an equal or higher priority, write that on these lines.

j. Sign and date the *Petition*.

k. Verification Section.

If you are going to file the *Petition* in person, wait to sign this section until you are at the court. Bring a photo ID with you so a court clerk can notarize your signature when you sign it. There is no charge for this notarization.

If you mail the *Petition* to the court, you must fill out the Verification section before you mail it. You will have to sign this section in front of a notary public.

l. Fill out the certificate of service on page 3. (See discussion of methods of service in Step 4.)

Step 3. Make a copy of the *Emergency Petition* for yourself.

Step 4. Serve a copy of the *Emergency Petition* on the respondent and respondent's attorney (if known). You can use any of the methods listed on page 3 of the petition:

- Regular first class mail
or
- Certified mail. If you use this method so you can show the court proof that the respondent and attorney received the petition, you need to pay the Post Office the additional cost for "restricted delivery" and a "return receipt." When the return receipt (green card) comes back to you signed by the person to whom you sent the petition, you can attach it to the PG-117 Affidavit (available on the court system website) and file it with the court.
or

- Private process server. This method will also give you proof that you successfully served the petition. You can find a list of licensed process servers on the Alaska State Trooper website: www.dps.state.ak.us/Statewide/PermitsLicensing Click on "Civilian Process Server List." If there are no private process servers in your area, peace officers (usually State Troopers) will serve process.
or
- Hand-delivery by you or another person.

Step 5. File the original *Emergency Petition* (either in person or by mail) at the same court in which you filed the petition for a regular conservator. There is no separate filing fee for the emergency petition. It is covered by the filing fee you paid for the regular petition.

Step 6. Notice of Hearing.

The court clerk will schedule a hearing on your petition to be held within 72 hours after you file it. The clerk will send notice of the hearing to you, the respondent, the respondent's attorney, and other interested persons as ordered by the court.

Step 7. Court Hearing.

The respondent has the right to be present at the hearing. The respondent can participate in the hearing by telephone if that is more convenient for the respondent. Usually these hearings are closed to the public, but the respondent gets to choose whether the hearing will be open to the public or closed.

At the hearing, the respondent has the right to present evidence and to cross-examine adverse witnesses. The respondent can remain silent (and not answer any questions) if the respondent wishes to.

As the petitioner, you must present evidence that shows both of the following things:

- (a) The respondent needs a temporary conservator in order to
 - (1) prevent the waste or dissipation of respondent's funds or property, or
 - (2) manage the respondent's financial affairs, or
 - (3) obtain funds that are needed for the immediate support, care, and welfare of the respondent or persons entitled to be supported by the respondent, **and**
- (b) The respondent is not capable of protecting the respondent's funds or property, managing the respondent's financial affairs, or obtaining the funds that are needed to support the respondent or persons whom the respondent is required to support.

The statute that requires this, AS 13.26.445, is printed on the next page.

Step 8. When the Appointment Ends.

If the judge signs an emergency appointment order, the order will be temporary. It will expire when a regular (full or partial) conservator or a full guardian (with conservator powers) is appointed or when the petition for appointment of a conservator or full guardian is dismissed.

Alaska Statute 13.26.445
Temporary Conservators

- (a) If, during the pendency of an initial petition for conservatorship, it appears that the respondent is in need of a protective order to protect the respondent against waste or dissipation of funds or property, or to obtain funds that are needed for the immediate support, care, and welfare of the respondent or persons entitled to be supported by the respondent, and the respondent is not capable of protecting the respondent's funds or property or obtaining the funds that are needed to support the respondent or persons whom the respondent is required to support, the petitioner may request the appointment of a temporary conservator to authorize the protection or to obtain the necessary funds. The request must state the reasons and factual basis for the request. The petitioner shall immediately file the request with the court and serve copies on the respondent and the respondent's attorney and other persons as ordered by the court. The court shall appoint an attorney for a respondent who is unrepresented to be at the hearing and conduct a hearing within 72 hours after the filing.
- (b) If the court determines that a temporary conservator should be appointed, it shall make the appointment and grant to the temporary conservator only the authority that is least restrictive upon the liberty of the respondent and that enables the temporary conservator to provide the protection or authority necessary to protect the respondent from waste or dissipation of funds or property or to obtain the funds necessary for support.
- (c) The temporary conservatorship expires at the time of the appointment of a full or partial conservator or on the dismissal of the petition for conservatorship.