

GUARDIANSHIP

For an Adult

1

**OR a person at least 17.5 years old,
to *become effective* at age 18**

Part 1: Preparing the First Court Papers

(Instructions)

GUARDIANSHIP

GET A PERMANENT APPOINTMENT FOR AN ADULT
or a person at least 17.5 years old *to become effective at age 18*

Part 1: Preparing the first Court Papers

(Instructions Only)

This packet contains instructions for preparing the first court papers for a permanent appointment for guardianship for an adult. Items in **BOLD** are forms that you will need to file with the Court. Non-bold items are instructions or procedures. Do not copy or file those pages!

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*See the #2 "SERVICE" packet for forms and detailed instructions.

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IMPORTANT NOTICE TRAINING REQUIREMENTS

Effective September 1, 2012

The Arizona Supreme Court requires that any person who is not a state-licensed fiduciary (or a financial institution) must complete a training program approved by the Supreme Court **before** Letters of Appointment to serve as a guardian, conservator, or personal representative can be issued by the Clerk of the Court, or within 30 days of a temporary or emergency appointment.

TRAINING SHOULD BE COMPLETED BEFORE THE COURT HEARING
Additional time may be granted for good reason.

You may access and complete the training FREE online at:
www.azcourts.gov/probate/Training.aspx

Go to the section for “**Non-licensed Fiduciaries**” and click on the link to access a narrated slide-show presentation of the materials applicable to your situation.

The required training manuals are included in the accompanying “Forms” packet. You may also pick up a printout of the training materials in English or Spanish from the Self-Service Center. AFTER reviewing the materials, you will need to inform the Court that you have completed the training by filing either the Certificate available at the end of the online training, or the Declaration of Completion form available from the Self-Service Center. If you have questions about the training, contact the Probate Clerk at 602-506-3668.

SELF-SERVICE CENTER

IMPORTANT INFORMATION ABOUT GUARDIANSHIP OF AN ADULT

This packet may be for the purpose of requesting appointment of a guardian, or a guardian **AND** conservator for an adult. The information below applies specifically to *guardianship*.

To qualify for a guardian, an adult must be **incapacitated**. This means he or she must lack sufficient understanding or capacity to make or communicate responsible decisions concerning his or her own well-being as a result of any of the following:

- Physical illness or disability,
- Mental disorder,
- Chronic use of drugs,
- Mental illness,
- Mental deficiency,
- Chronic intoxication or other cause.

If it is determined by the court that the adult is incapacitated, the court can appoint a guardian to act in the interests of the “**the ward**” (the incapacitated person), including in the matter of obtaining needed health care, whether for physical or mental health.

- 1. MENTAL HEALTH TREATMENT:** All guardians for adults have the authority to consent for their wards to receive “outpatient” (outside a hospital, non-residential) psychological or psychiatric care and treatment, including authority to consent to the administration of medications that alter mood or behavior. But note that ***specific authorization from the court is required for a guardian to place the ward in an INPATIENT (in-hospital) mental or behavioral health facility. IF it is likely the proposed ward will need INPATIENT mental health care and treatment within the next year of a permanent guardianship, or the next 6 months of a temporary guardianship, you must specifically request authority to consent to such treatment in your Petition. Also, your request must be supported by the opinion of a mental health expert who is licensed and specializes in psychiatry or psychology. (A.R.S. § 14-5312.01(B)).***
- 2. DRIVER’S LICENSE:** Upon appointment of a guardian an incapacitated adult generally loses his or her privilege to obtain or retain a driver’s license. The court may allow the person to retain or obtain a driver’s license **if** the court is presented with sufficient medical or other evidence to establish that the ward’s incapacity does not prevent the ward from safely operating a motor vehicle **(A.R.S. § 14-5304.01(B)).**

Note: If you believe the person *should* be allowed to drive, you must specifically request that in your Petition AND your request must include medical or other evidence (doctor’s note, etc.) that the person is capable of driving safely.

- 3. VOTING RIGHTS:** Upon appointment of a guardian an incapacitated adult will lose their right to vote. If you are requesting a limited guardianship, the court may allow the person to retain or obtain their right to vote if you specifically request this right in the Petition and the judge determines at the hearing by clear and convincing evidence that the person retains sufficient understanding to exercise the right to vote (A.R.S. § 14-5304.02)).

Note: If you are requesting a *limited* guardianship and you believe the person *should* be allowed to vote, you must specifically request that in your Petition.

INSTRUCTIONS: COMPLETE THE FORMS TO ASK THE COURT TO APPOINT A PERMANENT GUARDIAN FOR AN ADULT
or a person at least 17.5 years old *to become effective at age 18*

NOTE: This process, from time of filing to the signing of the court order, may take at least two months. If there is an **urgent** situation that requires the actions of a Guardian in less than that amount of time **OR** guardianship will only be needed for a period of **6 months or less**, see the Self-Service Center packet for "**TEMPORARY ORDERS**" for Guardianship/Conservatorship. Refer to the checklist in that packet to help determine whether you need to file for Temporary Orders *only*, or *in addition to* these papers for a "permanent" appointment of more than 6 months.

BE SURE YOU ONLY NEED TO ASK THE COURT TO APPOINT A GUARDIAN ONLY AND NOT A CONSERVATOR ALSO (or *instead*). If you are not sure, see the "Checklist" at the beginning of the "Forms" packet. Note that the Self-Service Center has separate packets to request appointment of a guardian, a conservator, or both a guardian and conservator.

The person you say needs a guardian may be referred to by *any* of the following terms in the court forms or instructions:

- "the ward", "the proposed ward", or "the proposed protected person",
- "the person to be protected" or "the person needing protection",
- "the person needing a guardian".

A. COMPLETE THE FORMS TO FILE WITH THE COURT:

Fill out all the forms completely and in **black ink**. Read and follow instructions on the individual forms.

FORM 1: PROBATE INFORMATION COVER SHEET (form PB10f). (No copies required)

Fill in the information requested about:

- **the ward**, the person for whom the guardian is to be appointed,
- **the petitioner**, you, the person filling out and filing these forms, and
- **the fiduciary**, the person who is to serve as guardian.

Leave "Case Number" blank. A case number beginning with the letters "**PB**" will be stamped on the papers by the Clerk of the Court when you file the papers. Use this case number on all other papers you file with the court in this case.

- **Indicate whether an interpreter will be needed**, for **what language**, and **for whom**;
- Leave the boxes for "Reasons Fee Not Paid" *blank*, and
- For "**Nature of Action**", if filing for guardianship **only**: under #230, "**Guardianship**", mark #232 to indicate for an adult (including those suffering from dementia or Alzheimer's) in need of protection, **OR** mark #234 if requesting "mental health powers" including authority to put the protected person **in** a mental health facility for **inpatient** treatment.

FORM 2: PETITION FOR APPOINTMENT OF GUARDIAN (PBGA11f) **including request for appointment of attorney, health professional** (a physician or other medical professional to evaluate the physical and/or mental health of the proposed ward), **and court investigator**. The Court will **always** appoint a physician or other medical professional to evaluate the mental and physical health of **an adult** said to need a **guardian**, and **may** appoint one in matters of **conservatorship**, whether involving adults *or* minors.

Regarding: (“A” and “B” below do *not* correspond to lettering on the Petition.)

A. Appointment of Attorney: A petition for appointment of a guardian must include a request for the court to appoint a lawyer to represent the person you say needs the guardian. If the proposed ward already has a lawyer and you want that lawyer to represent the ward in *this* matter, **list** the lawyer’s name and address and explain any prior relationship or dealings between the lawyer and you, and between the lawyer and the person to be protected.

If you are not providing the name of a specific lawyer you want to have appointed, call the **Office of Public Defense Services** after you file your Petition and other initial papers to get the name of a lawyer to be appointed by the court.

See the “Procedures” document in this packet for more specific information including the number to call and what to say when you call.

B. Persons Entitled to Notice. In this section, list every person (or agency) legally entitled to receive notice of your request to have a guardian appointed for the proposed ward. Arizona Revised Statutes **A.R.S. § 14-5309**, provides that in the matter of a guardianship for an adult, **notice shall be given to:**

1. **The proposed ward *and* his or her spouse and parents or adult children.**
2. **Any person who is serving as guardian or conservator or who has the care and custody of the proposed ward.**
3. ***In case no other person is notified under #1 or 2 above, notice must be given to at least one of the ward’s closest adult relatives, if any can be found.***
4. **Any person who has filed a *Demand for Notice* with the Clerk of the Court.**

For more detailed information on how you are required or permitted by law to give Notice, refer to Self-Service Center packet #2 on “**SERVICE**”.

FORM 3: AFFIDAVIT OF PERSON TO BE APPOINTED (PBGC13f). This document required by Arizona law **A.R.S. §14-5106(A)**, must be completed **by the proposed guardian** and filed with the PETITION. The proposed guardian is usually, but not always, the same person as the Petitioner. **Read carefully, answer truthfully, and attach explanations as instructed on the document itself.**

B: COMPLETE OTHER COURT PAPERS: These forms are NOT filed with the Clerk, but you will need them later to schedule a court hearing.

- **PETITIONER’S INFORMATION SHEET TO COURT INVESTIGATOR (PBGCA12f).** This document provides important information to the Court Investigator which will aid the progress of your case. **Inaccurate or incomplete information may cause delay.** This is not filed but is needed before a hearing will be set.
- **NOTICE OF HEARING (PBGC18F).***
- **WAIVER OF NOTICE and WAIVER OF SERVICEMEMBERS CIVIL RELIEF ACT *** (PBGC19F)
*See **PBGC20h** in this packet and **Packet #2** on “**Service**” for how and when to use these.

NEXT: Read and follow instructions on the separate “**PROCEDURES**” document (**PBGA10p**) in this packet for what to do *after* you have completed these forms.

PROCEDURES TO REQUEST APPOINTMENT OF PERMANENT GUARDIAN FOR AN ADULT: WHAT TO DO AFTER COMPLETING ALL FORMS

STEP 1. MAKE COPIES and SEPARATE INTO COMPLETE SETS as follows:

<p>Set 1: Originals for the Clerk of Court, Probate</p> <ul style="list-style-type: none"> • Probate Information Cover Sheet (pb10f) • Petition for Permanent Guardian (pbga11f) • Affidavit of Person to be Appointed (pbgc13f) 	<p>Set 2: Copies for Judicial Officer (deliver <i>at least 5 days</i> before the hearing)</p> <ul style="list-style-type: none"> • Petition for Permanent Guardian • Affidavit of Person to be Appointed
<p>Set 4 & More: Copies for Persons (or Agencies) to Receive Notice</p> <ul style="list-style-type: none"> • Petition for Permanent Guardian • Affidavit of Person to be Appointed 	<p>Set 2: Copies for You</p> <ul style="list-style-type: none"> • Petition for Permanent Guardian • Affidavit of Person to be Appointed

2. TAKE THE ORIGINALS AND ALL SETS OF COPIES TO THE CLERK TO FILE at any of the following Superior Court locations in Maricopa County:

Phoenix:	125 West Washington Street, 1st Floor, Phoenix, Arizona 85003
North Phoenix:	18380 North 40th Street, Phoenix, Arizona 85032
Mesa:	222 East Javelina Avenue, 1st Floor, Mesa, Arizona 85210
Surprise:	14264 West Tierra Buena Lane, Surprise, Arizona 85374

3. PAY YOUR FILING FEE PLUS the PROBATE COURT INVESTIGATOR FEE.

- A list of current fees is available from the Self Service Center and from the Clerk of Court's website.
- If you cannot afford the filing fee and/or the fee for having the papers served by the Sheriff or by publication, you may request a deferral (payment plan) when you file your papers with the Clerk of the Court. Deferral Applications are available at no charge from the Self-Service Center.

4. GET YOUR COPIES BACK. The Clerk will file the originals, **stamp the copies with a case number** to indicate the copies **conform** to (be the same as) original documents filed with the Court, **and return the copies to you.** **NOTE YOUR CASE NUMBER** beginning with **"PB"** and use it on every paper you file with the court in this matter from now on.

5. GET A COURT HEARING DATE:

A. If filing in downtown Phoenix at 125 West Washington, after filing walk a few feet to the right from the filing counter to **Probate Administration** to immediately ask to schedule a hearing,

OR . . .

B. If filing at a court location where there is no Calendar Clerk available:

- **WAIT** until 2 to 3 days after filing (so Clerk can see information in data system).
- Call 602-506-5510 and tell the clerk you need to schedule a hearing.
- Provide the case number.
- The Clerk will provide *you* with the date, time, and location of the hearing, as well as the name of the Judicial Officer assigned to conduct the hearing.
- **PLEASE WRITE IT DOWN! DON'T LOSE IT!**

OR . . .

C. If filing at a court location where there is no Calendar Clerk available AND you do not want to wait the 3-5 days:

- Bring your documents to the downtown Phoenix Probate Administration offices in-person to schedule the hearing.
- Present one clerk-stamped (conformed) copy of the following documents to Probate Administration:
 - ❖ **PETITION FOR APPOINTMENT OF GUARDIAN for an Adult** (PBGA11F),
 - ❖ **AFFIDAVIT OF PERSON TO BE APPOINTED** (PBGC13F),

AND the *original plus one copy* of the:

- ❖ **PETITIONER'S INFORMATION SHEET TO COURT INVESTIGATOR** (PBGCA12f),

Probate Admin will then provide you with a printout with information on when and where the hearing is, as well as the name of the assigned Judicial Officer.

THIS IS IMPORTANT INFORMATION. DON'T LOSE THIS DOCUMENT!

NOTE THE FOLLOWING:

- The hearing will be scheduled for some 4-6 weeks from the date you submit your request, whether submitted by phone or in-person.
- You may **FILE** at *any* of the Clerk of the Court locations listed above, the hearing may however be scheduled at a different court facility.

6. GET THE NAME AND ADDRESS OF A COURT-APPOINTED LAWYER:

WHO TO CALL AND WHAT TO SAY: The person you say needs a Guardian **must** have a lawyer. If there is no lawyer already representing him or her in this matter, you must call the Office of Public Defense Services at **602-506-7228**, between 8:00 a.m. and 5:00 p.m., Monday through Friday, to get the name of a lawyer to be appointed by the court.

WHAT TO SAY WHEN YOU CALL:

"I need a lawyer to be appointed in an adult guardianship."

BE PREPARED TO PROVIDE THE FOLLOWING INFORMATION:

- The **probate case number** (begins with "PB").
- The **name** of the person who needs the guardian.
- The **address** and **telephone** number where that person is currently living.
- The **date** and **time** of the scheduled court hearing and the name of the Judicial Officer (Judge or Commissioner) who will be hearing the matter.

7. COMPLETE THE "ORDER APPOINTING ATTORNEY, HEALTH PROFESSIONAL*, AND COURT INVESTIGATOR" (PBGC14F).

A. List the name of the attorney obtained in Step 6 above.

***B. (Optional) List the name of a "Health Professional",** a physician or other medical professional authorized by A.R.S. 14-5303(C) to evaluate and report on the proposed protected person's physical and/or mental health and need for a guardian.

The Court may choose to appoint an evaluator, *or you may request one be appointed* so that you may include the report as part of your case to show that the person to be protected IS in fact disabled enough to need a guardian. **To do this, simply write in the name and other information concerning your proposed evaluator** (physician, registered nurse, or psychologist) **in the space provided on the Petition, and on the "Order Appointing"** document covered in **Step 8** below.

Note that the *Petitioner* is responsible for any fees charged by the physician or other evaluator for the examination and for preparing the report to the Court.

NOTICE: Note that court authorization for inpatient mental or behavioral health treatment requires recommendation by a licensed psychologist or psychiatrist.

A.R.S. § 14-5312.01(B)

8. **GIVE THE “ORDER APPOINTING” (PBGC14F) TO THE PROBATE REGISTRAR:** Mail or hand-deliver the **original and 1 copy** of the “ORDER” with the names of the attorney and (optionally) the name of a physician or other evaluator to the Probate Registrar *at any of the Clerk of the Court locations listed in “2” above*. **The Registrar will sign and return the copy to you.** If mailing, include a **SASE** (self-addressed, stamped envelope) for the Order to be mailed back to you. No SASE = no mail.

9. **SERVE NOTICE:** Fill out the **Notice of Hearing** form (PBGC18f) with the information about time and place of the hearing that you obtained in Step 5 above, and **SERVE NOTICE** to **everyone** who is legally entitled to know about the court case and what you have asked the Court to order concerning the person to be protected. To “**Serve**” notice means to deliver notice as required or permitted by law.

Persons entitled to notice may sign a notarized **Waiver of Notice** (PBGC19f), which will allow you to **NOT** serve notice to those persons, unless they later file to reverse that waiver.

Notice can (or must) be given in different ways to different persons. **READ “INFORMATION ON LEGAL NOTICE” (PBGCA20h)** in this packet, and see Self-Service Center packet #2, “**Service and Notice of Court Hearing**” for court forms and more detailed information on serving notice regarding Guardianship of an adult.

10. Provide the physician or other medical professional appointed to evaluate the person said to need a guardian in **Steps 7 and 8** above with the “**GUIDELINES FOR HEALTH PROFESSIONAL’S REPORT**” (PBGCA15f) and the case number.

- **The physician or other evaluator may use the form supplied with the guidelines or provide the information in any other format that appropriately conveys the necessary information.**
- **GET THE REPORT BACK from the evaluator. ***
- Make sure the Report has the case number on it.
- Present **the Report plus two copies** to the filing counter *at least FIVE (5) DAYS before the scheduled date of the hearing*. The Clerk will date-stamp them all, file one as the original, and return the others to you.
- To keep the Report *out of the public record*, see “**Special Handling for Confidential Documents**”, (PB13h) for information on filing as a “Confidential Document”.
- **Get the date-stamped copies back from the Clerk, and**
 1. **Keep one to bring to court with you** and keep for your records, and
 2. **Deliver one to the attorney** appointed in **Step 8** above.

*** Due to concerns about federal patient privacy regulations** some medical professionals may not be willing to turn the report over to you since your appointment as guardian is not yet final. **If this is the case, the physician or other evaluator may file the report at or MAIL it to the Clerk at any of the locations listed in Step 2 above** (even though the instructions on the Guidelines say “Please do not file your report with the Clerk of Court”).

If filing *in person*, do so at least five (5) days before the date of the scheduled hearing. If mailing, it is recommended that the papers be posted at least **10** days before the hearing.

READ THIS:

AFTER GIVING NOTICE TO ALL INTERESTED PERSONS:

- Complete the **Declaration of Notice** stating how and when you gave notice.
- Make two (2) copies of the:
 - NOTICE OF HEARING**
 - WAIVER OF NOTICE** (if any)
 - DECLARATION OF NOTICE PROVIDED**
 - ORDER APPOINTING ATTORNEY, HEALTH PROFESSIONAL, COURT INVESTIGATOR**
- **If filing *in-person*, do so at least 5 days before the hearing.**
- **If you file** the documents before the hearing, the Clerk will stamp and keep one set, and **return the copies** for you to bring with you to the hearing.
- **If you are MAILING these documents to the Court:**
 - **Make a copy before mailing to keep and bring to the hearing;**
 - It is recommended that you post them **10** full days before the hearing.
 - The Probate Clerk will file the originals for you and deliver the copies to the Judicial Officer assigned to the hearing.
 - **Remember to bring your copies of the documents to the hearing.**

IMPORTANT: Guardians must complete court-approved training before permanent appointment is effective! See “**Notice Regarding Training Requirements**”.

SPECIAL HANDLING for

CONFIDENTIAL DOCUMENTS*

DOCUMENTS DEFINED OR DESIGNATED AS “CONFIDENTIAL DOCUMENTS” SHALL BE SUBMITTED TO THE CLERK IN SEPARATE, UN-SEALED (9”x12”) ENVELOPES.*

The following documents are defined as “Confidential”:

- Medical Reports and Records
- Inventories and Appraisements
- Accountings
- Credit Reports
- Any other document ordered by the court to be “confidential”.

A separate envelope is required for *each* confidential document and
THE FOLLOWING INFORMATION MUST APPEAR ON THE OUTSIDE OF EACH ENVELOPE:

1. **Case Name and Number** (“In the Matter of xxxxx” and “PB 2009xxxxxx”),
2. **Name of the document** (“Annual Accounting”, “Annual Report”, “Medical Records”. etc.)
3. **Name of the party filing the document**, and
4. the words “**Confidential Document**”

“CONFIDENTIAL INFORMATION” in Non-CONFIDENTIAL DOCUMENTS*

DOCUMENTS NOT LABELED AND SUBMITTED AS “CONFIDENTIAL” SHOULD NOT CONTAIN CONFIDENTIAL INFORMATION,* *such as*:

- the **Social Security Number** of a living person, and/or
- any **financial account numbers**, including those for credit card, bank and **brokerage accounts, insurance policy and annuity contract numbers**, etc. as well, *unless only the last 4 digits are displayed.*

The Court may order (or you may *request* that the Court order) that:

1. a document containing confidential information be filed as “a confidential document”,
or
2. confidential information contained in a non-confidential document be *redacted* (covered up or hidden).

*Rule 7, Arizona Rules of Probate Procedure

HELPFUL INFORMATION ON LEGAL NOTICE FOR GUARDIANSHIPS AND CONSERVATORSHIPS

1. WHAT IS “LEGAL NOTICE TO ALL INTERESTED PERSONS”?

After you have filled out and filed the guardianship and/or conservatorship petition and other documents with the Court, you must inform all “interested persons” of what you have filed and what you have asked the court to do. **Interested persons** are people (or agencies) who have a legal right to be notified of court actions that may affect the person said to need the guardian or conservator.

A. WHAT COURT DOCUMENTS AM I REQUIRED TO GIVE NOTICE OF? Copies of which documents have to be delivered according to law?

1. The “**Petition**” explains what you want the court to do and why.
2. The “**Affidavit of Person to be Appointed**” contains information about the person who is to serve as guardian or conservator.
3. The “**Notice of Hearing**” lists the time, date, and location of the court hearing and the name of the Judicial Officer assigned to hear the case.

After notice has been served to all those entitled to receive it and in a manner required or permitted by law, you must then fill out and file a **DECLARATION OF NOTICE PROVIDED** (see section C, below) to tell the Court **who** you gave notice to, **how** notice was given, **what** documents were provided, and when.

B. HOW AM I ALLOWED OR REQUIRED TO GIVE LEGAL NOTICE?

1. **Personal Service** (delivery by sheriff, private process server, or recipient signs an “ACCEPTANCE OF SERVICE”)
2. **Mail or Hand-Delivery** (not always permitted)
3. **Publication** (run a legal notice advertisement. This MAY be permitted if after all reasonable efforts you still cannot find the person or his or her address)

Personal Service requires that a registered process server or the sheriff serves the documents on the interested persons **or** that those persons voluntarily sign an **ACCEPTANCE OF SERVICE** form in the presence of a Notary Public or Deputy Clerk of Court. Personal service is NOT required in all cases. When personal service is required, it means the law is written to make sure that a person who needs notice of a case **gets** the notice. For more detailed information on *personal service*, refer to #4 below.

Mail and Hand-Delivery are less formal methods of giving notice, but are not permitted in all cases. When you are permitted to give notice by mail, 1st class postage-prepaid mail is usually acceptable to the court. Certified mail with return- receipt is an optional extra step you can take to prove delivery. Make sure you are allowed to use mail or hand-delivery in the type of case you are involved in, and for any particular persons you want to give notice to by these methods. See **3C** below for more information.

Publication of Notice is used when you do not know the address of the person to whom you need to give notice, and **after** you have done everything you could to try to find the person you are still unable to come up with an address. Notice is then published **at least 3 times** in a newspaper in the county where the court hearing is held.

WARNING! If the Court is not satisfied that you have made every reasonable effort to find an address and have the papers personally delivered, you may be required to take additional steps adding delay and expense to your case, and then have to *publish again*.

For more detailed information on Service by Publication, review the “**Procedures: How to Serve Legal Papers by Publication**”, which is in the #2 “**SERVICE**” packet.

C. HOW DO I SHOW THE COURT THAT I GAVE NOTICE?

- **Fill out and file a DECLARATION OF NOTICE PROVIDED** form with the court to show who you gave notice to, when, and how. Fill out this form **after** the documents have been delivered or you have otherwise served notice on all interested persons.
- **Submit other documents required to support the DECLARATION OF NOTICE PROVIDED. Depending on method(s) of service** (how Notice was given), **this may include one or more of the following:** (an)
 1. **Acceptance of Service** signed by the person receiving notice,
 2. **Affidavit of Publication** supplied by the newspaper if serving by publication,
 3. **Affidavit of Service** signed by the process server or sheriff.

D. WHEN CAN I SKIP GIVING LEGAL NOTICE?

1. **When a person entitled or required to receive notice signs a WAIVER** giving up the right to receive notice of court filings and proceedings in this matter. Please note: If an incapacitated *adult* for whom the guardian or conservator is to be appointed signs a Waiver, he or she must attend the hearing for service to be valid.
2. **When the person to receive notice 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. WHEN MUST LEGAL NOTICE BE GIVEN? WHAT TIME FRAMES?

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 date of the first publication* must be **at least 14 days before the hearing**.

Note: The newspaper will provide an **AFFIDAVIT OF PUBLICATION** **after** all 3 notices have been published to show proof that the ad has run.

3. WHO ARE “INTERESTED PERSONS”?

According to Arizona law (A.R.S. § 14-5309 AND 14-5405) notice must be given to:

- A. **THE PERSON TO BE PROTECTED** (incapacitated adult or a minor): **Personally serve the adult** (or a minor aged 14 or over) **said to need the guardian/conservator.**

Neither **ACCEPTANCE OF SERVICE** nor **WAIVER OF NOTICE** by the person said to need a guardian or conservator is legal **unless** he or she **also attends the court hearing.**

- B. **THE PARENTS AND SPOUSE** (if applicable) **of the person to be protected:**
1. **Personally serve the spouse and parents if they are in Arizona;**
 2. **Serve by mail or hand-delivery if not in Arizona; or**
 3. **Serve by publication if you do not know and cannot find the address *after all reasonable efforts.* You will have to describe those efforts to the court.**

- C. **OTHERS:** You may give notice by mail, hand-delivery or publication to:

1. **Any adult children of the person to be protected;**
2. **Any person who is serving as the guardian or conservator or who has the care and custody of the person to be protected;***
3. **If the person to be protected has no parent or spouse or adult children, then to the closest adult relative, *if any can be found,* AND**
4. **Any person who has filed a “DEMAND FOR NOTICE” with the Court.***

* This may also include *agencies* such as Adult Protective Services or the VA.

4. **THE METHODS OF PERSONAL SERVICE:**

PLEASE NOTE: “PERSONAL SERVICE” DOES NOT MEAN THAT YOU PERSONALLY HAND-DELIVER THE PAPERS*

*though you **MAY** be able to do that **if** the person receiving them is willing to voluntarily sign an **ACCEPTANCE OF SERVICE** as described below.

- A. **ACCEPTANCE OF SERVICE:** This method requires that you give or mail copies of the court papers and include an “**Acceptance of Service**” form. The other party must sign the “**Acceptance**” in front of a Notary and return it to you, or file it with the court himself (herself), but it can’t be signed in advance of the date you filed the petition with the court.

Signing this form does **not** mean the person agrees; only that he or she admits receiving the papers without being served in person by a Sheriff or Process Server.

- B. **PROCESS SERVER:** You must hire and pay a Registered Process Server yourself. You may locate process servers in the commercial section of the phone book under "PROCESS SERVER", or online by using the search term “Arizona process servers” or similar, or at the web site of the Arizona Process Servers Association at:

<http://arizonaprocessservers.org/>

- **May offer greater flexibility in serving papers “after-hours” or on short notice.**
- **Are paid directly by you, not through the court.**
- **Fees may not be deferred or waived by the court.**
- **Fees vary. Compare.**

- C. **SHERIFF:** This method requires you to contact the Sheriff's Office in the county where the person to receive notice 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 apply for and receive a fee deferral or waiver. A deferral or waiver application is available through the Court in the county service where notice is to be delivered for persons who cannot afford the cost. The Application will require you to explain **why** your circumstances call for service by sheriff.

5. HOW DO I LET THE COURT KNOW NOTICE HAS BEEN GIVEN?

You will be filing the "**Declaration of Notice Provided**" form and supporting documents referred to immediately above and in section "1.C." on page 2 of this document to inform the court of who you gave notice to, when, and how.

6. WHAT ELSE TO KNOW ABOUT LEGAL NOTICE:

A. AFTER "INTERESTED PERSONS" RECEIVE NOTICE, THEY MAY:

1. **Do nothing**, if they agree with, or at least do not want to file papers or show up in court to disagree with your request, **OR**
2. **File a Response**, *if* they want to:
 - **Object to what the Court has been asked to order**,
 - **Disagree with something stated in the Petition or other court papers**, or
 - **Tell the Judge/Commissioner something besides what is in the Petition.**

Filing a Response requires payment of a filing fee, unless *deferred* (granted a payment plan). If the Response is written, copies must be delivered to all the interested parties. The Self-Service Center has a packet titled "**Guardianship and/or Conservatorship: To Object to a Court Proceeding**" with court forms and instructions to file a response.

- B. **AFTER "NOTICE" COMES THE HEARING.*** Carefully read and follow the directions on the applicable instruction and procedure documents in the #2 **SERVICE** packet to properly serve notice and to then file your proof of service with the Court. See Self-Service Center packet #3, "**Preparing for and Attending the Court Hearing**" for court forms and instructions on how to complete the forms you will need to bring with you to the hearing and helpful information on how to otherwise prepare.

***IMPORTANT: BEFORE THE HEARING the proposed guardian or conservator, if not a state-licensed fiduciary, must complete court-approved training. See "Important Notice Regarding Training Requirements" in this packet.**

- C. **OTHER HELP:** Court employees can answer questions about court procedures but only an attorney can give legal advice. The Self-Service Center has a list of lawyers whom you can hire to advise you on how to handle your case yourself, or to help you on a task-by-task basis for a fee, and a list of mediators who may be able to help resolve disputes as well. You will find both lists online.

The **Probate Lawyers Assistance Project (PLAP)** offers a 30-minute consultation for a low flat fee or free, depending on financial situation. Consultations are by appointment only, on Wednesdays, at the offices of the Maricopa County Bar Association at 303 East Palm Lane in Phoenix. Call **602-732-2834** to schedule an appointment.