

Conservatorships Explained

When you are responsible for a loved one with a disability, a plan is needed in order for the financial security and services that the disabled individual requires in order to live a fulfilling life, as independently as possible. It's necessary to assess the costs for the essential support, identify the government benefits for which the person is eligible and may be receiving, and plan for the future when your child is an adult, including filing for conservatorships if the individual will be unable to make important decisions independently, and a special needs trust when caregivers have passed away.

What are Conservatorships?

If your child is not completely independent, filing for conservatorships is an important step to take. Under state and federal law, once a child reaches the age of 18, he or she is considered a legal adult and you will no longer be able to make decisions regarding finances, health care, or education on his or her behalf. If granted, a conservatorship would allow you to continue making these decisions.

A conservatorship is established in court when a judge appoints a responsible person (a conservator) to care for another adult (a conservatee). This process necessitates the completion of court-ordered paperwork, local center intervention, a court-ordered investigator, as well as a court hearing.

The court will outline the powers and duties given to the conservator and those powers and duties will be only those necessary to provide for the demonstrated need of the person with a disability.

- The responsibilities of a conservator may include:
- Deciding where the disabled person will live
- Managing the individual's finances
- Making decisions regarding medical treatment
- Determining education and occupational training

- Signing contracts on behalf of the disabled person
- Maintaining confidential records and papers

What are Special Needs Trusts?

After the death of a parent or guardian of a person with special needs, extreme care should be given to be sure that any inheritance received on behalf of the person does not strip them of any benefits or government assistance that they are currently receiving. In these situations, it is best if the benefactor or caregiver of the person establishes a special needs trust to take effect after they have passed.

This is important due to the fact that according to state and federal law, a person with a disability who has a trust in his or her name cannot also receive government assistance. Conversely, the special needs trust does not belong to the individual with a disability. The trust is formed and managed by a separate entity: the trustee. The trustee is designated as a beneficiary of the trust and is usually the only one who receives the benefits.

There are three different kinds of special needs trusts: family trusts, pooled trusts and court-ordered trusts. There may be tax implications associated with creating each kind of trust, as well as stipulations regarding who can set up a special needs trust for a disabled individual.

American Disability Association is dedicated to the wellbeing and protection of children with disabilities and actively provides support to enhance their quality of life. Whether you are dealing with [IHSS benefits](#) or struggling with a school district to get proper education for your child, we have the resources to help you. Many individuals and families managing a disability are not aware of the wide array of services available to them, or they do not know how to apply for these benefits in a way that is likely to succeed.

Contact us for help. Dial (888) 323-2133 or email us at info@americandisabilityassociation.org.

[Conservatorship For Developmentally Disabled - What is It?](#)
([apeopleschoice.com](#))

Read: [INTRODUCTION \(michiganlawcenter.com\)](#)

A limited conservatorship for developmentally disabled individuals is when a judge appoints another person (conservator) to help a developmentally disabled adult (conservatee). The conservatee is a person who suffers from a developmental disability which, as a result, makes them unable to provide for some of their personal and/or financial needs. A person is deemed developmentally disabled if he/she has an IQ lower than 70 or diagnosed with autism. As part of this process, the court will order the conservatee tested prior to approving a limited conservatorship. Conservators are usually parents, siblings, or an immediate family member of the conservatee.

Powers of Conservator in Limited Conservatorship

The powers granted in a conservatorship for developmentally disabled are completely different than in a regular conservatorship. For example, during the [limited conservatorship hearing](#), the judge will state exactly what the conservator can and cannot do on behalf of the conservatee. These limited powers are further discussed in [another article](#). As an illustration, the judge may allow the conservator to be able to act and make decisions regarding some or all of the following activities:

1. Decide where the conservatee will live
2. Sign legal documents on behalf of the conservatee
3. Provide consent for the conservatee to receive medical treatment
4. Provide consent for the conservatee to wed
5. Manage the conservatee's finances

Keep in mind, the court will continue to supervise the limited conservatorship for developmentally disabled individuals once it has been granted. In particular, the investigator has authority to periodically interview the conservatee to make sure he/she is being properly cared after. Furthermore, after the court has

approved the limited conservatorship, the court-appointed investigator will continue to review the case on a periodic basis.

How to Obtain a Limited Conservatorship for Developmentally Disabled

The legal paperwork required to request a limited conservatorship of developmentally disabled is very detailed and can be overwhelming. Indeed, although you don't need to hire an expensive attorney, it is strongly recommended that some professional help is obtained. For the most part, the forms and process are quite complex for the average person. A People's Choice has extensive experience in the legal field preparing conservatorship documentation for people who want to represent themselves in this complex, but routine legal process.

First, you must complete the following forms to establish a limited conservatorship for developmentally disabled individuals:

1. [GC-310](#) Petition for Appointment of Probate Conservator
2. [GC-020](#) Notice of Hearing
3. [GC-312](#) Confidential Supplemental Information
4. [GC-320](#) Citation for Conservatorship
5. [GC-348](#) Duties of Conservator
6. [GC-314](#) Confidential Conservator Screening
7. [GC-340](#) Order Appointing Conservator
8. [GC-350](#) Letters of Conservatorship

In addition to these standard forms, many courts also require other local forms based on their court's Local Rules.

Secondly, if the proposed conservatee cannot afford to pay court fees, the following additional forms will be required:

1. [FW-001](#) Request to Waive Court Fees
2. [FW-003](#) Order on Court Fee Waiver (Superior Court)

Lastly, if you need an emergency hearing to establish a limited conservatorship, you will also need to complete the additional temporary conservatorship request forms:

1. [GC-110](#) Petition for Appointment of Temporary Conservator
2. [GC-140](#) Order Appointing Temporary Conservator
3. [GC-150](#) Letters of Temporary Conservatorship

Serving the Conservatee and Interested Parties

Filing the initiating conservatorship forms is just a starting point in the conservatorship process. Aside from filing the Petition, there is much more that is required in order for the court to grant an Order on Limited Conservatorship for developmentally disabled individuals. First, once the forms have been filed, the clerk will provide the proposed conservator with a hearing date. Next, all forms filed with the court will then need to be copied and served on the court investigation unit and immediate family members of the proposed conservatee, including their spouse. The conservatee will also need to be properly served. Lastly, Letters of Capacity may be required by a physician.

As a rule, the proposed conservator will have to attend a class and provide proof of attendance to the court prior to the scheduled hearing. In the meantime, the court will also appoint an attorney for the proposed conservatee. The investigator's role is to find out if a conservatorship is appropriate and file a report accordingly.

The Hearing on Limited Conservatorship

At the hearing, the proposed conservatee must be present unless his/her doctor provides a written declaration that the conservatee is not able to attend. Of course, if everything is in order the judge will grant the petition for conservatorship for the developmentally disabled conservatee. Keep in mind, however, if something is missing in the petition, the petition may be denied or the hearing continued. Lastly, if the proposed conservatee or any interested parties object to the petition, the judge will order a trial be held.

After the hearing, the *Order Appointing Conservator* and *Letters of Conservatorship* must be completed and stamped by the clerk. The clerk will keep one set and return one to the Petitioner. Essentially, the limited conservatorship for developmentally disabled individuals will last for the lifetime of the conservatee or conservator or until the conservatorship has been terminated by the court.