

OPENING MINOR CONSERVATORSHIPS

*Unless otherwise noted, all forms may be obtained at www.sccourts.org/forms

1. OVERVIEW OF MINOR CONSERVATORSHIP

A Conservator is a person appointed for a minor to conduct the minor's business and financial affairs. In order to have a Conservator appointed by this court, the minor must be under the age of 18, be a resident of Colleton County, and be in a position to receive money or assets over the amount of \$10,000. The Probate Court follows S.C. Code Ann §62-5-410 to determine who has the authority to serve as the Conservator.

2. PETITION (FORM 540GC)

A summons and a petition (540GC) must be completed and filed with the court to begin the process of appointing a Conservator. An initial filing fee of \$150.00 must also be paid. Additional fees may be assessed after the filing of the Inventory and Appraisal. In some cases, a Guardian *ad Litem* is appointed by the court to represent the interests of the minor.

3. CRIMINAL BACKGROUND CHECK & CREDIT REPORTS

The proposed Conservator must file both a credit report and a criminal background check from the state where they are a resident. The petitioner or petitioner's attorney is responsible for ensuring that both of these items are requested and delivered to the court. Once received, the court will review these documents and note any questionable items, such as unpaid bills or arrests. Information about obtaining the reports is attached.

4. BIRTH CERTIFICATE

The Court must be provided with a certified copy of the minor's long form birth certificate. To obtain a South Carolina birth certificate, contact the South Carolina Department of Health and Environmental Control, Vital Statistics Division (DHEC). There is a \$12.00 application fee, and proper identification must be presented. For further information, you may call (803)898-3630. If the minor was not born in South Carolina, you will need to contact that state's records division to receive information on applying for a birth certificate. The petitioner or petitioner's attorney is responsible for ensuring that the court has received the birth certificate.

5. NOTICE TO INTERESTED PARTIES

The summons and petition must be served on all interested parties including the Guardian *ad Litem* for the minor, if one has been appointed for the minor. Service is to be made in accordance with Rule 4 of the South Carolina Rules of Civil Procedure. Other interested parties may include the parents of the minor or other relatives of the minor. Service is not required upon the petitioner. Proof of service must be filed with the court. The service can be in the form of personal delivery, certified green cards (from certified mail), or signed acceptance of service. Ordinary first class mail is not sufficient for service. Notice of the proceeding must be served on the minor if he or she is age fourteen or older. **The petitioner or petitioner's attorney is responsible for ensuring**

that all proper parties have been served with the summons and petition and proper proof of service has been filed with the court.

6. RENUNCIATION/NOMINATION

Often more than one family member has legal priority to serve as the Conservator of a minor. In these instances, family members may renounce their right to serve and nominate the person they believe to be the best candidate for Conservator. These individuals must execute a Renunciation/Nomination form (302PC). If family members do not wish to renounce their right to serve and object to the appointment of the petitioner as Conservator, they must appear at the hearing and are advised to obtain legal counsel for representation at the hearing.

7. WAIVERS (111PC)

After service of the summons and petition upon all interested parties, each individual is allotted thirty (30) days to file an Answer. If that individual has no objections to the summons or petition, he/she can execute a waiver (111PC). This form is used to waive any rights to the Conservatorship proceedings that each individual wishes to relinquish.

8. NOTICE OF HEARING & HEARING

Once all of the above documents are received, a hearing will be scheduled in the matter. Unless waived, a twenty (20) day notice of the hearing must be served upon all interested parties. The hearing notice will indicate the date, time, and location of the hearing. The court sends the notice of hearing to the parties. The right to receive notice twenty (20) days prior to the hearing can also be waived by completing Form 111PC. The hearing will provide the petitioner with the opportunity to present evidence on why a conservator is necessary, and who is the best individual to serve in that capacity. This is also an opportunity for opposing evidence to be presented. After all evidence has been heard, the judge will rule on the matter.

9. BOND/RESTRICTED ACCOUNT

Before the appointment of a Conservator can be completed, a surety bond must be filed. If the proposed conservator is not bondable, that person may not be appointed by the Court. The bond must be in the amount of the total value of the minor's personal assets (not real property) plus one year's estimated income. In addition, the Court requires a restricted account agreement. A Restricted Account Agreement is an agreement whereby a federally insured financial institution certifies that no assets may be withdrawn without an order from this court. The court will provide this form.

OVERVIEW OF DUTIES OF A CONSERVATOR

1. INVENTORY AND APPRAISEMENT

Within thirty (30) days of the official court appointment of the Conservator, the Conservator must file an Inventory and Appraisal (550PC). Documentation showing that a Conservatorship account has been established must be filed with the Inventory and Appraisal (550PC).

2. REQUEST FOR EXPENDITURE (552PC)

The Request for Expenditure is necessary when the Conservator wishes to withdraw money from the minor's account(s). The request must be filed with the Court, listing the specific items requested for the minor, the amount of the purchase, and the reason for the purchase. The court also requires that proper documentation for purchases be provided with the expenditure. For example, if the minor needs a new computer, then the Conservator must complete the Request for Expenditure, and provide documentation showing the cost involved. This documentation should be a quote directly from the place of purchase. The Court may hold a hearing on any request.

3. ANNUAL ACCOUNTING (562PC)

One year after appointment, an interim accounting (562PC) is required showing all receipts and disbursements during that period of time. Thereafter accountings will be required on a yearly basis. All cancelled checks and bank statements must accompany the accounting when filed. There is a \$10.00 filing fee for all accountings. It is the duty of the Conservator to complete the accounting and pay the filing fee. If assistance is needed, the court staff is available for questions.

4. CLOSING

When the minor reaches the age of 18 or if the minor dies prior to age 18, the Conservator must file a Petition for Discharge (571PC) and a final accounting (562PC) listing all remaining assets. When the minor reaches age 18, the Court will hold a brief meeting with the Conservator and minor and will send the Conservator and minor to the financial institution(s) with which funds are deposited. The Conservator will turn assets over to the minor and the minor will provide a signed Receipt and Release, indicating that he or she has received all conservatorship assets. The court will review these documents and then proceed in closing the file. At that time, a Termination of Appointment will be issued relieving the Conservator of his or her duties.

STATE OF SOUTH CAROLINA
COUNTY OF COLLETON

PROBATE COURT

IN THE MATTER OF _____

CASE NUMBER _____

RENUNCIATION OF RIGHT TO SERVE AS Conservator

The undersigned hereby renounces his/her right to serve as Conservator of the above person, who is a minor, and relinquishes any statutory right except as indicated below (you must check and fill out #1 **or** check #2; #3 is to indicate that you received the Summons & Petition) :

___1. I hereby exercise my right to nominate a Conservator for the above-named person.
The name and address of the proposed nominated Conservator is:

___2. I hereby waive my right to nominate anyone as Conservator.

___3. I will accept service of a copy of the Summons and Petition for appointment of a Conservator in this matter when they are served on me.

Executed this ____ day of _____, ____.

Signature: _____

Name (Print): _____

Address: _____

Telephone (Work): _____

(Home): _____

(Cell): _____

Witnessed by:

(Must be someone who is not a party to the action)

HOW TO OBTAIN A CREDIT REPORT

REQUEST METHODS

To receive your credit report, you may submit requests to the following agencies by the using one of the following methods:

EXPERIAN (formerly TRW)

Telephone: 1-888-Experian (1-888-397-3742)

Mail: Experian
P.O. Box 949
Allen, TX 75013-0949

Web: www.experian.com

EQUIFAX

Telephone: 1-800-997-2493

Mail: Equifax
P.O. Box 105851
Atlanta, GA 30348

Web: www.equifax.com

TRANS UNION CORP.

Telephone: 1-800-888-4213

Mail: Trans Union Corp.
P.O. Box 1000
Chester, PA 19022

Web: www.tuc.com

INFORMATION NEEDED

1. FULL name (including middle initial and suffixes)
2. Spouse's FULL name (if applicable)
3. Address for the last five years, including current address and phone number
4. Social Security number
5. Date of Birth
6. Name and address of your current employer

If you are making the request by mail, you must sign the request and provide a copy of a utility bill in your name and your driver's license to allow verification of your current address.

COST

The charge will be **\$8.00** for Experian and **\$10.00** for Equifax and Trans Union Corp.

A credit report will be provided for free if you have been denied credit, insurance or employment based on your credit report, within the last sixty (60) days.

OBTAINING S. C. LAW ENFORCEMENT DIVISION (SLED) CRIMINAL RECORDS CHECK

REQUEST METHOD

To obtain a SLED Report, you must submit a request to the South Carolina Law Enforcement Division by using one of the following methods:

Web (preferred):	www.sled.us.gov
Mail (limited service):	South Carolina Law Enforcement Division P.O. Box 21398 Columbia, SC 29221-1398

INFORMATION NEEDED

According to South Carolina State Law, the following information is necessary to process a criminal history search for the Colleton County Probate Court:

1. FULL name (including middle initial and suffixes as well as maiden and other names used)
2. Social Security Number (individual must agree to the use of their social security number for name search)
3. Date of Birth

COST

There is a **\$25.00** fee per name, excluding maiden and alias names. If you obtain the criminal records check on-line, you pay by credit card. By mail, the payment must be in the form of a money order, cashier's check or certified check; **personal checks are not accepted.**

GUIDE FOR COMPLETING FORM 540GC (available
at www.sccourts.org/forms)
(Petition for Appointment of Conservator)

Complete Caption on each form. A separate Petition must be completed for each individual in need of Conservatorship. The Case Number will be assigned by Probate Court.

The PETITIONER is the person petitioning for the appointment.

1. CAPTION: The Petitioner is the person seeking to have a Conservator appointed. The Respondents are the alleged incapacitated person (AIP) or Minor and the other family members of the AIP or minor.
 2. NATURE OF INTEREST OF UNDERSIGNED: Relationship of the Petitioner to the Minor or Alleged Incapacitated Person.
 3. INFORMATION - MINOR/INCAPACITATED PERSON: Complete all appropriate information.
 4. JURISDICTION AND VENUE: Check appropriate boxes.
 5. NAME & ADDRESS OF GUARDIAN: This relates to a Court-Appointed Guardian- - not a guardian *ad litem* or a natural parent.
 6. INFORMATION OF FAMILY: For "Minor": Complete information for Minor's parents, or if none, the nearest relatives. If either or both parents are deceased -- so indicate. If parents are separated or divorced or separated by Court Order -- a copy of the Custody Decree must accompany the Petition. For "Alleged Incapacitated Persons". Complete information of the spouse and any adult children, or if none, the nearest relative.
 7. GENERAL STATEMENT OF PROPERTY, ASSETS & INCOME: For "Minor". List all known assets coming into the hands of the Conservatorship -- insurance settlement proceeds, inheritance, etc. For, "Alleged Incapacitated Person": List all known assets of with estimated values - real estate, bank accounts, vehicles, monthly income, etc. (if monthly Social Security checks are payable to a Representative Payee for the Alleged Incapacitated Person, do not include the monthly checks.)
 8. REASON FOR APPOINTMENT OF CONSERVATOR: Complete information stating specific reasons justifying the appointment of a conservator.
 9. INFORMATION PROPOSED CONSERVATOR: Complete information and check appropriate square for petitioner's priority for appointment.
10. PERSONS REQUIRED BY STATUTE TO BE SERVED WITH SUMMONS & PETITION AND GIVEN NOTICE OF HEARING: Complete information. For "Minor": Parent not petitioning to be appointed Conservator; or if parents are deceased, the nearest relatives listed in Question #5, plus the minor. For AIP: spouse and adult children (or, if none, then nearest adult relatives), alleged incapacitated person and the Counsel/GAL. The Court may also require service on other persons.
11. VERIFICATION: Complete information, including the Petitioner's notarized signature.
12. QUALIFICATION & STATEMENT OF ACCEPTANCE: If the appointment is uncontested, this Section may be completed prior to filing the Petition.

STATE OF SOUTH CAROLINA,)
)
COUNTY OF COLLETON)
)
IN THE MATTER OF THE)
CONSERVATORSHIP FOR)
(MINOR'S NAME))
)
(Petitioner's Name))
)
Petitioner(s),)
)
vs.)
)
(Minor and other interested parties' names))
)
Respondent(s).)
_____)

IN THE PROBATE COURT

SUMMONS

CASE NO. 20__-GC-15-00__

TO THE RESPONDENT(S) ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Petition herein, a copy of which is herewith served upon you, and to serve a copy of your Answer to this Petition upon the Petitioner listed above at the following address:

(Petitioner's information here)

(Name, PRINT)

(Street or Mailing address, PRINT)

(City, State, and Zip Code, PRINT)

Your Answer must be served on the Petitioner at the above address **within thirty (30) days** after service of the Summons and Petition on you, exclusive of the day of such service, and if you fail to answer the Petition, the Petitioner will ask the Court for a judgment by default for the relief demanded in the Petition.

_____, South Carolina

Signature of Petitioner/Attorney for Petitioner

Dated:

STATE OF SOUTH CAROLINA,)
)
COUNTY OF COLLETON)
)
IN THE MATTER OF THE)
CONSERVATORSHIP FOR)
_____)
_____)
)
Petitioner(s),)
)
vs.)
_____)
_____)
Respondent(s).)
_____)

IN THE PROBATE COURT

SUMMONS

CASE NO. 20__-GC-15-00__

TO THE RESPONDENT(S) ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Petition herein, a copy of which is herewith served upon you, and to serve a copy of your Answer to this Petition upon the Petitioner listed above at the following address:

(Name, PRINT)

(Street or Mailing address, PRINT)

(City, State, and Zip Code, PRINT)

Your Answer must be served on the Petitioner at the above address **within thirty (30) days** after service of the Summons and Petition on you, exclusive of the day of such service, and if you fail to answer the Petition, the Petitioner will ask the Court for a judgment by default for the relief demanded in the Petition.

_____, South Carolina

Signature of Petitioner/Attorney for Petitioner

Dated:

STATE OF SOUTH CAROLINA)
)
COUNTY OF: COLLETON)
)
IN THE MATTER OF: _____

IN THE PROBATE COURT

CASE NUMBER: 20__-GC-15-00____

Petitioner

PETITION FOR:

- MINOR
- MINOR

vs.

Respondent(s)

- PROTECTIVE ORDER
- APPOINTMENT OF CONSERVATOR

Respondent(s)

Petitioner: _____

1. Give your relationship to the alleged incapacitated person, if any, and your interest in this proceeding.

2. Information – Minor/Allegedly Incapacitated Person

Name: _____ Age: _____
Date of Birth: _____
Last Four Digits of
Social Security Number: XXX-XX-_____
Address: _____
City/State/Zip: _____
Telephone (Home): _____ (Office/other): _____

To my knowledge, the above-named DOES DOES NOT have a Will
To my knowledge, the above-named DOES DOES NOT have a Power of Attorney

3. Jurisdiction and Venue

- South Carolina has jurisdiction over the allegedly minor because:
- A. South Carolina is the "Home State" because the allegedly incapacitated person has been physically present in South Carolina for the six month period immediately preceding the filing

of this petition or for at least six consecutive months ending within the six month period immediately preceding the filing of this petition; or

If the allegedly incapacitated person has not been physically present in South Carolina for that period, set forth on an additional sheet sufficient information on which the court may make a determination that it has initial jurisdiction pursuant to Section 62-5-707.

Special jurisdiction is appropriate, if South Carolina does not have jurisdiction pursuant to Sections 62-5-707(1) through (3), to:

(1) appoint a guardian in an emergency pursuant to this article for a term not exceeding ninety days for a respondent who is physically present in this State;

(2) issue a protective order with respect to real or tangible personal property located in this State; or

(3) appoint a guardian or conservator for an incapacitated or protected person for whom a provisional order to transfer the proceeding from another state has been issued pursuant to procedures similar to Section 62-5-714.

B. Venue for this proceeding is proper in this county because the above minor/alleged incapacitated person:

resides in this county

does not reside in this county but has property in this county

4. The name and address of the above person's guardian, if any, is:

5. Information -- Family (list nearest relative first) of minor/alleged incapacitated person, including dates of birth of minors:

Name	Date of Birth	Address	Relationship
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(use additional sheet if necessary)

6. The following is a general statement of the property, assets, and income of the above person, together with an estimate of the value thereof: (A full inventory, Form #550PC, shall be completed and filed with the Court within thirty days of appointment.)

Description	Value
_____	_____
_____	_____
_____	_____
_____	_____

7. The appointment of a conservator for the above person is necessary because (state reasons justifying appointment):

8. I request the appointment of:

Name: _____
Address: _____
Telephone (O): _____
Telephone (H): _____
Email: _____

whose priority for appointment as conservator for the above person is as follows:

- fiduciary appointed or recognized by the appropriate court of any other jurisdiction in which the minor/alleged incapacitated person resides
- individual or corporation nominated by the minor/alleged incapacitated person (if fourteen or more years of age and deemed mentally capable of making such a choice)
- attorney-in-fact appointed by protected person (Pursuant to S.C. Code Ann. Section 62-5-501)
- spouse of protected person
- adult child of protected person
- parent of protected person or person nominated by will of deceased parent
- other relative of protected person (specify): _____
- person nominated by the person who is caring for protected person or paying benefits to him/her
- ~~other (specify) one with priority to serve in his/her stead (specify): _____~~
- other (specify) _____

9. The following persons are required by statute to be given notice of the time and place of hearing on this Petition:

Name	Address	Relationship
_____	_____	_____
_____	_____	_____
_____	_____	_____

10. I request that the Court set a time and place of hearing on this Petition; that the Court determine that the above person is a person for whom appointment of a conservator is proper; that the Court appoint _____ as the conservator for the above minor/incapacitated person; and that Letters of Conservatorship be issued to the conservator.

Executed this _____ day of _____, 20____.

Signature: _____



VERIFICATION

The undersigned, being sworn, states: That the facts set forth in the foregoing statement are true to the best of the undersigned's knowledge, information and belief.

SWORN to before me this _____ day of _____, 20 _____

Notary Public for South Carolina
My Commission Expires: _____

Signature: _____
Name: _____
Address: _____

E-mail: _____
Telephone (O): _____
(H): _____

Signature: _____
Name: _____
Address: _____

E-mail: _____
Telephone (O): _____
(H): _____

QUALIFICATION AND STATEMENT OF ACCEPTANCE

I accept this appointment and agree to perform the duties and discharge the trust of the office of Conservator of the conservatorship of _____.

Executed this _____ day of _____, 20 _____.

SWORN to before me this _____ day of _____, 20 _____

Notary Public for South Carolina
My Commission Expires: _____

Signature: _____
Name: _____
Address: _____

E-mail: _____
Telephone (O): _____
(H): _____

Signature: _____
Name: _____
Address: _____

E-mail: _____
Telephone (O): _____
(H): _____