
Conservatorship in Tennessee

— 2025-26 —

Agenda

- Overview
- FAQ's of Conservatorship
- Process
- Responsibilities
- Modifying/Terminating Conservatorship
- Resources

What is conservatorship?

Tennessee Code Annotated 34-1-101(4)(A): “Conservatorship is a proceeding in which a court removes the decision-making powers and duties, in whole or in part, in a least restrictive manner, from a person with a disability who lacks capacity to make decisions in one or more important areas and places responsibility for one or more of those decisions in a conservator or co-conservators.”

Types

Full Conservatorship: conservator has rights to make ALL life decisions for the individual with a disability including financial decisions, medical decisions, legal/contract decisions, decisions about where to live, what to eat, the right to vote, the right to obtain a driver's license, and decisions related to relationships and marriage.

Limited Conservatorship: conservator has rights to make SOME decisions for the individual with a disability while the individual with a disability maintains rights to make all other decisions for him/herself.

Who's Who in Conservatorship?

Person with a Disability: any person eighteen (18) years of age or older determined by the court to be in need of partial or full supervision, protection, and assistance by reason of mental illness, physical illness or injury, developmental disability, or other mental or physical incapacity.

Respondent: The person with a disability is often referred to as the respondent in conservatorships.

Conservator: a person or entity appointed by the Court to provide partial or full supervision, protection and assistance to a respondent. The person may be appointed as conservator over the respondent to manage medical affairs and activities of daily living; conservator of the property to manage the financial affairs of the respondent; or a conservator over the person and property.

Fiduciary: a person who has been legally granted rights and powers to be exercised for the benefit of another person. For example, a personal representative of an estate is a fiduciary; a conservator of a person with a disability is a fiduciary; a guardian of a minor child is a fiduciary; and a trustee of a trust is a fiduciary.

Who Needs a Conservator?

*** Lack of the functional capacity to make decisions of consequence while understanding the consequences of those decisions ***

- Individuals with disabilities who are 18 years of age or older
- Clear and convincing evidence of the need for assistance, supervision, and protection
- Not based solely on a medical diagnosis

Why Does a Parent Have to Become a Conservator?

- Regardless of disability, medical diagnoses, or capacities, upon an individual's 18th birthday, he/she obtains the legal right and authority to make his/her own decisions.
- It must be determined that the individual does not have the capacities to make his/her own decisions before that right is taken away.

What are the Responsibilities of a Conservator?

- respecting and protecting the person's rights
- exercising care and diligence on the person's behalf
- taking the person's preferences and desires into account
- maximizing opportunities for independence and self-determination
- ensuring that the person lives and receives services in the least restrictive environment possible

WHAT IS THE PROCESS FOR CONSERVATORSHIPS IN TN?

1 WHO MAY FILE?

Any person may file a petition with the court. You must include a sworn statement by a physician/psychologist that the individual is disabled.



3 COURT MAY APPOINT A GUARDIAN AD LITEM

The court may appoint to impartially investigate the facts of the case and make a report and recommendation to the Court.

4 COURT MAY APPOINT AN ATTORNEY AD LITEM

This is an independent attorney the court may appoint to advocate on behalf of the person with the disability to ensure that their rights or interests are protected.

2 WHERE DO I FILE?

A conservatorship must be filed in the county where the individual with a disability resides. In Davidson County you can file a petition in the Probate Court Clerk's Office.



5 THE COURT ORDER

The court will appoint a conservator in an Order that lists specifically what the conservator's duties and responsibilities are. If it is not listed, then the conservator does not have that authority.



6 REPORTS

The conservator must file annual reports on time with the court unless waived by the court: Inventory, Property Management Plan, Status Report, Annual/Final Accountings, tax returns, Corporate Surety Statement, and Social Security Statement of Account



OCM

***THIS IS NOT LEGAL ADVICE, PLEASE CONSULT YOUR ATTORNEY ***

<https://officeofconservatorshipmanagement.nashville.gov/frequently-asked-questions/>

Who can file?

- Anyone with knowledge of circumstances that warrant a conservatorship
- Priority is given to:
 - A person designated in writing by the individual with a disability
 - The spouse of the individual with a disability
 - A child of the individual with a disability
 - **Closest relatives of the individual with a disability**
 - Others

Where do I file?

- Court in the county in which the individual with a disability resides
- **Knox County Chancery Court**

City County Building

Suite 125

400 Main Street

Knoxville, TN 37902

Phone: 865-215-2555

What do I Need?

- Documentation from a medical professional confirming the disability and need for conservatorship
 - Physician or psychologist
 - Testify in court or submit sworn statement
 - Petitioner submit medical records
- Notarized consent to serve form
- Background Check

Ad litem

Guardian ad litem (GAL): a person the court may appoint to impartially investigate the facts of the case and make a report and recommendation to the Court on whether a fiduciary should be appointed and whether the proposed fiduciary is the appropriate person to serve. Unlike the AAL, the GAL does not defend against the requested relief on behalf of the respondent. The guardian ad litem serves as an agent of the court, and is not an advocate for the respondent or any other party.

Attorney ad litem (ALL): an independent attorney the court may appoint to advocate on behalf of the person with the disability. The court shall appoint an attorney ad litem to represent the respondent on the respondent's request, upon the recommendation of the guardian ad litem or if it appears to the court to be necessary to protect the rights or interests of the respondent. The attorney ad litem shall be an advocate for the respondent in resisting the requested relief.

Modification/Termination

Courts may modify or end a conservatorship if they determine:

- conservatorship is no longer necessary
- the individual no longer has a disability
- conservatorship is no longer in the respondent's best interest

Process:

- Respondent or person acting on behalf of the respondent files petition
- Court reviews information and may request additional examination
- Conservatorship may be modified, terminated, or transferred to a new conservator

QUESTIONS

Conservatorship vs. Guardianship

There are some distinct differences between Conservatorship and Guardianship.

CONSERVATORSHIP

✓ Court-appointed individuals who can make decisions on behalf of someone incapacitated

✓ Focus on financial decisions

✓ Refers to an adult over 18 who is elderly, incapacitated, mentally disabled, or unable to make wise financial decisions

GUARDIANSHIP

✓ Court-appointed individuals who can make decisions on behalf of someone incapacitated

✓ Focus on health-related decisions or personal needs

✓ Relates to minors

“Conservatorship School”

<https://officeofconservatorshipmanagement.nashville.gov/ocm-conservatorship-school/>

- Defining your Powers
- Introduction to Duties and Reporting
- Introduction to Property Filings
- How to Set Up a Conservatorship Account
- Understanding Respondent Rights

Resources

- ❖ <https://officeofconservatorshipmanagement.nashville.gov/>
- ❖ <https://catenn.org/>
- ❖ <https://www.knoxcounty.org/chancery/forms.php>
- ❖ <https://www.laet.org/get-help/#family>
- ❖ <https://www.disabilityrightstn.org/resources/conservatorship-guardianship/>

FEEDBACK SURVEY



