

# South Dakota Guardian and Conservator Forms Instructions

These forms are designed to be used by Guardians, Conservators, and Interested Parties **after appointment** of the Guardian or Conservator. The forms can assist the Guardian and Conservator with meeting their statutory and court-ordered reporting obligations, and with meeting any requirements associated with modifying or terminating the guardianship or conservatorship. Other forms permit other Interested Parties to petition the courts to ensure the accountability of Guardians and Conservators, or to modify or terminate the guardianship or conservatorship in the best interests of the Minor or Protected Person.

Please keep in mind that each case is different. You will not use all the forms. These forms are intended to convey general information only and not to provide legal advice or opinions. If you have any questions regarding how to fill out these forms, please contact an attorney or the Legal Form Help Line.

Please consult your order from the Court regarding reporting requirements specific to your case. Each case may have different requirements regarding required information and report frequency. If your order has instructions that are different than this guide, follow the instructions on the order instead. Guardians or Conservators may seek instructions from the Court regarding how to file their reports and accountings. SDCL 29A-5-419.

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## ANNUAL FORMS REQUIRED FOR CONSERVATORS/GUARDIANS

### 1. UJS 140 Conservatorship Initial Inventory

- The initial Inventory includes information about a Minor or Protected Person's personal property. The Conservator must gather information about the value of assets and property held by the Minor or Protected Person and whether there are any encumbrances on that property.
- This inventory is **required** to be filed with the Court within 90 days of appointment. SDCL 29A-5-407. It will also be included in the yearly accountings filed going forward.
- This inventory must be served on all parties entitled to receive notice within 14 day of being filed. Complete the attached Affidavit of Mailing to verify you have served these parties. SDCL 25-6-4(g). The parties are specified in SDCL 29A-5-410.
- Failure to file the inventory or serve necessary parties may result in removal of the Conservator.
- Do not sign the form until you are in the presence of a Notary or Clerk.

### 2. UJS 141 Conservator's Accounting

- Within 60 days following the first anniversary of being appointed, the Conservator **must file** an Annual Accounting. SDCL 29A-5-408.
- These are treated the same for Minors and Protected Persons and are also required of limited conservators.
- This needs to be completed annually, in addition to when the Court orders additional accounting, when the Conservator resigns/is removed, and when the conservator is terminated.
- A description of serviced is required, including who provided them, what was provided and what the outcome was.
- The Conservator must also state what actions were taken on behalf of the individual or their estate.
- Conservators will be asked whether modification or termination is necessary and why.
- The form also requires information on receipts and distributions over the period of the year to generate an ending cash balance.
- Next, the Conservator must indicate information about the individual's personal property. The Conservator must gather information about the value of assets and property held by the individual and whether there are any encumbrances on that property.
- Finally, information must be provided regarding any compensation or expenses being requested by the Conservator.
- This accounting must be served on all the parties entitled to receive notice within 14 days of filing. Complete the attached Affidavit of Mailing to verify you have served these parties. SDCL 15-6-4(g). The parties are specified in SDCL 29A-5-410. The parties must be notified that they must present any written objections to the accounting within 60 days (see Objection attachments). If any party objects, they may request a hearing.

- Failure to file the accounting or serve necessary parties may result in removal of the Conservator.
- Do not sign the form until you are in the presence of a Notary or Clerk.

### **3. UJS 142 Guardian’s Report**

- The Court has discretion to order reporting for Minors. For Protected Persons, this report **must** be filed within 60 day following the first anniversary of being appointed. SDCL 29A-5-403.
- This needs to be completed annually, in addition to when the Court orders additional accounting, when the Guardian resigns/is removed, and when the guardianship is terminated.
- The Guardian uses this form to report on the mental, physical, and social condition of the individual, their living arrangement, services provided, and the nature of the Guardian’s involvement. Guardians are asked whether modification or termination is necessary and why.
- Finally, information must be provided regarding any compensation or expenses being requested by the Guardian.
- This report must be served on all the parties entitled to receive notice within 14 days of filing. Complete the attached Affidavit of Mailing to verify you have served these parties. SDCL 15-6-4(g). The parties are specified in SDCL 29A-5-410.
- Any interested Party may request a hearing on the report. SDCL 29A-5-102(5).
- Failure to file the report or serve necessary parties may result in removal of the Guardian.
- Do not sign the form until you are in the presence of a Notary or Clerk.

## **FORMS FOR INTERESTED PARTIES**

### **4. UJS 143 Objection to Conservator Accounting**

- This form is completed by any Interested Party who wants to object to the Conservator’s Accounting. SDCL 29A-5-102(5).
- The objection must be made in writing within 60 days of service of the conservator accounting. If it is beyond that time, the Interested Party is barred from objecting. SDCL 29A-5-408.
- The interested Party must indicate, in detail, what they are objecting to. They must also indicate whether they are requesting a hearing pursuant to SDCL 29A-5-408.
- This report must be served on all the parties entitles to receive notice within 14 days of filing. Complete the attached Affidavit of Mailing to verify you have served these parties. SDCL 15-6-4(g). The parties are specified in SDCL 29A-5-410.
- Do not sign the form until you are in the presence of a Notary or Clerk.

### **5. UJS 144 Petition for Hearing on Guardian Report**

- This form is completed by any Interested Party who wants to have a hearing held regarding the Guardian Report. SDCL 29A-5-105(5).

- The Interested Party must indicate, in detail, why they are requesting a hearing on the report.
- Do not sign the form until you are in the presence of a Notary or Clerk.

## **JUDICIAL ORDERS**

### **6. UJS 145 Order Approving Accounting**

- This form is completed by the Judge after reviewing the Conservator Accounting filed for the Minor or Protected Person.
- The Judge will verify parties were appropriately served, whether objections were filed, and that the accounting complies with SDCL 29A-5-408.
- If all the Conditions are met, the Judge will sign this form. Verify with the clerk whether you are required to submit notice of this order upon the other parties.

### **7. UJS 146 Order Approving Report**

- This form is completed by the Judge after reviewing the Guardian Report filed for the Minor or Protected Person.
- The Judge will verify parties were appropriately served, whether requested for hearing were filed, and that the report complies with SDCL 29A-5-403.
- If all the conditions are met, the Judge will sign this form. Verify with the Clerk whether you are required to submit notice of this order upon the other parties.

### **8. UJS 147 Notice of Petition – Objection and Order on Hearing**

- This form is completed by the Judge when a party files a petition to appoint successor, petition to terminate/modify/revoke/resign is filed, a petition for hearing on Guardian Report is filed, or an objection to the Conservator Accounting is filed.
- The notice will state the time, place, and date for a hearing unless the Judge indicated that the hearing is denied.
- Verify with the Clerk whether you are required to submit notice of this Order upon the other parties. If so, do not sign the Affidavit of Mailing unless you are in front of a Notary or Clerk.

## **PETITIONS AND ORDERS TO MODIFY/TERMINATE/REVOKE**

### **9. UJS 148 Conservator’s Petition to Modify – Terminate Conservatorship**

- This form should be completed by a Conservator for a Minor or Protected Person who wished to change or end their conservatorship. This might include changes due to changing Conservator, transferring jurisdiction, a Minor reaching majority, a minor being emancipated, or a Minor being adopted.
- The Conservator must provide information about the conservatorship, including services provided, contact with the individual, and what changes the Conservator wishes to make to the conservatorship.
- A hearing is conducted pursuant to SDCL 29A-5-508.

- If a Conservator is seeking to terminate the conservatorship, the Conservator must include the Final Accounting and Objection Notice with this form (UJS 141).
- Do not sign the form until you are in the presence of a Notary or Clerk.

#### **10. UJS 149 Guardian’s Petition to Modify – Terminate Guardianship**

- This form should be completed by a guardian for a Minor or Protected Person who wishes to change or end their guardianship. This might include changed due to changing Guardians, transferring jurisdiction, a Minor reaching majority, a Minor being emancipated, or a minor being adopted.
- The Guardian must provide information about the guardianship, including services provided, contact with the individual, and what changes the Guardian wished to make to the guardianship.
- A hearing is conducted pursuant to SDCL29A-5-508.
- If a Guardian is seeking to terminate the guardianship, the Guardian must include the Final Report with this form (UJS 142).
- Do not sign the form until you are in the presence of a notary or clerk.

#### **11. UJS 150 Guardian-Conservator’s Petition to Modify – Terminate Guardianship – Conservatorship**

- This form should be completed by a Guardian and Conservator for a Minor or Protected Person who wishes to change or end their guardianship and conservatorship. This could include changes due to changing Guardians/Conservators, transferring jurisdiction, a Minor reaching majority, a Minor being emancipate, or a Minor being adopted.
- The Guardian and Conservator must provide information about the guardianship and conservatorship, including services provided, contact with the individual, and what changes the Guardian and Conservator wishes to make to the guardianship and/or conservatorship.
- A hearing is conducted pursuant to SDCK 29A-5-508.
- If a Guardian and Conservator is seeking to terminate the guardianship/conservatorship, the Guardian and Conservator must include the Final Report (UJS 142) and Final Accounting with Objection Notice (UJS 141). SDCL 29A-5-401, 29A-5-403.
- Do not sign the form until you are in the presence of a Notary or Clerk.

#### **12. UJS 151 Interested Person’s Petition to Modify-Revoke-Terminate**

- This form should be completed by an Interested Person for a Minor or Protected Person who wishes to modify, revoke, or terminate the guardianship/conservatorship. SDCL 29A-5-102(5).
- The Interested Person must provide information about the guardianship/conservatorship, the services received by the Protected Person or Minor, and what action the Interested Person is requesting the Court take.
- The request may be to terminate the case, revoke the Guardian/Conservator and replace them, or to modify the guardianship/conservatorship.

- To modify or terminate, the Interested Party must state what observation(s) led them to believe the need has changed and/or that the Guardian/Conservator is unable or unwilling to perform their assigned duties. An explanation must be provided.
- To revoke, the Interested Person must indicate what removable act the Guardian/Conservator committed. SDCL 29A-5-504.
- A hearing is conducted pursuant to SDCL 29A-5-08.
- Do not sign the form until you are in the presence of a Notary or Clerk.

### **13. UJS 152 Protected Person’s Petition to Modify-Revoke-Terminate**

- This form should be completed by the Protected Person who wishes to modify, revoke, or terminate the guardianship/conservatorship.
- The Protected Person must provide information about the guardianship/conservatorship, the services and contact received by the Protected Person, and what action the Protected Person is requesting the Court take.
- The request may be to terminate the case, revoke the Guardian/Conservator and replace them, or to modify the guardianship/conservatorship.
- To modify or terminate, the Protected Party must state what observation(s) led them to believe the need has changed and/or that the Guardian/Conservator is Unable or unwilling to perform their assigned duties. And explanation must be provided.
- To revoke, the Protected Person must indicate what removable act the Guardian/Conservator committed. SDCL 29A-5-504.
- A hearing is conducted pursuant to SDCL 29A-5-508.
- Do not sign the form until you are in the presence of a Notary or Clerk.

### **14. UJS 153 Petition for Resignation and Consent**

- This form is completed by a Guardian and/or Conservator who wishes to resign as the Guardian and/or Conservator for a Protected Person or Minor.
- Information must be provided regarding the guardianship/conservatorship including the services provided and why the Guardian and/or Conservator wishes to resign.
- The Guardian and/or Conservator must also propose a successor to serve in their place, proving and explanation as to why that individual is appropriate. SDCL 29A-5-110.
- The Final Accounting and/or Final Report should be attached if not waived by the Court.
- The individual filing the Resignation must also submit the Petition and Consent to the necessary parties. SDCL 29A-5-410. Complete the attached Affidavit of Mailing to verify you have served these parties. SDCL 15-6-4(g).
- Do not sign the form until you are in the presence of a Notary or Clerk.
- The Consent Form should be filled out by the person to succeed the individual filing the resignation petition. (UJS 153)

### **15. UJS 154 Order Approving Resignation**

- This form is completed by the Judge after reviewing the Petition for Resignation and Consent for a Minor or Protected Person.

- The Judge reviews whether a successor is available, notice was provided, whether objections or request for hearing were filed, and that all required documents have been submitted.
- If approved, the Judge will approve resignation and revoke the Letters issued to the person resigning. Verify with the Clerk whether you are required to submit notice of this order upon the other parties.

#### **16. UJS 155 Petition to Terminate Conservatorship on Death**

- This form is completed upon the death of a Protected Person to terminate the conservatorship in place. SDCL 29A-5-507.
- The Conservator must fill out information about the conservatorship and attach a Certified Copy of the Protected Person's Death Certificate. SDCL 29A-1-107(2).
- The Conservator may also need to include the Final Accounting and Objection Notice (UJS 141). SDCL 29A-5-408.
- If approved, the Court will enter an order to terminate the conservatorship and approve the final accounting. Letters of Conservatorship will be revoked.
- Do not sign the form until you are in the presence of a notary clerk.

#### **17. UJS 156 Petition to Terminate Guardianship on Death of a Minor**

- This form is completed upon the death of a Minor to terminate the guardianship in place. SDCL 29A-5-505.
- The Guardian must fill out information about the guardianship and attach a Certified Copy of the Minor's Death Certificate. SDCL 29A-1-107(2).
- If ordered by the Court, the Guardian's Final Report must be attached. SDCL 29A-5-401, 29A-5-403(4).
- If approved, the Court will enter an order to terminate the guardianship and approve the final report. Letters of Guardianship will be revoked.
- Do not sign the form until you are in the presence of a Notary or Clerk.

#### **18. UJS 157 Petition to Terminate Guardianship on Death of Protected Person**

- This form completed upon the death of a Protected Person to terminate the Guardianship in place. SDCL 29A-5-507.
- The Guardian must fill out information about the Guardianship, the Protected Person's death, and attach a Certified Copy of the Protected Person's Death Certificate. SDCL 29A-1-107(2).
- The Guardian should also attach the Final Report. SDCL 29A-5-403(4).
- If approved, the Court will enter an order to terminate the guardianship and approve the final report. Letters of Guardianship will be revoked.
- Do not sign the form until you are in the presence of a Notary or Clerk.

#### **19. UJS 158 Petition to Terminate Guardianship and Conservatorship on Death of Minor**

- This form is completed upon the death of a Minor to terminate both the guardianship and conservatorship in place. SDCL 29A-5-505, 29A-5-507.

- Information about the guardianship and conservatorship must be filled out, along with attaching a copy of the Certified Copy of the Minor's Death Certificate, the Guardian's Final Report, and the Conservator's Final Accounting. SDCL 29A-1-107(2), 29A-5-401, 29A-5-403(4), 29A-5-408(4).
- If approved, the Court will enter an order to terminate the guardianship and conservatorship and approve the final report and accounting. Letters of Guardianship and Conservatorship will be revoked.
- Do not sign the form until you are in the presence of a Notary or Clerk.

**20. UJS 159 Petition to Terminate Guardianship-Conservatorship on Death of Protected Person**

- This form is completed upon the death of a Protected Person to terminate both the guardianship and conservatorship in place. SDCL 29A-5-507.
- Information about the guardianship and conservatorship must be filled out, along with attaching a copy of the Certified Copy of the Protected Person's Death Certificate, the Guardian's Final Report, and the Conservator's Final Accounting. SDCL 29A-1-107(2), 29A-5-403(4), 29A-5-408(4).
- If approved, the Court will enter an order to terminate the guardianship and conservatorship and approve the final report and accounting. Letters of Guardianship and Conservatorship will be revoked.
- Do not sign the form until you are in the presence of a Notary or Clerk.