

**Petition for the Appointment of an Emergency Guardian and/or Conservator for a Proposed Ward**

**INSTRUCTIONS**

I. Specific Instructions

1. This form is to be used for filing a Petition for the Appointment of an Emergency Guardian and/or Conservator for a Proposed Ward pursuant to O.C.G.A. §29-4-14 and/or 29-5-14
2. Regarding the need for the pre-hearing appointment of an Emergency Guardian and/or Conservator, O.C.G.A. §29-4-15-(c)(5) and 29-5-15 (c)(5) provide as follows: If the court determines that there is probable cause to believe that the proposed ward is in immediate need of an emergency guardian, the court shall appoint an emergency guardian to serve until the emergency hearing, with or without prior notice to the proposed ward, but only if the threatened risk is so immediate and the potential harm so irreparable that any delay is unreasonable and the existence of the threatened risk and potential for irreparable harm is certified by the affidavit of a physician licensed to practice medicine under Chapter 34 of Title 43, a psychologist licensed to practice under Chapter 39 of Title 43, or a licensed clinical social worker.

If the court determines that there is probable cause to believe that the proposed ward is in immediate need of an emergency conservator, the court shall appoint an emergency conservator to serve until the emergency hearing, with or without prior notice to the proposed ward, but only if the threatened risk is so immediate and the potential harm so irreparable that any delay is unreasonable and the existence of the threatened risk and potential for irreparable harm is certified by the affidavit of a physician licensed to practice medicine under Chapter 34 of Title 43, a psychologist licensed to practice under Chapter 39 of Title 43, or licensed clinical social worker; provided, however, that, pending the emergency hearing, the court shall order that no withdrawals may be made from any account on the authority of the proposed ward's signature without the court's prior approval and that the emergency conservator shall not expend any funds of the proposed ward without prior court approval.

3. Further, if a pre-hearing emergency guardian and/or conservator is appointed to serve until the emergency hearing, then such guardian and/or conservator shall, prior to the issuance of Letters of Emergency Guardianship and/or Conservatorship, take an oath and post such bond as the court may require.

4. The burden of proof is on the petitioner to prove by clear and convincing evidence that the proposed ward lacks sufficient capacity to make or communicate significant responsible decisions concerning his/her health or safety and is in need of a guardian **AND** there is an immediate, clear, and substantial risk of death or serious physical injury, illness, or disease unless an emergency guardian is appointed and/or that the proposed ward lacks sufficient capacity to make or communicate significant responsible decisions concerning the management of his/her property and is in need of a conservator **AND** there is an immediate, substantial risk of irreparable waste or dissipation of the estate unless an emergency conservator is appointed.
5. In any case involving the appointment of a conservator when the proposed ward owns real property in Georgia, a certificate of creation of conservatorship will be completed by the clerk of the probate court and filed with the clerk of the superior court of each county in which the proposed ward owns real property.

## II. General Instructions

General instructions applicable to all Georgia probate court standard forms appear in Volume 255 of the Georgia Reports and are available in each probate court.

PROBATE COURT OF \_\_\_\_\_ COUNTY

STATE OF GEORGIA

IN RE:	)	ESTATE NO. _____
	)	
_____,	)	<b>PETITION FOR APPOINTMENT OF</b>
<b>PROPOSED WARD</b>	)	<b>AN EMERGENCY GUARDIAN AND/OR</b>
	)	<b>EMERGENCY CONSERVATOR FOR A</b>
	)	<b>PROPOSED WARD</b>

TO THE HONORABLE JUDGE OF THE PROBATE COURT:

[NOTE: Unless there are two or more petitioners, the affidavit on page 8 must be completed by a physician, psychologist, or licensed clinical social worker based upon an examination within 15 days prior to the filing of this petition.]

1.

Petitioner, \_\_\_\_\_, is the  
 (relationship) \_\_\_\_\_ of the proposed ward,  
 and is domiciled at (address) \_\_\_\_\_  
 \_\_\_\_\_ County of \_\_\_\_\_  
 \_\_\_\_\_, State of \_\_\_\_\_, telephone number  
 \_\_\_\_\_, and

**(Initial either a. or b. below):**

\_\_\_ a. (Second Petitioner, if any) \_\_\_\_\_, is  
 the (relationship) \_\_\_\_\_ of the proposed ward, and is domiciled at  
 (address) \_\_\_\_\_  
 \_\_\_\_\_ County of \_\_\_\_\_, State of  
 \_\_\_\_\_, telephone number \_\_\_\_\_, show  
 that:

**or**

\_\_\_ b. attached hereto as page 8 and made a part of this petition is the completed affidavit of  
 \_\_\_\_\_, a  
 physician, psychologist or licensed clinical social worker licensed to practice in Georgia,  
 who has examined the proposed ward within fifteen days prior to the filing of this  
 petition, show that:

2.

The proposed ward, age \_\_\_\_\_, date of birth \_\_\_\_\_, social security no. \_\_\_\_\_, is domiciled at (address) \_\_\_\_\_  
\_\_\_\_\_ County, State of \_\_\_\_\_, and is presently located at \_\_\_\_\_, which is a (type of facility, if applicable) \_\_\_\_\_ and can be contacted at (telephone number): \_\_\_\_\_.

(initial if applicable)

\_\_\_\_\_ It is anticipated that the proposed ward will be moved within the next 3 days to the following address: \_\_\_\_\_, telephone number \_\_\_\_\_.

\_\_\_\_\_ The proposed ward is a citizen of a foreign country, being \_\_\_\_\_ (if a guardianship or conservatorship is granted, pursuant to The Vienna Convention, the Probate Court must notify the consul).

3.

The proposed ward is in need of an emergency guardian and/or conservator by reason of the following incapacity: \_\_\_\_\_

\_\_\_\_\_ to the extent that the proposed ward: (initial all applicable)

\_\_\_\_\_ a. (for emergency guardianship:) lacks sufficient capacity to make or communicate significant responsible decisions concerning his/her health or safety, and there is an immediate, and substantial risk of death or serious physical injury, illness, or disease unless an emergency guardian is appointed,

\_\_\_\_\_ b. (for emergency conservatorship:) lacks sufficient capacity to make or communicate significant responsible decisions concerning the management of his/her property and there is an immediate, substantial risk of irreparable waste or dissipation of the estate unless an emergency conservator is appointed.

The facts which support the claim of the need for an emergency guardian and/or conservator are as follows:

(NOTE: pursuant to O.C.G.A. §29-4-15(b) and 29-5-14(b), the Court shall dismiss the petition if the petitioner does not allege facts which cause the Court to believe that the proposed ward is in need of an emergency guardian and/or conservator as stated above. The Petition cannot be granted unless sufficient facts are presented which support the claim for the need for the appointment of an emergency guardian and/or conservator. While an attached physician's/psychologist's/social worker's affidavit is permissible, the Petitioner(s) MUST specifically allege sufficient facts to support the granting of this Petition.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4.

It is in the best interest of the proposed ward that \_\_\_\_\_  
\_\_\_\_\_ be appointed emergency guardian and \_\_\_\_\_  
\_\_\_\_\_ appointed emergency conservator.

5.

(Initial if applicable)

\_\_\_\_\_ a. In addition to the appointment of an emergency guardian after notice and a hearing, the Court immediately should appoint a pre-hearing emergency guardian for the following reasons: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Note: the court cannot appoint a pre-hearing emergency guardian unless the petition alleges sufficient specific facts showing that any delay is unreasonable and the existence of the threatened risk and potential for irreparable harm is certified by an affidavit of a physician, psychologist, or social worker.

and, the pre-hearing guardian should be granted the following specific powers and duties which do not exceed those absolutely necessary to respond to the immediate threatened risk(s) described above: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ b. In addition to the appointment of an emergency conservator after notice and a hearing, the Court immediately should appoint a pre-hearing emergency conservator for the following reasons: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Note: the court cannot appoint a pre-hearing emergency conservator unless the petition alleges sufficient specific facts showing that any delay is unreasonable and the existence of the threatened risk and potential for irreparable harm is certified by an affidavit of a physician, psychologist, or social worker.

and, the pre-hearing conservator should be granted the following specific powers and duties which do not exceed those absolutely necessary to respond to the immediate threatened risk(s) described above: \_\_\_\_\_  
\_\_\_\_\_

6.

The reason(s) why the procedures for the appointment of a non-emergency (permanent) guardianship and/or conservatorship are inadequate to protect the proposed ward and/or his/her property is/are: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(initial applicable)

\_\_\_\_\_ A Petition for permanent guardianship/conservatorship was/is being/will be filed in conjunction with this Petition.

\_\_\_\_\_ No Petition for permanent guardianship/conservatorship has been/will be filed, and a summary description of all known assets, income, other sources of funds, liabilities, and expenses of the proposed ward is shown on page 10.

7.

The foreseeable duration of the proposed ward's incapacity will be: \_\_\_\_\_ and the Court should grant the emergency guardian/conservator the following powers and duties which do not exceed those absolutely necessary to respond to the immediate threatened risk(s) described above:  
\_\_\_\_\_  
\_\_\_\_\_.

8.

(initial one:)

\_\_\_\_\_ a. No other person has authority to act in the circumstances, whether under a power of attorney, trust, or otherwise.

\_\_\_\_\_ b. The following individual(s) with the authority to act under a power of attorney, trust, or otherwise, appear(s) unwilling or unable to act: (name, address, and phone number): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9.

Additional Data: Where full particulars are lacking, state here the reasons for any such omission.

WHEREFORE, petitioner(s) pray(s):

1. that service be perfected as required by law;
2. that the court appoint legal counsel and an evaluator for the proposed ward and order an evaluation as required by law ;
3. that the court order an emergency hearing to be conducted not sooner than 3 days nor later than 5 days after the filing of this petition;
4. that an emergency guardian and/or conservator be appointed for the proposed ward; and
5. that, if requested, the Court immediately appoint a pre-hearing emergency guardian and/or conservator with such powers and duties as the Court shall direct.

\_\_\_\_\_  
Signature of first petitioner

\_\_\_\_\_  
Signature of second petitioner, if any

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Telephone Number

Signature of Attorney: \_\_\_\_\_

Typed/printed name of Attorney: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ State Bar # \_\_\_\_\_

**VERIFICATION**

GEORGIA, \_\_\_\_\_ COUNTY

Personally appeared before me the undersigned petitioner(s) who on oath state(s) that the facts set forth in the foregoing petition are true.

Sworn to and subscribed before  
me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. \_\_\_\_\_  
First Petitioner

\_\_\_\_\_  
NOTARY/CLERK OF PROBATE COURT Printed Name  
My Commission Expires \_\_\_\_\_

-----  
Sworn to and subscribed before  
me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. \_\_\_\_\_  
Second Petitioner,  
if any

\_\_\_\_\_  
NOTARY/CLERK OF PROBATE COURT Printed Name  
My Commission Expires \_\_\_\_\_

**CONSENT TO SERVE AS EMERGENCY GUARDIAN AND/OR CONSERVATOR**

RE: Petition for the appointment of an emergency guardian and/or conservator for \_\_\_\_\_, a proposed ward.

I/We, \_\_\_\_\_, having been nominated as emergency guardian(s) and I/we, \_\_\_\_\_, having been nominated as emergency conservator(s) of the above-named proposed ward, do hereby consent to serve as emergency guardian(s)/conservator(s) and pre-hearing emergency guardian(s)/conservator(s) if so appointed.

\_\_\_\_\_  
Proposed Emergency Guardian/Conservator

\_\_\_\_\_  
Proposed Emergency Guardian/Conservator

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Proposed Emergency Guardian/Conservator

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone

STATE OF GEORGIA

COUNTY OF \_\_\_\_\_

PROBATE COURT OF \_\_\_\_\_ COUNTY

RE: Petition for appointment of an emergency guardian and/or conservator for

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**AFFIDAVIT OF PHYSICIAN, PSYCHOLOGIST, OR CLINICAL SOCIAL WORKER  
FOR EMERGENCY GUARDIANSHIP/CONSERVATORSHIP**

I, being first duly sworn, depose and say that I am a physician licensed to practice under Chapter 34 of Title 43 of the Official Code of Georgia Annotated or a psychologist licensed to practice under Chapter 39 of Title 43 of the Official Code of Georgia Annotated, or a licensed clinical social worker; that my office address is \_\_\_\_\_

\_\_\_\_\_, Georgia, and that I have examined the above-named proposed ward on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. **NOTE: The examination on which this affidavit is based must occur WITHIN FIFTEEN DAYS prior to the filing of the petition.** I found him/her to be incapacitated by reason of: \_\_\_\_\_

to the extent that said proposed ward (initial all applicable):

\_\_\_\_\_ a. (re: emergency guardianship:) lacks sufficient capacity to make or communicate significant responsible decisions concerning his/her health or safety and there is an immediate and substantial risk of death or serious physical injury, illness, or disease unless an emergency guardian is appointed, and (if applicable)

\_\_\_\_\_ i. **the threatened risk is so immediate and the potential harm so irreparable that any delay is unreasonable and a pre-hearing guardian should be appointed.**

\_\_\_\_\_ b. (re: emergency conservatorship:) lacks sufficient capacity to make or communicate significant, responsible decisions concerning the management of his/her property and there is an immediate, substantial risk of irreparable waste or dissipation of the estate unless an emergency conservator is appointed, and (if applicable)

\_\_\_\_\_ i. **the threatened risk is so immediate and the potential harm so irreparable that any delay is unreasonable and a pre-hearing conservator should be appointed.**

The following facts support my opinion of incapacity and the existence of immediate threat(s) or risk(s) to the proposed ward:

The foreseeable limits on the duration of such incapacity are:

Based on available data, the proposed ward should retain the following rights which would be lost with the appointment of a guardian/conservator: (initial all applicable)

- \_\_\_\_\_ a. contract marriage
- \_\_\_\_\_ b. make, modify, or terminate other contracts
- \_\_\_\_\_ c. consent to medical treatment
- \_\_\_\_\_ d. establish a residence or dwelling place
- \_\_\_\_\_ e. change domicile
- \_\_\_\_\_ f. revoke a revocable trust established by the ward
- \_\_\_\_\_ g. bring or defend any action at law or equity, except an action relating to the guardianship/conservatorship
- \_\_\_\_\_ h. buy sell, or otherwise dispose of or encumber property
- \_\_\_\_\_ i. enter into or conduct other business or commercial transactions
- \_\_\_\_\_ j. none of the above

Optional: Affiant's opinions as to any other limitations on the emergency guardianship/conservatorship are:

WITNESS MY HAND AND SEAL this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Sworn to and subscribed before me this  
me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Signature of Physician/Psychologist/Social Worker

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Printed Name of Evaluator

My commission expires on the \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_\_.  
(NOTARIAL SEAL AFFIXED)

**NOTE: If the appointment of an emergency conservator is sought and no petition for permanent conservatorship is being filed simultaneously, this form must be completed**

**ASSETS, INCOME, OTHER SOURCES OF FUNDS, LIABILITIES, AND EXPENSES OF PROPOSED WARD**

PROPOSED WARD: \_\_\_\_\_

**REAL PROPERTY**

**(Indicate if property is jointly owned and with whom)**

Description	County	State	Approximate equity
Parcel 1 _____			\$ _____
Parcel 2 _____			\$ _____
Parcel 3 _____			\$ _____

**INCOME FROM ALL SOURCES**

	Yearly Total
Social Security per year	\$ _____
SSI (Supplemental Security Income) per year	\$ _____
Retirement benefits per year	\$ _____
VA benefits per year	\$ _____
Other income per year, including, e.g., alimony, annuity, or trust distributions	\$ _____
Interest, dividend, or investment income	\$ _____
<b>YEARLY TOTAL OF ALL INCOME</b>	<b>\$ _____</b>

**PERSONAL AND INTANGIBLE PROPERTY**

**(Indicate if property is jointly owned and with whom)**

**Approximate Current Value**

1. Checking/Savings/Money Market/Certificates of Deposit/Liquid Accounts:

Bank/Financial Institution/Broker	Acct. No.	Joint Owner (if any)	
_____			\$ _____
_____			\$ _____
_____			\$ _____

\_\_\_\_\_ \$ \_\_\_\_\_

2. Stocks/Bonds/Investments (including retirement and profit-sharing accounts):

a. held by brokers:

Brokerage Firm or Institution	Acct. No.	Joint Owner (if any)	
_____			\$ _____
_____			\$ _____
_____			\$ _____
_____			\$ _____
_____			\$ _____

b. privately held:

Company/Issuer	No. of Shares	Joint Owner (if any)	
_____			\$ _____
_____			\$ _____

3. Automobiles:

Year/Make/Model	V.I.N.	Joint owner (if any)	
_____			\$ _____
_____			\$ _____

4. Other assets of significant value:

Description	Joint owner (if any)	
_____		\$ _____
_____		\$ _____
_____		\$ _____
<b>TOTAL VALUE OF PERSONAL AND INTANGIBLE PROPERTY</b>		<b>\$ _____</b>

**DEBTS AND OTHER LIABILITIES**

The proposed ward owes the following debts/liabilities:

1. Secured debts:

Obligor/Payee	Collateral	Solely/Jointly Owed	Approx. Current Balance
_____			\$ _____
_____			\$ _____
_____			\$ _____

2. Unsecured debts:

Obligor/Payee	Acct. No.	Solely/Jointly Owed	Approx. Current Balance
_____			\$ _____
_____			\$ _____
_____			\$ _____
<b>TOTAL DEBTS AND OTHER LIABILITIES OF PROPOSED WARD</b>			<b>\$ _____</b>

**AVERAGE MONTHLY LIABILITIES AND EXPENSES**

Household:

Care Facility/Rent/Mortgage payments:	\$ _____
Property taxes/Insurance	\$ _____
Utilities/Lawn Care/Pest Control	\$ _____
Miscellaneous household food	\$ _____
Total credit account and other debt payments	\$ _____
Other (specify)	\$ _____

Automotive/Transportation

Fuel and Repairs	\$ _____
Tags and license fees, Insurance	\$ _____
Bus/Train/Taxi fares	\$ _____

Minors or Other Dependents of the Proposed Ward

Child Care	\$ _____
School Tuition/Supplies/Expenses/Lunches	\$ _____
Clothing/Diapers /Grooming/Hygiene	\$ _____
Medical/Dental/Prescription	\$ _____

Entertainment/Activities	\$ _____
<u>Other Insurance</u>	
Health	\$ _____
Life/Disability	\$ _____
Other (specify)	\$ _____
<u>Proposed Ward's Other Expenses</u>	
Laundry/Clothing/Grooming/Hygiene	\$ _____
Medical/Dental/Prescriptions/Medications	\$ _____
Entertainment/Vacations/Subscriptions/Dues	\$ _____
Personal Caretakers/Cleaning personnel	\$ _____
Other (specify)	\$ _____
<u>Total Expenses</u>	\$ _____

Payments to Creditors:

Is the proposed ward behind in any debt payments? (yes) (no)

If so, payee and amount: \_\_\_\_\_

**SUMMARY**

1. Average Monthly Income	\$ _____
2. Average Monthly Expenses	<\$ _____ >