

## INVITATION TO COMMENT

Title	Probate Conservatorships and Guardianships: Changes in the <i>Petition for Appointment of Temporary Conservator or Guardian</i> and the <i>Order Appointing Probate Conservator</i> (revise forms GC-110 and GC-340; adopt form GC-111)
Summary	The <i>Petition for Appointment of a Temporary Conservator or Guardian</i> (form GC-110) would be restructured as two separate petitions, with one for use in conservatorships and the other for use in guardianships and modified to reflect changes made in the appointment of these temporary fiduciaries by 2006 legislation and rules of court effective January 1, 2008. The <i>Order Appointing Probate Conservator</i> would be revised to include a mandatory finding required by 2007 legislation.
Source	Probate and Mental Health Advisory Committee Hon. Don Edward Green, Chair
Staff	Douglas C. Miller 415.865.7535; douglas.miller@jud.ca.gov
Discussion	<p><i>Forms GC-110 and GC-111</i></p> <p>The <i>Petition for Appointment of a Temporary Conservator or Guardian</i> (form GC-110) is a combined form, used for both temporary conservatorships and temporary guardianships. The Omnibus Conservatorship and Guardianship Reform Act of 2006<sup>1</sup> included changes in temporary conservatorship and guardianship procedure effective July 1, 2007, that will require changes in the combined temporary petition.</p> <p>The Probate and Mental Health Advisory Committee proposes to take the opportunity presented by the need to make the mandated changes to create separate temporary conservatorship and guardianship petitions for the following principal reasons:</p> <ol style="list-style-type: none"> <li>1. Form GC-110 includes an item concerning a change of a temporary conservatee's residence that consumes almost the entire second page of the form. This item is inapplicable to a temporary guardianship; and</li> </ol>

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<sup>1</sup> Stats. 2006, ch. 490–493 (SB 1116, SB 1550, SB 1716, and AB 1363).

2. In 2006, the Judicial Council adopted, effective January 1, 2007, a separate plain-language temporary guardianship petition (form GC-110(P)), an optional form that gives petitioners a choice between the new form and the standard-format form GC-110 for petitions for the appointment of a temporary guardian of the person. A separate standard-format petition for appointment of a temporary guardian would more closely parallel the new plain-language optional form.

Form GC-110 would be modified to become exclusively a temporary guardianship petition; new form GC-111 would be adopted for use exclusively as a temporary conservatorship petition.

The Omnibus Act amended Probate Code section 2250 to require a hearing on five days notice on the petition for appointment of a temporary conservator or guardian.<sup>2</sup> The court may, for good cause, waive the notice required by section 2250(c). Section 2250(i) requires the Judicial Council to adopt a rule of court establishing uniform standards for the good cause exception to notice, on or before January 1, 2008.

The council satisfied this mandate by adopting rule 7.1012, concerning temporary guardianships, and rule 7.1062, concerning temporary conservatorships, effective January 1, 2008. These rules require, among other things, an application for waiver of notice to be separate from the petition for the temporary appointment (see rules 7.1012(e) and 7.1062(e)). But item 1e of the current form calls for a showing in the petition in support of an order dispensing with notice of the application for the temporary appointment. Item 1d of revised form GC-110 and item 1d of new form GC-111 recite that a request for an exception to notice for good cause is (separately) filed with the petition.

Item 6c of existing form GC-110 calls for evidence of the temporary conservatee's intention or ability to attend the hearing on the petition, which was relevant under the law effective before July 1, 2007 only if a change in the conservatee's residence is requested. This item is retained in form GC-111, but is changed into a separate item 7 calling for the information in all cases, and modified to call for statements on information and belief.

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<sup>2</sup> See Stats. 2006, ch. 493 (AB 1363), § 15.

The proposed temporary conservatee's attendance at the hearing on the temporary appointment is now required in all cases unless excused for the reasons stated in item 7 of form GC-111, not just when his or her residence is to be changed. The statements are made on information and belief to reflect the fact that under section 2250.6, added by the Omnibus Act,<sup>3</sup> the primary evidence in support of the conservatee's ability or willingness to attend the hearing is not an allegation in the petition, but the court investigator's report, which is now required in all cases whether or not the proposed conservatee's residence is to be changed. Similarly, item 8 of form GC-111, showing submission of the *Order Appointing Court Investigator* (form GC-330) with the petition, is no longer limited to cases in which the conservatee's residence is to be changed.<sup>4</sup>

Item 6 in revised form GC-110 is the statement in item 7 of the current form: the petitioner believes the minor will or will not attend the hearing.

#### *Form GC-340*

Legislation enacted in 2007, effective January 1, 2008, amends Probate Code section 1800.3(b) to add a required finding the court must make when it appoints a conservator.<sup>5</sup> The court must expressly find that the appointment of a conservator is the least restrictive alternative needed for the protection of the conservatee.

The Probate and Mental Health Advisory Committee proposes to amend the *Order Appointing Probate Conservator* (form GC-340) to add the finding required by the new statute as item 3 on page 1.

Copies of proposed revised forms GC-110 and GC-340, and new form GC-111 are attached. Also attached, for reference purposes, is the text of rules 7.1012 and 7.1062, adopted by the Judicial Council effective January 1, 2008.

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Attachments

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<sup>3</sup> Stats. 2006, ch. 493 (AB 1363), § 17.

<sup>4</sup> Item 8 is preceded by a checkbox because not all courts use form GC-330 for an order appointing a court investigator.

<sup>5</sup> Stats. 2007, ch. 553 (AB 1727), § 6.

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i>  <hr/> <p style="text-align: center;">TELEPHONE NO.: <span style="float: right;">FAX NO. <i>(Optional):</i></span></p> <p>E-MAIL ADDRESS <i>(Optional):</i></p> <p>ATTORNEY FOR <i>(Name):</i></p>	<p><i>FOR COURT USE ONLY</i></p> <p><b>Draft 2</b></p> <p><b>December 13, 2007</b></p> <p><b>Not Approved by the Judicial Council</b></p>
<p><b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b></p> <p>STREET ADDRESS:</p> <p>MAILING ADDRESS:</p> <p>CITY AND ZIP CODE:</p> <p>BRANCH NAME:</p>	
TEMPORARY GUARDIANSHIP OF <i>(Name):</i>	CASE NUMBER:
<p style="text-align: right;">MINOR</p> <p style="text-align: center;"><b>PETITION FOR APPOINTMENT OF TEMPORARY GUARDIAN</b></p> <p style="text-align: center;"> <input type="checkbox"/> Person*                   <input type="checkbox"/> Estate*                   <input type="checkbox"/> Person and Estate*             </p>	HEARING DATE: DEPT.: <span style="float: right;">TIME:</span>

1. **Petitioner** *(name each):*

**requests that**

- a. *(Name):*  
*(Address and telephone number):*  
be appointed temporary guardian of the PERSON of the minor and Letters issue upon qualification.
- b. *(Name):*  
*(Address and telephone number):*  
be appointed temporary guardian of the ESTATE of the minor and Letters issue upon qualification.
- c. (1)  bond not be required because petition is for a temporary guardianship of the person only.  
 (2)  bond not be required for the reasons stated in Attachment 1c.  
 (3)  \$ \_\_\_\_\_ bond be fixed. It will be furnished by an admitted surety insurer or as otherwise provided by law.  
*(Specify reasons in Attachment 1c if the amount is different from maximum required by Probate Code section 2320.)*  
 (4)  \$ \_\_\_\_\_ in deposits in a blocked account be allowed. Receipts will be filed.  
*(Specify institution and location):*
- d.  a request for an exception to notice of the hearing on this petition for good cause is filed with this petition.
- e.  the powers specified in Attachment 1e be granted in addition to the powers provided by law.
- f.  other orders be granted *(specify in Attachment 1f)*.

2. The minor is *(name):*

Current address: \_\_\_\_\_ Current telephone no.: \_\_\_\_\_

3. The minor requires a temporary guardian to  provide for temporary care, maintenance, and support  protect property from loss or injury because *(facts are*  *specified in Attachment 3*  *as follows):*

**\*You MAY use this form or form GC-110(P) for a temporary guardianship of the person. You MUST use this form for a temporary guardianship of the estate or the person and estate .**

TEMPORARY GUARDIANSHIP OF (Name):	CASE NUMBER:
MINOR	

3.  (Facts supporting appointment of a temporary guardian (Continued)):

4. Temporary guardianship is required

- a.  pending the hearing on the petition for appointment of a general guardian.
- b.  pending the appeal under Probate Code section 1301.
- c.  during the suspension of powers of the guardian.

5.  (Complete if a temporary guardianship of the estate or person and estate is requested.)

Character and estimated value of the property of the estate:

- a. Personal property: \$ \_\_\_\_\_
- b. Annual gross income from all sources, including real and personal property, wages, pensions, and public benefits: \$ \_\_\_\_\_
- c. **Total:** \$ \_\_\_\_\_

6. Petitioner believes the minor  will  will not attend the hearing.

7. All attachments to this form are incorporated by this reference as though placed here in this form. There are \_\_\_\_\_ pages attached to this form.

Date:



\_\_\_\_\_

(SIGNATURE OF ATTORNEY\*)

\* (Signature of all petitioners also required (Prob. Code, § 1020).)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

\_\_\_\_\_

(TYPE OR PRINT NAME)



\_\_\_\_\_

(SIGNATURE OF PETITIONER)

\_\_\_\_\_

(TYPE OR PRINT NAME)



\_\_\_\_\_

(SIGNATURE OF PETITIONER)

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i>  <hr/> <p style="text-align: center;">TELEPHONE NO.: _____ FAX NO. <i>(Optional)</i>: _____</p> <p>E-MAIL ADDRESS <i>(Optional)</i>: _____</p> <p>ATTORNEY FOR <i>(Name)</i>: _____</p>	<p><i>FOR COURT USE ONLY</i></p> <p><b>Draft 2</b></p> <p><b>12/13/07</b></p> <p><b>Not Approved by the Judicial Council</b></p>
<p><b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b></p> <p>STREET ADDRESS: _____</p> <p>MAILING ADDRESS: _____</p> <p>CITY AND ZIP CODE: _____</p> <p>BRANCH NAME: _____</p>	
TEMPORARY CONSERVATORSHIP OF <i>(Name):</i> _____	CASE NUMBER: _____
<p style="text-align: center;"><b>CONSERVATEE</b></p>	HEARING DATE: _____
<p style="text-align: center;"><b>PETITION FOR APPOINTMENT OF TEMPORARY CONSERVATOR</b></p> <p style="text-align: center;"> <input type="checkbox"/> Person                        <input type="checkbox"/> Estate                        <input type="checkbox"/> Person and Estate                 </p>	DEPT.: _____      TIME: _____

1. **Petitioner** *(name each):* \_\_\_\_\_ **requests that**
- a. *(Name):* \_\_\_\_\_  
*(Address and telephone number):* \_\_\_\_\_  
 be appointed temporary conservator of the PERSON of the proposed conservatee and Letters issue upon qualification.
- b. *(Name):* \_\_\_\_\_  
*(Address and telephone number):* \_\_\_\_\_  
 be appointed temporary conservator of the ESTATE of the proposed conservatee and Letters issue upon qualification.
- c. (1)  bond not be required because petition is for a temporary conservatorship of the person only.  
 (2)  bond not be required for the reasons stated in Attachment 1c.  
 (3)  \$ \_\_\_\_\_ bond be fixed. It will be furnished by an admitted surety insurer or as otherwise provided by law.  
*(Specify reasons in Attachment 1c if the amount is different from maximum required by Probate Code section 2320.)*  
 (4)  \$ \_\_\_\_\_ in deposits in a blocked account be allowed. Receipts will be filed.  
*(Specify institution and location):* \_\_\_\_\_
- d.  a request for an exception to notice of the hearing on this petition for good cause is filed with this petition.
- e.  the powers specified in Attachment 1e be granted in addition to the powers provided by law.
- f.  other orders be granted *(specify in Attachment 1f)*.
2. The proposed conservatee is *(name)*: \_\_\_\_\_  
 Current address: \_\_\_\_\_ Current telephone no.: \_\_\_\_\_
3. The proposed conservatee requires a temporary conservator to  provide for temporary care, maintenance, and support  
 protect property from loss or injury because *(facts are*  *specified in Attachment 3*  *as follows)*:

TEMPORARY CONSERVATORSHIP OF (Name): _____  <div style="text-align: right;">CONSERVATEE</div>	CASE NUMBER: _____
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4. Temporary conservatorship is required
- a.  pending the hearing on the petition for appointment of a general conservator.
  - b.  pending the appeal under Probate Code section 1301.
  - c.  during the suspension of powers of the conservator.

5.  (Complete if a temporary conservatorship of the estate or person and estate is requested.)  
 Character and estimated value of the property of the estate:
- a. Personal property: \$ \_\_\_\_\_
  - b. Annual gross income from all sources, including real and personal property, wages, pensions, and public benefits: \$ \_\_\_\_\_
  - c. **Total:** \$ \_\_\_\_\_

6.  **Change of Residence of Proposed Conservatee**
- a.  Petitioner requests that the residence of the proposed conservatee be changed to (address): \_\_\_\_\_

The proposed conservatee will suffer irreparable harm if his or her residence is not changed as requested and no means less restrictive of the proposed conservatee's liberty will suffice to prevent the harm because (precise reasons are  specified in Attachment 6a  as follows):

- b.  The proposed conservatee must be removed from the State of California to permit the performance of the following non psychiatric medical treatment essential to the proposed conservatee's physical survival. The proposed conservatee consents to this medical treatment. (Facts and place of treatment are  specified in Attachment 6b  as follows):

7. Petitioner is informed and believes that the proposed conservatee
- a.  will attend the hearing.
  - b.  is able but unwilling to attend the hearing, does not wish to contest the establishment of a conservatorship, does not object to the proposed conservator, and does not prefer that another person act as conservator.
  - c.  is unable to attend the hearing because of medical inability. An affidavit or certificate of a licensed medical practitioner or an accredited religious practitioner is affixed as Attachment 6c.
  - d.  is not the petitioner, is out of state, and will not attend the hearing.

8.  Filed with this petition is a proposed *Order Appointing Court Investigator* (form GC-330).

9. All attachments to this form are incorporated by this reference as though placed here in this form. There are \_\_\_\_\_ pages attached to this form.

Date: \_\_\_\_\_ \_\_\_\_\_  
 (SIGNATURE OF ATTORNEY\*)

\* (Signature of all petitioners also required (Prob. Code, § 1020).)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: \_\_\_\_\_ \_\_\_\_\_  
 (TYPE OR PRINT NAME) (SIGNATURE OF PETITIONER)

\_\_\_\_\_ \_\_\_\_\_  
 (TYPE OR PRINT NAME) (SIGNATURE OF PETITIONER)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):    TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CONSERVATORSHIP OF (Name): _____	CONSERVATEE
<b>ORDER APPOINTING</b> <input type="checkbox"/> <b>SUCCESSOR</b> <b>PROBATE CONSERVATOR OF THE</b> <input type="checkbox"/> <b>PERSON</b> <input type="checkbox"/> <b>ESTATE</b> <input type="checkbox"/> <b>Limited Conservatorship</b>	CASE NUMBER: _____

**WARNING: THIS APPOINTMENT IS NOT EFFECTIVE UNTIL LETTERS HAVE ISSUED.**

1. The petition for appointment of  successor conservator came on for hearing as follows (check boxes c, d, e, and f or g to indicate personal presence):
- a. Judicial Officer (name): \_\_\_\_\_
  - b. Hearing date: \_\_\_\_\_ Time: \_\_\_\_\_ Dept.:  Room:
  - c.  Petitioner (name): \_\_\_\_\_
  - d.  Attorney for petitioner (name): \_\_\_\_\_
  - e.  Attorney for  person cited  the conservatee on petition to appoint successor conservator:  
 (Name): \_\_\_\_\_ (Telephone): \_\_\_\_\_  
 (Address): \_\_\_\_\_
  - f.  Person cited was  present.  unable to attend.  able but unwilling to attend.  out of state.
  - g.  The conservatee on petition to appoint successor conservator was  present.  not present.

**THE COURT FINDS**

- 2. All notices required by law have been given.
- 3. Granting the conservatorship is the least restrictive alternative needed for the protection of the conservatee.
- 4. (Name): \_\_\_\_\_
  - a.  is unable properly to provide for his or her personal needs for physical health, food, clothing, or shelter.
  - b.  is substantially unable to manage his or her financial resources or to resist fraud or undue influence.
  - c.  has voluntarily requested appointment of a conservator and good cause has been shown for the appointment.
- 5. The conservatee
  - a.  is an adult.
  - b.  will be an adult on the effective date of this order.
  - c.  is a married minor.
  - d.  is a minor whose marriage has been dissolved.
- 6.  There is no form of medical treatment for which the conservatee has the capacity to give an informed consent.  
 The conservatee is an adherent of a religion defined in Probate Code section 2355(b).
- 7.  Granting the  successor conservator powers to be exercised independently under Probate Code section 2590 is to the advantage and benefit and in the best interest of the conservatorship estate.
- 8.  The conservatee is not capable of completing an affidavit of voter registration.

Do NOT use this form for a temporary conservatorship.

CONSERVATORSHIP OF (Name):  _____	CASE NUMBER:  _____
CONSERVATEE	

- 9.  The conservatee has dementia as defined in Probate Code section 2356.5, and the court finds all other facts required to make the orders specified in item 28.
- 10.  Attorney (name): \_\_\_\_\_ has been appointed by the court as legal counsel to represent the conservatee in these proceedings. The cost for representation is: \$ \_\_\_\_\_  
The conservatee has the ability to pay  all  none  a portion of this sum (specify): \$ \_\_\_\_\_
- 11.  The conservatee need not attend the hearing.
- 12.  The appointed court investigator is (name): \_\_\_\_\_  
(Address and telephone): \_\_\_\_\_
- 13.  (For limited conservatorship only) The limited conservatee is developmentally disabled as defined in Probate Code section 1420.
- 14.  The  successor conservator is a private professional conservator as defined by Probate Code section 2341 who has filed with the court the confidential statement required by Probate Code section 2342.
- 15. The  successor conservator (check a or b):
  - a.  is currently registered with the Statewide Registry of Private Conservators, Guardians, and Trustees maintained by the California Department of Justice under Probate Code sections 2850–2855.
  - b.  is exempt from statewide registration under Probate Code sections 2850–2855.
- 16. (Either a, b, or c must be checked):
  - a.  The  successor conservator is not the spouse of the conservatee.
  - b.  The  successor conservator is the spouse of the conservatee and is not a party to an action or proceeding against the conservatee for legal separation, dissolution, annulment, or adjudication of nullity of their marriage.
  - c.  The  successor conservator is the spouse of the conservatee and is a party to an action or proceeding against the conservatee for legal separation, dissolution, annulment, or adjudication of nullity of their marriage. It is in the best interests of the conservatee to appoint the spouse as  successor conservator.
- 17. (Either a, b, or c must be checked):
  - a.  The  successor conservator is not the domestic partner or former domestic partner of the conservatee.
  - b.  The  successor conservator is the domestic partner of the conservatee and has neither terminated nor intends to terminate their domestic partnership.
  - c.  The  successor conservator is the domestic partner or former domestic partner of the conservatee and intends to terminate or has terminated their domestic partnership. It is in the best interest of the conservatee to appoint the domestic partner or former domestic partner as  successor conservator.

**THE COURT ORDERS**

- 18. a. (Name): \_\_\_\_\_ (Telephone): \_\_\_\_\_  
(Address): \_\_\_\_\_  
  
is appointed  successor  conservator  limited conservator of the PERSON of (name): \_\_\_\_\_  
and Letters of Conservatorship shall issue upon qualification.
- b. (Name): \_\_\_\_\_ (Telephone): \_\_\_\_\_  
(Address): \_\_\_\_\_  
  
is appointed  successor  conservator  limited conservator of the ESTATE of (name): \_\_\_\_\_  
and Letters of Conservatorship shall issue upon qualification.
- 19.  The conservatee need not attend the hearing.
- 20. a.  Bond is not required.
- b.  Bond is fixed at: \$ \_\_\_\_\_ to be furnished by an authorized surety company or as otherwise provided by law.
- c.  Deposits of: \$ \_\_\_\_\_ are ordered to be placed in a blocked account at (specify institution and location): \_\_\_\_\_  
  
and receipts shall be filed. No withdrawals shall be made without a court order.  
 Additional orders in Attachment 20c.

CONSERVATORSHIP OF (Name):   <div style="text-align: right;">CONSERVATEE</div>	CASE NUMBER:   
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- 20. d.  The  successor conservator is not authorized to take possession of money or any other property without a specific court order.
- 21.  For legal services rendered,  conservatee  conservatee's estate shall pay the sum of: \$  
to (name):  
 forthwith  as follows (specify terms, including any combination of payors):
  
- Continued in Attachment 21.
- 22.  The conservatee is disqualified from voting.
- 23.  The conservatee lacks the capacity to give informed consent for medical treatment and the  successor conservator of the person is granted the powers specified in Probate Code section 2355.  
 The treatment shall be performed by an accredited practitioner of a religion as defined in Probate Code section 2355(b).
- 24.  The  successor conservator of the estate is granted authorization under Probate Code section 2590 to exercise independently the powers specified in Attachment 24  subject to the conditions provided.
- 25.  Orders relating to the capacity of the conservatee under Probate Code sections 1873 or 1901 as specified in Attachment 25 are granted.
- 26.  Orders relating to the powers and duties of the  successor conservator of the person under Probate Code sections 2351–2358 as specified in Attachment 26 are granted. (Do not include orders under Probate Code section 2356.5 relating to dementia.)
- 27.  Orders relating to the conditions imposed under Probate Code section 2402 on the  successor conservator of the estate as specified in Attachment 27 are granted.
- 28.  a.  The  successor conservator of the person is granted authority to place the conservatee in a care or nursing facility described in Probate Code section 2356.5(b).  
b.  The  successor conservator of the person is granted authority to authorize the administration of medications appropriate for the care and treatment of dementia described in Probate Code section 2356.5(c).
- 29.  Other orders as specified in Attachment 29 are granted.
- 30.  The probate referee appointed is (name and address):
  
- 31.  (For limited conservatorship only) Orders relating to the powers and duties of the  successor limited conservator of the person under Probate Code section 2351.5 as specified in Attachment 31 are granted.
- 32.  (For limited conservatorship only) Orders relating to the powers and duties of the  successor limited conservator of the estate under Probate Code section 1830(b) as specified in Attachment 32 are granted.
- 33.  (For limited conservatorship only) Orders limiting the civil and legal rights of the limited conservatee as specified in Attachment 33 are granted.
- 34.  This order is effective on the  date signed  date minor attains majority (specify):
- 35. Number of boxes checked in items 18–34: \_\_\_\_\_
- 36. Number of pages attached: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
JUDICIAL OFFICER

SIGNATURE FOLLOWS LAST ATTACHMENT

**FOR REFERENCE**  
**Rules 7.1012 and 7.1062 of the California Rules of Court**

**Rule 7.1012. The good cause exception to notice of the hearing on a petition for appointment of a temporary guardian**

**(a) Purpose**

The purpose of this rule is to establish uniform standards for the good cause exception to the notice of the hearing required on a petition for appointment of a temporary guardian under Probate Code section 2250(c).

**(b) Good cause for exceptions to notice limited**

Good cause for an exception to the notice required by section 2250(c) must be based on a showing that the exception is necessary to protect the proposed ward or his or her estate from immediate and substantial harm.

**(c) Court may waive or change the time or manner of giving notice**

An exception to the notice requirement of section 2250(c) may include one or any combination of the following:

- (1) Waiving notice to one, more than one, or all persons entitled to notice;
- (2) Requiring a different period of notice; and
- (3) Changing the required manner of giving notice, including requiring notice by telephone, fax, e-mail, or a combination of these methods, instead of notice by personal delivery to the proposed ward's parents or to a person with a visitation order.

**(d) Good cause exceptions to notice**

Good cause for an exception to the notice requirement of section 2250(c) may include a showing of:

- (1) Harm caused by the passage of time. The showing must demonstrate the immediate and substantial harm to the ward or the ward's estate that could occur during the notice period.
- (2) Harm that one or more persons entitled to notice might do to the proposed ward, including abduction; or harm to the proposed ward's

estate if notice to those persons is given. Such a showing would not support an exception to the requirement to give notice to any other person entitled to notice unless it also demonstrates that notice cannot reasonably be given to the other person without also giving notice to the persons who might cause harm.

- (3) The death or incapacity of the proposed ward's custodial parent and the petitioner's status as the custodial parent's nominee.
- (4) Medical emergency. The emergency must be immediate and substantial and treatment (1) must be reasonably unavailable unless a temporary guardian is appointed and (2) cannot be deferred for the notice period because of the proposed ward's pain or extreme discomfort or a significant risk of harm.
- (5) Financial emergency. The emergency must be immediate and substantial and other means shown likely to be ineffective to prevent loss or further loss to the proposed ward's estate or loss of support for the proposed ward during the notice period.

**(e) Contents of request for good cause exception to notice**

A request for a good cause exception to the notice requirement of section 2250(c) must be in writing, separate from the petition for appointment of a temporary guardian, and must include:

- (1) An application containing the case caption and stating the relief requested;
- (2) An affirmative factual showing in support of the application in a declaration under penalty of perjury containing competent testimony based on personal knowledge;
- (3) A declaration under penalty of perjury based on personal knowledge containing the information required for an ex parte application under rule 3.1204(b);
- (4) A memorandum; and
- (5) A proposed order.

**Rule 7.1062. The good cause exception to notice of the hearing on a petition for appointment of a temporary conservator**

**(a) Purpose**

The purpose of this rule is to establish uniform standards for the good cause exception to the notice of the hearing required on a petition for appointment of a temporary conservator under Probate Code section 2250(c).

**(b) Good cause for exceptions to notice limited**

Good cause for an exception to the notice required by section 2250(c) must be based on a showing that the exception is necessary to protect the proposed conservatee or his or her estate from immediate and substantial harm.

**(c) Court may change the time or manner of giving notice**

An exception to the notice requirement of section 2250(c) may include one or any combination of the following:

- (1) Waiving notice to one, more than one, or all persons entitled to notice;
- (2) Requiring a different period of notice; and
- (3) Changing the required manner of giving notice, including requiring notice by telephone, fax, e-mail, or personal delivery, or a combination of these methods, instead of or in addition to notice by mail to the proposed conservatee's spouse or registered domestic partner and relatives.

**(d) Good cause exceptions to notice**

Good cause for an exception to the notice requirement of section 2250(c) may include a showing of:

- (1) Harm caused by the passage of time. The showing must demonstrate the immediate and substantial harm to the conservatee or the conservatee's estate that could occur during the notice period.
- (2) Harm that one or more persons entitled to notice might do to the proposed conservatee or the proposed conservatee's estate if notice is given. Such a showing would not support an exception to the requirement to give notice to any other person entitled to notice unless

it also demonstrates that notice cannot reasonably be given to the other person without also giving notice to the persons who might cause harm.

- (3) Medical emergency. The emergency must be immediate and substantial and treatment (1) must be reasonably unavailable unless a temporary conservator is appointed and (2) cannot be deferred for the notice period because of the proposed conservatee's pain or extreme discomfort or a significant risk of harm.
- (4) Financial emergency. The emergency must be immediate and substantial and other means shown likely to be ineffective to prevent loss or further loss to the proposed conservatee's estate during the notice period.

**(e) Contents of request for good cause exception to notice**

A request for a good cause exception to the notice requirement of section 2250(c) must be in writing, separate from the petition for appointment of a temporary conservator, and must include:

- (1) An application containing the case caption and stating the relief requested;
- (2) An affirmative factual showing in support of the application in a declaration under penalty of perjury containing competent testimony based on personal knowledge;
- (3) A declaration under penalty of perjury based on personal knowledge containing the information required for an ex parte application under rule 3.1204(b);
- (4) A memorandum; and
- (5) A proposed order.

## Item W08-05 Response Form

**Title:** Probate Conservatorships and Guardianships: Changes in the *Petition for Appointment of Temporary Conservator or Guardian* and the *Order Appointing Probate Conservator* (revise forms GC-110 and GC-340; adopt form GC-111).

- Agree with proposed changes
- Agree with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Organization: \_\_\_\_\_

- Commenting on behalf of an organization

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

City, State, Zip: \_\_\_\_\_

Please write or fax or [respond using the Internet](#) to:

**Address:** Ms. Camilla Kieliger,  
Judicial Council, 455 Golden Gate Avenue,  
San Francisco, CA 94102

**Fax:** (415) 865-7664 Attention: Camilla Kieliger

**Internet:** <http://www.courtinfo.ca.gov/invitationstocomment/commentform.htm>

<b>DEADLINE FOR COMMENT:</b> 5:00 p.m., Friday, January 25, 2008
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Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

*Circulation for comment does not imply endorsement by the Judicial Council or the Rules and Projects Committee.  
All comments will become part of the public record of the council's action.*