

## **PETITION FOR CONSERVATOR OF MINOR**

### **Information Requirements:**

\_\_\_ **Petition caption properly reflects that it is for a protective order for a minor conservatorship**— ORS 125.055(1)

\_\_\_ **Information on Child (respondent):** All under ORS 125.055(2)

\_\_\_ Name

\_\_\_ Age or birthdate

\_\_\_ Residence address

\_\_\_ Current location

\_\_\_ **Venue:** A protected proceeding must be commenced in the county where the respondent resides or is present – ORS 125.020(1)

\_\_\_ No other court in the State of Oregon has acquired jurisdiction in this matter  
ORS 125.015(1)

\_\_\_ No protected proceeding has been established in another state - ORS 125.015(2)

\_\_\_ **Information on Petitioner:**

\_\_\_ Name - ORS 125.055(2)(c)

\_\_\_ Age - ORS 125.055(2)(c)

\_\_\_ Address - ORS 125.055(2)(c)

\_\_\_ Interest of the petitioner - ORS 125.055(2)(b)

\_\_\_ **Information on Proposed Conservator:**

\_\_\_ Name - ORS 125.055(2)(c)

\_\_\_ Age - ORS 125.055(2)(c)

\_\_\_ Address - ORS 125.055(2)(c)

\_\_\_ Relationship to child - ORS 125.055(2)(c)

\_\_\_ Willing to serve – ORS 125.200

\_\_\_ Qualified to serve – ORS 125.205

\_\_\_ Statement indicating whether the person nominated is a public or private agency (or an employee of that agency) that provides services to the child.  
ORS 125.055(2)(l)

\_\_\_ Statement as to whether proposed conservator has been convicted of a crime, has filed for or received protection under the bankruptcy laws, or had a

professional or occupational license revoked or canceled. ORS 125.055(2)(d) & ORS 125.210(1)

\_\_\_ Statement of circumstances included, if applicable. ORS 125.055(2)(e)

\_\_\_ Statement as to whether the proposed conservator intends to place the child in a residential facility. ORS 125.055(2)(j)

\_\_\_ Proposed fiduciary a professional. A professional fiduciary acts at the same time as fiduciary for 3 or more persons unrelated to the fiduciary. ORS 125.240(5). If so, complete additional professional fiduciary checklist as per ORS 125.240(1).

- Note: does not apply to financial institutions or trust companies – ORS 125.242

\_\_\_ **The Names and addresses of the following persons:**

\_\_\_ Treating physicians – ORS 125.055(2)(h)

\_\_\_ Any other persons who are providing care - ORS 125.055(2)(h)

\_\_\_ Fiduciary appointed by the court - ORS 125.055(2)(g)

\_\_\_ Any trustee for a trust established for or by the respondent - ORS 125.055(2)(g)

\_\_\_ Any appointed health care representatives - ORS 125.055(2)(g)

\_\_\_ Attorney-in-fact - ORS 125.055(2)(g)

\_\_\_ **Statement that indicates whether the petitioner is petitioning for plenary authority or specified limited authority for the person nominated as fiduciary. – ORS 125.055(2)(m)**

\_\_\_ **Child's estate:**

\_\_\_ General description - ORS 125.055(2)(k)

\_\_\_ Sources of income and the amount of that income - ORS 125.055(2)(k)

\_\_\_ Petitioner's estimate of the value of the estate – ORS 125.055(4)

- Applicable when petition seeks appointment of a conservator or a temporary fiduciary who will exercise the powers of a conservator - ORS 125.055(4)

\_\_\_ Check if child receiving AFS or Veterans benefits – ORS 125.060(2)(h) & (i)

\_\_\_ **Factual information that support request for conservatorship – ORS 125.055(2)(i)**

\_\_\_ **Statement of Less Restrictive Alternative and Names, addresses, and phone numbers: a statement explaining less restrictive alternatives to the appointment of a fiduciary that have been considered and why the alternatives are inadequate in addition to the names and addresses of all persons who have information that would support a finding that an adult respondent is incapacitated or financially incapable. – ORS 125.055(2)(i)**

\_\_\_ **Indian Child Welfare Act statement – if applicable - ORS 125.025(2).** If ICWA does apply, flag case and make a note on document of whether the tribe was served or not. Also, list tribe as an interested party (if possible).

\_\_\_ **Visitors:** not automatically required for minor conservatorships except when the

- court requires them or in temporary fiduciary situations (see below) ORS 125.150(1)
  - \_\_\_ Court appointed - ORS 125.150(1)
  - \_\_\_ If visitor is required, visitor supports the petition and proposed conservator - ORS 125.150(2)
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## **Notice Requirements:**

**Notice should be provided to the following interested parties:** ORS 125.060

- \_\_\_ The respondent, if the respondent is greater than 14 years old – ORS 125.060(2)(a)
- \_\_\_ Parents of the respondent - ORS 125.060(2)(b)
  - \_\_\_ Request waiver of notice on the putative (paternity not established) father? Applicable under either one of the following circumstances: ORS 109.096 (have CB review)
    - \_\_\_ Child has not lived with putative father in the 60 days prior to the filing of the petition – ORS 109.096(1)(a)
    - \_\_\_ Putative father hasn't contributed or tried to contribute to the support of the child for 1 year prior to the filing of the petition- ORS 109.096(1)(2)
      - \_\_\_ Verified statement of the mother of the child or an affidavit of another person with knowledge of the facts verifying the above requirements for waiver - ORS 109.096(2)
- \_\_\_ If there are no parents, then the person most closely related - ORS 125.060(2)(c)
- \_\_\_ Any person who is living with the respondent and is concerned with the respondent's welfare - ORS 125.060(2)(d)
- \_\_\_ Any fiduciary, trustee, attorney-in-fact, or health care representative – ORS 125.060(2)(e)
- \_\_\_ The person(s) who has exercised principal responsibility for the care and custody of the child for the 60-day period before the filing of the petition - ORS 125.060(2)(f)
- \_\_\_ If there are no living parents, any person nominated to act as a fiduciary for the minor in the parent's will or other written instrument - ORS 125.060(2)(g)
- \_\_\_ If the respondent is receiving Veteran's benefits, Dep't of Veteran's Affairs ORS 125.060(2)(h)
- \_\_\_ If the respondent is receiving AFS benefits, the Dep't of Human Resources ORS 125.060(2)(i)

\_\_\_ Any other person the court requires. ORS 125.060(2)(l)

### **Manner of Giving Notice: ORS 125.065**

\_\_\_ **The respondent:** if the respondent is over 14 years old, personal service is required ORS 125.065(1)

- Notice cannot be served on the respondent by the visitor appointed by the court.
- **Cannot waive** the notice requirement - ORS 125.060(9)

\_\_\_ **The parents of the respondent:** If the respondent is a minor then notice must be personally served on the parents - ORS 125.065(1)

\_\_\_ If identity or location of parent cannot be ascertained through reasonable diligence, notice can be published instead - ORS 125.065(2) (have CB review)

\_\_\_ Can also request an alternate service (have CB review) – ORCP 7D(6)(a)

\_\_\_ **All others listed under ORS 125.060(2):** Notice is to be sent to the last-known address - if identity or location of any person is not known or cannot be ascertained through reasonable diligence, notice can be published instead. ORS 125.065(2)

\_\_\_ Proof of notice given has been filed. ORS 125.065(5)

### **Time to object from date of mailing or personal service:**

-15 days; or 21 days if the proceedings are subject to the Uniform Child Custody Act applies. ORS 125.065(3)

- Court may provide for a different method or time of giving notice for good cause shown. ORS 125.065(4)

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### **Conservator's bond:**

\_\_\_ **No bond required:** if trust company is acting as a fiduciary – ORS 125.410(2)(b)

\_\_\_ **Conservator's bond** – ORS 125.410

\_\_\_ Usually full amount of the estate: all assets + 1 year's income – ORS 125.410(1)

\_\_\_ **When a bond can be waived or reduced:**

\_\_\_ If assets are restricted - ORS 125.410(1)

\_\_\_ At the courts discretion for good cause shown - ORS 125.410(2)(a)

- (If purpose is to pursue PI claim then waived until settlement is approved and/or assets are recovered)

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\_\_\_ **Acceptance of appointment by conservator**

\_\_\_ Not needed: petitioner is conservator – ORS 125.215

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**Temporary Fiduciary:**

- A temporary conservator will be appointed by the court when there is an immediate and serious danger to the estate of the respondent and immediate action is required – ORS 125.600(2)

**Requirements:**

- \_\_\_ **Notice:** Two days notice is required to all of the above listed persons; however, the court can waive the 2-day requirement if the danger is such that an immediate appointment is required. In those circumstances, service must be made within 2 days after the appointment. ORS 125.605(2)
- \_\_\_ **Visitor:** The court **may** appoint a visitor, and the visitor's report is required within 5 days of the appointment of the temporary fiduciary. ORS 125.605(4)
- \_\_\_ **Objections:** The court shall hear objections within 2 judicial days after the date on which the objections are filed. ORS 125.605(5)