

# CONSERVATORSHIPS

## MINORS

### *Bench Card*

***This Bench Card has been created by the Administrative Office of the Court as a resource for judges. Bench Cards do not represent statements of law by the Idaho Supreme Court and do not constitute legal advice.***

#### **PURPOSE**

Appointment of a conservator for a minor may be made if the minor owns money or property that requires management which cannot otherwise be provided, has or may have business affairs which may be jeopardized or that funds are needed for his support and education and that protection is necessary or desirable to obtain or provide funds.<sup>1</sup>

#### **APPOINTMENTS**

1. Must appoint a Guardian *ad Litem* attorney if at any time the court determines that the interests of the minor are or may be inadequately represented.<sup>2</sup>
2. If a temporary appointment is made, the court shall appoint a guardian *ad litem* for the minor at the same time the temporary appointment of a conservator is made.<sup>3</sup>

#### **TEMPORARY APPOINTMENT<sup>4</sup>**

1. May be appointed without notice upon a finding that an emergency exists.
2. Notice of the appointment must be given to all interested persons within five (5) days of appointment.
3. A hearing must be held within five (5) days of a request by an interested person.
4. Cannot exceed 90 days unless extended for good cause.

#### **REQUIRED SUBMISSIONS PRIOR TO HEARING**

1. All notices have been given.<sup>5</sup>
  - a. Personal service on the respondent.
  - b. Service by mail or in person on the respondent's spouse; or if none the respondent's adult children; or if none the respondents parents; or if none the closest adult relatives, if any can be found.
  - c. Service by mail or in person upon any person currently serving as guardian, conservator, or who is providing care to the alleged incapacitated person.
  - d. Service by mail or in person upon anyone who has filed a request for notice.

#### **LIMITED CONSERVATORSHIP AND OTHER PROTECTIVE ORDERS**

Without appointing a conservator, the court may authorize, direct or ratify any transaction necessary or desirable to achieve any security, service or care arrangement meeting the foreseeable needs of the person.<sup>6</sup>

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<sup>1</sup> IC §15-5-401(a)

<sup>2</sup> IC §15-5-407(a)

<sup>3</sup> IC §15-5-407A(f)

<sup>4</sup> IC §15-5-407A

<sup>5</sup> IC §15-5-405; *See* §15-5-309

<sup>6</sup> IC §15-5-409(a)

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#### HEARINGS AND FINDINGS

##### Findings

1. The minor owns money or property that requires management or protection that cannot be otherwise provided;  
OR
2. The minor has or may have business affairs which may be jeopardized or prevented by his minority;  
OR
3. Funds are needed for his or her support and education and that protection is necessary or desirable to obtain or provide funds.<sup>7</sup>

##### Standard Orders and Judgments

1. Judgment Appointing Conservator.
2. Letters of Conservatorship.
3. Conservator's Duty to Report.

#### REQUIRED REPORTS

1. Financial plan if not included in the petition.<sup>8</sup>
2. 90 day inventory.<sup>9</sup>
3. Annual accounting.<sup>10</sup>
4. Accounting when a conservator resigns or is removed.<sup>11</sup>
5. Final Accounting when the conservatorship is terminated.<sup>12</sup>

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<sup>7</sup> IC §15-5-401(a)

<sup>8</sup> IC §15-5-404(c)

<sup>9</sup> IC §15-5-419; ICAR 54.3

<sup>10</sup> IC §15-5-419; ICAR 54.3

<sup>11</sup> IC §15-5-419; ICAR 54.3

<sup>12</sup> IC §15-5-419; ICAR 54.3