

Conservatorship Attorney in Utah

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When someone is unable to continue managing his or her financial interests due to mental or physical incapacity, a Utah district court may appoint someone else to act as the person’s conservator. But, obtaining an appointment to a guardianship or conservatorship of an adult or minor in Utah can become complicated. Though a loved one’s condition may seem clear enough to a family member, it’s not always easy to establish that an individual needs a conservator.

You will need to obtain the best Conservatorship Attorney in Utah has available to help you through the legal processes of getting an appointment by the court as a conservator.

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What is a Conservatorship?

There are guardianship and conservatorship roles. The same person or institution may be appointed to both these two roles. If there is no conservator of person, the guardian may accept the responsibilities of a conservator.

Guardianship — A guardian is a person or institution appointed by a court to decide another person’s physical care (the “ward”). Guardianship can be established when a person’s decision-making ability is so mentally or physically impaired that he or she cannot attend to essentials like shelter, food, clothing, medical care for themselves, or to their own personal safety.

Conservatorship — A conservator is a fiduciary for the ward's assets, appointed by the court to be responsible for managing his or her property and financial matters with a reasonable level of care and skill, as necessary to protect the assets and invest them as appropriate. A court must determine that the ward's assets or income may be dissipated or wasted unless a conservator is appointed.

Do I Need a Conservatorship Attorney?

To be appointed as a conservator, responsible for making financial decisions for another adult, requires you to petition the probate court and appear before a judge to request conservatorship. The process also requires evidence to be presented that proves it is necessary to have someone manage the potential ward's financial responsibilities on his or her behalf.

You will need a Utah conservatorship attorney to guide you through the numerous phases of the district court process, including completing all legal documents, court appearances, and other requirements.

An experienced conservatorship attorney will help ensure that your loved one is protected, help you thoroughly examine your legal options, and ensure that everything that must be done is done to succeed with your petition for conservatorship.

Reasons for a Court to Appoint a Conservator

Under Utah law, the following are reasons why a court may appoint a conservator. A conservator may be appointed only if the respondent is not able to manage his or her own property and financial affairs due to:

- Mental Deficiency
- Mental Illness
- Physical Disability
- Physical Illness
- Chronic Use of Drugs
- Chronic Intoxication
- Confinement
- Detention by a Foreign Power
- Disappearance
- Advanced Age
- Some Other Cause

In addition to one of the above reasons, there is an additional condition that must exist along with one of those reasons:

1. The respondent's property must be at risk of being harmed if appropriate management by another person is not provided.

2. Or, funds are needed to pay for the care and support of the respondent, or of others who are entitled to support from the respondent, and protection from a conservator is needed or is practical for issuing such funds.

The petitioner for the conservatorship must prove one of these points by a “preponderance of the evidence.”

Legal Process for Appointment of a Conservator in Utah

Here is a very brief overview of the procedures in the appointment process for mental health conservatorship Utah courts typically require. Some of these steps may vary from one district court to another, and judges may order other procedures, depending on the circumstances of individual cases.

- ***Petition to appoint a conservator*** — A petition must be filed with the district court to establish guardianship or conservatorship. Notice must be delivered to all interested parties, including the protected person’s spouse, children, and others, in a manner compliant with URCP 4. A lawyer must be appointed to defend the rights of the protected person during the proceeding to assign guardianship, and filing fees must be paid, unless waived by the court. After guardianship has been established, a case for conservatorship can be decided.
- ***Objecting to the petition*** — Anyone served with the notice of a petition for a conservatorship may object by filing their objection in writing prior to the court hearing, or by submitting their objection to the court verbally at the hearing. The verbal objection to the conservatorship must then be submitted in writing within 7 days after the hearing.
- ***Additional Legal Steps*** — The legal process for establishing conservatorship continues with the potential assignment of a lawyer to represent the respondent, which any interested person may do, or which the court may decide to do for the respondent if he or she is not present. At the request of any interested party, or at the judge’s own discretion, the court may require a physician’s examination of the respondent to validate claims of mental or physical illness, deficiency, or disability due to any reason allowed under Utah law (as listed in the section above). The court may also assign a court visitor who is unrelated to the case.
- ***Court Hearing*** — The judge will consider the merits of the petitioner’s claims and proof, the potential need for a court visitor, the respondent’s representations, document filings, notifications, objections, and other factors. The court will also decide whether or not the conservator must complete a conservatorship test (under Utah Rule 6-501).
- ***Mediation*** — If an objection to the conservatorship is raised, the case is referred for mediation, or a trial is set. The petitioner must then prove the validity of claims submitted in the petition. See the list of legal forms for conservatorship proceedings to be submitted during the process.



What Happens if Conservatorship is Contested?

If the court is satisfied that a conservatorship is necessary, the judge will enter an order appointing the conservator and issue a letter of conservatorship. However, knowing the essentials of how to get conservatorship and completing every step of the Utah probate process may not necessarily be enough.

If the potential conservatee does not want the conservatorship to be established, legal complications can arise. The court will then appoint a lawyer for the proposed conservatee, whom you will then need to oppose in all facets of the probate case.

Making a successful case for conservatorship against opposing legal counsel can be challenging. A conservatorship attorney knows the process and which actions to take to succeed with a contested action.

As You Approach the Challenge of Obtaining Conservatorship

During a case for conservatorship, your role should not be to attempt to act as a lawyer. Your purpose is, of course, to help make sure that your loved one has the right person legally appointed to protect his or her interests now and in the future. This makes the decision to work with a qualified conservatorship attorney a critical step toward ensuring that the court receives accurate information and that the process is not adversely impacted by insufficient legal handling in the district court system.

Wall & Wall Attorneys at Law, P.C.

If you need legal services from a well-respected conservatorship lawyer with whom you can feel comfortable working through personal matters, we're here to help you. We will listen very carefully to all the details of your situation, help you explore all your legal options, and personally represent you in court, to resolve the matter successfully. We have

an excellent track record in handling all matters of family law as well. (We speak English and Spanish, and with advanced notice, we can provide interpreter services for other languages.)

Ready to explore your legal options? Call us at 801-441-2388 for a free 30-minute, no-obligation consultation, so we can review your case with you.
