

# Guardianship and Conservatorship in Iowa

## Issues in Substitute Decision-Making

Why Modify a Guardianship or Conservatorship?  
When Does a Guardianship or Conservatorship End?

### **Modification and Termination of Guardianship and Conservatorship**

#### **Why Modify a Guardianship or Conservatorship?**

Sometimes a conservator or guardian may need to get more powers over the protected person than the court originally granted. Sometimes the protected person's decision making may improve, lessening the need for someone else to make the protected person's decisions.

Changing (or modifying) a guardianship or conservatorship is similar to setting one up. A petition for "modification" is filed with the court. A hearing date is set. Interested persons may present facts at the hearing. The court must decide if a "limited" guardianship or conservatorship is right for the protected person. The court must try to limit the powers of the guardian or conservator to those that are really needed.

#### **When Does a Guardianship or Conservatorship End?**

A guardianship or conservatorship ends (the statute uses the word "terminates") when the protected person dies or if the court says that the protected person is able to make decisions. A protected person may ask the court to end the guardianship or conservatorship. A protected person can do this by filing a petition in court.

If the court ends the guardianship or conservatorship, all rights taken from the protected person are returned. The protected person is no longer considered "incompetent."

Ending a guardianship or conservatorship is much the same as setting one up. The guardian or conservator or protected person files a petition to end or terminate the guardianship or conservatorship. The court sets a hearing date. Notice of the hearing is given to all interested persons.

If the guardian or conservator is filing the petition, the burden of persuading the court of the need for a change remains with the guardian or conservator. If the protected person is filing the petition, the protected person has to present evidence to show that the protected person has some decision-making capacity. The burden of persuasion then shifts to those opposing the termination to show the court by clear and convincing evidence that the protected person is incompetent.

A guardianship can end even if the protected person is still disabled. The facts may show that the person now has the ability to take care of personal matters and/or manage property. A person who is able to care for self or property may be considered “competent” and not need a guardian. This may be true even if the person has a mental disability.

When a protected person dies, the guardian or conservator can no longer make any decisions. The guardian or conservator still has to tell the court what he or she did before the death of the protected person. The guardian or conservator has to file a final paper with the court saying what he or she did. The court has to approve the accounting or report before the guardianship or conservatorship case is ended.

## **What Happens When the Guardian or Conservator has to be Changed?**

The court will need to replace a guardian or conservator who dies, is removed, or resigns. A guardian or conservator may be removed for mismanagement or improper actions.

If the protected person still needs a guardian or conservator, the court can pick a new “successor” guardian or conservator. The process for picking a successor guardian or conservator is similar to the other legal proceedings described above. Often, the biggest problem is finding someone to act as the conservator or guardian. The court does not have a list of people. It is up to the people involved to offer someone as a successor guardian or conservator. Notice will be given to interested parties. A hearing may be needed to approve the successor guardian or conservator. It is possible that the Iowa Office of Public Guardian might be able to function as a guardian or conservator. Information is available at <https://www.iowaaging.gov/programs-services/elder-justice-adult-protective-services/office-public-guardian>

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These materials are a general summary of the law. They are not meant to completely explain all that you should know about guardianship and conservatorship. You should see a lawyer to get complete, correct and up-to-date legal advice. Iowa's law on guardianship and conservatorship is found in Iowa's Probate Code starting at section 633.551.