

Administrative Office of the Courts

Supreme Court of New Mexico

Arthur W. Pepin, Director



237 Don Gaspar
Santa Fe, NM 87501

Judicial Information Division (JID)

Appointment of Temporary Guardian/Conservator in Adult PQ Cases SOP Version 1.1.1

To be used in conjunction with the Processing Adult Guardianship/Conservatorship Cases SOP Version 2.1

ODUG Approved June 15, 2022
OJUG Approved June 16, 2022

Appointment of Temporary Guardian/Conservator In Adult PQ Cases

COURT / DEPARTMENT / DIVISION AND USER

This procedure is to be used by District Court Clerks.

INTRODUCTION

This process will provide users with guidance in processing a motion for the temporary appointment of a Guardian and/or Conservator in Adult Guardianship & Conservatorship cases. This process is in accordance with NMSA 1978 Section 45-5-310, Temporary Guardians and Section 45-5-408, Temporary Conservators.

RELEVANT DATA STANDARDS

Data Standards were approved by the Supreme Court on May 20, 2020. Using the data standards will result in improved data collection and reporting; improved data quality; improved consistency in case processing; improved court efficiency; and improved ability to establish court staffing needs. Refer to the following data standards for any procedures that may or may not be specifically mentioned in this SOP:

General	Case Specific
1.8.0 Hearings	10.0.0 Mental Health Data Standards
1.9.0 Interpreters	10.3.0 Parties
1.15.0 Scanning	10.5.0 Pleadings
1.16.0 Service	10.6.0 Case Management
1.17.0 Time Standards	

NAVIGATION AND STEPS

Courts will continue to follow the Processing Adult Guardianship/Conservatorship Cases SOP while the judge addresses the Motion for a Temporary Guardian/Conservator. If a Motion for Temporary Guardian/Conservator is filed, the court shall utilize the following procedures:

I. Motion for Temporary Guardian/Conservator

Upon receipt of a separate Motion for Temporary Guardian/Conservator court staff will enter the motion using the following event code:

- MTN: for Temporary Guardian/Conservator – 1450

II. Decision on Motion for Temporary Guardian/Conservator

The motion for the temporary appointment will be reviewed by the judge. Court staff will enter the order approving or denying the temporary appointment using the following event codes:

- ORD: Temporary Guardian Denied – 1451
- ORD: Temporary Conservator Denied – 1452
- ORD: Appointing Temporary Guardian – 8386 (Due date auto set for 30 days)
- ORD: Appointing Temporary Conservator – 8387 (Due date auto set for 30 days)

Note: If the court appointed a temporary Guardian/Conservator continue with the steps below. If the court denied the temporary appointment, simply enter the corresponding event and the process is complete.

III. Service of the Temporary Order Appointing Guardian/Conservator

The petitioner shall have the alleged incapacitated person (ITMO) and the alleged incapacitated person’s attorney served personally within 24 hours of the appointment of the temporary guardian/conservator.

- Court staff shall add service to the Order Appointing Temporary Guardian/Conservator using the type: Petition/Notice to ITMO Party
- Court staff shall complete the Service tab once the return of service has been filed.

The screenshot shows a software interface for a court case titled "In the Matter Of Britney Spears". The case type is "Protected Probate, Conservatorship / Guardianship Adult". The "Events" tab is active, displaying a list of events:

Date	Type and Comment
07/07/2022	MTN: for Temporary Guardian/Conservator Motion for Temporary Guardian and Conservator Party: Petitioner Spears, Jamie
07/07/2022	ORD: Appointing Temporary Conservator Order Appointing Temporary Conservator Conservator: Petitioner Spears, Jamie; Petitioner Mouse, Mickey Due: 08/06/2022
07/07/2022	Petition/Notice to ITMO Party
07/07/2022	ORD: Appointing Temporary Guardian Order Appointing Temporary Guardian Guardian: Petitioner Spears, Jamie; Petitioner Mouse, Mickey Due: 08/06/2022
07/07/2022	Petition/Notice to ITMO Party
07/07/2022	CRT: G/C Information Sheet (Petition)
07/07/2022	OPN: PETITION

IV. Motion for Dissolution or Modification of Temporary Appointment

The alleged incapacitated person, the alleged incapacitate person’s counsel or any interested person may appear and move for dissolution or modification of the court’s temporary appointment of a guardian/conservator. The motion for dissolution or modification may be heard at the 10 day hearing or no later than 10 business days from the date the motion is made, whichever comes first.

- If the filing party is not already a party on the case, court staff shall enter the filing party as a “Participant” in the case with a connection of “Interested Party”.
- Enter the Motion for Dissolution or Modification of Temporary Appointment using event code: MTN: to Amend/Modify - 8104

The screenshot shows a software interface for a court case. It displays an "Interested Party" and a recent event:

Interested Party	Asghari, Sam
07/07/2022	MTN: MOTION TO AMEND/ MODIFY Motion for Dissolution or Modification of Temporary Appointment Filed By: Interested Party Asghari, Sam

- If the Motion for Dissolution or Modification of Temporary Appointment is not heard at the 10 day hearing, an additional Notice of Hearing should be issued. Court staff will use the following event code to enter the notice:
 - NTC: Hearing (Motion) - 6596

V. Hearing on Temporary Appointment of Guardian/Conservator

Upon the appointment of a temporary Guardian/Conservator, a hearing must be held within 10 business days. This hearing is to determine if the temporary appointment will continue for the duration of the 30 day temporary appointment, or if the temporary appointment will be terminated.

Court staff will use the following event code to enter the notice of hearing for the 10 day hearing:

- NTC: Hearing (Motion) - 6596

Note: Supreme Court form 4-999 (Notice of Hearing and Rights) should **NOT** be used for this 10 day hearing. Also, do **NOT** enter the notice of hearing using event code 6495 Notice of Hearings and Rights.

VI. Order Appointing Temporary Guardian Ad Litem

Upon the appointment of a temporary Guardian/Conservator the judge must also appoint a Temporary Guardian Ad Litem. Court staff will use the following event code to enter the order:

- ORD: Appointing Temporary Guardian Ad Litem – 1453
 - Enter the Temporary Guardian Ad Litem on the parties tab as the attorney of record for the ITMO party, using the connection “Guardian Ad Litem”.

Note: If the judge appoints a separate Guardian Ad Litem for the Petition, enter that Guardian Ad Litem on the parties tab as an additional attorney of record for the ITMO party.

The screenshot displays a software interface for a legal case. The main window is titled "In the Matter Of Britney Spears" and shows various tabs like Summary, Detail, Parties, Events, etc. The "Parties" tab is active, showing a list of parties and their roles. A pop-up window titled "Modify Case Attorney Details" is open, showing information for "Galindo, Patricia M." as the attorney. The pop-up includes fields for Attorney, Address, and Connection. The Connection dropdown is set to "Guardian Ad Litem".

Party & Attorney Information	Modify Case Attorney Details																						
<table border="1"> <tr> <td>In the Matter Of</td> <td>Spears, Britney DOB: 12/02/1981 Age: 40 Y 7M</td> </tr> <tr> <td>Petitioner</td> <td>Moose, Mickey Spears, Jamie</td> </tr> <tr> <td>Participant & Attorney Information</td> <td></td> </tr> <tr> <td>Entitled to Notice/View</td> <td>Spears, Jamie Lynn Spears, Lynn</td> </tr> <tr> <td>Interested Party</td> <td>Asghari, Sam</td> </tr> <tr> <td>Qualified Health Expert</td> <td>SWANDA, REX, D.</td> </tr> <tr> <td>Visitor</td> <td>Galvez, Marv</td> </tr> </table>	In the Matter Of	Spears, Britney DOB: 12/02/1981 Age: 40 Y 7M	Petitioner	Moose, Mickey Spears, Jamie	Participant & Attorney Information		Entitled to Notice/View	Spears, Jamie Lynn Spears, Lynn	Interested Party	Asghari, Sam	Qualified Health Expert	SWANDA, REX, D.	Visitor	Galvez, Marv	<table border="1"> <tr> <td>Attorney</td> <td>Galindo, Patricia M. Bar # 97041 Work: 505-827-3618 Fax: 505-827-4824 aacpmg@nmcourts.gov</td> </tr> <tr> <td>Address</td> <td>Party Correspondence Address Administrative Office of the Courts 237 Don Gaspar Avenue Room 25 Santa Fe, NM 87501</td> </tr> <tr> <td>Connection</td> <td>Case Correspondence Address Same As Party Correspondence Address</td> </tr> <tr> <td>Spears, Britney</td> <td>★ Guardian Ad Litem Added: 07/07/2022 Temporary Appointment</td> </tr> </table>	Attorney	Galindo, Patricia M. Bar # 97041 Work: 505-827-3618 Fax: 505-827-4824 aacpmg@nmcourts.gov	Address	Party Correspondence Address Administrative Office of the Courts 237 Don Gaspar Avenue Room 25 Santa Fe, NM 87501	Connection	Case Correspondence Address Same As Party Correspondence Address	Spears, Britney	★ Guardian Ad Litem Added: 07/07/2022 Temporary Appointment
In the Matter Of	Spears, Britney DOB: 12/02/1981 Age: 40 Y 7M																						
Petitioner	Moose, Mickey Spears, Jamie																						
Participant & Attorney Information																							
Entitled to Notice/View	Spears, Jamie Lynn Spears, Lynn																						
Interested Party	Asghari, Sam																						
Qualified Health Expert	SWANDA, REX, D.																						
Visitor	Galvez, Marv																						
Attorney	Galindo, Patricia M. Bar # 97041 Work: 505-827-3618 Fax: 505-827-4824 aacpmg@nmcourts.gov																						
Address	Party Correspondence Address Administrative Office of the Courts 237 Don Gaspar Avenue Room 25 Santa Fe, NM 87501																						
Connection	Case Correspondence Address Same As Party Correspondence Address																						
Spears, Britney	★ Guardian Ad Litem Added: 07/07/2022 Temporary Appointment																						

The Temporary Guardian Ad Litem shall file a report no later than 2 days prior to the 10 day hearing. Court staff will use the following event code to enter the report:

- Sealed Guardian Ad Litem’s Report – 9226

VII. Decision on Continuation of Temporary Guardian/Conservator

During the 10 day hearing, the judge will determine if the temporary appointment will continue or should be terminated. Based upon the judge’s order, court staff will use the following event codes to enter the order:

- ORD: Terminating Temporary Guardian/Conservator – 1454
 - The due date on the event, “Order Appointing Temporary Guardian/Conservator”, must be completed using the date of this order.
- ORD: Continuing Temporary Guardian/Conservator – 1455
 - Duration of the Temporary Guardian/Conservator shall not exceed 30 days without a motion and order to extend the time.

07/07/2022 **ORD: Terminating Temporary Guardian/Conservator** Order Terminating Temporary Guardian

07/07/2022 **ORD: Appointing Temporary Guardian** Order Appointing Temporary Guardian

Guardian: Petitioner Spears, Jamie; Petitioner Mouse, Mickey

Due: 08/06/2022 **Completed: 07/07/2022**

07/07/2022 **ORD: Continuing Temporary Guardian/Conservator** Order Continuing Temporary Conservator

VIII. Temporary Guardian/Conservator Initial 15 day Report

The temporary Guardian/Conservator shall file an initial report within 15 days of the temporary appointment. Court staff will use the following event codes to enter the reports:

- Temporary Guardian’s Initial 15 day Report – 1456
- Temporary Conservator’s Initial 15 day Report – 1457

IX. Extension of Temporary Appointment

The duration of the temporary appointment shall not exceed 30 days. However, if after a hearing, the court may extend the temporary appointment for no more than an additional 60 days. Based upon the judge’s order, court staff will use the following event codes to enter the order:

- ORD: Temporary Guardian/Conservator Extension Granted – 1458
 - Due date auto set for 60 days
 - Complete due date on original order appointing Temporary Guardian/Conservator
- ORD: Temporary Guardian/Conservator Extension Denied – 1459
 - Complete due date on original order appointing Temporary Guardian/Conservator

07/07/2022 **ORD: Temporary Guardian/Conservator Extension Granted** Order Granting Temporary Conservator Extension
Due: 09/05/2022

07/07/2022 **ORD: Appointing Temporary Conservator** Order Appointing Temporary Conservator

Conservator: Petitioner Spears, Jamie; Petitioner Mouse, Mickey

Due: 08/06/2022 **Completed: 07/07/2022**

X. Temporary Guardian/Conservator Final Report

A Temporary Guardian/Conservator shall file a final written report within 15 days of the termination of the temporary appointment. Court staff will use the following event codes to enter the final report:

- Temporary Guardian's Final Report – 1460
 - Complete due date on original order appointing temporary Guardian/Conservator (30 day) or the order extending temporary Guardian/Conservator (60 day).
- Temporary Conservator's Final Report – 1461
 - Complete due date on original order appointing temporary Guardian/Conservator (30 day) or the order extending temporary Guardian/Conservator (60 day).

Now that the Temporary Guardian/Conservator process is complete, court staff will continue to follow the Processing Adult Guardianship/Conservatorship Cases SOP.