

Terminating or Modifying Conservatorship

Frequently Asked Questions

Conservatorships can be ended (terminated) or modified (changed). A conservatorship may have been set up for a person with a cognitive, psychiatric, or intellectual disability because someone had concerns about the person's well-being or that the person would be unable to ensure protection and management of their finances. **Just because a conservatorship was needed before doesn't mean it's still needed now. It's a good idea to review whether the arrangement is still needed or still needed in its current form.**

How long does a conservatorship last?

Unless a judge limits the duration at the time of the appointment, the conservatorship remains in place until:

- The person dies.
- The Court **ends or changes** the arrangement following a petition and court hearing proving the conservatorship is no longer necessary.

Can it be changed or ended?

Yes, even if the person's disability has not improved, it is still possible to seek an end to the conservatorship in its entirety, or return some financial rights to the person, while leaving some levels of protection in place through modifying the powers of conservatorship.

Why consider a change?

- The person may be more open to extra help in decision making or managing their finances than they were when the conservator was appointed.
- New support systems or services are available or are more suitable now.
- We now know more about available support to make sure a person gets their needs met while keeping their decision-making rights.

What are questions to ask before terminating or making changes?

- Does the person have existing support teams? Can they be identified and developed?
- Is the person willing to accept help?
- Think about all the things a conservator is currently doing for the person: would the conservator be willing to keep helping the person in these areas if they weren't the conservator? This might be with banking tools or being appointed as attorney-in-fact in a Power of Attorney document. Would someone else be willing?
- Are there other tools or approaches that would be helpful and that don't require a court appointed conservator?
- Could the finances be protected by arrangements outside of conservatorship?

When is a good time to review whether conservatorship is still necessary?

- When annual court reporting documents are being completed.
- If there has been a change in the person's willingness to accept help or if the person no longer has money or property that needs to be managed.
- Support and services that didn't previously exist are now available.
- If the person asks about ending or changing the conservatorship.

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The person's disability or medical condition has not changed — don't they still need a conservator?

Not necessarily. The need for a conservator is based more on **whether the person can meet their financial needs using less restrictive options**, not on their disability, diagnosis, or level of functioning. When conservatorship was first requested, the court probably required proof that:

- Less restrictive alternatives were tried,
- How long they were tried, and
- Why they didn't work.

If there are now less restrictive ways to meet the person's needs that they accept, or if there are fewer assets to manage, a conservatorship may no longer be needed.

What are some key factors that show we should think about termination or modification?

Recent developments in Supported Decision Making recognize that conservatorships aren't always necessary. Consider the circumstances that may have changed since the conservatorship was put in place to decide if it is still necessary to meet the person's needs:

- The person gained or regained more skills.
- New technology is now available that would help the person, like phone alarms to remind them to pay bills.
- Banking tools like direct deposit and auto-pay are available.
- Financial management arrangements are available now, like Representative Payee, Daily Money Managers, or help with organizing bills and paperwork.
- New willingness to accept help from family, friends, or community.
- The person no longer has assets that need to be managed by a conservator.
- Previous scamming or fraud activity are no longer an issue.
- Availability of support and services that didn't exist before, like Representative Payee.

Also consider other systems of support that could address their needs if the conservatorship ended:

- Online banking: a trusted supporter could monitor their banking activity to make sure there are no concerns about excessive spending or failure to pay bills.
- A Representative Payee.
- A Power of Attorney or have help from a trusted person in banking.
- Family, friends, or community support.

Think: *What systems of support could replace conservatorship? These supports might already be in place, making the conservatorship unnecessary.*

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Do we need documentation or support from a doctor or other health care provider?

No. A medical or neuropsychological evaluation to prove a person has improved or recovered from a cognitive, intellectual, or psychiatric condition is not required. You only need to prove:

- The person no longer needs the level of protection that the conservatorship provides, and
- Their needs can be met with less restrictive means.

Minnesota's statute does not require any specific documentation, other than a Petition to Terminate (or Modify) Conservatorship and other court forms related to the court process (including a Final Accounting). Extra advocacy may be required to inform others what the law requires. Sometimes, judges will insist that they need documentation, in this case, supportive statements from professionals will be helpful.

How do we prepare for the court hearing?

Be prepared to tell the court:

- What has changed since the conservatorship began.
- What legal tools have been explored with the person and what they will use if the conservatorship is terminated (e.g., Power of Attorney to manage and protect finances).
- How the person will access care and services.
- How they will use supported decision making and other tools when they need extra help to understand their situation and make decisions that they can't make alone.

A social worker, doctor, or other health professional's statement in support of termination or modification is not necessary, but it can make a stronger case.

How do we prepare? Won't the person's life be chaotic if they suddenly have no conservator?

Ending conservatorship doesn't mean ending support. It means the person will have the support they want and need to help manage and protect their finances, instead of the court appointed conservator. Depending on the person's needs, preferences, and legal ability to enter into contracts, they may choose to:

- Sign Releases of Information for their various providers so someone else is authorized to talk to the providers about paying the bills.
- Identify support systems in writing by completing a Supported Decision Making Agreement.
- Set up helpful banking tools such as bill auto-pay and direct deposit of income.
- Appoint someone to manage their finances for them through a Power of Attorney (this is called an attorney-in-fact, but it does not have to be an attorney) or other such arrangements.
- If they have a Representative Payee to manage their Social Security benefits, that relationship will continue despite the termination of the conservatorship, since that appointment was made by Social Security Administration.

Above all, the person should be actively involved in the planning conversations.

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What if the current conservator or other people believe the conservatorship is still necessary?

It is normal for people to worry or be unsure when talking about a big change like ending a conservatorship. It might help to explain to the person who is concerned:

- That the person subject to conservatorship acknowledges that they still need and want help similar to what the conservator may have been giving.
- What supports that the person will have if the conservatorship is terminated.

Ultimately, the court makes the final decision whether to end the conservatorship or not, so the person and their supporters can still continue over others' objections. In the petition and at the court hearing, they or their supporters should be prepared to explain the reasons for termination and how they will get help when needed if the conservatorship is terminated.

If the conservator or others' objections will likely result in losing the request to terminate, think about creative strategies:

- Consider asking for the appointment of a successor conservator instead of ending the conservatorship. Finding a supportive person to nominate as a successor conservator may reduce the objections of the existing conservator and concerned others. The successor and the person can then work toward a future termination.
- Start with asking the Court to modify the conservatorship instead of ending it, to show that the person can manage some responsibilities without the court-appointed authority in all the areas.
- The person, their conservator, and other support people can work toward skill-building within the safety of the conservatorship, and petition for termination and less restrictive options later.

For More Information

For an individualized consultation about your situation, contact:

The Guardianship Information Line:

📞 952-945-4174 or 844-333-1748

✉️ cesdm@voamn.org

Visit our website for many more resources:

🌐 www.voamnwi.org/cesdm
or scan the QR code

