

# HANDBOOK FOR ADULT GUARDIANS & CONSERVATORS



IOWA DEPARTMENT ON AGING

# Introduction

The information in this handbook focuses on guardianships and conservatorships for adults. This handbook does not address guardianships and conservatorships for minors.

The process for establishing a guardianship/conservatorship is different for every case. Some proceedings are initiated by DHS in relation to an abuse case, while others are filed civilly. This handbook will cover basic universal concepts of guardianship/conservatorship, including responsibilities and duties.

**Please note: There were many changes to laws regarding guardianships and conservatorship effective January 1, 2020.**

# Disclaimer

This Handbook is designed to provide information to guardians and conservators and is not intended to replace the advice of an attorney or requirements as stipulated by the laws of Iowa and addressed in the Iowa Code.

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# Overview

## Guardianship

A guardianship is a legal proceeding that appoints an individual (guardian) to manage another's (protected person) care.

## Limited Guardianship

A guardianship that grants the guardian less than all powers available under this chapter or otherwise restricts the powers of the guardian.

## Conservatorship

A conservatorship is a legal proceeding that appoints an individual (conservator) to manage another's (protected person) financial matters.

Each role maintains a separate appointment process and is exclusive from one another. If an individual is appointed as a guardian, it does not mean they are automatically considered a conservator and/or representative payee.

## County Attorney Representation

The appropriate county attorney assists the Department of Human Services in the preparation of necessary papers to initiate the action of establishing a guardianship and/or conservatorship, to include the protection of a dependent adult.

The appropriate county attorney appears and represents the Department of Human Services at all district guardianship and conservatorship hearings to include the protection of a dependent adult.

“If, upon completion of the evaluation or upon referral from the department of inspections and appeals, the department (DHS) determines that the best interests of the dependent adult require court action, the department shall initiate action for the appointment of a guardian or conservator or for the admission and commitment to an appropriate institution or facility pursuant to the applicable procedures under chapter 125, 222, 229 or 633 or shall pursue other remedies provided by the law. The appropriate county attorney shall assist the department in the preparation of the necessary papers to initiate the action and shall appear and represent the department at all district court proceedings.” *Iowa Code §235B.3(9)*.

### Office of the Public Guardian

Established in Iowa Code (Chapter 231E), the Office of Public Guardian may act as an individual's guardian; conservator; attorney-in-fact under a health care power of attorney document; agent under a financial power of attorney document; personal representative; or representative payee. The mission of the Office of Public Guardian is to preserve individual independence through a person-centered process by:

- Providing education;
- Providing assistance to public and private substitute decision makers;
- When necessary, assisting in substitute decision-making proceedings; and
- Providing substitute decision-making services in the least restrictive manner.

The Office of Public Guardian will only be appointed by the court as the substitute decision maker of last resort.

### Eligibility

To be eligible, an individual must be an Iowa resident who is at least 18 years old and:

- Have no appropriate or responsible person available to serve as a substitute decision maker; or
- Be without adequate resources to compensate a substitute decision maker.

For additional information, contact:

Office of Public Guardian  
510 E 12th St., Ste. 2  
Des Moines, IA 50319  
Phone: (515) 725-3333 or (800) 532-3213

### Clerk of Court

The Clerk of Court is unable to provide legal advice. The Clerk of Court can assist with creating an EDMS account, accessing forms needed in guardianships and conservatorships, and filing completed forms electronically.

### DHS Volunteers

In Polk County, DHS has a Volunteer Coordinator. The Volunteer Coordinator can assist with finding volunteers to serve in the roles of guardian and conservator for dependent adults, which have been referred from an abuse case. Volunteers are needed for the dependent adult particularly when family members are not available, willing to serve, or cannot provide adequate protection.

If you are interested in serving as a volunteer guardian or conservator to an abused or neglected adult living in the Polk County area, the Volunteer Coordinator may be contacted using the following information:

Department of Human Services

River Place

2309 Euclid Ave.

Des Moines, IA 50310

Telephone: (515) 725-2600

Facsimile: (515) 725-2899

Outside of Polk County, individuals interested in serving in the roles of guardian and conservator to an abused or neglected adult should contact their local DHS office. DHS office information can be located at: [https://dhs.iowa.gov/dhs\\_office\\_locator](https://dhs.iowa.gov/dhs_office_locator)

# Establishing Guardianships and Conservatorships

## Guardianship and Conservatorship Proceedings §633.551(1):

A legal proceeding is required to protect the respondent's constitutional rights. The court must determine by clear and convincing evidence that a respondent is incompetent.

## Referral Process for Civil Cases §633.552 (Guardians):

Any person may file with the clerk a verified petition for the appointment of a guardian. The petition shall state the following information so far as known to the petitioner:

1. The name, age and post office address of the protected person.
2. That the protected person is in either of the following categories:
  - a. Is a person whose decision-making capacity is so impaired that the person is unable to care for the person's personal safety or to attend to or provide for necessities for the person such as food, shelter, clothing, or medical care, without which physical injury or illness might occur.
  - b. Is a minor.
3. The name and post office address of the proposed guardian and that such person is qualified to serve in that capacity.
4. That the proposed ward is a resident of the state of Iowa or is present in the state, and that the ward's best interests require the appointment of a guardian in this state. The name and address of the person or institution, if any, having the care, custody or control of the proposed ward.

## Referral Process for Civil Cases §633.566 (Conservator):

Any person may file with the clerk a verified petition for the appointment of a conservator. The petition shall state the following information so far as known to the petitioner:

1. The name, age and post office address of the protected person.
2. That the protected person is in either of the following categories:
  - a. Is a person whose decision-making capacity is so impaired that the person is unable to make, communicate, or carry out important decisions concerning the person's financial affairs.
  - b. Is a minor.
3. The name and post office address of the proposed conservator and that such person is qualified to serve in that capacity.

4. The estimated present value of the real estate, the estimated value of the personal property, and the estimated gross annual income of the estate. If any money is payable, or to become payable, to the protected party by the United States through the United States department of veterans affairs, the petition shall so state.
5. The name and address of protected party.
6. That the protected party resides in the state of Iowa, is a nonresident, or that the proposed ward's residence is unknown, and that the proposed ward's best interests require the appointment of a conservator in the state of Iowa

#### Referral Process for DHS cases § 235B § 633.561 and 633.562 :

As a result of a dependent adult abuse report, DHS may be referred a case in which the subject of the dependent adult abuse is believed to need a guardian and/or conservator. The protection worker will:

- Evaluate the case;
- Determine if a guardianship or conservatorship is needed; and
- Locate an appropriate guardian or conservator when required.

The protection worker will then make a referral to the County Attorney's office in which the adult resides. The County Attorney will prepare the appropriate legal forms to establish the guardianship and/or conservatorship. After the appropriate documents are filed, the Judge will set a hearing and appoint an attorney to represent the respondent. The court may also appoint a court visitor if the court believes it would be in the best interest of the respondent.

#### Court Hearing

During the hearing, the Judge will listen to testimony from the protection worker, the proposed guardian and/or conservator, the guardian ad litem and any other interested parties. If there is clear and convincing evidence that the respondent does indeed need a guardian and/or conservator the judge will then determine the most suitable candidate.

At a guardianship/conservatorship proceeding, the proposed guardian/conservator is placed under oath. The proposed guardian/conservator will be asked questions to determine if he or she is the most suitable candidate.



Mediation §633.560A.

The district court may, on its own motion or on the motion of any party, order the parties to participate in mediation in any guardianship or conservatorship action.

Appointment and role of court visitor §633.562

If the court determines that the appointment of a court visitor would be in the best interest of the respondent, the court shall appoint a court visitor at the expense of the respondent or the respondent's estate, or, if the respondent is indigent, the cost of the court visitor shall be assessed against the county in which the proceedings are pending. The court may appoint any qualified person as a court visitor in a guardianship or conservatorship proceeding.

The same person shall not serve both as the attorney representing the respondent and as court visitor.

Unless otherwise enlarged or circumscribed by the court, the duties of a court visitor with respect to the respondent shall include all of the following:

- a. Conducting an initial in-person interview with the respondent.
- b. Explaining to the respondent the substance of the petition, the purpose and effect of the guardianship or conservatorship proceeding, the rights of the respondent at the hearing, and the general powers and duties of a guardian or conservator.
- c. Determining the views of the respondent regarding the proposed guardian or conservator, the proposed guardian's or conservator's powers and duties, and the scope and duration of the proposed guardianship or conservatorship.

In addition, if directed by the court, the court visitor shall:

- a. Interview the petitioner, and if the petitioner is not the proposed guardian or conservator, interview the proposed guardian or conservator.
- b. Visit, to the extent feasible, the residence where it is reasonably believed that the respondent will live if the appointment of a guardian or conservator is made.
- c. Make any other investigation the court directs including but not limited to interviewing any persons providing medical, mental health, educational, social, and other services to the respondent.

The court visitor shall submit a written report to the court that shall contain all of the following:

- a. A recommendation regarding the appropriateness of a limited guardianship for the respondent, including whether less restrictive alternatives are available.
- b. A statement of the qualifications of the guardian together with a statement of whether the respondent has expressed agreement with the appointment of the proposed guardian or conservator.
- c. Any other matters the court visitor deems relevant to the petition for guardianship or conservatorship and the best of the respondent
- d. Any other matters the court directs.

The report of the court visitor shall be made part of the court record unless otherwise ordered by the court.

Court-ordered professional evaluation §633.562

At or before a hearing on petition for the appointment of a guardian or conservator or the modification or termination of a guardianship or conservatorship, the court shall order a professional evaluation of the respondent unless one of the following criteria are met:

- a. The court finds it has sufficient information to determine whether the criteria for a guardianship or conservatorship are met.
- b. The petitioner or respondent has filed a professional evaluation.

If the respondent has filed a professional evaluation and the court determines an additional professional evaluation will assist the court in understanding the decision-making capacity and functional abilities and limitations of the respondent, the court may order a professional evaluation of the respondent.

If the court orders an evaluation, the evaluation shall be conducted by a licensed physician, psychologist, social worker, or other individual who is qualified to conduct an evaluation appropriate for the respondent being assessed.

Unless otherwise directed by the court, the report must contain all of the following:

- a. A description of the nature, type, and extent of the respondent's cognitive and functional abilities and limitation.
- b. An evaluation of the respondent's mental and physical condition and, if appropriate, educational potential, adaptive behavior, and social skills.
- c. A prognosis for improvement and recommendation for the appropriate treatment, support, or habilitation plan.
- d. The evaluator's qualifications to evaluate the respondent's cognitive and functional abilities limitations and lack of conflict of interest.
- e. The date of examination on which the report is based.

The cost of the professional evaluation shall be paid by the respondent unless the respondent is indigent as defined in section 633.561, subsection 3, in which case the costs shall be paid by the county in which the proceedings are pending or unless the court orders otherwise.

At the request of the respondent, the court shall seal the record of the results of the evaluation ordered by the court subject to the exceptions.

The results of the evaluation ordered by the court shall be made available to the court and the following:

- a. The respondent and the respondent's attorney.
- b. The petitioner and the petitioner's attorney.
- c. A court visitor as described in section 633.562.
- d. Other persons for good cause shown for such purposes as the court may order.

# Liability of Guardians and Conservators

## Liability of Guardians and Conservators §633.633A:

Guardians and conservators shall not be held personally liable for actions or omissions taken or made in the official discharge of the guardian's or conservator's duty, EXCEPT for any of the following:

- 1) A breach of fiduciary duty imposed by probate code; and/or
- 2) Willful or wanton misconduct in the official discharge of the guardian's or conservator's duties.

All volunteers registered with the DHS and in compliance with the departmental rules are considered state employees for purposes of chapter 669. This section does not exempt a conservator or guardian from an action brought under Iowa Code §§658.1A or 658.3.

## Iowa Code §669.24 State Volunteers

A person who performs services for the state government or any agency or subdivision of state government and who does not receive compensation is not personally liable for a claim based upon an act or omission of the person performed in the discharge of the person's duties, except for acts or omissions which involve intentional misconduct or knowing violation of the law, or for a transaction from which the person derives an improper personal benefit. For purposes of this section, "*compensation*" does not include payments to reimburse a person for expenses.

# Qualification for appointment of Guardian and/or Conservator

## Background check of proposed guardian or conservator. §633.564

- 1) The court shall request criminal record checks and checks of the child abuse, dependent adult abuse, and sexual offender registries in this state for all proposed guardians and conservators, other than financial institutions with Iowa trust powers.
- 2) The court shall review the results of background checks in determining the suitability of a proposed guardian or conservator for appointment.
- 3) The person who files a petition for appointment of guardian or conservator shall be responsible for paying the fee for the background check conducted through the single contact repository established pursuant to section 135C.33.

## Qualifications and selection of guardian or conservator for an adult §633.565

The court shall appoint as guardian or conservator any qualified and suitable person who is willing to serve as guardian or conservator.

# Responsibilities of a Guardian

Iowa Code §633.635(2) allows the guardian to perform the following duties:

## Without Court Approval

- a) Making decisions regarding the care, maintenance, health, education, welfare, and safety of the protected person except as otherwise limited by the court.
- b) Establishing the protected person's permanent residence except as limited by subsection 3.
- c) Taking reasonable care of the protected person's clothing, furniture, vehicle, and other personal effects, and companion animals, assistive animals, assistance animals, and service animals.
- d) Assisting the protected person in developing maximum self-reliance and independence.
- e) Consenting to and arranging for medical, dental, and other health care treatment and services for the protected person except as otherwise limited by subsection 3.
- f) Consenting to and arranging for other needed professional services for the protected person.
- g) Consenting to and arranging for appropriate training, educational, and vocational services for the protected person.
- h) Maintaining contact, including through regular visitation with the protected person if the protected person does not reside with the guardian.
- i) Making reasonable efforts to identify and facilitate supportive relationships and interactions of the protected person with family members and significant other persons. The guardian may place reasonable time, place, or manner restrictions on communication, visitation, or interaction between the adult protected person and another person except as otherwise limited by subsection 3.
- j) Any other powers or duties the court may specify.

### IMPORTANT POINTS TO REMEMBER

You must receive prior court approval for anything listed below.

Iowa Code §633.635(3) allows the guardian to perform the following duties:

#### With Court Approval

- a) Changing, at the guardian's request the protected person's permanent residence to a nursing home, other secure facility, or secure portion of the facility that restricts the protected person's ability to leave or have visitors, unless advance notice of the change was included in the guardian's initial care plan that was approved by the court. In an emergency situation, the court shall review the request for approval on an expedited basis.
- b) Consenting to the following:
  - (1) The withholding or withdrawal of life-sustaining procedures from the protected person in accordance with chapter 144A or 144D.
  - (2) The performance of an abortion on the protected person.
  - (3) The sterilization of the protected person.
- c) Denying all communication, visitation, or interaction by a protected person with a person with whom the protected person has expressed a desire to communicate, visit, or interact or with a person who seeks to communicate, visit, or interact with the protected person. A court shall approve the denial of all communication, visitation, or interaction with another person only upon a showing of good cause by the guardian.

# Reporting Requirements for Guardians Iowa Code §633.669

- 1) An appointed guardian shall file with the court the following written reports:
  - a) An initial care plan within sixty (60) days of the guardian's appointment.
  - b) An annual report, within sixty (60) days of the close of the reporting period unless the court otherwise orders on good cause shown.
  - c) A final report within thirty (30) days of the termination of the guardianship under Iowa Code §633.675 unless otherwise extended.
- 2) The court shall develop a simplified uniform reporting form for use in filing the required reports.

## IMPORTANT POINTS TO REMEMBER

- 1) You must file an initial care plan.
- 2) You must file annual reports.
- 3) You must file a final report upon termination of your duties.
- 4) These reports must be e-filed at <https://www.iowacourts.state.ia.us/EFile/>.
- 5) Report Forms are available in folder labeled Guardian & Conservator at: <https://www.iowacourts.gov/for-the-public/court-forms/>

Note: For information on how to register for e-filing and e-filing the reports, refer to the section titled Electronic Filing.

Examples of forms are provided at the end of this handbook. You may access these forms at the site listed above.

# Duties and Responsibilities of a Conservator

Iowa Code §633.641 outlines the duties of a conservator.

- 1) A conservator is a fiduciary and has duties of prudence and loyalty to the protected person.
- 2) In investing and selecting specific property for distribution, a conservator shall consider any estate plan or other donative, nominative, or appointive instrument of the protected person, known to the conservator.
- 3) If a protected person has executed a valid power of attorney under chapter 633B, the conservator shall act in accordance with the applicable provisions of chapter 633B.
- 4) The conservator shall report to the department of human services the protected person's assets and income, if the protected person is receiving medical assistance under chapter 249A. Such reports shall be made upon establishment of a conservatorship for an individual applying for or receiving medical assistance, upon application for benefits on behalf of the protected person, upon annual or semiannual review of continued medical assistance eligibility, when any significant change in the protected person's assets or income occurs, or as otherwise requested by the department of human services office for the county in which the protected person resides or the office in which the protected person's medical assistance is administered.

Iowa Code §633.642 outlines the responsibilities of conservator.

Except as otherwise ordered by the court, a conservator must give notice to persons entitled to notice and receive specific prior authorization by the court before the conservator may take any other action on behalf of the protected person. These other powers requiring court approval include the authority of the conservator to:

- 1) Invest the protected person's assets consistent with section 633.123.
- 2) Make gifts on the protected person's behalf from conservatorship assets to persons or religious, educational, scientific, charitable, or other nonprofit organizations to whom or to which such gifts were regularly made prior to the conservator's appointment; or on a showing that such gifts would benefit the protected person from the perspective of gift, estate, inheritance, or other taxes. No gift shall be allowed which would foreseeably prevent adequate provision for the protected person's best interest.
- 3) Make payments consistent with the conservator's plan described above directly to the protected person or to others for the protected person's education and training needs.
- 4) Use of the protected person's income or assets to provide for any person that the protected person is legally obligated to support.



- 5) Compromise, adjust, arbitrate, or settle any claim by or against the protected person or the conservator.
- 6) Make elections for a protected person who is the surviving spouse as provided in sections 633.236 and 633.240.
- 7) Exercise the right to disclaim on behalf of the protected person as provided in section 633E.5.
- 8) Sell, mortgage, exchange, pledge, or lease the protected person's real and personal property consistent with subchapter VII, part 6 of this chapter regarding sale or property from a decedent's estate.

## Reporting Requirements for Conservators Iowa Code §633.670

Conservators shall file with the court the following reports:

- 1) An initial plan for protecting, managing, investing, expending, and distributing the assets of the conservatorship estate within ninety (90) days after appointment. The plan must be based on the needs of the protected person and take into account the best interest of the protected person as well as the protected person's preference, values, and prior directions to the extent known to, or reasonably ascertainable by, the conservator.
  - a) The initial plan shall include all of the following:
    - (1) A budget containing projected expenses and resources, including an estimate of the total amount of fees the conservator anticipates charging per year and a statement of list of the amount the conservator proposes to charge for each service the conservator anticipates providing to the protected person.
    - (2) A statement as to how the conservator will involve the protected person in decisions about management of the conservatorship estate.
    - (3) If ordered by the court, any step the conservator plans to take to develop or restore the ability of the protected person to manage the conservatorship estate.
    - (4) An estimate of the duration of the conservatorship.
  - b) Within two (2) days after filing the initial plan, the conservator shall give notice of the filing of the initial plan with a copy of the plan to the protected person, the protected person's attorney and court advisor, if any, and others as directed by the court. The notice must state that any person entitled to a copy of the plan must file any objections to the plan not later than fifteen (15) days after it is filed.

- c) At least twenty (20) days after the plan has been filed, the court shall review and determine whether the plan should be approved or revised, after considering objections filed and whether the plan is consistent with the conservator's powers and duties.
  - d) After approval by the court, the conservator shall provide a copy of the plan and order approving the plan to the protected person, the protected person's attorney and court advisor, if any, and others as directed by the court.
  - e) The conservator shall file an amended plan when there has been a significant change in circumstances or the conservator seeks to deviate significantly from the plan. Before the amended plan is implemented, the provisions from court approval of the plan shall be followed as provided in paragraphs "b", "c", and "d".
- 2) A conservator shall file an inventory of the protected persons assets within ninety (90) days after appointment which includes an oath or affirmation that the inventory is believed to be complete and accurate as far as information permits. Copies of the inventory shall be provided to the protected person, the protected person's attorney and court advisor, if any, and others as directed by the court. When the conservator receives additional property of the protected person, or becomes aware of its existence, a description of the property shall be included in the conservator's next annual report.
  - 3) A conservator shall file a written and verified report for the period since the end of the preceding report period. The court shall not waive these reports.
    - a) These reports shall include all of the following:
      - (1) Balance of funds on hand at the beginning and end of the period.
      - (2) Disbursements made.
      - (3) Changes in the conservator's plan.
      - (4) List of assets as of the end of the period.
      - (5) Bond amount and surety's name
      - (6) Residence and physical location of the protected person.
      - (7) General physical and mental condition of the protected person.
      - (8) Other information reflecting the condition of the conservatorship estate.

- b) These reports shall be filed:
- (1) On an annual basis within sixty (60) days of the end of the reporting period unless the court orders an extension for good cause shown in accordance with the rules of probate procedure.
  - (2) Within sixty (60) days following removal of the conservator.
  - (3) Upon the conservator's filing of a resignation and before the resignation is accepted by the court.
  - (4) Within sixty (60) days following the termination of the conservatorship.
  - (5) At other times as ordered by the court.
- c) Reports required by this section shall be served on the protected person's attorney and court advisor, if any, and the veteran's administration if the protected person is receiving veterans benefits.

#### IMPORTANT POINTS TO REMEMBER

- 1) You must file an initial plan and inventory.
- 2) You must file annual reports with accounting.
- 3) You must file a final report upon termination of your duties.
- 4) You must serve the reports on parties as required by Iowa Code.
- 5) Polk County requires these report be e-filed at <https://www.iowacourts.state.ia.us/EFile/>.
- 6) Report Forms are available in folder labeled Guardian & Conservator at: <https://www.iowacourts.gov/for-the-public/court-forms/>

Note: For information on how to register for e-filing and e-filing the reports, refer to the section titled Electronic Filing.

Examples of forms are provided at the end of this handbook. You may access these forms at the site listed above.

# Helpful Resources

Credit Bureaus: <https://www.annualcreditreport.com/index.action>

Department of Human Services (Dependent Adults):  
<https://dhs.iowa.gov/DependentAdultProtectiveServices/Families>

Department of Human Services Adult Abuse Hotline: 1-800-362-2178

Department of Human Services Estate Recovery Program:  
<http://dhs.iowa.gov/ime/members/members-rights-and-responsibilities/estate-recovery> l:  
Local: 515-246-9841; FAX: 515-246-0155; Toll-free: 888-513-5186;  
Email: [estates@dhs.state.ia.us](mailto:estates@dhs.state.ia.us)

Department of Human Services Local Office Finder:  
[https://dhs.iowa.gov/dhs\\_office\\_locator](https://dhs.iowa.gov/dhs_office_locator) or 1-800-972-2017.

Department of Human Services Food Assistance: <https://dhs.iowa.gov/food-assistance>  
To report changes for food assistance case: 1-877-347-5678

Department of Human Services Cash Assistance: <https://dhs.iowa.gov/cash-assistance>  
To report changes for case assistance case: 1-877-347-5678

Department of Human Services Medicaid Member Services:  
<https://dhs.iowa.gov/ime/members>  
To report changes for Medicaid case: 1-877-347-5678

Department of Human Services Medicaid Contacts:  
<https://dhs.iowa.gov/ime/about/contacts/member-services>

Department of Human Services Volunteer Coordinator (Polk County): 515-725-2743

Disability Rights Iowa Law Center for Protection and Advocacy:  
<https://disabilityrightsowa.org/> or 515-278-2502

Drake Law Center: 515-271-3851 or <http://www.law.drake.edu/centers/nealBeaSmith/>

Iowa Attorney General, Consumer Protection Division: 515-281-5926; 1-888-777-4590;  
<https://www.iowaattorneygeneral.gov/for-consumers>

Iowa Department on Aging: <https://www.iowaaging.gov/>

Iowa Department of Human Rights: <https://humanrights.iowa.gov/>

Iowa Department of Inspections and Appeals: 515-281-7102; <http://dia.iowa.gov/>

Iowa Department of Veterans Administration: <https://va.iowa.gov/>

- Federal VA Regional Benefit's Office (IA): 1-800-827-1000
- State of Iowa VA Office: 1-800-838-4692

Iowa Judicial Branch: <http://www.iowacourts.gov/>

Iowa Legal Aid: 1-800-532-1275 or <http://www.iowalegalaid.org/>

- For more detailed information on guardianships and conservatorships: <http://www.iowalegalaid.org/issues/60-elder-law/guardianship-2>

Iowa State Bar Association: 515-243-3179 or <https://www.iowabar.org/>

Office of the Public Guardian: <https://www.iowaaging.gov/programs-services/elder-justice-adult-protective-services/office-public-guardian> or Phone: (515) 725-3333 or (800) 532-3213

Office of the State Long Term Care Ombudsman: <https://www.iowaaging.gov/state-long-term-care-ombudsman/find-your-local-long-term-care-ombudsman>

Medicare Rights Center: <http://www.medicarerights.org/about-mrc/contact-us.php>

- Consumer Hotline: 1-800-333-4114

Social Security Administration: 1-800-772-1213

- For information on Representative Payees: <http://www.socialsecurity.gov/payee>

State of Iowa – Office of the Ombudsman: 515- 281-3592 or 1-888-426-6283  
<https://www.legis.iowa.gov/Ombudsman/contact/>

Taxpayer Service/Tax Counseling for the Elderly: 1-800-906-9887 or <http://www.benefits.gov/benefit/722>

# Frequently Asked Questions

## Guardianship and Conservatorship Basics

### What is a guardianship?

A guardianship is one form of substitute decision-making which is established through a legal proceeding. The court, after finding by clear and convincing evidence that a person is incompetent, may appoint a guardian to manage the person's care. *Iowa Code §633.3(20) and §633.552.*

### What is a conservatorship?

A conservatorship is one form of substitute decision-making which is established through a legal proceeding. The court, after finding by clear and convincing evidence that a person is incompetent, may appoint a conservator to have the custody and control of the property of the person. *Iowa Code §633.3(7) and §633.553.*

### Who is a protected person (previously referred to as a 'ward')?

A protected person is a person who has a guardian or conservator (or both) appointed for them by the court. *Iowa Code §633.3(32A).*

### Who can file a petition for appointment of a guardian or conservator for an adult?

Any person with an interest in the welfare of the adult, which may include the adult who is the subject of the petition. *Iowa Code §633.556(1).*

### What constitutes incompetence? Iowa Code §633.3(23).

Iowa considers an individual incompetent if they meet at least one of the following criteria:

- a) To have a decision-making capacity which is so impaired that the person is unable to care for the person's personal safety or to attend to or provide for necessities for the person such as food, shelter, clothing, or medical care, without which physical injury or illness may occur.
- b) To have decision-making capacity which is so impaired that the person is unable to make, communicate, or carry out important decisions concerning the person's financial affairs.
- c) To have a decision-making capacity so impaired that both paragraph "a" and "b" are applicable to the person.

Why is a legal proceeding necessary?

A legal proceeding is required to protect the respondent's constitutional rights. Guardianship and conservatorship take away a person's rights to make decisions about many important things. It is important not to impose guardianship and conservatorship on someone when they are not really needed. The court must determine by clear and convincing evidence that a respondent is incompetent. *Iowa Code §633.551(1)*.

Who is a court visitor (previously referred to as guardian ad litem (GAL))?

A court visitor gathers information and makes recommendations to the court in a guardianship or conservatorship proceeding. *Iowa Code §633.562*

What is the difference between a court visitor and an attorney that is appointed to represent a respondent/protected person?

A court visitor makes recommendations to the court about what is in the respondent/protected person's best interest. An attorney represents the wishes of the respondent/protected person. The same person cannot serve in both roles. *Iowa Code §633.561, 633.562(2)*

What forms of guardianships can be established?

- 1) Permanent Guardianship: A guardianship established until terminated by the court or upon death of the protected person.
- 2) Stand-by Guardianship: A guardianship that becomes effective only when a certain event occurs. *Iowa Code §633.560*.
- 3) Temporary (Emergency) Guardianship: A short-term guardianship established when guardianship is necessary to avoid immediate or irreparable harm to the respondent and there is not enough time to follow the typical guardianship process. The powers of a temporary guardian are limited to those needed to address the emergency situation. . *Iowa Code §633.569*.
- 4) Limited Guardianship: A guardianship that grants the guardian less than all powers available or otherwise restricts the powers of the guardian. *Iowa Code §633.3(27A), Iowa Code §633.635(4)*.

What forms of conservatorship can be established?

- 1) Permanent Conservatorship: A conservatorship established until terminated by court order or upon the death of the protected person.
- 2) Stand-by Conservatorship: A conservatorship that becomes effective only when a certain event occurs. *Iowa Code §633.591*.

- 3) Temporary (Emergency) Conservatorship: A short-term conservatorship established when guardianship is necessary to avoid immediate or irreparable harm to the respondent and there is not enough time to follow the typical guardianship process. The powers of a temporary conservator are limited to those needed to address the emergency situation. *Iowa Code §633.569.*
- 4) Limited Conservatorship: A conservatorship that is restricted to certain functions as identified in Iowa Code §633.637.

Who can be a guardian and/or conservator?

- 1) Any natural person who is of full age and a *resident* of Iowa, except if that person is incompetent or the court determines them to be unsuitable to serve as guardian and/or conservator.
- 2) Banks and trust companies with authority to act as fiduciaries.
- 3) A private nonprofit corporation that does not provide direct services to the protected person.
- 4) The state public guardian or local public guardian. *Iowa Code §633.63*

Is there a preference given to family members to be appointed as a guardian/conservator?

There is no requirement for family members to be given preference as a guardian and/or conservator for adult protected persons. *Iowa Code §633.559.* Generally, the court will consider factors like the ability of the potential guardian/conservator to perform their duties as guardian and/or conservator, whether the potential guardian/conservator has a positive relationship with the respondent, and the preferences of the respondent for who serves as their guardian and/or conservator.

Can a person be appointed guardian and/or conservator if they are *not a resident* of Iowa?

Any natural person who is a *nonresident* may be appointed as a guardian/conservator if a resident is also appointed. However, for good cause shown the court may appoint a nonresident to serve alone. *Iowa Code § 633.64.*

Are there any other requirements to be appointed as a guardian/conservator?

Every fiduciary shall execute and file with the clerk, a bond with sufficient surety or sureties in an amount equal to the value of the personal property of the protected person's estate, plus estimated gross annual income of the estate during the period of administration. Individuals must also obtain a background check for the Court to review prior to appointment.

*Iowa Code §§ 633.174(2), 633.175(2), and 633.564*



### What is a fiduciary?

A fiduciary is someone who has a duty to act for or give advice for the benefit of someone else in matters within the scope of their relationship. Generally, in a fiduciary relationship, the property, interest, or authority of the other person is placed in the charge of the fiduciary. Some examples of fiduciaries include: an executor or administrator of an estate, a guardian, a conservator, and the trustee of a trust. *Kurth v. Van Horn*, 380 N.W.2d 693 (Iowa 1986). Iowa Code §633.3(17).

### What is a surety bond?

A surety bond is a promise to pay one party (*the obligee*) a certain amount if a second party (*the principal*) fails to meet some obligation, such as fulfilling the terms of a contract. In a conservatorship, the protected person is the obligee, and the conservator is the principal. The surety bond protects the protected person against losses if the conservator fails to meet their obligations.

### Do I need to get a bond if I am only appointed as a guardian?

When a person is appointed as the guardian and not the conservator of the protected person's property, no bond shall be required, unless the court for good cause finds it proper to require one. Iowa Code §633.174.

### Who do I contact to apply for a surety bond?

You may contact any corporation/business that offers surety bonds as part of their business (i.e. an insurance company or bank). However, the corporation/business must have a current certificate of authority to transact the business of a surety in the state. Iowa Code §§633.63 and 633.64. You may contact the Clerk of Court to review the list of corporate sureties that have a current certificate of authority to transact the business of a surety in the state.

### Is the conservator personally responsible to pay for the surety bond?

The surety bond shall be procured at the expense of the estate, if an approved surety company bond is furnished. Iowa Code §633.169.

### What are the responsibilities of a guardian?

Refer to pages 11 and 12 of this handbook. Also refer to Iowa Code Section 633.635.

### What are the responsibilities of the conservator?

Refer to page 14 of this handbook. Also refer to Iowa Code Section 633.642.

Does a protected person retain the right to vote?

All protected persons retain the right to vote unless it is determined by the court that they cannot retain that right. If the court appoints a guardian based on mental incapacity and the proposed protected person has an intellectual disability, as defined in section 4.1, the court shall make a separate determination as to the protected person's competence to vote. The court can only find a person with an intellectual disability incompetent to vote if the court finds that the person lacks sufficient mental capacity to comprehend and exercise the right to vote. *Iowa Code §633.552(3)*.

Does the protected person retain the right to marry?

This depends on the court order. If the court makes a finding that the protected person lacks the capacity to contract a valid marriage, then the protected person cannot get a marriage license. *Iowa Code §595.3(5), and §633.635(4)*.

What are the duties of the conservator?

The conservator has a duty to protect and preserve the estate, to invest it prudently, to account for it and perform all other duties required by law, and at the termination of the conservatorship, to deliver the protected person's assets to the person entitled. Refer to pages \_\_\_\_\_ of this handbook. *Iowa Code §633.641*.

Can an individual be both a guardian and a conservator?

There is no restriction on being appointed as both a guardian and conservator for a protected person as long as the other requirements are met to serve as each separately and the court believes it to be in the protected person's best interest.

What reports need to be filed and when are they required to be completed?

Guardians - refer to page 13 of this handbook. Also refer to Iowa Code Section 633.669

Conservators – refer to page 15 of this handbook. Also refer to Iowa code Section 633.670.

How do I obtain a copy of the report that needs to be filed?

The court shall develop a simplified uniform reporting form for use in filing the required guardianship reports. *Iowa Code §633.669(3)*.

You may contact the clerk of court or your attorney for access to the reporting forms.

You may also obtain a copy of the forms at Iowa Courts in the folder labeled Guardian &

Conservator at the following website: <https://www.iowacourts.gov/for-the-public/court-forms/>

### Where do I submit my reports?

Reports are required to be electronically filed. For more information on how to e-file the reports, see Appendix A. If you want to request a waiver to not e-file the reports, contact the Clerk of Court in the county where the case is filed.

### How do I verify my report(s) have been received by the Court, approved and filed?

If you have an attorney, you should contact them. Otherwise, if you electronically file the reports, you should receive e-mail confirmation and you can log into your EDMS account to check on the status. You may also access the information on Iowa Courts Online at the following website:

<http://www.iowacourts.state.ia.us/ESAWebApp/DefaultFrame>

- Click on “Start a Case Search Here”
- Under Trial Court, select “Case Search”
- Input Protected person’s name (as a minimum)
- To narrow the search, you may include the protected person’s role as “protected person”; select the appropriate County; and Case Type “Civil”
- Click on Search button
- Select “Case ID” link
- Select “Filings”
- Scroll through filings to determine if your most recent report has been approved.

### What happens if reports are not filed in a timely manner?

If a guardian/conservator fails to file a timely report the court may remove the guardian/conservator. *Iowa Code §633.65.*

### What causes a guardianship and/or a conservatorship to cease (terminate)?

- 1) If the protected person is a minor, when the protected person reaches full age.
- 2) The death of the protected person.
- 3) Upon the determination by the court that the conservatorship or guardianship is no longer necessary for any other reasons.
- 4) The court shall terminate a guardianship if it finds that the basis for appointing a guardian pursuant to section 633.552 is not satisfied.

The court shall terminate a conservatorship if the court finds that the basis for appointing a conservator pursuant to section 633.553 or 633.554 is not satisfied. *Iowa Code §§633.675 and 633-676.*

Does the respondent/protected person need to have a conservator if their only source of income is Social Security?

If the respondent/protected person has no assets and his/her only source of income is Social Security benefits, a conservator may not be needed if other substitute decision making options are available, such as a representative payee. Contact the Social Security Administration for more information.

The protected person has passed away, as conservator what do I do with the protected person's assets?

Upon the death of the protected person, the conservator shall deliver all assets of the conservatorship under the direction of the court, to the person or persons entitled to them.

*Iowa Code §633.678.* If the protected person was on Medicaid (Title 19), you may also contact Iowa Department of Human Services Estate Recovery (515-725-1042) for more information.

Upon termination of the conservatorship, how do I get the bond discharged?

Upon settlement of the final accounting of a conservator, and upon determining the property of the protected person has been delivered to the person or persons lawfully entitled thereto, the court shall discharge the conservator and exonerate the surety on the conservator's bond.

*Iowa Code §633.682.*

It is your responsibility to provide the bond company with the court documentation discharging the surety on the bond.

I don't believe the protected person needs a guardian. How do I get the guardianship terminated?

The court may make a determination that the protected person is no longer a person whose decision-making capacity is so impaired as to need a guardian/conservator. Either the guardian/conservator or the protected person can make an application to the court to terminate the guardianship/conservatorship. You and the protected person should be prepared to show the court that the protected person's decision-making capacity is no longer impaired. You should also be prepared to explain to the court how the protected person will make sure their needs are met without a guardian/conservator.

Making decisions for someone else seems like a big responsibility. How do I make decisions for the protected person?

A guardian or conservator has a responsibility to help the protected person develop self-reliance. You should involve the protected person in making decisions as much as they are able. Many times, a guardian or conservator's role is really to help the protected person make a decision by helping the protected person gather information, talking through the options, and helping guide the protected person through the process of deciding.

When the protected person is unable to participate in making the decision, or when the protected person wants to choose something that would be impossible or that would cause substantial harm, the guardian or conservator may have to make the decision for the protected person. The guardian or conservator should try to make the decision the protected person would make if they were able to. The guardian or conservator should think about the protected person's goals, needs, values, and preferences. If you don't know the protected person's wishes or preferences and you can't find out about them from the protected person or others who know the protected person well, you might have to make a decision based on the protected person's "best interests." This means choosing the course of action that is the least intrusive, most normalizing, and least restrictive way possible to meet the protected person's needs.

You do not have to make decisions alone. You can consult with the team involved in the protected person's care to information about your options. You can reach out to the Office of Public Guardian or an organization for guardians, like the Guardianship Association of Iowa Network (GAIN) or the National Guardianship Association (NGA) for guidance. You may also consult with an attorney.

What do I do about the guardianship if I am traveling and can't be reached?

As a guardian, you need to be able to be reached in an emergency, therefore, be sure to notify applicable parties with emergency contact information of how you can be reached.

I am getting older and am concerned about what will happen to the protected person when I can no longer serve. Should I ask the Court to appoint a co-guardian?

Making an application to the court to add a co-guardian is certainly one option. You should make sure the court order is clear about whether you and your co-guardian both have to make decisions together or whether either of you can make a decisions without the other co-guardian. At the time you are no longer able to serve due to other commitments, health or death, the co-guardian will need to ask the court to remove you as a co-guardian and to name them to serve as sole guardian.

If you are concerned about your own health and ability to continue to serve as a guardian, you may also make an application to the court to be relieved of your duties. In the application, you can recommend another person to be appointed as successor guardian.

You may also set up a plan with family, friends, or a professional guardianship service provider on who will succeed you as guardian in the event you are no longer able to serve. This person will have to apply to the court and be appointed as guardian by the judge before they can make any decisions for the protected person.

What will happen to the protected person if the guardian/conservator should pass away unexpectedly?

It is highly recommended that a plan is in place should such an event occur. Talk to family/friends to help identify who will be willing to serving as guardian/conservator in such an event. You can also contact the protected person's case manager/service provider to discuss these options. If there are resources that can be used to pay a guardian or conservator, a professional guardian/conservator may be an option.

Can two or more people serve as co-guardians or co-conservators?

Yes. However, being appointed as co-guardians/co-conservators may not achieve your desired result. Both co-guardians/co-conservators need to be able to cooperate and work together to make decisions on behalf of the protected person. Depending on how the court order appointing co-guardians/co-conservators is worded, the co-guardians/co-conservators might need to make all decisions together. If the co-guardians/co-conservators want to be able to make decisions separately, they should make sure the court order spells that out.

How do I resign as a guardian or conservator?

You must make an application to the court to request to be removed as guardian/conservator. The court would most likely have you remain as the guardian/conservator until such time you can make an application recommending someone by name to succeed you.

The protected person is noncompliant and refusing services and I am not able to be effective as a guardian, what do I do?

First, consider reasons why the protected person is refusing services. Has the protected person been as involved as possible in making decisions? What is the protected person trying to communicate by refusing services? You might find that some fairly small changes can resolve the issue.

Second, remember that there are many things a guardian cannot control. Guardians generally cannot force a protected person to follow a particular diet, take medications, participate in particular activities, or cooperate with service providers. Guardians generally cannot prevent a protected person from engaging in consensual sexual expression, smoking or drinking, self-harm behaviors, or aggressive behaviors toward others.

Third, you may be able to advocate for the protected person and help them get services they need. For example, if there are concerns about the protected person's ability to consent to sexual activity, you could arrange for the protected person to take an appropriate sex education class. If there are concerns about aggressive or self-harming behaviors, you can arrange for a behavior evaluation to identify things that trigger these behaviors and then work to avoid or reduce those triggers.

Fourth, consider whether guardianship remains appropriate. If the protected person is able to make decisions about their own needs, guardianship may no longer be appropriate. Or, perhaps a more limited guardianship may be appropriate. You must make an application to the court to request to be removed as guardian/conservator. The court would most likely have you remain as the guardian/conservator until such time you can make an application recommending someone by name to succeed you.

I have shown my Order of Appointment and Letter of Appointment to exercise my authority as guardian, but the agency will not accept it because it is too old. How do I get a new Order of Appointment and Letter of Appointment?

Contact the Clerk of Court and request a certified copy of the Order of Appointment and/or Letter of Appointment to show the guardianship is still current.

The protected person currently lives in their own home but needs to move into a care facility. As guardian, can I make the decision to move the protected person into a care facility?

A guardian needs specific court approval to change the protected person's permanent residence to a nursing home, other secure facility, or secure portion of a facility that restricts the protected person's ability to leave or have visitors, unless advance notice of the change was included in the guardian's initial care plan that was approved by the court. In an emergency situation, the court shall review the request for approval on an expedited basis. *Iowa Code §633.635(3)(a)*

The protected person needs to reside in a care facility, but cannot afford “private pay.” What can I do?

You should submit an application for Medicaid (Title 19) to DHS. Even if you think the protected person might not qualify for Medicaid, you should still apply. The DHS Income Maintenance workers who process Medicaid applications will determine if the protected person qualifies. If they do not qualify, the income maintenance workers can explain why. This will help you know what steps you can take to help the protected person qualify in the future. You can also contact Iowa Legal Aid or another attorney who is familiar with Medicaid eligibility issues and elder law to get legal advice.

As guardian can I do a mental health commitment for the protected person?

Yes, anyone who is aware of facts that would allow for a commitment can pursue that course of action. As with all mental health commitments there must be two individuals attesting to the need for the commitment. All legal procedures pursuant to Iowa Code Chapter 229 or other such related statutes must be followed. You may contact your county’s Clerk of Court (Small Claims) for more information

I am a volunteer guardian and the protected person’s family is harassing/threatening the protected person. What options do I have to protect the protected person?

The best course of action would be to contact the local authorities. In addition, you should contact the DHS Adult Abuse Hotline (515-362-2178 or 1-800-362-2178). You can place reasonable time, place, or manner restrictions on communication, visitation, or interaction between the protected person and another person. You cannot completely deny all communication, visitation, or interaction without good cause and approval by the court. §633.635(1)(f) and (2)(d). In some circumstances, a protective order under Iowa Code chapter 235F (protection from elder abuse), 236 (protection from domestic abuse), or 236A (protection from sexual abuse) might be an option.

I am a volunteer guardian and the protected person’s family is harassing/threatening me. What options to I have to protect myself?

The best course of action would be to contact the local authorities.

The protected person is in the hospital and the doctor has indicated it is in the protected person’s best interest to have a Do Not Resuscitate Order. Can I authorize this?

In the absence of a declaration that was signed by the protected person (prior to the protected person’s incapacity), the guardian needs court approval to authorize the withholding or the withdrawal of life-sustaining procedures. *Iowa Code §633.635(3(b)(1))*.



Can the protected person's family authorize the withholding/withdrawal of life-sustaining procedures?

The order of priority for making this decision when the protected person does not have a declaration is as follows:

- 1) The attorney in fact designated to make treatment decisions for the patient should such person be diagnosed as suffering from a terminal condition, if the designation is in writing and complies with Iowa Code chapter 144B or §633B.1.
- 2) The guardian of the person of the patient if one has been appointed, provided court approval is obtained.
- 3) The patient's spouse.
- 4) An adult child of the patient or, if the patient has more than one adult child, a majority of the adult children who are reasonably available for consultation.
- 5) A parent of the patient, or parents if both are reasonably available.
- 6) An adult sibling. *Iowa Code §144A.7.*

As conservator, do I need to file taxes on behalf of the protected person?

If the protected person would be required to file taxes, it is likely that you need to file the taxes on the protected person's behalf. For more information contact a tax specialist or attorney.

Can I be reimbursed for expenses incurred as part of my conservator duties?

You may make a request to the court to be reimbursed for such expenses. You cannot reimburse yourself from the protected person's funds without court approval.

Can I pay for the protected person's burial plan and funeral expenses from the conservatorship?

Yes, if the protected person has funds available to do so and it was part of the initial plan approved by the court. If it was not part of the initial plan, you may need to file an amended plan with the court. *Iowa Code §633.670(1)(e)*. Consult with an attorney for advice on what to include in the initial plan and when an amended plan needs to be filed.

For more information on what types of pre-need burial plans can be purchased and how much can be spent on the burial plan and funeral expenses without jeopardizing current and/or future Medicaid (Title 19) entitlements, it is recommended that you contact DHS Income Maintenance Services prior to committing the protected person's funds. You can find your local DHS office at [https://dhs.iowa.gov/dhs\\_office\\_locator](https://dhs.iowa.gov/dhs_office_locator) or contact the DHS Contact Center at 1-855-889-7985.

The protected person has passed away and has been receiving benefits from Medicaid (Title 19). What do I do with the protected person's money and property?

You may contact an attorney for assistance with the final accounting of the conservatorship and opening an estate with Probate Court.

You may also contact Iowa Medicaid Estate Recovery (1-888-513-5186 or 515-246-9841) for more information.

Who do I call if I believe a dependent adult is being abused or exploited?

Contact the local police or sheriff's department if you suspect a crime has been committed or the person is in immediate danger.

If you believe the person has been abused, neglected, or exploited by a staff member or caregiver in a nursing facility, hospital, assisted living program, elder group home, or adult day services program, contact the Iowa Department of Inspections and Appeals at

If you believe the person has been abused, neglected, or exploited by a caretaker other than facility staff (such as a family or household member, friend, or a caregiver in the person's home), contact the DHS Adult Abuse Hotline (515-362-2178 or 1-800-362-2178).

Who is considered to be a "dependent adult"?

A dependent adult is defined as "a person eighteen years of age or older who is unable to protect the person's own interests or unable to adequately perform or obtain services necessary to meet essential human needs, as a result of a physical or mental condition which requires assistance from another." *Iowa Code §235B.2(4)*.

# Electronic Filing

The Electronic Document Management System (EDMS) is a statewide program established by Iowa Courts. Parties to a case must now file electronically (eFile) documents with the Iowa Court System. Courts started utilizing EDMS in 2013 and, as such, all guardians and conservators appointed are now required to electronically file (eFile) documents. This includes the required initial, annual and final guardianship and conservatorship reports.

The website for Electronic Filing is: <https://www.iowacourts.state.ia.us/EFile/>

Forms are available in a folder labeled Guardian & Copnservator at: <https://www.iowacourts.gov/for-the-public/court-forms/>. For your convenience instructions on how to register and eFile the reports are included on the following pages.

# eFiling Registration

File Edit View Favorites Tools Help

**IOWA JUDICIAL BRANCH** **ELECTRONIC FILING**  
*Administering justice under the law equally to all persons.*  
Welcome Terms of use Payment policy Support powered by eFlex from Tybera

### Mission Statement

The Iowa Judicial Branch dedicates itself to providing independent and accessible forums for the fair and prompt resolution of disputes, administering justice under law equally to all people.

## Welcome eFiling

Welcome. You have reached the website for electronically filing cases and documents with the Iowa Court System. You must have an account to use this service.

### IMPORTANT SYSTEM NOTICES:

**Counties now accepting electronic filing on all new cases and electronic existing cases:**

**Boone, Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Greene, Hamilton, Hardin, Humboldt, Ida, Kossuth, Lyon, Marshall, Monona, Palo Alto, Plymouth, Pocahontas, O'Brien, Osceola, Sac, Sioux, Story, Webster, Woodbury, Wright**

**Polk County - Small Claims (SCSC), Civil Law (LACL), Civil Equity (EQCE), Seized Property (SPCE), Transfer Judgment (TJTJ), Dissolution (CDCD), Domestic Relations (DRCV), Civil (CVCV), Liens (LNLN), Uniform Support (USUS), Change of Name (CNCN), Mental Health (MHMH, MJMH), Domestic Abuse (DADA), Juvenile (JVJV), Probate (ESPR, GCPR, TRPR)**

### eFile Documents Links:

[Chapter 16 Rules & Commentary](#)  
[eFiling User Guides and Training Documentation](#)  
[eFiling Approved Forms](#)  
[List Of System Sealed Documents](#)

### Log In

Enter your User Name and Password.

User Name:

Password:

[Log In](#) [Forgot Your Password?](#)

[Request Account](#)

You can select “Request Account” to immediately begin registering as a Pro Se party. Otherwise, “eFiling User Guides and Training Documentation” provides a number of extensive step-by-step guides for various aspects of the electronic filing process.

## User Agreement

In order to register for an account with EFlex, you must accept the terms of the user agreement as explained below. Failure to accept these terms will take you back to the login screen.

Read [Chapter 16: Rules Pertaining to the Use of the Electronic Document Management System](#) before you register for or use the Electronic Document Management System (EDMS). In addition, please note the following:

### Electronic filing is mandatory:

Electronic filing of new court cases and appeals, unless otherwise required or authorized by the Chapter 16: Rules Pertaining to the Use of the Electronic Document Management System, is mandatory in counties where the EDMS has been implemented.

### You must register to use the EDMS:

Registration is required before you can use EDMS. In order to register, you must have and maintain a current e-mail account for use with EDMS. Your e-mail account can be with whichever provider you choose, e.g. Hotmail, Yahoo, Gmail, etc. When you have completed your registration and received your login (username) and password, you can begin filing and receiving documents immediately. Your registration constitutes your request for, and consent to, electronic service of court-generated documents and documents filed electronically by other parties.

**Note to Pro Hac Vice Attorneys:** As an attorney not licensed to practice law in Iowa, you must comply with Iowa Court Rule 31.14 before you can register to use the EDMS. After you obtain court approval, you must complete the EDMS Pro Hac Vice Registration Form.

### You must keep your login and password secure (except as provided by Chapter 16, Rules Pertaining to the Use of the Electronic Document Management System):

You are responsible for keeping your login and password secure, including changing your password periodically to maintain security.

Your EDMS username and password serve as your signature on documents you file with the court, and you are responsible for all documents filed using your username and password, as well as for any electronic downloading or viewing done using your login and password. The court can impose sanctions on filers who improperly access or file documents, therefore it's important that you not share your username and password with anyone or allow anyone to use it. If you believe your password has been compromised (you have lost your password or you think someone else knows your password), you must change it immediately to prevent unauthorized access to EDMS.

### You must maintain your registration information and monitor your e-mail account:

You are responsible for updating your registration information promptly when any changes occur to your e-mail address, mailing address, or telephone number. Along with maintaining a current e-mail account, you are responsible for monitoring it regularly and opening e-mail notices promptly.

### Withdrawal from EDMS does not mean you are withdrawn from a case or exempt from electronic filing:

You may withdraw from participation in EDMS through the Filer's Interface at [www.iowacourts.state.ia.us/Efile](http://www.iowacourts.state.ia.us/Efile) or by contacting the support contact number listed on the eFiling website. If your request to withdraw is approved, your log in and password will be canceled and your name will be deleted from applicable electronic service lists. However, your withdrawal from participation in EDMS does not authorize you to file cases or documents non-electronically, nor does it mean you are withdrawn from a case.

### You must redact protected and confidential information:

You are responsible for ensuring that protected and confidential information is properly redacted in documents that you file in EDMS according to [Division VI: Protection of Personal Privacy](#) section of the Chapter 16: Rules Pertaining to the Use of the Electronic Document Management System.

Sanctions may be imposed on you if the court finds that you have purposefully filed documents that contain un-redacted protected information as defined by the Rules or by court order or statute. These sanctions may include requiring you to pay damages and reasonable expenses, costs, and attorney fees associated with the filing of that information. You also may be found to be in contempt of court and charged as such.

I have read, understand, and agree to comply with this user agreement and the rules and procedures contained in Chapter 16: Rules Pertaining to the Use of the Electronic Document Management System.

I do not accept the terms of the user agreement

Cancel Submit



**After selecting “Request Account”, you will be asked to review the above user agreement. If you agree, then select the highlighted response stating that you have read and understood the rules and procedures outlined and click submit.**





User Agreement => Select User Role

### USER ROLES

**Note:** Read the following carefully. If you do not see your role or are unsure of what to select, please contact Datamaxx support at 1-877-369-8324 or at support@datamaxx.com

#### Select your user role:

- Registered Filer A registered party or self-represented litigant not filing on behalf of a company or association.
- Iowa Attorney An attorney with AT PIN who is licensed to practice law in Iowa.
- Filing Agent An officer, employee, or non-lawyer representative of a partnership, association, corporation, or tribe who is authorized by Iowa Code to represent that entity, for example an employee of a property management company or a collector at a financial institution.
- Government Agency The non-lawyer staff for an agency such as the Department of Public Safety, Department of Transportation, Department of Human Services, etc
- Pro Hac Vice An attorney not licensed to practice law in Iowa who is admitted to practice on a case under the sponsorship of a licensed Iowa attorney.
- Specialized Nonparty Filer A non-lawyer who files documents on multiple cases but is not a party, such as a process server, health service provider, or bail bonds agent.

Cancel Next



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**Mark yourself as a Registered Filer and select “Next”.**

**Fill out each of the required fields highlighted in the above picture and select “Submit”. You will then be brought to a confirmation page where the information you submitted will be displayed. A confirmation email will be sent to the given email as soon as your registration has been confirmed.**



User Agreement ⇒ Select User Role ⇒ Request a User Account

### Request a User Account

**\*Required Fields**

Company Name: Pro Se

User Name: \* jsmith

Your password must be at least 4 characters long.

Password: \* ●●●●●●

Confirm Password: \* ●●●●●●

Title:

First Name: \* John

Middle Name:

Last Name: \* Smith

Suffix Name:

Phone:

Fax:

EMail: \* jsmith@comcast.net

1st Alternate EMail:

2nd Alternate EMail:

Default County: Polk

Use My Company's Address

Use My Address

Address Line 1: \* 4132 University Avenue

Address Line 2:

Address Line 3:

City: \* Des Moines State: Iowa

Postal Code: \* 50311 Country: United States



Fill out each of the required fields highlighted in the above picture and select "Submit". You will then be brought to a confirmation page where the information you submitted will be displayed. A confirmation email will be sent to the given email as soon as the registration has been confirmed.

# Filing an Annual Report

The screenshot shows the Iowa Judicial Branch Electronic Filing website. At the top, there is a navigation menu with links for File, Edit, View, Favorites, Tools, and Help. Below this is a header banner with the Iowa Judicial Branch logo and the text "IOWA JUDICIAL BRANCH" and "ELECTRONIC FILING". The tagline "Administering Justice under the law equally to all persons." is also present. A secondary navigation bar includes links for Home, eFile, Cases, My Profile, and Log Out. The user is identified as "user: Drake Elder Clinic".

Below the navigation bar, the "Home" section contains a list of options:

New Case	File new case
Existing Case	File subsequent document to existing case
My Filings	Check the status of my filings
My Cases	List of my ECF cases
Notifications (23)	Review your Notifications

At the bottom of the page, there is a footer with links for online help, terms of use, privacy policy, payment policy, support, and about Tybera Development Group, Inc. The copyright notice reads: © 2001-12 Tybera Development Group, Inc. All rights reserved.

**Once you login, you will be brought to the above screen. Select “Existing Case” in order to file reports to your existing case.**



Home ⇒ Existing Case

**Existing Cases**

Cases that will be filed on

Case Number Case Title

Select county and type in a case number and participant name

County

Polk ▼

Case Number (Ex: SCSC126139) :

Participant's Last Name:

[Add this case to your list](#)[File on this case](#)

Or, select a recent case, filter all your cases, file on a specific case, or add cases to your filing list.

Number of cases displayed per page: 50 ▼

[Search My Cases](#)

	Case Title	Case Number	Case Type	County	Defendant/Child Names
<a href="#">Add</a>	[REDACTED]	[REDACTED]	GUARDIANSHIP	Polk	
<a href="#">Add</a>	[REDACTED]	[REDACTED]	GUARDIANSHIP	Polk	
<a href="#">Add</a>	[REDACTED]	[REDACTED]	GUARDIANSHIP	Polk	
<a href="#">Add</a>	[REDACTED]	[REDACTED]	GUARDIANSHIP	Polk	
<a href="#">Add</a>	[REDACTED]	[REDACTED]	GUARDIANSHIP	Polk	
<a href="#">Add</a>	[REDACTED]	[REDACTED]	GUARDIANSHIP	Polk	
<a href="#">Add</a>	[REDACTED]	[REDACTED]	GUARDIANSHIP	Polk	
<a href="#">Add</a>	[REDACTED]	[REDACTED]	GUARDIANSHIP	Polk	
<a href="#">Add</a>	[REDACTED]	[REDACTED]	ESTATE	Polk	
<a href="#">Add</a>	[REDACTED]	[REDACTED]	ESTATE	Polk	

When you arrive at this page, you will only see your cases under the list of recent cases. Generally, only one case will appear in the highlighted area unless you have multiple guardianships. If your case does not immediately appear, then use the search tools at the top of the page, using case number and/or participant's last name, to find your case. Select the case you would like to file under by clicking "Add".

File Edit View Favorites Tools Help

**IOWA JUDICIAL BRANCH** *Administering justice under the law equally to all persons.* **ELECTRONIC FILING**

Home eFile Cases My Profile Log Out user: Drake Elder Clinic

Home ⇒ Existing Case ⇒ Add a Document

**Case Number :** [REDACTED] **Case Title :** [REDACTED]

Document Category \* PROBATE COMMON FILINGS

Document Type \* ANNUAL REPORT

Additional Text

Filed under order to seal Date of order to seal [REDACTED]

Acceptable File Format Type(s) (\*.pdf)

Document Location [REDACTED] Browse...

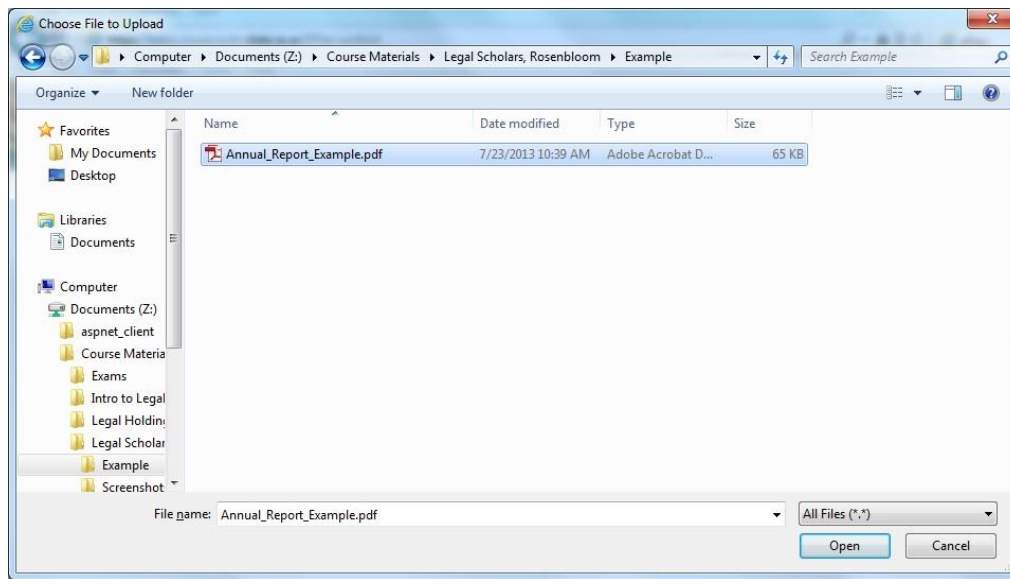
Add to Submission [Add]

Document Name	View Document	Edit Data	Size	Remove
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Back Move to Draft Next

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**Under Document Category select “Probate Common Filing” from the drop-down menu. Under Document Type select “Initial Report”, “Annual Report”, or “Final Report”, etc., as applicable. Then select “Browse...” in the Document Location field to search your files for the Annual Report that you wish to submit. Once you’ve found the document, click “Open” and then “Add”.**



Case Number : [redacted] Case Title : [redacted]

Document Category: \* PROBATE COMMON FILINGS  
Document Type \*: -- select a Document Type --  
Additional Text: [text box]  
 Filed under order to seal Date of order to seal: [calendar icon]  
Acceptable File Format Type(s) (\*.pdf)

Document Location: [text box] Browse...

Add to Submission [Add button]

Document Name	View Document	Edit Data	Size	Remove
ANNUAL REPORT	<a href="#">Annual_Report_Example.pdf</a>		0.07 MB	
			Total Size:	0.07 MB

Back Move to Draft Next

**Your Annual Report should now appear in the list of documents that you wish to submit. If you wish, you can click the blue link under “View Document” to review the Report before you submit it. Once the document appears in the list and you are happy with its contents, click “Next”.**



Home ⇒ Existing Case ⇒ Add a Document ⇒ Review and Approve Filing

### Review and Approve Filing

Case Title :

Emergency

Document(s) to be Submitted:

Add/Remove Documents

Document Name	View Document
ANNUAL REPORT	<a href="#">Annual_Report_Example.pdf</a>

New Properties:

Add Real Estate

New Parties:

Add Parties

Special Filing Instructions for the Clerk:

Back

Cancel (Delete)

Move to Draft

Submit the Filing



**You may now review your intended filings once more before filing and also provide any special instructions regarding your filing. To complete the process, simply select “Submit the Filing”. You should receive by email, a notice and an acceptance that your report has been filed.**

# Report Forms

Forms are available in a folder labeled Guardian & Conservator at: <https://www.iowacourts.gov/for-the-public/court-forms/>

Below is a list of the most common forms used in guardianships and conservatorships.

- Rule 7.11—Form 3: Guardian's Initial Care Plan for Protected Person
- Rule 7.11—Form 4: Guardian's Annual Report for Protected Person
- Rule 7.11—Form 5: Guardian's Final Report for Protected Person
- Rule 7.12—Form 3: Conservator's Request for Approval for Other Action on Behalf of Protected Person
- Rule 7.12—Form 4: Notice of Filing Conservator's Initial Plan or Amended Plan
- Rule 7.12—Form 5: Conservator's Initial Plan or Amended Plan
- Rule 7.12—Form 6: Inventory of Assets of Protected Person
- Rule 7.12—Form 7: Conservator's Annual Report
- Rule 7.12—Form 8: Conservator's Final Report

Reminder: The Clerk of Court is unable to provide legal advice, however, they can assist with creating an EDMS account, accessing forms needed in guardianships and conservatorships, and filing completed forms electronically.