

Instructions for Visitor's Report on Auditing Court Records

To prepare:

- (1) As you prepare to review the court records, remember that in most cases, everything is fine, but in others the person who is supposed to be protected is being harmed or is at risk of being harmed. Ultimately it may take in-person interviews and court hearings to reach a sound conclusion about whether there are problems. But the process can start with a volunteer court visitor reviewing the court records for warning signs.
- (2) Receive the certified copy of the order assigning you as visitor from the program coordinator.
- (3) Review the court records for the essential documents and information:
 - protected person's name, age and location; case number
 - guardian's name and contact information
 - name and contact information of interested persons
 - the date the guardian was appointed and guardian's authority (found in the letters of guardianship)
 - petition for appointment
 - physician's or other clinical statement; note any medications being taken, any treatments ordered, and any assistive devices ordered
 - letters of guardianship and order of appointment
 - annual status reports
 - annual financial reports
- (4) You may make personal notes about the case to take with you, but court records may never be removed from the courthouse. Records must not be written on or changed in any way. If you need a document from a file, you may consult with the court clerk to determine whether a copy of the document may be made.
- (5) Be sure to protect your notes and copies of any court records. Do not leave them where someone else can see them or take them. Be sure to return them to the Program Coordinator for shredding after you have filed your report. Guardianship records are private so do not show documents to anyone else, other than the order assigning you as a visitor. Also, do not talk about the case with anyone other than court staff. Do not contact the protected person, guardian or others, unless directed by the court to do so.
- (6) Print a blank report form: Visitor's Report on Possible Problems.

- (7) Using these instructions for reviewing court records and completing the report, examine the records for the problem signs identified in the manual and these instructions. If there no signs of problems in an area, enter “none.” Complete the report form as soon as possible and submit it to the Program Coordinator. The coordinator will file it with the court that assigned you.
- (8) Schedule a meeting with the Program Coordinator to discuss the case and your report. Ask whether specific follow-up has occurred or will occur.
- (9) Unless you are told otherwise, plan on attending the hearing if one is scheduled. You may be called upon to testify at the hearing. Although guardianship records are private, most guardianship hearings are public.
- (10) If the judge decides that further investigation is necessary, the judge might assign a visitor to interview the protected person, the guardian and others. If you have volunteered for the role of interviewing people, that visitor might be you. Before conducting your interviews and other inquiries, review the manual on inquiring about the protected person’s well-being. If you have not volunteered for that role, notify the judge, and s/he will assign someone else.

(1) Paragraph (1): The guardian’s inventory and annual reports.

- **Inventory.** The inventory describes the protected person’s estate—financial assets and real and personal property—that the guardian will be responsible for. The inventory is due within 90 days after the appointment.
- **Status Report and Financial Report.** The annual status report tells the court about the protected person’s circumstances and well being. The annual financial report tells the court about changes occurring in the protected person’s estate since the inventory or since the last annual report.
- The reports are due on the anniversary of the guardian’s appointment. The guardian can ask the court to change that date to a more convenient date, often coinciding with federal and state income tax reporting.
- Some guardians do not have to file an inventory or annual reports unless ordered by the court to do so:
 - The guardian of an **adult** does not have to file an inventory, a status report or a financial report if the guardian is the parent of protected person.
 - The guardian of a **minor** does not have to file an inventory or a financial report if the minor does not have an estate or if the minor’s estate is deposited in an account which requires the court’s approval for withdrawal. The guardian must still file an annual status report.
 - The guardian of a **minor** does not have to file a status report if the purpose of the guardianship is so the minor can attend school in the guardian’s school district. The guardian must still file an inventory and an annual financial

report, unless the minor does not have an estate or the minor's estate is deposited in an account which requires the court's approval for withdrawal.

- The guardian of an **adult** or of a **minor** does not have to file the inventory or annual financial report if the court has appointed a separate conservator.
- See [Code of Judicial Administration Rule 6-501](#), [Section 75-5-312\(2\)\(e\)](#) and [Section 75-5-417\(5\)](#). The lack of reports does not mean that a volunteer court visitor cannot investigate the case, only that there will be fewer records to consider.
- **Service of the inventory and reports.** If an inventory and reports have been filed, they must be served on all interested persons who have not waived service. Look for a "certificate of service" or "certificate of mailing" or similar statement by the guardian, stating to whom s/he has mailed or delivered the inventory and reports. The certificate is often the last page of the document that has been served. Compare that list to the list of interested persons served with the original petition and notice of hearing. Look for a written waiver of service from anyone not served. Look for any indication that the interested person has not been served, such as having moved without a forwarding address.
- Look for some **common problems** in the financial report:
 - the beginning balance does not agree with the ending balance from the inventory or from the previous year's report
 - the report shows money received or paid outside the dates of the reporting period
 - the balance on hand does not equal total receipts minus total payments
 - the account statements are not attached
 - expenses do not show to whom paid, the reason for the payment, or the amount
 - property listed in the inventory or in the previous year's report is not accounted for
 - the name of the bank, credit union, or other financial institution or the account number are not stated

(2) Paragraph (2): Signs of possible problems with living arrangements.

- the facility is too restrictive, given the protected person's capacity
- the facility is not supporting enough, given the protected person's capacity
- the facility provides poor quality of care

(3) Paragraph (3): Signs of possible problems with healthcare.

- assistive devices or treatments are not provided
- medication is not properly managed and administered
- medication is not paid for
- protected person is not seeing medical providers regularly
- there are numerous medical providers
- there are numerous emergency room visits
- there are numerous pharmacies

(4) Paragraph (4): Signs of possible conflict among family members.

- family members do not agree on the decision that the protected person would have made
- family members do not agree on the living arrangements for the protected person
- family members do not agree on healthcare for the protected person
- family members do not agree on how to spend money for the protected person's benefit

(5) Paragraph (5): Signs that guardian possibly needs help or wants to or needs to resign.

- the guardian does not seek help when needed
- the guardian's health or capacity is declining
- the guardian's life is too busy to devote time to the protected person
- the guardian or someone else has raised the issue of needed help or a new guardian

(6) Paragraph (6): Signs that protected person's capacity possibly has changed.

- the protected person is doing more (or less) than previously
- medical reports show signs of change
- the protected person has asked for changes

(7) Paragraph (7): Signs that guardian possibly has changed the protected person's lifestyle or standard of living.

- the guardian does not honor the protected person's values and preferences

- the guardian spends too little (or too much) to support the standard of living to which the protected person is accustomed

(8) Paragraph (8): Signs that guardian possibly is not maximizing the protected person's capacity.

- the guardian does not encourage and help the protected person to be as independent, engaged, and comfortable as possible in the circumstances
- the guardian has not worked with the staff of the protected person's residential facility to establish activities that would appropriately engage the protected person
- the guardian has not helped the protected person to work through agitating circumstances

(9) Paragraph (9): Signs of possible abuse (physical, sexual, emotional, psychological).

- frequent use of the emergency room or hospital or frequent changes in health care providers
- injury from an implausible cause, contradictory explanations
- injury that has not been properly cared for
- pain upon touching
- bruises, black eyes, welts, cuts, burns, and rope marks
- sprains, dislocations, and internal injuries or bleeding
- injuries in various stages of healing
- presence of old and new bruises at the same time
- broken eyeglasses, signs of being punished, signs of being restrained
- eye problems, retinal detachment
- bone fractures and skull fractures
- overdose or under utilization of prescribed medication
- bruises around the breasts or genital area
- venereal disease or genital infections
- vaginal or anal bleeding
- torn, stained, or bloody underclothing

(10) Paragraph (10): Signs of possible neglect, including self neglect.

- unattended or untreated health problems

- inadequate or inappropriate administration of medication
- lack of necessary medical aids, such as eyeglasses, hearing aids, dentures, walkers, canes, and bedside commodes
- bed sores and signs of confinement (tied to furniture, locked in a room)
- lack of food in the home
- dehydration, malnutrition, weight loss, pallor, sunken eyes or cheeks
- homelessness or grossly inadequate housing
- unsanitary living conditions and poor personal hygiene (for example, dirt, fleas or lice on person, insect bites, soiled clothing or bedding, fecal/urine smell, inadequate clothing)
- unsafe conditions in the home (improper wiring, inadequate plumbing, no heat or running water no railings on stairs, etc.)
- hoarding
- animals in feral conditions
- deserting the protected person at a hospital, nursing facility, shopping center or other location

(11) Paragraph (11): Signs of possible financial exploitation.

- large or frequent withdrawals of the protected person's money
- withdrawal for implausible reasons or with contradictory explanations
- withdrawals by a person accompanying the protected person
- withdrawals in spite of penalties
- increased activity on debit and credit cards
- unexplained disappearance of funds
- missing personal belongs, such as art, silverware, or jewelry
- co-mingling of funds: putting the protected person's money in the guardian's (or another's) bank account
- activity in bank accounts that is unusual for the protected person
- activity, events, and transactions unusual for the protected person or inconsistent with the protected person's ability
- change in account beneficiaries
- new authorized signers on accounts
- transfer of the protected person's assets to someone else

- recent change of title in the protected person's house or car
- new or refinanced loan
- paying for services that are not necessary
- unpaid or overdue bills
- lack of common amenities that the protected person can afford
- care or living arrangements not commensurate with what the protected person can afford
- the protected person's signature being forged
- a new person is involved in the protected person's life, with no logical reason for being there, such as
 - a new boyfriend or girlfriend much younger than the protected person
 - recent acquaintances expressing strong affection for the protected person
 - previously uninvolved relatives claiming rights to the protected person's affairs and possessions
 - abrupt change of the protected person's physician, lawyer, or accountant
- change in the protected person's will, power of attorney, trust, or other legal document
- promises of life-long care in exchange for all of protected person's money or property
- rents are not collected as income on rental property
- payments are to the guardian or third party, not to the service provider
- assets are not being used for the benefit of the protected person
 - assets are being saved for potential heirs
 - assets are being used to support others for whom the protected person is not responsible

(12) Paragraph (12): Signs from the protected person of possible problems.

- the protected person's report of being physically, sexually, verbally or emotionally abused or mistreated
- the protected person's report of being ignored, mistreated or abandoned
- the protected person's report of being a part of vulnerable adult pornography
- the protected person's report of financial exploitation
- the protected person's sudden change in behavior might also indicate a problem of abuse, neglect or financial exploitation:

- fear, apprehension
- helplessness, resignation, withdrawal, depression
- non-responsive, reluctance to talk openly
- implausible stories, contradictory statements
- anger, denial, agitation, anxiety
- confusion
- confusion about financial transactions
- unusual behavior usually attributed to dementia (for example, aggressiveness, sucking, biting, rocking)

(13) Paragraph (13): Signs from the guardian and others of possible problems

- the guardian isolates the protected person from friends and family
 - the guardian says the protected person is not willing or able to accept visits or calls
 - the guardian tells the protected person that no one wants to see him or her
 - the guardian often speaks for the protected person, even when the protected person is present
 - the guardian will not allow the protected person to participate in normal activities
- the guardian seems overly concerned about the protected person's finances
- the guardian is concerned that too much is spent on protected person's care
- the guardian has no means of support other than the protected person's income
- the guardian exhibits a lifestyle beyond of his or her means
- the guardian has problems with alcohol or drugs
- the guardian has been charged with or convicted of abuse, neglect or exploitation of someone other than the protected person
- the guardian blames the protected person (for example, accusation that incontinence is a deliberate act)
- the guardian exhibits aggressive behavior (anger, threats, insults, harassment), sexual behavior (flirtation, coyness), or indifference toward the protected person

- the guardian is unwilling or reluctant to comply with service providers in planning and implementing care
- the protected person's family give conflicting accounts of events