



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

Item No. 22-169

For business meeting on September 20, 2022

Title

Rules and Forms: Probate Conservatorship

Agenda Item Type

Action Required

Rules, Forms, Standards, or Statutes Affected

Adopt Cal. Rules of Court, rule 7.576;
amend rules 7.575, 7.756, and 7.1060; repeal
rules 7.1052, 7.1053, and 7.1054; revise
forms GC-330 and GC-331; revoke form
GC-332

Effective Date

January 1, 2023

Date of Report

September 2, 2022

Recommended by

Probate and Mental Health Advisory
Committee
Hon. Jayne Chong-soon Lee, Chair

Contact

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Executive Summary

The Probate and Mental Health Advisory Committee recommends adopting one rule of court, amending three rules, repealing three rules, revising two forms, and revoking one form to implement requirements in Assembly Bill 1194 (Stats. 2021, ch. 417), which amended the procedural and substantive law governing the establishment, court oversight, and termination of probate conservatorships. Amendment of one rule and revision of one form are expressly mandated by statute. The committee also recommends further amendments and revisions to conform to existing law.

Recommendation

The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective January 1, 2023:

1. Amend California Rules of Court, rule 7.575(b) to eliminate language that repeats statutory provisions;

2. Adopt rule 7.576 to combine the provisions of existing rules 7.1052(c), 7.1053, and 7.1054, which address court approval of a conservator's final account, into a single rule and move them to chapter 12 of the Probate Rules, which addresses accounts and reports;
3. Repeal rules 7.1052, 7.1053, and 7.1054;
4. Amend rule 7.756 to reflect the amended statutory standard for determining an award of compensation to a conservator, guardian, or attorney for services rendered;
5. Amend rule 7.1060 to repeal subdivision (c), which provides for a procedure no longer authorized by statute;
6. Revise *Order Appointing Court Investigator* (form GC-330) and *Order Appointing Court Investigator (Review and Successor Conservator Investigations)* (form GC-331) to reflect the investigator's duties as amended by AB 1194 and to distinguish duties currently in effect from duties contingent on an appropriation of funds; and
7. Revoke *Order Setting Biennial Review Investigation and Directing Status Report Before Review* (form GC-332)), which implements a procedure no longer authorized by statute.

The proposed amended rules and new and revised forms are attached at pages 8–18.

Relevant Previous Council Action

Rule 7.575 was adopted effective January 1, 2008, and most recently amended effective January 1, 2020, to address the use of printouts of electronic statements. Rule 7.756 was adopted effective January 1, 2008, and has not since been amended. Rules 7.1052, 7.1053, and 7.1054 were adopted effective January 1, 2004, and have not since been amended. Rule 7.1060 was adopted effective January 1, 2011, and has not since been amended.

In conjunction with the adoption of rule 7.1060, the Judicial Council completely revised form GC-330 and approved forms GC-331 and GC-332, effective January 1, 2011. Forms GC-330 and GC-331 were revised in 2015 and 2016 to reflect the amended standards and procedures for determining the capacity to vote of a conservatee or proposed conservatee enacted by Senate Bill 589 (Stats. 2015, ch. 736) and Assembly Bill 1020 (Stats. 2015, ch. 728).

Analysis/Rationale

AB 1194 amended the law governing the probate court's oversight of an appointed conservator, the duties of the appointed court investigator, and the procedures for terminating a conservatorship in several important respects that require changes to the California Rules of Court and Judicial Council forms.¹ The bill strengthened and clarified procedural protections for

¹ Assem. Bill 1194 (Stats. 2021, ch. 417). In addition to the amendments discussed in the text, the legislation also, subject to an appropriation of funds, authorized the courts to impose specific penalties on professional fiduciaries for

conservatees and proposed conservatees by (1) requiring appointment of counsel in all cases in which a conservatee, proposed conservatee, or person alleged to lack legal capacity has not retained counsel and does not plan to do so; (2) specifying, subject to an appropriation of funds, additional required elements for initial and review investigations; (3) removing judicial discretion to defer the periodic investigation and review of established conservatorships; and (4) shifting the burden of proof, when the court considers terminating a conservatorship, to the party opposing termination. The statute also amends the standards for the court to use in determining appropriate compensation of conservators and their attorneys for services rendered.²

In its amendments to Probate Code section 1826(g), AB 1194 requires the Judicial Council, on or before January 1, 2023, to update rules of court and Judicial Council forms as necessary to implement the bill's changes to that section.³ Substantive and procedural changes enacted by AB 1194 and other recent legislation require additional rule amendments and form revisions to conform to current law.

Rule 7.575

The committee recommends amending rule 7.575(b) to reflect amendments to section 2620(c).⁴ These amendments expanded the definition of "account statement" to include both an original account statement and a verified electronic statement. In addition, they authorized the court to accept, in place of either of the foregoing, "a computer-generated printout of an original verified electronic statement," subject to specified conditions.⁵ The Judicial Council had, effective January 1, 2020, amended rule 7.575(b) to add analogous accommodations for the use of electronic statements and verified computer-generated printouts thereof. The Legislature borrowed much of the language from the existing rule, but extended the authority to use electronic statements beyond that granted by the rule. The recommended amendments reflect that extension.

Rule 7.576

The committee recommends combining the text of existing rules 7.1052(c), 7.1053, and 7.1054, with minor amendments, into new rule 7.576 to govern the duties of a conservator of the estate to

violations of their duties and requires courts to report the penalties to the Professional Fiduciaries Bureau. (See Bus. & Prof. Code, §§ 6563, 6580; Prob. Code, §§ 1051(d), 1851.6, 2112, 2653.) These penalties and reporting requirements are beyond the scope of this proposal.

² The performance of many of the duties imposed on the superior courts by AB 1194 are contingent on an appropriation of funds identified for that purpose. Judicial Council implementation of the statutory amendments is not, however, so contingent. The committee therefore recommends these amendments and revisions now because some are expressly mandated, others implement duties or requirements that do not depend on funding, and still others affect forms that implement existing statutory duties that themselves are contingent on an appropriation. In the last case, the committee has proposed revisions that distinguish current duties from contingent duties.

³ All subsequent statutory references are to the Probate Code unless otherwise specified.

⁴ See Assem. Bill 2844 (Stats. 2020, ch. 221, § 1); Assem. Bill 1194 (Stats. 2021, ch. 417, § 22).

⁵ AB 1194's amendments to section 2620(c) repealed the separate requirements applicable to private professional fiduciaries, leaving them subject to the same requirements as nonprofessional conservators.

file and serve a final account when the conservator's administration of the estate terminates for any reason, including removal, resignation, or termination of the conservatorship. Because these provisions address a single person, a conservator of the estate, in a single circumstance, the filing and service of a final account, they belong together in a single rule. In addition, the committee recommends placing the new rule in chapter 12 of the Probate Rules because that chapter addresses accounts and reports.

Amend rule 7.756

The committee recommends amending rule 7.756(a) to reflect language added by AB 1194 to sections 2640 and 2641 conditioning an award of just and reasonable compensation to a conservator, guardian, or attorney for services rendered in the best interest of the conservatee or ward. The committee considered adding language describing factors for the court to consider in determining whether services were in a ward's or conservatee's best interest, but was persuaded by commenters that the existing factors in rule 7.756(a) provide sufficient guidance to the court.

Repeal rules 7.1052, 7.1053, and 7.1054

The committee recommends repealing rule 7.1052(a) and (b), which describe, in much less detail than the governing statutes, the general circumstances under which a conservatorship can terminate. Neither leaving these provisions as they are nor expanding them would satisfactorily reflect or supplement the level of detail and complexity of the amended termination standards and procedures in sections 1860, 1860.5, 1862, and 1863. The retention of these existing rules provisions would lead parties and interested persons to think that termination proceedings are much simpler than they are. On the other hand, the statutory standards and procedures are now presented at a level of detail that leaves little or no room to elaborate on them by rule. The committee therefore recommends allowing the amended statutes to speak for themselves. In addition, for the reasons noted above with respect to rule 7.576, the committee recommends repealing rules 7.1052(c), 7.1053, and 7.1054 and adopting their text as a single new rule in chapter 12 of the Probate Rules.

Amend rule 7.1060

The committee recommends amending rule 7.1060 to repeal subdivision (c), which addresses the use of form GC-332 and other methods to defer an annual conservatorship investigation and review for an additional year on a finding that the conservator is acting in the conservatee's best interest. AB 1194 amended section 1850(a) to eliminate the court's authority to defer the annual investigation, so rule 7.1060(c) is obsolete.⁶

Revise *Order Appointing Court Investigator* (form GC-330)

The committee recommends updating form GC-330 to conform to AB 1194's amendments to the court investigator's duties under section 1826, which governs investigations in response to a petition to appoint a probate conservator, and section 2253, which governs investigations in response to a temporary conservator's proposal to fix the residence of a temporary conservatee at

⁶ As discussed below, the committee also recommends revoking form GC-332, which implements the eliminated from section 1850(a).

a place other than the place where the conservatee resided before the commencement of proceedings.

The recommended revisions include:

- Updating item 1e to reflect the renumbered paragraphs in section 1826(a) and remove language that repeats statutory provisions;
- Revising item 1f to focus on the determination required of the investigator and emphasize that disqualification from voting requires the court, not the investigator, to make the required determination *and* appoint a conservator;
- Incorporating into items 1g and 3c the requirements added to sections 1826 and 2253 to gather and review relevant medical reports regarding the proposed conservatee from specified persons, and to place any confidential medical information and confidential information obtained from the California Law Enforcement Telecommunications System (CLETS) included in the report in a separate, confidential attachment;
- Specifying in item 1i that the confidential attachment must be omitted from copies of the report sent to specified persons; and
- Deleting from item 3 the court's discretion to dispense with an investigation if a temporary conservator has requested permission to move the temporary conservatee from their personal residence. AB 1194 eliminated this discretion from section 2253(b).

The committee also recommends revisions to distinguish duties currently in effect from duties contingent on an appropriation of funds identified for that purpose. Additional revisions are recommended to promote consistency, clarity, and simplicity.

Revise Order Appointing Court Investigator (Review and Successor Conservator Investigations) (form GC-331)

The committee recommends updating form GC-331 to conform to the amendments in sections 1850, 1850.5, and 1851 to the court investigator's duties in review investigations. Recommended revisions include:

- Updating item 1b to reflect the renumbered paragraphs in section 1851(a)(1) and remove language that repeats statutory provisions;
- Adding new item 1c to reflect the amended language in section 1851(a)(2) clarifying the investigator's duty to determine whether the powers and duties of the conservator should be modified to ensure that the conservatorship is the least restrictive arrangement needed for the conservatee's protection;

- Revising item 1d to focus on the determination required of the investigator and to require the investigator to determine whether the voting rights of a previously disqualified conservatee may be restored;⁷
- Revising item 1i to clarify that the investigator’s duty under section 1851(c) is to recommend whether to continue, *modify*, or terminate a limited conservatorship;
- Reconfiguring and relettering items 1j–1m and 3g–3h to clarify the requirements for reporting the investigator’s findings, including methods of delivery, persons entitled to delivery, and confidentiality of medical information and information obtained from CLETS;⁸ and
- Revising the required information in item 3 regarding appointment of counsel and combining them into item 3f to conform to the amendments to section 1471 by AB 1194.

Revoke *Order Setting Biennial Review Investigation and Directing Status Report Before Review* (form GC-332)

AB 1194 amended section 1850(a)(2) to eliminate the court’s authority to set the next annual statutory review in two years if specified conditions were met. Because form GC-332 was intended to be used only when the court exercised this authority, the committee recommends its revocation.

Policy implications

No policy implications contributed to controversy or intense debate in the committee about the recommendations. The committee intends its recommendations to implement AB 1194 in a way that improves the quality of justice and service to the public while integrating smoothly and efficiently into existing court operations. The Joint Rules Subcommittee (JRS) of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee agreed with the proposal as circulated, noting that it is required to conform to changes in the law.

Comments

The proposal was circulated for comment in the spring 2022 invitation-to-comment cycle. Four comments were received: two from superior courts, one from the JRS, and one from a county bar association. The JRS agreed with the proposal; the other three commenters agreed and suggested modifications. These modifications are discussed in the next section.

⁷ Elections Code section 2209, as amended by SB 589 (Stats. 2015, ch. 736, § 7.5), requires the investigator to determine whether the conservatee’s voting rights may be restored. This requirement was overlooked in the 2016 revision of form GC-331.

⁸ The authorized methods of delivering notices of hearing and other papers in proceedings under the Probate Code were amended by AB 976 (Stats. 2017, ch. 319), which replaced the terms *service* and *serve* with *delivery* and *deliver* and authorized electronic delivery, subject to the recipient’s consent. In each section of the code where appropriate, the legislation replaced “served by mail” with “delivered pursuant to Section 1215.”

A chart of comments received is attached to this report at pages 19–25.

Alternatives considered

The committee considered proposing additional rule amendments and form revisions related to the establishment, oversight, and termination of conservatorships, but elected to defer further changes in anticipation of further legislation. The committee considered developing an additional form for appointment of an investigator for a transfer investigation under section 1851.1, but the lone court that commented directly on this issue indicated a preference for a local form and no need for a form specific to transfer investigations.

The committee also considered attempting to specify, by rule of court, additional factors that might inform the court’s determination whether services rendered by a conservator or guardian were in the best interest of the conservatee or ward, as now required by sections 2640 and 2641. As noted by the sole court to comment on this issue, however, rule 7.756(a) already supplies a list of nonexclusive factors that the court may consider in determining just and reasonable compensation from the estate for a conservator for services rendered. Several of these factors—including the benefit of the services to the conservatee or the estate, the necessity of the services, and the conservatee’s anticipated future needs—require the court to consider whether the services were in the conservatee’s best interest. The court may also consider additional relevant factors raised in the petition for compensation or any opposition.

The committee did not consider taking no action. AB 1194 requires the Judicial Council to update the rules and forms affected by its amendments to section 1826. Rule 7.1060 and form GC-330 fall within this express mandate. The other rule amendments and form revisions are necessary to conform to current law, as amended by AB 1194 and other recent legislation.

Fiscal and Operational Impacts

The proposed rule amendments and form revisions would impose indeterminate costs on the courts attendant to changing their operating procedures. The JRS noted that these changes would include changes to e-filing and case management systems, development or revision of local forms, and additional training. These operational changes are, however, required by statute and are, therefore, to a large extent unavoidable. It is possible that some changes—for example, the authority to accept verified electronic statements instead of original statements in support of conservators’ required accountings—will lead to marginal cost savings.

Attachments and Links

1. Cal. Rules of Court, rules 7.575, 7.576, 7.756, 7.1052, 7.1053, 7.1054, and 7.1060, at pages 8–12
2. Forms GC-330, GC-331, and GC-332, at pages 13–18
3. Chart of comments, at pages 19–25
4. Link A: AB 1194 (showing amendments),
https://leginfo.ca.gov/faces/billCompareClient.xhtml?bill_id=202120220AB1194&showamends=true

Rule 7.576 of the California Rules of Court is adopted, rules 7.575, 7.756, and 7.1060 are amended, and rules 7.1052, 7.1053, and 7.1054 are repealed, effective January 1, 2023, to read:

Rule 7.575. Accounting of conservators and guardians

* * *

(a) * * *

(b) Supporting documents

Each accounting filed with the court must include the supporting documents, including all ~~original~~ account statements, specified in Probate Code section 2620(c) ~~of the Probate Code~~.

~~(1) If a conservator or guardian receives a statement from the issuing institution in electronic form but not in paper form, the court has discretion to accept a computer-generated printout of that statement as an original in satisfaction of the requirements in section 2620(c) if:~~

~~(A) The fiduciary submitting the printout verifies under penalty of perjury that the statement was received in electronic form and printed without alteration; and~~

~~(B) The printout is an “original,” as defined in Evidence Code section 255.~~

(1) An account statement includes:

(A) An original account statement; or

(B) A verified electronic statement.

(2) This rule does not authorize a fiduciary to submit, or a court to accept, a copy of a statement in support of an accounting filed under section 2620. A court may also accept a computer-generated printout of an original verified electronic statement if the fiduciary verifies that the statement was received in electronic form and printed without alteration.

(3) A verification under this subdivision must be executed by the fiduciary as required by Code of Civil Procedure section 2015.5.

(c)–(f) * * *

1 **Rule 7.576. Final account of conservator of the estate**

2
3 **(a) Filing and approval of final account**

4
5 A conservator of the estate whose administration is terminated for any reason,
6 including removal, resignation, or termination of the conservatorship, must file and
7 obtain the court's approval of a final account of the administration.
8

9 **(b) Delivery of final account of removed or resigned conservator**

10
11 A conservator of the estate who has resigned or been removed must deliver a copy
12 of the conservator's final account and the petition for its settlement with the notice
13 of hearing required by Probate Code section 1460(b)(1) to the successor
14 conservator of the estate in any manner permitted by Probate Code section 1215,
15 unless the court dispenses with that notice.
16

17 **(c) Delivery of final account after termination of conservatorship**

18
19 After termination of a conservatorship, a conservator of the estate must deliver a
20 copy of the conservator's final account and the petition for its settlement with the
21 notice of hearing required by Probate Code section 1460(b)(2)–(3) to both the
22 former conservatee and the spouse or domestic partner of the former conservatee in
23 any manner permitted by Probate Code section 1215, unless the court dispenses
24 with that notice.
25
26

27 **Rule 7.756. Compensation of conservators and guardians**

28
29 **(a) Standards for determining just and reasonable compensation**

30
31 The court may consider the following nonexclusive factors in determining just and
32 reasonable compensation for a conservator from the estate of the conservatee or a
33 guardian from the estate of the ward for services rendered in the best interest of the
34 conservatee or ward up to that time:
35

36 (1)–(9) * * *

37
38 **(b) No single factor determinative**

39
40 No single factor listed in (a) should be the exclusive basis for the court's
41 determination of just and reasonable compensation for services rendered in the best
42 interest of the conservatee or ward.
43

1 (c) * * *

2
3
4 **Rule 7.1052. Termination of conservatorship**

5
6 **(a) Operation of law or court order**

7
8 A conservatorship of the person or estate may terminate by operation of law or may
9 be terminated by court order if the court determines that it is no longer required.
10

11 **(b) Conservator of the person**

12
13 Under Probate Code section 1860(a), a conservatorship of the person terminates by
14 operation of law when the conservatee dies, and the conservator of the person need
15 not file a petition for its termination.
16

17 **(c) Duty of conservator of estate on termination**

18
19 A conservator of the estate whose administration is terminated by operation of law
20 or by court order must file and obtain the court's approval of a final account of the
21 administration.
22

23
24 **Rule 7.1053. Service of final account of removed or resigned conservator**

25
26 A resigned or removed conservator of the estate must serve a copy of the conservator's
27 final account and the petition for its settlement with the notice of hearing that must be
28 served on the successor conservator of the estate under Probate Code section 1460(b)(1),
29 unless the court dispenses with such service.
30

31
32 **Rule 7.1054. Service of final account after termination of conservatorship**

33
34 After termination of the conservatorship, the conservator of the estate must serve copies
35 of the conservator's final account and the petition for its settlement with the notices of
36 hearing that must be served on the former conservatee and on the spouse or domestic
37 partner of the former conservatee under Probate Code sections 1460(b)(2) and (3), unless
38 the court dispenses with such service.
39

40
41 **Rule 7.1060. Investigations and reports by court investigators**

1 **(a) *Order Appointing Court Investigator (form GC-330)***
2

3 *Order Appointing Court Investigator* (form GC-330) is an optional form within the
4 meaning of rule 1.35 of these rules, except as follows:
5

- 6 (1) A court may, by local rule, require that form GC-330 be used for orders
7 appointing court investigators and directing them to conduct all or any of the
8 investigations described in the form and to prepare, file, and serve deliver
9 copies of reports concerning those investigations. ~~The local rule may also~~
10 ~~prescribe procedures for the form's preparation, service, delivery to other~~
11 ~~parties, and delivery to the court for execution and filing.~~ Form GC-330 must
12 be prepared only by the court.
13

14 (2) * * *

15
16 **(b) *Order Appointing Court Investigator (Review and Successor Conservator***
17 ***Investigations)* (form GC-331)**
18

19 *Order Appointing Court Investigator (Review and Successor Conservator*
20 *Investigations)* (form GC-331) is an optional form within the meaning of rule 1.35
21 of these rules, except as follows:
22

- 23 (1) A court may, by local rule, require that form GC-331 be used for orders
24 appointing court investigators and directing them to conduct all or any of the
25 review investigations under Probate Code sections 1850 or 1850.5 and 1851
26 or investigations concerning the appointment of successor conservators under
27 Probate Code sections 2684 and 2686 described in the form and to prepare,
28 file, and serve deliver copies of reports concerning those investigations. Form
29 GC-331 ~~is to~~ must be prepared only by the court ~~only~~.
30

31 (2) * * *

32
33 ~~**(c) *Order Setting Biennial Review Investigation and Directing Status Report Before***~~
34 ~~***Review* (form GC-332)**~~
35

36 ~~*Order Setting Biennial Review Investigation and Directing Status Report Before*~~
37 ~~*Review* (form GC-332) is an optional form within the meaning of rule 1.35 of these~~
38 ~~rules, except as follows:~~
39

- 40 ~~(1) A court may, by local rule, require that form GC-332 be used for orders~~
41 ~~setting biennial review investigations and directing status reports under~~
42 ~~Probate Code section 1850(a)(2). Form GC-332 is to be prepared by the court~~
43 ~~only.~~

1
2
3
4

~~(2) — A court may, by local rule, require that a general order, a court-prepared order, or a local form order instead of form GC 332 be used concerning the matters described in form GC 332.~~

FOR PREPARATION BY THE COURT ONLY	<i>FOR COURT USE ONLY</i>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	DRAFT Not approved by the Judicial Council
CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE of (name): <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	
ORDER APPOINTING COURT INVESTIGATOR <input type="checkbox"/> Conservatorship <input type="checkbox"/> Limited Conservatorship	
	CASE NUMBER:

To (name):

You are hereby appointed court investigator in the matter above.

1. ☐ **A Petition for Appointment of a Probate Conservator (form GC-310) has been filed. YOU ARE DIRECTED TO:**
 - a. Interview the proposed conservatee personally.
 - b. ☐ **Conduct the other interviews required by Probate Code section 1826(a)(1).***
 - c. Provide to the proposed conservatee all the information required by Probate Code section 1826(a)(2).
 - d. Determine whether it appears that the proposed conservatee is unable to attend the hearing and, if able to attend, whether the proposed conservatee is willing to attend.
 - e. Make all determinations required by Probate Code section 1826(a)(4)–(8).
 - f. **Determine if the proposed conservatee is incapable of communicating, with or without reasonable accommodations, a desire to participate in the voting process. The proposed conservatee may not be disqualified from voting unless the court makes the determination above and appoints a conservator.**
 - g. ☐ **Gather and review relevant medical reports regarding the proposed conservatee from the proposed conservatee's primary care physician and other relevant mental and physical health providers. Place all confidential medical information or confidential information obtained from the California Law Enforcement Telecommunications System (CLETS) that is included in or attached to your report into a separate, confidential attachment.***
 - h. Report to the court in writing at least five days before the hearing concerning all of the foregoing, including the proposed conservatee's express communications concerning (1) representation by legal counsel, and (2) if the proposed conservatee is not willing to attend the hearing, does not wish to contest the establishment of the conservatorship, and does not object to the proposed conservator or prefers that another person act as conservator.
 - i. **Deliver a copy of your report—omitting any attachment containing confidential medical information or confidential information from CLETS—to all persons listed in Probate Code section 1826(a)(13) in any manner permitted by Probate Code section 1215, at least five days before the date set for hearing.**
 - (1) ☐ **except** for the persons listed in Attachment 1i(1), because the court has determined that delivery to those persons will harm the proposed conservatee;
 - (2) ☐ **and** to the persons listed in Attachment 1i(2) (specify names and addresses in the attachment).
 - j. ☐ Comply with the other orders specified in Attachment 1j.

* You are required to perform an activity marked with an asterisk only if the box is checked or the Legislature has made an appropriation identified for that purpose.

CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE of (name): <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	CASE NUMBER:
---	--------------

2. ☐ **A Petition for Appointment of Temporary Conservator (form GC-111) has been filed. YOU ARE DIRECTED TO:**
- a. ☐ Conduct the interviews required by Probate Code section 2250.6(a)(1) before the hearing on the petition or, if that is not feasible, conduct the interviews required by section 2250.6(b)(1) within two court days after the hearing. In either case, interview the temporary conservatee or proposed temporary conservatee personally.*
 - b. ☐ Provide to the temporary conservatee or proposed temporary conservatee the information in Probate Code section 2250.6(a)(2) before the hearing or, if that is not feasible, the information in section 2250.6(b)(2) within two court days after the hearing.*
 - c. ☐ Make the determinations required by Probate Code section 2250.6(a)(3)–(5) before the hearing on the petition unless it is not feasible to do so.*
 - d. ☐ Report to the court in writing before the hearing on the petition concerning all of the activities discussed in item 2a–c, above, that you are able to complete before the hearing.*
 - e. ☐ If you cannot visit the temporary conservatee until after the hearing at which a temporary conservator was appointed, and the temporary conservatee objects to the appointment of the temporary conservator or requests an attorney, report this information to the court promptly and in no event more than three court days after the date of your visit with the temporary conservatee.*
 - f. ☐ If it appears to you that the temporary conservatorship is inappropriate, report this determination in writing to the court immediately, and in no event more than two court days after you make the determination.*

3. ☐ **The temporary conservator has requested an order under Probate Code section 2253 to change the residence of the temporary conservatee. YOU ARE DIRECTED TO:**
- a. Personally interview and inform the temporary conservatee of the contents of the request by the temporary conservator for authority to change the temporary conservatee's residence; of the nature, purpose, and effect of the proceedings; and of the right to oppose the request, attend the hearing, and be represented by legal counsel.
 - b. Make the determinations required by Probate Code section 2253(b)(3)–(7).
 - c. ☐ Gather and review relevant medical reports regarding the proposed conservatee from the proposed conservatee's primary care physician and other relevant mental and physical health care providers. Place all confidential medical information or confidential information obtained from the California Law Enforcement Telecommunications System (CLETS) that is included in or attached to your report into a separate, confidential attachment.*
 - d. At least two days before the hearing on the request, report your findings concerning the foregoing in writing to the court. Include in your report the temporary conservatee's express communications concerning representation by legal counsel and whether the temporary conservatee is not willing to attend the hearing and does not wish to contest the request.
 - e. ☐ Comply with the other orders specified in Attachment 3e.

4. ☐ **A request for exclusive authority to give consent for medical treatment under Probate Code section 1880 has been included in the petition for appointment on form GC-310 or filed as a separate petition on form GC-380.**

The petition alleges that the conservatee or proposed conservatee is not willing to attend the hearing, or the court has received an affidavit or certificate attesting to the medical inability of the conservatee or proposed conservatee to attend the hearing.

YOU ARE DIRECTED TO:

- a. Interview the conservatee or proposed conservatee personally and inform the conservatee or proposed conservatee of the contents of the petition; of the nature, purpose, and effect of the proceeding; and of the right to oppose the petition, attend the hearing, and be represented by legal counsel.
- b. Make the determinations required by Probate Code section 1894(c)–(f).
- c. At least five days before the hearing on the petition, report your findings concerning the foregoing in writing to the court, and include in your report the conservatee's express communications concerning representation by legal counsel and whether the conservatee is not willing to attend the hearing and does not wish to contest the petition.
- d. ☐ Comply with the other orders specified in Attachment 4d.

* You are required to perform an activity marked with an asterisk only if the box is checked or the Legislature has made an appropriation identified for that purpose.

5. Number of pages attached: _____

Date: _____

JUDICIAL OFFICER
☐ SIGNATURE FOLLOWS LAST ATTACHMENT

FOR PREPARATION BY THE COURT ONLY	<i>FOR COURT USE ONLY</i>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	DRAFT Not approved by the Judicial Council
CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE of (name): _____ CONSERVATEE	
ORDER APPOINTING COURT INVESTIGATOR (Review and Successor Conservator Investigations)* <input type="checkbox"/> Conservatorship <input type="checkbox"/> Limited Conservatorship	
CASE NUMBER: _____	

To (name):

You are hereby appointed court investigator in the matter above.

1. ☐ **A review and investigation are required under Probate Code sections 1850 or 1850.5 and 1851.**

YOU ARE DIRECTED TO:

- a. (1) ☐ Without prior notice to the conservator,
 (2) ☐ **After** prior notice to the conservator because of necessity or to prevent harm to the conservatee, visit and inform the conservatee personally that **the conservatee** is under a conservatorship and give the name of the conservator to the conservatee.
- b. Make the determinations required by Probate Code section 1851(a)(1)(A)–(E).
- c. **If you determine that the conservatee still meets the criteria for appointment of a conservator, determine whether the powers and duties of the conservator should be modified to ensure that the conservatorship is the least restrictive alternative needed for the conservatee's protection.**
- d. **Determine if the proposed conservatee is currently incapable of communicating, with or without reasonable accommodations, a desire to participate in the voting process and may be disqualified from voting under Elections Code section 2208 or, if previously disqualified, may have their voting rights restored under Elections Code section 2209.**
- e. ☐ The court has made an order or orders under (select all that apply):
 - (1) ☐ Probate Code section 1873 (power of conservatee to enter into transactions).
 - (2) ☐ Probate Code section 1880 (conservatee's capacity to give informed consent to medical treatment).
 - (3) ☐ Probate Code section 1901 (conservatee's capacity to marry).

Determine whether the **current** condition of the conservatee is such that the terms of the order or orders **checked** above should be modified or the order or orders revoked.
- f. To the extent practicable, review the conservator's accounting with the conservatee if **the conservatee** has sufficient capacity.
- g. Inform the court immediately if, at any time, you are unable to locate the conservatee.
- h. ☐ (If the conservator **holds either of the powers granted** under Probate Code section 2356.5(b)–(c)): (1) Advise the conservatee specifically that the conservatee has the right to object to the conservator's powers granted under section 2356.5; and (2) determine whether the conservatee objects to the conservator's powers under section 2356.5, whether the powers granted under section 2356.5 are warranted, and whether a change to those powers is warranted.
- i. ☐ (For limited conservatorship only) **Recommend whether to continue, modify, or terminate the limited conservatorship.**

*** The court may use this form to order a review investigation and report, or to order an investigation and report for appointment of a successor conservator. The court may use Order Appointing Court Investigator (form GC-330) to order an initial or other investigation and report under Probate Code sections 1826, 1894, 2250.6, and 2253. See Cal. Rules of Court, rule 7.1060.**

CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE of (name): _____ <div style="text-align: right;">CONSERVATEE</div>	CASE NUMBER: _____
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1. j. ☐ (For **a conservatorship existing on December 31, 1980, in which the conservatee has not been adjudged incompetent**) Determine whether an order should be made under Probate Code section 1873 broadening the **power** of the conservatee.
 - k. Certify your findings and determinations, including a statement of the facts on which the findings are based, in writing to the court **and submit the report** not less than 15 days before the date of review under Probate Code section 1850. Do not disclose confidential medical information or confidential criminal history information from the California Law Enforcement Telecommunications System (CLETS) in the body of your report. Place all such information in one or more separate attachments to the report.
 - l. At the same time you certify and submit your report to the court, **deliver copies in any manner authorized by Probate Code section 1215 to the conservatee**, the conservator, and the attorneys of record for the conservator and the conservatee.
 - m. ☐ **Deliver** copies of your report, modified to **omit any attachment** containing confidential medical information or confidential information from CLETS, to the conservatee's spouse or registered domestic partner and relatives within the first degree or, if there are no such relatives, to the conservatee's next closest relative,
☐ **except for any** person named in Attachment 1m because the court has determined that **delivery** to that person will harm the conservatee.
 - n. ☐ Comply with the other orders specified on Attachment 1n.
2. ☐ **The court has ordered a review investigation**
 - a. ☐ on **its** own motion.
 - b. ☐ at the request of (name): _____, an interested person.

YOU ARE DIRECTED TO:

- c. Conduct a review investigation of the **aspects of the conservatorship specified below**, and **report your findings and conclusions** to the court **no later than (date):** _____.

☐ Continued in Attachment 2c.

CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE of (name): _____ <div style="text-align: right;">CONSERVATEE</div>	CASE NUMBER: _____
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3. ☐ **A petition for the appointment of a successor conservator has been filed.**

- a. ☐ The petition does not **state** that the conservatee will be present at the hearing on the petition, which is scheduled as follows: Date: _____ Time: _____ Dept.: _____
- b. ☐ The petition **stated** that the conservatee would be present at the hearing on the petition, but the conservatee failed to appear at the hearing. The hearing has been continued to the following date, time, and department:
 Date: _____ Time: _____ Dept.: _____

YOU ARE DIRECTED TO:

- c. Interview the conservatee personally.
- d. Inform the conservatee of the nature of the proceeding to appoint a successor conservator, the name of the proposed successor conservator, and the conservatee's rights to appear personally at the hearing, to object to the person proposed as successor conservator, to nominate a person to be appointed as successor conservator, to be represented by legal counsel if the conservatee chooses, and to have legal counsel appointed by the court if the conservatee **does not** retain legal counsel.
- e. Determine whether the conservatee objects to the person proposed as successor conservator or prefers another person to be appointed.
- f. **Determine whether the conservatee is represented by legal counsel or plans to retain legal counsel. If the conservatee is not represented by legal counsel but plans to retain legal counsel, determine the name of an attorney the conservatee wishes to retain. If the conservatee is not represented by legal counsel and does not plan to retain legal counsel, inform the conservatee that the court will appoint counsel to represent them.**
- g. Report to the court in writing, at least five days before the hearing or continued hearing, concerning items **(d)–(f)**, including the conservatee's express communications concerning representation by legal counsel and whether the conservatee objects to the person proposed as successor conservator or prefers that some other person be appointed.
- h. **Deliver by any method permitted under Probate Code section 1215,** at least five days before the hearing or continued hearing, a copy of the report identified in item **3(g)** to the attorneys, if any, for the petitioner and the conservatee and to the following additional persons (*specify*): _____

☐ Continued on Attachment **3h.**

4. Number of pages attached: _____

Date: _____

 JUDICIAL OFFICER
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FOR PREPARATION BY THE COURT ONLY

FOR COURT USE ONLY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF

STREET ADDRESS:

MAILING ADDRESS:

CITY AND ZIP CODE:

BRANCH NAME:

CONSERVATORSHIP OF THE ☐ PERSON ☐ ESTATE OF

(Name):

CONSERVATEE

ORDER SETTING BIENNIAL REVIEW INVESTIGATION
AND DIRECTING STATUS REPORT BEFORE REVIEW☐ Conservatorship ☐ Limited Conservatorship

CASE NUMBER

TO (name):

, court investigator:

1. Biennial review investigation

- a. In its review of the conservatorship for the period ending on (date): _____, including the report of the investigator named above, the court has determined that the conservator is acting in the best interests of the conservatee.
- b. The next review in this conservatorship is to cover a period of two years ending on (date): _____.

2. Investigation and status report before review

YOU ARE DIRECTED TO conduct an investigation under Probate Code section 1851(a) one year before the review described in 1b and file a status report in the case file regarding whether the conservatorship still appears to be warranted and whether the conservator is acting in the best interests of the conservatee as regards the conservatee's placement; quality of care, including physical and mental treatment; and finances.

3. ☐ Additional orders

Comply with the following additional orders:

☐ Continued on Attachment 3.

4. Number of pages attached: _____

Date:

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SPR22-19

Rules and Forms: Probate Conservatorships (adopt Cal. Rules of Court, rule 7.576; amend rules 7.575, 7.756, and 7.1060; repeal rules 7.1052, 7.1053, and 7.1054; revise forms GC-330 and GC-331; revoke form GC-332)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
1.	Orange County Bar Association by Daniel S. Robinson, President Newport Beach	AM	<p>The OCBA agrees that the proposal appropriately addresses the stated purpose provided the following modifications are adopted:</p> <p>(1) Although the enactment of AB 1194 (Stats. 2021) was the primary impetus for those changes, the proposal also indicates that it implements changes required by AB 2844 (Stats. 2020), AB 976 (Stats. 2017), and AB 589 (Stats. 2015), but no explanations are specifically provided as to which provisions were so implemented nor why at this time.</p> <p>(2) An explanation should be given for repeal of Rule 7.1052 (Termination of Conservatorship), 7.1053 (Service of Final Account of Removed or Resigned Conservator), 7.1054 (Service of Final Account After Termination of Conservatorship), and 7.1060(c) (Order Setting Biennial Review Investigation et al), and whether replacement rules must be adopted.</p>	<p>The committee appreciates these comments.</p> <p>The committee agrees that more detailed explanations of the revisions to conform to existing law is warranted and has added them to its report to the Judicial Council.</p> <p>The committee believes that the explanation provided in the invitation to comment was sufficient, but has provided more detail in its report to the Judicial Council. As explained in the invitation to comment, rule 7.1052(a)–(b) summarizes the pre-AB 1194 statutory requirements for terminating a conservatorship without adding to them. Rules of court are not needed or intended to summarize or repeat statutory requirements. In addition, the amendments to the governing statutes added significant detail to the procedures and standards required for the court to determine whether to extend or terminate a conservatorship. To amend the rule 7.1052(a) and (b) to conform to the detailed requirements in amended sections 1860, 1860.5, 1862, and 1863 would require not amendments but entirely different rules. But to elaborate the new requirements in a way that</p>

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	Commenter	Position	Comment	Committee Response
				would enhance the statutory language instead of simply repeating it would increase the potential for error and confusion. The committee therefore recommends repealing these subdivisions to let the amended statutes speak for themselves. Rules 7.1052(c), 7.1053, and 7.1054 address the duties of a conservator <i>of the estate</i> to file and serve the conservator's final account. These rules would be repealed, consolidated into new rule 7.576, and placed in chapter 12 of the Probate Rules, which governs accounts and reports.
			(3) Rule 7.1060(c) should be amended to conform to AB 1194 rather than just deleted since the legislation just required annual investigations and reports, but did not eliminate them.	The committee does not recommend retaining rule 7.1060(c), which provides a vehicle for a court to use to set a deferred biennial review investigation and appoint an investigator to submit an interim report. AB 1194 amended Probate Code section 1850 to remove the court's authority to defer a review investigation. Section 1850.5 never authorized deferral. Rule 7.1060(b) now describes the court's options for appointing and directing an investigator in all review investigations.
			(4) Form GC-332 (Order Settling Biennial Review Investigator) should be shown as "deleted" and a reference made in the Rules to its deletion and substitution of a new form in accordance with Probate Code §1850, §1850.5, and §1851.	The committee does not recommend the suggested change. Form GC-331, as discussed in rule 7.1060(b), may be used to appoint an investigator to conduct a review investigation under Probate Code sections 1850, 1850.5, and 1851. No new rules or forms are required for this purpose.
			(5) The provisions of Probate Code §1826(a)(2) should be quoted in Form GC-330 since they are integral to the purposes of AB 1194.	The committee does not recommend the suggested change. AB 1194 amended Probate Code section 1826(a)(2) to require the investigator to explain to

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	Commenter	Position	Comment	Committee Response
			<p>(6) An explanation as to the differences in use between Form GC-330 [(Order Appointing Court Investigator under Probate Code §1826(a)(2))] and Form GC-331 [(Order Appointing Court Investigator for Review and Successor Conservatorships under Probate Code §1850, §1850.5, and §1851)] should be set forth on each raised form.</p> <p><i>Requests for Specific Comments,</i></p> <p>the OCBA recommends that the committee develop a new form for court appointment of an investigator to conduct the investigation required under Probate Code §1851.1 on a petition to transfer an out-of-state conservatorship to California, and</p>	<p>the proposed conservatee, in addition to other information already required, the contents of the <i>petition</i>. That addition alone is insufficient to justify the repetition of the entire statutory paragraph in the form. The committee is confident that court investigators have access to the Probate Code and do not need the Judicial Council to reiterate their statutory duties.</p> <p>The committee does not recommend the suggested changes. The differences in intended use of these two forms are clear on their faces. (See, e.g., the bold text at the foot of page 1 of form GC-331.) The committee has also revised form GC-330 to authorize the court alone to complete it. To the extent any doubt about the differences between the forms may arise, rule 7.1060(a) (form GC-330) and rule 7.1060(b) (form GC-331) specify the appropriate occasions for the use of each.</p> <p>The committee does not recommend the suggested change. The courts would be the primary, if not exclusive, users of a form for appointment of an investigator for a transfer investigation. Only one court, the Superior Court of San Diego County, directly addressed the question. This court indicated that such a form would not be useful. Neither the Superior Court of Los Angeles County nor the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee addressed the question, though the Los Angeles court did raise a general objection to requiring a</p>

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	Commenter	Position	Comment	Committee Response
			“yes” the OCBA recommends additional rules in addition to or amendment of Rules 7.751(b) and 7.756 for articulating factors the court may use in determining whether services rendered by a guardian/conservator and their attorneys were in the best interests of the ward.	form for appointment of an investigator. The committee does not recommend the suggested change. These rules would give guidance primarily to the court, but none of the courts that commented on the proposal suggested adopting such rules. The Superior Court of San Diego County commented that the rules in question did not appear to be necessary.
2.	Superior Court of Los Angeles County by Bryan Borys	AM	Requiring a form for appointment of an investigator would pose an additional burden on judicial officers and staff to process an order per case to order investigators to perform an investigation they are mandated to conduct.	The committee appreciates this comment and acknowledges that <i>requiring</i> a form for appointment of a probate investigator in a conservatorship proceeding would be burdensome. It was for that reason, among others, that the committee did not propose requiring a court to use either form GC-330 or GC-331. Both forms are approved for optional use, and rule 7.1060(a)–(b) outlines the alternatives available to the courts. Nothing in the existing rules and forms or the committee’s recommendation would require a court to use either of these forms. To the extent that a court is required to appoint an investigator, that requirement is imposed by Probate Code section 1454(a): “The court shall appoint a court investigator when one is required for the purposes of a proceeding under [division 4 of the Probate Code].”
3.	Superior Court of San Diego County by Mike Roddy, Executive Officer	AM	<i>Does the proposal appropriately address the stated purpose?</i> Somewhat. Some of the statute changes are contingent upon an appropriation of funds. The rule/form changes don’t specify this contingency.	The committee appreciates these comments. The committee has revised form GC-330 to simplify it and reflect the contingency of specific duties on an appropriation of funds identified for that purpose. The revised form gives an

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	Commenter	Position	Comment	Committee Response
			<p><i>Should the committee develop a new form for the court to use to appoint a court investigator to conduct an investigation under section 1851.1 on a petition to transfer an out-of-state conservatorship into California?</i></p> <p>The San Diego Superior Court does not find this necessary. We currently have a local form for appointment of the Court Investigator and don't have a need for one specific to transfers.</p> <p><i>Would rules—in addition to rules 7.751(b) and 7.756—articulating standards or factors the court should consider in determining whether services rendered by a conservator or guardian were in the best interest of the conservatee or ward be appropriate and useful?</i></p> <p>It does not appear it would be necessary to add additional codes for this purpose. Rule 7.756 lists “nonexclusive” factors the court can use in determining compensation; as such, the court already has latitude to consider other relevant factors.</p> <p><i>Would the proposal provide cost savings? If so, please quantify.</i></p> <p>No.</p> <p><i>What would the implementation requirements be for courts—for example, training staff (please</i></p>	<p>appointing court the discretion to order the investigator to perform those duties notwithstanding the absence of an appropriation.</p> <p>The committee agrees with this comment and does not recommend approval of an additional form for appointment of an investigator on a transfer.</p> <p>The committee agrees with this comment and does not recommend the enumeration of additional factors that the court may consider in determining whether services rendered were in the best interest of a conservatee or ward.</p> <p>No further response required.</p>

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			<p><i>identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?</i></p> <p>We have already made system changes for the requirement to appoint counsel in more scenarios. The San Diego Superior Court will continue to use our local forms, so the additional changes will not be as impactful to our court.</p> <p><i>Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</i></p> <p>Yes.</p> <p><i>How well would this proposal work in courts of different sizes?</i></p> <p>It appears this proposal would work similarly among courts of all sizes.</p>	<p>No further response required.</p> <p>No further response required.</p> <p>No further response required.</p>
4.	TCPJAC/CEAC Joint Rules Subcommittee (JRS)	A	<p>The JRS notes that the proposal is required to conform to a change of law.</p> <p>The JRS also notes the following impact to court operations:</p> <ul style="list-style-type: none"> • Impact on existing automated systems. <ul style="list-style-type: none"> ○ Changes to Efile configuration and case management systems. ○ Requires development of local rules and/or forms. ○ To the extent local forms appointing Court Investigator are in use, 	<p>The committee appreciates this comment. No further response required.</p> <p>No response required.</p>

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	Commenter	Position	Comment	Committee Response
			<p>modifications may be required to align with new requirements.</p> <ul style="list-style-type: none">• Results in additional training, which requires the commitment of staff time and court resources.<ul style="list-style-type: none">○ Training for staff, judicial officers; amendments to procedural manuals, instructions and policies are possible.	No response required.

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