

# PUBLIC GUARDIANSHIP & CONSERVATORSHIP SERVICES

## REQUIREMENTS FOR GUARDIANS



**1. QUALIFYING AS GUARDIAN:** When a guardian qualifies before the Clerk of the Circuit Court, the Clerk is required to forward a copy of the Order of Appointment to the local department of social services (LDSS) in the jurisdiction where the incapacitated adult resides. The Clerk should provide the guardian with the necessary reports to be completed. If not, the guardian may contact the LDSS or Clerk and request a copy.

All reports filed by the guardian with the LDSS must be on the *Report of Guardian for an Incapacitated Person* (Form CC-1644) located at [www.courts.state.va.us/forms/circuit/cc1644.pdf](http://www.courts.state.va.us/forms/circuit/cc1644.pdf) or under the “Forms” section at <http://www.dss.virginia.gov/family/as/aps.cgi> and shall be accompanied by a fee of \$5.00 made payable to the LDSS where the report is submitted. Filing deadlines are found in the *Code of Virginia*, § 26-17.4.

### 2. INITIAL REPORT:

- Within six months from the date of the guardian’s qualification, *the guardian must file the first report on the status of the adult with the LDSS in the jurisdiction where the guardian was appointed.* This first report addressed the status of the adult during the first four months, beginning with the date of the guardian’s qualification.
- If the adult lives outside the Commonwealth of Virginia, the Court that appointed the guardian retains jurisdiction and reports shall continue to be made to the LDSS in the jurisdiction in which the guardian was appointed.
- **Relocation of adult:** If the adult relocates to or resides in a jurisdiction other than where the guardian was appointed, the LDSS where the guardian was appointed must forward the guardian report to the LDSS in the jurisdiction where the adult then resides. The LDSS for the jurisdiction where the guardian was appointed must notify the guardian in writing to send subsequent reports, accompanied by the filing fee, to the LDSS for the jurisdiction where the adult resides.

**3. SUBSEQUENT REPORTS:** Subsequent guardian reports will be for a period of 12 months. Reports are due within four months from the last day of the previous 12-month reporting period.

**4. REVIEW OF REPORTS:** An Adult Protective Services (APS) worker reviews the guardian report within 10 calendar days of receipt of the report. The review assesses: 1) whether the report has been properly completed in its entirety; and 2) whether the contents of the report provide

reason to suspect that the subject of the report is being abused, neglected, or exploited or is at risk for such.

5. **FOLLOW-UP:** Incomplete reports will be returned to the guardian for completion. If there is reason to suspect abuse, neglect, or exploitation, the case shall be opened by APS for investigation.
6. **LDSS FILING OF REPORT WITH CLERK:** Within 60 days of the receipt of the annual report, the LDSS shall file a copy of the report with the clerk of the Circuit Court that appointed the guardian.
7. **FAILURE TO FILE THE REQUIRED REPORT:** If the guardian fails to file a required report within 30 days of its due date, a “Notice of Overdue Guardian Report” is sent to the guardian. If, after a good faith effort by the LDSS to obtain the report, and the guardian continues to fail to submit the report within four months from the last day of the reporting period, and the well-being of the adult is unknown or in question, the LDSS shall, at its discretion, open an APS report and investigate. Twice yearly, the LDSS shall file with the appropriate Circuit Court a list of all guardians who are more than 90 days delinquent in filing the annual report.
8. **DEATH OF THE ADULT; FINAL REPORT:** When the adult dies, the guardian must prepare a summary report and include with the report the notice of the adult’s death. The summary report will be filed with the LDSS. This report must be filed as soon as possible, but no later than 12 months following the previous report.
9. **SAMPLE TIMELINE:**
  - **January 12, 2011:** Guardian appoint by Circuit Court.
  - **May 12, 2011:** Initial four-month reporting period ends.
  - **July 12, 2011:** Initial report due based on first four months of guardianship. (Guardian has two months “grace period” to submit the report; it must be submitted between May 12 and July 12 in this example. You can contact the APS worker to ensure it was received. There is no requirement that the LDSS notify the guardian that the report has been received.)
  - **May 12, 2012:** First annual report due. Must be received within four months of previous deadline (i.e., between May 12 and September 12, 2012) to be considered timely. Again, contact the APS worker to ensure it was received.
10. The LDSS cannot require the reports earlier than what is stated in statute and guidance. Concerns about reporting times, etc. should be directed to the LDSS with which the guardian is working. LDSS contact information is found at [www.dss.virginia.gov/localagency/](http://www.dss.virginia.gov/localagency/). The guardian may also contact the appropriate Adult Services Regional Program Consultant.

**Sources: Virginia Social Services Guidance, Volume VII, Section IV, Chapter B, pp. 111-115, and the Code of Virginia, § 37.2-1011 and 1021.**

## **REQUIREMENTS FOR CONSERVATORS**

*Code of Virginia*, § 26-17.4. Conservators, guardians of minors' estates, committees, trustees under § [37.2-1016](#) and receivers.

A. Within six months from the date of the qualification, conservators, guardians of minors' estates, committees, and trustees under § [37.2-1016](#) shall exhibit before the commissioner of accounts a statement of all money and other property which such fiduciary has received, or become chargeable with, or has disbursed within four months from the date of qualification.

B. After the first account of the fiduciary has been filed and settled, the second and subsequent accounts for each succeeding twelve-month period will be due within four months from the last day of the twelve-month period commencing on the terminal date of the preceding account unless the commissioner of accounts extends the period for filing upon reasonable cause.

C. For fiduciaries acting on behalf of Medicaid recipients, the fees charged by the commissioners of accounts under subsection A or B shall not exceed twenty-five dollars.