

GUARDIANSHIP OF

COURT'S INSTRUCTIONS TO GUARDIAN OF A PERSON OR ESTATE

You have been appointed as the guardian of an individual who is unable to care for his or her own financial affairs. It is important that you fully realize your duties and responsibilities. Listed below are some of your duties, but not all of them. The best resource for you as guardian is to maintain legal counsel who can advise you of the necessary requirements for serving as a guardian.

The ultimate responsibility to see that all accounts and other documents are accurately prepared and filed, rests with you and you can be found personally liable should you not properly perform. The Court appreciates your efforts on behalf of the protected person.

As Guardian you are required to:

1. Locate, collect and maintain all property owned by the protected person. Keep motor vehicles and real estate insured and protected.
2. Have your attorney file with the Court, within ninety (90) days after your appointment, a verified inventory and appraisal of all the property belonging to the protected person, with values as of the date you were appointed. You must provide a copy of the inventory to the protected person (if over fourteen (14) years of age) and to certain other persons as set out in Indiana Code §29-3-9-5.
3. File with the Court a verified current account of all the income and expenditures of the guardianship, consisting of three schedules. The first schedule must include all assets listed on the inventory or on the last current account along with any additions or adjustments to the inventory. The second schedule must be an itemized list of expenditures, supported by attached cancelled checks or facsimiles of paid checks as evidence of payment. The third schedule must be a recapitulation indicating the remaining property after subtracting expenditures. The Guardian shall file his/her first current Accounting within thirty (30) days after the first anniversary of the date on which the letters of guardianship were issued, and every year thereafter, unless relieved of that duty by the Court upon filing a proper request. If relieved of annual accountings by the Court, then an accounting shall be filed every two years, not more than thirty (30) days after the second anniversary date of the guardian's appointment and every two years thereafter. A final guardianship accounting must be filed within thirty (30) days of the date of the guardian's appointment being terminated, regardless of when the last accounting was completed or due.
4. Pay bond premiums as they become due.
5. File and pay taxes on the protected person's income and assets.
6. File a final accounting with the Court upon the termination of the guardianship, whether due to the death of the protected person, or for any other reason.
7. Keep all of the assets of the protected person separate from your own. Guardianship funds should never be co-mingled with personal funds. Unauthorized use of the guardianship funds will result in personal liability.
8. Open a guardianship checking account in your name "as guardian of (the protected

person)" This account shall be used for all payments or disbursements on behalf of the protected person. The account should be in the protected person's Social Security number, not yours. It cannot be a joint account. Make sure that the financial institution you are utilizing will provide you with cancelled checks or images of paid checks and evidence of payments made from the account.

9. Real estate, automobiles and other accounts and investments should be held in the name of the protected person.
10. All investment accounts and other bank account holdings should be re-titled as follows: "John Smith Guardianship, Mary Jones Guardian."
11. Obtain approval from the Court to use guardianship assets, other than for normal bills.
12. Do not self-deal. Do not buy anything from or sell anything to the protected person. Do not borrow anything from the protected person.
13. If applicable, timely qualify the protected person for Medicaid or other public assistance. Seek appropriate legal and financial advice about estate planning issues.
14. It is the duty of the guardian to protect and preserve the protected person's property, to account for the use of the property faithfully, and to perform all the duties required by law of a guardian.
15. The guardian has the same duties and responsibilities concerning the protected person whether or not the protected person is a relative of the guardian.
16. Do not pay attorney fees or compensation to yourself from assets of the guardianship without first obtaining the advance written approval of the Court.
17. If any questions arise during the guardianship, immediately consult with your attorney.
18. If you are guardian of the person only, you must file a status report on the person's condition with the Court every two years.

I acknowledge that I have carefully and completely read the above instructions and received a copy for my records. I agree to properly carry out my duties.

Dated this _____ day of _____, 20____

Signature, Guardian

Signature, Guardian

Print, Guardian

Print, Guardian

Accountings

Guardians are subject to several requirements for reporting and accounting. It is critical for the guardian(s) to notify the court if his or her address or contact information changes at any time during the duration of the guardianship. Courts should require guardians to provide their email addresses on the Guardianship Registry Information Form, where applicable.

- Guardianship of the Person
 - **Report:** A guardian must file a report with the court at least every two (2) years, or as otherwise ordered by the court. I.C. 29-3-8-1 and I.C. 29-3-9-6. The report shall state the protected person's residence and contain a statement of his or her current welfare and general condition, along with whether the need for guardianship still exists, and whether any less restrictive alternatives have been considered or implemented.
I.C. 29-3-9-6(c).
- Guardianship of the Estate
 - **Inventory:** A temporary guardian shall file an Inventory of the property subject to the guardian's control within thirty (30) days after appointment. A permanent guardian shall file an Inventory within ninety (90) days after appointment. I.C. 29-3-9-5.
 - **Current Accounting:** A permanent guardian shall file with the court, at least biennially (or as otherwise ordered by the court), and not more than thirty (30) days after the anniversary of appointment, a written verified account of the guardian's administration. I.C. 29-3-9-6. Each accounting shall follow the three-schedule format set forth in I.C. 29-1-16-4.
 - **Final Accounting:** A temporary or permanent guardian shall file with the court, not more than thirty (30) days after termination of the appointment, a written verified account of the guardian's administration.
I.C. 29-3-9-6. Each accounting shall follow the three-schedule format set forth in I.C. 29-1-16-4.

Burns Ind. Code Ann. § 29-1-16-4

Current through all legislation (P.L.252-2023) of the First Regular Session of
the 123rd General Assembly

Burns' Im/irma Statutes Annotated > Title 29 Probate (Arts. 1 - 3,5) > Article 1 Probate Code (Chs. J
- 22)
> Chapter 16 Accounting (§§ 29-1-16-0,1-29-1-16-10)

29-1-16-4. Form of accounts.

Accounts rendered to the court by a personal representative shall be for a period distinctly stated and shall consist of three (3) schedules, of which the first shall show the amount of the property chargeable to the personal representative; the second shall show payments, charges, losses and distributions; the third shall show the property on hand constituting the balance of such account, if any. When an account is filed, the personal representative shall also file receipts for disbursements of assets made during the period covered by the account. Whenever the personal representative is unable to file receipts for any disbursements, the court may permit him to substantiate them by other proof. The court may provide for an inspection of the balance of assets on hand. The court may, upon its own motion, or upon petition, provide that verification of accounts or credits thereon may be made by the unqualified certificate of a certified public accountant in lieu of receipts or other proof

History

Acts 1953, ch. 112, § 1604; 1975, P.L. 288, § 34.

Annotations

Commentary

Commission Comments

Based upon M.P.C., Sec. 175. It is in substance and form practically the same as present law. The addition at the end of this section results from experience with estates involving a large number of transactions, as where a business is operated, in which case submission and examination of vouchers, sometimes thousands of them, is quite impractical and unsatisfactory. The certificate of a C.P.A. would be substituted and accepted. This section would supersede Burns', Secs. 6-1403 and 6-1404,

Notes to Decisions
