

# Table of Contents

## CHAPTER 1. GENERAL PROVISIONS

- § 1:1 History of guardianship and national guardianship reform
- § 1:2 Guardianship reform in Georgia
- § 1:3 Jurisdiction over guardianships and conservatorships—Probate courts
- § 1:4 — —Probate judges
- § 1:5 — —Subject matter jurisdiction
- § 1:6 —Other courts and agencies, generally
- § 1:7 —Juvenile courts
- § 1:8 —State Board of Workers' Compensation
- § 1:9 —Superior courts
- § 1:10 Definitions under the Guardianship Code
- § 1:11 Domicile
- § 1:12 Alternatives to guardianship and conservatorship, generally
- § 1:13 Alternatives to guardianships for adults
- § 1:14 —Living wills and health care powers of attorney
- § 1:15 —Advance directives for health care
- § 1:16 —Physician order for life-sustaining treatment (POLST)
- § 1:17 —Psychiatric advance directives
- § 1:18 —Georgia Medical Consent Law
- § 1:19 —Georgia Temporary Health Care Placement Decision Maker for an Adult Act
- § 1:20 —Temporary medical consent guardian
- § 1:21 —Designation of individual to direct disposition of a decedent's remains; anatomical gifts
- § 1:22 Alternatives to conservatorships for adults
- § 1:23 —Financial powers of attorney
- § 1:24 —Trusts
- § 1:25 —Bank accounts
- § 1:26 —Representative payee system
- § 1:27 Alternatives to guardianships and conservatorships for adults: supported decision-making
- § 1:28 Alternatives to guardianships for minors
- § 1:29 Temporary power of attorney for the care of a minor child
- § 1:30 Alternatives to conservatorships for minors
- § 1:31 Uniform Adult Guardianship and Conservatorship Proceedings Jurisdiction Act—Cooperation among the states

- § 1:32 Uniform guardianship, conservatorship, and other protective arrangements act
- § 1:33 COVID-19 pandemic issues
- § 1:34 —Access to the courts
- § 1:35 —Execution of estate planning documents
- § 1:36 —Special concerns for guardians
- § 1:37 —COVID-19 scams

## **CHAPTER 2. GUARDIANSHIPS OF MINORS**

- § 2:1 The parent-child relationship
- § 2:2 —Minors and emancipation
- § 2:3 —Parental power, parental rights, and guardianship rights
- § 2:4 —Custody
- § 2:5 —Temporary power of attorney for care of minor child
- § 2:6 —Equitable caregivers
- § 2:7 Parents as natural guardians
- § 2:8 Testamentary guardians
- § 2:9 Temporary guardians
- § 2:10 Standby guardians
- § 2:11 Permanent guardians
- § 2:12 —Appointment by the probate court
- § 2:13 —Appointment by juvenile court
- § 2:14 Duties of guardians of minors
- § 2:15 Personal liability of guardians of minors
- § 2:16 Powers of guardians of minors
- § 2:17 —Automatic powers
- § 2:18 —Court-authorized powers
- § 2:19 Termination of guardianship
- § 2:20 Resignation or death of guardian
- § 2:21 Sanction, suspension, or removal of guardian and appointment of temporary substitute guardian
- § 2:22 Appointment of successor guardian
- § 2:23 Causes of action against guardian
- § 2:24 Transfer of guardianship within Georgia
- § 2:25 Transfer of foreign guardianship to Georgia
- § 2:26 Transfer of Georgia guardianship to a foreign jurisdiction
- § 2:27 Foreign guardian acting in Georgia

## **CHAPTER 3. CONSERVATORSHIPS OF MINORS**

- § 3:1 Natural guardian as conservator
- § 3:2 Compromise/settlement of claim of minor

## TABLE OF CONTENTS

§ 3:3	Testamentary conservators
§ 3:4	Appointment of conservators of minors
§ 3:5	Duties of conservators of minors
§ 3:6	Personal liability of conservators of minors
§ 3:7	Powers of conservators of minors
§ 3:8	—Automatic powers
§ 3:9	—Court-authorized case-by-case powers
§ 3:10	—Court-authorized continuing powers
§ 3:11	Bond of conservators of minors
§ 3:12	Compensation of conservators of minors
§ 3:13	Annual filing requirements of conservators of minors— Inventory
§ 3:14	—Management plan
§ 3:15	—Annual returns
§ 3:16	Settlement of accounts—Interim
§ 3:17	—Final
§ 3:18	Termination of conservatorship
§ 3:19	Resignation or death of conservator
§ 3:20	Sanction, suspension, or removal of conservator; appointment of temporary substitute conservator
§ 3:21	Appointment of successor conservator
§ 3:22	Causes of action against conservator
§ 3:23	Transfer of conservatorships within Georgia
§ 3:24	Transfer of foreign conservatorship to Georgia
§ 3:25	Transfer of Georgia conservatorship to a foreign jurisdiction
§ 3:26	Foreign conservator acting in Georgia

## CHAPTER 4. GUARDIANSHIPS OF ADULTS

§ 4:1	Adult guardianships generally
§ 4:2	Petition for appointment of guardian of an adult
§ 4:3	—Proposed ward has contacts with more than one state; Uniform Adult Guardianship and Conservatorship Proceedings Jurisdiction Act
§ 4:4	Procedure for appointment of guardian of adult
§ 4:5	—Initial assessment by the court
§ 4:6	—Appointment of legal counsel
§ 4:7	—Notice and third party intervention
§ 4:8	—Evaluation
§ 4:9	—Hearing
§ 4:10	—Oath
§ 4:11	Allocation of expenses
§ 4:12	Emergency guardians
§ 4:13	Medical consents
§ 4:14	Temporary medical consent guardians

## GEORGIA GUARDIANSHIP AND CONSERVATORSHIP

- § 4:15 Who may serve as the guardian of an adult
- § 4:16 Rights of the ward
- § 4:17 Modification of the guardianship
- § 4:18 Powers, liabilities, and duties of guardians of adults generally
- § 4:19 Duties of guardians of adults
- § 4:20 Bonds of guardians
- § 4:21 Personal liability of guardians of adults
- § 4:22 Powers of guardians of adults
- § 4:23 —Automatic powers
- § 4:24 —Court-authorized powers
- § 4:25 Termination of guardianship
- § 4:26 Resignation or death of guardian
- § 4:27 Sanction, suspension, or removal of guardian; appointment of temporary substitute guardian
- § 4:28 Appointment of successor guardian
- § 4:29 Causes of action against guardian
- § 4:30 Transfer of guardianship within Georgia
- § 4:31 Transfer of guardianships and conservatorships from and to Georgia
- § 4:32 Registration in Georgia of out-of-state guardianship or conservatorship
- § 4:33 Foreign guardian acting in Georgia
- § 4:34 Georgia statutes protecting elderly and vulnerable adults
- § 4:35 Georgia statutes protecting elderly and vulnerable adults—Criminal statutes
- § 4:36 Georgia statutes protecting elderly and vulnerable adults—Disabled Adults and Elder Persons Protection Act
- § 4:37 Georgia statutes protecting elderly and vulnerable adults—Long-Term Care Facility Resident Abuse Reporting Act and related acts
- § 4:38 Miscellaneous Georgia and federal statutes and rules protecting elderly and vulnerable adults
- § 4:39 Ethical ramifications of representing clients with diminished capacity
- § 4:40 Duties of attorneys who represent guardians or conservators
- § 4:41 Rights of guardian to restrict ward's visitation and communication with others—National developments

## CHAPTER 5. CONSERVATORSHIPS OF ADULTS

- § 5:1 Adult conservatorships generally

## TABLE OF CONTENTS

§ 5:2	Petition for appointment of conservator of an adult
§ 5:3	—Proposed ward has contacts with more than one state; Uniform Adult Guardianship and Conservatorship Proceedings Jurisdiction Act
§ 5:4	Procedure for appointment of conservator of adult
§ 5:5	—Initial assessment by the court
§ 5:6	—Appointment of legal counsel
§ 5:7	—Notice and third party intervention
§ 5:8	—Evaluation
§ 5:9	—Hearing
§ 5:10	Allocation of expenses
§ 5:11	Emergency conservators
§ 5:12	Who may serve as the conservator of an adult
§ 5:13	Rights of the ward
§ 5:14	Modification of the conservatorship
§ 5:15	Duties of conservators of adults
§ 5:16	—Digital assets
§ 5:17	Personal liability of conservators of adults
§ 5:18	Powers of conservators of adults
§ 5:19	—Automatic powers
§ 5:20	—Court-authorized case-by-case powers
§ 5:21	—Court-authorized continuing powers
§ 5:22	Bond of conservators of adults
§ 5:23	Compensation of conservators of adults
§ 5:24	Annual filing requirements—Inventory
§ 5:25	—Management plan
§ 5:26	—Annual returns
§ 5:27	Settlement of accounts—Interim
§ 5:28	—Final
§ 5:29	Termination of conservatorship
§ 5:30	Resignation or death of conservator
§ 5:31	Sanction, suspension, or removal of conservator; appointment of temporary substitute conservator
§ 5:32	Appointment of successor conservator
§ 5:33	Causes of action against conservator
§ 5:34	Transfer of conservatorships within Georgia
§ 5:35	Transfer of guardianships and conservatorships from and to Georgia
§ 5:36	Registration of out-of-state guardianship or conservatorship in Georgia
§ 5:37	Foreign conservator acting in Georgia
§ 5:38	Conflicts of interest
§ 5:39	Conservatorships, guardianships, and testamentary capacity

## **CHAPTER 6. JUDGES AS CUSTODIANS OF FUNDS**

- § 6:1 Judges as custodians
- § 6:2 Administration of the custodianship

## **CHAPTER 7. VETERANS' GUARDIANSHIPS**

- § 7:1 Background of veterans' guardianships
- § 7:2 Appointment of veterans' guardians
- § 7:3 Administration of the VA guardianship

## **CHAPTER 8. COUNTY GUARDIANS**

- § 8:1 Appointment, powers, duties
- § 8:2 Bond of county guardian

## **CHAPTER 9. PRACTICE AND PROCEDURE IN GUARDIANSHIP AND CONSERVATORSHIP**

- § 9:1 Applicable rules
- § 9:2 Guardians ad litem
- § 9:3 Assessment and allocation of costs, compensation, fees, and expenses
- § 9:4 Service
- § 9:5 Citations, objections, and hearings
- § 9:6 Verification of petitions
- § 9:7 Officers authorized to administer oaths, affirmations, and affidavits
- § 9:8 Authentication of documents
- § 9:9 Combining petitions
- § 9:10 Transfer of cases
- § 9:11 Oath of department of human services
- § 9:12 Compensation of legal counsel and guardians ad litem
- § 9:13 Compensation of professional evaluators
- § 9:14 Instruction for guardians and conservators
- § 9:15 Additional local requirements
- § 9:16 Jury trials in probate courts with expanded jurisdiction
- § 9:17 Appeals
  - § 9:18 —To supreme court and court of appeals
  - § 9:19 —To superior courts
- § 9:20 Access to guardianship and conservatorship files
- § 9:21 Background investigation of guardians and conservators
- § 9:22 Use of mediation in guardianship and conservatorship proceedings

## TABLE OF CONTENTS

§ 9:23 Elder law and the unauthorized practice of law

## CHAPTER 10. PUBLIC GUARDIANS

- § 10:1 History and background
- § 10:2 Appointment of public guardian
- § 10:3 Eligibility to serve as a public guardian
- § 10:4 Training of public guardians
- § 10:5 Duties of public guardians
- § 10:6 Compensation of public guardians
- § 10:7 Bond; removal and sanction of public guardian

## CHAPTER 11. PRACTICE AIDS

- § 11:1 Consent to criminal records check
- § 11:2 Questionnaire/information sheet for proposed guardians & conservators
- § 11:3 Statutory form for designating standby guardian of a minor
- § 11:4 Outline of procedures for permanent guardianships and conservatorships of minors in probate court
- § 11:5 Flowchart of adult guardianship and conservatorship proceedings
- § 11:6 Standing order in adult guardianship and conservatorship cases
- § 11:7 Notice and special instructions to all conservators of minors
- § 11:8 Checklist for guardians and conservators of adults
- § 11:9 Personal status report of a guardian of minor or ward
- § 11:10 Annual/final return of conservator
- § 11:11 Acknowledgment by natural guardian for settlement of a claim of a minor
- § 11:12 Petition to transfer guardianship/conservatorship proceedings to a foreign court
- § 11:13 Petition for intra-state transfer of guardianship and/or conservatorship
- § 11:14 Petition for review to superior court
- § 11:15 Notice of filing of petition for review
- § 11:16 Petition to resign as guardian and/or conservator
- § 11:17 Citation to show cause
- § 11:18 Georgia statutory financial power of attorney form (effective until June 30, 2017)
- § 11:19 Georgia statutory power of attorney form (effective July 1, 2017 through June 30, 2018)
- § 11:20 Agent's certification as to validity of power of attorney and agent's authority (effective July 1, 2017)

## GEORGIA GUARDIANSHIP AND CONSERVATORSHIP

- § 11:21 Georgia statutory power of attorney form (as of July 1, 2018)
- § 11:22 Georgia advance directive for health care (prior to July 1, 2022)
- § 11:23 Georgia advance directive for health care (as of July 1, 2022)
- § 11:24 Physician orders for life-sustaining treatment (POLST) form
- § 11:25 Dementia directive
- § 11:26 Georgia psychiatric advance directive
- § 11:27 Designation of individual who has right to control disposition of decedent's remains
- § 11:28 Power of attorney to delegate power and authority for care of child
- § 11:29 Petition and affidavit for adjudication as equitable caregiver

## APPENDICES

Appendix A. Georgia Code Revision History

Appendix B. Comparison of Revised Guardianship Code Sections to Former Guardianship Code Sections

Appendix C. Georgia Probate Court Standard Forms

**Table of Laws and Rules**

**Table of Cases**

**Index**