

**YAVAPAI COUNTY**  
**Self-Service Center**

**INFORMATION ON GIVING LEGAL NOTICE  
FOR DISCHARGE FROM APPOINTMENT AS GUARDIAN AND/OR  
CONSERVATOR FOR MINOR AND RELEASE OF FUNDS**

1. **WHAT IS “LEGAL NOTICE TO ALL INTERESTED PARTIES?”** After you have completed **AND** filed the termination of guardianship and/or conservatorship/release of restricted funds Petition and other papers with the Court **AND** received a hearing date, you must tell all interested parties about the papers and about the hearing. There are some important things you must know to do this correctly:

**A. COURT DOCUMENTS:**

When you are required to give legal notice, you usually have to do this by giving copies of certain documents to everyone entitled to legal notice. Here are the documents you are required to copy and provide to legally notify the persons who are entitled to notice:

- ✓ **PETITION:** This is the document you filed saying what you want the Judge to do and why.
- ✓ **NOTICE OF HEARING:** This tells the date and time of the hearing, where it will be and the name of the Judge who will hear the case.
- ✓ **ORDER TERMINATING:** This must be signed by the Judge before you provide a copy of it to the persons entitled to notice. This usually happens after a hearing.

A good rule to follow is to give people copies of any documents you filed with the Court. That way you know you gave copies of the right documents. Later, you will list the names of all the documents and the names of the people to whom you gave the documents in the **Proof of Notice** (see section C, below.)

**B. WHAT ARE THE WAYS TO GIVE LEGAL NOTICE?**

- ✓ **PERSONAL SERVICE** is the term used for giving formal notice required in some cases for some persons. It requires that a registered process server or the sheriff serve the documents on the interested persons. When **PERSONAL SERVICE** is required, it means the law is written to make sure a person who needs notice of a case gets the notice. Generally the process server or sheriff will file with the Court an affidavit stating when and where the party was served.
- ✓ **MAIL OR HAND DELIVERY** is a less formal, but still very important, way of giving notice to other persons in some cases. When you are required to give notice by mail, 1st class postage-prepaid mail is sufficient. Certified, Restricted Delivery or Registered mail is an extra step you can take to prove that the person you want to have notice did get the notice. Remember, even when the law does not require **PERSONAL SERVICE**, it might require **MAIL** or **HAND-DELIVERY** on interested persons. If you mail Certified or Registered, the party must sign a green card when accepting the envelope. This green card is then attached to an affidavit that you will sign and file with the Court.

- ✓ **PUBLICATION** is used when you do not know the address of the person to whom you need to give notice. Before you can use PUBLICATION, you must make a diligent effort to find the person who is supposed to get notice, and show the Court everything you did to try to find the person or to get the address first. You will be required to complete a sworn statement about what you did to try to find the person and the judge may question you about your search, **under oath**, at the hearing. If you still want to publish the Notice of Hearing, take it to a newspaper in the county where the hearing is to be held. The Notice must be published at least 3 times, 14 DAYS PRIOR TO THE HEARING. This method requires you to pay the newspaper to publish the Notice of Hearing unless you receive a waiver or deferral of the cost. Forms to apply for assistance with the cost are available at the Clerk's office. There are financial restrictions for qualification. The application for assistance will require you to explain to the Court what you did to try to find the party and why your circumstances call for this method.

### **C. PROVING THAT YOU GAVE LEGAL NOTICE**

- ✓ **PROOF OF NOTICE** is the document you will sign and file with the Court to show how you gave notice to interested parties: What documents were given, to whom, when and how you did it (sheriff, hand-delivery, etc.)
- ✓ **AFFIDAVIT OF PUBLICATION** is a document provided to you by the newspaper that published the Notice of Hearing. You are required to file the original Affidavit of Publication with the Court to show proof that the Notice was published at least 14 days before the hearing. An **AFFIDAVIT OF UNKNOWN RESIDENCE** must also be completed and filed before, or at the same time as, you file the **AFFIDAVIT OF PUBLICATION**. The Affidavit of Unknown Residence is a sworn statement telling the Court what steps you took to locate any interested party you say you cannot find. It is important to try very hard to find each party. The Court may review your Affidavit and delay your hearing if it believes you did not try hard enough.

### **D. WHEN CAN YOU SKIP GIVING LEGAL NOTICE?**

- ✓ **WAIVER OF NOTICE OR ACCEPTANCE OF SERVICE:** A person who is required to get notice may waive (give up) this right by signing a Waiver or Acceptance document. Generally, but not always, a person who is required to be **PERSONALLY SERVED** can **WAIVE** or **ACCEPT** the service by signing a form called **WAIVER OF NOTICE OF HEARING** or another form called **ACCEPTANCE OF SERVICE**. The person's signature on either of these documents is proof to the Court that the person is aware of the proceedings. The signed **WAIVER** or **ACCEPTANCE** must be filed with the Court before the hearing.

## **2. TIME FRAMES TO GIVE LEGAL NOTICE:**

Generally, you must give **PERSONAL SERVICE** or **MAIL** or **HAND DELIVERY** of court papers at least 14 days before the court hearing. If you are giving notice by **PUBLICATION**, the first publication must be at least 14 days before the hearing date.

## **3. WHO IS ENTITLED TO LEGAL NOTICE OF THE COURT PAPERS:**

The Petition for Termination of Guardianship and/or Conservatorship of a Minor and Release of Restricted Funds (ARS § 14-5210):

- ✓ Give notice to everyone just like a Petition to Establish a Conservatorship of a Minor.

**4. THE METHODS OF PERSONAL SERVICE:** There are several ways to give personal service that will be accepted by the Court.

- ✓ **ACCEPTANCE OF SERVICE OR WAIVER OF NOTICE:** The person must sign the acceptance form in front of a notary and return it to you, but the person cannot sign before the date you filed the court papers. The signature on this form does NOT mean the person agrees with the papers; it DOES mean that he or she admits receiving the papers, without being served in person by a Sheriff or Process Server.
- ✓ **PROCESS SERVER:** A process server charges a fee for each party to whom papers are served. You are responsible to pay the cost of this type of notice. A process server will give the papers to the person at their home, their work, or other location. The process server will then file with the Court a sworn Affidavit stating how, when and where the person was served. There is a greater cost for this method of service than mailing or delivering the papers. If you decide to use this method, look under "PROCESS SERVER" in the Yellow Pages to find someone who can serve your papers.
- ✓ **SHERIFF:** This method requires you to contact the Sheriff's Office in the County where the person lives to arrange for a deputy to serve the papers. There is a fee to the Sheriff's office, unless you receive a waiver or deferral of this fee. Forms to apply for assistance with this fee are available at the Clerk's office. There are financial restrictions for qualification. The application will require you to explain to the Court why your circumstances call for this method.

**5. WHAT ELSE TO KNOW ABOUT LEGAL NOTICE:**

Even if you are required to PERSONALLY SERVE someone, you may have to give notice by MAIL or HAND-DELIVERY to other interested persons. And you will have to sign and file the PROOF OF NOTICE to show the judge that you gave notice to everyone as required by law. Be sure you understand this -- read section 1 of these instructions, because this is very important to know and do correctly. If you do not give proper notice to the right persons and according to the law, your hearing will be delayed.

**6. A PERSON WHO GETS NOTICE CAN OBJECT TO THE PETITION:**

Sometimes a person who receives notice wants to object to the Petition, or tell the judge something in addition to what is in the Petition. The Self-Service Center has a packet for objecting to a court process about a guardian or conservator that includes Court forms and instructions to file a written Objection.

**7. AFTER YOU HAVE GIVEN EVERYONE NOTICE AS APPROPRIATE, COMPLETE THE PROOF OF NOTICE:**

After notice to all parties is done, you must complete the PROOF OF NOTICE form. Be sure to list the copies of papers that were given, and the names of the persons to whom you gave the copies. Also list the date you gave the person copies, the method, and the relationship between the person to whom you gave copies and the person who has or will have the guardian and/or conservator.

**8. AT LEAST 10 BUSINESS DAYS BEFORE THE HEARING, FILE ANY WAIVERS OR ACCEPTANCES (signed by interested parties) AND THE PROOF OF NOTICE WITH THE CLERK OF THE COURT:**

- ✓ **GO/OR MAIL TO THE CLERK'S OFFICE:** Take/Send the **original and 2 copies** of the **Proof of Notice** and any **Waiver of Notice or Acceptance of Service**. The clerk will file and keep the original and "conform" stamp each of the two copies and return them to you. If you mail the documents, provide a self-addressed, stamped envelope for the Clerk to return the conformed copies to you.
- ✓ **KEEP COPIES:** Keep a copy of each document for your records.
- ✓ **SEND** THE OTHER COPY TO THE MINOR AND THE MINOR'S ATTORNEY (if any) AND TO ANY OTHER PERSON ENTITLED TO NOTICE.
- ✓ **IF YOU GAVE NOTICE BY PERSONAL SERVICE:** Check with the Clerk of the Court to be sure that the AFFIDAVIT OF PERSONAL SERVICE has been filed by the Sheriff or Process Server.

**9. OTHER HELP:**

If you still have questions about this procedure, contact an attorney for help and legal advice. Attorneys are listed in the Yellow Pages of the telephone directory.

**10. THE FOLLOWING FORMS MENTIONED ABOVE ARE AVAILABLE WITH THIS PACKET:**

AFFIDAVIT OF SERVICE BY REGISTERED/CERTIFIED MAIL  
AFFIDAVIT OF UNKNOWN RESIDENCE  
ACCEPTANCE OF SERVICE  
PROOF OF NOTICE OF HEARING and INSTRUCTIONS