

# California Conservatorship

# Essentials



Law Offices of  
Daniel A. Hunt

## Who Needs a California Conservatorship (and Who Doesn't)

**WHO MAY NEED A CONSERVATORSHIP?**

1. People who are unable to manage their financial or physical needs due to age or injury.
2. A severely disabled person who cannot handle their financial or physical needs.
3. A person with a mild to moderate disability who needs significant help managing their financial or physical needs.
4. A person experiencing severe, long-term mental illness.

More at [dhtrustlaw.com](https://www.dhtrustlaw.com)

**LAW OFFICES OF DANIEL A. HUNT**

Determining who needs a California conservatorship (and who doesn't) can be challenging. Conservatorships can be expensive, difficult to obtain, and demanding to maintain. Before seeking a long-term conservatorship, you should understand who qualifies for a conservatorship, who doesn't, and when another strategy can be used instead.

### **What is a Conservatorship?**

A conservatorship is the transferring of one person's rights (the conservatee) to another person (the conservator), allowing the conservator to act on behalf of and for the benefit of the conservatee. A legal conservatorship is established when a judge determines that an adult is unable to manage their affairs and appoints another person to do so on their behalf.

A conservatorship is generally only necessary for individuals who have no estate planning documents in place. But occasionally the court removes a trustee/agent who violates their fiduciary duties and establishes a conservatorship instead.

There are two main parts to a conservatorship:

- Conservatorship of the estate (primarily pertains to financial matters)
- Conservatorship of the person (primarily pertains to physical care)

Obtaining a California conservatorship is a long and expensive process. Generally, the cost ranges from \$5,000-8,000 or more. The timeframe varies by county, but typically requires 3-6 months to be established.

Once established, the conservator must document their actions and report back to the court regularly. Conservatorships are closely monitored by the court to protect the vulnerable conservatees.

### **Who Needs a Conservatorship?**

Conservatorships primarily benefit people who have permanently lost the capacity to care for themselves physically, financially, or both physically and financially. A suitable conservator can ensure the conservatee is protected from neglect and from those who would take advantage of their vulnerability.

Here are some examples of people who may need a conservatorship:

- People who are no longer able to manage their finances or care for themselves due to age or injury.
- A severely disabled person who cannot handle their financial or physical needs.
- A person with a mild to moderate disability who needs significant help managing their financial or physical needs. For example: an adult child with Down Syndrome.
- A person experiencing severe, long-term mental illness (such as schizophrenia or bipolar disorder) which renders them frequently unable to handle their financial or physical needs.

### **Who Doesn't Need a Conservatorship?**

Because of the cost and long-term nature of a conservatorship, it is a poor fit for people experiencing temporarily reduced capacity or those who are likely to regain capacity in the immediate future. Here are a few common examples:

---

## California Conservatorship Essentials

---

- A person experiencing mild to moderate addiction, such as a drug or alcohol addiction. Most addicts experience periods of sobriety during which they can function and care for themselves. Trying to help them achieve sobriety is usually a better alternative than a permanent conservatorship.
- A person who experiences mild to moderate mental illness. Many people who experience mental illness experience functional periods. Trying to help them find appropriate treatment is usually a better alternative to a permanent conservatorship.
- A person who is currently ill but likely to recover. Due to the cost and long-term nature of a conservatorship, it usually isn't worth seeking a permanent conservatorship if they are likely to recover.

### **Alternative Strategies to a Conservatorship**

The best alternative to a conservatorship is to take action while the person in question still has the capacity to execute legal documents. If they understand the nature of their situation and assets and can express their desires, then they have the legal capacity to create estate planning documents. A Durable Power of Attorney and Advance Healthcare Directive allow them to designate an agent to act on their behalf for financial and health matters.

Here's another option for financial assistance: If the person in question has a joint bank account with someone else on title, that person may be able to assist in handling finances.

For care of physical needs, an informal arrangement may be another alternative to a formal conservatorship. For example, an elderly grandparent might move in with a trustworthy grandchild who acts as an informal caregiver.

---

## California Conservatorship Essentials

---

If the person is close to death, the best option may be to wait until they have passed and handle the financial situation post-death. Since it takes on average 3-6 months to secure a conservatorship, it may not be worth the cost and effort required.

Now that you understand who actually needs a California conservatorship, here is a basic overview of the various kinds of conservatorships that are available.

## Different Types of California Conservatorships

**TWO PARTS OF A CONSERVATORSHIP**

**Conservatorship of the Person:** Conservator makes decisions about the conservatee's housing, clothing, medical care, etc.

**Conservatorship of the Estate:** Conservator makes financial decisions for conservatee like paying bills, collecting income or assets, and managing investments.

More at [dhtrustlaw.com](http://dhtrustlaw.com)

**LAW OFFICES OF DANIEL A. HUNT**

---

## California Conservatorship Essentials

---

Before seeking a conservatorship for an adult who lacks sufficient capacity to care for themselves, you should understand the different types of California conservatorships available. Evaluating the nature of the conservatee's needs will help you to determine which type of conservatorship will be the best fit for their needs.

### **Conservatorship of the Person vs. Estate**

A conservatorship consists of two main parts: conservatorship of the person and conservatorship of the estate.

**Conservatorship of the person:** Focuses on helping the conservatee make decisions about their day-to-day life. Some of these decisions include:

- Where the conservatee will live
- How their personal needs will be met, such as meals, clothing, bathing, etc.
- Where they will receive medical care
- What medical procedures and treatments they will receive

**Conservatorship of the estate:** Focuses on helping the conservatee make decisions about their assets and financial life. Some of these decisions include:

- Paying the conservatee's bills
- Collecting income or assets on behalf of the conservatee
- Making or managing investments

---

## California Conservatorship Essentials

---

A conservator of an estate must still seek court approval first before major transactions like purchasing/selling real estate, borrowing money, or gifting assets. A conservator of the estate will also be required to file with the court an accounting of the financial transactions of the estate every other year.

### **General vs. Limited Conservatorship**

The two most common kinds of conservatorship are general and limited.

In a **general conservatorship**, the proposed conservator usually seeks conservatorship of both the person and estate. General conservatorships are most often used for older adults who have lost physical and mental capacity.

In a **limited conservatorship**, the proposed conservator petitions the court for either conservatorship of the person OR conservatorship of the estate. Limited conservatorships can be useful for those with a developmental disability who only need help managing specific areas of their lives, or for older adults who still have some degree of capacity.

If the court grants the limited conservatorship, the conservator will have the power to care for certain duties, but the conservatee will retain all other legal and civil rights.

### **Temporary (aka “Emergency”) Conservatorship**

What happens when a conservatee has immediate needs that can’t wait months for a general conservatorship to be granted? In emergency situations, the court may grant a temporary (or “emergency”) conservatorship. A temporary conservatorship can also be



---

## California Conservatorship Essentials

---

used to fill in gaps when one conservator is removed and a new one hasn't yet been appointed.

Temporary conservatorships only last for a specific, short period of time, usually 30-60 days. This conservatorship may include the estate, the person, or both.

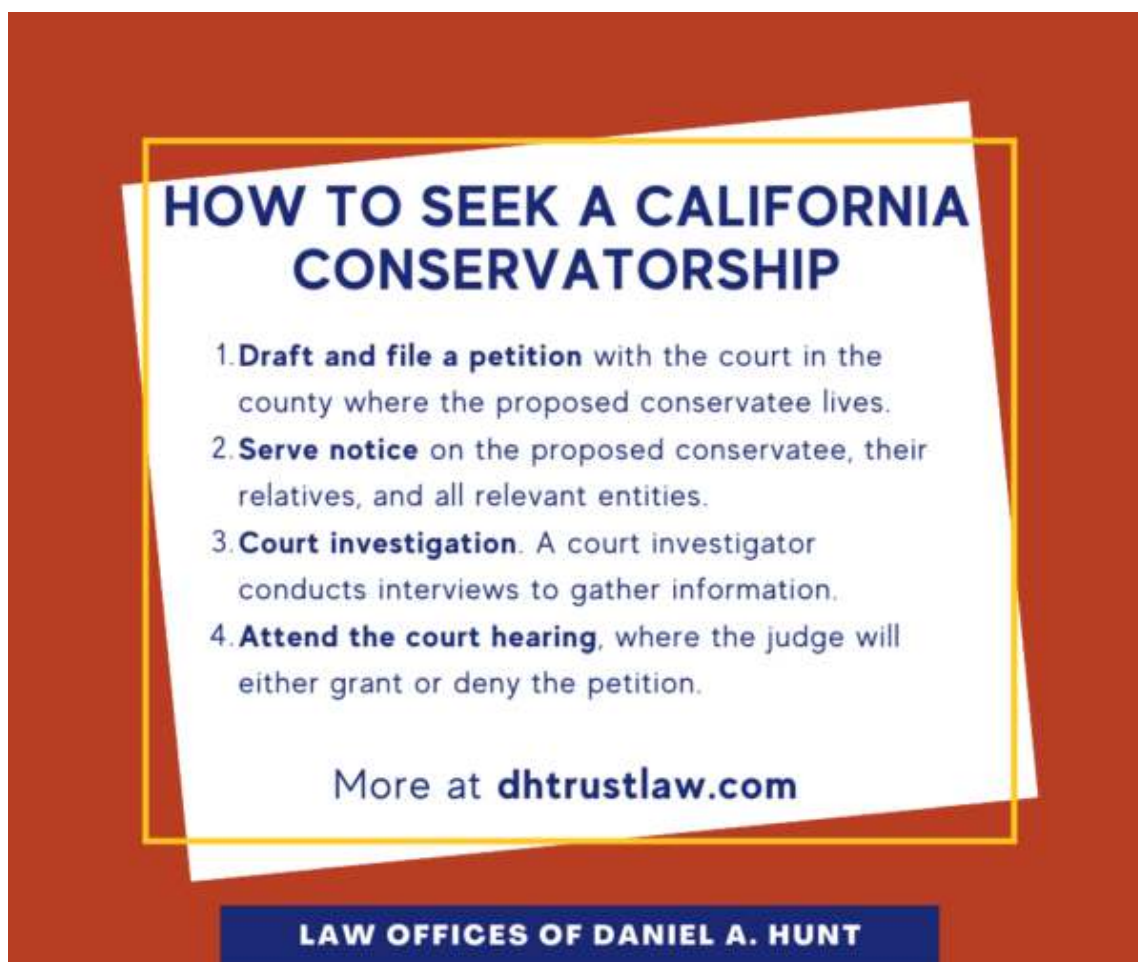
Of all the types of conservatorships, temporary conservatorships include the most restrictions. For example, a temporary conservator cannot do any of the following without court approval:

- Move the conservatee from their home (except in an emergency)
- Sell the conservatee's home or give up their rental lease
- Sell or give away estate assets

Now that you understand the different kinds of conservatorships available, let's explore the process of how to seek a conservatorship.

## How to Get a California Conservatorship

If you know and want to help an adult with limited or no capacity, you need to understand how to get a California conservatorship. Before seeking court approval to meet that person's needs, it will be helpful to understand each step of this process. Here's a step-by-step overview of how to get a California conservatorship.



### 1. Draft a petition.

To begin the process of seeking a conservatorship, a petition must be drafted. The petition is usually prepared by the proposed conservator, but also may be prepared by:

- The proposed conservatee (if they have the requisite capacity)
- A spouse, domestic partner, relative, or friend of the proposed conservatee
- Another interested person
- An interested state or local agency, employee of the agency, or public officer

---

## California Conservatorship Essentials

---

The petition should clearly demonstrate to the court why a conservatorship is needed and include the following:

- **Relevant information** about the proposed conservator and conservatee, relatives, and the petitioner (person filing the case in court).
- Reasons a conservatorship is necessary.
- Reasons that potential alternatives to a conservatorship won't be feasible in this case.

An experienced conservatorship attorney can ensure that the petition includes all of the necessary information.

### **2. File the petition with the court.**

Once the petition is complete, the petitioner (or their attorney) must file the petition with the court clerk in the county where the proposed conservatee lives. They must pay a filing fee (currently \$435). They must also pay a court investigator fee. This fee is set by the court but may be waived based on the size of the proposed conservatee's estate. Then the clerk will schedule a court date for a hearing. If the proposed conservatee lacks capacity, the petitioner should also seek for the court to appoint counsel for the proposed conservatee prior to the hearing.

### **3. Serve notice on the proposed conservatee.**

The petitioner must have a disinterested party personally deliver a citation and a copy of the petition to the proposed conservatee.

### **4. Serve notice on the proposed conservatee's relatives and relevant entities.**

The petitioner must have a disinterested party mail a written notice about the conservatorship court hearing AND a copy of the petition to the conservatee's spouse/domestic partner (if any) and to all relatives that are within the second degree.

[This helpful table](#) can help you determine who is within the second degree.

If the proposed conservatee is receiving veteran benefits or certain social service benefits (like regional care center services), then you must notice these entities by mail of the petition and hearing.

### **5. Court investigation.**

A court investigator will talk to the proposed conservatee and others who may be familiar with the conservatee's condition. The court will charge the conservatee's estate for the cost of this investigation, unless the court decides that the cost would be a hardship for the conservatee.

Likewise, if the court appoints independent legal counsel for the proposed conservatee, that attorney will need to interview their client (the proposed conservatee), and submit a report to the court regarding the conservatee's interests in being conserved.

In addition, if the proposed conservatee is receiving services from regional care centers (like Alta California Regional Center), then the agency will also submit a report regarding

their opinion on the levels of restrictions that should be applied to the proposed conservatee's rights.

### **6. Attend the court hearing.**

The proposed conservator and conservatee must attend the court hearing (unless the conservatee is excused due to poor health). At the hearing, a judge will determine if everyone has been properly notified and if a lawyer needs to be appointed to represent the proposed conservatee, if one was not already appointed.

Once the judge is ready to make a decision, they may grant or deny the conservatorship.

If the judge grants the petition, the following steps will be taken:

- An order appointing the conservator will be filed with the court.
- The court will issue Letters of Conservatorship to the conservator.
- If the conservatee has an estate, the judge will require the conservator to file a surety bond (unless the court orders the conservatee's bank accounts to be frozen). The judge will set the amount of the bond based on the estate size. The proposed conservator will pay an annual premium for the bond, which serves to protect the estate against potential misconduct by the conservator.
- The conservator must purchase or download a copy of the [Handbook for Conservators](#).
- The conservator must attend the conservator training offered by the court.

---

## California Conservatorship Essentials

---

At this point, the conservator can assume the powers authorized under the law. The conservator will have an ongoing duty to report to the court and to meet with the court investigator regularly for reviews.

### **Conclusion**

We hope this brief overview has helped answer your basic questions about the process of seeking a California conservatorship. If you have any questions or would like assistance in seeking a conservatorship, please feel free to contact the Law Offices of Daniel A. Hunt.

# Got questions? Contact our office.

Ready to get started on a conservatorship? Our experienced conservatorship attorneys stand ready to guide you through the whole process.

Our firm strives to be helpful, efficient, knowledgeable, accountable, and honest with every client we serve. Please feel free to contact the Law Offices of Daniel A. Hunt and claim your no-cost initial consultation!

**LAW OFFICES OF DANIEL A. HUNT**  
**DHTRUSTLAW.COM**

**\*Disclaimer:** This eBook is not an appropriate substitute for legal advice from an experienced conservatorship attorney. It is offered solely for the purpose of education and should not be construed in any way to represent an attorney-client relationship between the Law Offices of Daniel A. Hunt and the reader.

