



Private Office
319 York Street
Newport, Kentucky 41071
Telephone: (859) 491-7700
Facsimile: (859) 491-4025
Email: stevefranzen@fuse.net

Campbell County Attorney
STEVEN J. FRANZEN
www.CampbellCountyAttorney.com

Criminal Division
4 West 4th Street, Suite 200
Newport, Kentucky 41071
Telephone: (859) 581-8015
Facsimile: (859) 581-8304
Email: CampbellCoAtty@gmail.com

GUARDIANSHIPS AND CONSERVATORSHIPS

Guardianship and Conservatorships over another person are available when that person is unable to take care of their personal and financial affairs. Proceedings to determine whether a guardian or conservator are needed, and appoint a guardian or conservator take place in the District Court where the person or Respondent lives. If you need assistance during this process, please contact the County Attorney's Office at 859-581-8015.

DOCUMENTS TO PRESENT AT TIME OF FILING FOR GUARDIANSHIP/CONSERVATORSHIP

1. AOC Form 740 – Petition to Determine if Disabled
2. AOC Form 745 – Application for Appointment of Fiduciary for Disabled Persons
3. AOC Form 747 – Application for Emergency Appointment of Fiduciary for Disabled Persons
 - Include medical records or letter from doctors supporting need for emergency disability order.
4. AOC Form 748 – Order for Emergency Appointment of Fiduciary
5. AOC Form 750 – Order of Examination
6. AOC Form 034 – Personal Identifier Data Sheet

PROCESS TO DETERMINE DISABILITY AND OBTAIN GUARDIANSHIP/CONSERVATORSHIP:

1. A petition, AOC Form 740, is completed and filed with the clerk of courts along with several other forms. Any person concerned with the welfare of the Respondent may file the petition.
2. At the same time the petition is filed, an application for emergency appointment, AOC Form 745, may be filed if necessary along with an application of appointment to fiduciary for disabled person, AOC Form 747, must also be filed by the person intending to be guardian or conservator of the Respondent. The person filing the petition, or Petitioner, will also need a written letter or note from a care provider to substantiate the need to appoint an emergency guardian/conservator.
3. If the Respondent does not have an attorney, the Court will appoint an attorney to provide representation. The Court will pay the lawyer's fees if the Court determines the respondent is unable to do so. The County Attorney will represent the Commonwealth in this proceeding. The Petitioner is not required to have an attorney but may choose to do so.
4. After the Court reviews the petition and applications, the Court will designate an Interdisciplinary Team consisting of a Doctor, Psychologist, and Social Worker. Each member of this team will meet with Respondent and file a report consisting of their respective opinions.
5. Once the Court receives all three reports, the matter will be schedule for a jury trial in the District Court. The County Attorney, on behalf of the Commonwealth, and the Respondent's attorney will present evidence from the reports. Upon conclusion of the trial, the jury will determine whether the Respondent is fully or partially disabled in personal and/or financial affairs. The Respondent must be present at the hearing unless the court determines that attendance would subject the person to serious risk of harm.
6. If the Jury finds that the Respondent is partially or fully disabled in either their personal or financial affairs, the Court will decide who will be the Respondent's guardian or conservator. Upon selection the Court will file an order outlining the constraints of the guardian or conservator, if any. The court order will be filed with the court but must also be indexed in the county clerk's office.



PETITION TO DETERMINE
IF DISABLED

Case No. _____
Court _____ District _____
County _____
Division _____

COMMONWEALTH OF KENTUCKY
VS.

PETITIONER

RESPONDENT

_____ has reasonable grounds or knowledge to lead him/her to believe Respondent appears to be unable to provide for his/her physical health and safety and/or manage his/her financial resources effectively and submits to the Court the following facts upon which he/she supports this belief:

1. Name of Petitioner: _____
Address: _____
Telephone Number: _____
Petitioner's relationship to Respondent: _____

2. Name of Respondent: _____
Respondent's Date of Birth (if known): _____

3. Respondent's Permanent, Full-time Residence: _____
Address

- a. Respondent has resided at this address for the previous _____ years _____ months.
b. Is this address a hospital, treatment facility, correctional facility, or long-term care facility? Yes No

4. Is Respondent currently physically located at his or her permanent address above? Yes No If No, (check one):
 a. Respondent is currently located at: _____
Address
 b. Respondent's current location is unknown at this time.

5. Is Respondent a citizen or a permanent resident of the United States? Yes No

6. Has Respondent been convicted of, pled guilty to, or entered an Alford plea for a felony sex crime as defined in KRS 17.500? Yes No Unknown

7. Has Respondent been convicted of, pled guilty to, or entered an Alford plea for a felony offense that would classify the person as a violent offender under KRS 439.3401? Yes No Unknown

8. The nature of Respondent's disability and the facts or reasons supporting the need for determination of disability are:

9. Respondent owns the following estate, including government benefits, insurance entitlements, and anticipated yearly income (state none or unknown):

<u>ESTATE</u>	<u>VALUE</u>
Real Property	\$ _____
Personal Property	\$ _____
Yearly Income	\$ _____
Source of Yearly Income	_____

10. Name of Person or Facility having custody of Respondent: _____
Address: _____

11. Respondent's Durable Power of Attorney OR Health Care Surrogate is:
Name: _____
Address: _____

12. Respondent's next of kin:
Name: _____
Address: _____

Relationship to Respondent: _____

Name: _____

Address: _____

Relationship to Respondent: _____

WHEREFORE, Petitioner requests the Court inquire into Respondent's ability to care for himself/herself and to manage his/her financial resources. Petitioner attaches an **Application for Appointment of Fiduciary and further requests:**

1. Trial by jury;
2. Counsel to represent the Respondent; and
3. Court appointment of a physician, advanced practice registered nurse, or physician assistant; a psychologist; and a social worker to evaluate Respondent as provided by law unless the evaluation report is filed with this Petition.

_____, 2_____
Date

Signature of Petitioner

SUBSCRIBED and SWORN to before me this _____ day of _____, 2_____.	
My Commission expires: _____.	
_____ County, Kentucky	_____ Name/Title

To be completed if Petitioner is represented by counsel:

Attorney's Name: _____

Address: _____

Telephone Number: _____

Attorney Signature

AOC- 745 Doc. Code: AAF
Rev. 7-18
Page 1 of 2
Commonwealth of Kentucky
Court of Justice www.courts.ky.gov
KRS 387.530(2); 387.720; 395.130;
210.290



**APPLICATION FOR APPOINTMENT
OF FIDUCIARY FOR DISABLED PERSONS**

Case No. _____
Court _____ District _____
County _____
Division _____

COMMONWEALTH OF KENTUCKY
VS.

PETITIONER

RESPONDENT

* * * * *

1. Comes now _____, Applicant herein, and requests to be appointed as _____ for Respondent.

2. Applicant states his/her relationship to Respondent is _____.

3. Applicant states his/her qualifications for appointment are as follows: _____

4. Applicant offers as surety on his/her bond the following: _____

5. Respondent owns the following estate, including government benefits, insurance entitlements, and anticipated yearly income (state if none or unknown):

<u>ESTATE</u>	<u>VALUE</u>
Real Property	\$ _____
Personal Property	\$ _____
Yearly Income	\$ _____
Source of Yearly Income	_____

6. If Applicant is the Cabinet for Health and Family Services, please attach, or provide the Court prior to the final hearing in this matter, a report indicating the average caseload of each field social worker.

7. Applicant states that all statements in the foregoing are true.

Applicant's Name: _____

Address: _____

Telephone Number: _____

Date

Applicant's Signature

SUBSCRIBED and SWORN to before me this _____ day of _____, 2_____.

My Commission expires: _____.

County, Kentucky

Name/Title

**WAIVER OF NOTICE AND REQUEST
FOR APPOINTMENT OF FIDUCIARY**

The undersigned hereby waive notice of hearing and the right to appointment and request the Court to make the appointment herein applied for:

_____	_____
_____	_____
_____	_____
_____	_____

To be completed if Applicant is represented by counsel:

Attorney's Name: _____

Address: _____

Telephone Number: _____

Date

Attorney Signature



PETITION / APPLICATION FOR
EMERGENCY APPOINTMENT
OF FIDUCIARY FOR DISABLED PERSONS

Case No. _____
Leave blank if unknown
Court District
County _____

COMMONWEALTH OF KENTUCKY ex rel

PETITIONER

VS.

RESPONDENT

1. Comes Petitioner and requests appointment as emergency limited guardian OR conservator for Respondent for the purpose of: _____

2. Petitioner states his/her relationship to Respondent is: _____
and his/her qualifications for appointment are: _____

3. Petitioner offers as surety on his/her bond the following: _____

4. Respondent is _____ years of age and resides at: _____

5. The person or facility having custody of the Respondent is (*name and address*):

6. A petition for a Determination of Disability was filed on _____, 2_____.
7. Respondent's Durable Power of Attorney OR Health Care Surrogate is:
Name: _____
Address: _____

8. Affidavit(s) are attached setting forth facts, including any danger alleged as imminent, and reasons necessitating such appointment.

9. Respondent's next of kin is/are:

Name: _____

Address: _____

Relationship: _____

Name: _____

Address: _____

Relationship: _____

WHEREFORE, Petitioner respectfully requests that a hearing be held within one (1) week of the filing of this Application.

Petitioner's Name: _____

Address: _____

Telephone Number: _____ **Social Security No.** _____

Date: _____

Petitioner's Signature

Subscribed and sworn to before me this ____ day of _____, 2____. My Commission expires:
_____, 2____. _____
Name/Title

WAIVER OF NOTICE AND REQUEST FOR APPOINTMENT OF FIDUCIARY

The undersigned hereby waive notice of hearing and the right to appointment and request the Court to make the appointment herein requested.

To be completed if Petitioner is represented by counsel:

Petitioner's Attorney: _____

Address: _____

Telephone No. _____

Attorney's Signature

Distribution: Petitioner/Attorney

County Attorney

Respondent/Attorney



ORDER FOR EMERGENCY APPOINTMENT OF FIDUCIARY

Case No. _____
Court _____ District _____
County _____
Division _____

COMMONWEALTH OF KENTUCKY ex rel

VS.

PETITIONER

RESPONDENT

Upon motion of the Petitioner, the Court being sufficiently advised **finds** as follows:

- 1. A proceeding for a determination of partial disability or disability, or an appeal therefrom, is pending.
- 2. If immediate action is not taken, there is an imminent danger of (a) serious impairment to the health or safety of the above-named Respondent or (b) damage or dissipation to the Respondent's property. Specifically, said danger consists of:

- 3. The above finding of danger is based on the following source(s):

- 4. The above finding of danger requires the provision to Respondent of the following assistance:

Based on the above findings, **IT IS HEREBY ORDERED:**

- 1. That the following individual agency is appointed **Emergency Limited** Guardian (for the purpose of managing Respondent's personal affairs) Conservator (for the purpose of managing Respondent's financial resources):

Name: _____
Address: _____
Phone: _____

- 2. That bond is fixed at the sum of \$ _____.

- 3. That the emergency fiduciary shall perform all orders and decrees of this Court, including:

- a. The filing of reports and/or inventories as required by KRS Chapter 387.
- b. The filing of a report of the personal status and condition of the Respondent and the initial inventory of the Respondent's assets within _____ days of this appointment.

c. Other: _____

4. That the emergency fiduciary's powers and duties are **LIMITED** to: disposing of property, executing instruments, entering into contractual relationships, determining living arrangements, consenting to medical procedures, handling financial responsibilities, and other: _____

5. That unless otherwise ordered by this Court, this order remains in effect until such time as the pending action or appeal therefrom has been resolved.

6. That a final hearing is scheduled for _____ a.m. p.m., _____, 2_____.

Date

Judge's Signature

Judge's Name (Print or Type)

To Be Completed On Copies Only:

I, _____, Clerk of the _____
District Court, do hereby certify that this is a true and correct copy of the Order for Emergency Appointment of Fiduciary as recorded in my office. This Order and Qualification is in full force and effect.

_____, 2_____
Date

_____, Circuit Clerk

By: _____, D.C.

- Copy Distribution:
- Petitioner/Attorney
 - County Attorney
 - Respondent/Attorney
 - All persons named in Petition
 - Facility where or person with whom respondent resides

AOC-750 Doc. Code: OE
Rev. 7-18
Page 1 of 2
Commonwealth of Kentucky
Court of Justice www.courts.ky.gov
KRS 387.540



ORDER FOR EXAMINATION

Case No. _____
Court _____ District _____
County _____
Division _____

COMMONWEALTH OF KENTUCKY

PETITIONER

VS.

RESPONDENT

Address: _____

On _____, 2_____, a Petition was filed alleging that the Respondent is unable to provide for his/her physical health and safety and/or to manage his/her property effectively.

It is hereby **ORDERED** that the Respondent be examined by an interdisciplinary evaluation team and the report(s) of the interdisciplinary evaluation be filed with the Court. The interdisciplinary evaluation team shall be comprised of the following individuals:

1. A licensed physician, an advanced practice registered nurse, or a physician assistant QMHP QIDP;

Name: _____

Address: _____

2. A licensed or certified psychologist under KRS Chapter 319 QMHP QIDP; and

Name: _____

Address: _____

3. A licensed or certified social worker or an employee of the Cabinet for Health and Family Services who is qualified under KRS 335.080(1)(a), (b), and (c) or KRS 335.090(1)(a), (b), and (c).

Name: _____

Address: _____

The interdisciplinary evaluation team is appointed to examine the Respondent to determine his/her ability to care for his/her physical health and safety and/or manage his/her property effectively, and report the findings of the team or individual team members, including:

- a. A description of the nature and extent of the Respondent's disabilities, if any;
- b. Current evaluations of the Respondent's social, intellectual, physical, and educational condition, adaptive behavior, and social skills. Such evaluations may be based on prior evaluations *not more than three months old*, except that evaluations of the Respondent's intellectual condition may be based on individual intelligence test scores *not more than one year old*;
- c. An opinion as to whether guardianship or conservatorship is needed;
- d. If guardianship or conservatorship is needed, a recommendation as to the necessary scope of such appointment, specifying the areas in which the Respondent is unable to provide for his/her physical health and safety and/or manage his/her property effectively, what assistance is needed, and the anticipated duration of the need for such appointment. In making such recommendation, state whether alternatives to guardianship are available;
- e. A list of social, educational, medical, and rehabilitative services currently being utilized by the Respondent, if any;
- f. A recommendation(s) and reason(s) as to the most appropriate treatment or rehabilitation plan and living arrangement for the Respondent;
- g. An opinion whether attending a hearing on this matter would subject the Respondent to serious risk of harm and, if so, the reason(s) why;
- h. A list of all medications the Respondent receives, the dosage, and the impact of same on his/her mental and physical condition and behavior; and
- i. Any dissenting opinions or other comments.

_____, 2 _____
Date

Judge's Signature

Please print or type the name of the Judge



PERSONAL IDENTIFIER DATA SHEET
(Mental Health / Disability / Incompetency)

Case No. _____
Court _____
County _____

***For use in actions brought or proceedings conducted pursuant to KRS Chapters 202A (Involuntary hospitalization of the mentally ill); 202B (Involuntary mental retardation admission); 222.430 et seq. (Involuntary treatment for alcohol and other drug abuse); 387.500 et seq. (Guardianship and conservatorship for disabled persons); 504 (Responsibility, incompetency/insanity/mental illness); and, 645 (Involuntary hospitalization of the mentally ill child).

TO THE PETITIONER IN A MENTAL HEALTH OR DISABILITY PROCEEDING

TO THE DEFENDANT OR HIS/HER ATTORNEY IN A CHAPTER 504 PROCEEDING

The Court requires that you provide the following information about the Respondent/Defendant in this case:

RESPONDENT/DEFENDANT: Please Print
First Middle Last

Also known as: _____

Street address: _____

Mailing address: _____

Respondent's/Defendant's Identifiers:

Sex	Race	Date of Birth	Height	Weight	Eyes	Hair	Social Security #	Drivers License #	State

I understand that the information requested herein is intended to be entered into the official court record of this matter, and that its accuracy is of the utmost importance. The information I have provided above is true and accurate to the best of my knowledge and belief.

_____, 2_____
Date

(Signature)

(Printed Name)



FINANCIAL STATEMENT AND
AFFIDAVIT OF INDIGENCY
(DISABILITY CASES)

Case No. ___-P-___

Probate Court

Campbell County

IN THE INTEREST OF: _____

Comes now _____ (Name) as Petitioner / Guardian (circle appropriate response)

on behalf of the above named Respondent and states as follows:

Respondent's Age: _____

Respondent's Address: _____

Respondent's Telephone: (____) _____

Please state the following information as known for the above-named Respondent:

FINANCIAL STATEMENT OF RESPONDENT:

1. Income:

Employed? Yes No

If Yes: Full-time Part-time Temporary/Seasonal Length of Employment: _____

Income from Employment:

monthly biweekly hourly \$ _____

If No, date last employed: _____

Married? Yes No If Yes, Spouse Employed? Yes No

If Yes, Spouse's Income from Employment: monthly biweekly hourly \$ _____

Total Income from ALL other source(s) and amount received per month:

Welfare: \$ _____ Food Stamps: \$ _____ Social Security/Disability: \$ _____

Worker's Comp: \$ _____ Unemployment: \$ _____ Retirement: \$ _____

Child Support/Maintenance: \$ _____ Stocks, Trusts, Bonds: \$ _____

Child Care Assistance: \$ _____ Other: _____

Total Income from ALL other source(s): \$ _____

TOTAL MONTHLY INCOME: \$ _____

2. Property:

Own Real Estate? Yes No

If Yes, Value of Real Estate: \$ _____ Amount owed: \$ _____

Own Mobile Home? Yes No

If Yes, Value of Mobile Home: \$ _____ Amount owed: \$ _____

Own Personal Property:

Motor Vehicles in Operable Condition (including motor cycles, riding lawn mowers, ATVs, etc.):

Make/Model Year: _____ Value: \$ _____ Amount Owed: \$ _____

Make/Model Year: _____ Value: \$ _____ Amount Owed: \$ _____

Make/Model Year: _____ Value: \$ _____ Amount Owed: \$ _____

Bank Accounts: Yes No

If Yes, total balance of all accounts: \$ _____

Other Asset(s) (i.e., boat, jewelry, cash)

Asset type: _____ Value: \$ _____ Amount owed: \$ _____

Asset type: _____ Value: \$ _____ Amount owed: \$ _____

3. Dependents: Yes No

If Yes, Number of Dependent(s) (including children, elderly, or disabled): _____

Relationship of dependent(s): _____ Age(s) of Dependent(s): _____

4. Monthly Expenditures:

Mortgage payment/ Rent: Yes No

If Yes, amount of payment: \$ _____

Child support obligation: Yes No

If Yes, amount of payment: \$ _____

Other out-of-pocket monthly bills (FOR HOUSEHOLD):

utilities: \$ _____ water: \$ _____ telephone service (land and/or cell): \$ _____

internet service: \$ _____ cable/satellite: \$ _____ car payment: \$ _____

credit card payments: \$ _____ car / health/home owners/ renters insurance payments: \$ _____

unreimbursed childcare: \$ _____ tuition: \$ _____ medical debts: \$ _____

student loan payments: \$ _____ Other Financial Obligations: \$ _____

Total of other out-of-pocket monthly bills: \$ _____

TOTAL MONTHLY EXPENDITURES: \$ _____

PERJURY WARNING: I understand that making a false statement in the Financial Statement and Affidavit of Indigency may subject me to the penalties for perjury as contained in KRS Chapter 523. **The maximum sentence for perjury is five (5) years imprisonment.** I declare under the penalty of perjury that I have read or have had read to me the information contained on this form and that the statements provided here are true, complete and accurate to the best of my personal knowledge.

_____, 2 _____
Date

Affiant's Signature

_____, 2 _____
Date

Signature/Title of Officer Administering Oath



**ORDER SETTING BENCH TRIAL
(DISABILITY)**

Case No. _____
Court _____ District _____
County _____
Division _____

COMMONWEALTH OF KENTUCKY ex rel

PETITIONER

VS.

RESPONDENT

The following persons were present at today's hearing:

- Petitioner
- Respondent
- Counsel for Respondent
- County Attorney
- Other Interested Person(s) or Entity(ies) _____

The above-styled action having come before the Court upon motion of _____ or otherwise by _____, and the Court being sufficiently advised, pursuant to KRS 387.570(7),

finds as follows *(all of these boxes must be checked)*:

- The Respondent (if present), counsel for Respondent, and the County Attorney have agreed to a bench trial;
- No objection to a bench trial has been made by an interested person or entity;
- The Court has reviewed the interdisciplinary evaluation report(s);
- The interdisciplinary evaluation report(s) prepared for this proceeding reflect(s) a unanimous consensus that the Respondent is disabled or partially disabled; and
- The Court finds no cause to require a jury trial.

WHEREAS, IT IS HEREBY ORDERED that the hearing in the above-styled action is set for a bench trial on _____, 2_____ at _____ a.m. p.m.

SO ORDERED this _____ day of _____, 2_____.

Judge

Copy Distribution:
County Attorney
Respondent/Attorney
All persons named in Petition