



<https://www.disabilityrightscalifornia.org/publications/limited-conservatorships-alternatives>

Limited Conservatorships & Alternatives

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What is a conservatorship?

A conservatorship is a court process where a judge decides whether you can care for your own health, food, clothing, shelter, finances, or personal needs. A judge can take some of these important rights away from you. The judge can choose another person to make decisions for you. The court calls that person a “conservator.” The court calls you the “conservatee.”

Conservatorships are only for people 18 years of age or older.

What are the different types of conservatorships?

There are different types of conservatorships in California:

- General Probate Conservatorships
- LPS (Lanterman-Petris-Short Act) Conservatorships
- Dementia Conservatorships
- Limited Conservatorships

What is a limited conservatorship?

Limited conservatorships are for people with intellectual and developmental disabilities. The goal of a limited conservatorship is for you to be as self-reliant and independent as possible. It allows you to keep some rights so you can make some decisions about your life. A judge will decide what decisions the conservator will make for you.

Who can be appointed as your limited conservator?

A limited conservator must be 18 years of age or older. You can suggest someone you know, such as a family member or friend. The judge must consider your suggestion first. But the judge has the final say, and they can choose someone else. The judge can also choose more than one limited conservator (“co-conservators”). Sometimes a private professional conservator is chosen. The county public guardian, a regional center, or the Department of Developmental Services (DDS) may be appointed if no one else is available.

If the Department of Developmental Services is appointed as your conservator, it must give the day-to-day responsibilities your regional center and monitor how you and the regional center are doing. Starting January 1, 2023, regional centers can no longer be a person’s conservator on their own.

How is a limited conservatorship established?

- A proposed conservator files a petition with the court. A copy of the petition must be given to you.
- Copies of the petition are sent to some of your relatives and agencies such as the regional center.
- A court investigator is assigned to your case.
- You must go to the hearing unless the judge approves an exception. A judge will appoint an attorney to represent you.

What is the court investigator’s role in the limited conservatorship process?

A court investigator must:

- Explain and review the petition with you.
- Interview you and tell you about the conservatorship process. Determine whether you:
 - Are able to attend the hearing,
 - Want to challenge the conservatorship,
 - Object to the proposed conservator or prefer another person.
 - Meet with you every year to talk about whether you want to end the limited conservatorship and whether there are other options (and then tell this to the judge).

What is the regional center’s role in a limited conservatorship?

With your consent, the regional center must assess you and submit a report to the court. The report must include:

- The nature/degree of your disability.
- What assistance you need.
- Your physical condition.

- Your mental condition and social well-being.
- Recommendations about the specific rights requested in the petition.

If the proposed conservator is a service provider, the report must include comments about whether the service provider would be appropriate to meet your needs.

A copy of the report must be sent to you and your attorney at least 5 days before the hearing.

What are my rights in the limited conservatorship process?

You have the right to:

- Be told what rights will be taken away and how the conservatorship will affect your rights.
- Receive notice and copy of the conservatorship petition at least 15 days before the court hearing.
- Have an attorney represent you. If you don't have an attorney, a judge must appoint one for you.
- Receive a copy of any reports given to the judge by your family, friends, regional center, and others.
- Be at the conservatorship hearing.
- Challenge the conservatorship.
- Have a jury trial if you ask for one.
- Receive information in plain language about your rights, your conservatorship, the court process, and ending or changing your conservatorship.
 - The judge must give you this information 30 days after you are put into a conservatorship and every year after that.

What rights can the judge take away from me in a limited conservatorship?

The judge may take away some or all of these rights:

- To determine residence.
- To have access to confidential records.
- To get married.
- To enter into contracts.
- To give consent for medical treatment.
- To control social and sexual contacts.
- To make educational decisions.

How can I show that I don't need a conservator?

You can show that you are able to care for your health, food, clothing, shelter, finances, or personal needs. You can use supports and services such as alternatives to conservatorships including supported decision-making to help you.

If the court determines that I need a limited conservator, what are the conservator's duties and responsibilities?

A conservator has a high duty to do what the judge has appointed them to do, which is make decisions for you. This may include:

- Helping you get support services, education, medical and other services that will help you become as independent as possible.
- Responding to a crisis when needed.
- Helping you manage your personal or financial needs.

At all times, your conservator must help you make your own decisions, inform you of decisions they make, and support you in being as independent as possible.

The judge must also provide your conservator with information about limited conservatorships, including how to help you make your own decisions, how to end or change the conservatorship, and what their responsibilities are as your conservator.

What are less restrictive alternatives to a limited conservatorship?

Before a person/DDS can ask the court to become your conservator, they are required—by law—to consider other options. These are called “less restrictive alternatives,” and they may postpone or get rid of the need for a conservatorship. Your proposed conservator must tell the judge which alternatives were tried and why alternatives won't work. The judge must consider whether alternatives could work if you had the right services and supports.

General Alternatives

Supported Decision-Making:

Supported Decision-Making (SDM) is when you use trusted friends, family, and professionals to help you understand situations and choices in your life. It is a way to increase your independence. It encourages you and gives you the power to make decisions about your life as much as possible. SDM is how most adults make daily decisions. SDM also:

- Helps you to make things happen in your life.
- Helps you to make choices about where, how, and with whom you live
- Helps you to make choices about where you want to work.
- Helps you to take action in your life instead of someone acting for you.
- Allows you to have a more positive quality of life.

- Increases your employment opportunities, independence in daily life, and community integration.

You can choose to practice SDM with or without a written agreement.

If you choose to use a written agreement, you can create a written SDM agreement where you choose who your supporter(s) will be. For example, you can choose a sibling to help you make decisions about money, or you can choose a friend to help you make decisions about your health. You can also choose to make some decisions by yourself—for example, you can choose to make decisions about your home by yourself. Having an SDM agreement does not prevent you from acting independently of that agreement, and it cannot be used as evidence that you cannot make decisions for yourself. You can end your SDM agreement at any time.

There are rules about written agreements that you and your supporter must follow if you want other people to recognize those agreements. Written SDM agreements must be:

- In plain language,
- Signed by you and your supporter(s) in front of witnesses,
- Reviewed at least every two years, and
- Include...
 - What you want support with,
 - What your supporter(s) agree to help you with,
 - Your supporter(s)' agreement to their responsibilities as supporters,
 - Information about your right to report abuse, and
 - Any other relevant documents about decision-making (such as the other alternatives to conservatorship that are discussed below)

You can find more resources about SDM, including example SDM agreements, here: <https://supportwithoutcourts.org/sdm-resources/>

Durable Power of Attorney:

This is a legal document where you give someone you trust the legal right to make decisions for you. It is a way for you to get help with the supports and services you need to live independently. You can give someone the right to make one kind of decision, like medical or financial, or give them the right to make both kinds of decisions.

Other General Alternatives:

- You can join self-advocacy groups such as People First, or get self-advocacy training to help you learn how to communicate and advocate for what you need.
- You can have your choices written into your IEP or IPP.
- You can prepare for your IEP or IPP by practicing role-playing and talking about what your needs and desires are with someone you trust.
- You can find facilitators to assist you to make decisions.

Specific Alternatives

Alternatives for getting services in your IEP or IPP:

You have the right to invite people to your IEP or IPP meeting that will support you in advocating for the services you need to be independent. Advocates can be:

- Your service coordinator.
- Your family and people in your circle of support.
- A trained advocate.

Alternatives for deciding where and with whom you live:

Discuss your desires and options/choices with someone you trust such as your:

- Circle of support (people you trust and who support you).
- Independent Living Services (ILS) provider.
- Supported Living Services (SLS) provider.
- Community Care Facility or Intermediate Care Facility staff.

Ask trusted people how you can get help with rent or applying for Public Housing Assistance.

Advocate at your IPP and get your choices written into your IPP.

Alternatives for access to your confidential information:

If you would like someone you trust to get your confidential information, you can give permission by using one of these options:

- Sign a HIPAA medical release form.
- Sign a consent to release form for information or records.
- You and another person can call the agency together and you can give your permission over the phone.

Alternatives to help you manage your money:

- You can sign a power of attorney for finances. This authorizes someone you trust to make decisions about your finances and money. The financial power of attorney must be notarized. You can end it whenever you want.
- You can pick someone to be your SSI/Social Security benefit representative payee.
- There are laws to help protect your SSI/Social Security benefits.
- You can have services written in your IPP to help you with managing your money, like your independent living services worker.
- A Special Needs Trust can be created for you. A trustee would then manage your money.
- Joint bank accounts: you can set up a joint account with someone you trust to help you write checks, make deposits or withdraw money.

Alternatives to help you with your healthcare needs:

- You can sign an Advance Health Care Directive, so that your desires will be followed. It requires either two witness' signatures or to be notarized and can be changed or end whenever you want.
- Since you are the patient, doctors must tell you the risks and benefits of a treatment, other available treatments and what happens if there is no treatment.
- If you are unable to make a decision:
 - Your closest relative available (such as a parent) can authorize healthcare.
 - Your regional center can authorize some medical, surgical, or dental care in some situations. Doctors or dentists can make decisions in an emergency.
- Court authorization is required for specific medical operations.
- If you are a resident in an ICF/SNF, an interdisciplinary team can approve medical treatment, if no one with legal authority to make medical decisions is available.

Alternatives to help you with your social/sexual relationships:

Services in your IEP or IPP could include supports to help you with relationships such as counseling, independent living services, and supported living services. You could also get an education in the areas of social skills, safety awareness, and how to have healthy relationships with others. This can include relationships with boyfriends and girlfriends.

Alternatives to help you with your educational decisions:

You can give someone you trust the right to make your educational decisions. You can have a durable power of attorney or an assignment of educational decision-making authority.

Alternatives to help you file a case in court:

If you need to file a case in court, the court can appoint someone to help you talk to your lawyer and deal with the court. This person is called a Guardian ad Litem. The Guardian ad Litem would take your place in court if you are not able to go to court or understand.

Do I have to pay court fees and costs in my conservatorship case?

The court will determine whether you must pay filing fees, legal services fees and court costs.

What powers are NOT available in a limited conservatorship?

A conservator cannot:

- Control your wages from a job or salary,
- Approve harmful medical treatment,
- Force medication therapy on you,
- Have you sterilized so you cannot have a baby,
- Have you committed to an institution,
- Agree to electro-convulsive shock therapy (ECT),
- Agree to psychotherapy,
- Have any other powers NOT specifically ordered by the court.

What rights do I keep in a limited conservatorship?

You keep your right to:

- Control your own wages or salary,
- Make or change a will to say who gets your personal items when you die,
- Get married unless the judge specifically takes that right away,
- Receive personal mail,
- Vote unless the judge specifically takes away that right, Be represented by an attorney,
- Ask for a new conservator,
- Ask for the conservatorship to end.

What can I do if I disagree with my conservator or want to end the limited conservatorship?

- Reach out to your attorney, probate court investigator, regional center, day program, or support staff. You can also contact Disability Rights California and/or the Office of Clients' Rights Advocacy; our contact information is listed at the end of this document.
- Ask for a court hearing. As of January 1, 2023, a new law in California requires judges to give you and attorney and set a hearing date if you tell them you want to end your conservatorship.
 - If your conservator agrees to end the conservatorship and other less restrictive alternatives are available, the court can end the conservatorship without needing to have a hearing.

When does a limited conservatorship end?

- When ended by a judge.
- Upon the death of the conservator or conservatee.
- A court order saying that the limited conservatorship is no longer needed.

- Conservator files a petition with the court to resign.

How will I know if a limited conservatorship has been ordered by the judge?

- You will receive a copy of the judge's order.
- The judge's order will tell you what rights have been given to the conservator.

How will others know that I have a conservator?

The conservator must give other people an official copy of the **Letters of Conservatorship**. The official copy must include the completed certification section of the **Letters of Conservatorship** before they can be treated as a conservator.

What if I need more help?

For further information call:

Disability Rights California

1-800-776-5746 (TTY 1-800-719-5798)

Office of Clients' Rights Advocacy

Northern California: 1-800-390-7032 (TTY 877-669-6023)

Southern California: 1-866-833-6712 (TTY 877-669-6023)

We can help by:

- Telling you about your rights
- Telling you about alternatives to conservatorship
- Talking to or helping you talk to your attorney, probate court investigator, and others who could help you.