

§5-401. Basis for appointment of conservator

1. Conservator for minor; findings. On petition and after notice and hearing, the court may appoint a conservator for the property or financial affairs of a minor, if the court finds by a preponderance of evidence that:

A. The minor owns money or property requiring management or protection that otherwise cannot be provided; or [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. Appointment of a conservator is in the best interest of the minor and:

(1) If the minor has a parent, the court gives weight to any recommendation of the minor's parent whether an appointment is in the best interest of the minor; and

(2) Either:

(a) The minor has or may have financial affairs that may be put at unreasonable risk or hindered because of the minor's age; or

(b) Appointment is necessary or desirable to obtain or provide money needed for the support, care, education, health or welfare of the minor. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Conservator for adult; findings. On petition and after notice and hearing, the court may appoint a conservator for the property or financial affairs of an adult if the court determines by clear and convincing evidence that:

A. The adult is unable to manage property or financial affairs because:

(1) Of a limitation in the ability to receive and evaluate information or make or communicate decisions even with the use of appropriate supportive services, technological assistance and supported decision making that provide adequate protection for the respondent; or

(2) The adult is missing, detained or unable to return to the United States; [PL 2019, c. 417, Pt. A, §52 (AMD).]

B. Appointment is necessary to:

(1) Avoid harm to the adult or significant dissipation of the property of the adult; or

(2) Obtain or provide money needed for the support, care, education, health or welfare of the adult, or of an individual entitled to the adult's support, and protection is necessary or desirable to obtain or provide money for the purpose; and [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. The respondent's identified needs cannot be met by less restrictive alternatives. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

In making a determination on a petition under this section, including whether supported decision making or other less restrictive alternatives are appropriate, the court may consider the following factors: any proposed vetting of the person or persons chosen to provide support in decision making; reports to the court by an interested party or parties regarding the effectiveness of an existing supported decision-making arrangement; or any other information the court determines necessary or appropriate to determine whether supportive services, technological assistance, supported decision making, protective arrangements or less restrictive arrangements will provide adequate protection for the respondent.

[PL 2019, c. 417, Pt. A, §52 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Powers. The court shall grant a conservator only those powers necessitated by demonstrated limitations and needs of the respondent and enter orders that encourage the development of the

respondent's maximum self-determination and independence. The court may not establish a full conservatorship if a limited conservatorship, protective arrangement instead of conservatorship or other less restrictive alternatives would meet the needs of and provide adequate protection for the respondent. [PL 2019, c. 417, Pt. A, §53 (AMD).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. A, §§52, 53 (AMD). PL 2019, c. 417, Pt. B, §14 (AFF).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the First Regular and First Special Session of the 131st Maine Legislature and is current through November 1, 2023. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.