

Utah Working Interdisciplinary Network of Guardianship Stakeholders (WINGS)

Thursday, August 18, 2022, 12:00 pm | 2 hours |

AGENDA

Topic	Presenter	Materials
12:00 Meeting begins <ul style="list-style-type: none">Housekeeping – welcome, minutes	Judge Kelly	<ul style="list-style-type: none"><i>WINGS Minutes (June 2022 – draft)</i>
12:10 Stakeholder Updates		
<ul style="list-style-type: none">GRAMPProbate subcommittee updateOther<ul style="list-style-type: none">Replacement for Dr. Miranda	Stakeholders	
12:45 Ongoing Projects		
<ul style="list-style-type: none">New/amended guardianship forms	Group Discussion	<ol style="list-style-type: none"><i>Motion to Review a Guardianship or Conservatorship of an Adult (WINGS draft)</i><i>Motion to Review a Guardianship or Conservatorship of a Minor (WINGS draft)</i><i>Motion to Terminate a Guardianship or Conservatorship of an Adult (WINGS draft)</i><i>Motion to Terminate a Guardianship or Conservatorship of a Minor (WINGS draft)</i><i>Motion to Change Accounting Report Requirements (WINGS draft)</i><i>Financial Accounting Report (WINGS draft)</i><i>Financial Accounting – Instructions (WINGS draft)</i>
<ul style="list-style-type: none">Utah Code 75-5-303	Group Discussion	<ul style="list-style-type: none"><i>Utah Code 75-5-303 (to discuss)</i>
1:45 Other Business		
<ul style="list-style-type: none">Guardianship for school purposes	Shonna Thomas	
2:00 Meeting adjourned		

Next meeting: **October 20, 2022** (via WebEx)

Name

Address

City, State, Zip

Phone

Email

This motion requires you to respond. Please see the Notice to Responding Party.

Check your email. You will receive information and documents at this email address.

I am the Guardian/Conservator
 Interested Person
 Protected Person
 Attorney for the Guardian/Conservator Interested Person Protected Person
My Utah Bar number is _____

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

In the Matter of Protection for

_____ a protected person.

Motion to Review a Guardianship or Conservatorship of an Adult
(Add relevant codes here)

Case Number

Judge

- I am:
 the protected person in this case.
 the guardian or conservator in this case.
 interested in the protected person's welfare. My relationship to the protected person is (explain)_____.
- This case is for (select all that apply):
 guardianship.
 conservatorship.

3. I ask the court to: (choose all that apply)
- review the management activity of the guardian or conservator.
 - review the continuing need for the guardianship or conservatorship
 - remove the guardian or conservator. I understand this does not terminate the guardianship or conservatorship. I ask the court to appoint _____ (name) as the new guardian or conservator.

4. I ask for this review because (choose all that apply):
- the guardian or conservator is incapacitated or has resigned.
 - the guardian or conservator is unable to perform their duties due to illness.
 - the guardian fails to perform the duties, per Utah Code 75-5-312.
 - the conservator fails to perform the duties, per Utah Code 75-7-902.
 - the guardian or conservator obtained their appointment by fraud, deceit, or gross misrepresentation.
 - the guardian or conservator was found by the court to have filed the petition for guardianship or conservatorship frivolously or in bad faith.
 - the guardian or conservator has interests that are adverse to their duties and there is a risk they will not faithfully perform their duties.
 - the guardian or conservator fails to use reasonable care and diligence in managing the protected person's estate.
 - there is a dispute that cannot be resolved regarding the guardian or conservator's management of the appointment.
 - the protected person is able to make and communicate decisions with or without assistance
 - removing the guardian or conservator would be in the best interest of the protected person because: (explain)

- the protected person's capacity has changed and the appointment no longer meets the needs of the protected person: (explain)

- other: (explain)

5. In support of my choices in paragraph 4 above, the court should know that:
(Give details to explain your choice above. **Some examples that the court might find helpful include: tasks that the protected person can do now that they couldn't do before; if the guardian is stopping the protected person from making choices or spending time with friends or family; and/or if the guardian is limiting the protected person's access to their money, etc.)**)

6. I have attached the following documents in support of this motion:

7. I ask the court to appoint a Court Visitor to investigate the items described in paragraphs 4 and 5 above.

8. I ask the court to appoint an attorney to represent the protected person because: (explain)

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

Date

Signature ► _____

Printed Name _____

Notice to responding party

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- within 14 days of this motion being filed, if the motion will be decided by a judge, or
- at least 14 days before the hearing, if the motion will be decided by a commissioner.

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See the court's Motions page for more information about the motions process, deadlines and forms:
utcourts.gov/motions



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Aviso para la parte que responde

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- por lo menos 14 días antes de la audiencia, si la misma será resuelta por un comisionado.

En algunos casos debido a un estatuto o a una orden de un juez la fecha límite podrá ser distinta.

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Vea la página del tribunal sobre Mociones para encontrar más información sobre el proceso de las mociones, las fechas límites y los formularios:

utcourts.gov/motions-span



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Cómo encontrar ayuda legal

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tiene información sobre algunas maneras de encontrar ayuda legal, incluyendo el Centro de Ayuda de los Tribunales de Utah, abogados que ofrecen descuentos u ofrecen ayuda legal limitada, y talleres legales gratuitos.



Para acceder esta página escanee el código QR

Certificate of Service

I certify that I filed with the court and served a copy of this Motion to Review a Guardianship or Conservatorship of an Adult on the following people.

Person's Name	Method of Service	Served at this Address	Served on this Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email (Person agreed to service by email.) <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
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_____ Signature ► _____
 Date Printed Name _____

Name

Address

City, State, Zip

Phone

Email

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I am the Guardian/Conservator
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 Attorney for the Guardian/Conservator Interested Person Protected Person
My Utah Bar number is _____

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

In the Matter of Protection for

_____ a protected person.

Motion to Review a Guardianship or Conservatorship of a Minor
(Add relevant codes here)

Case Number

Judge

- I am:
 the protected person in this case.
 the guardian or conservator in this case.
 interested in the protected person's welfare. My relationship to the protected person is (explain)_____.
- This case is for (select all that apply):
 guardianship.
 conservatorship.

3. I ask the court to: (choose all that apply)
- review the management activity of the guardian or conservator.
 - remove the guardian or conservator. I understand this does not terminate the guardianship or conservatorship. I ask the court to appoint _____ (name) as the new guardian or conservator.

4. I ask for this review because (choose all that apply):
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 - the guardian fails to perform the duties, per Utah Code 75-5-312.
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 - the guardian or conservator was found by the court to have filed the petition for guardianship or conservatorship frivolously or in bad faith.
 - the guardian or conservator has interests that are adverse to their duties and there is a risk they will not faithfully perform their duties.
 - the guardian or conservator fails to use reasonable care and diligence in managing the protected person's estate.
 - there is a dispute that cannot be resolved regarding the guardian or conservator's management of the appointment.
 - removing the guardian or conservator would be in the best interest of the protected person because: (explain)

- other: (explain)
- _____

5. In support of my choices in paragraph 4 above, the court should know that:
(Give details to explain your choice above)
- _____

6. I have attached the following documents in support of this motion:

7. I ask the court to appoint an attorney to represent the protected person because: (explain)

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

Date

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Person's Name	Method of Service	Served at this Address	Served on this Date
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Name

Address

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 Interested Person
 Protected Person
 Attorney for the Guardian/Conservator Interested Person Protected Person
My Utah Bar number is _____

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

**Motion to Terminate a Guardianship
or Conservatorship of an Adult**
(Add relevant codes here)

In the Matter of Protection for

a protected person.

Case Number

Judge

- I am:
 the protected person in this case.
 the guardian or conservator in this case.
 interested in the protected person's welfare. My relationship to the protected person is (explain)_____.
- This case is for: (select all that apply)
 guardianship.
 conservatorship.

3. I ask the court to terminate or end the guardianship or conservatorship. I ask for this because:

- the protected person is able to make and communicate decisions with or without assistance.
- the protected person is no longer incapacitated.
- the protected person has died.
- other: (explain)

4. In support of my choices in paragraph 3 above, the court should know that: (give details to explain your choice above. Some examples that the court might find helpful include: decisions that the protected person can make and communicate now that they couldn't before, including how they make those decisions and how they communicate those decisions; how the protected person makes sure they have food, housing, and clothing; and/or how the protected person manages their money, etc.)

5. I have attached the following documents in support of this motion:

6. I ask the court to appoint a Court Visitor to investigate whether the protected person is no longer incapacitated.

7. I ask the court to appoint an attorney to represent the protected person because: (explain)

8. Please mark all that apply:

I am the guardian or conservator and I have attached the final accounting for the protected person's estate.

If the guardianship or conservatorship is terminated, I ask that the court enter an order transferring title of the protected person's estate to: (choose one)

- the protected person.
- the protected person's personal representative (executor).
- the protected person's successor in interest (beneficiaries).

Commented [ST1]: WINGS to review this section for appropriateness and relevance to the form.

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

Date

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Printed Name _____

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 Date Printed Name _____

Name

Address

City, State, Zip

Phone

Email

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**Motion to Terminate a Guardianship
or Conservatorship of a Minor**
(Add relevant codes here)

In the Matter of Protection for

a protected person.

Case Number

Judge

- I am:
 the protected person in this case.
 the guardian or conservator in this case.
 interested in the protected person's welfare. My relationship to the protected person is (explain)_____.
- This case is for: (select all that apply)
 guardianship.
 conservatorship.

3. I ask the court to terminate or end the guardianship or conservatorship. I ask for this because:

- the protected person was a minor and is now at least 18 years old.
- the protected person has died.
- the protected person has joined the armed forces.
- the protected person is a minor and has been adopted.
- the protected person is a minor and has married.
- the protected person is emancipated.
- I am the parent of a minor protected person and I withdraw my consent for the guardianship or conservatorship
- other: (explain)

4. In support of my choices in paragraph 3 above, the court should know that:
(give details to explain your choice above)

5. I have attached the following documents in support of this motion:

6. Please mark all that apply:

I am the guardian or conservator and I have attached the final accounting for the protected person's estate.

If the guardianship or conservatorship is terminated, I ask that the court enter an order transferring title of the protected person's estate to: (choose one)

Commented [ST1]: Do we need to include the request for an attorney for minors? GAL?

- the protected person.
- the protected person's personal representative (executor).
- the protected person's successor in interest (beneficiaries).

Commented [ST2]: WINGS to review this section for appropriateness and relevance to the form.

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

Date

Signature ► _____

Printed Name _____

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_____ Signature ► _____
 Date Printed Name _____

This is a private record.

Name

Address

City, State, Zip

Phone

Email

I am the Guardian/Conservator
 Interested Person
 Protected Person
 Attorney for the Guardian/Conservator Interested Person Protected Person
My Utah Bar number is _____

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

In the Matter of Protection for

a protected person.

**Motion to Change Accounting
Report Requirements**
(Add relevant codes here)

Case Number

Judge

1. The appointment was made on: _____ (date).
2. I ask to change the following accounting report requirements: (choose all that apply)
 the reporting period. I ask that it be changed each year as follows:
Report Begin date: _____
Report End date: _____

the reporting frequency. I ask that an accounting report be filed every: (choose one option)

3 months

6 months

12 months

Other: (describe)

the information required in the report. Utah Code 75-5-312(4)(a) requires an accounting report include the following:

- (i) all assets at the beginning and end of the reporting year;
- (ii) any income received during the year;
- (iii) any disbursements for the support of the ward;
- (iv) any investments or trusts that are held for the ward's benefit;
- (v) any expenditures or fees charged to the ward's estate; and
- (vi) any other expenses incurred by the ward's estate.

I ask that these requirements be modified to the following: (describe)

3. I ask for this change because (explain):

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

Date

Signature ► _____

Printed Name _____

Commented [ST1]: Do we want to add language about filing fees?

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_____ Signature ► _____
 Date _____
 Printed Name _____

Name

Address

City, State, Zip

Phone

Check your email. You will receive information and documents at this email address.

Email

I am: _____ Guardian _____ Guardian's Attorney, Utah Bar #: _____
(mark all that apply) _____ Conservator _____ Conservator's Attorney, Utah Bar #: _____

In the District Court of Utah

Judicial District _____ County

Court Address: _____

In the Matter of:

Guardian Financial Accounting to the Conservator (Utah Code Section 75-5-312)

Guardian/Conservator Financial Accounting to the Court
(Utah Code Sections 75-5-312 and 75-5-419)

Protected Person

Case Number

Judge

Contact information:

Guardian / Conservator

Protected Person

Name: _____

Name: _____

Address: _____

Address: _____

Phone: _____

Phone: _____

Email: _____

Email: _____

1. Report Status (select one):

- This is my first financial accounting report.
- This is my next financial accounting. My previous report covered (dates):
from _____ to _____
- This is my final financial accounting report (explain):

2. This financial accounting covers the following period (list dates):

from _____ to _____

3. Compensation I received for guardian/conservator services. **Any compensation for these services must have been previously approved by the court. Utah Code **xx-x-xxx**** (select one):

- None.** The protected person does not owe me any money.
- Unpaid.** The protected person owes me: \$ _____
- Partial.** I received: \$ _____ ; I am still owed: \$ _____
- Paid in Full.** I received: \$ _____
The protected person does not owe any additional money.

4. As guardian/conservator, I loaned money to the protected person (select one):

- No.**
- Yes.** I loaned: \$ _____ ; I am still owed: \$ _____

5. Separate from my duties as guardian/conservator, I (select one):

- Did not** serve as a paid caregiver for the protected person.
- Did** serve as a paid caregiver for the protected person. I received:
\$ _____

6. There is an estate plan to guide investment and distribution (select one):

- No
- Yes - the plan is on file with the court
- Yes - the plan is being submitted along with this report

7. **Balance Summary**

Income and Expenses			
	Worksheet	Category	Amount
1	A	Income	
2	B	Expenses	
			(subtract Line 2 from Line 1 for Total)
Total \$			

Assets and Liabilities					
	Worksheet	Category	Starting Balance	Gains or Loss Amount	Ending Balance
3	C	Assets			
4	D	Investments / Trusts			
5	E	Debts / Liabilities			
					(add lines 3 and 4, subtract Line 5 for Total)
Total \$					

11. **Assets and Liabilities**

Worksheet C – Assets				
(resources, items, and/or property owned by the protected person)				
Attach bank and account statements, tax assessments, and other supporting documents				
		Starting Balance	Gain / Loss Amount	Ending Balance
Cash Accounts	Checking account: [Bank name]			
	Savings account: [Bank name]			
	Other (describe)			
Real Estate	Home (residence)			
	Real estate (not residence)			
	Other (describe)			
Property	Vehicle(s)			
	Jewelry			
	Furniture			
	Electronics			
	Other (describe)			
Miscellaneous	Life insurance (cash value)			
	Money owed, not yet paid			
	Other (describe)			
Total \$				

(list these totals ↑ on Balance Summary, line 3)

Worksheet D – Investments and Trusts

(held for the protected person's benefit)

Attach account statements and other supporting documents

	Starting Balance	Gain / Loss Amount	Ending Balance
Certificates of deposit			
Money market account			
Bonds			
Mutual funds			
Individual stock shares			
Retirement account			
Trust: [Name]			
Other (describe)			
Total \$			

(list these totals ↑ on Balance Summary, line 4)

Worksheet E – Debts / Liabilities

(money owed or a financial obligation of the protected person)

Attach bank and account statements, tax assessments, and other supporting documents

		Starting Balance	Gain / Loss Amount	Ending Balance
Real Estate Loans	Mortgage Loan			
	Home equity loan			
	Other (describe)			
Miscellaneous Loans	Car loan			
	Student loans			
	Other (describe)			
Debts	Credit Card: [Bank name]			
	Credit Card: [Bank name]			
	Other (describe)			
Total \$				

(list these totals ↑ on Balance Summary, line 5)

I declare under criminal penalty under the law of Utah that everything stated in this document is true

_____ Sign here ► _____
Date
Typed or Printed Name _____

Financial Accounting Report - Instructions

These instructions are intended to provide general direction on completing the annual financial accounting form. Additional assistance can be found by contacting the court's Self Help Center (<https://www.utcourts.gov/selfhelp/contact/>).

General Information – Page 1	
<input type="checkbox"/>	Fill in the contact information block, with the information of the <u>person completing the report</u> .
<input type="checkbox"/>	Mark the role(s) of the person completing this report.
<input type="checkbox"/>	List the district, county, and courthouse address where the case is <u>currently</u> filed.
<input type="checkbox"/>	Choose the type of financial accounting report you are completing. <ul style="list-style-type: none"> ○ IF you are the appointed guardian, and someone else has been appointed as conservator, select “<i>Guardian Financial Accounting to Conservator.</i>” ○ IF you are the appointed conservator OR you are the guardian and no conservator has been appointed, select “<i>Guardian/Conservator Financial Accounting to the Court.</i>”
<input type="checkbox"/>	List the protected person’s name, case number, and the name of the judge <u>currently</u> overseeing the guardianship.
<input type="checkbox"/>	Enter the contact information of the guardian/conservator and the protected person.
Overview - Page 2	
1	Mark the type of report you are completing. <ul style="list-style-type: none"> ○ It is your FIRST report IF the guardianship has been in place one year and/or you have not previously completed this report. ○ It is your NEXT report IF the guardianship has been in place for two or more years AND you have previously completed an accounting report. ○ It is your FINAL accounting report IF one of the following conditions exist*: <ul style="list-style-type: none"> – The guardian or conservator resigns or is removed. – The protected person dies. – The court ends the guardianship or conservatorship because the protected person regains capacity. – The court transfers the guardianship/conservatorship to another state. <p>(*https://www.utcourts.gov/howto/family/gc/reports.html)</p>

<p>2</p>	<p>Indicate the date range this report covers.</p> <p>Each financial accounting report is intended to cover 365 days (except the final report). The first accounting report starts on the day guardianship was appointed. The next report starts the following year, on the same day.*</p> <p><u>EXAMPLE:</u></p> <ul style="list-style-type: none"> • Guardianship appointed on May 10, 2020 • First accounting report covers May 10, 2020 – May 9, 2021 • Next accounting report covers May 10, 2021 – May 9, 2022 • All future accounting reports cover from May 10 – May 9 <p>(* IF you requested and were approved to have the due date for reports changed, follow the pattern above, with the new due date instead of the date of appointment.)</p>
<p>3</p>	<p>Select one option.</p> <p>Check the box that matches the type of compensation you received as guardian or conservator. Where indicated, list the amount received or still owed.</p>
<p>4</p>	<p>Select one option.</p> <p>Check the box that indicates whether you loaned money to the protected person. IF you loaned money, indicate the amount.</p>
<p>5</p>	<p>Select one option.</p> <p>At times, a guardian/conservator may serve as a paid caregiver for the protected person, <i>in addition</i> to the role of guardian/conservator. IF you served as a paid caregiver, list the amount received.</p>
<p>6</p>	<p>Select one option.</p> <p>If submitting the estate plan with this report, make sure to attach the document.</p>
<p>Balance Summary</p>	
<p>7</p>	<p>The Balance Summary offers a snapshot of the protected person’s financial situation:</p> <ul style="list-style-type: none"> • Income and Expenses –refers to the money received and spent during the reporting year on behalf of the protected person. • Assets and Liabilities - the assets and debts the protected person had in the reporting year. <p>The information in the Balance Summary will come from completing Worksheets A – E that follow.</p> <p>Skip this section for now and return to it as directed when completing each Worksheet.</p>

Income and Expenses	
8	<p>This section is for listing the money received and spent by and on behalf of the protected person.</p> <p>Complete Worksheets A and B.</p>
<p>Worksheet A - Income</p> <p>a) List all income/money received by the protected person in the reporting year.</p> <p>b) The worksheet includes common income items. If money was received that does not fit into one of these items, list it under the “Other” line. Leave an item blank if it does not apply.</p> <p>c) Add all income rows and list the amount in the Total box.</p> <p>d) Copy the Total to the Amount box on the Balance Summary Line 1.</p>	
<p>Worksheet B - Expenses</p> <p>a) List all expenses paid on behalf of the protected person in the reporting year.</p> <p>e) The worksheet includes common expense items. If an expense does not fit into one of these items, list it under the “Other” item line. Leave an item blank if it does not apply.</p> <p>b) Add all expense rows and list the amount in the Total box.</p> <p>c) Copy the Total to the Amount box on the Balance Summary Line 2.</p>	
9	<p>If an expense listed is past due or not paid in full, provide a description of the item and the status of the amount owed.</p> <p>Leave blank if not applicable.</p>
10	<p>If any of the protected person’s funds were used for the benefit of someone else, provide a description, including the amount used and why.</p> <p>Leave blank if not applicable.</p>
Assets and Liabilities	
11	<p>This section is for listing the assets the protected person owns and debts the protected person is responsible for paying.</p> <p>Complete Worksheets C and D.</p>
<p>Worksheet C – Assets</p> <p>Assets refer to money, property, or other items that the protected person owns.</p> <p>(Note: Income is not the same as an asset; income refers to money that “comes in” periodically.)</p>	

- a) List all assets owned by the protected person in the reporting year.
- b) This worksheet is split into common asset categories. If the protected person owns an asset not listed, include it under “Other” in the most appropriate category. If the asset refers to an account, list the name of the account where applicable.
- c) Add each column together. List in the Total boxes at the bottom of the worksheet.
- d) Copy the Totals to the boxes on the **Balance Summary Line 3.**

TIP:

Starting Balance refers to the asset’s worth at the beginning of the reporting period. This should match the Ending Balance from the previous Financial Accounting report.

Gain/Loss Amount refers to an increase or decrease in the value of the asset during the reporting period.

Ending Balance is the difference between the Starting Balance and the Gain/Loss Amount.

The Ending Balance may be higher if the asset increased in value, or lower, if the asset lost value. It may also be the same, if the asset’s value did not change during the reporting period.

Worksheet D – Investments and Trusts

Investments and trusts are specific types of assets and accounts that are held for the protected person’s benefit.

- a) List all investments and trusts that are in the name of and/or set aside for the benefit of the protected person in the reporting year.
- b) The worksheet is split into common investment categories. If the protected person has an investment type not listed, include it under “Other” in the appropriate category. If the protected person has a trust set aside for their benefit, list the name of the trust where applicable.
- c) Add each column together. List the amounts in the Total boxes at the bottom of the worksheet.
- d) Copy the Totals to the boxes on the **Balance Summary Line 4.**

Worksheet E – Debts / Liabilities

Debts refer to a financial obligation in which payments are made until the obligation is fully paid off.

(Note: Expenses differ from debts. Expenses are recurring items that are often found as part of a monthly budget. For example, a monthly mortgage payment is an expense; the full amount owed on the mortgage loan is a debt.)

- e) List all debts owed by the protected person in the reporting year.
- f) The worksheet is split into common debt categories. If the protected person has a debt not listed, include it under “Other” in the appropriate category.
- g) Add each column together. List the amounts in the Total boxes at the bottom of the worksheet.
- h) Copy the Totals to the boxes on the **Balance Summary Line 5**.

TIP:

Starting Balance refers to the full amount owed at the beginning of the reporting period. This should match the Ending Balance from the previous Financial Accounting report.

Gain/Loss Amount refers to an increase or decrease in the debt amount during the reporting period.

Ending Balance is the difference between the Starting Balance and the Gain/Loss Amount.

The Ending Balance may be higher if the debt increased (e.g., interest accrued), lower if the debt decreased (e.g., payments toward the debt principal). It may also be the same, if the debt amount did not change during the reporting period.

Final Steps

- Return to the **Balance Summary** (page 3).
Each line should now have totals listed, from completing Worksheets A – E.
 - Subtract Line 2 from Line 1, to get the Total for **Income and Expenses**.
 - Add the Ending Balance on Line 3 to the Ending Balance on Line 4. Then, subtract the Ending Balance amount from Line 5, to get the Total for **Assets and Liabilities**.
- Sign and date the last page of the report.

<input type="checkbox"/>	Before submitting, make sure you have attached all applicable bank statements, account statements, tax assessments, or other supporting documentation.
<input type="checkbox"/>	<p>When filing this report, complete the following additional forms:</p> <ul style="list-style-type: none">○ Notice of Right to Object. (Required if there are interested persons who must be served with a copy of the Financial Accounting Report.)○ Guardian and Conservator Certificate of Mailing. (Required if there are interested persons who must be served with a copy of the Financial Accounting Report.) <p>Copies of these forms can be found here: https://www.utcourts.gov/howto/family/gc/reports.html</p>

Effective 5/8/2018

75-5-303 Procedure for court appointment of a guardian of an incapacitated person.

Statute	Notes
(1) An incapacitated person or any person interested in the incapacitated person's welfare may petition for a finding of incapacity and appointment of a guardian.	
(2) (a) Upon the filing of a petition, the court shall set a date for hearing on the issues of incapacity. (b) Unless the allegedly incapacitated person has counsel of the person's own choice, the court shall appoint an attorney to represent the person in the proceeding the cost of which shall be paid by the person alleged to be incapacitated, unless the allegedly incapacitated person and the allegedly incapacitated person's parents are indigent. (c) If the court determines that the petition is without merit, the attorney fees and court costs shall be paid by the person filing the petition. (d) If the court appoints the petitioner or the petitioner's nominee as guardian of the incapacitated person, regardless of whether the nominee is specified in the moving petition or nominated during the proceedings, the petitioner shall be entitled to receive from the incapacitated person reasonable attorney fees and court costs incurred in bringing, prosecuting, or defending the petition.	(b) – the wording here is inconsistent with the wording in Code 75-5-407 (dealing with conservators), which says, “ <i>Unless the person to be protected has already retained counsel...</i> ” What capacity must the respondent have in order to <u>choose</u> their own attorney?
(3) The legal representation of the incapacitated person by an attorney shall terminate upon the appointment of a guardian, unless: (a) there are separate conservatorship proceedings still pending before the court subsequent to the appointment of a guardian; (b) there is a timely filed appeal of the appointment of the guardian or the determination of incapacity; or (c) upon an express finding of good cause, the court orders otherwise.	

<p>(4) The person alleged to be incapacitated may be examined by a physician appointed by the court who shall submit a report in writing to the court and may be interviewed by a visitor sent by the court. The visitor also may interview the person seeking appointment as guardian, visit the present place of abode of the person alleged to be incapacitated and the place it is proposed that the person will be detained or reside if the requested appointment is made, conduct other investigations or observations as directed by the court, and submit a report in writing to the court.</p>	<p>Confusion over what is meant by a “physician appointed by the court.”</p>
<p>(5) (a) The person alleged to be incapacitated shall be present at the hearing in person and see or hear all evidence bearing upon the person's condition. If the person seeking the guardianship requests a waiver of presence of the person alleged to be incapacitated, the court shall order an investigation by a court visitor, the costs of which shall be paid by the person seeking the guardianship.</p>	<p>Define what is meant by “in person”? A respondent cannot be excused from the hearing if the respondent does not have counsel (per (5)(d)). Does this need to be made clearer?</p>
<p>(b) The investigation by a court visitor is not required if there is clear and convincing evidence from a physician that the person alleged to be incapacitated has: (i) fourth stage Alzheimer's Disease; (ii) extended comatosis; or (iii) (A) an intellectual disability; and (B) an intelligence quotient score under 25.</p>	<p>Fourth stage Alzheimer’s and an IQ score of 25 are not legitimate criteria. Update medical criteria to language used in diagnoses. NOTE - medicine is not sufficiently standardized so that any kind of diagnosing system could be used, because not all providers will write notes in the same way. Suggested language (per WINGs member Dr. Michelle Miranda, Clinical Neuropsychologist): (b) The investigation by a court visitor is not required if there is clear and convincing evidence from a physician that the person alleged to be incapacitated has: (i) A progressing neurodegenerative (dementing) disease causing dependence for basic activities of daily living (dressing/eating/etc.) (ii) extended comatosis</p>

	<p>(iii) A severe intellectual disability causing dependence for basic activities of daily living (dressing/eating/etc.)</p>
<p>(c) The person alleged to be incapacitated is entitled to be represented by counsel, to present evidence, to cross-examine witnesses, including the court-appointed physician and the visitor, and to trial by jury. The issue may be determined at a closed hearing without a jury if the person alleged to be incapacitated or the person's counsel so requests.</p>	<p>Discuss including clarifying language that addresses the issues surrounding Court Visitors being called to testify.</p>
<p>(d) Counsel for the person alleged to be incapacitated, as defined in Subsection 75-1-201(22), is not required if:</p> <ul style="list-style-type: none"> (i) the person is the biological or adopted child of the petitioner; (ii) the value of the person's entire estate does not exceed \$20,000 as established by an affidavit of the petitioner in accordance with Section 75-3-1201; (iii) the person appears in court with the petitioner; (iv) the person is given the opportunity to communicate, to the extent possible, the person's acceptance of the appointment of petitioner; (v) no attorney from the state court's list of attorneys who have volunteered to represent respondents in guardianship proceedings is able to provide counsel to the person within 60 days of the date of the appointment described in Subsection (2); (vi) the court is satisfied that counsel is not necessary in order to protect the interests of the person; and (vii) the court appoints a visitor under Subsection (4). 	<p>NOTE – the way the statute is written, if an individual is excused from the hearing under the medical criteria listed in 5b, the attorney requirement <u>cannot</u> be waived, per 5d.</p> <p>Top line, add language: “Counsel for the person alleged to be incapacitated, as defined in Subsection 75-1-201(22), is not required if each of the following criteria are met:”</p> <p>(i) is there value in adjusting/adding criteria to account for parents caring for adult children between the ages of 18-21 with incapacity?</p> <p>(iii) – this means that if the respondent has been excused from the hearing, per (5)(a), counsel cannot be waived. Should this be made clearer?</p> <p>(iv) – What does this look like? If is expressed only during the hearing? To a Court Visitor?</p> <p>(v) – The 60 days language is confusing and should be clarified.</p> <p>(vi) – keep the “and” and the end of the sentence, in addition to adding the redline language above.</p>