

#### Q: Why should I set up a conservatorship?

A: An adult with PWS may experience dire consequences if they are not conserved:

**Once your loved one with PWS turns 18, you as their parent or care provider have no legal rights if you don't have Conservatorship.** If your loved one runs away or chooses to live somewhere dangerous, you have no legal right to keep him or her safe. If your loved one is hospitalized or refuses hospitalization, you have no legal right to direct medical care or even receive information from the doctors. If your loved one enters into a contract or charges money on a credit card, they are legally obligated to pay the debt or incur legal consequences. If your loved one steals food or other items from a store, you have no legal input to their defense. **Conservatorship gives you the legal authority to help your loved one make important life decisions and ensure their health and safety.**

If an adult **is not** a Regional Center consumer and **is not** conserved:

All of the above information pertains to an adult with PWS who has no eligibility in California's Regional Center system and is not conserved.

If an adult **is** a Regional Center consumer but **is not** conserved:

The mandate of the Regional Centers is to support each adult consumer (that is, the person with the developmental disability) in reaching their personal goals with **the least amount of control by others.**

In the absence of a conservatorship, once a person reaches the age of 18 years old, the individual with disabilities has the power to make all legal, medical, and place of living decisions. Some Regional Centers will suggest that the State file for conservatorship if they feel the client (the person with the disability) is a danger to themselves. It all depends on how much their individual Regional Center case coordinator knows about PWS. The Regional Center case coordinator will be guided by the person's Individual Program Plan (IPP) which is an outcome of the Regional Center's person-centered planning process. Although a person's IPP will result from the input of many people, without a conservatorship the wishes of the adult consumer will dictate services and supports. For example, as a parent you may want to put language into the IPP that under no circumstances should the person be allowed unsupervised access to food, but if you are not the person's conservator and he/she disagrees with this restriction, their wishes will rule the day.

## Q: What exactly is a conservatorship?

**A:** Conservatorship authorizes a responsible person, called a **conservator**, certain rights to care for another adult, who is called the **conservatee**.

The most appropriate type of conservatorship for someone with PWS is a Probate Conservatorship. Depending upon the needs of the disabled person this will either be a **General Conservatorship** or a **Limited Conservatorship**.

**General Conservatorship** is for adults who cannot take care of themselves or their finances. Some PWS specialists believe this is the most appropriate conservatorship for adults diagnosed with PWS.

**Limited Conservatorship** is intended for adults with developmental disabilities and allows the disabled adult to retain certain rights. There are two different types of Limited Conservatorship: **Conservatorship of the Person** and **Conservatorship of the Estate**.

If a Limited Conservatorship is more appropriate than a General Conservatorship you will definitely file for **Conservatorship of the Person**. In a Conservatorship of the Person there are seven rights that a judge can award to a conservator, depending upon the conservatee's abilities. The rights the proposed conservator may apply for are:

1. To decide where the conserved adult lives.
2. To have access to the confidential records and papers of the adult.
3. To make all decisions concerning the conserved adult's education, vocational training, and day programs.
4. To restrict the adult's right to enter into a contract.
5. To give or withhold consent for the adult's medical treatment.
6. To restrict the adult's social and sexual contacts and relationships.
7. To give or withhold consent to the adult to marry.

You need a **Conservatorship of the Estate** *only if the disabled adult has assets* such as an inheritance or a settlement from a lawsuit that are not protected in a special needs trust. You *do not* need a Conservatorship of the Estate if the disabled adult *has no assets*, other than receiving public assistance like Supplemental Security Income (SSI) or Social Security (SSA). If you are a Conservator of the Estate you must:

- Manage and protect the conservatee's assets,
- Locate and take control of all assets,
- Collect the conservatee's income,
- Make a budget to show what the conservatee can afford,
- Pay the conservatee's bills,
- Invest the conservatee's money, and
- Account to the court and to the conservatee for your management of the conservatee's assets.

*Note:* While beyond the scope of this FAQ, regardless of conservatorship status **it is highly advisable to create a Special Needs Trust to financially protect your loved one**. If you don't already have a Special Needs Trust, a Conservator of the Estate is advisable. Contact PWCF for a referral to a Special Needs Trust attorney.

## Q: Who can be appointed as a conservator?

**A:** Conservators are usually parents, sisters or brothers, but any responsible adult can act as a conservator. There are even institutions that can serve as conservator.

It may be a good idea to have more than one conservator for an individual so that the conservatee can rely on there being continuous support. However, all conservators must consult with each other and agree on all courses of action. As choosing potential candidates may require significant time and thought on the part of all involved, you should consider engaging with them well before the person's 18th birthday.

## Q: When should I apply for a conservatorship?

**A:** Start the application process **no later than 6 months prior to the person's 18th birthday.**

Prior to starting the process, the potential conservators should all be lined up and everyone in agreement with the plan including the conservatee. Again, this will take some thought and time and so it is best to have this decided well before you apply for the conservatorship.

## Q: How do I start the process?

**A:** Conservatorship must be applied for within the county where your loved one, the potential conservatee, resides. You or a lawyer must fill out and file court forms. All of the legal forms you or your lawyer will need may be found at the website for [California Courts](#). Under "Browsing Form Files on California Courts" choose "Guardianships and Conservatorships." The [Handbook for Conservators](#) from the Judicial Council of California is very helpful resource.

This process is not a simple one. If you are not familiar with legal documents and proceedings, you should consider hiring a lawyer who is expert in conservatorship.

If you plan to proceed **without a lawyer**, some counties have self-help centers that provide the needed forms and guidance. For example, [The County of Santa Clara Self-Help](#) is one such site where the needed forms can be found as well as workshops you can sign up for. Unfortunately, free legal help for people who want to be conservators is generally not available.

If you plan to proceed **with a lawyer**, obviously you'll need to find one. You can ask other parents for their recommendations and what they paid. Of course, an internet search like "conservatorship attorney California" will give you many lawyers to choose from.

Once you locate a lawyer, you will need to educate them about PWS so that they understand this unique syndrome and the reasons why you are asking for conservatorship. You will also need to educate your loved one's court-appointed lawyer about PWS, as well as any other professionals you may work with throughout the process. Visit the PWCF website [Parents-Adult Years](#) page or contact the PWCF Office for a copy of **Facts About PWS that Conservatorship Attorneys Need to Know**.

## Q: What should I expect?

**A:** The conservatorship process is not identical in every county, but the following gives a "big picture" overview of what you can expect:

- Your lawyer (or the legal forms if you are not using a lawyer) will ask you a lot of questions and inform you of the process. Questions like:

- Why are you seeking conservatorship?
- What powers of conservatorship are you seeking and why?
- Who will be the conservator(s)?
- Questions about your family.
- You'll be asked and/or required to educate yourself on the conservatorship process. For example, you may be:
  - Required to purchase and read a handbook on conservatorships.
  - Required to watch a short video on conservatorship at a courthouse.
- Depending on the powers of conservatorship you are seeking, the potential conservatee may need to be interviewed by:
  - Regional Center to assess their ability to enter contracts and/or living needs.
  - Psychiatrist to assess their mental ability.
- The court will appoint a lawyer, typically a public defender, to represent the potential conservatee. The lawyer will meet with the potential conservatee (their client) explaining the powers you are seeking and advocating for any concerns their client may express.
- All potential conservators will be interviewed by an officer of the court.
- A court date will be assigned. You, your son/daughter, your lawyer, and the court-appointed lawyer representing your son or daughter may need to appear before a judge depending upon the court. You'll be in front of the judge for about 10 minutes. If there are no issues, the judge will grant the conservatorship.

**Q: How much will it cost?**

**A:** If you do not use a lawyer, the cost of the petition filing fee is \$435. The cost to obtain a conservatorship in California with a lawyer will range anywhere from \$1,200 to \$5,000.

**Q. What happens after I receive conservatorship?**

**A:** You will want to keep your official conservatorship court documents in a safe place, such as your home filing system or in a bank safe deposit box. You will want to share a copy of the conservatorship documents with the conservatee's Regional Center case worker if he/she has one, and with all health care providers. It is recommended to keep a copy on your cell phone so you can show them to anyone who needs to view them immediately, such as in an emergency room setting.

The conservatee's court appointed attorney will visit the conservatee once a year to make sure that your loved one is receiving excellent care.

**Q. Where can I find out more?**

**A:** The PWCF website lists several additional resources:  
<https://pwcf.org/for-parents/conservatorship/>

The handbook some California counties require you to read is available here:  
<https://www.courts.ca.gov/documents/handbook.pdf>

An internet search will give you many leads. One well written, authoritative site is for Santa Clara County: [Santa Clara County LIMITED CONSERVATORSHIP](#)

This document was created by PWCF's Home and Community-Based Services Task Force. Contact the PWCF Office to reach a member of the Task Force or if you need more information or support.

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