

Butte County Superior Court Local Rules
Proposed Rule Changes
Effective July 1, 2024

16.5 RESTRAINING ORDERS, EX PARTE REQUEST FOR RESTRAINING ORDERS, ORDER SHORTENING TIME FOR SERVICE/HEARING *(Effective date 7-1-90, as amended 01-01-04, as amended 7-1-04, as amended 7-1-09, as amended 7-1-11, as amended 1-1-12, as amended 7-1-15, as amended 6-12-20, as amended 1-1-21, as amended 7-1-21, as amended 1-1-23, as amended 7-1-24)*

- (a) Requests for ex parte temporary restraining orders in domestic violence, civil harassment, workplace violence, elder abuse, and dependent adult abuse actions:
1. NOTICE: Requests for ex parte restraining orders in the actions referenced in (a) above may be made without notice to the opposing party. Upon the requisite showing being made by way of affidavit or declaration a temporary restraining order may be issued without notice.
 - a. The required showing in a domestic violence, elder abuse and dependent adult abuse action is reasonable proof of a past act or acts of abuse by the defendant against the plaintiff. FC §6300, W & I. C, §15657.03(c).
 - b. The required showing in a civil harassment action is reasonable proof of harassment of the plaintiff by the defendant and that great or irreparable harm would result to the plaintiff. CCP §527.6(c).
 - c. The required showing in a workplace violence action is reasonable proof that the employee suffered unlawful violence or a credible threat of violence by the defendant and that great or irreparable harm would result to an employee. CCP §527.8(e).
 2. The court has discretion to require notice to an opposing party/defendant of any request for an ex parte temporary restraining order in any of the actions listed in 16.5(a) above.
- (b) Requests for ex parte temporary restraining orders in:
1. Marital litigation (i.e., dissolution, nullity and legal separation actions)
 2. domestic partnership litigation (i.e., where custody/visitation is an issue in domestic partnership dissolution, nullity or legal separation actions)
 3. an action under the uniform parentage act to determine custody or visitation
 4. a proceeding to determine custody or visitation in an action brought by the Department of Child Support Services pursuant to FC§17404
 5. a grandparent visitation action by joinder, or
 6. an independent action for visitation by a former legal guardian:
 - a. NOTICE: Unless it appears from the facts presented in the applicant's declaration that reasons exist for the applicant to be excused from the notice requirements of CRC 3.1203(a) [see CRC 3.1204(b)(3)], notice of an intent to seek an ex parte restraining order in any actions referenced in (b) above must be given pursuant to California Rules of Court 3.1203, 3.1204 and 3.1206.
- (c) Ex parte hearings are held each court day at 3:00 pm at the North Butte County Courthouse, 1775 Concord Avenue in Chico. The party requesting the ex parte temporary order(s) must file the moving papers (Request for Order) at or before 10:00am on the day of the hearing.

- (d) All requests for temporary orders in the actions referenced in (b) above must include a declaration containing the information as set forth in ~~Declaration Re: Notice of Ex Parte Application for Order and/or Orders Shortening Time~~ **Declaration Re: Notice of Ex Parte Application for Orders** (form ~~LM.010~~) (form **FL.010**) and the reasons why an order shortening time for service and hearing will not suffice in lieu of an ex parte order pending hearing.
- (e) Ex parte requests for modification of existing custody and visitation orders or for custody and visitation orders will not issue absent a clear showing of risk of immediate harm to the child(ren), or immediate risk the child(ren) will be removed from the State of California. The showing must be made by affidavit or declaration and shall include a full, detailed description of the most recent incident(s) of physical harm, threats of harm or threats to remove the child(ren) from the state and must specify the date of each incident. There is an absolute duty to advise the Court what the existing custody and visitation arrangement is and how it will be changed by the requested ex parte order. Further, if there is an existing Court order relative to child custody and visitation, the date and provisions of that order must be set forth as part of the supporting declaration. *(Effective date 7-1-90, as amended 01-01-04, as amended 7-1-04, as amended 7-1-09, as amended 7-1-11, as amended 1-1-12, as amended 7-1-12 as amended 7-1-15, as amended 6-12-20, as amended 1-1-21, as amended 7-1-21, as amended 1-1-23, as amended 7-1-24)*

12.10 CONSERVATORSHIPS *(Effective date 7-1-98, as amended 1-1-03, as amended 7-1-09, as amended 1-1-11, as amended 7-1-12, as amended 7-1-13, as amended 1-1-14, as amended 7-1-17, as amended 7-1-19, as amended 7-1-24)*

(a) RESERVED

(b) COURT INVESTIGATOR

1. In all cases, the petitioner or his or her attorney must submit a completed Court Investigator Information Sheet to the Clerk's Office at the time of the filing of the petition for appointment of a conservator.
2. The provisions of the Probate Code concerning the duties of the Court Investigator apply whether or not the proposed conservatee is the petitioner, [contrary to Probate Code §1826(o).]
3. The Court Investigator must be informed immediately of any change of address for the conservatee, the conservator or any attorney of record. This may be accomplished by submitting a new Court Investigator Information Sheet.
4. Assessment for the cost of the Court Investigator's investigation shall be paid as ordered by the Court. Prob. §1851.5 permits the Court to waive, defer, or order paid in part such fee in case of hardship. Assessments will be billed to the estate or, where applicable, to a trust where the conservatee is a beneficiary. Conservator shall provide the Court with the current address of the trustee of any such trust.
5. Assessments shall be paid to Butte County Superior Court.
6. An original of each of the following are required at the time of filing for review by the Court Investigator: Petition for Appointment, Confidential Supplemental Information, Confidential Screening, Court Investigator's Information Sheet, doctor reports and accountings.

7. In cases in which the matter is scheduled for a Review Hearing, the conservator is required to submit a proposed Order Continuing Conservatorship (Form PR.030) at the time of the filing of the Court Investigator Information Sheet.

8. Additional fees and/or mileage costs may apply for any time the court investigator must travel out of county to perform an investigation due to the other county not performing courtesy investigations.

(c) TEMPORARY CONSERVATORSHIP

1. Ordinarily, no petition for appointment of a temporary conservator will be considered by the Court prior to the filing of a petition for appointment of a permanent conservator. The bond must be filed with the Court within five (5) court days of appointment as temporary conservator. Failure to do so will result in removal as the temporary conservator.

2. The petition for appointment of a temporary conservator may be brought ex parte, provided that the provisions for notice to proposed conservatee required by law are satisfied, either by giving notice to the proposed conservatee or by submission of a declaration showing facts sufficient to allow the Court to determine that good cause exists to eliminate or alter the notice requirements and provided that the following information is submitted:

A. The original and copy of the petition and proposed order;

B. A detailed statement of facts in the petition establishing the necessity for the temporary conservatorship; and

C. An endorsed, filed copy of the petition for appointment of the permanent conservator.

D. If the attorney is informed that the petition for appointment of a permanent conservator will be contested, all known potential objectors shall be notified at least forty-eight (48) hours in advance of the time and place the petition for appointment of the temporary conservator will be presented. However, if facts are found which make it clear that the notice required by this section would tend to adversely affect the conservatee or the conservatee's estate, notice to potential objectors may be waived upon a showing of exigent circumstances.

3. Ordinarily, the Court will require a bond for temporary conservators of the estate.

4. Letters of temporary conservatorship expire on the date of the hearing on the appointment of the permanent conservator or thirty (30) days after appointment of the temporary conservator, whichever is earlier, unless the Court extends the termination date pursuant to Prob. §2257.

(d) INDEPENDENT EXERCISE OF POWERS. No powers specified in Prob. §2591 will be granted in the absence of a clear and convincing factual showing that the grant of each power requested is needed to administer the estate, and that the grant of such power is for the advantage, benefit and best interests of the estate.

(e) CONDITIONS FOR APPOINTMENT OF INDIVIDUAL CONSERVATORS

1. BOND OF CONSERVATOR. Bond for an individual conservator of the estate shall not be waived. Under special circumstances, the Court in its discretion may order a reduced bond where the conservatee, having sufficient capacity to do so, has waived or requested bond amount. Bond of the conservator may be reduced by deposit of assets into block accounts. The bond must be filed with the Court within ten (10) days of appointment as conservator. Failure to do so will result in removal as conservator.
2. HANDBOOK. Prior to the hearing for appointment of conservator, the proposed conservator shall obtain the "Handbook for Conservators" by accessing it at www.courts.ca.gov/documents/handbook.pdf.
3. DUTIES OF CONSERVATOR. A completed form "Duties of Conservator" and "Confidential Conservator Screening Form" (JC Form GC-348 and GC-314) shall be filed simultaneously with the petition for appointment.

(f) ALLOWANCE OF FEES IN CONSERVATORSHIP PROCEEDINGS.

1. No fees will be ordered paid in conservatorship proceedings until the filing of the inventory, but in no event until the expiration of ninety (90) days from the issuance of letters, pursuant to Prob. §§2640-2642.
2. Conservators of persons or estates or both and attorneys may petition the Court for just and reasonable compensation earned to the date of filing the petition. The petition for compensation shall set forth the hours spent and services performed by the conservator, the attorney and any paralegal. At the time of filing the first accounting, the conservator and attorney (and the attorney on behalf of the paralegal) may petition the Court for compensation, or additional compensation earned from the date of a prior award, by setting forth the hours spent and the services performed.
 - A. Ordinarily, reasonable compensation for conservators shall not exceed seventy-five dollars (\$75) per hour.
3. Fees for services which could ordinarily be provided by someone of less skill than the conservator (such as running errands, shopping and the like) will be compensated at a rate which one might expect for the performance of such duties rather than at a rate which might be appropriately paid to the Conservator for services which require the skill, training and expertise of a conservator.
 - A. In the event the attorney for a conservator performs some of the administrative and bookkeeping functions normally performed by the conservator, the attorney may be awarded a larger amount of the combined fees and the conservator allowed a smaller portion thereof so that the total compensation awarded is no larger than that provided for under the guidelines set forth above.
4. Where all or a portion of the fee awarded exceeds cash on hand in the estate, the Court may, in appropriate circumstances, issue its order imposing a lien for fees on any or all of the assets in the estate. Ordinarily, enforcement of the lien will be deferred until the assets of the estate subject to the lien have been liquidated for reasons other than the satisfaction of the unpaid fee.

5. To be valid, contingent fee contracts with an attorney require prior court approval. It is advisable for the attorney to petition the Court for its approval prior to rendering services.

6. The title of the petition embodying an application for the payment of fees and of the notice of hearing of such petition shall include a reference to the request.

7. Compensation to an attorney representing a conservatee may be ordered at the conclusion of the hearing on the appointment of the conservator.

(g) PRIVATE PROFESSIONAL CONSERVATORS.

1. REGISTRATION. All parties who fit the definition of a Private Professional Conservator as described in Prob. §2341 must register with the Clerk's Office. Contact the Clerk's Office for the current fee. One set of fingerprint cards and a Certificate of Registration of Private Professional Conservator are required when registering.

(h) APPOINTMENT OF LEGAL COUNSEL. Appointment of legal counsel pursuant to Prob. §§1470 and 1471 is made in the following manner:

1. If the conservatee or proposed conservatee is developmentally disabled or indigent, the Butte County Public Defender is appointed;

2. If the conservatee or proposed conservatee is not indigent, an attorney's name is obtained through the Court's list of attorneys available for appointment. The attorney will be paid up to his or her usual hourly rate from the conservatee's estate.

3. If a conservatee or proposed conservatee has retained legal counsel independently, the representation is subject to approval by the Court.

(i) ACCOUNTINGS

1. The conservator or successor conservator may either arrange to pick up the original lodged confidential supporting documents or provide a self-addressed stamped envelope for their return upon final determination and approval of the conservator's account by the Court. If the conservator or successor conservator is picking up lodged documents in person, they must sign a receipt pursuant to CRC §10.610(c)(8) and CCP §1952.2. Any documents so lodged, which are not accompanied by a self-addressed stamped envelope or in the alternative not picked up and a receipt signed, may be destroyed by the clerk 45 days after the hearing.

2. Requests to waive interim accountings under Probate Code Section 2628 may be made on an ex parte basis. All such requests must be submitted on the Mandatory Butte County Local Form PR.040. All final accountings, including estates qualifying under Probate Code Section 2628, shall be set for hearing. In all cases in which the conservator seeks an order dispensing with a formal accounting pursuant to Probate Code Section 2628, the beginning and ending dates of the accounting period sought to be waived must be specified. An order dispensing with the filing of a formal accounting does not relieve the conservator from the duty of filing subsequent Probate Code Section 2628 petitions or, where the estate no longer qualifies, a formal accounting pursuant to Probate Code Section 2620. If, after payment of court approved conservator's and attorneys' fees, if any, it appears to the satisfaction of the court that the estate will continue to meet the requirement of Probate Code Section 2628, the court may dispense with future accountings.

(j) TERMINATION OF CONSERVATORSHIP OF THE PERSON

1. The conservator shall file Judicial Council Form GC-399, and attach thereto a copy of the conservatee's death certificate with the conservatee's social security number redacted, prior to termination of a conservatorship of the person. *(Effective date 7-1-98, as amended 1-1-03, as amended 7-1-09, as amended 1-1-11, as amended 7-1-12, as amended 7-1-13, as amended 1-1-14, as amended 7-1-17, as amended 7-1-19, as amended 7-1-24)*

12.11 GUARDIANSHIPS *(Effective date 7-1-09, as amended 7-1-24)*

- (a) RESERVED
- (b) RESERVED
- (c) RESERVED
- (d) RESERVED
- (e) RESERVED
- (f) RESERVED
- (g) RESERVED
- (h) RESERVED
- (i) ACCOUNTINGS

1. The guardian or successor guardian may either arrange to pick up the original lodged confidential supporting documents or provide a self-addressed stamped envelope for their return upon final determination and approval of the guardian's account by the court. *(Effect ve 7-1-09)*

2. Requests to waive interim accountings under Probate Code Section 2628 may be made on an ex parte basis. All such requests must be submitted on the Mandatory Butte County Local Form PR.040. All final accountings, including estates qualifying under Probate Code Section 2628, shall be set for hearing. In all cases in which the conservator seeks an order dispensing with a formal accounting pursuant to Probate Code Section 2628, the beginning and ending dates of the accounting period sought to be waived must be specified. An order dispensing with the filing of a formal accounting does not relieve the conservator from the duty of filing subsequent Probate Code Section 2628 petitions or, where the estate no longer qualifies, a formal accounting pursuant to Probate Code Section 2620. If, after payment of court approved conservator's and attorneys' fees, if any, it appears to the satisfaction of the court that the estate will continue to meet the requirement of Probate Code Section 2628, the court may dispense with future accountings.

LOCAL RULE 12 - PROBATE RULES (Effective 7-1-98, as amended 7-1-02, as amended 1-1-05, as amended 7-1-09, as amended 1-1-11, as amended 7-1-12, as amended 7-1-13, as amended 1-1-14, as amended 1-1-16, as amended 7-1-17, as amended 7-1-19, as amended 1-1-21, as amended 1-1-23, as amended 7/1/24)