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**FILED**

OCT 25 2017

**In the Iowa Supreme Court**

**Request for Public Comment )  
on Proposed New Iowa Rule of )  
Probate Procedure Prohibiting )  
Waiver of Guardian and Conservator )  
Filing Requirements )**

**Order**

CLERK SUPREME COURT

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The Iowa Supreme Court seeks public comment on a proposed new rule of probate procedure that would prohibit waiver of a guardian's requirement to file initial, annual, and final reports and that would prohibit waiver of a conservator's requirement to file inventories, annual reports, and accountings. The proposed rule is based on recommendations from the Iowa Guardianship and Conservatorship Reform Task Force (Task Force). Proposed new Iowa Rule of Probate Procedure 7.8 is provided with this order.

The August 2017 Task Force Final Report, *Reforming Iowa's Guardianship and Conservatorship System* (Report), includes recommendations on guardianship and conservatorship filing requirements.\* According to the Task Force study, Iowa courts are granting reporting requirement waivers in a significant number of guardianships and conservatorships, but the practice varies among judicial districts and among counties within districts. The Task Force concluded that waivers negatively impact a court's ability to fulfill its guardianship and conservatorship monitoring responsibilities. Extensions of time—especially repeated extensions—for filing required reports similarly impede the court's monitoring ability. In addition to the prohibition on waivers, the Task Force recommended implementation of a sanctioning mechanism for guardians and conservators who fail to comply with filing requirements after receiving fair notice of such failure and the opportunity to cure the failure.

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\*See Report, Part Four: Court Monitoring Adult & Minor Guardianships & Conservatorships, section VI, Waivers of Filing Requirements, Extensions of Time for Filing, and Enforcement of Filing Requirements, recommendations 4.19–.21, pp. 101–03.

The specific Task Force recommendations on this subject from the Report are the following:

4.19. The court should not grant a waiver of the requirement for the filing of guardianship initial care plans and annual reports or of the requirements for the filing of conservatorship initial financial management plans, inventories, annual reports, and accountings.

4.20. The court should grant an extension of time for the filing of required plans, inventories, annual reports, and accountings only when good cause is shown. Policies and practices should be developed to prevent "abuse" of extension requests and to avoid repeated extensions in a case.

4.21. Guardians and conservators who fail to file the required plans, inventories, annual reports, and accountings should be subject to removal and/or subject to sanctions deemed appropriate by the court, provided that they receive fair notice of failure to file and the opportunity to cure such failure.

During its 2017 Administrative Term the supreme court considered the Task Force Report and its numerous recommendations. The court asked the Judicial Council to consider the Task Force recommendations relating to waiver of guardian and conservator filing requirements. The Judicial Council supports a prohibition on waivers and limiting the granting of extensions for good cause shown.

Prior to further consideration of this proposed new Iowa Rule of Probate Procedure, the supreme court seeks public comment on the proposal. Proposed new Iowa Court Rule 7.8 is provided with this order and may be found on the judicial branch website at: [www.iowacourts.gov/About the \\_Courts/Supreme\\_Court/Orders/](http://www.iowacourts.gov/About_the_Courts/Supreme_Court/Orders/). In addition, copies are available at the office of the Clerk of the Supreme Court, Judicial Branch Building, 1111 East Court Avenue, Des Moines, Iowa 50319.

Any interested organization, agency, or person may submit comments regarding the proposed rule. Comments should refer to the line number of the proposed rule to which the comments are directed. Comments sent by email must be emailed to **rules.comments@iowacourts.gov**, must state "**Filing**

must be emailed to **rules.comments@iowacourts.gov**, must state **“Filing Requirements”** in the subject line of the email, and must be sent **as an attachment to the email in Microsoft Word format**. Instead of submission by email, comments may be delivered in person or mailed to the Clerk of the Supreme Court, Judicial Branch Building, 1111 East Court Avenue, Des Moines, Iowa 50319.

Any comments received may be posted on the Iowa Judicial Branch website.

**The deadline for submitting comments is 4:30 p.m. on December 26, 2017.**

Dated this 25th day of October, 2017.

The Supreme Court of Iowa

By   
Mark S. Cady, Chief Justice

Copies to:

- ✓ Iowa Supreme Court
- ✓ Iowa Court of Appeals
- ✓ Chief Judges
- ✓ Senior Judges
- ✓ District Court Judges
- ✓ District Associate Judges
- ✓ Judicial Magistrates
- ✓ State Court Administrator
- ✓ District Court Administrators
- ✓ Supreme Court Clerk
- ✓ Clerks of Court
- ✓ Iowa Judges Association
- ✓ The Iowa State Bar Association
- ✓ Iowa Legal Aid
- ✓ Drake University Law School
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**FILED**

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**CHAPTER 7  
RULES OF PROBATE PROCEDURE**

**CLERK SUPREME COURT**

Rule 7.1	Effective removal order — turnover
Rule 7.2	Fees in probate
Rule 7.3	District court rules in probate
Rule 7.4	Report of referee
Rule 7.5	Referees in probate
Rule 7.6	Reports of delinquent inventories or reports
Rule 7.7	Interlocutory report
Rule 7.8	<u>Guardian and Conservator Filing Requirements</u>
Rules 7.8 <del>9</del> to 7.10	Reserved
Rule 7.11	Forms
	Form 1: Report of Referee
	Form 2: Initial/Annual/Final Report of Guardian
	Form 3: Initial Report of Conservator and Inventory
	Form 4: Annual Report of Conservator
	Form 5: Final Report of Conservator
	Form 6: Protected Information Disclosure

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**CHAPTER 7**  
**RULES OF PROBATE PROCEDURE**

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**Rule 7.8 Guardian and Conservator Filing Requirements.**

**Rule 7.8(1)** The court shall not waive any guardian requirement to file an initial, annual, or final report.

**Rule 7.8(2)** The court shall not waive any conservator requirement to file an inventory, annual report, or accounting.

**Rule 7.8(3)** The court may extend the time for the guardian or conservator filing of an initial report, annual report, inventory, or accounting only upon the showing of good cause.

**Rule 7.8(4)** Upon a failure of a guardian or conservator to file any required report, inventory, or accounting, and after notice and opportunity to cure the failure, the court may impose sanctions on the guardian or conservator including removal of the guardian or conservator.

**Rules 7.89 to 7.10** Reserved.