

Rule 311. Service of petition and notice.

(a) Initial Proceeding. Notice of a petition for appointment of a guardian, petition for appointment of a conservator or for a protective order, or a petition for termination of a guardianship, conservatorship or protective arrangement; and the notice of hearing on any such petition, must be given as follows:

(1) Manner of Service:

(A) A petition for appointment of a guardian must be mailed to the subject of the petition, by first class mail, postage prepaid, within three days of its filing.

(B) The petition, and the notice of hearing, must be personally served on the subject of the proceeding and any other person required to be served who is a resident of the District of Columbia. The petition, and the notice of hearing, must be served on all other persons by certified or first class mail, addressed to the person's place of residence or office.

(C) The petition, and the notice of hearing, must be served at least 14 days before the date of the hearing, if personally served, or at least 17 days before the date of the hearing, if mailed.

(D) If the subject of a petition for appointment of a conservator or for a protective order has disappeared, has been detained by a foreign power, or is being held hostage by someone other than a foreign power, the notice of hearing on the petition must be published in a newspaper of general circulation in the District of Columbia at least once a week for 3 consecutive weeks, with the first publication being at least 40 days before the date set for the hearing.

(E) For good cause shown, the Court may provide for a different method or time of giving notice.

(2) Who May Serve: Service may be made by the petitioner's counsel or other adult agent, but not by the petitioner.

(3) Proof of Service: Proof of service must be given by affidavit filed not later than the date of the hearing.

(4) The subject of the proceeding may not waive notice. Any other person may waive notice by filing a written waiver.

(b) Proceedings under D.C. Code §21-2068. A petition or a petition filed under D.C. Code §21-2068, and notice of hearing on that petition, must be served on those persons listed in that section. Service must be made as provided in subsection (a), above.

(c) All other proceedings.

(1) A petition, and any notice of hearing, must be served on the incapacitated person, the attorney of record for each party or person entitled to participate or, if not represented by counsel, the party or person entitled to participate, and any person who has filed an effective request for notice pursuant to SCR-PD 304.

(2) A petition, and any notice of hearing, must be served personally or by certified or first class mail addressed to the person's place of residence or office.

(3) Notice of a hearing must be served:

(A) at least 14 days before the date of the hearing, if personally served;

(B) at least 17 days before the date of the hearing, if mailed; or

(C) if the incapacitated individual has disappeared, has been detained by a foreign power, or is being held hostage by someone other than a foreign power, the notice of hearing on the petition must be published in a newspaper of general circulation in the District of Columbia at least once a week for 3 consecutive weeks, with the first publication being at least 40 days before the date set for the hearing.

For good cause shown, the Court may provide for a different method or time of serving notice.

(4) Proof of Service.

(A) Proof of service of a petition must be given by certificate of service or by affidavit.

(B) Proof of service of a notice of hearing must be given by affidavit filed not later than the date of the hearing.

(5) The incapacitated person may not waive service or notice. Any other person may waive notice by filing a written waiver.

COMMENT:

This rule consolidates the requirements for service of petitions and notices of hearings into one rule. The requirements for service of an initial petition for a general proceedings; or a petition for termination of a guardianship, conservatorship and protective proceeding; and service of the notice of hearing required by law, are set out in Paragraph (a). Paragraph (c) sets out the procedures for serving all other petitions in intervention matters, except for petitions filed under D.C. Code §21-2068 (dealing with conflict of interest transactions), for which specific service provisions are provided in Paragraph (b). Paragraph (c) also governs service of any notice of hearing on a petition filed after the initial petition. Implementing the procedures of Rule 322, this Rule distinguishes between service of petitions filed after the initial petition and service of a notice of hearing on such petitions.