

Removal of Section 867 Trustees

Below is removal language that the Court now requires to be added to every Section 867 trust. The language and grounds for removal of a trustee are modeled on the removal provisions under the Guardianship Code (Section 761(c)).

The Court may remove a Trustee on its own motion, or on the complaint of an interested person, after the Trustee has been cited by personal service to answer at a time and place set in the notice, when:

- (1) sufficient grounds appear to support belief that the Trustee has misapplied, embezzled, or removed from the state, or that the Trustee is about to misapply, embezzle, or remove from the state, all or any part of the Trust property;
- (2) the Trustee fails to return any account required by law to be made;
- (3) the Trustee fails to obey any proper order of the court having jurisdiction with respect to the performance of the Trustee's duties;
- (4) the Trustee is proved to have been guilty of gross misconduct or mismanagement in the performance of the duties of Trustee; or
- (5) the Trustee becomes incapacitated, or is sentenced to the penitentiary, or becomes insolvent, or from any other cause becomes incapable of properly performing the duties of Trustee.