

Informing Families

Building Trust

A Partnership for Better Communication
on Developmental Disability Issues in Washington State

Guardianship Overview: Part One

Note: The following information is intended to give an overview of guardianship in Washington State. It is for educational purposes only and is not a substitute for legal advice. For advice on making legal decisions, please seek the assistance of an attorney.

Many people think that guardianship is the best way to help adults with intellectual/developmental disabilities make important decisions. The truth is, guardianship is often not necessary. In fact, Washington state's guardianship law requires considering alternatives first.

- A child with a disability who is turning 18
- A person who is being abused, neglected or exploited
- A person who has dementia and can't live independently
- A person who cannot manage his money to meet his needs
- A person who cannot make health care decisions



In and of themselves, the reasons listed above do not indicate that guardianship is necessary. If problems arise, respectful interventions by friends and family are often enough to help the individual solve many issues that pose a risk to health, safety, and financial stability.

When petitioning the court to become a guardian, the category and scope of guardianship must be identified.

SCOPE OF GUARDIANSHIP

Limited

Grants the authority to make specific decisions identified in a court order and may be time-limited. Guardianships are supposed to be no broader than necessary to meet the needs resulting from a person's incapacity. Courts can appoint limited guardians for people who are capable of caring for themselves, or arranging for their care in some ways but not in others.

[Note: Incapacitation is not a statement about the individual's full range of abilities. For example, a person may not be able to manage his money, but he may have the ability to understand what a Power of Attorney is and, therefore, avoid guardianship by signing a Power of Attorney.]

Full

Grants the authority to make all make decisions provided under the law. Full guardianship denies a person significant rights, which may include the right to vote, marry, get a driver's license, enter into contracts, or decide who will provide care. It should be entered into only if alternatives to guardianship, or limited guardianship, are not sufficient.

CAEGORIES OF GUARDIANSHIP

- Guardian of the Estate
- Guardian of the Person
- Guardian of the Person and Estate

Guardian of the Estate Responsibilities:

Keep meticulous records of the person's property and finances; that is, everything the person owns, pays for and receives. The guardian must file with the court an inventory of all the person's possessions and assets within three months of appointment, as well as an annual accounting of income and expenses that must balance and be supported by records and receipts.

Guardian of the Person Responsibilities:

Ensure that the person's physical, mental and emotional needs—along with any need for assistance in activities of daily living—are being assessed and addressed. A Guardian of the Person is responsible for implementing a plan to meet these needs, and must file a care plan (identifying needs and explaining how they will be met) with the court within three months.