

GUARDIANSHIP

Guardianship is the legal power to care for another person and manage his/her affairs. At age 18, young adults become legally emancipated, meaning their parents are no longer their legal guardians. It may be important for some young adults to have someone assist with financial, medical, educational, and other important decisions. Less restrictive alternatives might be more suitable than guardianship. A lawyer should be consulted to determine and pursue the most appropriate approach.

Alternatives to pursuing full guardianship include:

- **Health Care Representative** - A person appointed to assist an individual make health care decisions
- **Representative Payee** – A person who is authorized to receive funds from a federal program and assists an individual with managing money
- **Special Power of Attorney** – A person is appointed to manage a specific asset for the owner
- **Durable Power of Attorney** – A person appointed to assist with all decisions for the individual
- **Special Needs Trust** – An appointed trustee can enter into a contract with individual, transferring management of certain assets to the trustee.

There are three types of guardianship: regular, limited, and temporary:

- ❖ **Regular Guardianship** – The guardian is required to care for and maintain the individual. They are charged with protecting, preserving, investing and accounting for the protected person's estate. Regular reports to the court are required regarding the status and condition of the person.
- ❖ **Limited Guardianship** – The court can determine the specific rights that the guardianship will cover.
- ❖ **Temporary Guardianship** – In emergencies, the court can appoint a temporary guardian for a specific and temporary period. If this happens, it is not necessary that a hearing be held.

The general process for obtaining guardianship:

1. Initiate a petition for guardianship with an attorney. It is helpful to retain/hire an attorney with expertise and previous experience in guardianship cases to keep costs reasonable.
2. Attend and participate in a hearing held in the Probate Court of the county where the individual resides. The purpose of the hearing is to prove to the judge that the individual is incapacitated and in need of a legal guardian.
3. The judge makes the ruling.

For Additional Information about Guardianship:

Contact the Indiana State Bar Association

317-639-5465

www.inbar.org