

# When an Adult Needs a Guardian

Some adults have a physical or mental disability that makes it hard or impossible for them to:

- Care for themselves
- Make reasonable decisions about their care and safety.

Adults in this situation may need a guardian. The court calls these adults *incapacitated adults*.

## Who can ask the court for a guardian?

Any person who:

- Is at least 18,
- Lives in the U.S., and
- Can care for the incapacitated adult.

The guardian does *not* need to be related to the incapacitated adult.

## What can a guardian do?

A guardian can make many decisions for the adult, including:

- Living arrangements,
- Education and activities, and
- Health care.

*Exception:* A guardian **cannot** move the adult to a nursing home or agree to antipsychotic medications without the court's written permission.

## Can a guardian manage the adult's money?

No – not unless the guardian is also the adult's *conservator*.

## Steps to Become a Guardian

1. If the adult has an **intellectual** disability (has a low IQ), get a *Clinical Team Report* from the adult's healthcare provider(s). If the adult is not **intellectually disabled**, get a *Medical Certificate*.
2. Make a list of the names and street addresses of all of the adult's immediate family members.
3. Fill out a Petition for Guardianship at the Probate Court in the county where the adult lives. Look at the schedule to the right to get help from volunteers.

### Some adults do **NOT** need a guardian.

If the adult you are worried about can make some decisions or has family or friends who can help, he or she may not need a guardian.

Other options may be:

- Get help from social service agencies
- Have the adult appoint someone s/he trusts to be his/her health care proxy

An adult with a health care proxy probably does not need a guardian.

## How much does it cost?

The filing fee is \$15. If you cannot afford to pay, ask the court for a fee waiver.

## When will the court decide?

After you file the petition, you can ask for a hearing.

At the hearing, the judge will:

- Review your petition and evidence,
- Listen to you and others at the hearing, then
- Decide whether you can be the guardian.

## How long does a guardianship last?

Temporary guardianship lasts **90** days.

Permanent guardianship ends when the:

- Adult dies,
- Court ends the guardianship,
- Court removes a guardian who is not doing a good job, or
- Court lets the guardian resign.

## Questions?

Get **FREE** legal help from the Volunteer Lawyers Project at these courts:

Tuesdays, 9-1

**Suffolk** Court, 3rd floor

Wednesdays, 9-1

**Norfolk** Court, 1st floor

Thursdays, 10-1

**Middlesex** Court, 2nd floor

