



Guardianship of an Adult

What is a guardianship?

Guardianship is a court proceeding in which a person (the guardian) may be granted authority over another person (the ward) that cannot care for himself/herself. The guardian helps care for the ward's well-being and makes decisions about the ward. The guardian provides for the care and protection of the ward. The guardianship may give the guardian full (plenary) authority or limited authority over the ward and may be temporary or permanent. The guardianship should be designed to give the ward as much independence as possible, depending on the needs of the ward. The guardian has the authority over the care and protection of the ward, but this authority may be limited by the court. In making decisions about the care and protection of the ward, the guardian has a duty and responsibility to promote the well-being of the ward and act in the ward's best interest. Different from a guardian, a conservator takes care of the property and finances of the ward. The guardian and conservator may be the same person or may be different people.

When is a guardian for an adult needed?

Generally, a guardian may be needed when an adult becomes incapacitated (incompetent) and is no longer able to take care of himself/herself without assistance. This may arise from the medical conditions, advanced age, physical disability, disease, mental illness/deficiency, the use of alcohol or drugs, or intellectual disability.

Who can be appointed as a guardian for an adult?

Any qualified person may be appointed as a guardian as long as it is in the ward's best interest. But, the court may not appoint some persons who have business or professional relationships that might create a conflict. These persons would be disqualified. Guardians for an adult are appointed based on preference in the following order:

1. A person chosen by the ward if the ward had the capacity to make a reasonably intelligent choice at the time of the nomination;
2. The spouse of the ward;
3. A person nominated in the will of the ward's deceased spouse;
4. The parent of the ward;
5. An adult child of the ward;
6. A person named in the will of the ward's deceased parent;
7. A relative or friend who has a longstanding interest in the welfare of the ward;
8. Any other person whose appointment would be in the best interests of the ward;
9. A person with a guardianship program for incompetent persons.

When appointing a guardian, the court will consider what is in the best interest of the ward. A guardianship can only be created by going through the court process and having the court order a guardianship.

How do you ask for a guardianship for an adult?

The person who files for guardianship is called the petitioner. The petitioner is usually the person who wants to be appointed as the guardian. A voluntary petition for guardianship also may be filed by a person who wants to create a guardianship over himself/herself. If a person is already incompetent, then another person will have to file a petition for guardianship. This is called an involuntary guardianship. The person who may be in need having a guardian is called the proposed ward. The request for a guardianship should be filed in the District Court of the county where the proposed ward lives or is present. If the proposed ward has been admitted to an institution by a court order, the guardianship also may be filed in the District Court of the county where that order was entered. It is best to hire an attorney to petition for a guardianship. If you cannot afford an attorney, there are forms for this process available at www.legalhelp.wy.gov.

Who must have notice about the guardianship proceeding?

The petitioner must provide notice of the filing of a guardianship by serving the proposed ward (by serving him/her), his/her custodian and the proposed guardian (if the proposed guardian is someone other than the petitioner). Notice of filing also must be served on the proposed ward's parents, spouse, adult children and any other person that the court orders to receive notice.

What happens at the court hearing and afterward?

After the petition for guardianship is filed and all parties receive a copy of the petition, the court will have a hearing on the petition for guardianship. At the hearing on the petition for guardianship, the judge will decide if a guardianship is needed and if the proposed guardian should be appointed. The court will likely appoint a Guardian Ad Litem to attend the hearing. This person is not the same as the person requesting to be a guardian. The Guardian Ad Litem is appointed by the court to help determine the wishes of the ward and what is in the ward's best interests. The petitioner must appear at the hearing and show why the guardianship is necessary and in the proposed ward's best interest. For involuntary guardianships, the petitioner must prove to the court that the proposed ward is incompetent and unable to care for himself/herself without assistance. Depending on the circumstances involved in the case, medical records or reports may be needed from medical professionals as proof of why a guardian is needed. The petitioner may need to present medical records, social service records, and testimony of witnesses such as friends, family, or medical professionals, educators, or caregivers of the proposed ward. The petitioner also must show the court that the proposed guardian is a fit and proper person to serve as guardian.

If the court approves the guardianship, the judge will enter an *Order Appointing Guardian*. The guardian then obtains letters of guardianship from the Court. The letters of guardianship evidence the appointment, the date the guardian qualified, and the authority of the guardian to act on behalf of the ward. The guardian is required to file reports on the status of the ward every six months for as long as the guardianship is in effect. The guardian's report must describe the physical condition, disabilities, residence, treatment, care, and activities of the ward and a description of the actions the guardian has taken on behalf of the ward.

