

## **GUARDIANSHIP:**

### What are Some Alternatives to Guardianship?

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Guardianship takes away some of a person's rights. The court should not give you a guardian if there are other ways to get you the help you need. These other options are sometimes called "less restrictive alternatives." Depending on your needs, you may be able to get help without needing a full guardianship. New rules require that probate courts consider whether there are less restrictive alternatives before appointing a guardian.

If you have a guardianship hearing coming up and don't want a guardian, you should make a list of other ways you can get help without having a guardian and share your list with the court. If you mention less restrictive alternatives in a guardianship hearing, the court must consider them before establishing a full guardianship.

#### **Consider Less Restrictive Alternatives**

If someone needs help making decisions, people should get them the assistance they need while letting them keep as much freedom as possible. Start with less restrictive alternatives first, and only move to more restrictive options if needed. A full guardianship should be the last resort.

Instead of appointing a guardian, the individual could use some of the following alternatives to help them make decisions and protect their interests:

#### **HELP WITH MAKING DECISIONS**

- **INFORMAL SUPPORT/ASSISTANCE**

Everyone needs help sometimes to make important decisions. That doesn't mean we all need guardians! Sometimes all we need is someone to talk things over with us, explain things to us, and give us advice. If this is all a person needs, they don't need a guardian.

- **RELEASE OF INFORMATION**

Sometimes people apply to be your guardian just so they can get access to your records and information, like your medical records. A release of information is an easier way for other people to access your records, and it won't allow them to make decisions for you. Then, they can look at your records and ask questions to help you make decisions yourself.

- **INDEPENDENT LIVING CENTERS**

The goal of Independent Living Centers is to provide support to help people live independently. Different centers provide different services for different needs.

- **SUPPORTED DECISION-MAKING**

Supported decision-making makes sure the person has a support system of other people they can go to if they have questions or need help. This could be family, friends, church groups, doctors, social workers, organizations, etc. If an individual can get help and support from these people to make their own decisions and live independently, then a guardianship might be unnecessary.

- **AUTHORIZED REPRESENTATIVE/CHOSEN REPRESENTATIVE**

If an agency, like Medicaid or Social Security, says they can't talk to another person about you, ask if you can give permission for the other person to be your authorized or chosen representative. An authorized or chosen representative can sit in on your meetings and help you communicate with the agency.

- **HEALTH CARE POWER OF ATTORNEY**

A Health Care Power of Attorney (POA) is when you sign a contract to give another person the "power" to make health care decisions for you. You can choose what decisions the POA can make, and you can end the POA any time you want. You can also still make decisions yourself and overrule your POA.

- **CONSERVATORSHIP**

In a conservatorship, you choose another person to make certain decisions for you while the probate court provides oversight. It is different from a guardianship because YOU decide who the conservator is, YOU decide which decisions they are allowed to make, and you can ask the court to end the conservatorship at any time.

- **LIMITED GUARDIANSHIP**

In a limited guardianship, the guardian only has the power to make certain decisions instead of all the decisions. The court designs this guardianship to fit your specific needs.

## HELP WITH MONEY AND PROPERTY

- **BANKING ARRANGEMENTS**

To help manage your finances, you can set up some arrangements at your bank, including direct deposit or automatic bill pay.

- **TRUSTS**

A trust of the estate can be used to handle a person's money. A trust sets aside some money or property, lays out rules for what to do with it, and assigns another person (a trustee) to make sure those rules are followed.

- **FINANCIAL POWER OF ATTORNEY**

A Financial Power of Attorney (POA) is when you sign a contract to give another person the "power" to make decisions about your money or property for you. You can choose what decisions the POA can make, and you can end the POA any time you want. You can also still make decisions yourself and overrule your POA.

- **REPRESENTATIVE PAYEE (OFTEN CALLED "REP PAYEE" OR "PAYEE")**

If you receive government benefits like Social Security or veteran's benefits, you can ask for a "rep payee" to pay your bills and make decisions about your benefit money.

## HELP PROTECTING SOMEONE'S SAFETY

- **LONG-TERM CARE OMBUDSMAN**

If the person lives in a nursing home or adult care facility or has in-home health care providers, and they have unmet needs or problems, the long-term care ombudsman can help. Ombudsmen take complaints about long-term care services and voice the person's needs and concerns to nursing homes, home health agencies, and other providers.

- **PROTECTION ORDERS**

If someone else is threatening or harming you, you can use a protection order to keep them away. This means a court orders someone to stay away and not have any contact with you.

- **ADULT PROTECTIVE SERVICES FOR THE ELDERLY**

If the person who needs protection is over age 60, county departments of Job and Family Services investigate reports of elder abuse. Elder abuse may include physical, sexual, emotional, or financial abuse or neglect. A court can order protective services for up to 14 days.

## CONTACTING DISABILITY RIGHTS OHIO

If you have questions about your rights, please contact Disability Rights Ohio at 800-282-9181 and press option 2 for intake.