



GUARDIANSHIP

For adults with intellectual & developmental disabilities

This document is not legal advice. Please discuss your individual situation with an attorney.

Contact The Arc of King County at 206.829.7053 or ask@arcofkingcounty.org with questions.

Guardianship Overview

A guardianship is created when a court authorizes someone to protect the personal rights and/or finances of an adult with disabilities. This guardian may be a parent, sibling, friend, or professional agency.

A guardianship can be established for the person only, the estate only, or the person and estate of a person who needs one. Guardianship of the person authorizes the guardian to arrange for needed personal services such as living arrangements, transportation, and medical services. The Guardian is not required to personally provide these services. Guardianship of the estate authorizes the guardian to manage the ward's finances and sign contracts on the ward's behalf. The Guardian of the Estate does not become personally responsible for the ward's bills (unless the Guardian breaches his or her duties to the ward). The court also has the option of appointing a limited guardian. A limited guardianship acknowledges that the person with disabilities has some decision-making abilities and specifically limits the power of the limited guardian to assist the incapacitated individual only to those areas where he or she needs help.

A Petition for Guardianship must be prepared and filed with the court of the county where the person resides. The Petition contains general information regarding the person, including age, address, physician, the nature of the incapacity, an estimate of the incapacitated individual's net worth, names of the proposed guardians, and the person's relatives.

The court appoints a guardian ad litem (not a temporary guardian). They are required to investigate and make a recommendation as to whether a guardianship is in the best interest of the person with disabilities and whether the proposed guardian is appropriate. A written report is made to the court by the guardian ad litem regarding the investigation.

If the person with disabilities does not want a guardian, the court will appoint an attorney to represent them. If the person's assets are less than \$3000 the county will pay for the attorney.

After a guardianship is established, the guardians will be required to report back to the court annually (or every three years, if the person has few assets). If the person has more than a minimal amount of money, then the court will require the guardian to arrange for some security, in case the money is lost or wrongly reduced by the guardian.

Overview originally drafted by Thompson & Howle, Attorneys at Law. Later revised by attorney Larry A Jones and most recently by attorney Karen M Thompson.

Frequently Asked Questions & Answers

What is a guardian?

A guardian is an individual or organization appointed by the superior court in the county where one lives, to manage and make personal (medical etc.) and/or financial (estate) decisions on that person's behalf. The person under guardianship legally loses the right to make certain choices on his/her behalf. A guardian is often able to prevent a vulnerable person from being financially exploited, or make medical treatment choices when the person is unable to understand his/her options.

Are there limits to the guardian's powers?

Yes. The court may impose limits such as establishing a guardian of the person only, finances or estate only, or may establish a guardianship of both person and estate, known as a full guardianship. It may be the best to limit the guardianship to just those areas in which the person truly needs a substitute decision maker. See the video resource on Page 4: [Guardianship Series: Individual Rights](#) for more information.

Are there alternatives to guardianship that might be more appropriate?

Yes. These options might be preferable because the person retains more rights to make their own choices, and keep their independence. See the resource on Page 4: [Alternative to Guardianship for Adults](#) for examples and more information.

What should I think about when considering guardianship?

Would the person be able to make decisions with assistance from trusted caregivers, family or friends, or through alternatives above? If so, try these alternatives first. If not, guardianship should be perused.

Are free legal services available for someone who is trying to become a guardian?

Yes. See legal resources on Page 3: [CLEAR](#) (income limits apply) or [Neighborhood Legal Clinics](#).

Is it possible to pursue guardianship without attorney representation?

Yes. See the resource on Page 3: [Family Law Facilitators](#). You can walk in to get written instructions on how to proceed and they check filled out guardianship forms for completion. You can download instructions and forms from the resource on Page 3: [Guardianship Forms](#). If the person with the disability does not want the guardianship or if family members disagree, you may wish to seek legal advice on how to proceed.

If a guardian is needed, but no family member or loved on is available to be the guardian, how can a guardianship be established?

Anyone may petition the court to establish guardianship, without the obligation to become the guardian. See Page 4 for [Washington Courts](#) who maintain a list of certified guardians.

When should I begin the process?

The process usually takes several months. A guardianship can be established before someone turns 18, or at a later date, once it has been determined that they need a guardian.

What are the court's requirements once a guardianship has been established?

The guardian must periodically report to the court either in person or by mail. Instructions and forms can be downloaded from [Guardianship Forms](#) or contact the [Family Law Facilitators](#).

Once a guardianship is in place, can it ever be changed or ended?

Yes. See the resource on Page 4: [How to Modify or Remove a Guardianship](#).

If I think an adult is being abused, neglected, or financially exploited what should I do?

Call 1-866-ENDHARM to ask Adult Protective Services (APS) to investigate. APS may explore whether or not to pursue guardianship, or other alternatives.

Resources to Establish/Maintain Guardianship

<p>King County Superior Court Guardianship Forms: http://www.kingcounty.gov/courts/scforms/guardianship.aspx Establish: Download instructions “G1- Establishing a Guardianship” to get started. Maintain: Download instructions “G4- Order Approving Guardian’s Report and Accounting”</p>		
<p>King County Superior Court Family Law Facilitator Program: Low cost general information on legal actions. No legal advice. http://www.kingcounty.gov/sites/courts/familycourt/facilitator.aspx</p>		
<p>King County Courthouse 516 3rd Ave, Room W-382 Seattle, WA 98104 (206) 296-9092</p>	<p>Maleng Regional Justice Center 401 4th Ave, Room 3-D Kent, WA 98032 (206) 205-2526</p>	<p>Walk-In Hours: Mon-Fri: 9:30am-12:00noon Wed & Fri: 2:15-4:00pm (daily recess 10:15 to 10:30)</p>
Legal Resources	<p>Northwest Justice Project CLEAR: http://nwjustice.org/get-legal-help Intake, advice and referral service for low-income people seeking free legal assistance. Apply online or call 211, 206.461.3200 or toll free 1877.211.9274 for an intake.</p>	
	<p>King County Bar Association Neighborhood Legal Clinics (free) include locations across King County. Call 206- 267-7070 Tuesday - Thursday from 9:00am- 12:00 pm http://www.kcba.org/pbs/NLC.aspx</p>	
	<p>Private Attorneys</p> <ul style="list-style-type: none"> • Referrals from the King County Bar Association http://www.kcba.org/lrs/ 	

More Information on Guardianship

The Arc of King County

Contact 206.829.7053 or ask@arcofkingcounty.org.

View our Community Calendar to see upcoming trainings and workshops.

<http://www.arcofkingcounty.org/index.php/what-we-offer/community-calendar>

The Arc of Washington

Guardianship: Frequently Asked Questions <http://arcwa.org/library/guardianship>

IFBT: Informing Families Building Trust

An overview of guardianship and alternatives to guardianship, including videos on the following subjects <http://informingfamilies.org/topic/guardianship/>

- What is guardianship?
- Alternatives to Guardianship
- Individual Rights

Washington Law Help authored by Northwest Justice Project

Alternatives to Guardianships for Adults

<http://www.washingtonlawhelp.org/resource/alternatives-to-guardianships-for-adults>

Disability Rights Washington

How to Modify or Terminate a Guardianship

<http://www.disabilityrightswa.org/how-modify-or-terminate-guardianship>

Washington Courts

Certified Professional Guardian Program http://www.courts.wa.gov/programs_orgs/guardian/

The Arc of the United States

Position Statement on Guardianship <http://www.thearc.org/page.aspx?pid=2351>

National Guardianship Association

Information on standards, code of ethics, issues, and common questions.

<http://www.guardianship.org/>