

What is guardianship?

Guardianship is a legal relationship in which one individual is given the authority by the court to make decisions on behalf of another individual who is no longer able to make and/or communicate decisions on their own.

Not everyone needs guardianship.

Guardianship can take away people's right to make the most basic decisions for themselves— such as where they will live and what they will do in the course of a day. Before pursuing guardianship, consider less restrictive alternatives.

ALTERNATIVES to Guardianship

- **Informal, Natural Family, Friends & Community Support Services** assist an individual in various areas of their life.
- **Supported Decision Making** A written plan identifies individuals to assist in key areas of life, such as financial, health/medical, and daily living.
- **Foster Care 18-21** Continued supportive and financial services for young adults aging out of foster care at age 18.
- **Special Bank Account** A special joint account. Check with your financial institution.
- **Living Trust** A legal arrangement for an individual who is having difficulty managing property or assets themselves.
- **Special Needs Trust** A legal arrangement that allows an individual who has a disability to preserve assets while maintaining eligibility for government benefits.
- **Representative Payee for Social Security Benefits** Provides financial management of Social Security benefits.
- **Fiduciary for Veteran's Benefits** Provides financial management of VA pension benefits.
- **Power of Attorney (Durable/General)** A legal document giving someone the right to conduct financial business on behalf of someone else without a court order.
- **Health Care Power of Attorney** A legal document giving someone the right to make health care decisions on behalf of someone else.
- **Advance Instruction for Mental Health Treatment** A legal document where an individual indicates what treatment and care for mental health conditions they want in the event that they are unable to communicate their wishes.
- **Living Will or Advance Directive** A legal document that sets out an individual's desires for medical care and treatment when they can no longer communicate and are near the end of life.

**All adults have rights,
including the right to
self-determination.**

Adults have the right to make decisions — good *and* bad.



An Introduction to Options



TYPES of Guardianship

General Guardianship

Appointed as both Guardian of the Person and Guardian of the Estate

Guardianship of the Person

Appointed solely for the purpose of performing duties relating to care, custody, and control

Guardianship of the Estate

Appointed solely for the purpose of managing property, estate, and business affairs

Limited Guardianship

Tailored to fit the individual in the areas that assistance with decision-making is needed

Interim Guardianship

Appointed when there is an imminent or foreseeable risk of harm to the individual or their estate

Adult guardianship exists to protect our most vulnerable citizens — such as people who have intellectual and developmental disabilities, mental health conditions, traumatic brain injury, and other vulnerable adults of any age

Which is YOUR situation?

- A professional has encouraged you to seek guardianship of a family member or friend
- You have a child with a developmental disability who is age 16 or 17
- You are in foster care, age 16 or 17 and someone has told you that you may need adult guardianship when you turn 18
- You have been told that someone is seeking guardianship over you
- You have a family member or friend with mental illness who is having difficulty making decisions
- You have a family member or friend with dementia
- You have a family member or friend who is aging and you or they are concerned about their future
- You have a family member or friend who has suffered a traumatic physical event that has rendered them physically and mentally incapable of making decisions, such as a traumatic brain injury

FIND OUT MORE

The **Rethinking Guardianship Initiative** provides information and resources about guardianship and alternatives in NC <http://rethinkingguardianshipnc.org/>