



Role of the guardian

Also referred to as a conservator or protector.

A guardian is named to serve for the benefit of a minor child or an adult who has become incapacitated or is unable to act on their own behalf. The guardian is responsible to the individual requiring guardianship. The role requires patience, compassion and sensitivity.

Definition

Guardian

A guardian is a person designated to act on behalf of people who need representatives to oversee their personal affairs or finances. A minor child or an older person incapacitated by health problems may come under the care of a guardian or conservator. A guardian may be appointed by a judge to take care of a minor child or an incompetent adult and may also manage that person's affairs. Naming someone in a will as guardian of one's child in case of the parent's death is merely a nomination. The judge will typically honor that request; however, the judge is not obligated to follow the nomination and will need to ensure that in the eyes of the law, the nominated person is fit to be a guardian.¹

Selecting a guardian

When selecting a guardian for a minor, consider financial stability, age, religious beliefs, and values and morals.² Some factors for selecting or approving a guardian may include:³

- Reputation for honesty, integrity and timeliness
- Educational, professional or business experience that lends itself to the performance of these duties
- Financial wherewithal and/or support from another source
- Time to devote to these duties
- Good health
- Likelihood to engender respect, support and cooperation of all parties
- Relation by blood or marriage to the individual, or know well enough to carry out the person's probable intentions
- Lack of history of criminal acts or substance abuse in their background

Keep in mind that the statutes affecting guardianship vary from state to state. It is important to consult an attorney for the law governing guardianship in the state in which it applies.

¹ <http://legal-dictionary.thefreedictionary.com/Duties+and+Responsibilities+of+a+Guardian>; Burton's Legal Thesaurus, 4E. Copyright © 2013–2018 by William C. Burton.

² Guardian Definition, New Parent Checklist, FindLaw.com Copyright © 2018, Thomson Reuters.

³ "Ten Things to Think About: Choosing a Guardian," FindLaw.com Copyright © 2018, Thomson Reuters.

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Guardian's responsibilities⁴

The types of decisions that a guardian might make include:

- Determining where the individual lives
- Making provisions for food, clothing and shelter
- Overseeing appropriate medical care or treatment
- Purchasing or organizing the purchase of such necessities as food, clothes, cars, household items and other personal items
- Arranging for education
- Managing finances and bank accounts

The law states that a guardian is responsible for the individual's "care, custody and control."

Some of the responsibilities the guardian does *not* have include:⁵

- Selling property such as stocks or real estate (unless appointed as conservator by the court)
- Committing an individual to a psychiatric hospital
- Casting an individual's vote in an election
- Determining his or her religious preference
- Writing a will for the individual

⁴ "Guardianship Basics"; <http://family.findlaw.com/guardianship/guardianship-basics.html#sthash.71duPzq8.dpuf>. Copyright 2018

⁵ *Handbook for Guardians of Adults*. Bradley Geller, Michigan Long Term Care Ombudsman Program, 9th Michigan edition, 2006.

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