

Guardianship & Conservatorship: When is it Necessary? Alternatives to Protect Your Child

As a parent, you make decisions for your minor child(ren), as natural guardian and conservator. However, upon attaining age 18, the age of majority, a person becomes a legal adult and is charged with the duty (or has the right) to make decisions for him or herself. Once age 18 arrives, a parent no longer has the right, on their child's behalf to (1) work with health care professionals to make medical and/or review medical records; (2) enroll the child in school or have access to educational records; (3) obtain or provide insurance information, (4) manage the child's finances with a bank or other financial institution, or (5) work with social security to negotiate benefits or resolve errors, etc. If your child cannot make decisions for him or herself, needs help taking medications regularly or making medical decisions, needs assistance with school personnel in enrolling for classes or working through IEP meetings, can't negotiate the terms of a lease to rent an apartment or other housing, doesn't understand the concept of monthly utilities, can't read and interpret the terms of a contract to buy a car, can't manage money or balance a checkbook, or otherwise can't live independently, chances are guardianship and conservatorship are appropriate measures to protect your child.

Guardianship and/or Conservatorship may very well be the most important step you can take to protect your disabled child during his or her adult life. Guardianship/Conservatorship is a protective legal process for disabled adults who, by reason of their disability, are unable to care for themselves or manage their finances. By having a guardian or conservator appointed, some, if not all, of a disabled person's rights are removed. As a result, the legal process involves extensive procedural safeguards to insure that this process is not abused, which can ultimately be very costly and/or traumatic for everyone involved. But it's the ultimate protection for a person who, by reason of his disability, cannot otherwise protect himself.

Guardianship is the legal process whereby a guardian is appointed by a Court of competent jurisdiction to care for a disabled adult who, by reason of his disability, is unable to care for his physical person. A guardian is charged with the duty of caring for the "ward" (someone placed under the protection of a legal guardian). This means the guardian makes sure the ward has proper medical treatment and proper education, lives in the least restrictive housing available, has food and clothes, etc.

Conservatorship, on the other hand, is the legal process whereby a conservator is appointed by a Court of competent jurisdiction to manage finances for the disabled adult who cannot manage his own finances.

By establishing guardianship and/or conservatorship, you can protect your child from being vulnerable to the general public or becoming the subject of predators or scams. In addition, you can help your child make decisions in situations when your child may have difficulty, especially regarding medical and financial decisions. To start the process, contact an attorney in your jurisdiction to find out how quickly proceedings need to be initiated and the process for obtaining guardianship/conservatorship.

The process differs from state to state, not only with regard to how to initiate the process but also the events that must occur once a petition has been filed and prior to a final hearing on the matter.

RESOURCES

Kansas Guardianship Program

AGENCY MISSION:

To assure that adults who are without family or financial resources and who are identified by SRS as in need of a court appointed guardian and/or conservator will have available a qualified, trained and caring volunteer to serve as their legally appointed guardian and/or conservator.

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Phone Number: (785) 587-8555
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M. Jean Krahn, Director
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Kansas Legal Services

712 S. Kansas Ave, Suite 200. Topeka, KS 66603

Tel: 785-233-2068, Fax: 785-354-8311

Marilyn Harp, Executive Director

Kansas Legal Services provides civil legal advice and representation at no cost or at reduced fees to our income eligible individuals. They can help with many civil legal issues including guardianship/conservatorship. You can apply for legal assistance either by phone or by filling out our online application. To apply by phone, call toll free: 1-800-723-6953 (Monday through Friday from 7:30 a.m. to 5:00 p.m.) to see if you are eligible for legal assistance. If you are not eligible for our services, we can connect you with a private attorney who may help you for a small fee.

To apply online: If you would prefer to fill out our online visit our website: www.kansaslegalservices.org

Families Together

5611 Southwest Barrington Court South, Suite 120

Topeka, KS 66614

(800) 264-6343 (KS parents)

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Families Together assists Kansas parents and their sons and daughters who have disabilities or special health care needs. They provide parent training and support, including information about guardianship/conservatorship.