

## **GUARDIANSHIPS AND CONSERVATORSHIPS**

If you are caring for a grandchild, niece, nephew, or other minor child, it can be beneficial to be appointed as the child's guardian. A guardian of the person has custody and control of the child, and also the right to put the child on their health insurance plan. In order to be appointed as a guardian through the Probate Court, the child must be living with you, and it must be detrimental for the child to live with his or her parents (or the parents aren't living). Common reasons for a guardianship are that the parents are in jail or have serious drug or alcohol problems. If you are concerned about the safety and well-being of a child that doesn't live with you, and you think the child should be removed from his or her home, CPS (Child Protective Services) can have the child removed by the Juvenile Court. A guardianship of the estate of a minor can be necessary if the minor directly inherits money or receives money in a court settlement.

If you think your disabled adult relative needs to have someone make decisions for them about their residence and medical care, you can apply to become the Conservator of their person. Or, if they're unable to manage their finances, you can apply to become the Conservator of their estate (or you can be Conservator of both their person and estate).

Applying to be the guardian of the person or estate of a minor, or the conservator of the person or estate of an adult, uses a similar process. The Petition for Appointment as Guardian or Conservator and various other accompanying forms need to be completed and filed with the Probate Court with the filing fee (currently \$225 for a guardian of the person only, and \$395 for conservators and guardians of the estate). There is an investigation, including a criminal records check, by the Probate Investigator's office, and then there is a hearing. If the proceeding isn't contested, and all the paperwork is in order, the Letters of Guardianship or Conservatorship will be granted at the first hearing. If there is a contest, there will be family meetings and negotiations, and further hearings.

A guardian or conservator of the estate is generally required to post a bond, and to file periodic accountings of their transactions. A new requirement is that the Conservator must take a picture of the Conservatee annually.

The need for a guardianship or conservatorship of the estate can generally be avoided by estate planning (wills, trusts, powers of attorney, custodianship language on a beneficiary statement). However a guardianship or conservatorship is not always negative. There are legal costs, but there is also protection in having the court oversee the property and accounts to make sure they are used or saved appropriately for the needs of the child or Conservatee.

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