



## GUARDIANSHIPS AND CONSERVATORSHIPS

### WHO IS A GUARDIANSHIP OR CONSERVATORSHIP FOR?

When a person cannot manage their own affairs, a court can name someone to help. The 2 ways to do this are called guardianships and conservatorships. Guardianships are so someone can help with personal needs. Conservatorships are for financial affairs. The person who needs help does not have to be incompetent. Incompetent means someone cannot make their own decisions. In a guardianship or conservatorship, the person who needs help does not lose important rights, like the right to vote, unless the court has a good reason and makes a specific order.

### WHAT IS THE DIFFERENCE?

In a *guardianship* the person who needs help is called the *ward*. The person helping is called the *guardian*. A guardian looks after the *personal* needs of the ward.

In a *conservatorship* the person who needs help is called the *protected person*. The person who helps is the *conservator*. A conservator looks after the *financial* affairs of the protected person.

Sometimes, the court will name both a guardian and a conservator to help. The court always looks for the least restrictive way to help the ward or protected person.

### WHAT POWERS DOES A CONSERVATOR OR GUARDIAN HAVE?

- A *conservator* has power over the estate – They take care of money and property. They handle the income and pay the bills of the ward. They must tell the court – usually yearly – what money came in, how it was spent and why. They can be held responsible for doing the wrong things with the money.
- A *guardian* has power over the person – They make personal decisions for the protected person, such as medical care, or where the person will live.

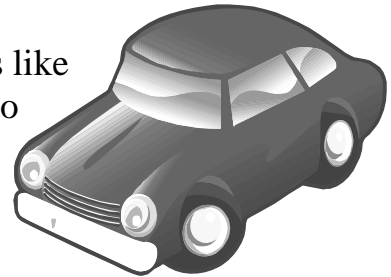


Conservators and guardians must act in the best interest of the ward or protected person. For example, a guardian cannot agree to medical care that they know is against the protected person's beliefs. They cannot limit the protected person's freedom unless it is needed to protect them from danger.

## WHAT RIGHTS DOES A WARD OR PROTECTED PERSON HAVE?

The ward or protected person has legal rights. There may be some limitations depending on the orders from the court. A ward or protected person has the right to:

- Be treated with respect. This includes respecting about medical preferences and religious beliefs.
- Get needed medical treatment in a timely manner.
- Control the things in life that have not been ordered by the court to be someone else's responsibility.
- Have a guardian or conservator who meets their needs.
- Ask the court if they want to change where they live or keep someone from moving them.
- Care, comfort, social and recreational needs, training, education, rehabilitation care and services.
- Decide what should be done with personal belongings like clothes, furniture, vehicles. They also have the right to ask the court to review a guardian or conservator's plans to deal with their personal belongings.
- Personal privacy.
- Choose who they want to talk to or have visit them (unless there is reason to believe that that the visit may cause harm to safety or health).
- Marry and have children. A ward or protected person has the right to consent or object to sterilization.
- Ask the court to end or change the guardianship or conservatorship.
- Be represented by an attorney in any proceeding, including helping them to ask the court for changes.
- Vote.
- Make a Health Care Directive and appoint a health care agent. See our fact sheet [\*S-5 Health Care Directives\*](#).



## HOW IS A POWER OF ATTORNEY FOR FINANCIAL AFFAIRS DIFFERENT FROM A CONSERVATORSHIP?

Conservators are named by a court. The court oversees their actions. They make the decisions and the protected person loses power to make decisions. With a power of attorney, you give someone written consent to act for you in financial or property matters, but you do not yourself lose the right to make those decisions. You don't need to go to court to give a power of attorney. The court does not check on their actions. See our fact sheet, [S-8 Powers of Attorney](#).

## HOW IS A GUARDIANSHIP OR CONSERVATORSHIP SET UP?

A person files a case to ask the court to name them or another person as conservator or guardian for a person who needs help. The person who would be the ward or protected person must be given notice of the case. They have the right to a lawyer. If they can't afford a lawyer, the court can order the county to pay for one. The person filing the case must show "clear and convincing" evidence that a conservatorship or guardianship is needed. This can be hard if the person who needs help doesn't agree.



## CAN A CONSERVATORSHIP OR GUARDIANSHIP BE ENDED?

Yes. The court can end the guardianship or conservatorship if the protected person or ward shows the court that they no longer need help or protection. Usually, a doctor or social worker needs to testify that the ward can handle his or her own affairs. Then court supervision ends and the ward or protected person is free to make their own decisions.

To find other Legal Aid Society materials, including the fact sheets mentioned in this document, go to [www.lawhelpmn.org/LASMfactsheets](http://www.lawhelpmn.org/LASMfactsheets).

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