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TEXAS GUARDIANSHIP - A STEP-BY-STEP OVERVIEW FOR FAMILIES

This guide has been prepared in order to inform families as to what to expect when applying for guardianship in Texas. This guide has been prepared for educational purposes only and should not be construed as legal advice.

A guardianship is a legal relationship created by a Texas court when a person (called a Ward) is no longer able to make certain personal or financial decisions due to incapacity. A guardian is appointed to protect the Ward's well-being and manage the ward's affairs.

1. Is Guardianship Really Necessary?

Before guardianship is pursued, Texas law requires that less restrictive alternatives be considered. These might include:

- Using a power of attorney or supported decision-making agreements
- Representative payee or joint accounts for money management
- Community or support services that help the person live as independently as possible

Guardianship should be a last resort because it involves the court taking away some of the person's legal rights.

2. File the Guardianship Application with the Probate Court

The formal process begins when you file an Application for Appointment of Guardian in the probate court in the county where the proposed ward lives.

Your petition must include:

- The proposed ward's personal information
- The reason guardianship is needed
- Information about the person seeking to be guardian

Whether guardianship of the person, the estate, or both is requested.

3. Submit Required Supporting Documents

Texas law requires the petition to be accompanied by:

- A medical evaluation completed by a physician, psychologist or advanced practice registered nurse (“Health Care Provider’s Certificate of Medical Examination”) that explains the person’s incapacity and need for a guardian
- A list of all interested relatives and parties who must be notified

4. Notice to the Proposed Ward and Interested Parties

After the application is filed, the court’s clerk issues a citation (formal notice) that must be served:

- Personally on the proposed Ward
- On other interested relatives or parties
- By publication if a relative cannot be located

This ensures that everyone knows about the hearing and has a chance to participate.

5. Appointment of Attorney Ad Litem

The court will appoint:

- An Attorney Ad Litem to represent the proposed Ward’s legal interests
- In some cases, a Guardian Ad Litem or a court investigator to evaluate the situation and make recommendations to the judge

6. Online Guardianship Registration and Guardianship Certification (Required to complete before hearing)

Before the hearing, you must register the guardianship and complete an online application through the Texas Judicial Branch in order to receive a guardianship certification.

- Register the guardianship with The Texas Judicial Branch at this website: www.txcourts.gov/jbcc
- The guardianship certificate application can be completed at this website: <https://www.txcourts.gov/jbcc/guardianship-certification>

Once the guardianship certificate has been received, it must be forwarded to the attorney so that it can be filed in the guardianship.

7. The Guardianship Hearing

At the hearing, the judge will review:

- Medical evidence of incapacity
- Testimony from family members and experts
- Reports from the Attorney Ad Litem and any court investigator
- Testimony from the Ward, if possible

The judge must find by clear and convincing evidence that:

- The proposed Ward lacks sufficient capacity even with available supports, and
- A guardianship is necessary for the Ward's protection.
- If the judge agrees, they will issue an order appointing a guardian and specify the guardian's powers and duties.

8. Qualification and Letters of Guardianship

Once appointed:

- The guardian must take an oath and may need to file a bond if required by the court.
- The court issues Letters of Guardianship, which are the legal documents showing authority to act for the ward.

9. Guardian Duties After Appointment

Being a guardian carries ongoing responsibilities, including:

- Acting only within the authority the court gives
- Managing the Ward's personal care, living arrangements, and medical decisions (if Guardian of the Person)
- Managing the ward's finances and estate (if Guardian of the Estate)
- Filing annual reports and accountings with the court

Guardian duties are serious and subject to strict court oversight. Failure to follow the rules can result in legal consequences.

10. Alternatives, Changes, or Ending the Guardianship

Guardianships can be:

- Limited (only some powers are given)
- Temporary
- Modified or terminated later if circumstances change (e.g., the ward regains capacity)

Frequently Asked Questions

Q: What types of guardianship exist?

A: **Guardian of the Person:** Makes decisions about where the Ward lives, healthcare, and daily care.

Guardian of the Estate: Manages the Ward's money and property.

Q: Who can be a guardian?

A: Any qualified adult, often a family member, as long as they meet legal requirements and the court approves.

Q: Does guardianship end automatically?

A: No. It remains in effect until the court changes or ends it. The judge must approve termination.

Important Reminder

Guardianship is a permanent and serious legal relationship that removes certain rights from the Ward and gives them to another person. The court carefully weighs the need for guardianship, and you should discuss all options with an experienced attorney.

If you have any questions regarding whether a guardianship is appropriate in your circumstances, please contact our office at (972) 418-2919 to schedule a complimentary guardianship consultation.