



The Ability Center

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Alternatives to Guardianship

A guardian is a person, corporation or an association appointed by a probate court to be legally responsible for another person and/or for another person's property (estate) when that person is unable to manage his or her personal needs or property because of a mental disability.

When a person is unable to manage their own affairs because of a disability, a probate court can declare them legally "incompetent" and appoint a guardian. The guardian has a legal duty to the "ward," the person who has been declared incompetent, to act in their best interests and must report to the court. A lawyer is needed to apply for a guardianship.

- **Guardianship of the Estate:** Gives the guardian the ability to make all financial decisions for the ward.
- **Guardianship of the Person:** Gives the guardian the ability to make day-to-day decisions, except financial, for the ward.
- **Guardianship of the Estate and Person:** Combines the authority of guardianship of the person and estate. The guardian has the power to make almost all decisions for the ward.

Guardianship and Assisted Decision-Making in Ohio

| Glossary of Terms

Representative Payee: If a person's main source of income is from government benefits, a representative payee can be appointed to direct where the person's income goes. Representative payees can be available for Social Security, SSDI, VA, Railroad retirement benefits, welfare payments, and Black lung benefits. No lawyer is needed to become a representative payee.

Special Needs Trust: A lawyer can set up a special needs trust for someone whose income comes from government benefits so that they can save money without it affecting their benefits. A trust can be set up to make a third person the administrator of the

trust. In that way, a third party can direct where disbursements from the trust can go. A lawyer is needed to set up a Special Needs Trust.

Limited Guardianship: Limited guardianship allows a probate court to appoint someone as guardian over only the portion of a person's life where he or she is both incompetent and has a need, like for medical purposes, for placement purposes, or for approving behavior plans and medication. A ward for who a limited guardianship has been appointed retains rights in all areas not covered by a court's order.

Supported Decision Making: Supports and services that help adults with disabilities make his or her own decisions by relying on trusted friends, family members, professionals, and others.

STABLE Account: The state of Ohio has set up STABLE accounts through its department of treasury, and investment account that does not affect the receipt of government benefits like SSI, SSD, and Medicaid. STABLE accounts are available to people with developmental disabilities that occur before age 26. A parent or family member can set up control of the STABLE account with a power of attorney. No lawyer is needed to set up a STABLE account.

Power of Attorney

Power of attorneys for health care and/ or finances or the estate are written documents that can be executed by someone with the capacity to give someone else the ability to act on their behalf. While a Power of Attorney can allow a third party to manage all of their financial matters, it can be revoked at any time and is not a legal revocation of rights like a guardianship. No lawyer is needed to set up a Power of Attorney.

Durable Power of Attorney for Health Care:

A durable power of attorney for health care is a written document that gives another person the right to make health care decisions on a person's behalf if they lose capacity to do so.

Power of Attorney for Finances:

A power of attorney for finances is a written document that gives a person the right to make financial decisions on another person's behalf.

This document is meant to act as informal guidance on alternatives to guardianship to familiarize yourself with key terms and options. We encourage you to seek legal counsel if you have further questions and create a plan that best suits your family's needs.