

Adult guardianship, conservatorship, and other protective arrangements

Author

Northwest Justice Project

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If you are or you know an adult living in Washington state who needs help caring for themselves due to age, disability, or incapacity, learn about adult guardianship and some alternatives to guardianship.

If you are or you know a vulnerable adult living in Washington state, you should know about some legal options to help adults who are having a hard time caring for themselves without support. These legal options offer different degrees of help and protection. The first three involve filing a court case:

- **Adult guardianship** – A judge appoints a guardian to help you make decisions about your health, safety, and self-care.
- **Conservatorship** - A judge appoints a conservator to help you make decisions about your money and property.
- **Protective arrangement** - A judge appoints someone to help you with certain tasks. For example, the appointed person may help you get medical treatment or limit visits by someone who might harm you. A protective arrangement is a less restrictive alternative to guardianship or conservatorship, but the court process is mostly the same.
- **Supported Decision Making Agreement** - This written agreement between you and a “supporter” will help you in making decisions about your health care and your money. No court or judge is involved in these agreements.
- **Other options** are more limited in how they can help but also don't involve going to court.

What's the court process for guardianship or conservatorship?

Any interested person can start a court case (can file a petition) with the Superior Court asking the judge to decide these things:

- Can you meet your essential needs for physical health, safety, or self-care?
- Do you need a guardian or conservator to prevent harm to you?
- Can an alternative to guardianship or conservatorship meet your needs?

The person who files the case doesn't have to ask to be named the guardian or conservator themselves, but that's often the case. The person asking to be made guardian or conservator must meet legal requirements, including age, and have no criminal convictions for crime involving dishonesty, neglect, or abuse.

Your guardian and conservator can be the same person or different people.

If someone has filed a court action (called a petition) for a guardian or conservator for you, you are the **respondent**. The respondent is the person for whom someone seeks a guardian or conservator.

The judge will appoint a **court visitor** to investigate and to recommend if you need a guardian and /or conservator. The court visitor will interview you and anyone with information about you. This can include the proposed guardian or conservator and medical providers.

The judge will also order a professional evaluation of you by a medical provider. The court visitor will read the evaluations and make them part of their investigation. The court visitor will give the judge a written report and recommendation based on their investigation.

If you don't want a guardian or conservator, you can fight (oppose) the petition. You have the right to have a lawyer help you. If you can't afford a lawyer, the court will appoint one for you at public expense. You can ask the court visitor about getting a lawyer. Or you can write the judge a letter asking for a lawyer.

There are different rules and a different process for guardianship for children who are under age 18.

What is a guardian's or conservator's responsibilities?

A guardian or conservator must act in your best interest. They must make decisions that are good for you. They must file plans and reports with the court regularly, so the judge knows how they're doing their job.

There are certain decisions that a guardian or conservator can't make. A guardian may not decide to place you in a nursing home against your will. A guardian must get a court order to have you committed to a psychiatric hospital or consent to treatments involving restraint or electric shock.

Disability Rights Washington has tips for [how to avoid guardianship pitfalls and how to put the person needing a guardian at the center of decision-making](https://disabilityrightswa.org/publications/how-avoid-guardianship-pitfalls/) (<https://disabilityrightswa.org/publications/how-avoid-guardianship-pitfalls/>).

If you've been appointed a professional guardian or conservator, and you don't like what they're doing, you can file a complaint (a grievance) with the [Certified Professional Guardianship and Conservatorship Board](https://www.courts.wa.gov/programs_orgs/forms/index.cfm?fa=forms.display&theFile=grievanceCo) (https://www.courts.wa.gov/programs_orgs/forms/index.cfm?fa=forms.display&theFile=grievanceCo).

Can a guardianship or conservatorship be changed or ended?

Guardianship doesn't need to last forever or be unchanged. You can [ask the judge to change or end the guardianship or conservatorship](https://disabilityrightswa.org/publications/how-modify-terminate-or-complain-about-guardianship-0/) (<https://disabilityrightswa.org/publications/how-modify-terminate-or-complain-about-guardianship-0/>).

For example, you can ask the judge to replace the guardian with someone else or change the kinds of decisions they can make. Or you can ask the judge to end the guardianship or conservatorship because you don't need it anymore.

I've already given power of attorney to someone. Do I also need a guardian or conservator?

It depends. You usually don't need guardianship if you've given someone power of attorney. But if your power of attorney doesn't cover certain decisions, or some other problem comes up, you might need to have a guardian or conservator after all.

What are some alternatives to conservatorship?

- **Durable Power of Attorney for Finances:** You choose a trusted person to help you manage your finances and property. Read to learn more.
- **Living Trust:** Your money or property is held by a trustee, someone whose job it is to manage your money or property for your benefit.
- **Representative Payee:** A government agency, such as Social Security or Veterans Administration, chooses a trusted person or organization to receive and manage your benefits for you.
- **Individual Indian Money (IIM) Account** (<https://www.doi.gov/ost/iim-faqs>): If you're Native American, this might be an option.
- **Joint Banking Account:** You hold your money in an account with another person who can help you manage your finances. Be aware: this person can take money out without your permission. Also, if the other joint account

holder has debts, the creditors can come after all the money in your account.

- **Authorized Signer:** This person isn't a joint account holder. They're just permitted to manage money in the account.
- **Joint Property Arrangements:** This lets you own property with someone you trust who can help you manage the property.
- **Supported Decision-Making**

What are some alternatives to guardianship?

- **Durable Power of Attorney for Health Care Decisions:** You choose a trusted friend or relative to help you with your health care.
- **Health Care Directive (or Living Will):** You put in writing what kind of medical treatment you do or don't want if you're terminally ill or permanently unconscious and you can't make decisions for yourself. You can also write down your health care values.
- **Mental Health Advance Directives:** You put in writing what kind of mental health treatment you do or don't want if you can't make decisions for yourself. There's a different form if you have dementia and want to plan.
- **Consent to Health Care Law:** Washington's state law lists specific people who can make health care decisions for an adult if you can't do it yourself. This can include, for example, your power of attorney, spouse, domestic partner, adult children, parents, and siblings.
- **Supported Decision-Making**

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