

Understanding Guardianship and Conservatorship



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MINNESOTA AND WISCONSIN



When Might Guardianship and Conservatorship Be Needed?

- These legal arrangements may be necessary when an individual is incapacitated due to neurocognitive disorders (e.g., Alzheimer's Disease), brain injuries, strokes, intellectual/developmental disabilities, or mental health diagnoses and has unmet needs which cannot be met in any other way.
- These measures are pursued when no less restrictive alternatives are available, such as health care directives, powers of attorney, and supported decision making.

What is Guardianship?

A guardian is a court-appointed legal decision maker for a person who is incapable of making personal decisions, who has unmet needs, and who has no other way to get those needs met.

What is Conservatorship?

A conservator is a court-appointed legal decision maker for a person who is incapable of managing their financial affairs or decisions, who has unmet financial needs, and who has no other way to get those needs met.

Types of Guardianship in Minnesota:

Public Guardian

Appointed by the Commissioner of the MN Department of Human Services for individuals with an intellectual/developmental disability diagnosis when no other suitable guardian is available.

Private Guardian

Includes family members, neighbors, friends, or independent entities (e.g., professionals, volunteers, county contracts, organizations).

Why is it the Most Restrictive Intervention?

Guardianship/conservatorship removes a person's right to autonomy and self-determination.

Benefits of Guardianship and Conservatorship:

- Highest form of protection for individuals who need substitute decision makers
- Ensures consent to care, and arranging for the provision of necessities such as food, clothing, shelter, safety, and supervision (guardianship) when there are no other ways to do so
- Manages financial affairs and protects assets from theft or misappropriation (conservatorship) when there are no other ways to do so
- Guardians/Conservators are accountable to the Court for their actions.

Costs and Risks of Guardianship and Conservatorship:

- Time-consuming establishment process
- Potential trauma for the individual
- High financial costs
- Lack of available family or friends may lead to reliance on professionals, and there is a lack of professionals to serve
- Cultural specificity may be a challenge
- Loss of decision-making rights may cause frustration and disruptive behaviors
- Guardianship may not resolve the underlying issues

Quick Facts/Takeaways:

- Guardianship and conservatorship are not necessary solely due to the inability to provide for basic needs or manage finances (*see Less Restrictive Alternatives Fact Sheet*).
- Minnesota law requires attempting less restrictive alternatives (e.g., supported decision making, health care directives, or appointment of a representative payee) before pursuing guardianship or conservatorship.

For Further Assistance

For additional information or consultation, please contact the following VOA resources:

Center for Excellence in Supported Decision Making

☎ **Guardianship Information Line:** 952-945-4174
(toll-free 844-333-1748)

✉ **Email:** cesdm@voamn.org

🌐 **Website:** www.voamnwi.org/cesdm

Culturally Responsive Caregiver Support & Dementia Services

☎ **Phone:** 952-945-4034

🌐 **Website:** www.voamnwi.org/caregiver-support

Estate and Elder Law Services

☎ **Phone:** 612-676-6300

🌐 **Website:** www.voamnwi.org/estate-elder-law-services

