

# 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.

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## 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](mailto:cesdm@voamn.org)

🌐 **Website:** [www.voamnwi.org/cesdm](http://www.voamnwi.org/cesdm)