

## Information Needed for Guardianship

- Respondent **NAME, ADDRESS, and COUNTY** (should be filed in the county where the respondent lives).
- **DOB, Sex, Race, SSN, Height, Weight, Eye color, Hair color, Driver's license number, and State license is issued through.**
- **Letter from a treating physician stating disability and reason guardianship is needed.**
- **Petitioner's NAME, ADDRESS, PHONE NUMBER, and QUALIFICATIONS FOR GUARDIANSHIP (spouse, child, primary caretaker, etc.).**
- **Amount of real property (house, rental property, land, etc.) – List separately and include the value of each item.**
- **Amount of personal property (vehicles, bank accounts, savings, CDs, boat, etc.) – List separately and include the value of each item.**
- **Yearly income and source of yearly income (SSI, retirement, etc.)**
- **Name and address of ALL (living) parents, siblings, and/or children. List relationship to the respondent by each name.**
- **If any, name and address of person having custody, power of attorney, health care surrogate, etc.**
- **Petitioner may be required to post surety bond if so ordered by the court (obtained through insurance company).**
- **Process may take 30-45 days.**
- ***Emergency guardianship is granted only in life or death situations.***
- ***PLEASE FILL OUT ALL FORMS AND RETURN THEM TO THE HOPKINS COUNTY JUSTICE CENTER.***

### **LIST OF APPLICABLE FEES:**

- **Individual filing fee: \$405.00**
- **Attorney filing fee: \$407.50**
- **Pennyroyal Evaluation fee: \$300.00**



In our view, a county attorney is not required to provide comprehensive legal services to one seeking appointment of a guardian or conservator for a disabled person. Discussion follows.

Appointment of a guardian for a disabled person involves several steps. A petition for a determination of total or partial disability, and appointment of either a guardian or conservator, or limited guardian or conservator, must be prepared and filed (KRS 387.530), an interdisciplinary valuation report (KRS 387.540) must be obtained, a hearing must be scheduled and conducted (KRS 387.550, KRS 387.570), and other tasks common to such a procedure must be carried out.

The statutorily specified role of a county attorney in connection with a petition for appointment of a guardian or conservator for a disabled person is stated by KRS 387.560(3) in the following terms:

In all proceedings under KRS 387.500 to 387.770, it shall be the duty of the county attorney to assist the petitioner, to represent the interest of the Commonwealth, and to assist the court in its inquiry by the presentation of evidence.

(emphasis added.)

The language cited does not require a county attorney prepare a petition for a determination of total or partial disability, or direct a county attorney to act as counsel for one who seeks appointment of a guardian or conservator. A county attorney's statutorily mandated role is to represent the interest of the Commonwealth, and assist a petitioner and the court, by presentation of evidence in proceedings bearing upon the appointment of a guardian or conservator under KRS 387.500 to 387.770.

Given the language of KRS 387.560(3), in our view, a county attorney is not required to provide comprehensive legal assistance to one without means attempting to obtain appointment of a guardian or conservator for another. Cf., Opinions 83-419, 83-474, and 87-72 (copies enclosed). It follows that there is a role for private counsel in such regard.

OAG 91-226

Samuel Robinson, Executive Director, The Lincoln Foundation, Louisville, Kentucky  
Anne E. Keating, Assistant Attorney General, December 23, 1991

EDUCATION—State board conflict of interest

ANALYSIS: Based on the facts presented, there is no statutory conflict of interest for member of State Board for Elementary and Secondary Education to serve as executive director of a foundation which receives federal grant money from the Department of Education so long as he does not represent foundation before Department of Education and the board. Common law conflicts must be assessed on a case by case basis, and the standard is provided to assist the requester with particular circumstances.

KRS 145A.340(2)(4)(5)(6), 156.035, 160.180(2)(g), (3)

You have asked this office to review and comment on an opinion that you received from the Kentucky Department of Education concerning whether you might serve on the State Board for Elementary and Secondary Education and remain Executive Director of the Lincoln Foundation. You pointed out that the

TABLES

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PETITION TO DETERMINE  
IF DISABLED

Case No. \_\_\_\_\_  
Court \_\_\_\_\_ District \_\_\_\_\_  
County Hopkins \_\_\_\_\_  
Division \_\_\_\_\_

COMMONWEALTH OF KENTUCKY

PETITIONER

VS.

RESPONDENT

\_\_\_\_\_ has reasonable grounds or knowledge to lead him/her to believe Respondent appears to be unable to provide for his/her physical health and safety and/or manage his/her financial resources effectively and submits to the Court the following facts upon which he/she supports this belief:

1. Name of Petitioner: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Petitioner's relationship to Respondent: \_\_\_\_\_

2. Name of Respondent: \_\_\_\_\_  
Respondent's Date of Birth (if known): \_\_\_\_\_

3. Respondent's Permanent, Full-time Residence: \_\_\_\_\_  
Address

- a. Respondent has resided at this address for the previous \_\_\_\_\_ years \_\_\_\_\_ months.
- b. Is this address a hospital, treatment facility, correctional facility, or long-term care facility?  Yes  No

4. Is Respondent currently physically located at his or her permanent address above?  Yes  No If No, (check one):  
 a. Respondent is currently located at: \_\_\_\_\_  
Address  
 b. Respondent's current location is unknown at this time.

5. Is Respondent a citizen or a permanent resident of the United States?  Yes  No

6. Has Respondent been convicted of, pled guilty to, or entered an Alford plea for a felony sex crime as defined in KRS 17.500?  Yes  No  Unknown

7. Has Respondent been convicted of, pled guilty to, or entered an Alford plea for a felony offense that would classify the person as a violent offender under KRS 439.3401?  Yes  No  Unknown

8. The nature of Respondent's disability and the facts or reasons supporting the need for determination of disability are:

9. Respondent owns the following estate, including government benefits, insurance entitlements, and anticipated yearly income (state none or unknown):

<u>ESTATE</u>	<u>VALUE</u>
Real Property	\$ _____
Personal Property	\$ _____
Yearly Income	\$ _____
Source of Yearly Income	_____



10. Name of  Person or  Facility having custody of Respondent: \_\_\_\_\_

Address: \_\_\_\_\_

11. Respondent's  Durable Power of Attorney OR  Health Care Surrogate is:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

12. Respondent's next of kin:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Relationship to Respondent: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Relationship to Respondent: \_\_\_\_\_

**WHEREFORE**, Petitioner requests the Court inquire into Respondent's ability to care for himself/herself and to manage his/her financial resources. Petitioner attaches an **Application for Appointment of Fiduciary and further requests:**

1. Trial by jury;
2. Counsel to represent the Respondent; and
3. Court appointment of a physician, advanced practice registered nurse, or physician assistant; a psychologist; and a social worker to evaluate Respondent as provided by law unless the evaluation report is filed with this Petition.

\_\_\_\_\_, 2\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Petitioner

SUBSCRIBED and SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_.  
My Commission expires: \_\_\_\_\_  
\_\_\_\_\_  
County, Kentucky Name/Title

To be completed if Petitioner is represented by counsel:

Attorney's Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

\_\_\_\_\_  
Attorney Signature





AOC- 745 Doc. Code: AAF  
Rev. 7-18  
Page 1 of 2  
Commonwealth of Kentucky  
Court of Justice www.courts.ky.gov  
KRS 387.530(2); 387.720; 395.130;  
210.290



APPLICATION FOR APPOINTMENT  
OF FIDUCIARY FOR DISABLED PERSONS

Case No. \_\_\_\_\_  
Court \_\_\_\_\_ District \_\_\_\_\_  
County Hopkins  
Division \_\_\_\_\_

COMMONWEALTH OF KENTUCKY

PETITIONER

VS.

RESPONDENT

\* \* \* \* \*

1. Comes now \_\_\_\_\_, Applicant herein, and requests to be appointed as \_\_\_\_\_ for Respondent.
2. Applicant states his/her relationship to Respondent is \_\_\_\_\_.
3. Applicant states his/her qualifications for appointment are as follows: \_\_\_\_\_

4. Applicant offers as surety on his/her bond the following: \_\_\_\_\_

5. Respondent owns the following estate, including government benefits, insurance entitlements, and anticipated yearly income (state if none or unknown):

<u>ESTATE</u>	<u>VALUE</u>
Real Property	\$ _____
Personal Property	\$ _____
Yearly Income	\$ _____
Source of Yearly Income	_____

6. If Applicant is the Cabinet for Health and Family Services, please attach, or provide the Court prior to the final hearing in this matter, a report indicating the average caseload of each field social worker.
7. Applicant states that all statements in the foregoing are true.

**Applicant's Name:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
**Telephone Number:** \_\_\_\_\_

**Date** \_\_\_\_\_ **Applicant's Signature** \_\_\_\_\_

SUBSCRIBED and SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

My Commission expires: \_\_\_\_\_

County, Kentucky \_\_\_\_\_ Name/Title \_\_\_\_\_



### WAIVER OF NOTICE AND REQUEST FOR APPOINTMENT OF FIDUCIARY

The undersigned hereby waive notice of hearing and the right to appointment and request the Court to make the appointment herein applied for:

_____	_____
_____	_____
_____	_____
_____	_____

To be completed if Applicant is represented by counsel:

**Attorney's Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Telephone Number:** \_\_\_\_\_

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Attorney Signature**





**PERSONAL IDENTIFIER DATA SHEET**  
(Mental Health/Disability/Incompetency)

Case No. \_\_\_\_\_  
Court \_\_\_\_\_  
County Hopkins  
Division \_\_\_\_\_

\*\*\*\*For use in actions brought or proceedings conducted pursuant to KRS Chapters 202A (Involuntary hospitalization of the mentally ill); 202B (Involuntary intellectual disability admission); 222.430 et seq. (Involuntary treatment for alcohol and other drug abuse); 387.500 et seq. (Guardianship and conservatorship for disabled persons); 504 (Responsibility, incompetency/insanity/mental illness); and, 645 (Involuntary hospitalization of the mentally ill child).

TO THE PETITIONER IN A MENTAL HEALTH OR DISABILITY PROCEEDING

TO THE DEFENDANT OR HIS/HER ATTORNEY IN A CHAPTER 504 PROCEEDING

**The Court requires that you provide the following information about the Respondent/Defendant in this case:**

RESPONDENT/DEFENDANT: *Please Print*   
First Middle Last

Also known as: \_\_\_\_\_

Street address: \_\_\_\_\_

Mailing address: \_\_\_\_\_

Respondent's/Defendant's Identifiers:

Sex	Race	Date of Birth	Height	Weight	Eyes	Hair	Social Security #	Drivers License #	State

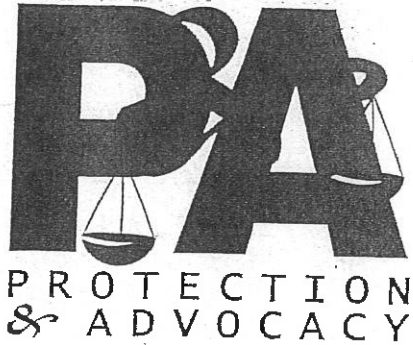
I understand that the information requested herein is intended to be entered into the official court record of this matter, and that its accuracy is of the utmost importance. The information I have provided above is true and accurate to the best of my knowledge and belief.

\_\_\_\_\_, 2\_\_\_\_\_  
Date

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)





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# Thinking About Guardianship?

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Protection and Advocacy  
Third Floor  
100 Fair Oaks Lane  
Frankfort, KY 40601  
(502) 564-2967  
1-800-372-2988  
(TTY and toll free)

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### Thinking about guardianship?

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Eighteen may seem like a young age, but in Kentucky it means a person is an independent adult. Being an adult means a person can do such things as vote, sign contracts, or consent to surgery without anyone's permission. That's true even for people with disabilities who might need help taking care of themselves or managing where they will live and work. Some families choose guardianship as a way to help a family member who is not able to make or communicate personal decisions or who is unable to take care of personal needs.



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### What is guardianship?

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Guardianship is a legal tool that grants a parent or other adult the legal authority to make decisions for a legally disabled adult. An adult is considered to be legally disabled (a ward) if a court after a jury trial has ruled in a disability hearing that the person cannot take care of her personal needs or manage her finances. At the same time the court declares a person to be disabled, it appoints a guardian or a conservator to help with personal or financial needs in the areas the disabled person can't manage alone.

## Thinking About Guardianship?

In deciding this at the disability hearing, the court will look to see if the person can take care of some things on her own. Can she take care of her own money, her nutrition and her physical health and safety? If the person needs help in some areas, but not others, the court may appoint a limited guardian or a conservator. There are also many alternatives to guardianship that might be a better way to help.

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## What are a guardian's duties?

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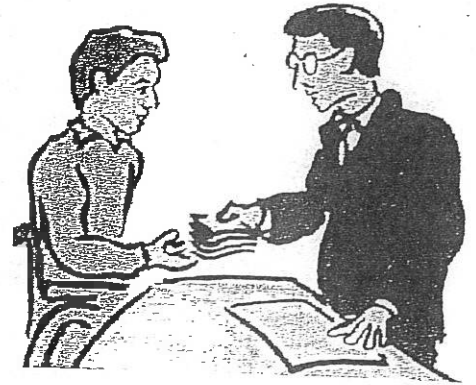
A guardian should focus on the legally disabled adult's well-being. The goal of guardianship is to protect the personal, civil, and human rights of the person with the disability and to encourage her to make her own decisions and act on her own behalf. Depending upon the specific rights the court takes away, the guardian's duties may include:

- Arranging for a place for the ward to live in the least restrictive environment
- Arranging for educational, social, vocational, and rehabilitation services
- Arranging for other services the ward needs to meet his needs
- Consenting to medical treatment for the ward
- Managing the ward's finances, unless the court has appointed a separate conservator

## Thinking About Guardianship?

- Carrying out only those duties the court requires

A guardian, however, may not consent to abortion, sterilization, psycho-surgery, removal of a bodily organ, or amputation of a limb without court approval unless there is an emergency that requires it.



A guardian also must report to the court every year about how the ward is doing. The report includes information on where the ward is living, in what programs the ward is involved, and whether guardianship continues to be needed. If the guardian is responsible for the ward's finances, the guardian must tell the court within 60 days of being appointed what all of the ward's assets and income are. In addition, the guardian must give a financial report to the court every 2 years. The financial report is a simple accounting of what money was received by the ward (for instance, the SSI check) and how it was distributed. Forms for these reports are available from the district court or the Periodic/Final Settlement of Guardian/Conservator for Minor/Disabled Person is available at [www.kycourts.net/forms/Original%20Forms/856.pdf](http://www.kycourts.net/forms/Original%20Forms/856.pdf).

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## What is a conservatorship?

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A conservator is a type of guardian who manages finances only. The court may appoint a conservator alone or in combination with a guardian to handle a legally

## Thinking About Guardianship?

disabled person's financial affairs. After the conservator's appointment, within 60 days she must file a list of the person's property with the court. She must then file a report every two years saying how much money and property she has received as conservator and how she is using it on behalf of the ward.

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### What kinds of guardians and conservators might the court appoint?

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If the court finds that a person is legally disabled and needs help with his personal business or finances, it might appoint a

- Full guardian if the person is unable to take care of all his personal needs
- Limited guardian if a person can take care of some personal needs but needs help in other areas
- Conservator if the person only needs help with his finances
- Both a conservator and a guardian

If the person lives in an institution or doesn't know anyone willing to serve as his guardian, the court may appoint

a state guardian or conservator. A state guardian can work as a guardian, conservator, limited guardian, limited conservator, or any combination that the court decides to assign.

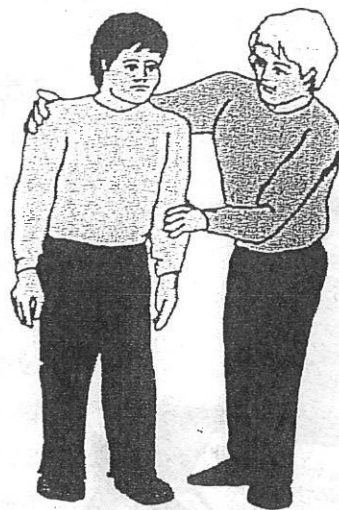
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## Guardianship has consequences

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Establishing a guardianship has significant implications for the legally disabled adult. On one hand, it can put protections into place so the person can live life more safely, with as much self-determination as possible. On the other hand, it limits civil rights. Many rights can be lost through guardianship so it should not be undertaken lightly. The rights that can be lost include

- The right to marry or divorce
- The right to vote or hold office
- The right to make a contract
- The right to make a will
- The right to get a drivers' license
- The right to own or sell property
- The right to rent property
- The right to decide about medical treatment
- The right to make decisions about one's own social life



## Thinking About Guardianship?

Balancing the values of independence and protection can be a challenge. Consider the disabled person's needs and wishes. Less restrictive options are often available.

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## What are some alternatives to guardianship?

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### Advance Directives

An advance directive states, in writing, an adult's choices about medical care or names someone to make medical choices for him if he becomes unable to speak for himself. It is called an advance directive because it is signed in advance to let the person's family and doctor know his wishes about medical treatment. Kentucky recognizes many types of advance directives, including living wills, healthcare surrogate designations, durable powers of attorney and mental health advance directives. The Kentucky living will form can be found at <http://ag.ky.gov/consumer/livingwills.htm>.



### Bank Account Requiring Co-Signatures

This type of account protects a person's finances, while giving the person the opportunity to develop money management skills. Of course, an account should only be established with a trusted relative or friend.

### Citizen Advocacy

Citizen advocacy programs match a volunteer with someone who needs help taking care of their personal or

## Thinking About Guardianship?

financial affairs. A citizen advocate might serve as a guide and advisor, assist with budgeting and paying bills, help make purchases, or perform all the supportive activities that family and friends usually provide when they are present. Citizen advocacy services are offered through The Council in Louisville, [www.councilonmr.org/ca.htm](http://www.councilonmr.org/ca.htm) or (502) 584-1239. Many churches and faith-based programs work with people with disabilities to help them manage their money and pay their bills. Contact a local community center for more information.

### **Curator**

In Kentucky, anyone who thinks that they need help managing their property or finances because of old age or physical disability can ask a district court to appoint a curator for them. The proceeding is done without notice to others or a hearing. There is no legal determination of disability.

### **General Adult Services**

General Adult Services are provided through the Kentucky Cabinet for Health and Family Services. General adult services help adults attain or maintain self-sufficiency in the community. They include preventive services, counseling, transitional services, and referral or coordination of services, such as arranging transportation. General adult services are voluntary; adults can refuse them if they want to. General Adult Services may be requested by the adult, or at the direction of the adult, who is in need of services.

# Thinking About Guardianship?

## Power of Attorney

A power of attorney allows a parent or other adult to pay bills and make financial decisions for another person without taking away any basic civil rights, as guardianship does. A person can appoint someone to act as his attorney-in-fact only if he fully understands what he is authorizing the other person to do for him. He then can change or revoke the power of attorney at any time. However, a power of attorney may be written so that it continues if the person becomes unable to make decisions. This is called a durable power of attorney.

## Representative Payee

A number of government agencies, such as the Social Security Administration and the Veteran's Administration, permit another person to receive and manage funds for the person with the disability. The person who manages the funds is called a representative payee. The government agency appoints the representative payee, so no court is involved. Representative payees must report how the funds have been spent to each agency. The representative payee has no authority beyond managing income from the particular agency.



## Skills Training

Service providers, such as the Centers for Independent Living, can help the person with the disability develop skills in weak areas. Centers for Independent Living treat housing, transportation, attendant services, employment and discrimination as the interlocking problems they often



## Thinking About Guardianship?

are for people with disabilities. And the Centers serve people with all kinds of disabilities, not just one group. They provide a package of services including information and referral, peer counseling, advocacy, and independent living skills training. These programs teach self-help skills, inform people about existing disability programs, and create new services to fill gaps. The Centers for Independent Living are non-profit and community-based. They are also controlled by people with disabilities. If you would like to learn about a Center for Independent Living in your area, call Protection and Advocacy at 1-800-372-2988.



### **Trusts**

If parents' major concern is how a person with a disability will manage an inheritance, they may choose to establish a trust fund rather than a guardianship. A trust permits one person to manage property and money for another person according to the directions of the person who set up the trust. The success of a trust depends on the selection of the trustee, the person or agency that will administer the trust. A trustee has no authority to make personal decisions for an individual for whom a trust is established. A trust set up without regard to the eligibility laws may disqualify a person who is disabled from SSI, Medicaid, and other important benefits.

### **Special Needs Trusts**

A special needs trust or supplemental needs trust is a trust which protects the assets of a person with a disability and still allows her to qualify for and receive benefits, such as

## Thinking About Guardianship?

SSI and Medicaid. The trust must be created by a parent, grandparent, guardian, or a court. When the person dies, if the trust was funded by her parents, other third parties or by court order, Medicaid won't require it to pay back the cost of any medical assistance that the person received during her lifetime. If, however, the trust has assets that originally belonged to the person before she became disabled, Medicaid must be reimbursed from those assets. This would include job earnings and any assets not court-ordered into the special needs trust.

A nonprofit pooled income special needs trust is run by a nonprofit association, and a separate account is maintained for each individual beneficiary. All accounts are pooled for investment and management purposes. The trust (or more accurately, an account in the pooled trust) may be created by a parent, grandparent, guardian, or court, and it can also be created by the disabled individual himself. Upon the death of the disabled individual, the balance is either retained in the trust for the nonprofit association or paid back to Medicaid for its medical assistance.

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## When should guardianship be considered?

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Before pursuing guardianship, everyone should think about the specific problems the person is having. If the person is disabled but capable of making some though not all decisions, consider one or more of the alternatives to guardianship discussed above. Some questions to ask are

## Thinking About Guardianship?

- Can the person provide for his own personal needs for physical health, food, clothing, or shelter?
- Is he able to manage personal financial resources effectively?
- Would he be taken advantage of if no one was appointed to act as guardian?
- Is there another way to help other than guardianship, which takes away rights?



Guardianship is not a way to force someone to do what another person thinks he should do. Some problems, like drinking too much or unsafe sexual practices, are not the kinds of problems that guardianship can fix. Within the limits of the law, adults have the right to make decisions others may view as unwise.

Many people with disabilities continue to live in their home communities with a helping hand from family and friends. They do not need formal legal assistance. But if a person can't take care of himself and his friends and relatives aren't able help enough, guardianship may be needed so that another adult can legally make decisions for him and act on his behalf.

If you do opt for a guardianship, you will want to think about who should become the guardian. In many families, parents take on that role for as long as they are able. When parents die or can no longer do the job, someone else must be named. That person might be a sibling, relative, or trusted friend. Some people select co-guardians, such as a parent and a sibling to share the responsibility.

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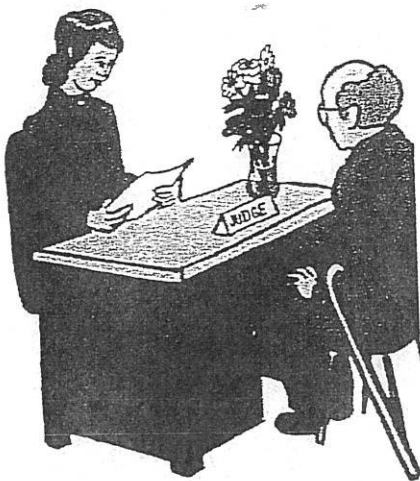
### How does the court appoint a guardian or conservator?

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Generally, disability hearings take place where the person thought to be disabled lives. (The disabled person is called a respondent.) The person asking for guardianship or conservatorship is called the petitioner and must first complete a Petition to Determine if Disabled form and file it with the court. The form is available from the local district court or at [www.kycourts.net/forms/InProgressForms/740.pdf](http://www.kycourts.net/forms/InProgressForms/740.pdf). Anyone concerned with the welfare of a person with a disability may file the petition. The form asks for information about where the respondent lives, who next of kin is, and why a guardian or conservator is necessary.

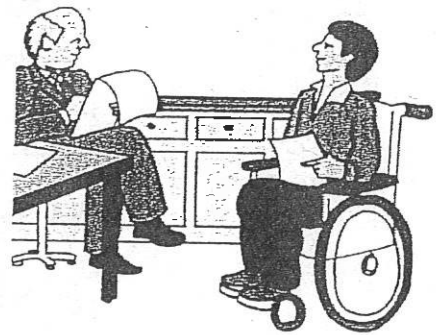
At the same time the petition for a disability determination is filed, the person who wants to become the guardian or conservator must file an Application for Appointment of Fiduciary for Disabled Persons. This application is also available from the district court or at [www.kycourts.net/forms/InProgressForms/745.pdf](http://www.kycourts.net/forms/InProgressForms/745.pdf). The district court will not begin the disability determination process until this application is filed.

If the adult with the disability does not have a lawyer, the court will appoint an attorney to represent her. The court will pay the lawyer's fees if it finds the person with the disability can't. The county attorney will represent the state in the process. The petitioner is not required to have an attorney but may choose to do so.



## Thinking About Guardianship?

Before a hearing can be held, a physician, a psychologist, and a social worker must examine the person with the disability. They will interview her to determine her mental, physical, social, and education abilities and needs. If the person has mental retardation or a mental illness, at least one of the examiners must be a professional qualified in mental retardation or mental health. The team of examiners will recommend to the court whether a guardianship is needed. If it is, they will also recommend the kind and amount of guardianship, a living arrangement and a treatment program.



If these evaluation reports are not filed with the petition, the county where the proceedings are held will pay for the evaluations if the court finds the person with the disability can't pay for them. If the person lives in a facility for persons with mental illness or mental retardation and the facility files the petition, the facility will provide the court the evaluation. But the person with the disability can ask for a second set of evaluations if it she thinks the first evaluation is biased. The county will pay for the evaluation if the she can't.

If the evaluation reports are filed with the petition, the district court will hold a hearing within 30 days. Otherwise, the court will order the evaluations and schedule the hearing within sixty 60 days unless more time is needed. At least 2 weeks before the hearing, the district court will send notice of the hearing date to everyone involved in the hearing.

The hearing will be held before a 6-person jury. The person with the disability must attend the hearing unless the court

## Thinking About Guardianship?

decides it will subject her to a serious risk of harm. The jury will decide whether the person is fully or partially disabled in her personal and financial affairs. Based on the jury's findings, the judge will appoint a guardian or conservator. The person with the disability has the right to tell the judge who she prefers to be appointed, but the judge will appoint whomever she thinks is best qualified and willing to serve. The order will specify the areas in which the court authorizes the guardian or conservator to act on behalf of the disabled person. The court order will be filed with the court but must also be indexed in the county clerk's office.

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## When would the court appoint a state guardian?

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If there is no suitable family member or interested person willing or able to become guardian or conservator, the petitioner can ask the Health and Family Services Cabinet, State Guardianship Office, to apply to become guardian. The petitioner must call one of the six regional offices, depending on the county of residence of the respondent, to initiate the referral process for state guardianship. A listing of regional office contact information can be found by visiting <http://chfs.ky.gov/dcbs/service+regions> or calling the Division of Service Regions at (502) 564-7463. For more information on state guardianship call (502) 564-2927 or visit <http://chfs.ky.gov/dcbs/dpp/state+guardianship.htm>

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## How to change or end guardianship or conservatorship

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At any time, the legally disabled person, his guardian or conservator, or anyone else on his behalf may ask the court to

- end the guardianship
- change the guardianship order
- remove or replace the guardian or conservator
- or renew the appointment of a guardian or conservator

A proceeding for any of the actions listed above may be begun by filing a petition with the district court where the legally disabled person lives. If the request is made by the disabled person, he can simply ask the court or the clerk of the court or write a letter to the court. The court will appoint someone to help him fill out the petition. The Petition for Relief, Modification or Termination of Guardianship can also be found at [www.kypa.net/guardianship/aoc795.pdf](http://www.kypa.net/guardianship/aoc795.pdf).

The court will hold a hearing within 30 days after the petition is filed (unless more time is needed) to decide whether to do what was asked in the petition.

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## Summary

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Choosing guardianship is a big decision, but it still has some flexibility. Guardianship is a legal means of helping adults with disabilities, yet it is a complicated issue because it can remove personal freedom and choice. But guardianship does not have to be forever. If the adult with a disability becomes able to manage his affairs, the court can end the guardianship. Keep in mind, too, that the court reviews the guardianship arrangement each year. The scope of the guardianship can be renegotiated, the guardianship can be ended, or a different guardian chosen. The goal of guardianship is to protect the personal, civil, and human rights of the person with the disability and to encourage him to make his own decisions and act on his own behalf, regaining as many rights as possible.





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