

New Jersey Department of Human Services Bureau of Guardianship Services



Guardianship for Individuals with
Developmental Disabilities

- A guardian is a person or agency that is legally authorized to act on behalf of a minor or an incapacitated adult to assure that the person's health, safety, and welfare needs are met and that his or her rights are protected.
- The duties of a guardian also include making decisions on behalf of the individual and giving informed consent in certain matters. However, the guardian is required to involve the person in decision-making to the extent that his or her abilities permit.

Not Everyone Needs a Guardian.

- Guardianship may be considered for an individual only when it is clearly necessary and only to the extent that it is required.

Types of Guardianship of the Person (Requires Court Order)

Limited Guardianship

- Limited guardianship is appropriate for persons who have been found capable of making and expressing some, but not all, decisions.
- The areas of limited guardianship are residential, educational, medical, legal, vocational and financial decisions.

General Guardianship

- General guardianship is appropriate for persons who have been found incapable of making or expressing any decisions.

Other Types of Guardianship

- Guardian of the Person
- Guardian of the Estate
- Special Medical Guardian (limited to a particular medical event)
- Protective Arrangement (limited authority to a single transaction)

(In effect until further order of the court)

Alternatives to Guardianship

(Do not require a court order except for Conservatorship)

- Power of Attorney (Individual consents)
- Advance Directive/Living Will identifying a health care representative (Individual Consents)
- Representative Payee
- Conservatorship (Individual consents)
- Joint Financial Accounts (Individual consents)
- Advocacy
- Supported Decision Making (natural supports and a formal model)

Options For Processing Guardianship

How to Pursue Guardianship if necessary:

- **Private Counsel-** A relative or other interested party may choose to pursue appointment as guardian privately, at his or her own expense. This is an appropriate option when guardianship of both person and property is sought.
- Utilize an Agency qualified to assist with low-no cost filing of a guardianship of the person and/or completion of the Pro-Se paperwork
- A change in the guardianship law and forms in 2017 made Pro-se filing more accessible to families
- Pro-Se Filing (Without an Attorney)
 - <http://www.judiciary.state.nj.us>
 - Go to self-help center, Scroll down to Civil Division, Click on "Guardianship of an Adult"
 - Click on how to become the legal guardian of a person receiving services from the Division of Developmental Disabilities
- Guardianship is a Legal Process and responsibility, the proposed guardian will be required to review training materials and report to the court on the well-being of the person they serve. The training materials and report form can be viewed at the Judiciary sight noted above.

Options For Processing Guardianship

- The Department of Human Services, BGS can facilitate a court action for the appointment of a guardian of the person, at no charge.
- BGS is currently handling the filing of guardianships where no family or next-of-kin is available to serve as guardian and BGS is proposed as guardian imminently.

Role of The Guardian

- Guardianship of the person only, and not of his or her property, involves no financial obligation for the guardian. A guardian's only role related to financial matters is to sign applications for benefits or other entitlements for which the person with a disability may qualify.

A Guardian of the Person Is Responsible For:

- encouraging the individual to participate with the guardian in decision- making to the maximum extent of the individual's ability and to encourage the individual to act on his or her own behalf whenever able to do so.
- encouraging the individual to develop or regain higher capacity to make decisions to the maximum extent possible in those areas which he or she needs a guardian.
- making decisions on behalf of the person to the extent of the court order.

A Guardian of the Person Is Not Responsible For:

- Providing for the person from his or her own funds
- Any liability to another person for acts of the individual
- Injury to the individual from the wrongful conduct of another person providing medical or other care
- Taking the person into the guardian's home to live

Limitations of Guardianship

- A guardian cannot consent to shock treatment, psychosurgery, sterilization and medical, behavioral or pharmacological research. The guardian must petition the court for a guardian ad litem that can give specific consent for a particular request.

When the Bureau of Guardianship Services Is Appointed Guardian

- The person's family may remain involved.
- The Guardianship staff providing services to the person may maintain contact with families or other interested parties and obtain their input in decision making.

Keeping Guardians Informed

- Service Component Staff shall inform BGS of significant events involving a person served by BGS:
- Immediate notification (within 1 working day) is required when:
 - Alleged or suspected abuse, neglect, exploitation or denial of rights
 - Serious illness or injury
 - Death, including circumstances, cause, results or investigation if any
 - Request of an individual to see is/her BGS

Keeping Guardians Informed

- BGS can not meet its responsibilities toward its clients without sufficient information relevant to the decisions to be made.
- Prompt and comprehensive notification is required regarding the following:
 - Proposed program changes
 - Medical, psychiatric, behavioral or emotional changes, additional diagnoses, hospitalizations, medical appointments/consultations
 - 2 weeks notice of Service Plan Meeting is required
 - Advanced notice of IDT meeting and nature of IDT issue
 - Problems or recommended changes in day program, transfer, discharge
 - Emergency respite placement
 - Chronic Absenteeism
 - Family-family concerns, changes in family information or reappearance of family
 - Staff changes-changes in case manager
 - A clinical conclusion that the individual no longer needs a guardian

Guardianship Is Not Permanent

- As part of the annual Planning Process for each adult with a guardian or receiving guardianship services, staff shall review the individual's continuing need for guardianship. If a clinical evaluation indicates a need to modify the guardianship, a referral will be initiated for legal review.
- Guardians must report to the court annually and Advise the Surrogate of Major changes in the person's life.

Bureau of Guardianship Services Contact Information

Bureau Chief-Jessica Anastasi-(609)631-2213

Legal Unit, Supervisor- Mickelle West, Esq. (609) 631-2213

PO Box 705,

Trenton, NJ 08625-705

Prepares petitions for the appointment of a guardian statewide

Northern Regional Office, Supervisor-Michael Dilella

153 Halsey St., 2nd Floor

PO Box 47009, Newark, NJ 07101

(973) 648-4638

Serving Bergen, Essex, Hudson, Passaic, Morris, Somerset, Sussex, Union, and Warren Counties of Community Services and Green Brook Regional Center

Central Regional Office, Supervisor-Dennis Cline (609) 631-2209

PO Box 705,

Trenton, NJ 08625-0705

Serving Burlington, Hunterdon, Mercer, Middlesex, Monmouth and Ocean Counties of Community Services; Hunterdon and New Lisbon Developmental Centers

Southern Regional Office, Supervisor-Lisa Emore (856) 339-6750

199 E. Broadway, Finlaw Building, 4th Floor

Salem, NJ 08079

Serving Atlantic, Camden, Cape May, Cumberland, Gloucester, and Salem Counties of Community Services; Vineland and Woodbine Developmental Centers