

# ALABAMA GUARDIANS

## WHAT IS A GUARDIAN:

A guardian is the parent of a minor or someone who has been appointed by the Probate Court to be responsible for the personal care of an individual.

## WHAT IS A WARD?

Legal name for a person for whom a guardian has been appointed.

## WHO CAN BE A GUARDIAN FOR AN ADULT?

Any qualified person may be appointed. However, the law establishes the following priorities:

1. Person named in a durable power of attorney
2. Spouse or spouse's nominee
3. Adult child
4. Parent or parent's nominee
5. Relative with whom person has lived the prior 6 months
6. Nominee of caretaker of person

## CAN A PARENT APPOINT A GUARDIAN?

Yes, in a will a parent may appoint a guardian for a minor child or for an unmarried incapacitated child.

## CAN A SPOUSE APPOINT A GUARDIAN?

Yes, in a will a person may appoint a guardian for his or her incapacitated spouse.

## WHAT ARE THE POWERS OF A GUARDIAN?

1. Must assume responsibilities of a parent regarding support, care and education
2. Must become personally acquainted with ward
3. Must take reasonable care of ward's personal effects
4. Must apply available money for current needs or health, support, education and maintenance
5. Must conserve excess money
6. Must report the condition of the ward to the Probate Court
7. May receive limited funds for support of ward
8. May take custody of ward and establish a home
9. May compel payment of support
10. May consent to medical care
11. May consent to marriage or adoption
12. May delegate certain responsibilities to the ward for the decision making

(Probate Court may limit powers of guardianship)

## WHEN DOES A GUARDIANSHIP END?

1. Upon death
2. Upon resignation of the guardian
3. When ward's incapacity is terminated

(Probate Court may limit powers of guardianship)

## AM I REQUIRED TO HAVE A LAWYER?

The legal complexity of guardianships and conservatorships normally necessitates having an attorney since the Judge of Probate cannot advise you of the law or provide you with forms.

**WHAT IS THE DIFFERENCE BETWEEN A GUARDIAN AND A **CONSERVATOR**?**

The guardian is a person who looks after the child or incapacitated person and their welfare while a conservator is responsible for safeguarding the assets of a child or incapacitated person.

**WHAT ARE THE STEPS FOLLOWED IN APPOINTING A GUARDIAN OR **CONSERVATOR** FOR AN ADULT?**

1. Petition filed
2. Appointment of a guardian ad litem
3. Examination by physician
4. Appointment of Probate Court's representative
5. Hearing
6. Bond for conservator
7. Order granting petition
8. Inventory of property for conservator
9. Letters of guardianship and/or conservatorship

**IS A BOND REQUIRED?**

Guardianship No. Conservatorship Yes

**IS AN INVENTORY REQUIRED?**

No.

**ARE ACCOUNTINGS REQUIRED?**

No.

THIS INFORMATION PAGE, WHICH IS BASED ON ALABAMA LAW, IS TO INFORM AND NOT TO ADVISE. NO PERSON SHOULD EVER APPLY OR INTERPRET ANY LAW WITHOUT THE AID OF A LAWYER WHO ANALYZES THE FACTS, BECAUSE THE FACTS MAY CHANGE THE APPLICATION OF THE LAW.