

This brochure is intended for informational purposes only. Please consult with an attorney regarding your specific situation. The law is subject to change without notice.

If you would like more information about guardianship, trusts or estate planning, please let us know.

Please Call Me!

I'd like to know more about guardianship, trusts and estate planning. Please arrange to have someone contact me.

Name

Address

Phone

Email

Mail to:

Legal Services Unit
AHRC - New York City
200 Park Avenue South
New York, New York 10003-1582



AHRC
new york city
The Association for the Help of Retarded
Children
200 Park Avenue South
New York, NY 10003-1582

ahrc - new york city

guardianship

Basic Questions & Answers
About Article 17-A
Guardianship

AHRC New York City

Legal Services

What is Article 17-A Guardianship?

Guardianship is a legal process by which the Surrogate's Court, according to law (Article 17-A of the Surrogate's Court Procedure Act), appoints a person or agency to make decisions for a mentally retarded or developmentally disabled person over the age of 18. It also allows for the appointment of standby and alternate standby guardians.

For Whom is Guardianship

Guardianship is appropriate for a mentally retarded or developmentally disabled person who is deemed by two qualified professionals to be legally incapable of managing his/her own affairs, specifically concerning daily living, health care, residential, and/or financial decision making.

Who Can Be a Guardian?

Anyone over the age of 18, especially parents, siblings, or other relatives are appropriate primary guardians. If these individuals are unwilling and/or unable to be primary guardians then a third party - such as an interested and capable family friend or an agency licensed to be appointed guardian - is appropriate.

What Kinds of Guardianship Are There?

Guardianship for the person and property are two different types of guardianship. You can petition for guardianship of the person, the property, or both.

What are the Guardian's

Guardianship of the person gives the guardian the legal power to make decisions about daily life, health care, and where the ward lives.

Guardianship of the property gives the guardian the legal power to decide what to do with the ward's personal and real property and income. Guardianship of the property also requires the guardian to file annual reports about the ward's property.

What Happens When A Primary Guardian Can No Longer Perform The Duties of Guardian?

In the event that the primary guardian, through incapacity, death, or resignation, is no longer able to serve as primary guardian, the designated standby guardian can immediately assume the duties of guardian. However, within 60 days the standby guardian must file a petition seeking confirmation from the Surrogate's Court of the successor guardian status. When the standby guardian is no longer able to serve as guardian, the alternate standby guardian can similarly assume the duties of the guardian.

What If There Is Nobody To Serve As The Guardian?

In cases of last resort, NYSARC, Inc. (New York State Association for Retarded Children) is available to serve as primary, standby, or alternate standby guardian. In order to have NYSARC, Inc. serve as guardian, you must apply and be approved by both AHRC and NYSARC. (Applications are available through the Legal Services Unit of AHRC.)

How Can I Petition For Guardianship Without An Attorney?

A guardianship petition can be obtained from your county Surrogate's Court Guardianship Department. After completing the petition it must be filed along with the original birth certificate of the ward, and a nominal filing fee payable to the Court. Fingerprinting and a court appearance on the return date assigned by the Court may be required. Be aware that the Surrogate's Court may schedule a hearing at which the primary guardian(s) must appear and the ward may have to appear. Generally, the guardianship process may take from 6 months up to a year to complete.

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