

## Guardianship of a Minor or Incapacitated Adult

### **I. What is a Guardianship?**

In a guardianship, a court is asked to appoint a responsible person to make important decisions for a minor child or for an incapacitated person (an individual who is legally incapacitated and unable to manage his/her own affairs). There are two basic types of guardianships: Guardianship of a Minor and Guardianship of an Incapacitated Person.

Guardians can make medical and non-financial decisions, take reasonable care of personal items, and spend money for the support, care, and education of the ward. They can also save any leftover funds and pay it to the conservator if one is appointed. However, a guardian is limited in terms of being able to manage the estate of a ward, a conservator must be appointed for that.

Guardianships require a lot of time and attention, and a court hearing is required. Guardianships are not always necessary, nor are they the best option in all situations. It is strongly recommended that an attorney be consulted to ensure that guardianship is the best option.

### **II. Guardianship of a Minor**

#### How do I become a guardian of a minor and how long will the guardianship last?

You must file a petition with family court to begin a guardianship proceeding. The court will assign you a guardianship hearing date, at which time the court may appoint you as Guardian of the Minor.

Appointment as a guardian will continue until one of the following occurs:

- the minor turns age 18, becoming an adult
- the minor dies
- the minor is adopted
- the minor gets married
- you (the guardian) dies
- you quit with the court's approval
- you are removed as guardian by the court
- the court terminates the guardianship

## **What are the responsibilities of a guardian of a minor?**

The duties and responsibilities of a guardian of a minor include:

- providing care for the minor child to ensure that his/her needs are being met
- taking reasonable care of the minor's personal effects and property
- applying for benefits, and receiving payments for the support and care of the minor
- making medical, legal and educational decisions which are in the best interests of the minor

## **III. Guardianship of an Incapacitated Person**

### **How do I become a guardian of an incapacitated person?**

When a person is unable to care for him/herself or is unable to manage his/her own affairs (i.e., is incapacitated), the family court may appoint a person as his/her guardian.

### **How long does the guardianship last?**

A guardian's responsibility for his/her ward begins when the family court issues an order appointing him/her as guardian. The guardian's responsibility will continue until one of the following occurs:

- the ward dies
- the guardian dies
- the guardian becomes incapacitated
- the guardian resigns with the court's approval
- the guardian is removed by the court

### **What are the responsibilities of a guardian of an incapacitated person?**

The duties and responsibilities of a guardian of an incapacitated person include:

- providing for the care of the ward (if the guardian has custody)
- taking reasonable care to safeguard the ward's personal effects and other personal property
- making medical decisions to ensure that the ward receives necessary medical care and treatment
- making legal or other important decisions which are in the best interests of the ward