

Adult Guardianship in Indiana: The Basics

What is a guardian?

A guardian is a person or entity appointed by a court that is responsible for the care and supervision of a person and/or property of an incapacitated individual.¹

Most commonly, an incapacitated individual (also called a “ward” or “protected person”) is someone who is unable to provide self-care or manage her or his property due to disability or illness.²

What are the responsibilities of a guardian?

Unless limited by the court, a guardian is responsible for providing or supervising the protected person’s care; and ensuring their property, finances, and assets are properly preserved and managed. Guardians are also generally required to regularly inform the court on the status of these matters.³

What decisions are guardians allowed to make?

Unless limited by the court, a guardian’s authority may include, but is not limited to: the power to enter into contracts, the power to consent to medical care, the decision of where to live, how to manage finances, and whether to marry.⁴

Is it possible to limit guardianship?

Yes. When in the best interests of the protected person, Indiana courts are required to limit the scope of the guardianship to encourage self-improvement, self-reliance, and independence.⁵ The scope of a guardianship can be limited in time, degree of authority, and/or to certain areas

¹ Ind. Code § 29-3-1-6

² For a full list of conditions, see Ind. Code § 29-3-1-7.5(2),(3)

³ Ind. Code § 29-3-8-1(a)(4); 29-3-9-6

⁴ Ind. Code § 29-3-8-2

⁵ Ind. Code § 29-3-5-3(b).



of decision-making. The person petitioning for guardianship or the protected person can also request that the guardianship be limited.

Under guardianship, what rights are retained by the protected person?

Unless explicitly stated by the court, adults under guardianship in the State of Indiana still have the right to:

- Vote
- Challenge or seek to end the guardianship
- Request the court to appoint a different guardian
- Visit with friends and family

How is a guardianship modified or terminated?

A guardianship over an incapacitated adult typically remains in place for the life of the protected person. However, Indiana law requires the termination of such a guardianship when the protected person dies, or is determined by the court to no longer be incapacitated.⁶ The court also has discretion to terminate a guardianship in some additional circumstances; notably when the guardianship is no longer necessary for any reason.⁷

In order for a guardianship to be terminated or otherwise modified, a petition must generally first be filed with the court requesting the termination or modification. Typically, the court will set a hearing so the parties can submit testimony and other evidence. The court will decide what action it believes to be appropriate. It should be noted that even if a guardian desires to resign from his or her duties, the court must first approve the resignation before it is effective.⁸

Are there alternatives to guardianship?⁹

⁶ Ind. Code § 29-3-12-1

⁷ *Id.*

⁸ Ind. Code § 29-3-12-5

⁹ For more information about alternatives to guardianship, read the *Alternatives to Guardianship Fact Sheet* and the *Supported Decision Making Fact Sheet*.



Yes. Often, appropriate and in some cases, legally-recognized supports can be used to address an individual's limitations without the need for guardianship. These supports include, but are not limited to:

- Informal supports
- Supported Decision-Making Agreements
- Authorizations to share information
- Team-based or shared decision-making
- Power of Attorney (POA)
- Healthcare Representative
- Educational Surrogate
- Living wills and advance directives
- Protective orders

There is a spectrum of assistance with many options that may be considered instead of a plenary or full guardianship.

