

Definitions

Words have meaning, and sometimes those same words have different meanings in different contexts. It is important to understand the meaning of some of the words used in guardianships and conservatorships to avoid misunderstandings. Misunderstandings always lead to problems.

Guardian (Guardianship) – person appointed by the court to stand in the position of parent for an incapacitated individual.

Conservator (Conservatorship) – person appointed by the court to be responsible for the faithful and diligent management of an incapacitated individual’s assets/resources.

Petitioner – the person who files the petition for the establishment of guardianship/conservatorship. There may be one or several of these.

Proposed Guardian – is the person who is identified in the petition as seeking to be named guardian.

Proposed Conservator – the person identified in the petition seeking to be named conservator.

Proposed Ward – the person who is alleged in the petition to be incapacitated and thus in need of a guardian

Petition – the papers which are filed with the court which explain the need for the guardianship, identify all interested parties, and ask the court to name a guardian and specify the extent of the guardianship being sought.

Guardian ad Litem – is a person, often an attorney, who is responsible to report to the court facts and other important information as to the “best interest” of the proposed ward. This person may also express their opinion.

Attorney for Proposed Ward – the attorney who represents the proposed ward before the court. Their duty is to represent the expressed view of the proposed ward, even if this may be contrary to the proposed ward’s best interest. If the proposed ward does not hire their own attorney, then one is appointed by the court.

Definitions (continued)

The Court – is the probate court in the county where the guardianship is sought.

Clerk – works for the court and by law cannot provide anyone with legal advice. They can answer procedural questions, such as how the court proceeds, but cannot answer questions like, “What should I put in this section?” They can be of great assistance or your biggest roadblock. This is the person with whom you file the petition.

Bond – a fiduciary bond is required for conservatorships, it is posted for the faithful performance of managing a ward’s assets. Generally the conservator must post a bond for an amount equal to one year’s worth of income, and the value of all assets except real estate.

Ward’s Estate — This generally refers to the resources and assets available to the ward. It includes income to which they are entitled. A guardian and/or conservator must always be mindful to keep the ward’s estate separate from their own estate, and to use the ward’s estate for the ward’s benefit.