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Guardianship & Conservatorship

A conservatorship and guardianship allows someone to act for someone else. They cannot be created without an order by a judge. They are ordered when someone can no longer take care of themselves. For instance, if a person becomes mentally disabled and is no longer able to make informed decisions about their welfare, then they will need a conservatorship or guardianship.

Some of the most often asked questions about guardianships and conservatorships are below.

What is a Guardianship?

Like a power of attorney, a guardianship allows someone else to act as if they were you. Unlike a power of attorney, a guardianship must be ordered by a judge. A guardianship is similar to a parent/child relationship, except that a guardian is not legally responsible for the acts of the other person. Also, guardians do not have to use their own money to provide for the other. A guardian can make personal decisions for the other, like where they will live.

Guardianships are ordered when someone can no longer take care of themselves or a minor under their control. Guardianships may be granted to take care of adults or children.

What is a Conservatorship?

Conservatorships only give a person the power to manage someone else's property and finances. A conservator may not make personal decisions for someone, like where they will live.

How can I get a Guardianship or Conservatorship?

You can only get a Guardianship and conservatorship by filing a case with a Court. If the guardianship is for an adult, the Court will appoint an attorney to represent that person. If the guardianship is for a child, the court may appoint a lawyer to represent the child if it is in the child's best interest. When the court sets up a guardianship, the guardian must accept the guardianship. The forms needed to file a guardianship on behalf of a child can be found at www.utcourts.gov/ocap.

How do I end a Guardianship/Conservatorship?

A guardianship or conservatorship for a minor child ends on its own when the minor child turns 18. A guardianship or conservatorship also ends when either party dies. A guardianship or conservatorship may end using the same process used to create it. In other words, a person may file legal papers that ask the court to end the relationship. This may be done by the person who is guardian or by the person who has a guardian. The court will generally not require someone to act as guardian, but if a guardianship is still needed, the court will not end the guardianship until it is able to find a new guardian.

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