



Guardianship in Indiana

Guardianship Defined

A legal *guardian* in Indiana is someone who is responsible for the person or the property of an incapacitated person or a minor. IND. CODE § 29-3-1-6.

An *incapacitated person* (also called a “ward” or “protected person”) is defined as someone who is unable to manage her or his personal property or cannot provide self-care for the following reasons:

- insanity
- mental illness
- mental deficiency
- physical illness
- infirmity
- habitual drunkenness
- excessive use of drugs
- undue influence of others on the individual
- detention
- incarceration
- confinement
- duress
- fraud
- other incapacity
- has a developmental disability
- cannot reasonably be located for the reasons above.

Types of Guardianship

There are several types of guardianships that a court could decide to grant. They include:

- *Guardian of the person*: Guardian oversees the protected person’s living situation and medical and other treatment decisions.
- *Guardian of the estate*: Guardian manages the protected person’s money, assets, and other property.
- *Guardian of the person and estate*: Guardian oversees both of the first two categories. IND. CODE § 29-3-5-3. Probably the most common type of guardianship.
- *Limited guardianship*: The court might use this category to give limited or specified powers for the guardian for the protected person’s well-being and circumstances. IND. CODE § 29-3-5-3(b)
- *Temporary guardianship*: Granted by the court under emergency circumstances and lasts no more than 90 days. IND. CODE § 29-3-3-4. The powers of a temporary guardian are typically limited.

Equality Through Advocacy

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The Guardian's Powers and Responsibilities

A guardian steps into the legal shoes of the protected person and has the **power** to sign documents like contracts or consents on behalf of the protected person and make decisions that affect the protected person's life and interests.

A guardian also has certain **responsibilities** to the protected person. A guardian is responsible for the protected person's care and to make sure their property, finances, and assets are properly managed. A guardian must file with the court every two years an accounting of the guardian's administration and finances of the protected person. IND. CODE § 29-3-9-6.

Guardians must also promote and encourage the protected person's ability to make decisions independently to the greatest extent possible. Ind. Code §§ 29-3-8-1, -3.

Rights Retained by the Protected Person

Protected persons still keep certain rights in any situation, even if they have a guardian, such as the right to:

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

Alternatives to Guardianship

A guardianship is not the only way to set up a legal arrangement if someone needs help making life decisions. Some alternatives to a guardianship include:

- *Power of attorney*: a notarized, written agreement to hand over certain legal powers and decision-making authority to someone else. It does not require a court order and can be revoked at any time.
- *Healthcare directive*: a limited document that allows another person to make certain healthcare decisions if an individual becomes incapacitated and cannot express those wishes; it also does not need a court order and can be revoked at any time.
- *Educational surrogate*: allows a parent or guardian to participate in his or her child's school decision-making once the student turns 18 without the need for a guardianship.
- *Living wills and advanced directives*: with the help of an attorney, these documents allow an individual to give authority to another person to make certain financial, property, and healthcare decisions under certain circumstances; they're often easier to alter or dissolve than a guardianship.
- *Supported decision-making agreement*: lets a person or group of people create a support network for an individual who might need assistance in making certain financial, medical, or living decisions in a more informal way than a court-issued guardianship.