

Guardianships and Conservatorships

Generally speaking, all adults are considered to be responsible for themselves and their actions. When a person loses the ability to care for themselves through disease, injury or otherwise, they often need someone else to step in and provide care and supervision. For example, suppose your parent develops dementia and can no longer remember how to perform tasks like driving, taking medications, cooking safely and so on. In that situation, the Probate Court can appoint another responsible adult to serve as a **Guardian** of the person (who is called the *Protected Party* or *Protected Person*).

Normally a family member will serve as the Guardian, and will have a wide range of responsibilities over the Protected Person. Think of the Guardian as someone who steps in as a parent to perform parental tasks, even if they are years younger than the Protected Person. The Guardian is responsible for virtually every aspect of the Protected Person's needs except for their financial needs. A Guardian does not manage the money of the Protected Person. This is an important detail that bears repeating- the Guardian does not and is not empowered to manage any monetary aspect of the Protected Person's life. That aspect is controlled by the **Conservator**.

A **Conservator** is a person who has been appointed by the Probate Court to manage the financial affairs of the Protected Person. Their job is to serve as a bookkeeper, and they must keep careful records of all income and expense of the Protected Person, because the Probate Court will expect to see their records on a regular basis. Suppose that your adult son has had a terrible accident and is receiving proceeds from a lawsuit. Even though you are his parent, you are not automatically entitled to manage his money. You must be appointed by the Court first.

Since a Conservator has a higher degree of responsibility than a Guardian, the Court requires the Conservator to be bondable, which means that an insurance company writes a policy that guarantees the strict performance of your financial duties. If you steal or misappropriate the Protected Person's money, the insurance company has to pay the court and then you must deal with the insurance company. This is not an ideal situation to find yourself in, so it should be avoided at all costs.

Children can also require the appointment of Guardians and Conservators, and although the details are slightly different, the duties of the Guardian and Conservator are the same. Think of the Guardian as the Mother who provides the love and support and the Conservator as the Father who provides the financial support. Even though this is an outdated image, it might help you to remember the difference in duties.

If your family member ever needs someone else to care for them or manage their money, you should consult with an attorney who practices in the Probate area of the law. Your local bar association can give you names and numbers of who to call.