

What It Means For You When A Request For Appointment Of A Guardian Has Been Filed.

Information Sheet

When someone requests appointment of a Guardian for you . . .

. . . the Court wants to know whether you are impaired and if so, whether as a result of impairment, you need assistance with personal and medical affairs of day-to-day living.

A Guardian may be needed if a person is “incapacitated” . . .

. . . defined as an individual “who is unable to effectively receive or evaluate information or both or make or communicate decisions to such an extent that the individual lacks the ability to satisfy essential requirements for physical health, safety, or self-care, even with appropriate and reasonably available technological assistance.” (**§15-14-102(5), C.R.S.**)

A Court Visitor will interview you and the proposed Guardian . . .

. . . to help the Court determine if a Guardian is needed, and if so, whether there should be any limitations on the Guardian’s powers. The Court Visitor will help explain the specific request that was filed with the Court, the powers and the duties of a Guardian, and any limitations on powers that may have been requested.

The Court Visitor also will ask questions about your daily activities and health. The Court Visitor files a report with the Court and you may request a copy of the report from the Court or your attorney.

To determine whether a Guardian is needed . . .

. . . a hearing is held and the party filing the Petition for Appointment of a Guardian has the burden of proving the need for the Guardianship. People who may testify at the hearing include a doctor or other professional person, the proposed Guardian, you, and other interested persons.

The Court will appoint a Guardian if . . .

. . . the Court determines that you are “incapacitated” and that there is no less restrictive method for meeting your personal and medical needs. The Court must grant the Guardian only those powers necessary to address your needs and limitations and must encourage your development of self-reliance and independence.

The powers and duties of a Guardian . . .

. . . are, unless otherwise restricted by the Court’s order of appointment, to make decisions regarding your support, care, education, health and welfare, including your place of residence.

- ◆ The Guardian must inform the Court of any change of your address or custodial dwelling.

- ◆ The Guardian must take reasonable care of your personal property. To the extent known by the Guardian, your expressed desires and personal values must be considered in decision-making.
- ◆ The Guardian must encourage your participation in decision-making and self-reliance to the extent possible.
- ◆ The Guardian also has the power and duty to expend money that the Guardian has received on your behalf in order to pay for your support, care, education, health and welfare.
- ◆ The Guardian must conserve any excess money for your future needs and if a Conservator has been appointed, the Guardian must pay any excess money to the Conservator at least quarterly.
- ◆ In all respects the Guardian must exercise reasonable care and diligence and act in your best interest.

A Guardian must report to the Court in writing . . .

. . . within 60 days after appointment as to your condition, the Guardian's personal care plan for you, and account for money and all of your assets in the Guardian's possession or control. Thereafter, the Guardian must file with the Court a Guardianship Report at least annually.

A Guardianship can be terminated or modified . . .

. . . by you, the Guardian, or other interested person filing with the Court a Petition asserting that your condition has changed and the Guardianship as originally established is no longer necessary.

Right to petition/apply for relief from federal firearms prohibitions

If you are subject to federal firearms prohibitions and have a record in the National Instant Criminal Background Check System based on the fact that the court found you to be incapacitated, you have the right to file an Application with the State Court Administrator's Office for relief from these prohibitions if it has been at least three years since your guardianship case was terminated based on a finding that you were no longer incapacitated. You also have the right to file a Petition with the court for relief from these prohibitions at any time. It will be up to the court to decide whether to grant you the relief requested depending on whether you meet certain criteria. To find the Application and Petition forms, go to www.courts.state.co.us – “Self-Help/Forms – “All Court Forms and Instructions” - “Miscellaneous” – “National Instant Criminal Background Check System” or [click here](#).