

A guardian is a person appointed by the court to assume responsibility for making decisions on behalf of another person. A guardian can be appointed for a person 18 years or older with a diagnosed developmental disability. Not every person with a developmental disability is in need of guardianship. A guardian should be considered if the individual is unable to make his or her own decisions, or if the individual is able to make his or her own decisions, but **consistently** makes decisions that put himself/herself in situations that are dangerous or where there is substantial risk of exploitation. Guardianship is designed to encourage the development and maintenance of maximum self-reliance and independence in the individual.

Guardianship for individuals with development disability is generally considered under the rules of **involuntary** guardianship because the individual is not deemed competent to voluntarily enter into a guardianship agreement.

The powers of guardianship are described under Vermont statute, 14 V.S.A. §3069. They include powers in the areas of *general supervision* (power to choose or change residence, care, education, employment, supportive services), *contractual matters* (power to approve or withhold approval of any contract), *real and personal property* (power to approve or withhold approval of the individual's request to sell or encumber property), *finances* (power to exercise supervision over the individual's income and resources), *medical decisions* (power to consent to surgery or other medical procedures), and *legal matters* (power to receive, sue for, and recover debts and demands due to the individual, to maintain and defend actions or suits, and settle accounts). A petitioner can request guardianship in one or more powers of guardianship.

There are a number of alternatives to guardianship that should be considered. For some individuals with developmental disability, supports provided either through the family or community are adequate and alleviate the need for guardianship. For individuals who require financial oversight, alternatives such as the appointment of a representative payee, development of a joint checking account, direct deposit, power of attorney, or special needs trust can be helpful. A health care agent can be assigned through an advance directive for individuals who need help making major health care decisions.

When the decision is made that a guardian is necessary, the petitioner (parent, family member, or other private individual) files a petition in the probate court in the county in which the individual resides. In many counties, the person for whom the petition is made must be no less than three months from reaching the age of 18 when the filing is made. The petition must be accompanied with the Statement of the Proposed Ward's Assets and Income (Form 73) and by the List of Interested Persons for a Guardianship (Form 75). The petitioner is asked to supply the name of an independent evaluator to evaluate respondent's need for guardianship supports. A filing fee is charged. The petitioner may be asked to pay legal fees for legal representation appointed to the individual.

After the petition is filed, the court appoints an attorney for the individual. An evaluation of the individual is ordered. A guardian ad litem may be appointed. The hearing is held at the probate court. The judge makes a decision and writes an order. The process usually takes 45 – 60 days from the time of filing the petition to the time that the court order is made.

An individual under guardianship maintains the right to ask the court for a different guardian, ask to have the guardianship order modified, appeal a decision made by the guardian, and ask the court to terminate guardianship.