

# **Guardianship**

The Probate Court can appoint a Guardian for a minor (aged 17 or younger), a legally incapacitated adult (L.I.I.), or an individual with a developmental disability (D.D.).

## **Minor Guardianship**

A minor guardianship gives an adult other than the parent the power to act on behalf of a minor. If a minor lives with an adult that is not the parent and no power of attorney has been signed by the parent, the Probate Court may appoint a guardian for that minor. An adult, or a minor age 14 or older, may file this petition.

## **Guardianship of Legally Incapacitated Individual (L.I.I.)**

If an adult is an incapacitated individual such that he or she lacks sufficient understanding or capacity to make or communicate informed decisions due to mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, or another cause not including minority, the Probate Court may appoint a guardian for that individual.

## **Guardianship of an Individual with a Developmental Disability (DD)**

If an adult is not able to make decisions or care for themselves because of a mental or physical condition that existed before the age of 22 and that condition is likely to continue indefinitely, a petition may be filed to request that the Court appoint a guardian for the developmentally disabled person. Any person interested in the welfare of the developmentally disabled person may file this petition.

### **In what county would I file a guardianship?**

In a minor guardianship, the petitioner would file in the county where the minor resides or is present at the time the proceeding is commenced.

In a guardianship for an incapacitated individual, the petitioner would file in the county where the incapacitated individual resides or is present. If the incapacitated individual is admitted to an institution by court order, the petitioner would file in the county in which that court is located.

## **How do I become a guardian?**

To become a guardian, you must file a petition, pay the fee, serve interested persons, and appear at a hearing. Generally, anyone may petition to become guardian.

## **What is the difference between a full minor guardianship and a limited minor guardianship?**

A full minor guardianship may be initiated by anyone, as long as certain criteria are met. A limited guardianship is a voluntary guardianship which may only be initiated by a parent who has physical custody of the child.

## **What is the difference between a full adult guardianship and a limited adult guardianship?**

In a full adult guardianship the guardian may attend to the ward's entire needs; however, in a limited adult guardianship the guardian may only act for the purposes stated in the Letters of Guardianship.

## **Why do I have to fill out this Annual Report on guardianship when you have already sent someone out to review us?**

You, as fiduciary, are required by law to file an Annual Report every year. The court, by law, must also conduct an investigation called a "review". The guardianship review is a personal consultation conducted by a court appointed person. The guardianship review is generally conducted every three years for adults or once a year for minors until age 6.

## **What situation justifies an emergency hearing on a guardianship?**

An emergency guardianship hearing would be warranted when medical decisions are immediately necessary to save the ward from serious injury, illness, or death. If an emergency hearing is requested, Alpena County Probate Court requires a statement from the Petitioner or doctor as to why there exists an emergency.

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