

Alternatives to Guardianship and Conservatorship

*A publication of MAGiC:
an Organization to Explore
Substitute Decision-Making*

What Are Less Restrictive Alternatives?

Before a conservator or guardian is appointed, all less restrictive alternatives should be explored. Informal arrangements with family and friends may be all that is necessary. Your county may have other options available for persons with low income. Following are examples of less restrictive alternatives to having a conservator or guardian appointed. The ability to use these alternatives is dependent upon a person's capacity to make these decisions.

What Are Alternatives to Guardianship?

Health Care Directive

A Health Care Directive is a document in which you appoint a person to make decisions about your medical care if you are unable to make those decisions for yourself. Prior to 1998, this document was referred to as a Living Will or Health Care Power of Attorney.

A health care directive also allows you to nominate someone to be your guardian should the need arise. You may also give someone the authority to determine where you shall live.

Case Management Services

A Case Manager is someone who is hired to provide services to an individual having difficulty managing independently. The Case Manager may arrange and monitor a safe home care plan or provide support and advocacy services for a person in an assisted living or other care facility.

What Are Alternatives to Conservatorship?

Representative Payee

If Social Security is your primary source of income, you can have a representative payee designated. A representative payee is someone who receives your Social Security benefits for you. That person will then be responsible to use those funds to pay bills and purchase necessities for you.

Joint Accounts

You can create a joint account by adding a trusted friend or family member to your bank accounts. This person then can help pay bills and write checks. That person also becomes the owner of the account automatically when you die. There are several types of joint accounts and you should find the one that fits your specific needs. You should be very careful about the type of account and person whose name you add. One of the risks with a joint account is that the person named on the account could withdraw all of your money without your consent.

Authorized Signer Account

With this type of account, you can give another person authority to write checks and make deposits and withdrawals, but they do not have any ownership in the account. Like the joint account, however, the risk is that the person with authority could withdraw all your money without your consent.

Power of Attorney

A financial Power of Attorney may be an alternative to a conservatorship if an individual simply needs help with his or her business or financial affairs and he or she has the mental capacity to appoint someone to assist them. A Power of Attorney can be set up to remain effective if you became incapacitated. However, a Power of Attorney ceases to be effective when you die.

Trust

Setting up a trust and being the trustee allows you to maintain control over and benefit from your property while you are living and have the capacity to do so. The trust can be set up to designate a successor trustee who will manage the trust if you were to become incapacitated, and distribute the trust assets after your death.

Seek Competent Legal Advice

The Minnesota Association for Guardianship and Conservatorship (MAGiC) has provided this brochure for general informational purposes only. The brochure is not intended as legal advice and should not be used as such. You should contact an attorney directly to obtain advice with respect to any particular legal issue or problem.

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