



DISABILITY SAFETY TOOLKIT: SAFETY TIPS FOR SELF ADVOCATES

GUARDIANSHIP AND ADULT PROTECTIVE SERVICES: WHAT YOU NEED TO KNOW

What is Guardianship?

Guardianship is when someone is allowed to make decisions for you. They can decide where you live and how you spend your money. Getting out of guardianship can be difficult.



When Might Adult Protective Services or APS seek Guardianship?

APS may ask a court to appoint a guardian for you if:

- They believe you cannot take care of yourself
- You refuse to leave a dangerous or abusive situation

The Incapacity Hearing

- Before a court appoints a permanent guardian, they must hold a hearing called an "incapacity hearing"
- The court must notify you in advance to give you a chance to attend
- You have the right to argue that you do not need a guardian
- You can present evidence like doctor's notes showing your ability to make decisions
- In some states, you can have an attorney or even a jury trial



Types of Guardianships

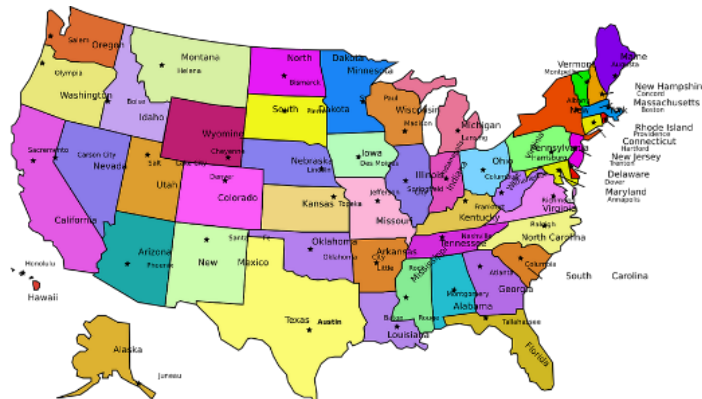
- Guardianships can cover specific areas like healthcare or all parts of your life
- Courts often prefer family members as guardians. If they are abusive or unavailable, someone else may be appointed. They may even be someone you do not know

Emergency Guardianship

- In an emergency, APS can request an emergency guardian
- There is a brief hearing where you can argue against it
- Emergency guardianships usually last a few days
- Emergency guardianships may become permanent

Guardianship Varies by State

- Guardianship laws and procedures differ from state to state
- Check your state's laws and regulations through the National Resource Center for Supported Decision Making
<https://supporteddecisionmaking.org/>



Protect Yourself from Guardianship

- A guardian can limit your control over your life and property
- Plan ahead if you suspect APS might seek guardianship
- For more guidance on defending yourself from guardianship, refer to ASAN's "The Right to Make Choices" Toolkit go to:
<https://selfadvocacyinfo.org/resource/guardianship-and-supported-decision-making-laws/>

Supported Decision Making

Supported decision making allows people with disabilities to keep their right to make their own decisions with the support of trusted friends, family members, professionals, and others.

Supported decision making will look different for everyone. It is a form of support that is very personal to each person.



How does Supported Decision Making work?

Supported Decision Making uses agreements between supporters and the person with the disability. An agreement is a document that says how the supporter will help you. The agreement is not a legal document. You do not have to file it with the court or use a lawyer.

A supporter can be anyone you choose. You decide who you want to support you. You decide how you want them to support you. You can even have more than one supporter.

Supported Decision Making is not guardianship

Supported decision making allows a person to maintain greater independence. You keep your rights to make your own decisions. Supporters cannot make decisions for you.

Because you keep your rights as an adult, you must take responsibility for your own decisions. It is your responsibility to make sure you make well informed decisions. Your supporter can help you understand your choices, but you may make the final decision. You may make mistakes or wrong decisions, but that is okay. We all learn from our mistakes.



Safety in Supported decision making

There is safety in using supported decision making. Because you maintain your rights, no one can make decisions for you that you do not agree with. This includes supporters. Your supporter can help you understand your options, but they cannot decide for you.

With supported decision making, you can have more than one supporter. You can have a different supporter for each area of your life in which you need help.



There is a benefit to having more than one supporter. The more people you have in your life helping you, the more they can make sure you are not being abused.