



SOUTH DAKOTA STATE
UNIVERSITY EXTENSION

Organize This! Attorney Resources

Guardianship and Conservatorship: When Court Involvement Is Needed

Presenter Guidance

This handout outlines the topics and questions for today's discussion. The presenter will expand on these concepts, explain relevant legal considerations, and answer participant questions. The handout is intended to serve as the primary participant resource.

The Organize This! Program focuses on helping individuals and families prepare for the future. This lesson explores what may happen when a person can no longer make or communicate decisions and has not named someone to help them. It also explains when a court may appoint someone to make decisions on another person's behalf.

Educational Disclaimer: The information shared in this program is intended to provide general education about guardianship, conservatorship, and related decision-making options. It is not legal advice and does not create an attorney-client relationship. Because laws vary and individual circumstances differ, participants are encouraged to consult a qualified attorney regarding their specific needs.

Definitions

Guardianship is a legal arrangement in which a court appoints someone (called a **guardian**) to make personal, health care, or other decisions for an individual who is unable to make those decisions independently.

Conservatorship is a legal arrangement in which a court appoints someone (called a **conservator**) to manage the finances, property, or assets of an individual who is unable to manage them independently.

Note: Definitions, responsibilities, and terminology may vary by state law.

Court Process Triggers

- What circumstances may lead someone to seek guardianship or conservatorship, and when can a petition be filed?
- Who can ask the court to appoint a guardian or conservator?
- How does the court determine whether a person needs a guardian or conservator, and what evidence may be considered?
- What rights does the individual have during the process?
- What alternatives may avoid or reduce the need for court involvement?

Alternatives to Guardianship or Conservatorship

- How can advance planning reduce the need for court involvement?
- How might powers of attorney, health care directives, trusts, representative payees, or supported decision-making agreements help?
- When might these alternatives be sufficient?
- When might they not be enough?

After Appointment

- What responsibilities does a guardian or conservator have?
- How are decisions monitored by the court?
- What reporting requirements may exist?
- Can a guardianship or conservatorship be changed or ended?

Participant Reflection Questions

Who would you trust to help make decisions if you became unable to make them yourself?

Have you discussed your wishes with family members or trusted individuals?

What steps could you take now to reduce the likelihood of court involvement in the future?

What questions do you still have about guardianship or conservatorship?