

GUARDIANSHIP

— *and* —

SPECIAL NEEDS FAMILIES

How to best protect your child
when he or she turns 18.



**guardian
project**









AGENDA



WHAT IS GUARDIANSHIP?

Why and how do you get guardianship?



ALTERNATIVES TO GUARDIANSHIP

8 Alternatives to guardianship and their risks.



GUARDIANSHIP ASSESSMENT

What's the best solution to protect your child.

AGENDA



GUARDIANSHIP & LEGACY

.....

How to protect your child with Guardianship even after you die.



GUARDIANSHIP RESOURCES

.....

Free information about guardianship & alternatives.



ABOUT OUR ONLINE WORKSHOP

.....

Low cost alternative for parents seeking guardianship.



Lisa Smith Sowers

Active 5m ago

That's fine, whatever you need to do. I'm glad I joined as well. This has been weighing heavy on me lately! It's a coincidence this workshop came along. Thank you so much for the opportunity!



I just know this is something my husband and I have to do. Our son isn't able to make his own decisions. I don't want to get in a emergency situation where I have No say about my son's healthcare. I want to be his advocate for as long as I can.





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WHAT'S IN IT FOR YOU?

Ease a heavy burden...

IS GUARDIANSHIP OR A LESS RESTRICTIVE ALTERNATIVE THE
BEST WAY TO PROTECT YOUR CHILD WHEN HE OR SHE TURNS 18



ABOUT ME

• SPECIAL NEEDS DAD(&LAWYER) •









We Help Special Needs Families

Get Florida Guardianship Easily & Affordably

A live online workshop, guided by a lawyer, that helps you get guardianship for your disabled child stress free, and at a fraction of the cost of hiring a law firm.

[WATCH VIDEO](#)[LEARN MORE](#)

WHAT IS

Guardianship?



A court removes an “incapacitated” person’s right to make certain decisions, and assigns that responsibility to another person



WHY DO

— *Parents* —

GET GUARDIANSHIP WHEN THEIR
CHILD WITH A DISABILITY TURNS 18?

WHEN A CHILD TURNS 18 THEY REACH

The age of Majority

WHERE TO LIVE

WHO TO LIVE WITH

WHO TO ASSOCIATE WITH



CONSENT TO HAVE SEX

HAVE AN ABORTION

GET MARRIED

ENTER INTO
CONTRACTS

MANAGE THEIR
OWN MONEY

GET LOANS OR
CREDIT CARDS

LEND MONEY
TO OTHERS

ACCEPT OR REJECT MEDICAL TREATMENT

GET AND MANAGE GOVERNMENT SERVICES

GUARDIANSHIP GIVES PARENTS

The right of substitute judgement



WHAT DOES THAT REALLY MEAN?

*You continue parenting
like you did before.*

After getting guardianship,
nothing really changed. It's
been business as usual.

--Laura Castillo (Katie's Mom)

FLORIDA GUARDIAN ADVOCATE

AN EXPEDITED PROCESS TO GET GUARDIANSHIP FOR A PERSON
WITH AN INTELLECTUAL OR DEVELOPMENTAL DISABILITY

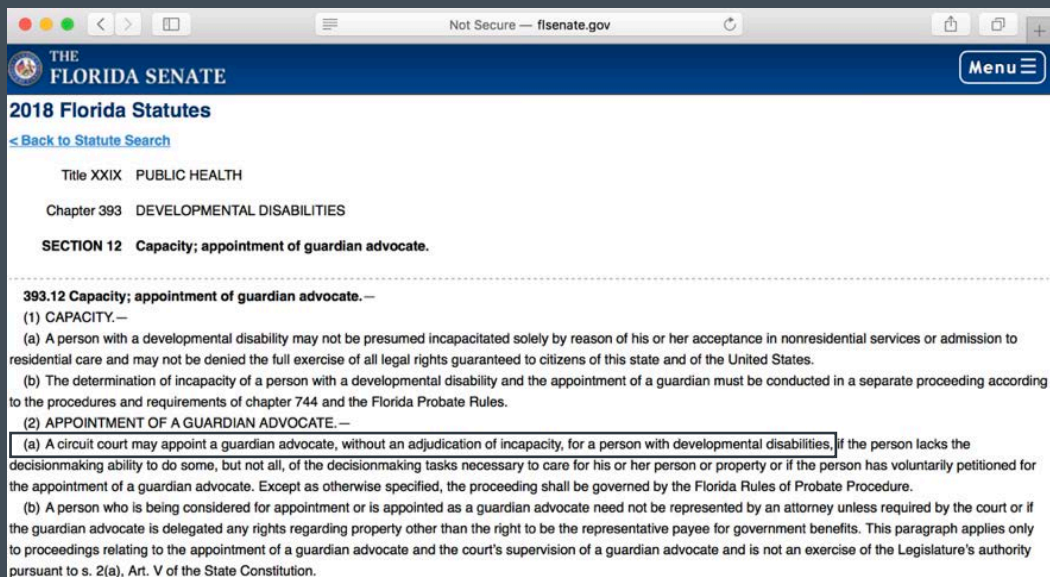


No requirement to have a lawyer.

FLORIDA GUARDIAN ADVOCATE

WHO QUALIFIES UNDER THE GUARDIAN ADVOCATE STATUTE?

1. Must have a “Developmental Disability.” 393.12(2)(a) Florida Statutes



THE
FLORIDA SENATE

Menu

2018 Florida Statutes

[< Back to Statute Search](#)

Title XXIX PUBLIC HEALTH

Chapter 393 DEVELOPMENTAL DISABILITIES

SECTION 12 Capacity; appointment of guardian advocate.

393.12 Capacity; appointment of guardian advocate.—

(1) CAPACITY.—

(a) A person with a developmental disability may not be presumed incapacitated solely by reason of his or her acceptance in nonresidential services or admission to residential care and may not be denied the full exercise of all legal rights guaranteed to citizens of this state and of the United States.

(b) The determination of incapacity of a person with a developmental disability and the appointment of a guardian must be conducted in a separate proceeding according to the procedures and requirements of chapter 744 and the Florida Probate Rules.

(2) APPOINTMENT OF A GUARDIAN ADVOCATE.—

(a) A circuit court may appoint a guardian advocate, without an adjudication of incapacity, for a person with developmental disabilities, if the person lacks the decisionmaking ability to do some, but not all, of the decisionmaking tasks necessary to care for his or her person or property or if the person has voluntarily petitioned for the appointment of a guardian advocate. Except as otherwise specified, the proceeding shall be governed by the Florida Rules of Probate Procedure.

(b) A person who is being considered for appointment or is appointed as a guardian advocate need not be represented by an attorney unless required by the court or if the guardian advocate is delegated any rights regarding property other than the right to be the representative payee for government benefits. This paragraph applies only to proceedings relating to the appointment of a guardian advocate and the court's supervision of a guardian advocate and is not an exercise of the Legislature's authority pursuant to s. 2(a), Art. V of the State Constitution.

FLORIDA GUARDIAN ADVOCATE

WHO QUALIFIES UNDER THE GUARDIAN ADVOCATE STATUTE?

2. Must meet the definition of “Developmental Disability,” 393.063(9) Florida Statutes

- Syndrome or disorder (4 named)
- Manifests before age 18
- Substantial handicap
- Will continue indefinitely

The screenshot shows the Florida Senate website with the following navigation and content:

- Go to Bill: 2019 | Go | Find Statutes: 2018 | Search Term | Chapter: Find | Search Site | Search
- THE FLORIDA SENATE
- Home | Senators | Committees | Session | Laws | Media | About | Offices | Reference | Tracker
- Home > Laws > 2011 Florida Statutes > Title XXIX > Chapter 393 > Section 063
- 2011 Florida Statutes
- Chapter 393: PUBLIC HEALTH - DEVELOPMENTAL DISABILITIES
- SECTION 063: Definitions.
- Quick Links:
 - Index to Special and Local Laws (2018) (PDF)
 - Index to Special and Local Laws (1845-1970) (PDF)
 - Preface to the Florida Statutes (2018) (PDF)
 - Table of Section Changes (2018) (PDF)
 - General Laws Conversion Table (2018) (PDF)
 - Table Tracing Session Laws to Florida Statutes (2018) (PDF)
 - Florida Statutes Definitions Index (2018) (PDF)
 - Statute Search Tips
 - Archived Statutes (Prior to 2010)

Entire Chapter

(9) **“Developmental disability”** means a disorder or syndrome that is attributable to retardation, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.

FLORIDA GUARDIAN ADVOCATE

WHO QUALIFIES UNDER THE GUARDIAN ADVOCATE STATUTE?

3. If your diagnosis is not named, the disorder or syndrome must be attributable to “retardation” under the Guardian Advocate Statute Section 393.063(32).

Note: 2 or more standard deviations below the mean score on a standardized intelligence test is an IQ of 70 or less.

(32) “Retardation” means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that manifests before the age of 18 and can reasonably be expected to continue indefinitely. “Significantly subaverage general intellectual functioning,” for the purpose of this definition, means performance which is two or more standard deviations from the mean score on a standardized intelligence test specified in the rules of the agency. “Adaptive behavior,” for the purpose of this definition, means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of his or her age, cultural group, and community.

GUARDIANSHIP BENEFITS

For a child with a developmental disability

KEEPS YOUR KIDS SAFE

Greatest assurance you child will be protected.

IT'S FLEXIBLE

Guardianship can be narrowly constructed to preserve some of your child's rights in areas where they have capacity.

PRESERVES LEGACY

Safest way to ensure your child will be cared for after you die .



PROTECT FROM SCAMS

Without guardianship, your child has greater exposure to scammers who prey on people with disabilities.

YOU CONTROL CAPACITY

You and a judge decide whether your child has capacity, not a doctors or government worker.

GUARDIANSHIP DRAWBACKS

For a child with a developmental disability

REMOVES RIGHTS

A court removes some of your child's rights to make life decisions.

COURT INVOLVEMENT

With guardianship, parenting falls under the jurisdiction of the courts, which some people find intrusive.

IT COSTS MONEY

You may have to pay for filing fees, for an attorney for your child and (possibly) for you.



COURT APPROVALS

Major decisions, like changing your child's living situation or making major expenditures will require court approval.

HARD TO CHANGE

Changing guardianship is difficult, requiring a hearing and approval from the court.

GUARDIANSHIP

Alternatives

DIGNITY OF RISK

Life itself is about making decisions, and there is dignity in dealing with the risk that comes with making them.





Amy Boel-Severson

April 12



Question. I am starting to look into guardianship for Nellie. I was told the first step is to have evaluated by a psychologist to determine if she should simply have a health care proxy? Is this the experience everyone else has had? I wouldn't think being a health care proxy wouldnt give me the right to have discussions with doctors, make decisions on routine care, see medical records etc??? I am so confused. The lady made me feel like I shouldn't take all of Nellie's rights away from her but she could never have a serious discussion with a doctor. Besides medical issues have there been other time that guardianship has been a necessity? Any information would helpful.



Like



Comment



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Balancing the
PRIMAL URGE TO PROTECT
YOUR CHILD

— *with* —

A DESIRE TO GIVE YOUR
CHILD FREEDOM

STATISTICS

About Abuse

90%

90% of people with some form of intellectual disability will be a victim of sexual abuse at some point in their lives.¹

10X

People with disabilities are four to ten times more likely to be abused than their peers without disabilities.

210%

Females with disabilities are 210% more likely to be the victim of a violent crime than typical peers.

Sources

¹ Baladerian, N. Coleman, T., & Stream, J. (2013). A report on the 2012 national survey on abuse of people with disabilities: Victims and their families speak out. Spectrum Institute Disability and Abuse Project.

² DisabilityJustice.org, *Abuse and Exploitation of People with Developmental Disabilities*

³ Erika Harrell, Crime Against Persons with Disabilities, 2009 – 2012-Statistical Tables, (Washington, DC: Bureau of Justice Statistics, U.S. Department of Justice, 2014), Table 1, accessed June 6, 2014, <http://www.bjs.gov/content/pub/pdf/capd0912st.pdf>.



WHEN DOES THE PURSUIT OF DIGNITY OF RISK

— *Become* —

IRRESPONSIBLE PARENTING?

Responsible parents wouldn't allow a 12 year old typical child bear the full consequences of making serious life decisions.

Why, then, would be OK to allow an 18 year old child who has the intellectual ability of a 12 year old make, and bear the consequences of, those same decisions?

8 ALTERNATIVES TO GUARDIANSHIP



MAKING DECISIONS WITH OTHERS

Parent your child with a disability like you would with a typical child.



JOINT CHECKING ACCOUNTS

Keep tabs on your child's finances with a joint checking account.



CO-SIGNERS ON CHECKING

Control how funds get disbursed by requiring a co-signer on checks.



APD CLIENT ADVOCATE

Get consulted on benefits decisions made at the Agency for Persons with Disability.



POWER OF ATTORNEY

Get the legal authority to make decisions for your child.



REPRESENTATIVE PAYEE FOR SSI

Negotiate and manage your child's social security benefits.



STATUTORY MEDICAL PROXY

Make medical decisions for your child if they cannot do it alone.



SPECIAL NEEDS TRUST

Control the expenditure of gifts made to your child through a trust.

GUARDIANSHIP ALTERNATIVE BENEFITS

For a child with a developmental disability

DIGNITY OF RISK

Your child's rights will not be removed, and they will make their own choices.

LESS OBTRUSIVE

Does not require a court's involvement in your parenting or your child's life.



MINIMAL COST

Most alternatives do not require court fees or attorney costs.

IT'S FLEXIBLE

Alternatives can generally be combined, adapted and changed based on the needs of your child.

GUARDIANSHIP ALTERNATIVE DRAWBACKS

For a child with a developmental disability

LESS PROTECTION

Your child has the ability to make decisions without your advice or approval.

IMPROPER INFLUENCE

Your child can choose anyone else to help them, regardless of the person's motivations, whether good or bad.

NO CAPACITY CONTROL

Decisions as to capacity are left to the discretion of doctors and government workers.



THEY'RE REVOCABLE

Many alternatives can be revoked at the whim of your child, for any reason.

UNLIMITED RISK

Despite precautions, nothing prevents your child from co-signing credit cards, getting loans, or entering into a lease.

REQUIRE CAPACITY

Tools like powers of attorney may be invalid on its face if your child does not have capacity to sign.



MICHAEL

Son



YOLANDA

Mom

.....
Michael had a life threatening condition, but was denied surgery because he was unable to signed a consent form for pre-op bloodwork.
.....

GUARDIANSHIP

and Healthcare

People with disabilities

GET SUBSTANDARD HEALTHCARE

28 % of people with disabilities were not covered by their insurance for needed therapies or medications, compared to 7% of people without disabilities.

19 % of people with disabilities did not get medical treatment needed, compared to 6% of non-disabled people.

Source: Disability Rights Education & Defense Fund

People with disabilities

GET SUBSTANDARD HEALTHCARE

PAIN

Persons with disabilities routinely suffer from dental pain because of difficulties finding dentists who will treat persons with disabilities, in particular those with sensory issues.

BIAS

The doctor for a patient with a developmental disability who was diagnosed with advanced breast cancer and required surgery implied that, due to her already “low quality of life” (because of her disability), that she did not merit the intervention. Surgery was delayed and the patient died within a year.

Source: Disability Rights Education & Defense Fund

STEVE'S ADVICE ON

Guardianship & Healthcare

Either your child has the full capacity to manage their healthcare, or they do not.



Healthcare Assessment

A 6- category assessment to determine if guardianship is the best way to keep your child healthy when they turn 18.



Protecting your child's health once they turn 18 is one of your biggest concerns.

This six-category assessment will help you determine if your child has the ability to manage healthcare on their own, or if you should be considering guardianship.

*—Stephen Furnari
Attorney and Special Needs Dad*

Get Your Free Healthcare Assessment

First Name * * indicates required

Last Name *

Email Address *

Best Describes Me *

GET THE ASSESSMENT

HEALTHCARE *Assessment*

1. Capacity
2. Sensory Challenges
3. Complexity of Medical Needs
4. Medications
5. Financial Awareness
6. Follow-Up Care

guardianproject.us/healthquiz

GUARDIANSHIP

Assessment



MICHAEL

Dependent on parents
Non-verbal
Does not work



JAMES

Drives & travels alone
Runs marathons
Has a full-time job

GUARDIANSHIP — *or* — ALTERNATIVES A 5-STEP GUIDE

A 5-step process to determine if guardianship or an alternative is the best fit for your child with a intellectual or developmental disability.



**guardian
project**

Helping special needs families get Florida guardianship easily and affordably.



INTELLECTUAL & SOCIAL AGE

Take a close look at the child's intellectual and social age.

If it would be irresponsible to let a typical child of that same age (under 16) to make serious life choices, like living arrangements, consent to medical treatment and managing finances, I recommend guardianship.



KEY AREAS OF COMPETENCE

If the child had adequate intellectual and social capacity (16+ years old), I look at each main decision making area to see where it may be better to have guardianship:

- Financial
- Living arrangements
- Marriage/procreation
- Healthcare



REVIEW UNIQUE CHALLENGES

Next, I look at the child's unique challenges. If she was susceptible to suggestion, overly trusting, non-verbal without a viable means to fully communicate with an AAC, or had sensory issues that makes her unable to make clear decisions in certain situations, I recommend guardianship in those areas.



CONSIDER A TRIAL RUN OF ALTERNATIVES

If none of these items were an issue, I would recommend considering a trial run of carefully constructed alternatives and carefully monitoring how things progress. If the parent senses that, by doing so, they were putting their child at unnecessary risk, I recommend seeking guardianship.



CONSULT WITH THE FAMILY

Before making any final decisions, I recommend that the entire family have a discussion about possible choices, including getting the input from your child with the disability.

GUARDIANSHIP

& Legacy Planning



STANDBY GUARDIAN

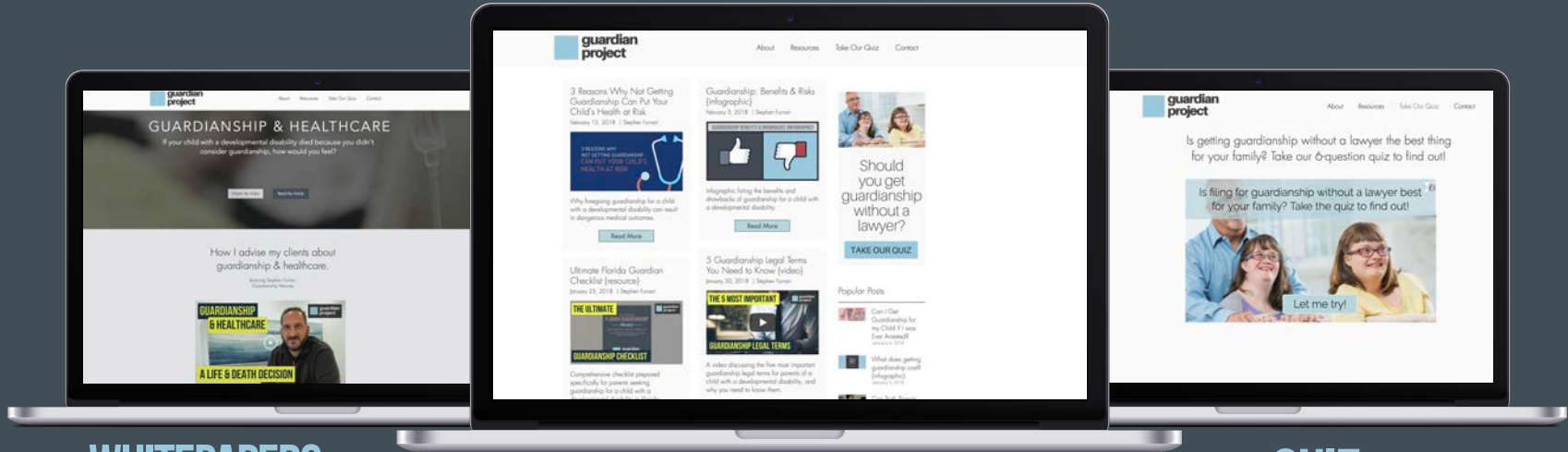
— *means* —

A person who automatically steps in for the primary guardian if they are unable or unwilling to serve. Often an adult sibling of the “ward”.

GUARDIANSHIP

Resources

RESOURCES



WHITEPAPERS

Guardianship & Healthcare
Guardianship Alternatives
Guardianship Glossary

BLOG

Articles
Video
Infographics

QUIZ

Should you get
guardianship
without a lawyer?



The Online Guardianship Workshop
Teaches Florida Special Needs Parents How To

Protect Your Child with Guardianship Easily & Affordably

We will teach you, step-by-step, how to apply for
Florida guardianship for an adult child with a disability,
saving you thousands by not hiring a lawyer.

[WATCH VIDEO](#)

[REGISTER NOW!](#)



ONLINE GUARDIANSHIP *Workshop*

Your guide to get guardianship
in 120 days.

- ✓ 6 calls with replays
- ✓ Weekly live Q&A calls
- ✓ Professional guidance
- ✓ Applications packets
- ✓ Forms
- ✓ Sample correspondence
- ✓ Action plans & checklists
- ✓ \$2,000 BONUS:

How to get the court to pay for
your filing fee and child's lawyer

guardianproject.us/workshop

ONLINE GUARDIANSHIP WORKSHOP

Special Offer

Register by going to:
guardianproject.us/workshop

LIMITED OFFER: Registration will close on Thursday, May 9th at 5:00 P.M.

Questions?

Send an email to Steve Furnari:
stephen@guardianproject.us