Citations: If a guardian fails to timely file a report, inventory, or accounting, the court may cite a guardian to appear, and may fine, reduce the guardian's fee, or remove the guardian.

Investigations: A court investigator will periodically conduct a follow-up investigation. If there any problems or concerns, they may be identified and corrected.

Removal: If the interests of the ward warrant it, the court may remove a guardian at any time. The guardian must always report a change in address of the ward or guardian.

Costs Associated with a Guardianship

A guardian is entitled to compensation for his or her duties performed. Attorneys are compensated for their services to the guardian. The court reviews and sets these fees. There are also filing fees for filing a guardianship application unless the ward is in indigent circumstances. In that case, the applicant must file an affidavit of indigency and the court will waive all filing fees.

Terminating Guardianships

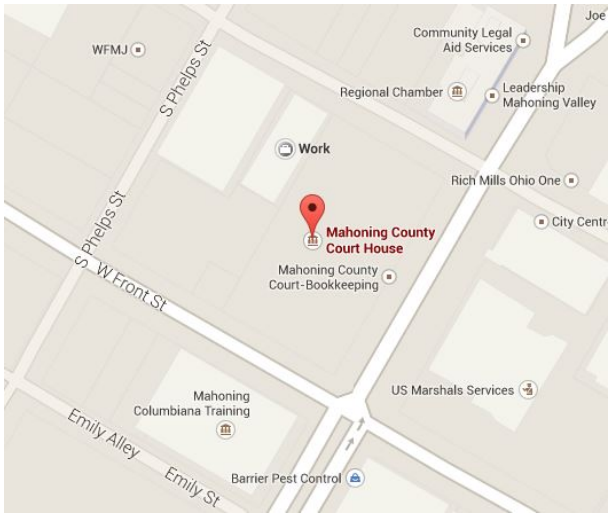
A court order will terminate a guardianship upon the death of a ward, upon the ward being adjudged competent, and in the case of a minor, upon the ward reaching the age of majority (18). If the ward moves to another county within Ohio, the guardianship may be transferred to the probate court of that county.

HOURS & LOCATIONS

Mahoning County Probate Court
120 Market Street
Youngstown, OH 44503
Phone: 330-740-2310
Fax: 330-740-2325

Monday- Friday 8:00 AM- 4:30 PM

BE SURE TO VISIT OUR WEBSITE:
mahoningcountyoh.gov/probate



The information in this pamphlet is provided as a service of the court and does not constitute legal advice which can only be given to you by an attorney. Many probate and family law matters involve complex and valuable legal rights. You should always speak with an attorney before filing any papers.

Mahoning County Probate
Court Robert N. Rusu, Jr., Judge

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Robert N. Rusu, Jr., Judge

Mahoning County Probate Court

Informational Guide for Guardianships

GUARDIANSHIPS

A guardianship is a relationship where one person has the legal authority and duty to care for another's person or property, due to the other person's minority, incapacity, or disability. The person who is incapacitated, disabled, or a minor is called the "ward." The person who is appointed by the court to be responsible for the ward's person or property is called the "guardian."

Types of Guardianships

A guardian may be appointed for either an incompetent or minor if the court finds either of the following conditions are met:

Incompetent: Any person who is so mentally impaired as a result of a mental or physical illness or disability, or mentally handicapped, or as a result of chronic substance abuse, that he or she is incapable of taking proper care of himself or herself, his or her property, or his or her family. Any person confined to a correctional institution within this state is under a legal disability and may also be considered incompetent. A guardianship can be created for an incompetent's person and/or estate.

Minor: Any person under 18 years of age who has neither a father nor a mother or whose parents are unsuitable to have custody of such minor, or whose interests will be promoted by a guardianship. A guardianship can be created for a minor's person and/or estate.

Choosing a Guardian

The court appoints the guardian. However, a minor over 14 may nominate a guardian, or a child's parents may nominate a guardian by leaving instructions in a last will and testament. A competent adult may nominate a guardian to serve in the event of future incapacity.

Application Process

An application for guardianship is filed in the probate court of the county where the proposed ward resides.

The application must include a statement of the guardian's willingness to perform as guardian. A bond may also be required. In the case of a prospective incompetent ward, the application must also include a statement of the ward's mental and physical condition from a treating physician, psychiatrist, or licensed psychologist.

The prospective ward and family members are notified of the impending guardianship and date and time of hearing. In the case of an "incompetent" proceeding, the court's investigator will serve notice of the hearing on the prospective ward. The investigator assists the court in determining whether a guardianship is necessary.

The court holds a hearing to determine if a guardianship is necessary, to find if the guardian is suitable, and to ensure that the guardian understands his or her duties.

The prospective ward has the right to be present at the hearing, to contest any application for guardianship, to have a record of the hearing taken, to have a friend or family member present at the hearing, and to be represented by an attorney. A prospective incompetent ward has the additional right to present evidence of a less restrictive alternative to guardianship, and, if indigent and requested, to have an attorney and independent expert appointed at court expense.

Supervision of Guardianships

The probate court is always the superior guardian, and all guardians must obey all orders of the court. The court exerts its supervisory authority through the following legal procedures. There are fees associated with many of the following items.

Accountings: A guardian of the estate must file a written account with the court annually as to the income and expenses of the ward's estate.

Reports: A guardian of an incompetent ward must file a written report annually The report concerns the status of, and continued need for, the guardianship.