

GUARDIANSHIPS FOR DEVELOPMENTALLY DISABLED INDIVIDUALS: FILING INFORMATION

1. Filing the petition

Pursuant to the Mental Health Code, under certain circumstances the Probate Court may appoint a guardian for a developmentally disabled individual. A Petition for Appointment of Guardian, Individual with Alleged Developmental Disability, is attached, along with instructions for its completion. In order to ask the court for a guardian of a developmentally disabled individual **you must complete this petition and file it with the court. *There is no filing fee.***

2. Report to accompany petition

By the time your petition is heard by the court, a Report to Accompany Petition to Appoint, Modify or Discharge Guardian of Individual with Developmental Disability must have been filed with the court. The report form covers six factors (mental, physical, social, educational, adaptive behavior, and social skills) and must be completed by one of the professionals making an assessment of the individual. Each of the six factors is covered in evaluations appended to the form.

If a completed report form and evaluations do not accompany your petition when you file it, the court will order Community Mental Health to perform the mental, social, educational, adaptive behavior, and social skills evaluations. **However, you must secure a recent physical examination of the individual and this must accompany your petition when you file it.**

3. Guardian of the Person and Guardian of the Estate

The Mental Health Code allows for a guardian of a developmentally disabled individual to be guardian of the person, guardian of the estate, or both. A ***guardian of the person*** has responsibility and authority over the care and custody of the individual. A ***guardian of the estate*** has responsibility and authority over the money and other property of the individual.

4. Plenary versus partial guardian

If the court finds that an individual lacks all ability to care for him- or herself, or lacks all ability to manage his or her property and finances, the court will appoint the guardian as ***plenary guardian***. If, however, the court finds that an individual is able to make some care decisions or some financial decisions, the court will appoint the guardian as ***partial guardian***. A partial guardianship can continue no longer than five years; after the expiration of a partial guardianship, and on petition of an interested person, the court may re-appoint a guardian for the individual.

**More details on what happens after you file your petition are available under
“Guardianships for Developmentally Disabled Individuals: Service Information”**