

Guardianship - a Guide to the Basics

Guardianship

In Missouri, **Guardianship** is a legal status. A person in a guardianship is called a **ward**.¹

In a guardianship, a ward loses the right to make their own decisions. This includes decisions about what medical care to receive, where to live, who they spend time with, and more. A person called the **guardian** makes these decisions instead.

Wards still have some rights. These include living in an appropriate place and asking the court to get other rights.

How Does a Guardianship Begin?

In Missouri, Guardianships begin with a Petition to the probate court. Any interested person can file a Petition stating that someone needs a guardianship. The person filing the petition must pay a fee to the probate court.

The court will then have to decide whether the person is able to make their own decisions. The court must consider **alternatives** before placing someone in a guardianship. These alternatives include power of attorney, supported decision-making, and limited guardianship.

If the court decides that the person can't make their own decisions even with the help of alternatives, the court will place them in a guardianship.

If the court decides that the person can make some decisions, but can't make other decisions, the court may order a **limited guardianship**.

Can a Guardianship End or Change?

In Missouri, a guardianship can end. A judge can decide that the ward is able to make decisions again. This may be because a person's medical condition has improved, they have learned how to make decisions, or for many other reasons.

To end a guardianship, a ward asks the judge. The judge often requires **medical evidence** that the ward can make decisions. Sometimes, other people—such as the guardian, family members, or supporters—will also give evidence that the ward can make their own decisions.

¹ Some people find "ward" to be offensive. We use this word here only because it is the legal term in Missouri.

The judge can also change the guardian to a new person. This might happen if the guardian can't make decisions, or if they do a bad job making decisions.

A court can give more rights to a ward. A ward could get the right to vote, drive, marry, or more. In some cases, they can get many rights at the same time.

Conservatorship

In Missouri, **Conservatorship** is a legal status.

In a conservatorship, a person loses the right to make their own decisions about **money**. A person called the **conservator** will make decisions about money.

Conservatorships can be ended or changed just like guardianships. For more information, see the sections on guardianship.

Power of Attorney

A power of attorney is a legal document that a person makes. The person who makes a power of attorney is called the principal. This document allows other people to make decisions for them sometimes. There are many kinds of powers of attorney. For example, your power of attorney might allow others to make decisions:

- Right away, or
- Only if you get sick, or
- For medical decisions, but not other decisions.

A power of attorney can be used as an alternative to guardianship. A court must consider powers of attorney before placing someone in a guardianship.

Supported Decision-Making

Supported Decision-Making is a way to make decisions with help from others.

Supported Decision-Making is a set of supports that help people make their own decisions, by using others they trust to:

- Help understand issues and choices
- Ask questions
- Receive explanations in understandable language and accessible formats
- Communicate their own decisions to others²

² Blanck & Martinis 2015; Dinerstein 2012; Salzman 2011

People using Supported Decision-Making have more opportunities for **self-determination**. Self-determination means making choices about one's own life. Studies have shown positive results for people with more self-determination.

People who make their own decisions are more likely to:

- Be employed
- Live independently
- Be active in their communities
- Have a higher quality of life³

Informal Supported Decision-Making

Supported Decision-Making can be something as simple as asking for advice from a friend, supporter, or family member. If you have someone you trust to help you with tough decisions, you are already using informal Supported Decision-Making

Formal Supported Decision-Making

Supported Decision-Making can be written down to make it more "formal." You can have a written plan stating who you trust to help you make decisions, and what decisions they can help you with. You might also say which people should NOT try to help you. You can say which decisions you don't want help with. Having this written down is a more formal way of using Supported Decision-Making.

If you write this down in a formal way, it may be a **Supported Decision-Making Agreement**. These agreements can help show exactly how you use supporters.

You can find **Supported Decision Making Sample Agreements** at

<https://www.lifecoursetools.com/lifecourse-library/exploring-the-life-domains/supported-decision-making/>.

Missouri Protection and Advocacy (Mo P&A) can help with Supported Decision-Making. Mo P&A sometimes helps people draft or review Powers of Attorney. Mo P&A sometimes takes cases to help people end or change a guardianship.

*Mo P&A **does not** generally advocate for people to be placed in a guardianship. In many instances, Mo P&A can help find alternatives to guardianship. You can request help from Mo P&A at moadvocacy.org or toll-free at 1-800-392-8667*

Created by the Missouri Consortium for Supported Decision-Making. This guide does not provide legal advice. If you have specific legal questions, contact an attorney.

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³ Supported Decision-Making: Theory, Research, and Practice to Enhance Self-Determination and Quality of Life, by Shogren et al.