



## Why Parents Consider Guardianship for Their Child with Special Needs

When your child with special needs turns 18, they are legally considered an adult, regardless of their ability to make independent decisions. This transition can feel daunting for many parents who worry about their child's ability to manage critical areas of life such as healthcare, finances, and legal decisions. In response, many families explore guardianship to ensure continued support and protection for their child. Below are some common reasons parents pursue guardianship:

- **Decision-Making Support:** Some individuals with disabilities may struggle to make informed choices about their health, money, or legal matters. Guardianship allows parents to step in and help make those important decisions, ensuring their child's best interests are always the priority.
- **Healthcare Advocacy:** With guardianship, parents retain the right to make crucial medical decisions, from approving treatments to accessing healthcare information and coordinating with doctors.
- **Managing Finances:** If your child isn't equipped to handle bank accounts, pay bills, or sign legal documents, guardianship gives parents the legal power to manage finances and protect against potential financial exploitation.
- **Legal Protections:** Guardianship provides a legal safety net, ensuring your child doesn't accidentally enter into agreements or contracts they may not fully understand, such as leases or credit agreements.
- **Ensuring Ongoing Care:** Guardianship allows you to oversee your child's long-term care, including the management of disability benefits like SSI or Medicaid, to ensure they continue receiving necessary services and therapies well into adulthood.

## Alternatives to Guardianship

While guardianship offers vital protections, it's a significant legal step that may limit your child's independence. Many families explore alternatives that provide support without taking away their child's autonomy. Here are a few common options:

- **Power of Attorney (POA):**
  - *Durable Power of Attorney for Finances:* This lets your child give you, or another trusted person, the power to handle their financial matters, such as paying bills and managing assets, while still retaining their legal rights.
  - *Healthcare Power of Attorney:* This document allows your child to appoint someone, such as a parent, to make medical decisions if they ever become unable to do so themselves.
- **Supported Decision-Making (SDM):** This model allows your child to make their own choices with guidance from trusted advisors like family members or professionals. Rather than taking away their rights, it focuses on providing the support they need to understand options and make informed decisions.
- **Representative Payee:** If your child receives government benefits like SSI but can't manage the funds alone, a representative payee can be appointed to ensure those benefits are used for essential needs, like housing or medical care.

- **Conservatorship:** A conservatorship is like guardianship but more limited in scope. It usually only covers financial decisions, allowing parents to oversee certain aspects while your child remains in control of other parts of their life.
- **Joint Bank Accounts or Financial Oversight:** Some families choose to manage finances informally. A joint bank account can allow you to monitor spending while giving your child some control over their day-to-day purchases.
- **Trusts:** A Special Needs Trust (SNT) allows you to set aside funds for your child's care without impacting their eligibility for government benefits like Medicaid. You can appoint a trustee to manage the trust, ensuring your child's financial needs are met without requiring full guardianship.
- **Advance Directives:** An advance healthcare directive, or living will, allows your child to outline their wishes for medical care if they're unable to make decisions in the future. It works well with a healthcare POA and helps ensure that their medical preferences are respected.

Choosing between guardianship and alternatives depends on your child's unique abilities and needs. It's essential to balance providing the necessary support with preserving their independence where possible. Consulting with an attorney who specializes in special needs or disability law can help you explore the best options for ensuring your child's well-being while respecting their autonomy.