

Conservatorship and Guardianship

In Minnesota, a person may need to have a court of law appoint a guardian or a conservator for four main reasons:

(1) A minor cannot hold title to property or exercise any legal authority regarding property.

(2) A child cannot have custody of themselves and, if their parent is deceased, would need an officially appointed guardian to have authority and responsibility over the care of the child.

(3) An adult may be “incapacitated” due to accident, illness or some other impairment that makes them unable to make or carry out responsible decisions regarding their property, assets, or have access to sources of income, information and control of financial affairs.

(4) An adult may be “incapacitated” due to accident, illness or some other impairment that makes them unable to make or carry out responsible decisions regarding their own personal care needs, where they live, how they are cared for medically and other personal autonomy issues.

Planning Ahead. The parents of a child can plan ahead and nominate a “guardian” to have custody of a child if the parents both died or somehow became unable to carry out their parental responsibilities. Children who might inherit can be protected by the appointment of a “Trustee” to take care of their assets for them while they are still young. And adults can protect themselves from needing court proceedings in the event they become incapacitated, simply by setting up powers of attorney and/or a trust.

When people plan ahead, court proceedings can be avoided. But if the worst happens and there is no plan set up in advance, then the courts must get involved. When the courts appoint people to take charge in these situations, they are called

- “Guardians” when the need is for someone to take physical custody and authority; or
- “Conservators” when the need is for someone to take charge of property: real estate, money, investments and so forth; or
- Both

Conservators must be appointed by a court. They are usually bonded and they must always account for what they do with the property. Their annual accounts are reviewed by the court.

Guardians can sometimes be appointed by a family member, such as a spouse or parent, but usually are appointed by a court of law. When the person who

needs protection is an adult, guardians are always court appointed. Conservators are always court appointed.

Dammeyer Law Firm, P.A. has had experience in representing families in guardianship and conservatorship proceedings for over twenty three years. This experience means we are able to do it right the first time and do it as efficiently as possible.

Usually these situations are emotionally and financially difficult, yet our experience and protective attitude prevents further harm. We make the effort to help the families understand and to be legally and personally prepared for the proceedings.

Each situation is unique. If you are aware the need for this kind of legal representation, our firm is ready to assist you in answering questions which may lead to resolution of the problems without resort to the courts, if that is possible. Often, less restrictive alternatives can be put in place.