

**GAIN, Guardianship Alternatives Information Network**, exists to help people with disabilities and their families make a good, informed decision about guardianship and its alternatives.

There are many alternatives to guardianship. The primary one is the use of family and friends who are involved in the person's life.

If someone can get the supports and services they need and want with the help of family and friends, there is no need for guardianship.

Other alternatives include durable powers of attorney, advance directives for health care, financial powers of attorney, trusts, family consent policies and other surrogate arrangements.

If you would like more information, or need assistance with alternatives to guardianship, please contact GAIN at **866-365-3231**.

You may also contact

**The Arc of Northwest Wayne County**

at 313-532-7915  
arcnw@aol.com

or

**The Arc of Western Wayne County**

at 734-729-9100  
info@thearcww.org

**The Arc**

# Guardianship Alternatives Information Network



**866-365-3231**

An information and referral network promoting self-determination through alternatives to guardianship

A joint project of  
The Arc of Northwest Wayne County  
The Arc of Western Wayne County,  
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**Guardianship** is the legal process in which someone's rights to make decisions about their own life are removed. During

this process, a court determines that someone is "legally incapacitated" and that it is "necessary" to appoint another person or entity to make decisions for them. This process can apply to older people, people with mental illness or people with developmental disabilities. Once a guardianship is imposed, certain fundamental rights may also be lost.

**GAIN** provides **outreach, information and referral** and **education** to people with disabilities and families on alternatives to guardianship.

Often, people have concerns about **doctors** not listening to them if they do not have guardianship. If someone is on Medicaid, and cannot give their own consent, the law in Michigan states that his or her nearest relative can consent to medical treatment. Even if someone is not on Medicaid, most hospitals have family consent policies that allow family members to consent for medical care under these conditions.



In emergencies, hospitals have a duty to treat someone whether they are under guardianship or not. Also, **powers of attorney for health care** can be written in simple language giving a family member or other person the right to make medical decisions for an individual, and many

people with developmental disabilities are able to execute such documents.

In addition, under Michigan law someone can designate a **patient advocate** to exercise powers concerning care, custody and medical treatment decisions. These usually cover end-of-life decisions.

Most medical facilities have standard forms available or they can be obtained at places where standard legal documents are sold, including office supply stores.



People also have concerns about not being able to make **financial** decisions without guardianship. If a person needs help in paying their bills, banks provide automatic deposit and withdrawal services in which checks are deposited and bills are paid electronically. Also, someone can have a **joint account** with a trusted person who will be able to make deposits and write checks from the account for them.

In addition, a **Power of Attorney for Finances** is a legal document some people use to appoint someone of their choice to take care of their money. If someone has a special needs trust, the **trustee** is responsible for handling their money.



As a last resort, a **conservator** may be appointed by the court to allow someone to handle finances for another.

If someone receives governmental benefits, and needs help handling their money, they can request someone else act as **Representative Payee**. That person is then responsible for using the money to provide for basic needs such as food, clothing, shelter and medical care for the beneficiary.

Parents who have a child with a disability often worry about who will look after their child when they are gone, and look to guardianship to ease those concerns. However, the best way to make sure that someone else is looking out for their child's best interest is to **plan now** by setting up a **special needs trust** while both parents are still living. This allows them the opportunity to name someone or some organization to monitor and visit their child to make sure that they are doing well and are happy and safe. This is a much more effective way of ensuring that their child will be taken care of the way mom and dad want than guardianship.



If someone has a guardianship, and doesn't want it anymore, they, or an interested party, may file a petition to **terminate or modify guardianship** with the Probate Court. They must be ready to tell the court why the guardianship should be terminated and may have to bring in new evaluations or witnesses to testify that guardianship is no longer needed. The guardianship should be terminated if the judge finds that it is no longer necessary.