

Establishing Your Child's Guardianship.

At age 18, a person is legally considered an adult, regardless of his or her ability to make decisions. Individuals over the age of 18 who are physically or mentally incapacitated may be unable to make decisions for themselves. If they do not have financial and health care powers of attorney in place, they will need a guardian to act on their behalf.



MCMORROW LAW, LLC provides experienced representation to individuals and families who are seeking guardianships for children with special needs or incapacitated adults.

If your family is struggling with questions and concerns about guardianships, we can provide the answers you need. Whether you are facing an emergency situation or you are planning for the future, we can help provide the guidance and expertise you need to make the proper decisions for your loved ones.

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Attorney Brooke McMorrow has more than a decade of experience with guardianships and other estate planning and family law issues. In addition to her legal experience, Brooke has served on the board of directors for Vintage, Inc., an adult day care and senior citizen center. She has also provided

guardianship assistance to families of children with special needs through the former Good Shepherd Legal Foundation.

Brooke will answer your questions and provide legal options to assist your family in planning for the next phase of your loved one's life.

As our client, you will receive knowledgeable, compassionate representation and responsive service. We keep our clients updated on the status of their cases and strive to return calls within 24 hours. Our office is conveniently located in the North Hills with free parking. Meetings may also be arranged downtown upon request.

WHAT YOU NEED TO KNOW ABOUT **Special Needs Guardianships**

WHEN YOUR CHILD TURNS 18



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What is a Guardianship?

A guardianship is a legal decree that protects the financial, medical and/or educational interests of an adult whom the court has deemed incapacitated. A guardian is appointed to ensure the best interests of the incapacitated individual are safeguarded.

WHY DO I HAVE TO GO TO COURT TO GET GUARDIANSHIP OVER MY OWN CHILD?

Once individuals reach the age of 18, it is assumed that they will be able to make decisions regarding their health and finances. Therefore, once your child turns 18, they become a legally competent adult in the eyes of the law. At that point, legally you have no control to make financial, education, and health related decisions on your child's behalf, regardless of any disabling condition your child may have. If your child's decision making abilities are severely affected or if he/she is unable to communicate, you will have to go to court to show that your child is incapacitated and unable to make such decisions independently.

WHAT IS AN INCAPACITATED PERSON?

In Pennsylvania, an incapacitated person is *an adult with a significantly impaired ability to receive, evaluate and/or communicate information effectively*. The individual in question must be partially or totally incapable of managing financial resources or meeting essential requirements for his/her physical health and safety. This may include individuals with severe autism, cerebral palsy, Down's Syndrome or traumatic brain injury among others.

WHEN SHOULD I BEGIN THE GUARDIANSHIP PROCESS?

You should begin the guardianship process before your child turns 18 to avoid any lapse in your right to make decisions for him or her. If possible, you should begin the process approximately six months before your child's 18th birthday or as soon afterwards as is reasonably possible. This way, the papers are ready to be filed to initiate the proceeding on or just after your child's 18th birthday.

WHAT DOES THE GUARDIANSHIP PROCESS ENTAIL?

To begin the process, a petition must be filed with the Court. Once the petition is presented to the Court, a time and place for the actual hearing is assigned and evidence is gathered relating to the alleged incapacity.

During the guardianship hearing, evidence must be presented establishing a need for the Court to find the person incapacitated and to appoint a guardian. Based on this evidence, the Court will decide if the individual is incapacitated and whether or not to appoint a guardian for the individual and/or the individual's estate.

WHAT IF MY CHILD IS ALREADY OVER 18 AND I NEED TO ESTABLISH A GUARDIANSHIP IMMEDIATELY?

A person may file a petition for an emergency guardian for individuals who need the immediate appointment of a guardian. The Court may appoint an emergency guardian of a person and/or estate when it finds, upon clear and convincing evidence, that the person is incapacitated and that failure to make an emergency appointment will result in irreparable harm to the person and/or estate.

The initial appointment of an emergency guardian cannot be for longer than 72 hours. If the emergency continues beyond that point, the order may be extended for up to 20 days. Under no circumstances may an emergency guardianship of the estate exceed 30 days. If the emergency situation will exceed beyond 30 days, the petitioner must initiate a full guardianship proceeding.

