

A Maryland Judiciary Production
My Laws, My Courts, My Maryland
The Role of Guardian of the Property

Welcome to the Maryland Court’s video series on Adult Guardianship.

You are watching this video series because you are thinking about becoming a guardian. Or, perhaps, the court has appointed you as a guardian. Either way, it is important for you to understand the duties of guardianship.

This is the third of three videos.

This video, *The Role of Guardian of the Property*, explains your duties once you become a guardian of the property. The second video explains your duties if you are appointed guardian of the person. For an explanation of guardianship, when guardianship is appropriate, and the legal process for becoming a guardian, see the first video, *Introduction to Adult Guardianship*.

I encourage you to watch all three videos. Together, they will help you understand the guardianship process and your potential new role as guardian.

The Maryland Courts sincerely appreciate your generous commitment to becoming a guardian. As a guardian, you have duties not only to the ward, but also to the court. The court is the actual legal guardian and you are an agent of the court. You are responsible for carrying out those duties. Therefore, you must provide periodic status reports to the court. You must also request guidance from the court when making important decisions. This video will help you understand your duties and how you can best fulfill them.

Let’s begin by talking about managing your case. Once the court issues an order appointing you as guardian, your case will be managed by the Court Clerk or Trust Office.

The Court Clerk or Trust Office accepts all court documents, collects the filing fees, and provides necessary court forms, including annual reports and petitions.

If you have any questions about your case, your first stop should be the Court Clerk or Trust Office.

As you learned in the first video, *Introduction to Adult Guardianship*, the court order signed by the judge grants you the legal title of guardian. The order will state whether you have been appointed guardian of the person, guardian of the property, or both. Each type of guardianship carries different duties. This video addresses the responsibilities of guardian of the property.

As guardian of the property, you are entrusted with an important responsibility. Just like a guardian of the person, you are acting as an agent of the court. Not only do you have responsibilities to the ward, you also have duties to the court.

You have broad powers to manage your ward's income and assets. You must use those powers in good faith.

In turn, the court has the responsibility to monitor how you handle the estate to ensure that it is being used for the ward's benefit.

One of the ways the court does this is by requiring the guardian to post a bond. Guardianship bonds protect the ward against losses or damages if you misuse the ward's assets. For example, it is a misuse of the ward's assets for a guardian to make gifts to him or herself from the ward's assets. The bond can be used to compensate the estate if the guardian misuses these funds.

Bonds can be purchased through surety bond companies and the premium can be deducted from the ward's estate.

The first thing you need to do as guardian of the property is to take control of the ward's assets. You must retitle all of the ward's accounts. This includes all bank accounts, investment accounts, and IRA's. You do not need to retitle joint accounts that are shared with the ward's spouse or transfer on death accounts, which are also known as payable on death accounts. Guardianship accounts must be titled in the following format:

“Joe Smith as Guardian for Jane Smith”

In the event that the financial institution will not allow you to retitle the existing account, you will need to establish a new guardianship account.

After the ward's property has been properly titled, file an “Inventory” listing all of the ward's assets. You must complete the inventory within 60 days of your appointment and file it with the Court Clerk or Trust Office. Here is a check list of what to include in the report:

- Real Estate, including the mortgage balance and the name of the lender
- Cash and Cash Equivalents, such as checking and savings accounts, and IRAs
- Personal Property, such as cars and jewelry
- Stocks with a description and number of shares
- Bonds with the name of the issuer, face value, and maturity date, and

- Anything else, such as debts owed to the estate and life insurance policies

In addition to the “Inventory,” you must submit a “Fiduciary’s Account.” File it with the Court Clerk or Trust Office each year within 60 days after the end of the guardianship year. Generally, the guardianship year begins on the date of appointment. So, if you were appointed guardian on March 1st, 2016, your first account would be due no later than April 30th, 2017. The court reviews the “Fiduciary’s Account” to make sure you are properly managing the ward’s assets. Failure to file will result in a court hearing and possible removal as guardian.

The “Fiduciary’s Account” form will ask for information about the ward’s assets including:

- Real Estate
- Cash and Cash Equivalents
- Personal Property
- Stocks
- Bonds, and
- Anything else, such as debts owed to the estate and life insurance policies

It will also ask you to list income and expenses, and assets added or deleted during the guardianship year.

Make sure you have the following documents when you file the “Fiduciary’s Account”:

- Bank and investment statements
- Nursing home costs
- In-Home-Care expenses
- Settlement sheets for transfer of real property
- Receipts for cash purchases, and
- Copies of cleared checks and invoices for expenditures

Now that we have dealt with your reporting obligations to the court, let’s conclude by going over some best practices:

- Keep receipts for transactions.

- Get advance approval from the court when making large purchases or expenditures, such as modifying your ward's home to make it wheelchair accessible, or buying a special van to transport your ward.
- Consider using professionals such as accountants and investment firms if your ward's estate is large or complex. Their fees may be paid from the estate. Lawyer's fees must always be approved by the court.
- Get court approval before making gifts and charitable donations.
- Never combine your money with the ward's money.
- Never use your ward's funds for your own purposes, or borrow from your ward for yourself or your family.
- Never revoke a will, power of attorney, or other contract that your ward made before you were appointed, and
- Never make loans that are not secured by a mortgage or deed of trust.

Just as with guardian of the person, you must file a petition with the court to terminate the guardianship if the ward dies or has recovered from the disability that required the guardianship. If the ward dies, you must also file with the court the ward's death certificate and a final accounting of the ward's assets. If you are no longer able to serve, you should contact the Court Clerk or Trust Office or consult a lawyer about the proper procedure. The Court understands that circumstances change, and we want to be sure the ward's care is not disrupted if a change in guardian is necessary.

If you have any questions about what you learned from this video, you may wish to speak to a lawyer or contact your local legal service provider.

This concludes our discussion about the duties of guardians of property. Thanks for watching.

This has been a production of the Family Division Services of the Circuit Court for Montgomery County and the Access to Justice Department of the Administrative Office of the Courts. For more information, see mdcourts.gov.