

This handbook was created by the Montgomery County Circuit Court in collaboration with the Access to Justice Department of the Administrative Office of the Courts.

June 2017



Guardian of the Property

A Guardian's Handbook

CASE SUMMARY

Your Case Number is: _____

Primary Contact Person for Your Case is:

Date of Guardianship Appointment: _____

Due Date of Initial Inventory: _____

Due Date of First Fiduciary's Account: _____

Court Address: Montgomery County Circuit Court
50 Maryland Avenue
Trust Office – Room 2400
Rockville, MD 20850

Trust Office Phone: (240) 777-9175

Text: (240) 328-2214

mccctrustoffice@mdcourts.gov

Hours of Operation: M-F 8:30a.m. to 4:30p.m.

Email:

TIP: Keep a copy of your guardianship order in a safe place. It is proof of your legal authority to make decisions for your ward.

Notes

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Helpful Phone Numbers

Montgomery County Services	Dial 311
Montgomery County Aging and Disabilities Services	240-777-3000
Transitioning Youth with Disabilities	240-777-1216
Montgomery County Crisis Services	240-777-4000
Connect-A-Ride	301-738-3252

Helpful Websites

Montgomery County Department of Health and Human Services – Aging and Disabilities Unit

<https://www.montgomerycountymd.gov/HHS/>

Maryland Access Point

<https://www.marylandaccesspoint.info/>

Medicare/Medical Assistance

www.medicare.gov

Social Security Administration

<https://www.ssa.gov/>

INTRODUCTION

The Montgomery County Circuit Court sincerely appreciates your generous commitment to becoming a guardian. As guardian, you have the legal authority and duty to take care of a person who is unable to care for themselves, their finances, or both. That person is your ward. Guardianship is the legal relationship between the court, the guardian, and the ward.

As a guardian, you have legal duties you owe to the ward and to the court. Guardians of the person and guardians of the property have different duties. The court order signed by the judge is the official document that gives you the legal title of guardian. The order states whether you are appointed guardian of the person, guardian of the property, or both.

This handbook gives you basic information about your responsibilities as guardian of the **property**. There is a separate handbook that covers the duties of a guardian of the **person**.

You can also get more information from the Maryland Court's video series on adult guardianship located at www.montgomerycountymd.gov/circuitcourt.

This handbook does not explain the laws governing guardianships in Maryland. Contact an attorney if you have questions about guardianship law.

The Court's Management of Your Case

After the judge signs the guardianship order, your case will be handled by the Court's Trust Office. That office manages your case by:

- Processing all post-appointment guardianship paperwork for the Court. This paperwork includes annual reports, petitions, and requests by the guardian;
- Collecting filing fees;
- Providing forms;
- Notifying guardians when they must file reports and other documents;
- Initiating court procedures when reports and other documents are overdue.

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

Trust Office, Room 2400
Phone (240) 777-9175
Text (240) 328-2214
Email mccctrustoffice@mdcourts.gov

Best Practices for Managing Your Ward's Estate

1. Keep Records

- ⇒ Pay bills with checks or automatic bank withdrawals so you have a record of the transaction.
- ⇒ Avoid cash transactions. Always get a receipt when purchasing with cash.
- ⇒ Never make checks payable to 'Cash.'

2. Protect the Ward's Property

- ⇒ Keep real estate in good repair.
- ⇒ Insure real estate and valuables.

3. Avoid Conflicts of Interest

- ⇒ Never combine your money with the ward's money.
- ⇒ Never use your ward's funds for your own purposes, such as paying personal bills.
- ⇒ Never borrow from your ward for yourself or your family.

4. Know Your Limits

- ⇒ Never revoke a will, power of attorney, or contract that your ward made before you were appointed.
- ⇒ Never make high risk investments.
- ⇒ Contact the Trust Office **before** making a transaction when you are unsure if prior court approval is required.

Changes Affecting the Guardianship

You must promptly inform the court about changes to the ward's circumstances and your circumstances.

If the ward dies or has recovered from the disability that caused the need for guardianship, you must file a petition with the court to terminate the guardianship. If the ward dies, you must file the death certificate with the Trust Office.

If you are no longer able to serve as guardian, contact the Trust Office or consult a lawyer about the procedure. The Court understands that circumstances change, and the court wants to be sure the ward's care is not disrupted. You can continue to serve as guardian if you move out of the jurisdiction or State, as long as you remain able to fulfill your guardianship duties. Remember to give the Trust Office your new contact information.

TIP: Make sure the Trust Office has the most updated contact information for you and the ward at all times.

Guardianship Powers

Since the judge appointed you to manage the ward's estate, you are a **fiduciary**. This means the law requires you to manage your ward's money and property in his or her best interest. As a fiduciary, you must be honest, trustworthy, and act in good faith.

As guardian of the property, you have broad powers to manage your ward's estate. These powers include:

- **Day-to-day money management** - Paying bills and making purchases for the ward's day-to-day needs. These needs include housing, food, clothing, and medical care.
- **Collecting money** - This includes pension, Social Security, and debts owed to the ward.
- **Financial planning** - Making financial decisions to ensure that the estate has sufficient funds to cover the ward's future needs.
- **Real estate management** - Selling and leasing property, and collecting monies on rental property.
- **Paying taxes** - Preparing and filing the ward's federal and state tax returns each year.

However, there are limits to your powers. Without **prior** court approval, you **cannot** use the ward's assets to:

- Make gifts to a family member, friend, yourself , or anyone else;
- Donate to charity;
- Loan money to a family member, friend, yourself, or anyone else;
- Reimburse yourself for expenditures paid for with your own money;
- Purchase expensive items, such as vehicles, real estate, or vacations;
- Transfer the ward's money into a trust fund unless it is a "Special Needs Trust";
- Pay for lawyers;
- Change a will, power of attorney, or other contract that your ward made before you were appointed.

- Assets added or deleted during the guardianship year;
- Income to and disbursements from the estate during the guardianship year;
- Documents to support your transactions, including bank statements, settlement sheets, stock transfers.

The prior year's report will be the starting point from which current year's balances will be reviewed. Keep copies of all Annual Fiduciary Reports for reference.

The court conducts a review of the Annual Fiduciary Report to ensure the ward's money and property were properly handled. If the court is satisfied, the guardianship will continue. If the court is not satisfied, it will take appropriate action. If you do not file your report on time, the Trust Office will schedule a hearing and serve you with a "show cause" order with the date. You must appear in court on that date and tell the judge why you have not filed the report.

TIP: Find videos with instructions on how to fill out the *Inventory and Information Report* and the *Annual Fiduciary Report* on the court's website at www.montgomerycountymd.gov/circuitcourt

Continuing the Guardianship

The Annual Fiduciary Report

Each year you must submit an Annual Fiduciary Report. File it with the Trust Office each year within 60 days after the end of the guardianship year. Generally, the guardianship year begins on the date of the appointment. For example, if you were appointed guardian on March 1, 2017, your first account would be due no later than April 30, 2018.

Download the Annual Fiduciary Report from the Montgomery County Circuit Court's website at www.montgomerycountymd.gov/circuitcourt.

This report gives the court a complete picture of the ward's current financial situation and what has happened over the last 12 months. In the report provide:

- Details about the ward's estate that you listed in the Inventory and Information Report or the Annual Fiduciary's Report from the previous year ;
- Any changes in these assets over the year. This includes changes in real estate, cash, stocks, and any debts;

The court order naming you guardian of the property may list additional restrictions on your powers. For example, the order may restrict your ability to sell the ward's home. Make sure you understand any restrictions stated in the order. Contact the Trust Office before making a transaction when you are unsure if prior court approval is required.

TIP: When managing your ward's estate, consider using professionals such as financial advisors, accountants, real estate agents, or appraisers. Their fees may be paid from the ward's estate, as long as they are considered reasonable by accepted industry standards.

Starting the Guardianship

Step 1. Take control of your ward's assets

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 the ward's accounts. This includes bank accounts, investment accounts, and IRAs. Do not retitle joint accounts that are shared with the ward's spouse or transfer on death accounts, also known as payable on death accounts.

Guardianship accounts must be titled in the following format: *"Joe Smith, Guardian for Jane Smith."*



If the financial institution will not allow you to retitle the account, you will need to establish a new guardianship account.

Step 2. File an Inventory and Information Report with the Court

After you have retitled the ward's property, file an initial inventory listing everything the ward owes and owns. Complete the inventory within 60 days of your appointment and file it with the Trust Office. You can download the Initial Inventory and Information Report from the Montgomery County Circuit Court website at www.montgomerycountymd.gov/circuitcourt.

Examples of what needs to be included are:

- 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, including description and number of shares;
- Bonds with the name of the issuer, face value, and maturity date;
- Anything else related to the ward's assets, such as debts owed to the estate or life insurance policies.