

# Protected Person's Bill of Rights (Guardianship)

Senate Bill 360

Sec. 6.

1. The Legislature hereby declares that, except as otherwise specifically provided by law, each proposed ward has the right to have an attorney before a guardianship is imposed to ask the court for relief, and each ward has the right to:
  - a. Have an attorney at any time during a guardianship to ask the court for relief.
  - b. Receive notice of all guardianship proceedings and all proceedings relating to a determination of capacity unless the court determines that the ward lacks the capacity to comprehend such a notice.
  - c. Receive a copy of all documents filed in a guardianship proceeding.
  - d. Have a family member, an interested party, a person of natural affection, an advocate for the ward or a medical provider speak or raise any issues of concern on behalf of the ward during a court hearing; either orally or in writing, including, without limitation, issues relating to a conflict with a guardian. As used in this paragraph, "person of natural affection" means a person who is not a family member of the ward but who shares a relationship with the ward that is similar to the relationship between family members.
  - e. Be educated about guardianships and ask questions and express concerns and complaints about a guardian and the actions of a guardian, either orally or in writing.
  - f. Participate in developing a plan for his or her care, including, without limitation, managing his or her assets and personal property and determining his or her residence and the manner in which he or she will receive services.
  - g. Have due consideration given to his or her current and previously stated personal desires, preferences for health care and medical treatment and religious and moral beliefs.

- h. Remain as independent as possible, including, without limitation, to have his or her preference honored regarding his or her residence and standard of living, either as expressed or demonstrated before a determination was made relating to capacity or as currently expressed, if the preference is reasonable under the circumstances.
  - i. Be granted the greatest degree of freedom possible, consistent with the reasons for a guardianship, and exercise control of all aspects of his or her life that are not delegated to a guardian specifically by a court order.
  - j. Engage in any activity that the court has not expressly reserved for a guardian, including, without limitation, voting, marrying or entering into a domestic partnership, traveling, working, and having a driver's license.
  - k. Be treated with respect and dignity.
  - l. Be treated fairly by his or her guardian.
  - m. Maintain privacy and confidentiality in all personal matters.
  - n. Receive telephone calls and personal mail and have visitors, unless his or her guardian and the court determine that particular correspondence or a particular visitor will cause harm to the ward.
  - o. Receive timely, effective and appropriate health care and medical treatment that does not violate his or her rights.
  - p. Have all services provided by a guardian at a reasonable rate of compensation and have a court review any requests for payment to avoid excessive or unnecessary fees or duplicate billings.
  - q. Receive prudent financial management of his or her property and regular detailed reports of financial accounting, including, without limitation, reports on any investments or trusts that are held for his or her benefit and any expenditures or fees charged to his or her estate.
  - r. Receive and control his or her salary, maintain a bank account, and manage his or her personal money.
  - s. Ask the court to:
    - i. Review the management activity of a guardian if a dispute cannot be resolved.
    - ii. Continually review the need for a guardianship or modify or terminate a guardianship.
    - iii. Replace the guardian.
    - iv. Enter an order restoring his or her capacity at the earliest possible time.
2. The rights of the ward set forth in subsection 1 do not abrogate any remedies provided by law. All such rights may be addressed in a guardianship proceeding or be enforced through a private right of action.