

GAL Training for Adult Guardianship Cases

Chicago Volunteer Legal Services

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What we will cover today:

- Volunteering with Chicago Volunteer Legal Services
- Overview of Adult Guardianship in Illinois
- Conducting a simple GAL investigation start to finish
- Goal: Prepare you for your first Adult GAL Case!

Group Discussion

- * Why volunteer as a GAL in Adult Guardianship?
- * What are your concerns/fears about serving as a GAL?

Volunteering with CVLS

- CVLS was established in 1964
- CVLS represents clients in all types of civil matters
- CVLS staff attorneys have their own cases and also work with volunteer attorneys on CVLS cases
- CVLS provides malpractice insurance coverage
- CVLS supports volunteers with **everything** they need (consultations, sample pleadings, manuals, etc.)
- CVLS offers office space, computers, phones, logistics support and more...

Filing Fees

- * You should never pay any filing fees or advance any costs associated with acting as GAL. CVLS is unable to reimburse fees or expenses incurred in court proceedings.
- * Use a Waiver Account to electronically file documents without cost. We use the Civil Legal Service Provider fee waiver (CCGN 642) when necessary and suggest the 298 Fee Waivers for parties
- * Speak with a CVLS staff member or attorney before expending funds on a client's behalf. And be ware the Rules of Professional Conduct.

Volunteering with CVLS

TODAY'S MOST IMPORTANT MESSAGE:

- You won't remember everything we cover today, but you will have access to our Training Manual and all other online training content, the Probate Statute and most importantly, you will have me!
- Please reach out to us with any questions, issues and updates that arise in your Adult GAL Cases
- Peter Ashmore (pashmore@cvls.org; 312-332-1688)
- Lisa Murphy (lmurphy@cvls.org; 312-332-7546)

Terminology

- * **Person with a(n Alleged) Disability**
- * **Adjudication of Disability**
 - * Court has determined the individual is not able to make personal and/or financial decisions for themselves and has appointed a surrogate decision-maker (guardian)
- * **Petitioner**
 - * This is the person who filed the initial petition and will become guardian if petition is granted
- * **CCP-211**
 - * Medical Report form in Cook County
- * **Respondent**
 - * This is the person who will potentially be adjudicated disabled
- * **Ward**
 - * Person who has been adjudicated and has a guardian
- * **Guardian ad Litem (GAL)**
 - * Appointed by the Court to investigate whether Respondent needs a guardian, objects to guardianship, and whether Petitioner is appropriate guardian

Adult Guardianship Overview

Why does adult guardianship exist?

- Individuals 18 years of age or older generally have autonomy to make decisions for themselves (medical, financial, living arrangements, contract for services, etc.)
- Some adults do not have capacity to make decisions on their own behalf due to:
 1. Developmental Disability (Down syndrome, Autism, etc.)
 2. Age-related issues (dementia, Alzheimer's disease, etc.)
 3. Trauma or health issue that affects decision-making capabilities (TBI, stroke, mental illness, etc.)

Adult Guardianship Overview

Types of Guardianship:

- Guardian of the Estate – the court grants guardian the authority to make financial decisions
 - Guardian of the Person – the court grants guardian the authority to make decisions about housing, school, health care & daily life
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- Plenary Guardianship of Estate/Person - Full guardianship
 - Limited Guardianship of Estate/Person - Some, but not all, decisions are made by the limited guardian

Who can become a guardian?

Statutory qualifications to become a guardian in Illinois:

- Must be 18 years of age or older
- A resident of the United States (this is not a requirement for a particular immigration status, but check with CVLS)
- Proposed guardian cannot have been adjudicated as disabled
- Proposed Guardian cannot have a felony conviction unless the court finds that the appointment of the guardian is still in the best interest of the person with an alleged disability.

See: 755 ILCS 5/11a-5 Who may act as Guardian

Similar Legal Constructs in Illinois

- Power of Attorney for Health Care
- Power of Attorney for Property
- Illinois Health Care Surrogate Act
- Advanced Directives
- Declaration for Mental Health Treatment

Group Discussion

- * Why do we need GALs?
- * What is a GAL's job?

Why does the court appoint a GAL?

The most common reason:

- A petition for guardianship is filed and the Respondent (the person with alleged disability) will **NOT** appear in court

Other reasons:

- Request for restoration; allegations of abuse, neglect or exploitation; DVOP; any other issue that arises...

GAL Investigation

Role of a CVLS GAL in Court:

- The GAL is the eyes and the ears of the court
- The Result/Product of the GAL Investigation is GAL Report which is filed with the court and presented orally on the record during the hearing
- Service to the court - assist with legal procedure
 - ✓ Personal service
 - ✓ Respondent (by Sheriff 14 days before plenary hearing)
 - ✓ Exhibit A (by mail 14 days before plenary hearing)
 - ✓ Amended Exhibit A
 - ✓ Amended Petition
 - ✓ Draft orders
 - ✓ Prepare necessary legal docs
 - ✓ Medical Report (dated not more than 90 days before Petition filed)

GAL Investigation

The Role of the GAL by Statute (755 ILCS 5/11a-10):

1. Personally observe the Respondent
2. Inform Respondent orally and in writing of contents of the petition
3. Inform Respondent orally and in writing of Notice of Rights of Respondent (755 ILCS 5/11a-11)
4. Attempt to elicit Respondent's position concerning:
 - * Adjudication of disability
 - * Proposed guardian
 - * Proposed change in residential placement
 - * Changes in care that might result from the guardianship
 - * Other areas of inquiry deemed appropriate by the court
5. Report to the court Re: best interests of the Respondent

How do you do an investigation?

You agreed to take on a GAL case with CVLS, the court sent you

- (1) the Order appointing GAL and
- (2) a copy of the petition for guardianship
- (3) Now what?

GAL Investigation

- Setting up Interviews
- Interviewing Respondent
- Requesting and Reviewing Records
 - Case by case
- A note about remote investigations
- Review Sample case (Carver)

Interviewing Respondent

- * Meet with Respondent alone if possible
- * How to start? What do I ask?
 - * Ice breaker questions
- * Read Notice of Rights and leave copy w Respondent (or in chart)
- * Dealing with awkwardness
 - * What if Respondent can't/won't talk to me?
 - * Rephrase questions, speak slowly, clearly
- * Confirming mental capacity
 - * Orientation to place, time, etc.
 - * Mini mental exam, Make change for \$1

GAL Report

- * Detail investigation
 - * Objective voice, neutral observations
 - * Who, what, where
- * Make recommendation
 - * Last section should reach a conclusion regarding Respondent's best interest

GAL Report

- Draft GAL Report a week in advance of the hearing
- CVLS will review your GAL Report
- Send courtesy copy to the judge (and the parties) 2 to 3 days in advance of the hearing
 - Via email
 - Include any other docs Judge will need to review/enter
- E-file the GAL Report
 - Using your own e-filing account (cvls.org/efile)
- Present GAL Report in Court

Preparing for Court

Documents to prepare:

- GAL Report
- Amended Exhibit A (must be e-filed in advance of court)
- Order Appointing Guardian
- Oath & Bond – No Surety
- Statement of Right to Petition to Terminate Guardianship
- Email all documents to Judge 2-5 days before hearing date

Appearing in Zoom court

* **Zoom Court Hearings:**

- * Log in 10-15 minutes before scheduled time
- * Name: “CVLS – Your Name – Case/Case#
 - * Example: CVLS- Lisa Murphy – Smith 21P1234
- * Stay in Waiting Room until case called
- * Introduce yourself, summarize report

* **After Court**

- * Orders emailed
- * Send copy to Petitioner w blank ARRW
- * Send CVLS copy of filed GAL Report and closing order(s)

Discussion & Questions

- * Investigations
 - * In-person vs remote
 - * What docs should I review?
 - * Who should I talk to?
- * Zoom Court

Case Studies

- Small group discussion

Final Thoughts

- CVLS is here for you!
- Let us know when you want a case
- Log in to LegalServer and review available cases

Questions?

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* 312-332-1688

* Lisa Murphy: Lmurphy@cvls.org

* 312-332-7546

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