Adult Guardianship Training Representing a Petitioner

Chicago Volunteer Legal Services
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What we will cover today:

- Overview of Adult Guardianship in Illinois
- Completing a CVLS Adult Guardianship case start to finish
- Goal: Prepare you for your first Adult Guardianship Case!

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Volunteering with CVLS

- 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…

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Filing Fees

- You should never pay any filing fees or advance any costs associated when representing a CVLS client. 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 beware the Rules of Professional Conduct.

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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

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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.)

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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

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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

Review these with your client before court – Judge will ask

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Step 1 – Review Case Info

- Legal Server File
- Client memo
- CCP-211
- Contact Client

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Step 2 – Prepare/Sign documents

- **To start case**
  - Petition & Exhibit A
  - CLSP
  - Motion to Waive GAL
  - Summons
  - CCP-211 (should be in file)
- **For court:**
  - Oath & Bond- No Surety
  - Order Appointing Guardian
  - Statement of Rights

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Step 3 – E-File Docs

- Set up E-file Account & Waiver Payment Account (CVLS.org/e-file)
- Docs to e-file:
  - Petition
    - Will Respondent appear in court?
  - CLSP
- After Case Accepted E-file
  - Summons
  - Motion to Waive GAL
  - Notices of Motion

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E-filing

- E-filing Demonstration: Odyssey New System

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Step 4 - Service

* Once you have case number and court date
  * Complete Summons w Court date & judge information
  * e-file/issue Summons with Clerk's Office
* Respondent must be ***personally served*** with Petition and Summons with Notice of Rights at least *14 days* before the plenary hearing date (755 ILCS 5/11a-10(e))
* All parties listed on Exhibit A must be **mailed** notice of Petition 14 days before hearing date (use simple Notice of Motion) (755 ICLS 5/11a-10(f))

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Step 4 (continued)

* Ways to serve:
  * Place online with Sheriff (https://sheriffefile.ccsheriff.org/)
  * Place in person with Sheriff (7th Floor of Daley)
  * Counter service (Room 702 of the Daley Center)*
    * Bring:
      * 2 copies of Petition
      * 2 copies of Summons
      * CLSP
      * Respondent and Petitioner
    * *Also available at Skokie and Markham courthouses
    * Ask for counter service – deputy will serve Respondent and provide receipt with proof of service
    * Affidavit of Service will be filed with the Clerk's Office

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Step 5 - Preparing for Court

Documents to prepare:

- Order Appointing Plenary Guardian of the Person
  - New forms available
  - Separate Order for cases with Co-Guardians (CCP 0228)
- Oath & Bond – No Surety (CCP 0313)
  - Signed by each person wishing to be named Guardian
- Statement of Right to Petition to Terminate Guardianship (CCP0214)

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Step 5 Continued

- Email courtesy copies of all documents to Judge 2-5 days before hearing date (See handouts for email addresses/sample emails):
  - Petition w Ex. A
  - Motion to Waive GAL
  - Proof of service
    - Personal service on Respondent
    - Service to Ex. A
  - CCP-211 (original must be delivered after court)*
  - Proposed Order Appointing Guardian*
  - Statement of Right*
  - Oath & Bond – No Surety* (original must be delivered after court)

*Note, these documents are NOT e-filed

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Step 5 Continued - Interpreter

- Requesting Court interpreter
  - Email Joseph Fleming (joseph.fleming@cookcountyil.gov) and Daniel Duffy (Danielquinn.duffy@cookcountyil.gov).
  - The email shall include the (1) case name, (2) case number, (3) court calendar, (4) name of the assigned Judge, and (5) language needed.

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Step 5 Continued – Prep Client

Prepare client to answer Judge's questions:

- Are you 18 years of age or older?
- Are you a resident of the United States?
  - This is not a requirement for a particular immigration status
- Have you ever been adjudicated as disabled?
- Have you ever been convicted of a felony?

Make sure client is familiar w Zoom and able to access Zoom in a quiet place on day of court hearing. Do a practice run if necessary

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Step 5 Continued – Prep Client

Judge will also ask Respondent questions – make sure they are prepared.

* Judge will review rights, ask opinion
* It's okay if Respondent is unable to communicate

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Step 6 - 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 – Doe 21P1234
  * Stay in Waiting Room until case called
  * Introduce yourself and clients
  * Tell Judge you are there for hearing on plenary petition

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Step 7 – After Court

* After Court
  * Orders emailed to address on Orders
  * Send copy to Petitioner w letter blank ARRW
    * Contact CVLS for sample
    * Include instructions for Guardianship training and ARRW
  * Letters of Office emailed 2 weeks+ after court
  * Send CVLS copy of order(s)

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Discussion & Questions

* Questions??

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Final Thoughts

- CVLS is here for you!
  - Samples, strategy, questions, etc.
- Log in to LegalServer and review available cases

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Questions?

* Lisa Murphy: Lmurphy@cvls.org
  * 312-332-7546
* CVLS Attorney Line: 312-332-3508
* https://www.cvls.org/volunteer/volunteer-resources/

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