

# THE PUBLIC FIDUCIARY

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# AGENDA

- Less Restrictive Alternatives.
- Who Needs A Guardian?
- Who Needs A Conservator?
- Who Has Priority For Guardian/Conservator?
- Role & Responsibilities Of A Guardian/Conservator.
- Benefits Available To Vulnerable Adults?
- Petition Process.

# LESS RESTRICTIVE ALTERNATIVES

- Power of Attorney-[Power-Of-Attorney-Forms \(maricopa.gov\)](http://maricopa.gov)
- -Life Care Planning- [Power-Of-Attorney-Forms \(azag.gov\)](http://azag.gov)
- Surrogate Decision Maker
- Supported Decision making [14-5722 - Supported decision-making agreements; scope; rights and obligations; intimidation; deception; petition; termination; form \(azleg.gov\)](#)
- Court Ordered Treatment
- Representative Payee; Special Needs Trust; Income Only Trust; ABLE Account, VA Custodian
- Young Adult Program-DCS cases
- Clinical Team (Seriously Mentally Ill/ALTCS/DDD)
- Family/Friend

# INCAPACITY

The Court may appoint a guardian if the Court finds venue and service are appropriate and by clear & convincing evidence that 3 Prongs are met:

1. The person for whom a guardian is sought is incapacitated.  
-how does this happen?
2. The appointment is necessary to provide for the demonstrated needs of the incapacitated person.  
-who knows, what it means by demonstrated needs?
3. The person's needs cannot be met by less restrictive means, including the use of appropriate technological assistance.  
-we will discuss this more later...

## PRIORITY FOR APPOINTMENT G OR C

- An already appointed Guardian and/or Conservator appointed in another jurisdiction.
- Person or Corporation nominated by the Proposed Ward (PW) or Protected Person (PP).
- Person nominated as Conservator in most recent Durable POA.
- Spouse.
- Adult Child of PW or PP.
- Parent.
- Any relative residing with PW and/or PP for at least 6 months.
- Nominee of a person who is caring for or paying the benefits to the PW and/or PP.
- If PW or PP is a veteran, the spouse of a veteran or the minor child of a veteran.
- A fiduciary who is licensed, other than a public fiduciary.
- A public fiduciary office.

# GUARDIANSHIP A.R.S 14-5304

- A person under a guardianship is referred to as a ward.
- In Arizona, an adult guardianship is a court ordered protective arrangement that removes certain civil rights of the ward and delegates them to another adult or organization.

# RESPONSIBILITIES OF GUARDIAN

- Substituted Judgement vs. Best Interest
- Informed Consent
- Advocating for services & securing benefits
- Managing income and assets
- Mental Health Authority
- Authority granted for withholding or withdrawal of life-sustaining treatment.

## CONSERVATORSHIP A.R.S 14-5417

- Person is unable to manage estate, financial affairs & assets will be dissipated w/o a competent manager.
- A person under a conservatorship is referred to as a protected person. [Prob Pbca1 \(maricopa.gov\)](http://maricopa.gov)
- Exercise the highest level of fiduciary responsibility and avoid any self-interest in the discharge of their duty.
  - Prudently manage costs, preserve assets for benefit of the ward or Protected Person.

# ROLE & RESPONSIBILITIES OF A CONSERVATOR

- Marshall Accounts
- Budgeting
- Manage Assets
- Credit Reports
- Accountings
- Inventories

# PROS & CONS OF GUARDIANSHIP

## PROS:

- Consent for Placement
- Coordinate w/family
- Advocacy
- Safeguard
- Services
- End of Life Decision Making

## CONS:

- Chronic Substance Abuse
- Chronic Homelessness
- Civil Rights
- Removing from familiar setting
- Ineffective
- Unable to secure benefits
- Cannot ensure compliance

# BENEFITS/PROGRAMS AVAILABLE TO ELDERLY

- AZ Long Term Care System
  - Placement: ASL; Memory Care; Level 1; Psychiatry; Medical; Vision & Dental.
  
- SAIL Program: Senior & Adult Independent Living Program ([SAIL-Flyer \(maricopa.gov\)](http://maricopa.gov))
  - Provides no-cost in-home support services for eligible seniors (age 60+) and adults (age 18+) with diagnosed physical disabilities.
  - Home Delivered Meals (Meals on Wheels; Homemaking; Adult Day Health Care)
  
- -Eligibility: The SAIL program serves eligible Maricopa County residents who are:
  - 60 years of age and older
  - Individuals ages 18 years of age or over who have been diagnosed with a physical disability.Senior Help Line at 602-264-4357
  
- Area Agency on Aging: 24 hr Senior HELP Line; AmeriCorps; Benefits Assistance; DOVES; ElderVention Behavioral Health; Family Caregiver Support; Health Promotion; HIV Care Directions; In-Home Services; Long-Term Care Ombudsman & MOSAIC Elder Refugee. [Area Agency on Aging – Helping caregivers and older adults with critical programs and services. \(aaaphx.org\)](http://aaaphx.org)

# AREA AGENCY ON AGING

- DOVES: Services to survivors of late-life Domestic Violence; Sexual assault & elder abuse.
- Americorps: Social support to older adults; transportation; grocery shopping; visits & tech help.
- Benefits Assistance Program: Provides certified Medicare Counselors & volunteers to assist with Medicare and other insurance benefits.
- ElderVention: Offers licensed behavioral health program, helping older adults manage mental and emotional health.
- MOSAIC: Assists refugees 60 & over in obtaining US Citizenship to retain benefits.
- Ombudsman: Advocacy re: long term care facilities; foster care; ASL, SNF.
- Health Promotion: Offers wide variety of healthy living classes to promote wellness.
- Family Caregiver: Supports family members, caring for older loved ones (respite,

# BENEFITS/RESOURCES

- Representative Payee: [Social Security - Representative Payee Program \(ssa.gov\)](https://www.ssa.gov)
- [JacksonWhite Attorneys at Law in Mesa & Phoenix, Arizona \(jacksonwhitelaw.com\)](https://www.jacksonwhitelaw.com)
- [Mazza + Niro](#) or contact an estate planning attorney that you are familiar with.
- [Plan of Arizona – Planned lifetime assisted network \(planofaz.org\)](https://www.planofaz.org) –Trusts, Rep Payee
- Beneficiary Deed: [33-405 - Beneficiary deeds; recording; definitions \(azleg.gov\)](https://www.azleg.gov)
- Placement & Services: Carepatrol [CarePatrol - Your Partner In Senior Care Solutions](#)
- In Home Care Giver: Like Family Home Care [Home Care Services | In-Home Care Services - Gilbert, Chandler, Phoenix AZ \(likefamilyhomecareaz.com\)](#)
- Amada Home care [The Best Senior Home Care in Phoenix | Amada Senior Care In Home care giver.](#)

## PROBATE CAST-STARRING

Court.

Guardian ad Litem.

Court Appointed Counsel.

Probate Court Investigator.

Appointed Health Professional.

Proposed Guardian/Conservator/PR.

Proposed Ward.

Interested Parties & Supports.

**THANK YOU!!**

**QUESTIONS?**