

DOES MY CHILD NEED A GUARDIAN?

In Florida, the law presumes that people age eighteen (18) and older are competent and able to make their own decisions. This means that regardless of how severe your child's disability might be, if your child is eighteen (18) or older and does not have a guardian appointed, your child has the right to make *all* decisions about his or her future. This presumption of competence is only overcome by a guardianship proceeding.

A guardian is an individual or institution appointed by the court to care for an incapacitated person, called the "ward", and/or for the ward's assets. You may petition the court for one of the following guardianships:

- Limited guardianship, limits the guardians authority to very specific types of decisions;
- Plenary guardianship, also known as full guardianship, which grants broad powers to the guardian.
- Guardian Advocate, similar to a limited guardianship in its effect; this type of guardianship is only available for persons with developmental disabilities.

A limited guardian or guardian advocate is most commonly used for individuals whose conditions impair some, but not all of their ability to care for themselves and/or their finances. If the ward is unable to make any decisions or perform necessary tasks on his or her own, then a plenary guardian is most often used.

Courts are very reluctant to take away more rights than necessary from the ward. It is important to encourage independence of the ward by giving the guardian authority over only those activities that an individual is unable to handle. It is encouraged that families consult with professionals well versed in guardianship when considering whether a guardianship is necessary, so that they can explore whether less restrictive alternatives may be more appropriate.

Minerva Vazquez, Esq.

Law Offices of Frye & Vazquez, PL

www.fryelawmiami.com

You should consult an attorney for advice regarding your individual situation. The hiring of a lawyer is an important decision that should not be based solely on advertising. Before you decide, ask us to send you free written information about our qualifications and experience.