

“ GUARDIANSHIP & WHAT YOU NEED TO KNOW ”

WHAT IS A GUARDIAN?

A ward is a person appointed by a Court to manage the person, estate, or both, of an incapacitated person.¹

A ward may need a guardian of the person, guardian of the estate, or both.

Guardianship can be either temporary or permanent.

WHEN IS GUARDIANSHIP NEEDED?

When the Court finds that the person is incapacitated and that only guardianship can meet the person's needs and protect his interests.

WHO MIGHT NEED A GUARDIAN?

- A minor;
- A person who must have a guardian to receive money from a governmental source;
- An adult who, because of a physical or mental condition, is substantially unable to provide for their basic needs, care for their physical health, or manage their finances.



WHO REPRESENTS THE PROPOSED WARD AND WHO CAN REPRESENT THE APPLICANT OR SERVE AS ATTORNEY AD LITEM?

The Court appoints an attorney ad litem who is certified by the State Bar of Texas to participate in guardianship proceedings to represent the legal interests of the proposed ward.

Just like any lawyer, an attorney ad litem has an attorney-client relationship with the ward and represents the desires of the ward.

WHAT IS THE PROCESS TO APPLY FOR GUARDIANSHIP?

1. APPLY

File an application for an appointment of permanent guardianship with a Certificate of Medical Examination as a separate document.⁴

2. SERVE

Personally serve a file-stamped copy of the application on the proposed ward, and serve by certified mail on certain other family members.⁵



3. REGISTER

Register with the Texas Judicial Branch Certification Commission (JBCC) to undergo a criminal background check and complete an online training module.⁶



4. MEET WITH COURT INVESTIGATOR

The Court appoints a Court Investigator, who meets with the proposed ward and applicant, then prepares and files a report. The Court Investigator acts as the eyes and ears of the Court.⁷



5. AN ATTORNEY AD LITEM IS APPOINTED

The Court appoints an attorney ad litem to represent the proposed ward's legal interests.



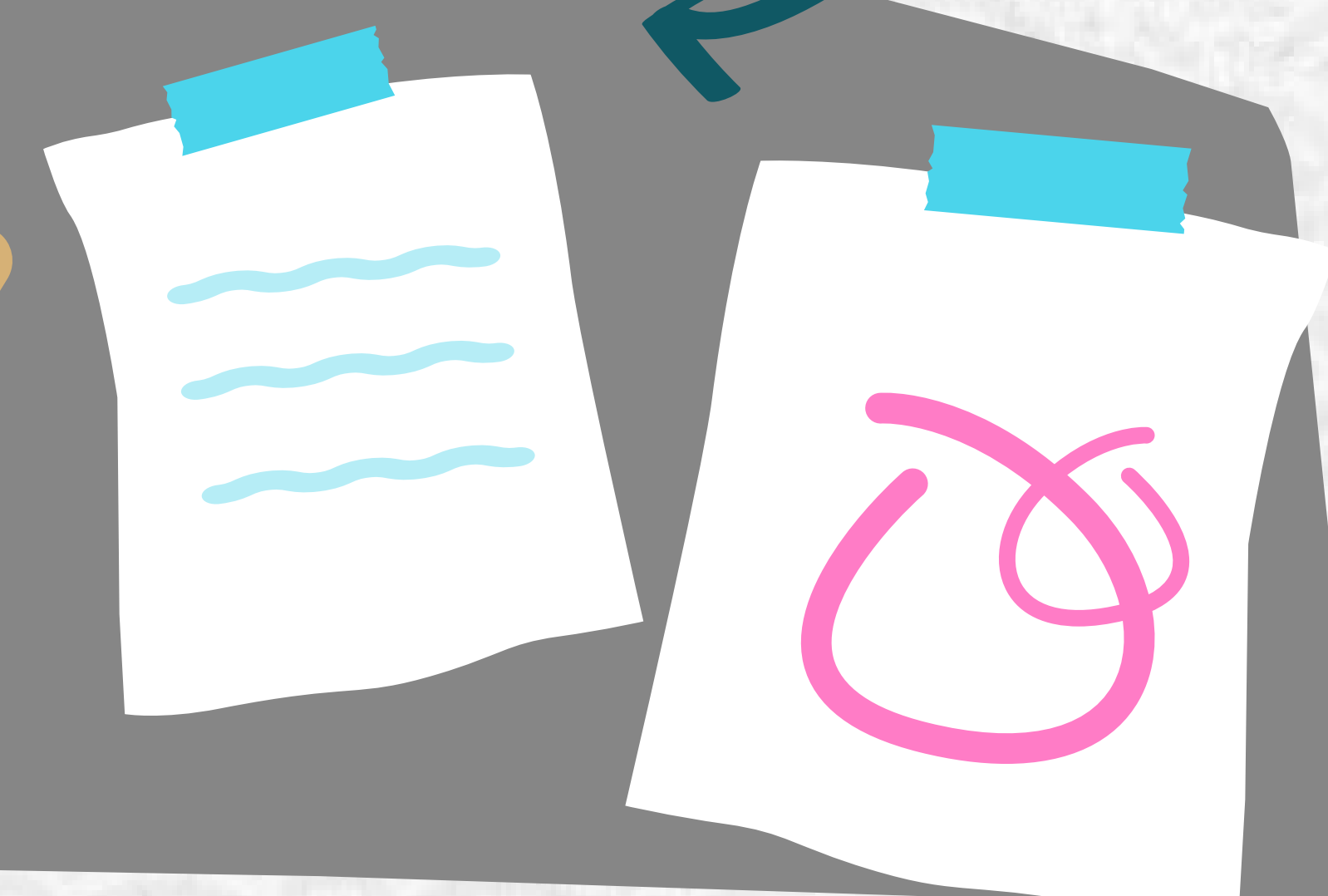
6. THE ATTORNEY AD LITEM INVESTIGATES

The attorney ad litem investigates, such as interviewing the proposed ward, and files an answer on behalf of the proposed ward.⁸



7. HEARING

The Court then holds a hearing on the guardianship application.



8. JUDGE MAKES A DECISION

If the application is granted, the Judge signs an order appointing the guardian. Upon appointment, the guardian takes an oath and posts a bond.⁹



Sources

¹ Tex. Est. Code Ann. § 1002.012.

² Tex. Est. Code Ann. § 1002.017.

³ Tex. Est. Code Ann. §§ 1054.001-004.

⁴ Tex. Est. Code Ann. § 1101.001.

⁵ Tex. Est. Code Ann. §§ 1051.101-203.

⁶ Tex. Govt. Code § 155.151; Tex. Est. Code Ann. § 1104.404; Tex. Est. Code Ann. § 1104.003.

⁷ Tex. Est. Code Ann. § 1054.151-153.

⁸ Tex. Est. Code Ann. § 1054.004.

⁹ Tex. Est. Code Ann. § 1151.151-152.

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