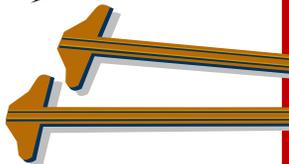
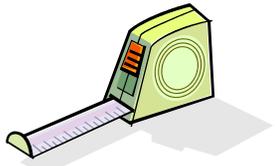


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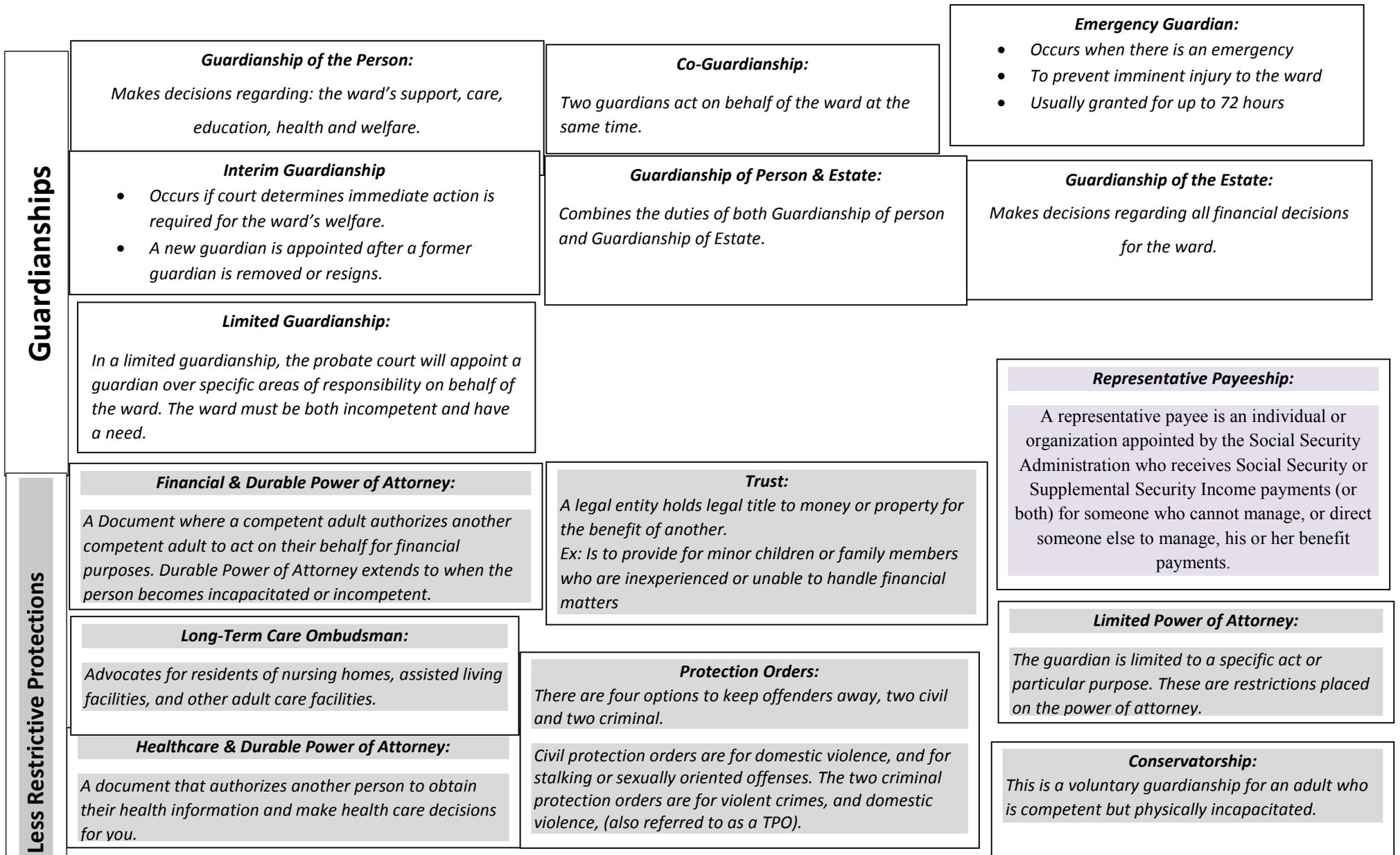


summarizes a variety of legal protections for elders. This is not legal advice.



Collaboratively prepared by the Elder Justice Coalition of West Central Ohio (Allen County I-Team) and Crime Victim Services with the assistance from Rhodes State College Paralegal Interns Lyndsay Ohm and Lance Oleviri. Please contact Elder Victim Ministry Director Elysia Bush for corrections, suggestions, and copies at EBush@CrimeVictimServices.org or 419-222-8666.

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GUARDIAN OF THE PERSON

Legal Option, Definition	How It Works	More Information
<p>A person appointed by the court to make decisions regarding the support, care, education, health, and welfare of a ward (ORC §2112.01). A more detailed list of duties includes: decisions on arrangements for food, clothing, living arrangements, medical care, recreation and education. This also includes consent for medical care and other treatment or training programs such as individual habilitation plans (Disability Rights Ohio, 2013).</p>	<p>All guardianships require an expert evaluation from a doctor in order to start the guardianship. Obtaining a lawyer is not required, however it is recommended.</p> <ol style="list-style-type: none"> 1. You must first complete a petition for guardianship with the probate court in the county where the person lives, including: <ol style="list-style-type: none"> A. the whole estate of the ward, its probable value and any probable annual rents; B. whether limited guardianship is sought and if so, the limited powers requested; C. whether you have ever been charged with or convicted of theft, physical violence or sexual, alcohol or substance abuse; D. the name, age and residence of the proposed ward; E. why you think the proposed ward is incompetent; and F. the name, relationship, age and address of the person’s next-of-kin (Wills and Probate: Guardianships, 2014). 2. Guardians may be nominated through a living will, last will and testament, health care power of attorney, or power of attorney; however only a court can appoint a guardian. A court will appoint the person who was nominated unless for some reason they are determined unsuitable. A Guardianship of the person must file a report with the probate court at least once every two years. This report must be specific and include the number of visits and purpose of the visit over the period spanning the report. It must include any major change in the ward’s physical or mental condition, the guardian’s opinion as to the necessity for continuing guardianship, the date that the ward last saw a physician and the guardian’s opinion on the adequacy of care that the ward is receiving. Guardians can be removed by the court for not acting in a client’s best interest or not following the court’s reporting procedures. Guardianships can be modified for a number of reasons, including a change in the client’s medical status or financial circumstances. <p>(Wills and Probate: Guardianships, 2014), (Guardianships, 2014), (Guardianship basics, 2014)</p>	<p>Two prerequisites should exist before a court appoints a guardian: 1. The individuals must be incompetent in at least one important area of their lives. That decision is often easy to determine as a result of real-life experiences. Can they take care of themselves and their property, or are they at risk if left on their own? 2. There must be a present need for the guardianship. A person may have significant deficits in life, but the support network - families, friends, service providers, etc. - may be so strong that guardianship is not necessary. In most cases anyone being appointed guardian must be an Ohio resident.</p> <p>(Guardianship in Ohio, 2014), (Wills and Probate Guardianships)</p>

GUARDIAN OF THE ESTATE

Legal Option, Definition	How It Works	More Information
<p>A person appointed by the court to administer the estate of a ward (ORC §2112.01). The person who is awarded Guardianship of the Estate is given the authority to make all financial decisions for the ward Section 2111.14 of the ORC provides a detailed list of the DUTIES AND RESPONSIBILITIES of the Guardians of the Estate. Guardians are responsible for filing the inventory of the wards real and personal property of the estate including the value of the property and the wards annual income. The guardian must also pay debts of the estate, collect all debts due to the ward and appear for and defend, or cause to be defended, all suits against the ward. The guardian must obey all orders and judgments related to the guardianship. If a suit is in the best interest of the ward, the guardian is responsible to bring suit. “To settle and adjust, when necessary or desirable, the assets that the guardian may receive in kind from an executor or administrator to the greatest advantage of the ward” (ORC §2111.14). Any adjustments or settlements must be approved by the probate court and entered into the journal.</p> <p>(Disability Rights Ohio, 2013), (ORC §2111.14)</p>	<p><<<All guardianships require an expert evaluation from a doctor in order to start the guardianship. Statute requires this be updated every two years when you file the guardianship report.>>></p> <ol style="list-style-type: none"> 1. You must first complete an application for guardianship. 2. Guardians may be nominated through a living will, last will and testament, health care power of attorney, or power of attorney, however only a court can appoint a guardian. A court will appoint the person that was nominated unless they for some reason are determined unsuitable. 3. Guardians of the estate must report annually as to how funds are spent on behalf of the ward during the prior year. <p>USE OF FUNDS: Guardians are required to show the use of funds by providing an accounting and submission of receipts for all such expenditures. The account must include an itemized statement of all receipts, disbursements and distributions made from the ward’s estate. Guardians are subject to the jurisdiction of the court that appointed them. They can be removed for not acting in a client’s best interest or not following the court’s reporting procedures. “Guardianships can be modified for a number of reasons, including a change in the client’s medical status or financial circumstances” (Guardianship Basics, 2014).</p> <p>(Guardianships 2014), (Guardianship in Ohio, 2014)</p>	<p>Guardian of the estate is responsible for managing finances and business related affairs, therefore it would be beneficial to have these skills if you would be a guardian of the estate. Before being appointed Guardian of the Estate, an applicant must give the court a fiduciary bond that doubles the probable value of the ward’s assets This would mean that the guardian generally needs to have good credit.</p> <p>(Guardianship in Ohio, 2014), (Guardianships 2014)</p>

EMERGENCY GUARDIAN

Legal Option, Definition	How it Works	More Information
<p>When there is an emergency, the probate court can appoint a guardian without a formal hearing in order to prevent imminent injury to the person or estate of the ward. Emergency guardians can my granted for up to 72 hours. After a hearing, the court may extend the emergency guardianship for up to thirty days.</p> <p>(Wills and Probate: Guardianships, 2014), (Disability Rights Ohio, 2013), (Guardianships, 2014)</p>	<p>All guardianships require an expert evaluation from a doctor in order to start the guardianship. Emergency guardianships require a doctor to complete an additional supplement (Form 17.1a). Only emergency guardianships require a lawyer (Allen County Probate Court). For an emergency guardianship, a guardian of the person is responsible for matters dealing with the person’s health or medical conditions. Guardian of the property is related to the duties to the person’s property; for example, “the guardian may be required to help manage rent payments throughout the duration of the emergency situation” (Emergency Guardianship Laws, 2012).</p> <p>TO START A CASE FOR EMERGENCY GUARDIANSHIP, the applicant would file a application with the court. The information they would need to include is:</p> <ol style="list-style-type: none"> 1. the name, address and date of birth of the alleged disabled person; 2. the nature of the alleged disability; 3. what emergency services the person needs; 4. Verification that a bona fide emergency exists” (Emergency Guardianship). <p>An emergency guardian can only act on behalf of the ward during the time frame of the emergency guardianship. Once the relationship has terminated, the guardian may no longer act on behalf of the ward. If a guardian continues to act on behalf of the ward, they may be subject to violations.</p> <p>(Emergency Guardianship Laws, 2012),</p>	<p>EMERGENCY GUARDIAN</p> <p>The laws for emergency guardianship vary from state to state; however, most states require the following to be enforceable in court: 1. INCAPACITATION: this means the court will determine that the ward has a reason for emergency guardianship due to injury, disease, mental disability, addiction, or other type of incapacity. 2. RISK OF HARM: The applicant must show that the ward is at risk of further harm or even death if an emergency guardian is not appointed.</p>

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<p>GUARDIANSHIP OF PERSON & ESTATE</p> <p>Combines the authority for both guardianship of person and the guardianship of estate. Here, nearly all the ward’s rights are taken away and given to a guardian. This essentially means that the court has determined this person to be totally incompetent in the eyes of the law. (Guardianship in Ohio 2014)</p>	<p>GUARDIANSHIP OF PERSON & ESTATE</p> <p>Guardianship of person and estate combine the duties and responsibilities from the individual guardianship of person, and the individual guardianship of the estate.</p> <p>If guardian of the person and estate are required, the court will appoint the same person unless a court order specifies otherwise.</p> <p>(Guardianships 2014)</p>	<p>GUARDIANSHIP OF PERSON & ESTATE</p> <p>The requirements and qualifications remain the same for guardianship of person and guardianship of estate.</p>
<p>CO-GUARDIANSHIP</p> <p>In a co-guardianship, two people act on behalf of the ward at the same time (Disability Rights Ohio, 2013).</p>	<p>CO-GUARDIANSHIP</p> <p>“Depending upon the laws of the jurisdiction and the terms of the appointment, it may be necessary for both co-guardians to approve any decision made on behalf of the legally incapacitated person. This can create needless delay in the administration of emergency care, and can create difficulty in establishing authority for even minor decisions” (The Legal Guardianship, 2003).</p>	<p>CO-GUARDIANSHIP</p> <p>Requirements for co-guardianship are the same as guardianship for person & estate.</p>
<p>LIMITED GUARDIANSHIP</p> <p>The probate court will appoint a guardian over certain portions of the ward (Disability Rights Ohio, 2013).</p>	<p>LIMITED GUARDIANSHIP</p> <p>A limited guardian can have power over the wards medical purposes, and only provide consent for medical purposes. “Or for placement purposes only (admission to a group home), or for the limited purpose of approving behavior plans and/or psychotropic medications. This less restrictive form of guardianship should be used instead of full guardianship whenever possible. A ward for which a limited guardian has been appointed retains all rights in all areas not covered by the court's order” (Disability Rights Ohio, 2013).</p> <p>(Disability Rights Ohio, 2013)</p>	<p>LIMITED GUARDIANSHIP</p> <p>Depending on which aspect of the wards life the limited guardian will have control over it would be helpful to have knowledge in that area.</p>

FURTHER RESOURCES ON GUARDIANSHIP

-Ohio Legal Services is a website that provides information to assist low income Ohioans. On this website there is a link for probate forms as well as a map to click on to find legal help. http://www.ohiolegalservices.org/public/legal_problem/wills-and-probate/guardianships/selfhelpct_view

-The actual forms for Allen County are located here

http://www.supremecourt.ohio.gov/LegalResources/Rules/superintendence/probate_forms/Default.asp

-Erie County probate forms do automatic calculations. Here is the link that takes you to the forms page.

<http://www.eriecounty.oh.gov/departments-and-agencies/legal-resources/probate-court/welcome/probate-forms/>

1. The person for whom the guardian is appointed is called the **WARD**.

2. An **ACCOUNT** is defined as an itemized statement of all receipts, disbursements and distributions that were from the wards estate, as well as all funds, assets and investments in the guardians' hands at the end of the accounting period, and any changes in the investments

(Guardianships, 2014)

For all guardianships there needs to be a Statement of Expert Opinion completed by a doctor. Emergency guardianship also requires a doctor to fill out a supplement form 17a. Only for emergencies have to have a lawyer.

FINANCIAL POWER OF ATTORNEY DURABLE FINANCIAL POWER OF ATTORNEY		
Legal Option, Definition	How it Works	More Information
<p>A written document where a competent adult authorizes another competent adult to act on their behalf. This is also called attorney-in-fact. “Financial powers of attorney usually cover financial, business, personal and real estate matters”. People generally use a durable financial power of attorney because a financial power of attorney terminates when the person becomes incapacitated or incompetent.</p> <p>A durable financial power of attorney authorizes the attorney-in-fact to act on the principal’s behalf even after they become incapacitated or incompetent.” (Wills and Probate: Financial Powers of Attorney, 2014)</p>	<p>This website provides a template to help you get started on a financial power of attorney filing.</p> <p>http://www.ohiolegalservices.org/public/legal_problem/wills-and-probate/financial-power-of-attorney/qandact_view</p> <p>The powers given to the attorney-in-fact can be specific or general. Most people have their attorney-in-fact exercise broad general affairs such as depositing checks, signing their names to checks, paying bills, and handling bank accounts, attorneys-in-fact also take possession of any property, real or personal, including the power to sell. Generally speaking, the principal would want to give their attorney-in-fact the power to perform any legal act that the principal would do for themselves. For the power of attorney to be durable, the wording must be specific and state: “This power of attorney shall not be affected by the disability of the principal or lapse of time.” (Wills and Probate: Financial Powers of Attorney, 2014)</p>	<p>To be a financial power of attorney, you must be at least 18 years of age (Wills and Probate: Financial Powers of Attorney, 2014).</p> <p>IF YOU BELIEVE THAT YOUR FINANCIAL POWER OF ATTORNEY IS NOT SPENDING YOUR MONEY FOR YOUR NEEDS—CONTACT YOUR LOCAL PROBATE COURT.</p>

HEALTHCARE POWER OF ATTORNEY

DURABLE POWER OF ATTORNEY FOR HEALTHCARE

Legal Option, Definition	How it Works	More Information
<p>A health care power of attorney (or durable power of attorney for health care) is a legal document that authorizes another person to obtain your health information and to make health care decisions for you. You can allow your agent to get your health information and communicate with your health care provider at any time, but health care decisions can be made for you only if and when you cannot make health care decisions for yourself.</p> <p>(Living Wills and Health Care Powers of Attorney, 2014)</p>	<p>Make sure the person you pick is willing to be your agent, or health care power of attorney. A healthcare power of attorney names a person you trust to make a wide variety of health care decisions for you when you cannot. This does not have to be a family member; it can be anyone you trust. The person appointed is required to make decisions based on the principal’s wishes. Generally, a person will complete a living will to help the agent make health care decisions; the living will sets forth the use or non-use of artificial, life-sustaining support. Once you have filled out the documents, it is best to make several copies. Give one to your agent, your doctor, lawyer, and a trusted family member.</p> <p>(Living Wills and Health Care Powers of Attorney, 2014)</p>	<p>Any adult may be appointed as a Healthcare Power of Attorney or Durable Power of Attorney. The only exception would be the proposed ward’s doctor, or an employee or administrator of the health care facility where the ward is being treated.</p> <p>(What You Should Know About Health Care Powers of Attorney, 2010)</p>

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LIMITED POWER OF ATTORNEY		
Legal Option, Definition	How it Works	More Information
<p>A person who is limited to a specific act or particular purpose. These are restrictions that are placed on the power of attorney.</p> <p>(Limited Power of Attorney, 2014)</p>	<p>A Limited Power of Attorney is often used to give someone the power to act in financial matters, to manage real estate, or to make healthcare decisions. The limits are either by the scope of the powers the agent gets or by time. It is very important that these powers are specifically defined; this will make it more likely that people and organizations will honor the power of attorney.</p> <p>(Powers of Attorney, 2014)</p>	<p>You must be at least 18 years of age, have soundness of mind, and should have reasonably common financial sense.</p>

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CONSERVATORSHIP		
Legal Option, Definition	How it Works	More Information
<p>A “voluntary guardianship” for an adult who is competent but physically incapacitated (Guardianships 2014).</p>	<p>A conservator must be appointed by the court. Any person seeking a conservatorship requires affidavits by an attending physician and will most likely have to have an attorney. According to the ORC §2111.021, “A competent adult who is physically infirm may petition the probate court of the county in which the petitioner resides, to place, for a definite or indefinite period of time, the petitioner's person, any or all of the petitioner's real or personal property, or both under a conservatorship with the court. A petitioner either may grant specific powers to the conservator or court or may limit any powers granted by law to the conservator or court, except that the petitioner may not limit the powers granted to the court by this section and may not limit the requirement for bond as determined by the court.” (ORC § 2111.021). The petition shall state the powers that are granted and any limitation on those powers (ORC §2111.021). A list of forms that will need to be filed for a conservatorship are forms 17.2, 20.0, 20.1, and 20.2.</p> <p>(Administration of Wills Trusts and Estates, 2013)</p>	<p>A conservatorship should be granted due to advanced age, mental weakness, or physical incapacity. The ward is physically unable to do these things independently.</p> <p>(Administration of Wills Trusts and Estates, 2013).</p>

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TRUST

Legal Option, Definition	How it Works	More Information
<p>An arrangement by which one person holds legal title to money or property for the benefit of another. The person who creates a trust is generally called the grantor. When set up properly, a trust can be appropriate. The person who is appointed is called a trustee</p> <p>(Administration of Wills Trusts and Estates, 2013), (Understanding Trusts, 2014).</p>	<p>When set up properly, a trust can be appropriate for a person with minor children or for those who want to avoid having their estate go through probate upon death. When a person creates a trust or trust fund, they are establishing a legal entity to hold property or assets for the person who created it. One example is the trust department of a bank. A person who will benefit from the trust is also chosen, and called the beneficiary. Some of the reasons to set up a trust are:</p> <ul style="list-style-type: none"> • to provide for minor children or family members who are inexperienced or unable to handle financial matters, • to provide for financial management if you become unable to handle them yourself, • to avoid probate and immediately transfer assets to beneficiaries upon death, and • Trusts are private, unlike probate. <p>Trusts can be very flexible and the grantor has the right within the law to tailor the trust to meet the anticipated needs of the beneficiary.</p> <p>Some things to consider when setting up the trust:</p> <ul style="list-style-type: none"> • the grantor has the right to specify exactly how the money in the trust is invested so make sure to clearly define this, • the grantor can specify exactly how the assets are divided up including annual cost of living adjustment for the beneficiary, • make sure to include a “trustee-removal clause” this gives the beneficiary a right to fire the trustee if unsatisfied with the service, you can include that the beneficiary must select a new trustee from a legitimate bank trust department. <p>Once establishing a trust the grantor in order to complete the process the grantor must transfer their assets into the trust, if this is not done the trust becomes null and void.</p> <p>(Understanding Trusts, 2014)</p>	<p>Anyone can be a trustee and administer a trust. It does not have to be a bank. Many attorneys, family members, or friends are trustees over trusts (It often depends on the size of the trust.) The reason banks and other financial institutions do it is because the money in the trust is in some type of a financial account (thus, a financial institution) and the banks charge a fee to administer it. Trustee must live in the state of the trust in which they are administering.</p>

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REPRESENTATIVE PAYEESHIP		
Legal Option, Definition	How it Works	More Information
<p>A representative payee is an individual or organization appointed by the Social Security Administration who receives Social Security or Supplemental Security Income payments (or both) for someone who cannot manage, or direct someone else to manage, his or her benefit payments.</p> <p>(Representative Payee Pro Bono Pilot, Social Security Administration, 2015).</p>	<p>The following recipients of disability benefits are required to have a Social Security representative payee:</p> <ul style="list-style-type: none"> • minors • adults declared legally incompetent, and • adults who have drug or alcohol problems. <p>The money that is received from Social Security or Supplemental Security Income must be deposited into a savings or checking account by the payee. It must be used for:</p> <ul style="list-style-type: none"> • Rent/Mortgage • Medical Bills • Food • Clothing • Utilities • Other necessities <p>The Representative Payee must have a detailed report of what the money was spent on, or how the money was saved for the individual.</p> <p>(What Does a Social Security Representative Payee Do?, 2015)</p>	<p>To become a Representative Payee, contact the local (or closest) Social Security office. One will have to complete form SSA-11, and have proof of one’s identity. Make sure to bring a driver’s license and your social security card along. This process must be done face to face.</p> <p>A Representative Payee must report any changes in the individual’s living conditions. Having a roommate, employment, changes in marital status, etc., should always be reported to the SSA immediately.</p> <p>(Frequently Asked Questions (FAQs) For Representative Payees, 2015)</p> <p>IF YOU BELIEVE THAT YOUR REPRESENTATIVE PAYEE IS NOT SPENDING YOUR MONEY FOR YOUR NEEDS—CONTACT YOUR LOCAL SS OFFICE AND ADULT PROTECTIVE SERVICES AT YOUR LOCAL JOB AND FAMILY SERVICES OFFICE.</p>

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LONG-TERM CARE OMBUDSMAN		
Legal Option, Definition	How it Works	More Information
<p>Advocates for residents of nursing homes, assisted living facilities, and other adult care facilities, as well as those residing in the community like their homes. Their goal is to resolve problems of individual residents and to bring about changes at the local, state and national levels to improve the residents care and quality of life.</p> <p>(Long-Term Care Ombudsman Program)</p>	<p>Ombudsmen take complaints about long-term care services, and voice the person’s needs and concerns to nursing homes, home health agencies, and other providers of long-term care. They work with the long-term care provider, the person, the person’s family, or other representatives to resolve problems and concerns about the quality of services. They link people with the services or agencies needed to live a more productive, fulfilling life, provide advice on selecting long-term care, provide information about the rights of consumers, and provide information and assistance with benefits and insurance.</p> <p>(Guardianship and Its Alternatives)</p>	<p>There are volunteer long-term care ombudsmen, and paid long-term care ombudsman. There is a training curriculum to follow in order to be either a volunteer or paid long-term care ombudsman.</p> <p>http://www.ltombudsman.org/ombudsman-support/training</p>

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PROTECTION ORDERS		
Legal Option, Definition	How it Works	More Information
<p>Protection Orders are granted by a judge. There are four options, 2 civil and 2 criminal. They require the offender to stay away from the victim’s home, work place, or school. The 2 Civil Protection Orders are for victims who have fear or mental distress from stalking or sexual assault (Civil Stalking or Sexually Oriented Offense, ORC 2903.214) or in domestic violence cases (ORC 3113.31). The 2 criminal protection orders are requested by a prosecutor while a case is pending for protecting victims in certain violent crimes (like menacing and assault, ORC 2903.213) and another one for domestic violence cases. The Criminal Domestic Violence Temp. Protection Order (DVTPO, ORC 2919.26) is often referred to as a Temporary Protection Order (TPO).</p>	<p>The steps to obtain a CIVIL protection order:</p> <ul style="list-style-type: none"> - Complete the “Civil Protection Order Determination Form” available at the Allen County Courthouse Clerk’s Office or Crime Victim Services. The form includes basic facts about why the protection order is being requested and who the offender is. - The completed form is given to the Allen County Clerk’s Office - If the request meets the elements of the law, an Ex Parte hearing (without the offender present) is scheduled the same or next working day with a judge. The victim is required to attend and give testimony explaining why a protection order is necessary. - If the judge determines that a Protection Order might be warranted, a Full Hearing is scheduled, usually within ten days. An Ex Parte Protection Order may be granted until the Full Hearing is held and the offender can be present at that time to also provide testimony. <p>Attorneys are not required for Civil Protection orders, however it is recommended. Civil Protection Orders may be granted for up to 5 years, and it can be renewed by a judge with justification.</p> <p>The steps to obtain a CRIMINAL Protection order:</p> <ul style="list-style-type: none"> -A criminal case must be starting or pending. -Inform the prosecutor of your fears and request a Protection Order. -A judge will determine if a Criminal Protection Order is warranted, and the victim normally must testify, unless medically unable to do so. -The judge may also (or instead) order as a condition of the offender’s bond that the offender stay away from the victim, a Stay Away order, that does not have the same enforceability as a Protection Order. -Once the offender is sentenced, the protection order is no longer valid. 	<p>A Protection Order may be requested if a person is being abused, threatened, or caused mental distress. If the victim is under the age of 18, a parent can file the protection order on their behalf (ORC 2151.23(A)(16)).</p>

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