

# Conservatorship in Tennessee

## Overview

In Tennessee, if an adult with a disability cannot make their own decisions, the court can legally appoint someone else to make decisions for them. This is called “conservatorship.” Conservatorship can cover all decisions in a person’s life or just some decisions. The person the court appoints to make those decisions is called a “conservator.” The person unable to make decisions is called the “conservatee,” also known as “respondent” or “ward.” These terms are explained further in this guide.

To start the process, a petition must be filed with the court asking that a conservator be appointed for the person with a disability. An experienced lawyer should prepare and file the petition. Please contact Disability Rights Tennessee or the Tennessee Center for Decision-Making Support for help in finding a lawyer. Phone numbers for both organizations are on the last page of this guide.

Tennessee law says that every conservatorship should be limited only to decisions the person with a disability lacks capacity to make. In deciding which decisions the conservator will make, the court will rely on a medical report and testimony about the person with a disability. During these proceedings, the person with a disability has a right to have their own lawyer and say whether or not they think they need the conservatorship (see “Rights of Conservatee” on the next page).

Once in a conservatorship, the conservatee should still make as many decisions as possible on their own. They should participate in all decisions about their life, even as the conservator is making the final decisions. Research shows that people learn decision-making skills through opportunities and practice.<sup>1</sup>

## Types of Conservatorship

The specifics of each conservatorship are explained in the conservatorship order, which is paperwork issued by the judge when a conservatorship is granted.

### Conservatorship over the Person

This means the court has given the conservator the right to make all or some life decisions for the person with a disability. Some examples are medical decisions and deciding where and with whom the conservatee will live. The specifics for each person will be defined in the conservatorship order.<sup>2</sup>

The person with a disability keeps the right to make all other decisions in their life. The conservator only makes the decisions specified in the conservatorship order.

### Conservatorship over the Property

This means the court has given the conservator the right to make all or some financial decisions for the person with a disability. The specifics for each person will be defined in the conservatorship order.

<sup>1</sup>[SupportedDecisionMaking.org/](https://SupportedDecisionMaking.org/)

<sup>2</sup>[List of Enumerated Powers for Guardian Over Person bit.ly/PowersForGuardian](https://ListofEnumeratedPowersforGuardianOverPerson.bit.ly/PowersForGuardian)

## More about CONSERVATORS

Conservators execute decisions on the conservatee's behalf. Conservators do not have the power to control a person's behavior, preferences, or interests.

### Responsibilities of the Conservator in Tennessee

It is the conservator's responsibility to:

- Act in the best interest of the conservatee;
- Help the conservatee understand the conservatorship; and
- Honor the conservatee's right to make all decisions that are not listed in the conservatorship order.

## More about CONSERVATEES

Conservatees are people who have conservators.

### Rights of the Conservatee

The conservatee always keeps the basic human right to live free from abuse, neglect, and exploitation.

Tennessee law protects the person's right to:

- Make all decisions except those listed in the conservatorship order;
- Communicate with friends and loved ones without permission from a conservator;<sup>3</sup>
- Have their own lawyer;
- Attend all court hearings about their conservatorship;
- Protect their financial and medical information from public use.

## CONSERVATORSHIPS CAN BE CHANGED

Tennessee law says that the person with a disability or anyone acting on their behalf, can ask the court to make changes to the conservatorship at any time.

This can happen if the court finds that:

- It is in the best interests of the person with a disability;
- The conservator has failed to perform their duties and obligations in accordance with the law;
- The conservator has failed to act in the best interest of the person with a disability.

<sup>3</sup> Under certain circumstances, this right can be removed.

## CONSERVATORSHIP BEST PRACTICES

The National Guardianship Association lists best practices for conservatorships:

### The Conservator Shall:

- Ask the person what they want;
- Do everything possible to help the person express wants and needs;
- Seek input from others when the person cannot express wants and needs; and
- Make a decision in the person's best interests only when the person's goals and preferences cannot be understood.

### Under All Circumstances Every Person Under Conservatorship Should:

Act on their own behalf in all matters NOT removed by conservatorship;

Participate in all decisions that affect them; and

Grow or regain capacity to the maximum extent possible.

“ When we talked about decisions with Angel [our 19-year-old son who is Deaf and has autism], he told us he wanted our help with making decisions throughout his life and to make some decisions for him when needed. Looking at all the options, conservatorship was the right fit for him.

We are committed to always discussing decisions that impact Angel with him first. Sometimes people think that doesn't happen in conservatorship, but the person with a disability should ALWAYS be included in the discussion. ”

- Angel's family



Scan here to  
read more!

## RESOURCES

To read Tennessee law about conservatorship and guardianship, scan this code and click on Title 34 or visit [bit.ly/TNCodeTitle34](http://bit.ly/TNCodeTitle34).



## TENNESSEE RESOURCES

### TN Center for Decision-Making Support

(615) 248-5878, ext.322 | [TNDecisionMaking.org](http://TNDecisionMaking.org)

A team of professionals can help you with questions about conservatorship and connect you to other resources in Tennessee.

### The Conservatorship Association of Tennessee

[CATenn.org](http://CATenn.org)

An association of conservators across Tennessee who will help you connect to other conservators.

### Office of Conservatorship Management

[Officeofconservatorshipmanagement.nashville.gov](http://Officeofconservatorshipmanagement.nashville.gov)

A team of conservatorship experts in Nashville, TN. OCM offers statewide training and resources for new and existing conservators.

### Disability Rights Tennessee

1-800-342-1660 | [DisabilityRightsTN.org](http://DisabilityRightsTN.org)

A team of legal experts can help answer your legal questions about disability rights.

## NATIONAL BEST PRACTICES AND RESOURCES

### The National Guardianship Association

[Guardianship.org](http://Guardianship.org)

NGA's mission is to advance the nationally recognized standard of excellence in guardianship.

### The National Resource Center for Supported Decision-Making

[SupportedDecisionMaking.org](http://SupportedDecisionMaking.org)

Provides education and training on how supported decision-making is used around the country, including supported decision-making and guardianship rules in each state.

(615) 248-5878, ext. 322

[TNDecisionMaking.org](http://TNDecisionMaking.org)

[DS@TheArcTN.org](mailto:DS@TheArcTN.org)

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