



National Technical Assistance Center for Voting and Cognitive Access

What Everyone Should Know About Voting and Guardianship

How does having a guardian affect my right to vote?

When you get a guardian appointed to you the court has decided that you cannot take care of a part of your life. **The court says that you “lack capacity” or are “incompetent”** in the areas that you need help. Some people have partial guardians that help with only certain parts of their life (like money or where to live) other people have full guardians that make all of their decisions.

Every state has their own constitution, voting laws, and guardianship laws. **Many state laws say that people who have been declared “incompetent” by the court are not allowed to vote.** Here are some examples of state statutes (laws) that says people with guardians cannot vote,



“No person who has been adjudged mentally incompetent, unless restored to legal capacity, shall be entitled to the privilege of elector” – Nevada state constitution electoral statutes

“The right to vote can be removed under a limited guardianship or conservatorship” – Kentucky guardianship statutes 387.590(10)(11)

Other states have laws that say **you can vote** even if you have a guardian. Here is an example of a state law that does not limit the voting rights of a ward (person with a guardian),



“The appointment of a guardian is not a determination regarding the right of the ward to vote.” – Georgia guardianship statutes Art.3 29-4-20(b)

Important laws to look at include state constitution electoral statutes under persons disqualified, state guardianship statutes and state developmental disability statutes.

While someone may need a guardian to help with parts of their life they can still be able to make independent choices. People with guardians can be better informed about candidates and issues than people who don't have guardians.

How can I keep my right to vote when I have a guardian?

Amend (change) your guardianship agreement: Talk to your lawyer, your guardian, and the judge. Tell them that you want to vote. Ask them to add a sentence to the guardianship agreement that says; "voting rights are not affected by this guardianship agreement".

Ask your lawyer to help you find out about the laws in your state: The laws in your state will tell you if you are able to vote. Your guardian does NOT get to decide if you can vote. If the law says that you can vote then it is your choice to participate. Learn about your state laws and share what you know with other people.



Think about your options: Some states have choices other than guardianship (example: conservator or power of attorney). These options usually do not affect your right to vote. Look at all of your options and then make the choice that is best for you.



Change the law: Changing a law can take along time and it is good to have some help. You can start by building partnership with other people who want to see the law changed. You will also need to find out how laws get changed in your state and then talk to your legislators about why it is important for people under guardianship to vote. You may want to look at states that don't limit the voting rights of people under guardianship. You can learn a lot from the work that other states have done.



America needs all of its Citizens to **VOTE!**