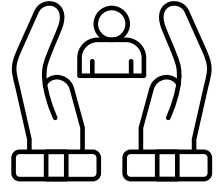


# Guardianship Challenges and Options

A guide for what you can do when you think there may be a problem.

## Do you know an individual who needs help with a guardian who:

1. may be limiting their access to family and friends or otherwise restricting them from inclusion in community activities.
2. may not be following through with their commitment to the person
  - a. may be neglecting them, not advocating for them, or may not be accessible.
  - b. may be unaware of the side effects of anti-psychotic medications.
  - c. may no longer be competent or fit to act as guardian.
3. is no longer needed.



## First things first...

Try to work things out. Problem solve with others who care about or are involved with the individual and their guardian.

- If you reach out to an organization (i.e. DDS, DMH, EOE) that will not speak to you because you are not the guardian, **ask them to listen to your concerns and let them know you are not asking them to share private information.**
- Note that some circumstances are beyond the guardian's control.

Case Law (see *In re: Guardianship of B.V.G.*, 474 Mass. 315 (2016)) allows a person interested in the welfare of an individual with a guardian to intervene or take action on the individual's behalf, under certain circumstances. See more information from the [Mental Health Legal Advisors Committee](#).



## What's next?

If attempts to resolve issues with the guardian have failed, there are several forms that may be filed in order to start a process that may improve the situation for the individual. These forms should be filed with the Probate and Family Court where the guardianship was established, **which may not be where the individual currently resides.**

Both the forms and the locations of the courts by county may be found on the [Probate and Family Court website](#). You may be able to get help with the forms and some legal assistance if the court you need to go to has a "[Lawyer for the Day](#)" program, a Guardianship Clinic, or through the [Virtual Court Service Center](#) (VCSC). The VCSC will provide legal information but cannot provide legal advice.



**Note:** there are forms that need to be filed in addition to the ones discussed below. Consult with a lawyer or the court to ensure all necessary paperwork is submitted. Many of the petitions included below require a medical certificate to proceed.

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### In all cases:

#### To Request an attorney for the individual –

##### [MPC 301 – Request for Counsel](#)

In all guardianship matters, the individual has the right to representation. Anyone, including the individual, may request that an attorney be appointed by the court on the individual's behalf by filing form MPC 301. Once the request for an attorney is processed, an attorney trained by the [Committee for Public Counsel Services](#) will be appointed. Unless the individual is indigent and qualifies for appointment of counsel pursuant to Supreme Judicial Court Rule 3:10 Assignment of Counsel, payment may be due for the services of the appointed attorney. Anyone, including the individual may also hire his/her own attorney.

#### To provide information to the Court –

##### [MPC 302 – Application for Permission to Provide Information](#)

Any interested person may file this form in order to advocate for the individual and provide information to the court.

### 1. If the guardian is limiting access:

#### To request limiting the Powers of the Guardian –

##### [MPC 220 Petition to Expand/Modify/Limit the Powers of the Guardian](#)

This form is used to request that the guardian's authority be limited so that they may not restrict such activities as visitation or communications with a family member or friend, or activities in the community.

### 2. If the guardian is no longer following through:

#### To seek the Guardian's resignation –

##### [MPC 202 – Petition for Resignation of a Guardian](#)

The guardian may be willing to step down if unable to meet their obligations, or if unfit.<sup>1</sup> There may be an acceptable co-guardian already in place.

#### To request a Co-Guardian –

##### [MPC 120 – Petition for Appointment of Guardian](#)

The guardian may simply need assistance in meeting their obligations. Consider becoming a co-guardian or propose someone acceptable to the individual under guardianship. (If you are the guardian and are in need of assistance consider proposing a suitable co-guardian.)

## [MPC 221 – Petition for Removal](#)

Request removal of a guardian if the guardian is unfit and unwilling to resign.<sup>1</sup>

<sup>1</sup>When a guardian resigns or is removed, there needs to be a successor guardian to take their place unless there is an acceptable co-guardian who will continue to serve, or a guardian is no longer needed (see below). Consider becoming the new guardian or propose someone who is acceptable to the individual under guardianship. Then, file MPC 120 Petition for Appointment of Guardian to ensure continuation of the guardianship.

### **3. If the guardianship is no longer needed:**

#### **To file for the termination of the guardianship –**

## [MPC 203 – Petition for Termination of Guardianship](#)

If a guardian is no longer needed, this step would require evidence that the individual does not meet the criteria required for establishing a guardianship, or that an alternate support system is in place such as a Supported Decision-Making agreement, a Health Care Proxy, Power of Attorney, Representative Payee and/or appropriate services are being provided.

## **Resources & Contacts**

### **Department of Developmental Services (for clients of DDS):**

Meghan Allen, Ombudsman  
(617) 624-7526  
[DDSOmbuds@mass.gov](mailto:DDSOmbuds@mass.gov)

Joseph Weru, Director of Human Rights  
(617) 939-1867  
[Joseph.W.Weru@mass.gov](mailto:Joseph.W.Weru@mass.gov)

### **Department of Mental Health (DMH):**

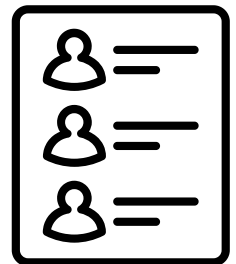
Star Sims, Director of Human Rights  
(617) 626-8218  
[Startese.Sims01@mass.gov](mailto:Startese.Sims01@mass.gov)

### **Disability Law Center (Protection and Advocacy Agency):**

(617) 723-8455  
[www.dlc-ma.org](http://www.dlc-ma.org)

### **Disabled Persons Protection Commission (DPPC):**

(Report Abuse for individuals aged 18 to 59)  
(800) 426-9009  
[www.mass.gov/orgs/disabled-persons-protection-commission](http://www.mass.gov/orgs/disabled-persons-protection-commission)



## **Executive Office of Elder Affairs (EOEA) (for individuals 60 or older):**

(800) 922-2275 (general information)

(800) 243-4636 (abuse hotline)

[www.mass.gov/orgs/executive-office-of-elder-affairs](http://www.mass.gov/orgs/executive-office-of-elder-affairs)

## **Mental Health Legal Advisors Committee (MHLAC):**

(617) 338-2345 (for general information only)

[www.mhlac.org](http://www.mhlac.org)

## **National Alliance on Mental Illness (NAMI) MA:**

(617) 580-8541

[www.namimass.org](http://www.namimass.org)

***“Unless someone like you cares a whole awful lot,  
nothing is going to get better. It’s not.” – Dr. Seuss***

**\*\*This information is not offered as legal advice and should not be used as  
a substitute for seeking professional legal advice.\*\***

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