



Application for Legal Representation to Dissolve a Guardianship and/or Conservatorship and Restore Rights to An Individual Currently under Guardianship

The disAbility Law Center of Virginia (dLCV) provides free¹ legal representation to selected individuals who are seeking Release of a Guardianship (and/or Conservatorship) and restoration of rights. If you are interested in applying for these services, please follow the instructions below:

A. First, we will need some information about you:

1. Full legal name and date of birth:
2. Residence and mailing addresses:
3. Type of residence (Independent, nursing home, assisted living, supported apartment, etc.)?
4. Do you plan to move if you are released from guardianship? If so, what are your plans?

¹ dLCV does not charge its clients for services provided by its attorneys. However, Virginia law requires that our clients be responsible for all expenses, including but not limited to filing fees and other court costs and expenses relating to competency evaluations and evaluators. Certain limited exceptions to this rule do exist.

5. Telephone numbers (Indicate whether mobile, home, work, etc. and list the preferred contact number first):

6. Email Addresses (Preferred contact address first):

7. Briefly describe your disability and list the areas of your life it most affects (functional limitations):

8. Did you have your disability before your 22nd birthday? Yes No

9. What, if any, reasonable accommodations will you need in order to easily communicate with a dLCV attorney and to help them work on your case?

10. For our records, what is your gender, preferred pronouns, ethnicity, race and preferred language?

Gender:

Pronouns:

Ethnicity:

Race:

Language:

11. Also, for our records, please check all programs from which you receive benefits:

Medicare Medicaid SSI SSDI Private Insurance

12. Are you a veteran? Yes No

13. How did you learn about dLCV's Release of Guardianship and Rights Restoration Services? (internet, referral, presentation/training, other):

14. Please read the enclosed *Services Agreement* carefully, fill in your name in the space provided, and contact dLCV if you have any questions. When you are in agreement with this document, fill in your name and date of birth in the spaces provided (don't complete or mark on other parts of the form), and sign and date the document at the bottom. Make a copy for your records and be sure to return the original to dLCV with this *Application*.*

***PLEASE NOTE THAT your signature on the enclosed *Services Agreement* DOES NOT, by itself, obligate dLCV to take your case or provide any services to you. dLCV HAS NOT AGREED AND IS NOT OBLIGATED TO TAKE YOUR CASE OR PROVIDE SERVICES TO YOU until we have received and reviewed your Completed *Application* and a dLCV attorney has signed the *Services Agreement* as well.**

B. Next, please tell us how to reach your guardian, anyone who plans to help you with your case, anyone who you believe will oppose you being released from guardianship and getting your rights back, and anyone else you think may have an interest in your case:

1. Guardian/Conservator: Name, telephone number(s), email(s), mailing address:

2. Person(s) who plan to help with your case (if any): Name, telephone number(s), email(s), mailing address:

3. Person(s) you believe may oppose you being released from guardianship: Name, telephone number(s), email(s), mailing address:

4. Other person(s) you believe may have an interest in your case, if any: Name, telephone number(s), email(s), mailing address:

5. Attach an additional page if you need more space.

C. Now, we need to see the Court Papers:

1. If you have or can reasonably obtain copies of the original *Petition for Guardianship* and of the original *Guardianship Order*, please return copies of these documents with this completed Application when you return it to dLCV.

OR

2. If you do not have and cannot reasonably obtain copies of the *Petition for Guardianship* and of the original *Guardianship Order* please provide in the space below the name and address of the Court that granted the *Petition for Guardianship* and issued the original *Guardianship Order*.

D. You will need a favorable capacity evaluation:

There are some technical requirements that need to be met concerning your evaluation, but for the purposes of this application, you need to have one of the following situations. **Please circle the situation you have:**

A. You have an existing, cooperative doctor or licensed professional:

1. who is a licensed psychiatrist, physician, or psychologist, or another type of licensed professional who is skilled in the assessment and treatment of your mental and physical conditions; and

2. who has told you that, in their professional opinion, you do not require a guardian (or conservator if applicable); and
 3. who has agreed to cooperate with dLCV in an effort to have your guardianship dissolved and your rights restored.
- B. You have secured a favorable report from an independent evaluator who meets the same requirements as listed above for an “existing, cooperative doctor or licensed professional.”
- C. You do not have Situations “1” or “2” above, but you DO have at least \$500 you can pay to obtain an independent evaluation:

If you do not have an existing cooperative doctor or licensed professional and cannot find a willing independent evaluator you can afford, dLCV may be able to refer you to an independent evaluator who charges a reduced rate for low income individuals. There evaluations may be conducted remotely—often via ZOOM or similar equipment.

Please Note: dLCV makes referrals to specific evaluators solely for the convenience of its potential clients. We do not receive any commission, compensation or thing of value from the evaluator in exchange for these referrals. Also, please note that dLCV does not ‘vouch for” or make any other representation concerning the quality of the evaluator or the services he or she may provide.

NO MATTER HOW YOU GET YOUR EVALUATION, YOU NEED TO BE AWARE OF THE FOLLOWING:

1. In most cases, dLCV will need the evaluator to prepare a written report (aka detailed note) and to sign an affidavit--which dLCV will prepare. Occasionally, the licensed doctor or professional may also need to testify briefly at a hearing *via* audiovisual equipment (like ZOOM). In rare cases, it is possible that your evaluator might be required to appear in court to testify in person.
2. **YOU WILL BE RESPONSIBLE FOR PAYIING ALL EXPENSES ASSOCIATED WITH THE EVALUATION AND FOR ALL COSTS ASSOCIATED WITH ANY NEED FOR THE EVALUATOR TO TESTIFY. THESE EXPENSES ARE NOT NORMALLY COVERED BY MEDICAID, MEDICARE OR INSURANCE. IF YOU HAVE QUESTIONS ABOUT THIS OR IF YOU NEED MORE DETAILS, PLEASE ASK A dLCV ATTORNEY OR ADVOCATE.**

F. Now let's talk about advance directives and supported decision-making agreements:

dLCV generally recommends that clients seeking dissolution of guardianship and rights restoration services consider creating an advance directive and/or a supported decision-making agreement. dLCV will help willing clients develop these documents and prepare them to be placed into legal force after the client's rights are restored and he can legally sign them.

We find that the process of preparing these documents helps our clients anticipate the types of situations they may encounter after their rights are restored and to arrange for the supports they will need to navigate those situations. Capacity evaluators and judges also tend to look favorably on dLCV clients who have created advance directives and supported decision-making agreements. These documents are often seen as evidence that the individual has taken seriously the challenges he may encounter if his rights are restored and that he has made the necessary arrangements and is prepared to meet those challenges effectively.

Advance directives and supported decision-making agreements are personalized documents and developing yours will require specific information that dLCV will collect from you as we work with you to develop the documents. Nevertheless, it will be helpful for you to understand the basic information and start thinking about how she will answer the questions set out below:

1. Most advance directives appoint one or more "Healthcare Agent(s)" (also called "Proxies") to make future health care decisions on behalf of the person who is making the advance directive (aka the "Principal"). The Healthcare Agents will only have this authority if and when two physicians agree that the Principal is unable to make those decisions for herself.

PLEASE WATCH THIS TWO-MINUTE VIDEO BEFORE YOU CONTINUE COMPLETING THIS *APPLICAITON*:

<https://youtu.be/0TFyfwWziPM?si=Hu1TEkk3WZLYsJN>.

Since the Principal will be granting her Agent(s) legal authority to act in her place at times when she will probably not be able to tell the Agent what she wants, or to correct any errors the Agent may make, the Principal needs to be careful to select a person(s) she trusts to serve as her Agent(s). A Principal will generally want to identify at least two people she would trust as her Agents so that she can have a backup in case something happens to the first person they select. And, of course, the Principal should always ask the person she wants to appoint in order to ensure that they are actually willing to serve as his Agents.

Do you have two people who you would trust to serve as your health care Agents?

Yes

No

2. Some Principals do not have anyone they trust to make health care decisions for them. This disadvantages them, but it does not prevent them from making an advance directive. They can still make a “narrative” advance directive, which is a set of written directions about the kinds of health care they do, and do not, want in situations where they are unable to make decisions or communicate their wishes otherwise. Clients who DO appoint agents can also include a narrative if they desire to give specific instructions concerning their health care. Clients who think they will need to make a narrative advance directive, or who would like to add a narrative component to their appointment of one or more Healthcare Agents, should be thinking about what types of directions they will want to provide.

Do you plan to make a narrative advance directive or to include narrative instructions along with the appointment of healthcare agents?

Yes No

3. Supported decision-making agreements are arrangements by which a group of people identified as “Supporters” agree to make themselves available to an individual to provide him with advice and assistance he may need to handle the situations he may encounter after he is released from the guardianship and has his rights restored. Supporters are more like “consultants” or “advisors” than healthcare agents. Supporters assist the individual when he calls on them for advice but they do not have any legal authority over him.

In most supported decision-making agreements, the individual specifies the areas where he wants or need support (for example, money, personal relationships, etc.). He also identifies the types of support he will want, and identifies the persons who have the necessary expertise and experience and have agreed to assist the individual when he calls on them.

Supported decision-making Agreements usually identify more than two Supporters, and often as many as ten. This is less a matter of providing for “back up” than it is of selecting people who can provide different perspectives and insights which may be helpful to the individual.

An individual who is contemplating making a supported decision-making agreement should be thinking about in what areas of life he might need support, what kind of support he might want, and he may want to start collecting names and contact information for the individuals he wants as supporters. Here again, it is important to ask the persons you want to appoint to ensure that they will be willing to serve.

Do you have at least two people you would like to appoint as Supporters?

Yes No

G. Now you are ready to send your completed Application and attachments to dLCV:

Please follow the instructions below:

1. Read over your complete *Application* and ensure that you have answered each question as well as you can. Remember that dLCV will rely on the information and documents you provide, so please ensure that all of your answers are as true, accurate and complete as you can make them.
2. Find the *Services Agreement* that came with this *Application*. Check to be sure you filled in your full name in the space provided near the top of the *Application* and that you signed and dated it in the spaces provided at the bottom of the page. Do not make any other marks on the *Services Agreement*. Now, attach the signed, dated *Services Agreement* to this *Application*.
3. Were you able to obtain copies of the original *Petition for Guardianship* and/or *Guardianship Order*? If so, please make copies of these documents and attach them to this *Application*. If you do not have copies of these documents, please be sure to write in the name of the Court that placed you under guardianship under Question "C," pg. 3, above.
4. Did you obtain a favorable Evaluation Report? (See Question E(b), pg. 5). If you did, please attach the original Report to this *Application*.
5. Make a copy of your completed *Application* (including attachments), and keep it for your records.
6. Mail the completed *Application* (including attachments) to:

 disability Law Center of Virginia
 1512 Willow Lawn Drive, Suite #100
 Richmond, Virginia 23230.
7. After dLCV receives your *Application*, one of our attorneys will review it and inform you what, if any, services dLCV will be able to offer to help you be released from guardianship and to have your rights restored.
8. Please refer questions to dLCV at (800) 552-3962.

1512 Willow Lawn Drive, Suite 100, Richmond, VA 23230
 www.dLCV.org

T: 800-552-3962
 F: 804-662-7431

SERVICES AGREEMENT

I, _____, retain the disAbility Law Center of Virginia (“dLCV”), to perform legal and/or advocacy services on the following terms. I agree that dLCV cannot provide me with any services until I have signed and returned this Agreement.

dLCV will provide services to me as follows:

dLCV will gather and review information and evidence to determine what if any services I may be eligible to receive from dLCV to assist me with my effort to have my guardianship and/or conservatorship dissolved. dLCV will advise me of what if any services it will offer to assist me in this matter.

dLCV will work with me to develop my Health Care Advance Directive and Supported Decision Making Plan. dLCV will advise me on the execution and registration of these documents as applicable.

dLCV does not charge for its services. However, if dLCV represents me in litigation, I understand that I will be responsible for all court costs, evaluation fees and other expenses unless dLCV determines that I am indigent.

I also understand that dLCV does not agree to represent me in any other matter or to represent me in litigation except as specified above. If I want dLCV to represent me in another matter, I will ask my advocate or attorney to do an intake on that issue or call dLCV's toll-free number 1(800) 552-3962. I understand that a manager will review my request and decide if dLCV can provide that service. I understand that no offer or agreement for dLCV to provide any additional or different services will be valid and binding on dLCV unless it is in a signed writing.

I understand that dLCV may close my case without notice to me when at its sole discretion it determines that it has finished providing the services described above.

I agree to cooperate with dLCV and follow dLCV’s legal advice. If we cannot work together, either I or dLCV may terminate this Services Agreement and end any representation or other services dLCV is or may be providing. I understand that dLCV’s ability to withdraw from representing me may be limited by law under certain circumstances. I understand that I have the right to file a grievance if I disagree with dLCV’s offer to provide these services. I have received a copy of dLCV’s Grievance Process.

For the Client:		
	Signature	Date
For the Guardian:		
	Signature	Date
For dLCV:		
	Advocate/Attorney	Date

Member of the National Disability Rights Network