Disability Rights WISCONSIN

Advocacy Guide: Guardianship and the Criminal Justice System

This resource is a guide for people with disabilities, their families, and guardians. It is not legal advice. For legal advice on your specific situation, please talk with a lawyer.

About This Guide

Guardians may have questions about their role if their ward is charged with a crime or incarcerated. This guide goes through some common questions and answers for guardians in this situation.

What can guardians do if there's a criminal case against their ward?

Guardians have a limited role in criminal cases. A public defender will be appointed if the ward is eligible. Or guardians can hire a private defense attorney using the ward's money. Either way, the ward is the client. This means the attorney can't share information with the guardian unless the ward wants them to.

Criminal court proceedings are usually public, so guardians can go to hearings. The judge and attorney will decide whether a guardian testifies.

What if the ward goes to jail or prison?

If a ward is sent to jail or prison, their guardian still has authority to consent to medical care. Guardians of the estate can take care of financial matters outside of the ward's prison account. Guardians may visit their wards in jail or prison, to see how things are going for them. Corporate guardians must visit their wards at least once a quarter.

Advocacy Tip

Guardians can give their Letters of Guardianship to the jail or Department of Corrections (DOC), so they can help coordinate care and treatment.

Advocacy Tip

It's important for guardians to visit their incarcerated wards if possible. As the guardian, you may be the only visitor that your ward gets while in jail or prison.

What happens when the ward leaves jail or prison?

Guardians can help wards re-enter the community after a jail or prison sentence. They can also try working with the ward's probation or supervision agents. These agents may need the guardian's help to make sure the ward can follow any conditions.

Guardianship and Ward's Rights

For more information on guardianship and ward's rights, please visit the *Guardianship Support Center* website at gwaar.org/guardianship-resources