



Voting and Guardianship Q & A

Question:

Does the appointment of a full legal guardian deprive an adult ward with a disability of the right to vote?

Short Answer:

Under Montana state law, the appointment of a full legal guardian alone does not deprive an adult ward with a disability of the right to vote.

For this deprivation to occur:

- 1) During the guardianship proceeding, the court must let the adult ward know if there is a chance that they will lose their right to vote. This notification needs to happen well before this proceeding occurs;
- 2) During the guardianship proceeding, the state must prove by the preponderance of the evidence that the adult ward does not understand the “nature and effect” of voting; and
- 3) Any deprivation or limitation of this right must be explicit on the part of the court.

Based on our analysis of Montana state law, it is our opinion that adults with disabilities who have been appointed guardians have the right to vote unless the guardianship order specifically states otherwise.

Please contact Disability Rights Montana at 1-800-245-4743, if you would like the entire legal memorandum on this topic.