

Other Protective Arrangements

Article V of the Uniform Law authorizes a court to order a protective arrangement for an adult as a less restrictive alternative to guardianship or to order a protective arrangement for a minor or an adult as a less restrictive alternative to conservatorship if the basis for appointing a guardian or conservator exists. A court may order a protective arrangement instead of guardianship or conservatorship if the basis for appointing a guardian or conservator exists. Examples of protective arrangements include but are not limited to the following: (1) authorizing or directing a particular medical treatment; (2) moving the respondent to a specified place of dwelling; (3) ordering visitation; (4) if a person places a respondent at serious risk of physical, psychological, or financial harm, restricting that person's access to the respondent; (4) authorizing or directing transactions necessary to protect the financial interest or property of the respondent; or (5) restricting access to the respondent or the respondent's property by persons whose access places the respondent at serious risk of financial harm. Similar to the articles governing guardianship for adults and conservatorship, Article V includes specific requirements for the following: (1) which information must be contained in a petition for a protective arrangement; (2) notice and hearings; (3) the appointment and role of a visitor; (4) the appointment and role of an attorney; (5) the professional evaluation; (6) attendance and rights at a hearing; and (7) confidentiality of records.¹ In addition, Article V requires a court to give notice of any protective arrangement ordered to the individual who is the subject of the protective arrangement, a person whose access to the individual is restricted by the order, and any other person the court determines. A court is authorized to appoint a master to assist in implementing the protective arrangement.

An equivalent to a protective arrangement does not exist under current Montana guardianship law. Under current Montana conservatorship law, if a basis exists for appointing a conservator, a court may, without appointing a conservator, (1) "authorize, direct, or ratify any transaction necessary or desirable to achieve any security, service, or care arrangement meeting the foreseeable needs of the protected person" or (2) "authorize, direct, or ratify any contract, trust, or other transaction relating to the protected person's financial affairs or involving the protected person's estate if the court determines that the transaction is in the best interests of the protected person."² The court may appoint a special conservator to assist with any protective arrangement or transaction authorized.

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¹ See handouts on guardianship for adults and conservatorship for specific requirements.

² 72-5-422, MCA.