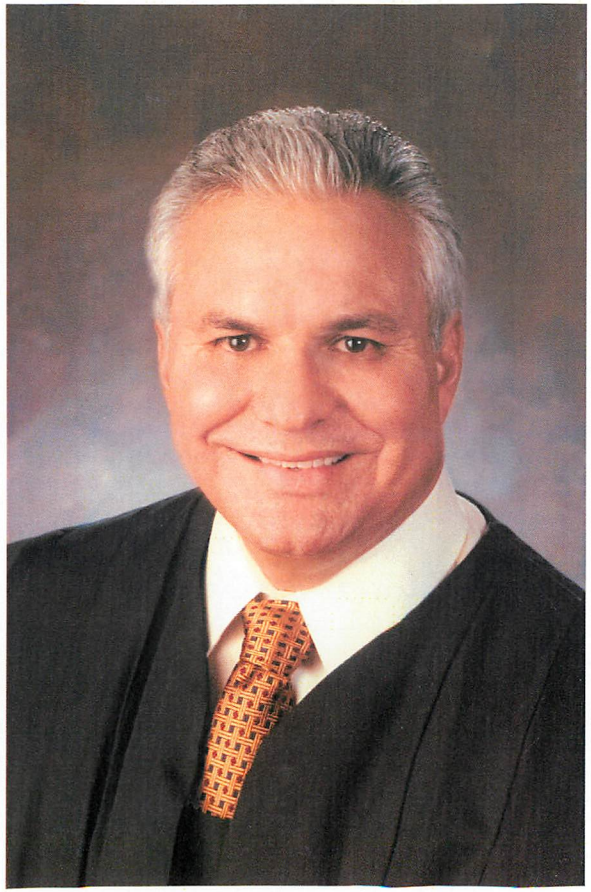
Dear Parent(s) Relative(s):

As Judge of Probate Court No. 2, I am committed to ensuring and protecting the rights of citizens of El Paso County; in particular those with special needs, the elderly and the disabled.

The following brochure has been prepared for you as a guide. It contains general information and is not comprehensive. You are strongly encouraged to consult an attorney of your choice regarding your particular situation or case.



What is Guardianship?

Guardianship is the legal process by which an individual is appointed by the Court to protect and promote an incapacitated person's well-being. A Guardian may also be appointed to manage the property and rights of an individual who is a minor, a special needs adult, or a person with diminished mental capacity, and therefore unable to manage his or her estate.

How the Court Protects You in The Event of Incapacity

Before appointing a guardian, the court must find clear and convincing evidence that:

- the proposed ward is an incapacitated person.
- it is in the best interest of the proposed ward to have the court appoint a person as guardian of the proposed ward.
- there is clear and convincing medical evidence that the alleged incapacitated person is in need of guardianship services.

Other Functions

- The judge may appoint a guardian ad litem to represent the *best* interest of an incapacitated person.
- The court may appoint an attorney ad litem to represent the interests of the proposed ward.
- A court investigator is assigned to determine whether a less restrictive alternative to guardianship is more appropriate.
- The Court Visitor Program allows the court to appoint a court visitor to evaluate the ward and provide a written report that contains a recommendation as to any modification needed in the guardianship.
- It is the responsibility of the judge to use reasonable diligence when determing whether a guardian is performing all the duties required as guardian of the person and/or estate of an incapacitated person.

Expenses of a Guardianship

The cost of the proceeding shall be paid out of the guardianship estate; if the court determines that the proposed ward is indigent, the cost of the guardianship shall be paid out of the county treasury, and the judgement of the court shall be issued accordingly.

The expenses of a guardianship vary; however, the usual expenses are as follows:

- Legal fees for the attorney representing the applicant.
- Filing and service of process fees charged by the County Clerk.
- Attorney ad Litem/Guardian ad Litem fees.
- Medical examination costs.
- Bond premiums.

Alternatives to Guardianship of the Person/Estate

- Medical Power of Attorney
- Directive to Physicians
- Consent to Medical Treatment Act (Chapter 313 of the Texas Health and Safety Code)
- Surrogate Decision-Making for Individuals in ICF-MR Facilities
- Durable Power of Attorney
- Community Administrators
- Trusts
- Court Registry