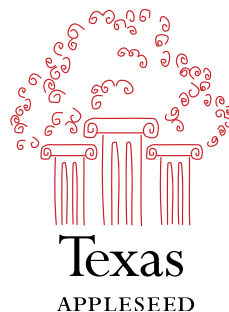




MANAGING SOMEONE ELSE'S MONEY IN TEXAS

# Help for Court-Appointed Guardians of the Estate



THIRD EDITION



# About Texas Appleseed & AARP

Texas Appleseed is a nonpartisan nonprofit focused on bringing about policies that are fair, just, and equitable for all Texans. Fueled by data, legal expertise, and a commitment to supporting vulnerable communities, its work has shaped hundreds of state and local policies and positively affected millions of Texans. For more information, visit [texasappleseed.org](https://texasappleseed.org).

AARP, with its nearly 38 million members in all 50 states and the District of Columbia, Puerto Rico, and U.S. Virgin Islands, is a nonpartisan, nonprofit, nationwide organization that helps people turn their goals and dreams into real possibilities, strengthens communities, and fights for the issues that matter most to families, such as health care, employment and income security, retirement planning, affordable utilities, and protection from financial abuse. In Texas, AARP has 2.3 million members. To learn more, visit [aarp.org/tx](https://aarp.org/tx).

This Guide was adapted from the Consumer Financial Protection Bureau's (the "CFPB's") *Managing Someone Else's Money* guides. Texas Appleseed and AARP prepared this Guide to include information about Texas state law and resources. The CFPB has not reviewed or approved the content in this Guide, and the CFPB does not necessarily endorse the final product.

We would like to thank Baker Botts L.L.P. for its pro bono support in creating and updating this series of guides.

We would also like to thank our Advisory Committee, whose expert guidance contributed greatly to the final guides: Bruce Bower; Judge Christine Butts; Bob Jackson; Helen Jenkins; and David Slayton.

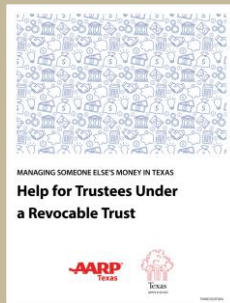


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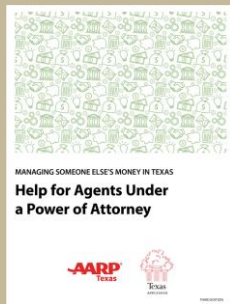
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## You May Want to Read Our Other Guides

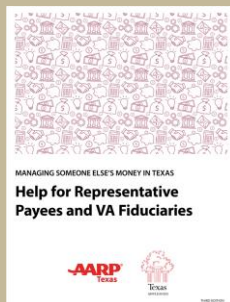
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*Help for Trustees Under a Revocable Trust* is a helpful resource for a person serving as a Texas trustee.



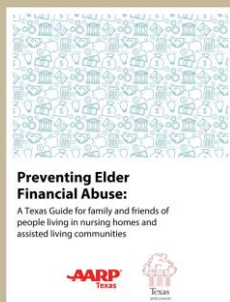
*Help for Agents Under a Power of Attorney* is a helpful resource for a person serving as an agent under a power of attorney.



*Help for Representative Payees and VA Fiduciaries* is a helpful resource for someone who manages another person's federal benefits.



*Help for Supporters Under a Supported Decision-Making Agreement* can help answer questions a supporter may have about his or her role and responsibilities.



*Preventing Elder Financial Abuse* can help answer questions from a family member or friend about protecting a loved one in assisted living or a nursing home from financial abuse.

# Why read this Guide?

Like many people, you may never have been a guardian of someone else's property before. That's why we created *Managing Someone Else's Money in Texas: Help for Court-Appointed Guardians of the Estate* (this "Guide"). This Guide will help you understand what you can and cannot do in your role as a **guardian of the estate**. In that role, you are a **fiduciary**. For this Guide, a fiduciary is anyone named to manage money or property for someone else. In this Guide, you'll find brief tips to help you avoid problems, as well as resources for finding more information.

This Guide is for family and friends already serving as a guardian of the estate for a loved one, not for professionals or organizations. If you want to learn about how to become a guardian of the estate or other alternatives, this Guide is not designed for you. This Guide does not give you legal advice and it is not intended to take the place of any training required by law or instruction provided by the court. If you have questions about your duties, talk to a lawyer, read our other guides, and visit the Seniors and the Law webpage at [texaslawhelp.org/article/seniors-and-law](https://texaslawhelp.org/article/seniors-and-law).

# Let's review some vocabulary

<b>Guardian of the estate</b>	A guardian of the estate is a person appointed by a court to manage the money and property of an incapacitated person or ward.
<b>Guardian of the person</b>	A guardian of the person is a person appointed by a court to make decisions regarding the personal well-being of an incapacitated person, including decisions about medical care, employment, and living arrangements. One person may be appointed as both guardian of the estate and guardian of the person, or the court may appoint two different people.
<b>Incapacitated person or ward</b>	An incapacitated person, also known as a ward, is a person for whom the court has appointed a guardian because he or she cannot manage his or her own personal or financial affairs because of a mental or physical condition.
<b>Estate</b>	The estate is all of the money and property owned by the incapacitated person.
<b>Fiduciary</b>	A fiduciary is a person who has a special relationship to act for another person. A fiduciary must act in the other person's best interest at all times and must be diligent, trustworthy, and honest in doing so. A guardian of the estate is a fiduciary to the incapacitated person and owes fiduciary duties.
<b>Conflict of interest</b>	A conflict of interest occurs when a decision puts what is best for one person ahead of what is best for the other person. A guardian of the estate must avoid conflicts of interest by managing the incapacitated person's estate in the way that is best for the incapacitated person regardless of what might be good for the guardian or others.

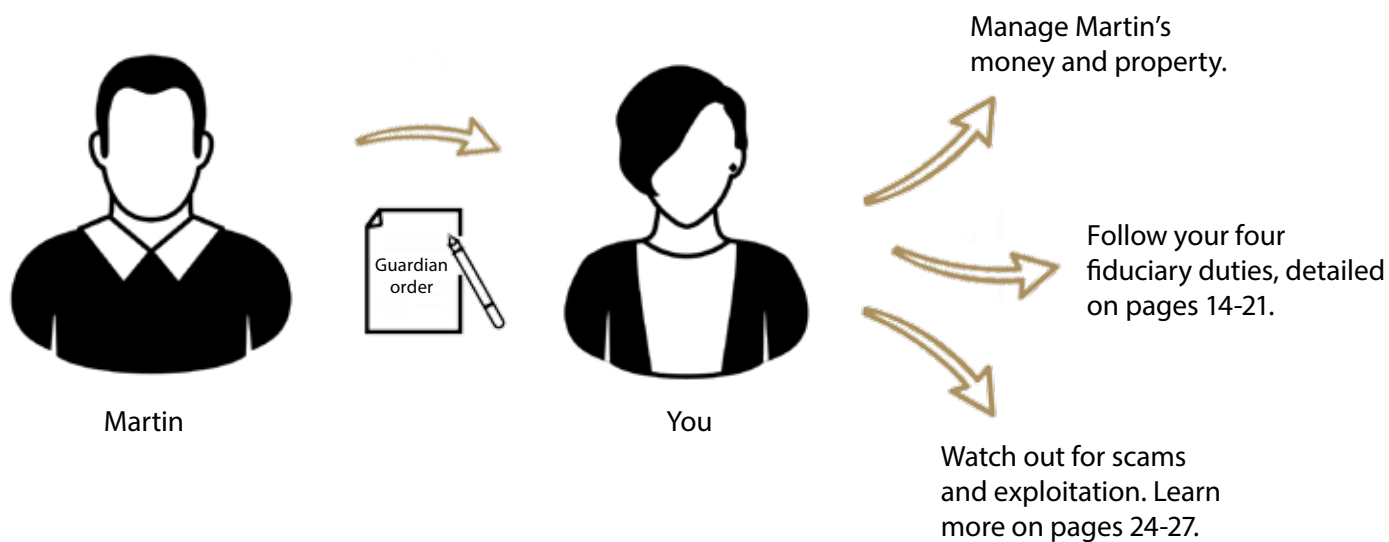


<b>Guardianship order</b>	A guardianship order is an order that a court issues to create a guardianship and appoint a guardian of the estate. The order might outline the guardian's powers and duties. This is a separate document from the letters of guardianship
<b>Bond</b>	A bond is an insurance policy that the guardian of the estate must get and file with the court before managing an incapacitated person's estate.
<b>Letters of guardianship</b>	The letters of guardianship is the document issued by the court clerk to the guardian of the estate that shows the guardian has authority to manage the incapacitated person's estate. This is a separate document from the guardianship order.
<b>Inventory</b>	An inventory is a complete list of all money and property owned by the incapacitated person. Within 30 days of becoming guardian of the estate, the guardian must make an inventory and file it with the court.
<b>Annual account</b>	An annual account is the report the guardian of the estate must prepare and file with the court each year that details all of the income received by the estate and all expenditures paid out from the estate for the year.

## How you might have become a guardian of the estate

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Your family member or friend may not be able to make decisions on his own about his money and property. For this Guide, let's call him Martin. You filed an application with a probate court asking to be appointed as Martin's guardian of the estate. After a hearing, the court issued a guardianship order naming you guardian of the estate for Martin. You now have the duty and power to make decisions on Martin's behalf about some or all of his money and property as specified in the guardianship order. The court has given you a lot of responsibility as Martin's guardian of the estate. Under the law, you are now a **fiduciary** with **fiduciary duties**.



# What is a fiduciary?

Since you have been named to manage money or property for someone else, you are a **fiduciary**. Texas law calls your relationship a **fiduciary relationship**. As Martin's fiduciary, you owe him a high duty of good faith, fair dealing, honest performance, and strict accountability. The law requires you to manage Martin's money and property for **his benefit**, not yours. It does not matter if you are managing a lot of money or a little. It does not matter if you are a family member or not.

The role of a fiduciary carries with it legal responsibilities. When you act as a fiduciary for Martin, you have four basic duties that you must keep in mind:

1. Act only in Martin's best interest.
2. Manage Martin's money and property carefully.
3. Keep Martin's money and property separate from yours.
4. Keep good records and communicate your actions.

As a fiduciary, you must be diligent, trustworthy, honest, and act in good faith. If you do not meet these standards, you could be removed as a guardian, sued, or have to repay money. It is even possible that the police or sheriff could investigate you and you could go to jail. **That's why it's always important to remember: It's not your money!**

## Guardian of the estate questions and answers

### What is a guardian of the estate?

A **guardian of the estate** is someone the court names to manage money and property for Martin, who the court has found cannot manage it alone.

Sometimes a guardian of the estate is also appointed as **guardian of the person**. A guardian of the person makes Martin's healthcare and other personal decisions.



### Different types of fiduciaries exist.

In your role as guardian of the estate, you may act as or deal with other types of fiduciaries.

These may include:

**Trustees under a revocable trust:** Someone names them to manage money and property.

**Representative payees or, for veterans, VA fiduciaries:** A government agency names them to manage government money that is paid to someone, like Social Security or VA benefits.

**Agents under a power of attorney:** Someone names an agent to manage their money and property in case they are not able to do it.

**Supporter under a supported decision-making agreement:** Someone names them to help make decisions regarding money and property.

For other guides explaining the duties of these fiduciaries, visit [protecttheirmoneytx.org](http://protecttheirmoneytx.org).



## Don't expect others to know what a guardian of the estate is or does.

Others may not understand that you have been appointed by the court. They may think you have more authority or less authority than you really have. You may need to educate them. You could show them this Guide and a copy of the guardianship order.

## Review vocabulary.

It can be difficult to remember new terms. If you need a refresher on what those terms mean, go to page 8-9.

Sometimes a different person is appointed to be the guardian of the person, or Martin himself may still be able to make these personal decisions.

This guide covers only duties of the guardian of the estate. Terms can differ. In other states, a guardian of the estate may be called a **guardian of property** or **conservator**. Martin's money and property is called his **estate**. In Texas, a person under guardianship may be called an **incapacitated person** or **ward**, but in other states the person may be called a **protected person**.

## What are my responsibilities as a guardian of the estate?

As guardian of the estate, you have a double duty—both to Martin (the person you are serving) and to the court.

### DUTY TO MARTIN

You must always keep Martin's best interests in mind. In managing his money, you must act for his good and not for your own good. Involve Martin in decisions as much as possible.

### DUTY TO THE COURT

You are an agent of the court. The court has placed its trust in you. You must report to the court regularly, be ready to answer any questions, and carry out the tasks and duties specified in the guardianship order.

## Can Martin still manage his money and property after the court appoints me as guardian of the estate?

No, you must manage Martin's money and property for him. But you should always take into account his wishes and his best interests in doing so.

## Am I personally liable for Martin's debts?

No, you are not personally liable for Martin's debts or for decisions you make on his behalf unless you act beyond your authority or fail to be diligent and careful in making decisions.

## When do my responsibilities end?

Your responsibilities as Martin's guardian of the estate last until the court relieves you of your duties. The court may do this because someone else has been appointed guardian of the estate, because Martin has died, or because Martin no longer needs a guardian.

## Do I have to serve as Martin's guardian of the estate?

Yes, once appointed, you have to serve as Martin's guardian of the estate until the court relieves you of your duties. If you do not want to or cannot serve as guardian of the estate any longer, you can ask the court to allow you to resign and to appoint someone else. If you do so, you must also file a final account showing the financial condition of Martin's estate.

## Can I manage Martin's digital assets?

A **digital asset** is an electronic record in which Martin has a right or interest. Martin's email, social media, and online bank accounts are common examples. The person or business that carries, maintains, processes, receives, or stores digital assets is called a **custodian**.

If Martin named you as a **designated recipient** of his digital assets with the custodian, then you should be able to manage those assets. The guardianship order or other order issued by the court might also authorize you to access Martin's digital assets.

When you contact a custodian about managing assets, have the following documents ready:

1. a written request regarding the management of Martin's digital assets;
2. a certification by you (under penalty of perjury) that Martin's power of attorney is in effect; and
3. a unique identifier (e.g., Martin's username) for the assets held by the custodian and/or evidence linking Martin to those digital assets.

You owe Martin fiduciary duties, including a duty to keep information confidential, when managing her digital assets. Texas law prohibits you from managing Martin's digital assets by impersonating Martin.

### Minimum Standards for Guardianship Services

These standards from the Texas Supreme Court offer helpful information for all guardians to review to make sure you are acting in Martin's best interests. You can see the Code of Ethics at [txcourts.gov/media/1452652/xa3-coeminstds-add-guardianship-program.pdf](https://txcourts.gov/media/1452652/xa3-coeminstds-add-guardianship-program.pdf).

# Four basic duties of a fiduciary

## Duty 1: Act only in Martin's best interest

Because you are dealing with Martin's money and property, it is your duty to make decisions that are best for him. This means you must ignore your own interests and needs and the interests and needs of other people.

To help act in Martin's best interest, follow these guidelines:

- **Read the guardianship order.** Your powers and duties as Martin's guardian of the estate are written in state law. They also may be written in the guardianship order that appointed you. Some guardianship orders may be detailed, while others may be very general. Read the court order closely, follow any training or instruction provided to you by the court, and talk to your lawyer if you don't understand it. Texas courts generally require a guardian to have a lawyer. Ask questions and learn all you can about what you should do—and what you should not do.
- **Do what the guardianship order says—and don't do what it says you should not do.** It is important that you not act beyond what the law and the guardianship order allow, and that you carry out the basic tasks necessary. Your powers may be limited to certain actions or certain amounts of money. You may need to get the court to approve other actions. Even if you have the best intentions, follow the guardianship order.
- **As much as possible, involve Martin in decisions.** Many things can affect your decisions. For example, you might feel pressure from others. Martin's abilities to make decisions might change from time to time, or maybe Martin was never able to make decisions about his money and property. Consider these three steps:
  - » First, ask Martin what he wants. He may be able to decide some things. If so, take this into account, especially if it is similar to his thinking in the past and the risk of harm to him is not unreasonable. For example, if Martin wants to handle money, see if he can manage a small bank account or a monthly cash allowance. Doing this will let him be in charge of a set amount, and you will limit the risk to that amount.
  - » Second, try to find out what Martin would have wanted. Look at any past decisions, actions, and statements. Find as much information as you can. Ask people who care about Martin what they think he would have wanted. Make the decision you think that

Martin would have made, unless doing so would harm him.

» Third, do what you think is best for him. If you have looked hard and still don't know what Martin would have wanted—or if Martin could never make decisions about money and property—use your judgment about what is best. Put Martin's well-being above saving money for others who may inherit his money and property. Make sure that he is safe and comfortable, and that his needs are met.

- **Avoid conflicts of interest.** A conflict of interest happens if you make a decision about Martin's property that may benefit you or someone else at Martin's expense. Because you were appointed by the court, you have a strict duty to avoid conflicts of interest—or even the appearance of a conflict of interest. Keep an "arm's length distance" between your interests and any use of Martin's money.
- **Don't borrow, loan, or give Martin's money to yourself or others.** Even if the guardianship order clearly allows gifts to you or others, be very careful to avoid conflicts of interest. The court generally must approve gifts or loans. Make sure that any gifts do not increase or complicate Martin's taxes or change his plans for his property when he dies. Any gifts or loans should be in line with what Martin would have wanted. For example, if Martin gave money every year to a charity, the court may allow you to continue doing that.
- **Avoid changing Martin's plans for giving away his money or property when he dies.** There may be rare situations when changing Martin's plans is in his best interest. But you should get legal advice and approval from the court before you decide anything regarding his property after he dies.
- **Don't pay yourself for the time you spend acting as Martin's guardian of the estate unless the court allows you to do so.** If you are allowed to pay yourself, get legal advice, check with the court, and carefully document how much time you spend and what you do.

To avoid any surprises or misunderstandings, tell family about your fees when you begin your duties as a guardian of the estate. If you charge fees, charge fees that are reasonable. What is reasonable in one scenario may be unreasonable in another. Don't charge for things you do



## **Avoid possible conflicts of interest.**

Sometimes people have good intentions but do things they shouldn't. Because you are now a fiduciary, you should avoid any conflicts of interest. Here are a few examples of possible conflicts of interest:

### **Whose car is it?**

You used Martin's money to buy a car. You use the car to drive him to appointments, but most of the time you drive it just for your own needs. This may be a conflict of interest.

### **Should you do business with family?**

Martin needs repair work in his apartment. You hire your son and pay him from Martin's money. This may be a conflict of interest, even though the work was needed. It appears that you put your personal interest to benefit your son in conflict with Martin's interests.

that are not specifically as guardian of the estate. For instance, don't charge fees if you shop for Martin or personally make home repairs. If necessary, you can pay someone else at a lower rate for these tasks and document the expenses.

## Duty 2: Manage Martin's money and property carefully

As Martin's guardian of the estate, you might pay bills, oversee bank accounts, or pay for things he needs. You might also make investments, pay taxes, collect rent or unpaid debts, get insurance if needed, cancel any unneeded insurance, and do other things in the guardianship order.

You have a duty to manage Martin's money and property very carefully. Use good judgment and common sense. As a fiduciary, you must be even more careful with Martin's money than you might be with your own!

Follow these guidelines strictly according to the court's procedures:

- **File a bond and take an oath.** A bond is a special type of insurance policy that is required so the court can make sure you carry out your duties. You will have to file a bond in court within 20 days of being appointed as guardian. If you fail in your duties and, as a result, money is lost or stolen, the bonding company will pay the money back. Then the company will try to collect the money from you. You can pay for the bond with Martin's money.

Only people with good financial records and credit histories can get a bond. If you have had a bankruptcy, you will not likely be able to get a bond. Try to check this before you are appointed as guardian of the estate or as soon as possible. Take all steps the court advises about getting a bond.

You will also be given an oath, by which you will swear to discharge your guardianship duties faithfully. Once you have taken the oath and once the court has approved the bond, you will officially be the guardian of Martin's estate. **This date—known as the "qualification date"—is important, as many deadlines are calculated from this date.** You will at that point be issued letters of guardianship.

- **Make an inventory and file it with the court.** To make careful decisions, you need to find out what Martin owns and owes. You will have 30 days from the day you officially become guardian to file a full, detailed inventory listing all of Martin's income and property and its appraised value. You must attach to that inventory a detailed list of debts or liens others have claimed against Martin's property. To avoid any risk to Martin's money and property, you must make the inventory as quickly as possible. Be ready to share it with family members who are listed with the court as interested parties.



An inventory may include all kinds of property. Your list might include:

- » checking and savings accounts;
- » cash;
- » pension, retirement, annuity, rental, public benefit, or other income;
- » real estate;
- » cars and other vehicles;
- » insurance policies;
- » trusts for which Martin is a beneficiary;
- » stocks and bonds; and
- » jewelry, furniture, and any other items of value.

A list of claims and debts might include unpaid credit card bills and other outstanding loans.

- **Provide notice of the guardianship to Martin’s creditors.** Within one month of officially becoming guardian, you must post a notice in a newspaper so that anyone to whom Martin owes money can contact you to settle those claims. Once you have done so, you must file a copy of the notice in court. Within four months of officially becoming guardian, you must send notice of the guardianship to whoever holds a mortgage or lien on any of Martin’s real estate, and to anyone else to whom Martin owes money.
- **Protect Martin’s property.** Take possession of Martin’s property and keep his money and property safe. Have Martin’s income and bills sent to you. Put his valuable items in safe deposit boxes and lock other items he is not using in storage. Keep Martin’s cash in bank accounts that earn interest if possible and that have low or no fees. Review bank and other financial statements promptly. If Martin will not be living in his home, consider changing the locks. Figure out if the house should be rented, or how to keep it safe if it is vacant. If Martin owns other property that can be rented, you must try to rent it out. If Martin rented an apartment and will be moving, tell the landlord, remove his things, and have the apartment cleaned.
- **Make a financial plan.** Make a budget as if you were making one for your own household. List how much you expect to pay for a nursing home, assisted living or home care, rent, food, medical care, and home maintenance or repair. Be sure to include a monthly amount for Martin to



## Tips for making an inventory

### **Don’t leave anything out.**

Even if you know Martin wants you to have certain things and says so in his will, list them in the inventory. A proper inventory lists everything according to the court’s rules. Do not decide that some things should not be listed.

**Search carefully.** Look carefully to find everything Martin owns. Search his mail and home. Look for real estate by talking to family or advisors and looking through land records. Track down letters from creditors to find unpaid debts. Take valuable items to an appraiser.

**Verify if necessary.** It is a good idea to have someone else check the list, especially if family might argue over Martin’s money and property.

use as he pleases if the court order allows you to do so. If it does not, you can ask the court for permission within 30 days of officially becoming guardian. If you spend more than the monthly allowance, ask the court to approve the excess expenses.

Think about any special expenses that may arise, such as dental work or any medical care or equipment that Medicare, Medicaid, or other health insurance will not cover. Try to stick to your budget. If something very costly occurs, you may need the court to approve the expense.

- **Invest carefully.** You have a duty to invest any extra money Martin has. Within 180 days of officially becoming guardian, you must either begin investing Martin's extra money or develop a written investment plan. In making investment decisions, you must exercise the same care you would use in managing your own financial affairs. You must also consider other factors like:
  - » the anticipated costs of supporting Martin;
  - » Martin's age, education, income, and ability to earn income;
  - » the nature of Martin's estate; and
  - » any other resources available to Martin.

To be sure you meet this standard, you should consider investing only in safe investment options like government bonds or deposit accounts insured by the Federal Deposit Insurance Corporation ("FDIC"). If you are making investments for Martin, talk to a financial professional. The Securities and Exchange Commission ("SEC") provides tips on choosing a financial professional at [sec.gov/investor/alerts/ib\\_top\\_tips.pdf](https://www.sec.gov/investor/alerts/ib_top_tips.pdf). Discuss your choices and goals for investing based on Martin's needs and values.

- **Pay all taxes on time.** You are now responsible for paying Martin's taxes from his money. You must notify the IRS of the guardianship by filing a Form 56. You must file his federal income tax return and take care of any other taxes for which Martin may be responsible, including any applicable gift tax and property taxes due on any real estate he owns.
- **Pay all bills on time.** Make sure bills are sent to you. Review bills and bank statements promptly.
- **Buy insurance if necessary and cancel any insurance policies that Martin does not need.**
- **Collect any rent or debts owed to Martin.** Find out if anyone owes Martin money, and try to collect it. If you do not, you may be personally liable. If a lawsuit is necessary to collect Martin's money, you are the person who must bring the suit. You might need the court's permission to bring such a suit.
- **There's no place like home.** You will need the court's permission to sell any real estate Martin owns. You may, however, rent out his property for a term of one year or less without court permission if doing so is in the best interest of Martin's finances. If you do so, you must file a report with the court (generally within 30 days) describing the property, its value, and the terms of the rental.

Martin may want to continue to live in the home he owns or rents. In that case, determine if living in his home is safe and if Martin can manage in the house. If needed, put in guard rails, grab bars,

smoke detectors, extra lighting, and other things to help him stay at home. Tax credits or deductions might be available if you make the home easier to live in, but you should talk to an accountant or an attorney before claiming a credit or taking a deduction. Work with any other decision-makers (such as an agent under a medical power of attorney or any guardian of the person if you have not been appointed to fill this role).

If it is not safe to live at home even with changes—or if Martin wants to move—**consider other places that meet Martin’s needs. Try to keep him connected to people and things important to him.** Options might be living with someone else or living in a retirement community, a senior apartment, group home, assisted living, or nursing home. You may need court approval for a move, a 7-day period to allow objection may be necessary, and you may be required to notify certain family members.

## Can Martin get any benefits?

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Find out if Martin is eligible for any financial or health care benefits from an employer or a government. For instance, you could help Martin apply for other private benefits such as employer pensions or disability, or public benefits such as Medicaid, housing assistance, or food stamps (now known as Supplemental Nutrition Assistance Program or “SNAP”). Use the National Council on Aging benefits check-up at *BenefitsCheckUp.org*.

The Area Agency on Aging where Martin lives can help you find information. Find the local Area Agency on Aging through the Texas Health and Human Services Commission at *hhs.texas.gov/services/aging*.

## Medicaid is complicated.

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Get legal advice and be very careful about decisions that may affect Martin’s eligibility for Medicaid, especially before you sell Martin’s home or sign anything that affects Martin’s ownership of his home. The Medicaid program provides medical assistance and long-term care to low-income people. For more information, visit *hhs.texas.gov/services/health/medicaid-chip*. To apply for Medicaid, visit *yourtexasbenefits.com*.

## Duty 3: Keep Martin’s money and property separate

Never mix Martin’s money or property with your own or someone else’s. Mixing money or property makes it unclear who owns what. Confusing records can get you in trouble with the court.

Follow these guidelines:

- **Separate means separate.** Never deposit Martin’s money or property into your own or someone else’s bank account or investment account.
- **Avoid joint accounts.** If Martin already has money or property in a joint account with you or someone else, get legal advice before making any change.
- **Keep title to Martin’s money and property in his own name.** This is so other people can see right away that the money and property is Martin’s and not yours. Ask the bank for a guardianship or fiduciary account that shows you are managing the account for Martin.
- **Know how to sign as guardian.** Sign all checks and other documents relating to Martin’s money or property to show that you are Martin’s guardian. For example, you might sign: “Juan Doe, as guardian for Martin Roe.” Never just sign “Martin Roe.”
- **Pay Martin’s expenses from his funds, not yours.** Spending your money and then paying yourself back makes it hard to keep good records. If you really need to use your money, save receipts for the expense and keep a good record of why, what, and when you paid yourself. You will have to submit the expenses to the court for approval before being reimbursed.

## Duty 4: Keep good records and report to the court

You must keep true and complete records of Martin’s money and property.

Each year you will have to show the court everything you’ve done with Martin’s money and property, and a lawsuit might also force you to do so. Always be ready to share your records with family—unless you think they will misuse the information to harm Martin.

Practice good recordkeeping habits:

- **Keep a detailed list of everything that you receive or spend for Martin.** Records should include the amount of checks written or deposited, dates, reasons, names of people or companies involved, and other important information.

- **Keep receipts and notes, even for small expenses.** For example, write “\$50, groceries, ABC Grocery Store, May 2” in your records soon after you spend the money.
- **Avoid paying in cash.** Try not to pay Martin’s expenses with cash. Also, try not to use an ATM card to withdraw cash or write checks to “Cash.” If you need to use cash, be sure to keep receipts or notes.
- **Getting paid?** If you are permitted by the court to charge a fee to serve as guardian of the estate, be sure the fee you charge is reasonable. Keep detailed records as you go along of what work you did, how much time it took, when you did it, and why you did it.
- **File your annual accounts with the court.** Each year, with the help of your attorney, you must report to the court within 60 days of the anniversary of your official qualification date to give an accounting of all the money you received and spent.
  - » The court may give you a specific form or checklist for the annual account or will tell you what is required. Use the records you have kept during the year to fill in the form. If you have questions, ask court staff or a lawyer for help.
  - » Be sure to turn it in on time. If you fail to file an annual account, the court may call you in to explain why, may assess fees against you individually and against your bond, and may remove you as guardian.
  - » Your annual account must be clear and must “add up.” The annual account should show a beginning balance, income during the year, expenses during the year, and an ending balance. The ending balance for one year should be the same as the beginning balance for the next year.
  - » Annual account requirements might differ by court and may change over time. Try to understand in advance what is needed, so that your annual account is not rejected for a minor problem. Ask for an example of a correct annual account. You may need an accountant to help.
- **File a final accounting after Martin dies.** Notify the court when Martin dies. You may also be required to notify certain family members and tell them about the funeral arrangements. According to court procedures, make a final accounting of Martin’s money and property and file it with the court. Once the court approves the final settlement and once you have delivered any remaining property to the person entitled to it, the court will discharge you and close the estate.
  - » You may need to pay final bills or make final arrangements, especially if no one else can do it. For example, you may need to pay funeral expenses and final medical bills.
  - » If Martin did not already make funeral or burial arrangements, look for any directions he may have left—perhaps in advance directives or remarks to family or friends.
  - » An executor named in a will, an administrator named by the court, or a trustee named in a trust will handle Martin’s money and property after you turn them over. Hold Martin’s personal things safely until they are transferred to whoever is to receive them. If you are the one named to handle Martin’s money and property after his death, make sure you understand when your duties as guardian end and your new duties begin.

# More things you should know

## Other fiduciaries

### Co-guardians

Generally, there can only be one guardian of the estate, but the court may have named someone else to act as Martin's guardian of person to make health care and other personal decisions. If that is the case, Martin's guardian of the person will be your partner in making decisions on Martin's behalf and in helping him make decisions if he is able. You must work closely together. For example, if Martin will move to a new location or get special care, his guardians must make important personal and financial decisions together. You must consult with one another.

### Other types of fiduciaries

Other fiduciaries may have authority to make decisions for Martin. For example, he may have an agent under a power of attorney, a representative payee who handles Social Security benefits, or a VA fiduciary who handles veterans' benefits. It is important to work with these other fiduciaries and to keep them informed.

## Government benefits

As guardian of the estate, you cannot manage or change how Martin receives his government benefits, such as Social Security or VA benefits, unless you get a separate appointment from the government agency as, for example, a representative payee or VA fiduciary. For more information, contact the government agency or read our guide on government fiduciaries at [protecttheirmoneytx.org](http://protecttheirmoneytx.org).

## Problems with family or friends

Martin's family or friends may not agree with your decisions about Martin's money and property. To help reduce any friction, follow the four duties described above and the guidelines we've given you.

- **Sharing information may help (unless Martin has said that you should not).** It usually is easier to deal with questions about a decision immediately rather than to deal with suspicion and anger that may build over a long time. There is some information that you must share with certain family members. For example, if Martin moves, is hospitalized, or dies you must notify certain family members if they request to receive notification. The court also may require you to send accountings to family and friends, or it may say you should not. If there is no direction from the court, get court approval before sharing information.
- **Some family or friends may not have Martin’s best interest at heart,** so it may be better not to share information with them, or to ask the court not to share it. Use your best judgment.
- **If family or friends don’t agree with your decisions, try to get someone to help sort it out.** For example, talk to a family counselor or mediator. See “Where to go for help” on page 28 of this Guide.

## Other professionals

In managing Martin’s affairs, you may need help from professionals such as lawyers, brokers, financial advisors, accountants, real estate agents, appraisers, psychologists, social workers, doctors, nurses, or care managers. You can pay them with Martin’s money once the court approves.

If you need help from any professionals, remember these tips:

- **Check on the professional’s qualifications.** Many professionals must be licensed or registered by a government agency. Check credentials with the government agency. Make sure the license or registration is current and the professional is in good standing. Check the person’s complaint history.
- **Interview the professional thoroughly and ask questions.**
- **Review contracts carefully before signing.** Before hiring any professionals, get their proposed plan of work and expected fee.
- **Make your own decisions based on facts and advice.** Listen to their advice but remember: **You are the decision maker.**

# Watch out for financial exploitation

Family, friends, neighbors, caregivers, fiduciaries, business people, and others may try to take advantage of Martin. They may take his money without permission, neglect to repay money they owe, charge him too much for services, or just not do things he has paid them to do. These may be examples of financial exploitation or financial abuse. As Martin's guardian of the estate, you should help protect him. You should know the signs of financial exploitation for five important reasons:

1. Martin may still control some of his funds and could be exploited.
2. Even if Martin does not control any of his funds, he still may be exploited.
3. Martin may have been exploited, and you may still be able to do something about that;
4. People may try to take advantage of you as Martin's guardian of the estate.
5. Knowing what to look for will help you avoid doing things you should not do, protecting you from accusations that you have exploited Martin.

## Common signs

- **If you think some money or property is missing, or Martin says that some money or property is missing, consider looking for common signs of exploitation or sudden changes in Martin's spending or savings.** For example, he:
  - » takes out lots of money from the bank without explanation;
  - » tries to wire large amounts of money;
  - » uses the ATM a lot;
  - » is not able to pay bills that are usually paid;
  - » buys things or services that don't seem necessary;
  - » puts names on bank or other accounts that you do not recognize or that he is unwilling or unable to explain;
  - » does not get bank statements or bills;
  - » makes new or unusual gifts to family or others, such as a "new best friend";



- » changes beneficiaries of a will, life insurance, or retirement funds;
  - » has a caregiver, friend, or relative who suddenly begins handling his money; or
  - » spends considerable time with telemarketers and home shopping networks.
- **There may also be exploitation issues when Martin says he is afraid or seems afraid of a relative, caregiver, or friend.**
  - **Or, when a relative, caregiver, friend, or someone else keeps Martin from having visitors or phone calls, does not let him speak for himself, or seems to be controlling his decisions.**

### **What can you do if Martin has been exploited?**

Call the emergency 911 number if Martin is in immediate danger.

Call Texas Adult Protective Services at 1-800-252-5400 or the local police or sheriff. **You are required by law to do this.** If the situation is not urgent or an emergency, you may report the exploitation or abuse online at: [texasabusehotline.org/Login/Default.aspx](https://texasabusehotline.org/Login/Default.aspx).

Alert Martin's bank, credit card company, or investment manager if you think those accounts are at risk. Texas law requires them to investigate suspected financial abuse and they may place a temporary hold on transactions if they suspect exploitation. The hold is placed only on a particular transaction. The account should still be usable for other purposes.

If Martin is in a nursing home or assisted living, report it to the Texas Attorney General's Medicaid fraud unit at 1-512-371-4700 or 1-800-252-8011 (main switchboard)

### **What can you do if Martin has been scammed?**

Call the Texas Attorney General, Texas Adult Protective Services, the Office of the Long-Term Care Ombudsman, or a similar agency. Contact information for each of these agencies can be found at the end of this guide.

If scammers are in other states or countries, call a federal agency, such as the Consumer Financial Protection Bureau, the FBI, the Federal Trade Commission, or the U.S. Postal Inspection Service.

### **In both cases...**

Consider talking to a lawyer about protecting Martin from further exploitation or getting back money or property taken from him.

Help can come from many places. Each agency and professional has a different role, so you may need to call more than one.

For more information, see "Where to go for help" on page 28.

# Be on guard for consumer scams

As Martin's agent, you should be alert to protect his money from consumer scams as well as financial exploitation. Criminals and con artists have many scams and change them all the time. They often seek unsuspecting people who have access to money. Learn to spot consumer scams against Martin—and against you as his guardian. The Texas Attorney General's Office maintains a list of common scams, which is available at: [texasattorneygeneral.gov/consumer-protecton/common-scams](https://texasattorneygeneral.gov/consumer-protecton/common-scams).

## How can I protect Martin from scams?

Although many consumer scams occur by phone, mail, email, or on the Internet, they also can occur in person, at home, or at a business. Here are some tips:

- **Put Martin's number on the National Do Not Call Registry.** Go to [donotcall.gov](https://donotcall.gov) or call 1-888-382-1222.
- **Don't share numbers or passwords for Martin's accounts, credit cards, or Social Security,** unless you know the person you're dealing with and why they need the information.
- **After hearing a sales pitch, take time to compare prices.** Ask for information in writing and read it carefully.
- **Too good to be true?** Ask yourself why someone is trying so hard to give you a "great deal." If it sounds too good to be true, it probably is.
- **Watch out for deals that are only "good today" and that pressure you to act quickly.** Be suspicious if you are not given enough time to read a contract or get legal advice before signing. Also watch out if you are told that you need to pay the seller quickly, for example by wiring the money or sending it by courier.
- **Never pay up front for a promised prize.** Suspect a scam if you are required to pay fees or taxes to receive a prize or other financial windfall.
- **Watch for signs Martin already has been scammed.** For example, does he receive a lot of mail or email for sweepstakes? Has he paid people you don't know, especially in other states or countries? Has he taken a lot of money out of the bank while he was with someone he recently met? Does he have a hard time explaining how he spent that money? Is he suddenly unable to pay for food, medicine, or utilities?

## Common Consumer Scams

**Relative in need** Someone who pretends to be a family member or friend calls or emails you to say they are in trouble and need you to wire money right away.

**Charity appeals** You get a call or letter from someone asking for money for a fake charity—either the charity does not exist or the charity did not call or write to you.

**Lottery or sweepstakes** You get a call or email that you have a chance to win a lot of money through a foreign country's sweepstakes or lottery. The caller will offer tips about how to win if you pay a fee or buy something. Or the caller or email says you already have won and you must give your bank account information or pay a fee to collect your winnings.

**Home improvement** Scammers take money for repairs and then they never return to do the work or they do bad work. Sometimes they break something to create more work or they say that things need work when they don't.

**Free lunch** Scammers invite you to a free lunch and seminar. Then they pressure you to give them information about your money and to invest your money with them. They offer you "tips" or "guaranteed returns."

**Free trip** Scammers say you've won a free trip but they ask for a credit card number or advance cash to hold the reservation.

**Government money** You get a call or letter that seems to be from a government agency. Scammers say that if you give a credit card number or send a money order, you can apply for government help with housing, home repairs, utilities, or taxes.

**Drug plans** Scammers pretend they are with Medicare prescription drug plans, and try to sell Medicare discount drug cards that are not valid. Companies with Medicare drug plans are not allowed to make unsolicited phone calls or send unsolicited mail or emails

**Identity theft** Scammers steal personal information—such as a name, date of birth, Social Security number, account number, or mother's maiden name—and use the information to open credit cards or get a mortgage in someone else's name.

**Fake "official" mail** Scammers send letters or emails that look like they are from a legitimate party to try to get your personal information.

# Where to go for help

## Local and state agencies

**Adult Protective Services** Texas Adult Protective Services receives and investigates reports of suspected adult or elder abuse, neglect, or exploitation. To make a report, call the 24-hour, toll-free hotline.

*1-800-252-5400*

*[dfps.state.tx.us/Contact\\_Us/report\\_abuse.asp](https://dfps.state.tx.us/Contact_Us/report_abuse.asp)*

*Texas Abuse Hotline:*

*[texaabusehotline.org/Login/Default.aspx](https://texaabusehotline.org/Login/Default.aspx)*

**Area Agency on Aging /  
Aging and Disability Resource  
Center**

The Texas Health and Human Services Commission administers and supports people who are aging and people with intellectual and physical disabilities. Staff can provide information about aging and disability services and whether there are any support groups for fiduciaries or caregivers.

*1-512-424-6500*

*[hhs.texas.gov/services/aging](https://hhs.texas.gov/services/aging)*

**Texas Attorney General**

The Office of the Attorney General has a Consumer Protection Section. It operates the Texas Attorney General's Consumer Protection Hotline.

*1-800-621-0508*

*[texasattorneygeneral.gov/cpd/consumer-protection](https://texasattorneygeneral.gov/cpd/consumer-protection)*

**Better Business Bureau**

The Better Business Bureau ("BBB") can help consumers with complaints against businesses.

*[bbb.org/file-a-complaint](https://bbb.org/file-a-complaint)*

*BBB of Abilene--13 Mid-West Texas Counties*

*1-325-691-1533*

*[bbb.org/local-bbb/bbb-of-abilene](https://bbb.org/local-bbb/bbb-of-abilene)*

*Better Business Bureau Serving the Concho Valley, San Angelo*  
1-325-691-1533

*[bbb.org/local-bbb/better-business-bureau-serving-the-concho-valley](http://bbb.org/local-bbb/better-business-bureau-serving-the-concho-valley)*

*BBB serving North Central Texas, Dallas, Lubbock, & Wichita Falls*  
1-214-220-2000

*[bbb.org/local-bbb/bbb-serving-north-central-texas](http://bbb.org/local-bbb/bbb-serving-north-central-texas)*

*Better Business Bureau in Southeast Texas*  
1-409-835-5348

*[bbb.org/local-bbb/southeasttexas](http://bbb.org/local-bbb/southeasttexas)*

*BBB serving the Heart of Texas, Austin, Bryan, Corpus Christi, Fort Worth, Midland, San Antonio, and Waco*  
1-844-477-1099

*[bbb.org/local-bbb/bbb-serving-the-heart-of-texas](http://bbb.org/local-bbb/bbb-serving-the-heart-of-texas)*

*BBB of Greater Houston and South Texas, Austin, Brazoria, Brooks, Cameron, Colorado, Fort Bend, Galveston, Harris, Hidalgo, Jim Hogg, Kenedy, Matagorda, Montgomery, Starr, Waller, Wharton, Willacy, and Zapata Counties*  
1-713-868-9500

*[bbb.org/local-bbb/bbb-of-greater-houston-and-south-texas](http://bbb.org/local-bbb/bbb-of-greater-houston-and-south-texas)*

*BBB Serving Northeast and Central Louisiana and the Ark-La-Texas (including Bowie and Cass County, Texas)*  
1-318-797-1330

*[bbb.org/local-bbb/bbb-serving-northeast-and-central-louisiana-and-the-ark-la-tex](http://bbb.org/local-bbb/bbb-serving-northeast-and-central-louisiana-and-the-ark-la-tex)*

*BBB El Paso*  
1-915-577-0191

*[bbb.org/local-bbb/bbb-of-el-paso](http://bbb.org/local-bbb/bbb-of-el-paso)*

*BBB serving Central East Texas, Anderson, Camp, Cherokee, Franklin, Gregg, Harrison, Henderson, Marion, Morris, Panola, Rains, Red River, Rusk, Shelby, Smith, Titus, Upshur, Van Zandt, and Wood Counties*  
1-903-581-5704

*[bbb.org/local-bbb/bbb-serving-central-east-texas](http://bbb.org/local-bbb/bbb-serving-central-east-texas)*

*BBB of Amarillo, Texas Panhandle*  
1-806-379-6222

*[bbb.org/local-bbb/bbb-of-amarillo](http://bbb.org/local-bbb/bbb-of-amarillo)*

**Texas Veterans Commission** The Texas Veterans Commission is a state-appointed advocate for Texas veterans. The Commission assists veterans to secure benefits rightfully earned in exchange for service in the armed forces.  
*1-800-252-8387*  
*[tvc.texas.gov](http://tvc.texas.gov)*  
*[info@tvc.texas.gov](mailto:info@tvc.texas.gov)*

**Texas Veterans Portal** The Texas Veterans Portal is a resource that compiles helpful information from many government agencies to help veterans, their families, and their survivors find the assistance, services, and benefits they need.  
*1-800-2273-8255 or 2-1-1 (option 1)*  
*[veterans.portal.texas.gov](http://veterans.portal.texas.gov)*

**Local Resources** Eldercare Locator is a public service of the U.S. Administration on Aging that connects older Americans and their caregivers with information on senior services.  
*1-800-677-1116*  
*[eldercare.acl.gov](http://eldercare.acl.gov)*

**Long-Term Care Ombudsman Program** Contact the Office of the State Long-Term Care Ombudsman to find state and local long-term care advocates. Ombudsmen identify, investigate, and resolve complaints about long-term care.  
*1-800-252-2412*  
*[apps.hhs.texas.gov/news\\_info/ombudsman](http://apps.hhs.texas.gov/news_info/ombudsman)*

**Texas Association of Mediators** Find a listing of local mediators in Texas. Mediation can help resolve disputes and may sometimes be an alternative to legal action.  
*[txmediator.org](http://txmediator.org)*  
*(click on "Member Locator" then "View All Members for list of Texas mediators)*

## Medicaid/medical assistance

**Texas Medicaid Information** *[hhs.texas.gov/services/health/medicaid-chip/medicaid-chip-program-services](http://hhs.texas.gov/services/health/medicaid-chip/medicaid-chip-program-services)*

**Texas Health and Human Services Commission** *[yourtexasbenefits.com/Learn/Home](http://yourtexasbenefits.com/Learn/Home)*

**Texas Health Options** This state resource can help you understand how to find and use health insurance.  
*1-800-252-3439*  
*[texashealthoptions.com](http://texashealthoptions.com)*  
*[ConsumerProtection@tdi.texas.gov](mailto:ConsumerProtection@tdi.texas.gov)*

**Medicaid Fraud Control Unit  
of Texas**

The Medicaid Fraud Control Unit, in the Office of the Attorney General, investigates and prosecutes abuse and fraud by health care providers.

1-800-252-8011 (Main agency)

*myfcu@oag.texas.gov*

*Austin Field Office*

*1-512-371-4700*

*Corpus Christi Field Office*

*1-361-851-8440*

*Dallas Field Office*

*1-817-385-2200*

*El Paso Field Office*

*1-915-881-2100*

*Houston Field Office*

*1-713-225-0691*

*Lubbock Field Office*

*1-806-765-6367, ext. 101*

*Pharr Field Office*

*1-956-683-7095*

*San Antonio Field Office 1-210-653-9001*

*Tyler Field Office*

*1-903-593-4644*

## Police or sheriff

Find a law enforcement agency by checking your local directory.

**Texas Victim Resource Directory** The Texas Victim Resource Directory is a compilation of non-profit and governmental agencies that provide services to crime victims free of charge in Texas.

*<https://ivss.tdcj.texas.gov/resource-search/>*

**Sheriffs' Association of Texas**

Find the local sheriff's office.

*[txsheriffs.org/texas-sheriffs-list](http://txsheriffs.org/texas-sheriffs-list)*

# Federal agencies

Numerous federal agencies play a role in combatting fraud and abuse and educating consumers. Contact them for more information.

**Consumer Financial  
Protection Bureau** *1-855-411-CFPB*  
*consumerfinance.gov*

**Do Not Call Registry** *1-888-382-1222*  
*donotcall.gov*

**Federal Bureau of  
Investigation** *fbi.gov/scams-safety*

**Federal Trade Commission** *1-877-FTC-HELP (382-4357)*  
*consumer.ftc.gov*

**Postal Inspection Service** *1-877-876-2455*  
*postalinspectors.uspis.gov*

**Social Security Administration** *1-800-772-1213*  
*socialsecurity.gov/payee*

**Department of Veterans  
Affairs** *1-888-407-0144*  
*benefits.va.gov/fiduciary*

# Legal help

**Eldercare Locator** Find local programs that provide free legal help to people over age 60 by contacting the national Eldercare Locator.  
*1-800-677-1116*  
*eldercare.acl.gov*

**Legal Services Corporation** Find local programs that provide free legal help to low-income people on the website of the Legal Services Corporation.  
*lsc.gov/find-legal-aid*



<b>State Bar of Texas</b>	Find free legal clinics and other resources for veterans and their families who otherwise cannot afford or do not have access to the legal services they need on the website of the State Bar of Texas. <i><a href="https://www.texasbar.com/Content/NavigationMenu/AboutUs/StateBarPresident/TexasLawyersforTexasVeterans/Resources_for_Vetera.htm">texasbar.com/Content/NavigationMenu/AboutUs/StateBarPresident/TexasLawyersforTexasVeterans/Resources_for_Vetera.htm</a></i>
<b>Texas Legal Services Center</b>	Any person in Texas who is 60 years of age or older can call the Legal Hotline for Texans for free legal information. The Legal Hotline for Texans has a wide range of brochures on many different legal topics. The Legal Hotline for Texans also serves persons who are eligible for Medicare, regardless of age or income. Services can be applied for online or over the phone. 1-800-622-2520 <i><a href="https://www.tlsc.org">tlsc.org</a></i>
<b>Legal Aid of Northwest Texas</b>	This program serves counties from the Panhandle and the High Plains through the Dallas–Fort Worth Metroplex. It has offices in Amarillo, Plainview, Lubbock, Midland, Odessa, Abilene, Brownwood, San Angelo, Wichita Falls, Denton, Weatherford, Fort Worth, Dallas, Waxahachie, and McKinney. <i><a href="https://www.lanwt.org">lanwt.org</a></i>
<b>Lone Star Legal Aid</b>	This program serves Texas counties from the Louisiana and Arkansas border westward to some counties along I-35. It has offices in Texarkana, Tyler, Paris, Longview, Nacogdoches, Beaumont, Conroe, Houston, Galveston, Angleton, Bryan, Belton, and Waco. <i><a href="https://www.lonestarlegal.org">lonestarlegal.org</a></i>
<b>Pro Bono Program Listings in Texas</b>	<i><a href="https://www.probono.net/oppsguide/search?state=TX">probono.net/oppsguide/search?state=TX</a></i>
<b>Houston Volunteer Lawyers</b>	Providing free legal aid to low-income individuals by connecting them with lawyers in the private bar who volunteer their time. 1-713-228-0735 <i><a href="https://www.makejusticehappen.org">makejusticehappen.org</a></i>
<b>Texas RioGrande Legal Aid</b>	Providing free legal services to low-income residents in 68 counties of Southwest Texas. <i><a href="https://www.trla.org">trla.org</a></i>
<b>Lawyer Referral Service (LRS) of Central Texas</b>	Reduced fee program for family law matters, uncontested guardianship cases, and drafting simple wills. <i><a href="https://www.austinlrs.com">austinlrs.com</a></i>

**Dallas Volunteer Attorney Program**

Providing telephone referral of low-income individuals to volunteer attorneys who provide free legal services. Applicants must be Dallas County residents.

1-214-243-2236

[dallasvolunteerattorneyprogram.org](http://dallasvolunteerattorneyprogram.org)

**Texas Rio Grande Legal Aid (El Paso, South & West Texas)**

Providing free legal services to indigent residents of South and West Texas and to migrant and seasonal farm workers throughout Texas.

1-915-585-5100

**Community Justice Program (San Antonio)**

Providing free neighborhood-based legal services to individuals who may not otherwise have access to the legal system.

[sanantoniobar.org/index.cfm?pg=Applying\\_For\\_Aid](http://sanantoniobar.org/index.cfm?pg=Applying_For_Aid)

**Fee-for-service lawyers**

This is an American Bar Association-sponsored website that provides information about how to find a lawyer in each state. It also has information about legal resources, how to check whether a lawyer is licensed, and what to do if you have problems with a lawyer.

[findlegalthelp.org](http://findlegalthelp.org)

## Accounting help

**American Institute of CPAs**

Find a local certified public accountant.

[us.aicpa.org/forthepublic/findacpa.html](http://us.aicpa.org/forthepublic/findacpa.html)



**Find this and the rest of the reports in the series at [protecttheirmoneytx.org](https://protecttheirmoneytx.org)**

**For more information on the work of AARP in Texas, visit [aarp.org/tx](https://aarp.org/tx)  
To learn more about Texas Appleseed, go to [texasappleseed.org](https://texasappleseed.org)**