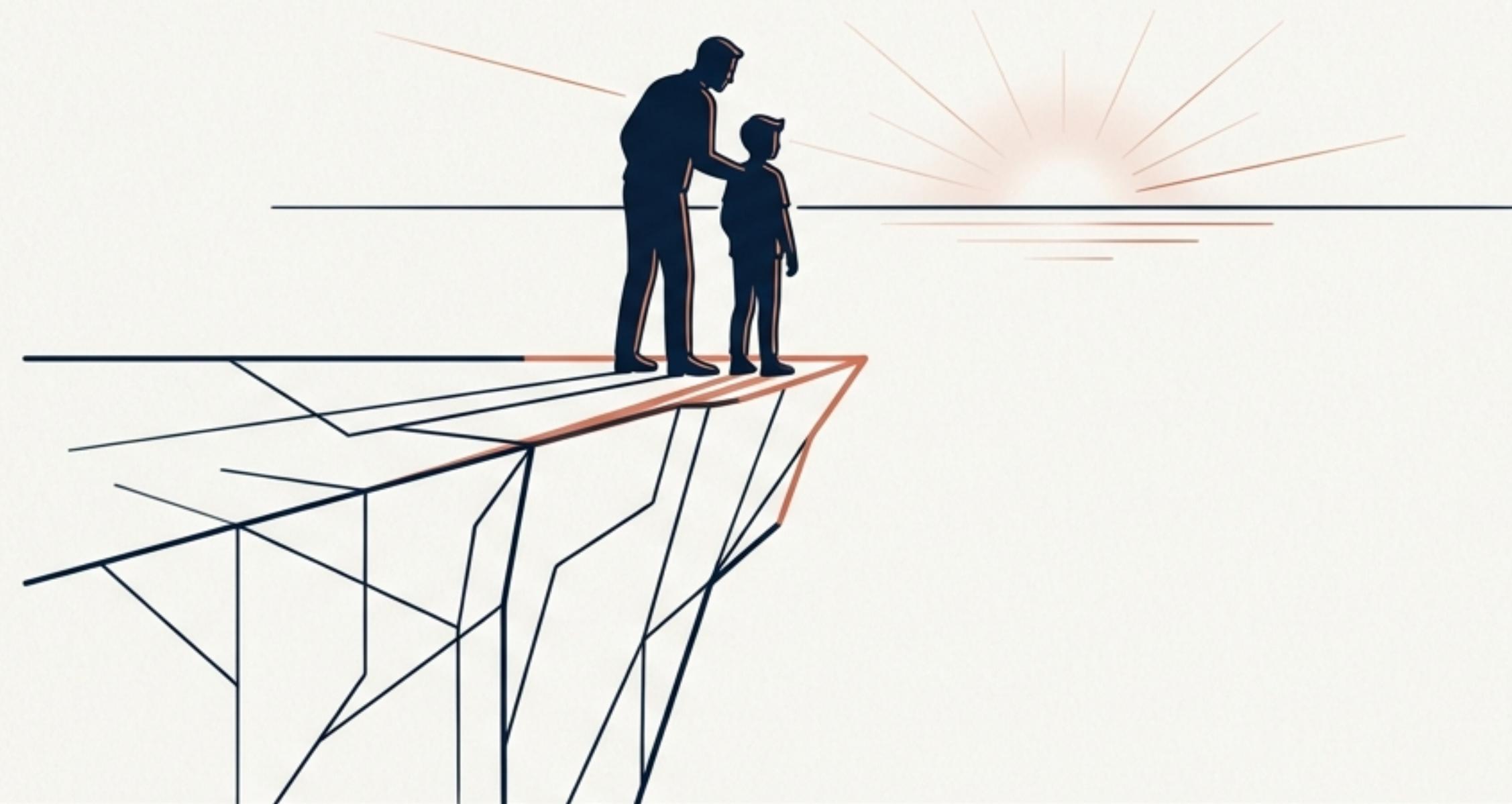


The Legal Cliff at Eighteen

Navigating Adulthood, Capacity, and Guardianship Laws in Missouri



A guide for parents preparing for the transition to adulthood.

The Day You Become a Legal Stranger

11:59 PM: Parent & Natural Guardian



12:00 AM: Legal Stranger

You wake up the same parent. They wake up the same child. But at midnight on their 18th birthday, a legal switch flips. In the eyes of Missouri law, your authority as a 'natural guardian' vanishes instantly. You become a 'third party' to your child's life.



Medical Info Access



Account Discussions



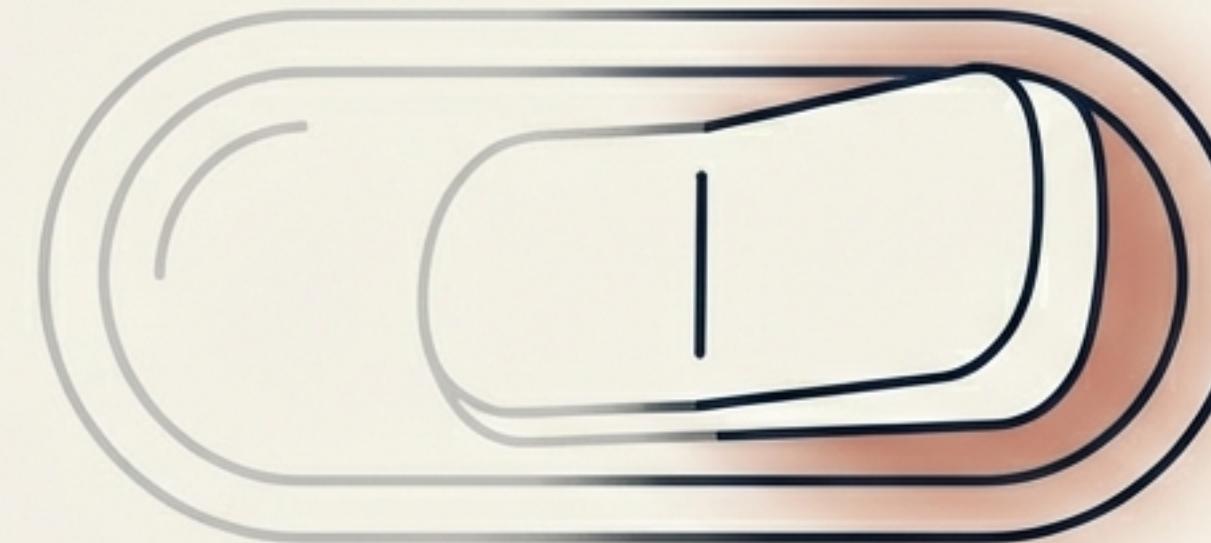
Grades & Discipline



Social Security Actions

The Presumption of Competence

GUARDIANSHIP



INDEPENDENT

Missouri law presumes every 18-year-old is **competent** and **independent** unless a court says otherwise.

This presumption is automatic.

Key Insight

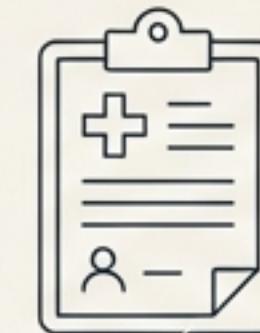
It **does not matter** if the child has Down syndrome, is on the autism spectrum, or cannot balance a checkbook. The default position of the law is independence.

OVERTURNING THIS PRESUMPTION REQUIRES "CLEAR AND CONVINCING EVIDENCE" IN A COURT OF LAW.

Permission to Know vs. Power to Decide

Federal
Privacy Law

HIPAA



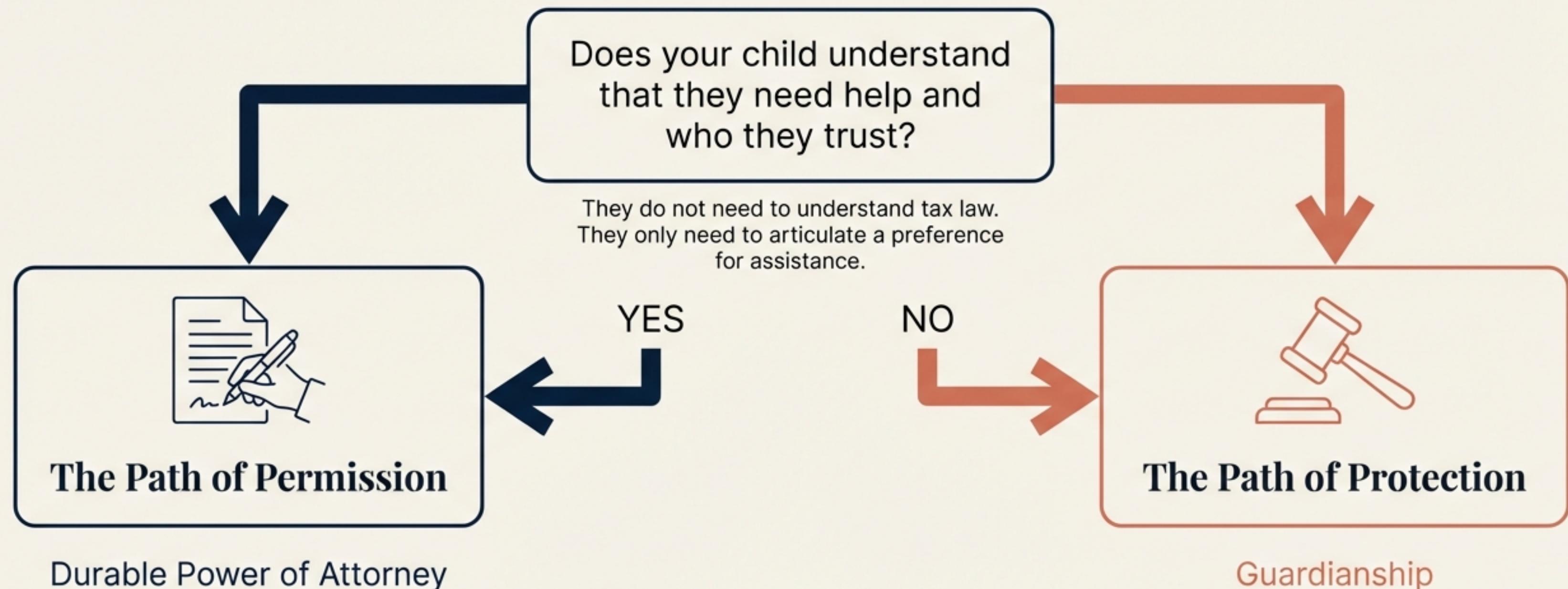
Even if your child makes their own decisions, you cannot help them if you are locked out of the loop.

The Solution: HIPAA Authorization

- Creates a standalone exception to the federal privacy wall.
- Flexible: Can be broad (all records) or narrow.
- Essential for high-functioning adults or college students.

“It grants the right to access information without taking away the right to make decisions.”

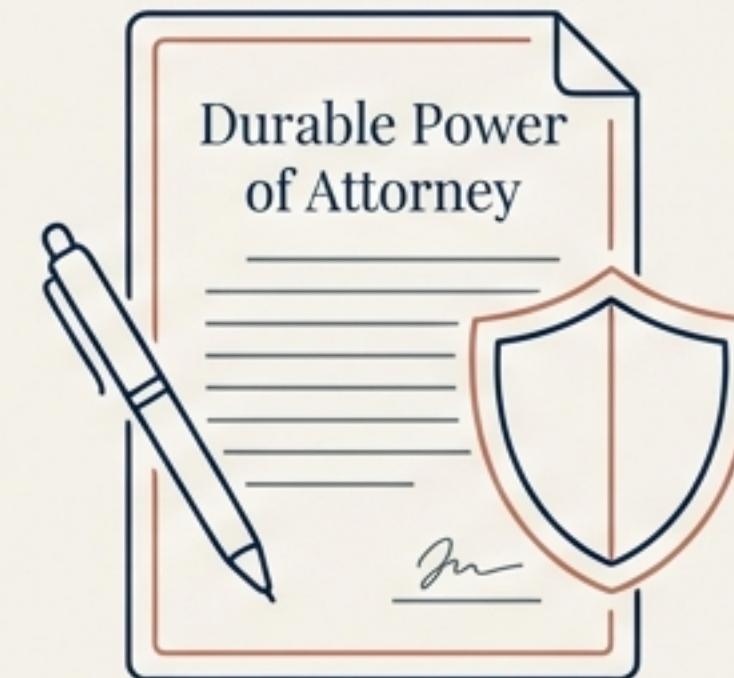
The Fork in the Road: Capacity



Path A: Private Permission (Financial)

- **Mechanism:** A voluntary delegation. The child (Principal) appoints the parent (Agent).
- **Key Distinction:** The child acts **WITH** help. They are not stripped of rights.
- **Scope:** Banking, Medicaid, Social Security, Real Estate.

The Missouri Requirement: Durability Language. The document must explicitly state that authority continues upon incapacity. Without this specific clause, the document fails exactly when you need it most.

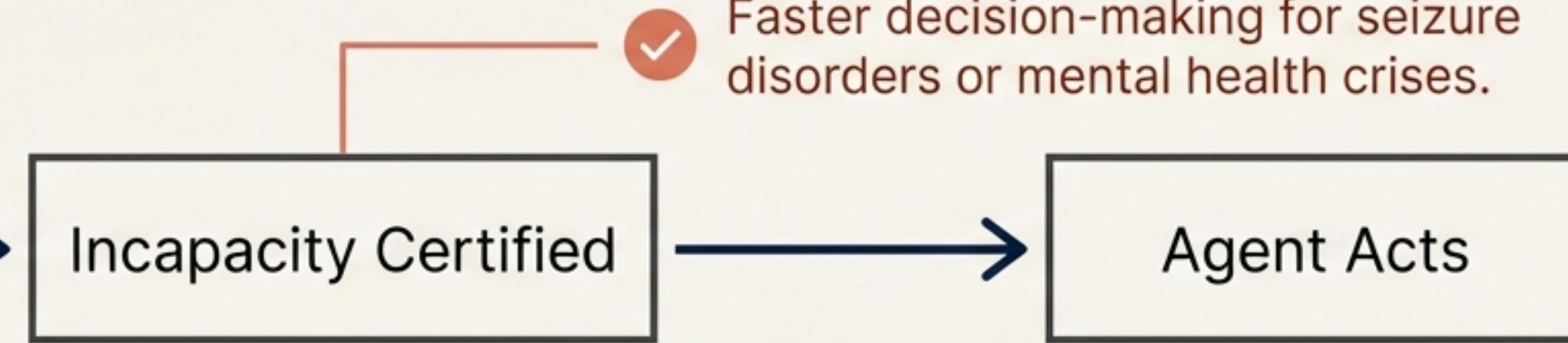


Path A: Medical Authority in Crisis

The Default Rule



The One-Physician Opt-In



Missouri separates medical from financial authority. You can draft the Healthcare Power of Attorney to require only one physician certification. This checkbox is critical.

The Limits of Permission



A Power of Attorney is toothless without cooperation.

Medical Refusal

If the child refuses necessary medication or treatment, an agent cannot force compliance.

Housing

If the child refuses safe housing or intervention, a Power of Attorney cannot compel them to move.

Exploitation

If the child is being used financially but refuses to revoke the bad actor's access, the agent's powers are limited.

An agent cannot force the principal to act. If safety risk is high and cooperation is low, the courts must become involved.

Path B: Guardianship is a Lawsuit



Inter torned the hard truths:
It is not a form. It is a legal process.

- Public Record: It takes place in open court.
- Representation: The court appoints a guardian ad litem (attorney) for the child.
- Evidence: Requires clear and convincing medical evidence.
- The Effect: Transfers civil rights from the Ward to the Guardian. The Ward becomes legally similar to a minor regarding contracts, voting, and marriage.

The Weight of State Oversight

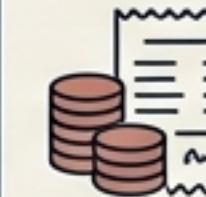


Guardianship is a relationship with the State, not just the child.



Annual Reports

Must describe the ward's health and living situation every year.



Financial Settlements

Conservators must account for every single dollar spent.



Court Approval

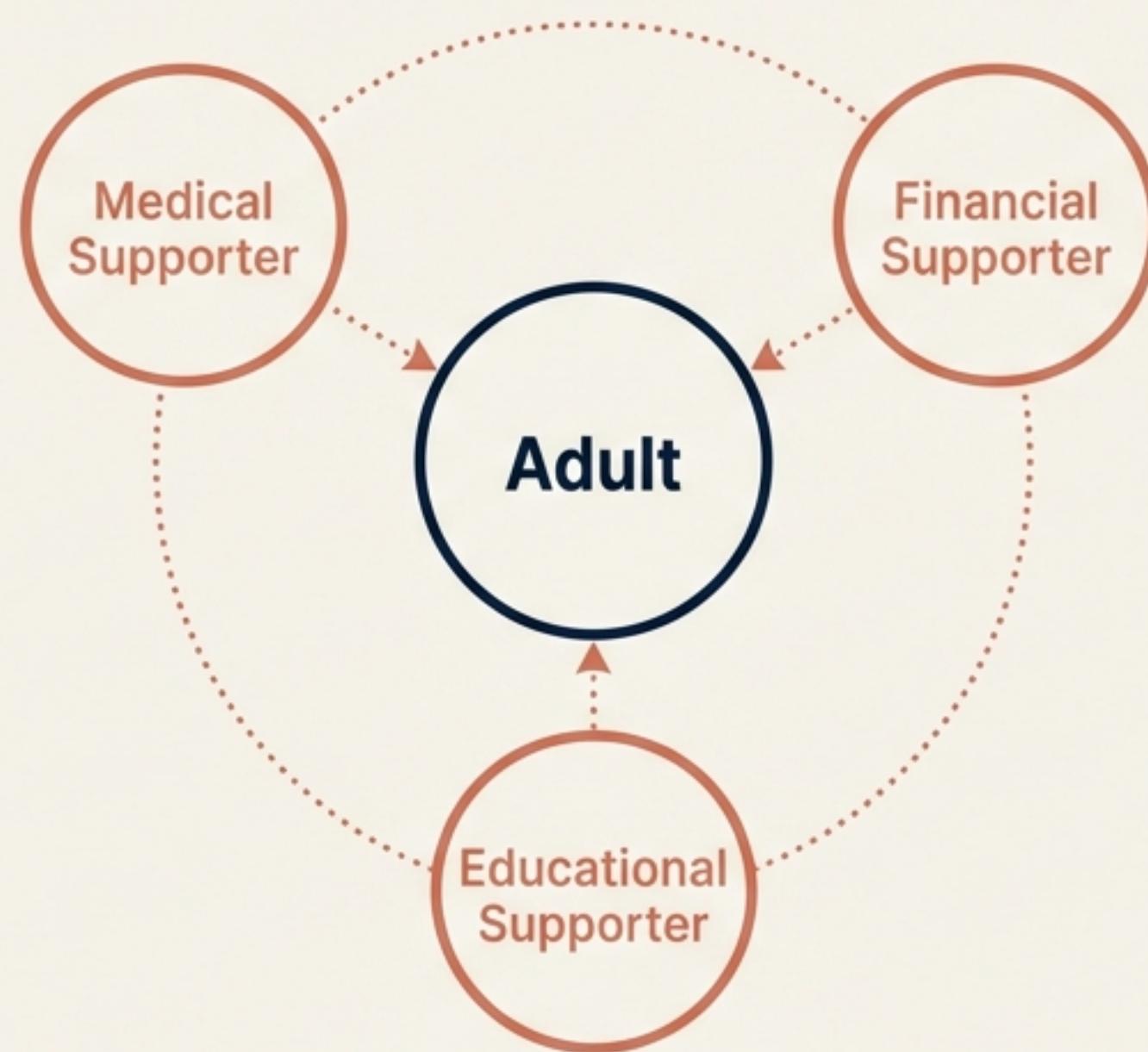
Large expenses often require permission in advance.

The Legal Standard: "The Least Restrictive Alternative."

Missouri judges must deny guardianship if a POA would suffice.

The Emerging Middle Ground

Supported Decision-Making



How it works: The adult remains the decision-maker but utilizes a structured team to gather info and weigh options.

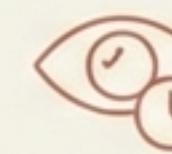
- No removal of civil rights.
- Builds self-determination skills.
- Increasingly recognized by Missouri courts and schools.

Choosing the Right Tool

Power of Attorney

-  Private & Voluntary
-  Low Cost
-  Child Retains Rights
-  No Court Supervision

Guardianship

-  Public Court Order
-  High Cost
-  Rights Removed/Transferred
-  Annual Court Oversight

The Devil is in the Details

Artificial Nutrition & Hydration

Missouri is strict. An agent CANNOT authorize withholding tube feeding unless explicitly granted this authority in writing.

Successor Agents

Parents age. The documents must name who is next in line if you cannot serve.



Durability Clause

Ensure the document explicitly states it 'survives disability.' Without this, it expires when capacity is lost.

Do Not Wait for the Birthday



Age 17.5

Start the conversation.
Assess capacity. Ask: "Can
they explain who they trust?"



Age 17.9

Draft documents (POA) or
gather medical affidavits
(Guardianship).



Age 18 (Midnight)

Sign documents before a
notary OR
File Petition with the court.

**Do not wait for an ER visit to discover you are a "third party."
Courts move deliberately; crises happen instantly.**

Protection with Dignity



The goal is not control. It is ensuring your child has support while retaining the dignity they deserve.

Eighteen is a legal boundary, but it doesn't have to be a wall. With the right plan, parents remain involved, and adult children remain safe.

Plan Now