

Turning 18 in Virginia

What Individuals with Disabilities Need to Consider



Turning 18 is a big deal for all individuals. **An 18-year-old is legally considered an adult in Virginia.** Therefore, when your child turns 18, he/she is the person that makes legal, financial, medical, and educational decisions in his/her life. For some individuals with disabilities, this will not be an issue. Others may need support.

Below are some things that you should consider as your loved one turns 18.

- **Talk to your child's pediatric physicians about transitioning to adult physicians.** Many pediatric providers will stop seeing a person once they reach 18 or in some cases 21.
- **If your child is a male, he must register with the Selective Service, even though he has a disability.** Register online here: <https://www.sss.gov/register/> or print off a registration form.
- **Get a valid ID.** Formal identification is important for adults. This could be a passport, driver's license, or DMV issued photo identification card. As of May 3rd, 2023, your child (and you) will need a **REAL ID** in order to travel domestically on an airline. Go to www.dmv.virginia.gov/#/ for more information.

You may also want to think about having your child:

- **Register to vote.** At age 18, an individual can register to vote in many places including the Department of Motor Vehicles, public libraries, the Department for Aging and Rehabilitative Services, Centers for Independent Living and online here <https://vote.elections.virginia.gov/VoterInformation>
- **Open a bank account.** This can help some individuals begin to establish credit and manage their money. If the individual will apply for and receive Supplemental Security Income (SSI) as an adult, he/she will need to have a bank account for direct deposits. Be advised that there are financial resource limitations associated with receiving SSI and home and community-based Medicaid Waivers. There are **legal alternatives if your adult child is unable to manage his own fiscal affairs**, including serving as your child's authorized representative and/or fiscal conservator.



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Depending on your child's support needs/eligibility, you may want to consider these things:

- **If your teen has an IEP, verify with your child's case manager or school counselor the anticipated "graduation", or exit date from high school.** If your child is not working toward a Standard or Advanced Studies Diploma, they can choose to remain in school up through the year of their 22nd birthday. Students with IEPs working towards a Standard or Advanced diploma must exit school upon completion of the diploma or by their 22nd birthday, whichever comes first.
- **Decide if you need to apply to be your child's Educational Representative.** An educational representative is a competent adult authorized to make educational decisions on behalf of an adult student. Some students will be able to make educational decisions on their own, while others will need assistance. Further information on the transfer of rights for students with disabilities in Virginia can be found in this Virginia Department of Education Technical Assistance Document.
http://www.doe.virginia.gov/special_ed/regulations/state/transfer_rights_students_disabilities.pdf
- **Decide if your child should apply for Supplemental Security Income (SSI).** SSI is a federally funded, needs-based disability program for adults and children which provides monthly cash benefits. The applicant must meet disability and income requirements to qualify. As an adult your child can apply as soon as the month after the child turns 18. Further information about SSI can be found at: <http://www.socialsecurity.gov/pgm/ssi.htm>.
- **Decide if you should apply for Medicaid for your child at your local Department of Social Services office.** Medicaid, a program funded by the federal and state governments is a health insurance program for eligible low-income adults, children, pregnant women, seniors, and people with disabilities. For further information about Virginia's medical assistance programs. Virginia has implemented federal Medicaid expansion so more people are eligible than ever before.. http://www.dss.virginia.gov/benefit/medical_assistance/index.cgi
- **If your child isn't already receiving services through a Medicaid Home and Community Based Waiver and/or is not currently on a waiting list for a Waiver, decide if your she should be screened for one of the Waivers.** Virginia's Medicaid Waivers provide long term services and supports that enable individuals with developmental and related disabilities to receive the services and supports they need at home or in the community rather than in an institutional setting.

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- The **Developmental Disabilities (DD)** waivers have the most comprehensive services but also have a lengthy waiting list. The **Commonwealth Coordinated Care (CCC)** Plus waiver has more limited services but does not currently have a waiting list. Eligibility requirements vary and applicants must meet disability and income/resource requirements to qualify. For further information go to: <http://dmas.virginia.gov/#/longtermwaivers> ***If your child is on a Medicaid Waiver waitlist, make sure to contact your waiver case manager when your child turns 18, and talk about how that affects their priority level on the waitlist.***
- If your child is able to provide **informed consent**, consider having him sign an **advance health care directive**, naming you as the **Representative for Health Care Decisions**. An advance directive is a written document in which people clearly specify how medical decisions affecting them (can cover both physical and mental health) are to be made if they are unable to make them, and/or to authorize a specific person to make such decisions for them. Most hospitals have blank forms and you can download forms on the Internet. The disAbility Law Center of Virginia www.dlcv.org also helps people with disabilities who want advance directives.
- **Look into connecting with the Virginia Department for Aging and Rehabilitative Services (DARS)**. DARS provides services such as pre-employment transition (Pre-ETS services) to students ages 14-21, vocational assessments, training, and employment supports. DARS also operates the Wilson Workforce Center which provides employment training opportunities for eligible individuals. More information can be found here <https://www.vadars.org/>
 - Sometimes individuals and families are worried about the **effect of work on benefits** such as SSI , Medicaid, and Medicaid waivers. However, there are programs in place that allow adults with disabilities to work and maintain critical benefits. You can contact vaACCSES at <http://www.vaaccses.org/> for free counseling on work incentives **BEFORE** your child starts working and develop a plan.
- **Investigate independent housing opportunities** such as vouchers programs available to those 18 and older, including a specific programs for those who receive waiver services or who are on the waiver waiting list
<http://dbhds.virginia.gov/developmental-services/housing/housing-choice-voucher>.



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- **If your child will be heading to college**, make sure to check out the disability support services that are available at the college or university being considered. Your child can also talk with his school guidance counselor about college options. Individuals who are pursuing an employment goal that requires college may be eligible for support from DARS.
- **Consider making an appointment with an attorney who is experienced with disability rights and law. Often elder rights attorneys have this expertise. Discuss how your child will make decisions once he turns 18.** Advanced care directives for health care decisions was mentioned above. If he needs more assistance, consider the level of support needed for decision-making. **Guardianship and alternatives to guardianship** are options. A *guardian* is a person appointed by a court who is responsible for the personal affairs of an incapacitated person, and for making decisions for that person. An individual under full guardianship loses their civil rights, including the right to vote, enter into contracts, marry, and more. It is an option that is certainly needed for some individuals, but you may want to consider less intrusive alternatives first so that your child can exercise his or her level of maximum independence.

An **alternative to guardianship** is any legal tool, social service, natural support, community resource, or government program that does not lead to FULL guardianship. Alternatives to guardianship include a limited guardianship for certain decisions (i.e., for health care decisions if an advanced care directive is not an option), Powers of Attorney, Living Wills, Representative Payees, etc. You may want to research **Supported Decision-Making** options. With a supported decision-making plan, your child receives support to make decisions from those close to him, including you, if that is what you and your child want. Many people with disabilities, even significant disabilities are capable of making decisions with help and guidance and therefore may not require guardianship.

- **Discuss your current estate plan and how you have provided for your child at your death.** If you believe that your adult child will utilize Medicaid, SSI, or other governmental subsidies, discuss a Special Needs Trust (SNT) and/or an ABLE account with the attorney. These tools can help prevent Medicaid and SSI financial disqualification. Further information about SNT and ABLE can be found at: <http://www.specialneedsalliance.org/>. *Ask other family members if their estate plans include the possibility of any assets/resources coming to your child.* Financial gifts to your child from well-meaning family members, upon their death or before, can jeopardize your child's eligibility for governmental benefits (i.e. Medicaid, SSI, etc.) It is important that you discuss these things with a legal advisor to plan accordingly.

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