

Guardianship and Alternatives to Guardianship

Presented to:



Presented by: **Jayme Levin-Muriel**

October 23, 2025

SPAIN, SPAIN & VARNET P.C. *has joined*

HAHN  LOESER

200 West Madison Street, Suite 2700 | Chicago, Illinois 60606

PH: (312) 637-3000 | FAX: (312) 637-3001

Website: www.hahnlaw.com



Contact Us



Jayme Levin-Muriel
Of Counsel

jlevin-muriel@hahnlaw.com

312.637.3002

For Our Monthly Newsletter: tmiroballi@hahnlaw.com

A wooden gavel with a gold band is positioned diagonally across the frame, resting on a stack of red leather-bound books. The background is a blurred pattern of similar books, creating a sense of depth and legal authority. The gavel's head is dark wood with a prominent gold band, and its handle is also dark wood. The books are thick and have a rich red leather cover with gold-colored decorative elements on the edges.

Guardianship and Alternatives to Guardianship

CHICAGO | CLEVELAND | COLUMBUS | FORT MYERS | NAPLES | SAN DIEGO

When Is Guardianship Needed?

- An “adult”
- Presumed competent
- Parent has no legal authority



What are Your Options?

- **Guardianship**

- Most Restrictive
 - Court monitored

- **Power of Attorney**

- Requires Competency
- Revocable



- **Trusts/Joint Accounts**

- 1st/3rd Party Trusts
- Manageability

- **Supported Decision Making**

- Informal agreement w/family or trusted friend to help with decisions but not make them

Guardianship

- **Types**

- Person
- Estate

- **Levels**

- Plenary
- Limited



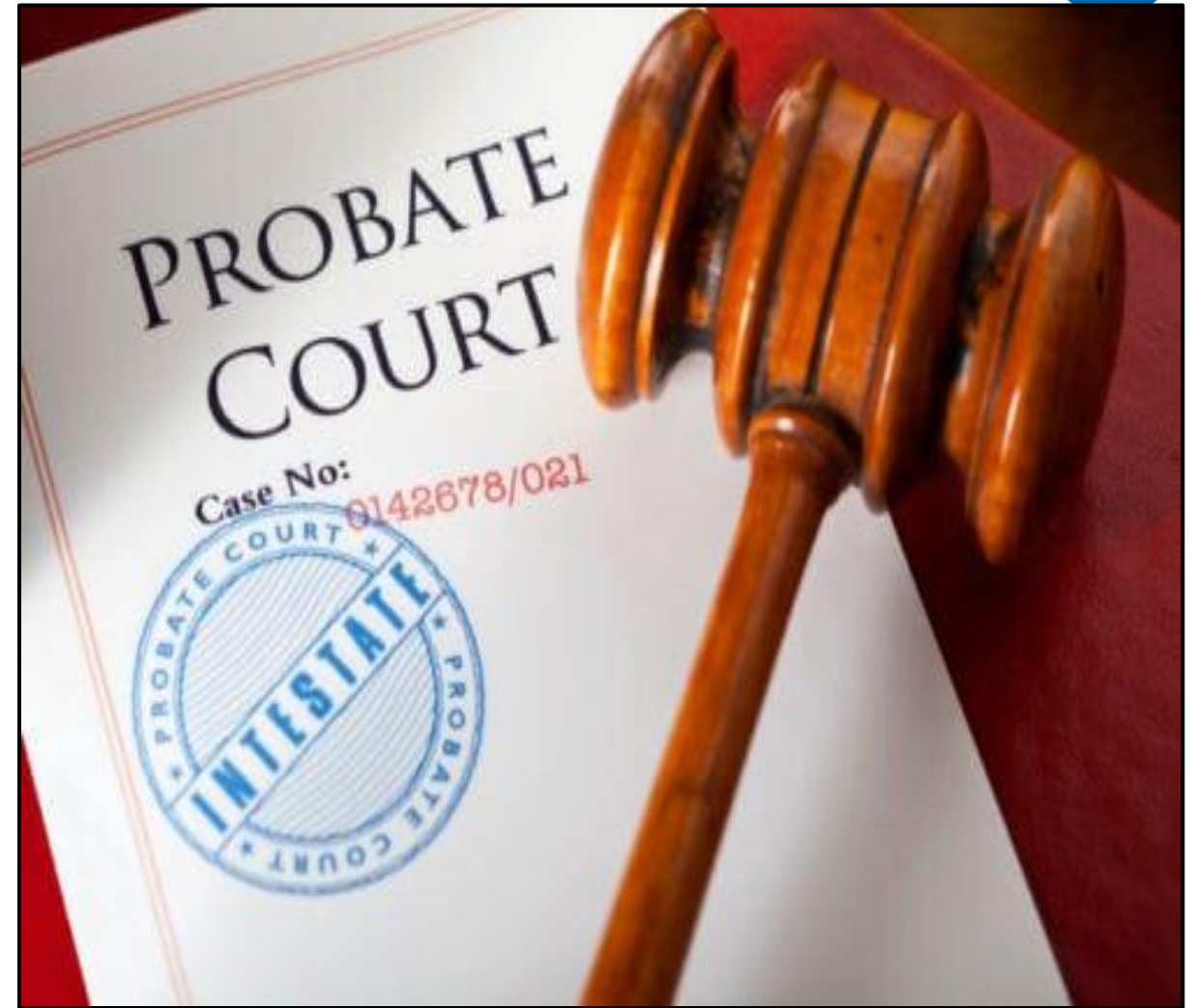
Are You Eligible to Act as Guardian?

- Before Appointment
 - Are you Qualified?
 - 18 +
 - Resident of the U.S.
 - Not adjudicated as disabled
 - No felony convictions



Probate Proceedings

- Petition
- Physician's report (review carefully prior to filing petition): must be completed by physician (3 mos.) but can be completed by psychologist (1 yr.) if learning disability
- Service of Summons/Notice
- Guardian ad Litem
- Hearing
- Letters of Office



What Decisions Can You Make?



YES

- Residential placement (in general)
- Medical Treatment (in general)
- Outings
- Interactions
- Finances
- Property



NO

(COURT AUTHORIZATION REQUIRED)

- More restrictive facility
- Foregoing life-sustaining treatment
- Sterilization
- Estate planning



Legal Requirements

Tip- keep Letters of Office handy on smartphone, copies in car

- After Appointment
 - Required training within the first year
 - Annual Report
 - Accountings (for estates)
 - Restoration if improvement



Guardian

Most appropriate for Individuals who:

- Cannot live independently and require someone else to make decisions for them
- Are at risk of being exploited
- Group home is obligated to contact guardian but not POA for decisions

Power of Attorney

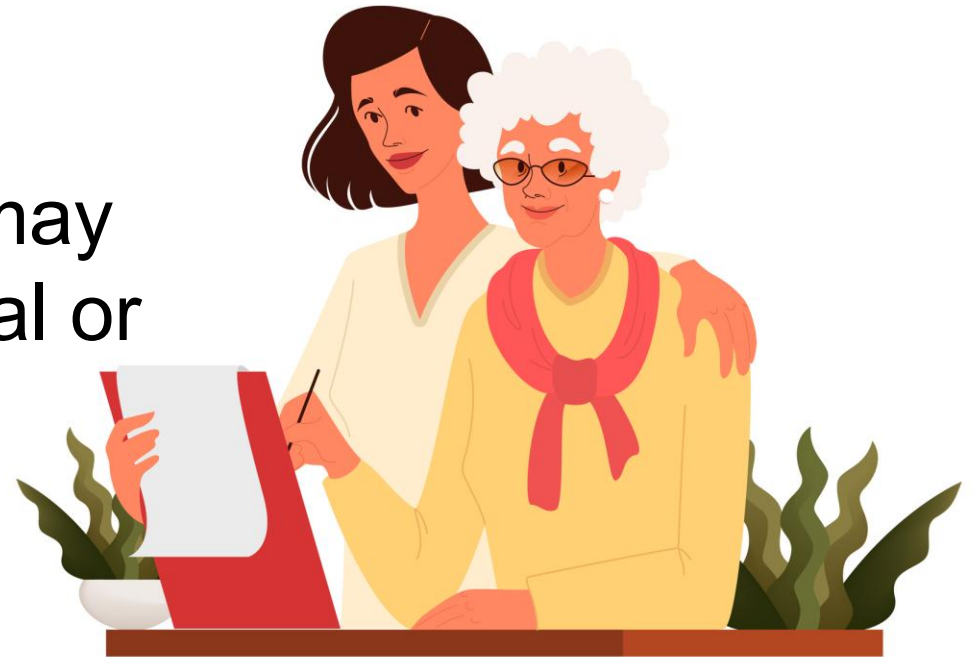
- Healthcare
- Property
- Advocacy
- A contract between the Principal (the individual) and Agent (the person assisting the individual)
- Revocable by the individual (Principal > Agent)
- If disagreements, Principal's decision prevails
- Not court monitored



Power of Attorney- continued

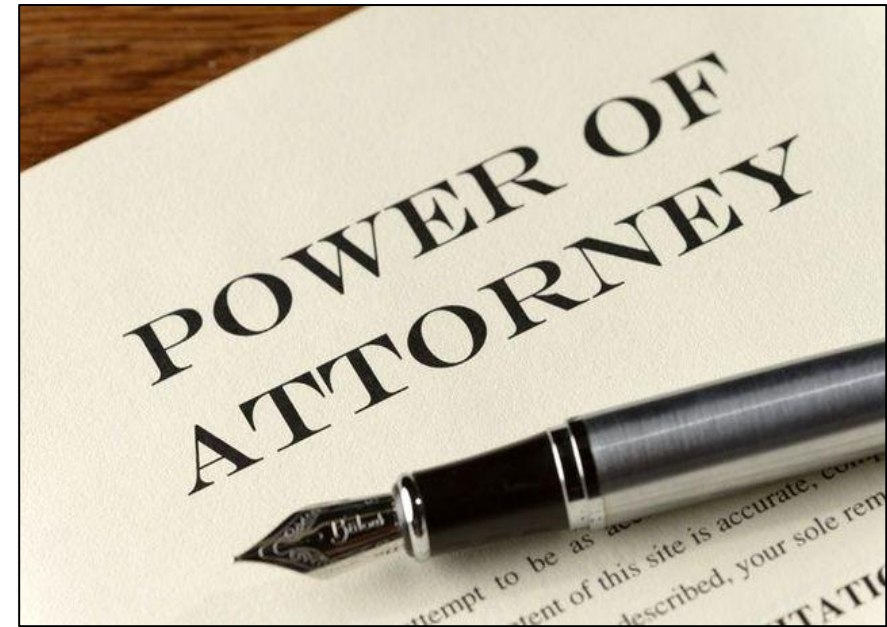
Most appropriate for individuals who can:

- Make their own decisions but benefit from someone helping them make the best decisions
- Live independently or with family but may not be able to make significant financial or health care decisions on their own



POA - Healthcare

- Effective date
- Medical Treatments
- Life Sustaining options
- Organ Donation
- Only one Agent at a time
- Needs only one witness
- Legal standing to act for Principal



POA – Property

- Effective date
- Financial transactions (limited or broad)
- Only one Agent at a time
- Scope of authority – limited or broad
- Needs one witness and notary
- Legal standing to act for Principal



POA - Advocacy

- To allow agent access to IEP and for post high school planning
- PAS Agencies, PUNS list, DORS
- Facility placement





Supported Decision Making

Where guardianship is not necessary:

- Allows an adult with intellectual and developmental disabilities who needs help making decisions (the Principal) to name a “supporter”
- Supporter can be family member or trusted friend

Supported Decision Making - *continued*



- Supporter cannot be:
 - Employer or employee of Principal
 - Person paid for support services or related agency
 - Person on HCWR*, convicted of fraud, assault, theft

* Healthcare Workers Registry

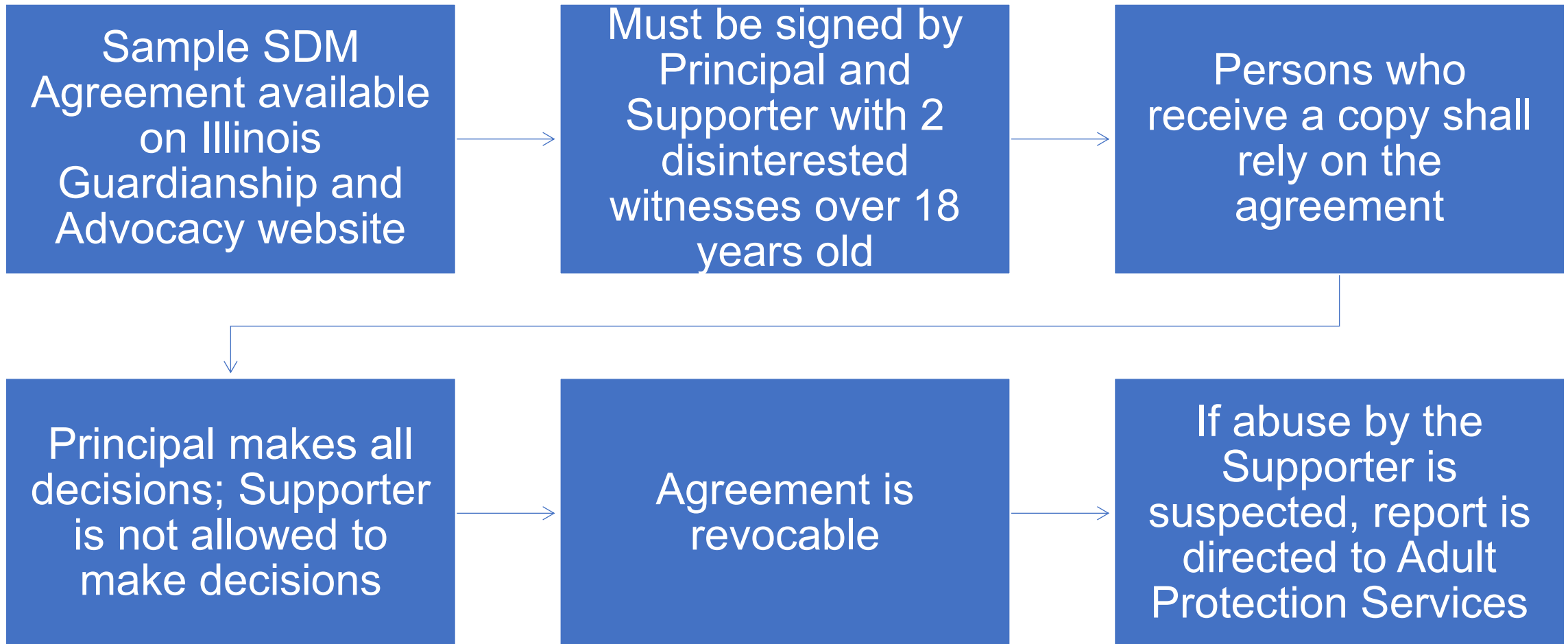
Supported Decision Making - *continued*

Requires:

- Comprehension of need for help making decisions
- Appreciation of the importance of making good decisions
- Reasoning ability to evaluate risk and benefit of matter to be decided
- Choice - ability to communicate decision after help



Supported Decision Making - *continued*



What are Your Options with Social Security Funds?



- **Representative Payee**
 - Social Security, SSDI and SSI
 - Beneficiary incapable of managing payments
- **Do Nothing**
 - Individual must make all their own decisions



Representative Payee

- Appointed by Social Security Administration (SSA)
- Reports to SSA annually
- Agent under POA for property is not respected by Social Security Administration
- Deposits SSI and SSDI checks
- Tracks and reports where checks are deposited and how the money is spent
- Assists individual in paying for his/her needs





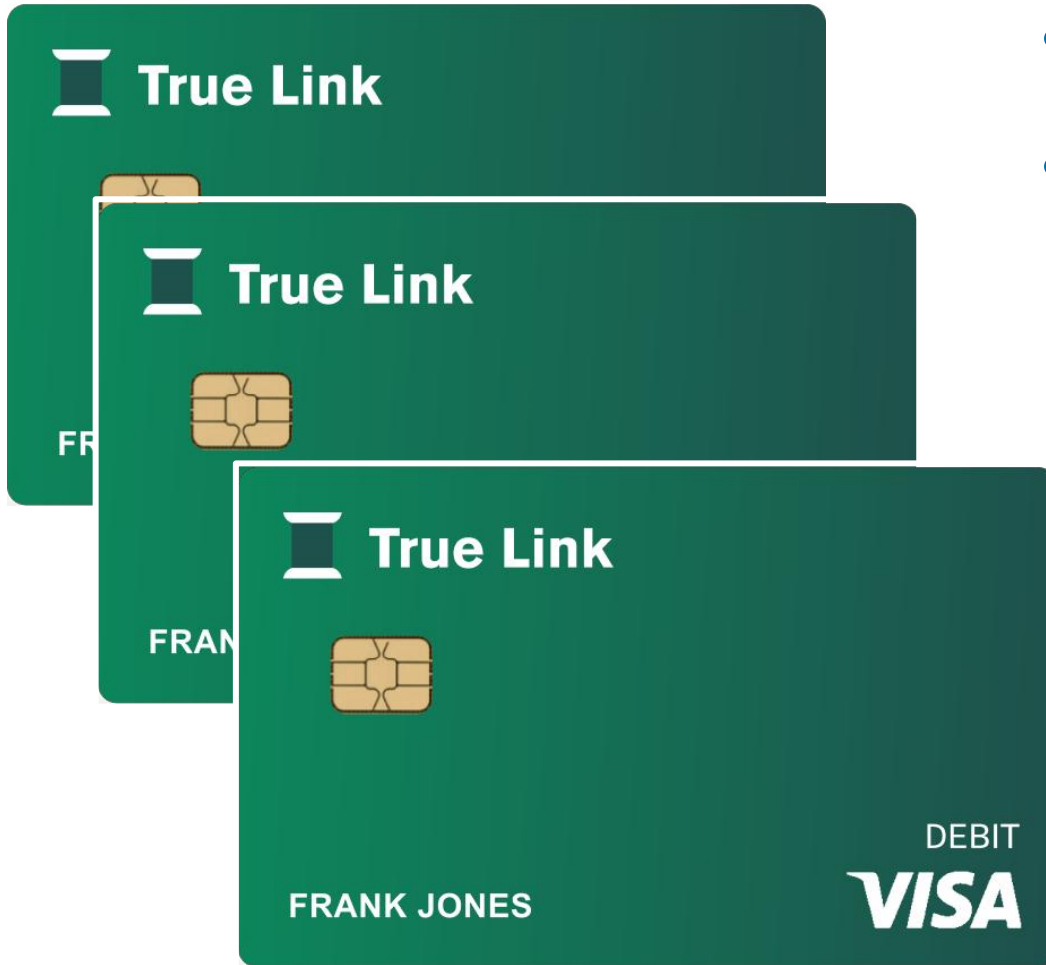
True Link Card- use with SSI Rep Payee Accounts

Different from:

- Credit Cards
- Debit Cards
- Gift Cards



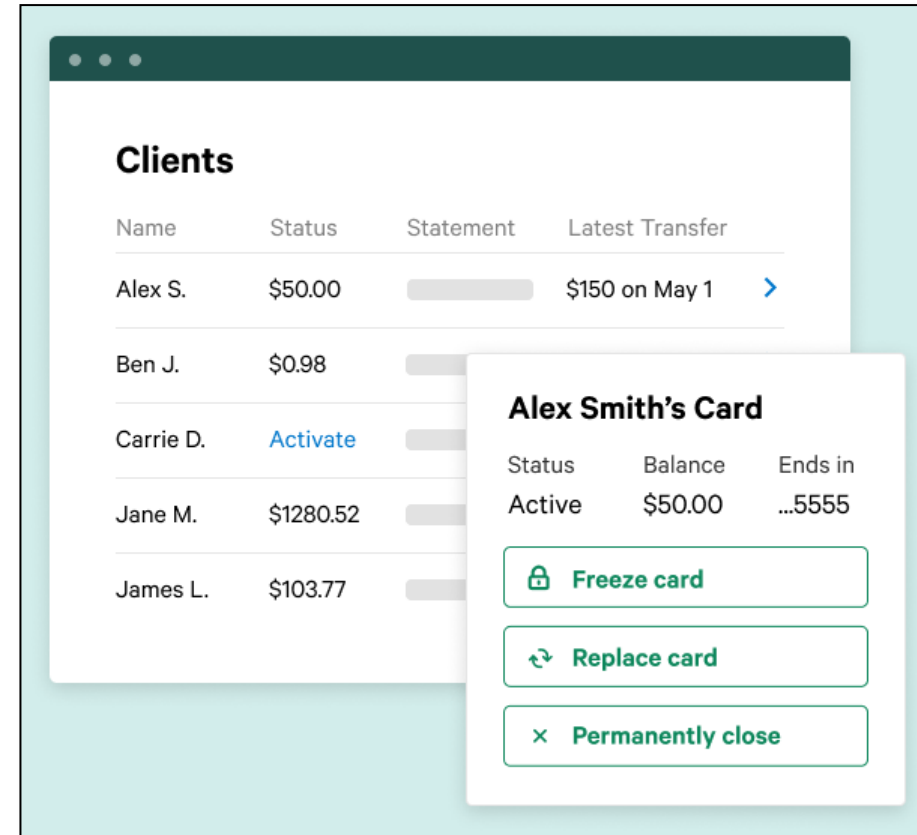
True Link Card



- Reloadable VISA card
- Customizable:
 - Block/limit-cash
 - Specific Vendors
 - Non-transferrable

True Link Card

- Parent/Rep Payee can be “Card Administrator”
- Receive alerts
- Receive monthly statements



ABLE Account as Alternative to Guardianship:

- For small amount of money
- Control for competent beneficiaries- debit card
- Allows for Authorized representative
- Allows accumulation of wages and resources over time
- Alternative to spend down
- Avoids 1/3 reduction rule for housing expenses





Who can be an ABLE account Authorized Representative:

- 1. Authorized Agent under Power of Attorney (person or entity)
- 2. Legal Guardian (person or entity)
- 3. Spouse
- 4. Parent
- 5. Sibling
- 6. Grandparent
- 7. Representative payee appointed by the Social Security Administration (person or entity)

Achieving a Better Life Experience (ABLE) Act of 2014

- SSI eligibility temporarily suspended at \$100k until ABLE account depletes to under \$100k- don't have to reapply
- Medicaid eligibility at 529 limit (\$500k IL)
- One account per person
- Disability prior to 26 currently; prior to 46 beginning 2026
- Annual Contribution Limit: \$19,000*(2025)
- **Additional earned income contributions allowed through ABLE to Work Act; max \$15,060 in 2025*





Information for Enrollment in an Illinois ABLE Account

1. Illinois ABLE sign-up: IL ABLE Accounts for Individuals with Disabilities | IL ABLE (illinoisable.com)
2. ABLE National Resource Center: <http://www.ablenrc.org>
3. National ABLE Alliance:
<https://savewithable.com/il/home.html>

Thank You!





SPAIN, SPAIN & VARNET P.C. *has joined*

H A H N  L O E S E R

200 West Madison Street, Suite 2700
Chicago, Illinois 60606

PH: (312) 637-3000 | FAX: (312) 637-3001

Website: www.hahnlaw.com

To receive our **Monthly Newsletter**, please contact:
Tina Miroballi at tmiroballi@hahnlaw.com