


Protecting Aging Adults & Adults with Disabilities: Confronting the Guardianship/Conservatorship Crisis

Across the States: Families' Perspective &
Experiences
February 2021

Overview of Meeting Packet

- Part 1: Overview of Adult Guardianship/Conservatorship System
- Part 2: Across the States: Families Journey through Abusive Guardianships & Conservatorships
- Part 3: Informational Resources & Data
- Part 4: Request for Legislative Action & Justice

A person with short, curly white hair is seated in a wheelchair, viewed from behind. They are wearing a light blue hospital gown. The person is looking towards a white door with a window. The room has white walls and a metal stand is visible on the left. The overall lighting is dim and the image has a dark overlay.

Overview of Adult Guardianship/Conservatorship System

What is guardianship/conservatorship?

- Relationship created by state law
- Court gives one person/entity the duty and power to make personal/property decisions for another upon a finding the individual is not able to do so.
- Majority of states call it guardianship while a handful refer it as conservatorship

Who are the Guardians/ Conservators?

The court can appoint:

- Family members
- Willing friends
- Trained volunteers
- Professionals such as lawyers/professional guardians
- Corporate or governmental agencies-banks, private agencies

Who is subject to guardianship/conservatorship?

- Aging adults who have lost or partially lost the ability to make decisions due to dementia or other cognitive impairment
- Younger individuals with intellectual or developmental disabilities
- Individuals with mental illness, brain injury or substance abuse

What kinds of decisions do guardians/conservators make?

Depending on type of Guardianship/Conservatorship granted by the court:

- Health care
- Personal decisions (even relationships)
- Residential decisions
- Financial decision
- The court can limit guardianships/conservatorships rights

What is a “Fiduciary Duty”?

- Manages money, property, and financial investments for someone else.
- Must build and have high level of trust, confidentiality, accountability.
- Must act without conflict of interest or appearance of conflict.
- Guardians and conservators are fiduciaries.

Why is Guardianship/ Conservatorship supposed to be “a last resort”?

- Guardianships/conservatorships drastically erodes self determination, choice, and personal rights
- Double edged sword; constant, inherent tension
- Takes away fundamental rights such as:
 - Right to contract
 - Right to marry
 - Right to control and manage assets
 - Medical decision making
 - Residential choices
 - Right to vote
- Courts are supposed to seek/consider less restrictive options, but 99.99% of the time this does NOT happen!

Challenges with the Guardianship/ Conservatorship System

- Not One Guardianship/Conservatorship System but 51 Different Systems!!!
 - Differing Terminology, Requirements, Practices
- Inconsistent Court Oversight of Guardianship & Conservatorship Cases
- In most states – guardian submit annual report & accounting to court – but who oversees this?
- Families and dependent adults are at the mercy of the Judge and court system

How Guardianships/ Conservatorships become Source of Abuse

- Some guardians take advantage of appointment
- Breach of fiduciary duties
- Misuse income or assets for own purposes
- Abuse or neglect person
- Isolate from family and friends
 - Direct violation of Rights to Visitation, Communication and Interaction ([link to 2018 Legislative Fact Sheet by ABA Commission on Law & Aging](#))
- Exert undue influence and control
- Force unnecessary medications to manage and control vulnerable dependent adults under the color of law

Why Do We Know So Little About Abuse in Guardianship?

- Scant data & transparency issues: courts lack staff & technology to track
- Reports & accountings may not be filed
- Courts (APS, attorneys, court reporters, law enforcement) – lack training
- Case considered “closed”
- State & local practices vary
- Extent of court-APS-law enforcement interaction on possible abuse cases unknown
- Little coordination between state courts and SSA rep payee system

A map of the United States with several states highlighted in dark blue. The highlighted states include California, Nevada, Oklahoma, Michigan, Illinois, Indiana, New York, North Carolina, and Florida. The rest of the map is in a light gray color.

Across the States: Families Journey through Abusive Guardianships & Conservatorships

National: Articles Highlighting Guardianship/ Conservatorship issues

- Adult Guardianship and the Pandemic ([newsletter link](#))
- 1987 Associated Press series of articles on GUARDIANS OF THE ELDERLY: An Ailing System following its examination of 2200 randomly selected guardianship files (links to [Part 1](#); [Part 2](#); [Part 3](#); [Part 4](#))

California: Articles Highlighting Guardianship/ Conservatorship issues

- When a Family Matter Turns Into a Business ([LA Times 2005 article link](#))
- 'Ruling Over Someone' Has Paid Off Handsomely ([LA Times 2005 article link](#))
- Justice Sleeps While Seniors Suffer ([LA Times 2005 article link](#))
- Licensing of Conservators Urged at Hearing ([LA Times 2005 article link](#))
- Woman in California conservator case that led to legal reform ([LA Times 2007 article link](#))
- Reforms may face funding hurdle ([LA Times 2008 article](#))
- Conservatorship Of Elinor Frerichs & Alameda County Fact Sheet ([CEDAR & Libertas Media link](#))
- Civil Death of Martin Bui (CEDAR & Libertas media article links [Part 1](#); [Part 2](#); [Part 3](#))
- Legal Assistance for Seniors ([CEDAR & Libertas media article link](#))
- Judge appoints Casey Kasem's daughter as temporary conservator ([2014 CNN news article](#))
- Money-draining probate system 'like a plague on our senior citizens' ([OCR 2018 article link](#))
- When Conservatorship Goes Terribly Wrong ([Next Avenue 2020 article link](#))
- Opinion: Courts should not be a vehicle for elder financial abuse ([East Bay Times 2021 article link](#))

Colorado: Articles Highlighting Guardianship/ Conservatorship issues

- Adult Guardianship and the Pandemic ([newsletter link](#))
- How courts and guardians exploit the elderly and their estates and get away with it: "The Perfect Crime" ([CSINDY Jan 2020 article link](#))
- Court-appointed conservator accused of stealing from incapacitated persons she was supposed to protect: THE BIG FLEECE ([CSINDY April 2020 article link](#))
- Vulnerable Voiceless: Apparent elder abuse through the eyes of Gary Cummings ([2020 KRDO news article link](#))
- Another Step in Guardianship Oversight ([Law Week Colorado 2020 article](#))
- **SCAM ALERT:** How to Get Guardianship of a Parent: A New Online Course for Family Caregivers ([link to article](#))



Connecticut: Articles Highlighting Guardianship/ Conservatorship issues

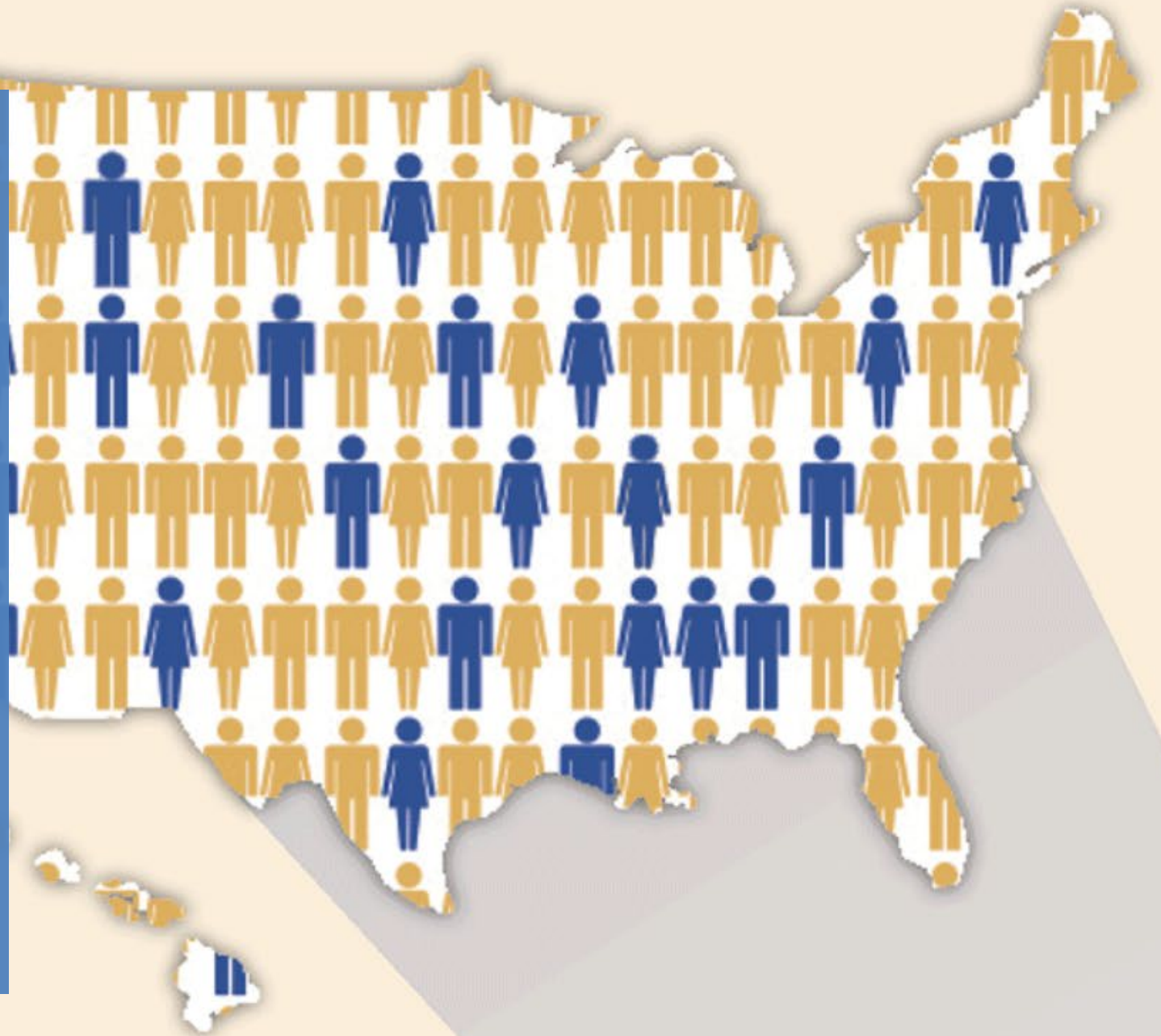
- The state's probate courts need to be fixed. Here's how. ([2019 Hartford Courant article link](#))
- Greenwich PD Probe Leads To Prison Sentence In Federal Scam Case ([2019 Patch article link](#))
- Probate Court Considers Added Protections To Curb Theft By Court-Appointed Guardians ([2017 Hartford Courant article link](#))

Click for
state-specific
information →

Disability Impacts ALL of us!

61 million
adults in the US
= 1 in 4

 People living with a disability
 People living with no disability



Florida: Articles Highlighting Guardianship/ Conservatorship issues

- Forced Assistance ([The Intercept 2020 article link](#))
- Judge deals Florida's new guardianship office big setback in Elizabeth Savitt case ([2019 Palm Beach Post article link](#))
- Post investigation: Where did judge married to guardian get so much cold hard cash? ([2019 Palm Beach Post article link](#))
- State of Florida sued for trafficking and abuse of elderly under guardianship ([2019 news article link](#))

Illinois: Articles Highlighting Guardianship/ Conservatorship issues

- Illinois Estate Guardians Receive a New Job: Guardianship Estate Planning No Longer Optional? ([2019 legal news article link](#))
- In Illinois group homes, adults with disabilities suffer in secret ([2016 Chicago Tribune article link](#))

Michigan: Articles Highlighting Guardianship/ Conservatorship issues

- Guardianship legislation: a timeline ([2019 Traverse City article](#))
- Area families caught in 'nightmare' of guardianship ([2019 Traverse City article](#))
- Guardians From Hell ([2018 magazine article](#))
- The Fortress: A Five-part In-depth Investigation by Gretchen Rachel Hammond (links to [Part 1](#); [Part 2](#); [Part 3](#); [Part 4](#); [Part 5](#))

" 'Alternatives...' implies that guardianship is the default approach, and that anything else is a special case. It gives credibility to guardianship.

Ending a guardianship is known as "Restoration of Rights." That means we should be eliminating the term "Guardianship" and using the correct terminology which is "Removal of Rights." It's not about granting a relative/professional authority to help a person, but mostly about taking away rights.

And the terminology grants guardianship recognition as the primary or default choice.

The question we should talk about is "how do we support this individual?" Not, "when do we remove his/her rights?"

We can no longer ignore the great incongruity of removing a person's rights to protect them."

– Dohn Hoyle
Veteran Advocate and Community Leader

New Mexico: Articles Highlighting Guardianship/ Conservatorship issues

- Who guards the guardians: A series by Diane Dimond ([5-part series 2016 article link](#))
- What Happens When a Guardianship Gets Contentious ([2018 AARP Magazine article link](#))
- New Mexico's Guardianship System Raises Serious Questions ([KRWG Public Media news article](#))

New York: Articles Highlighting Guardianship/ Conservatorship issues


- Guardianship Abuse Keeps 74 Year-Old Man From His 100 Year-Old Mother ([2018 article link](#))
- They Say Legal Guardians Ripped Them Off—and the State AG Let Them Down ([City Limits 2018 article link](#))
- 'I'm Petitioning ... for the Return of My Life' ([NYT 2018 article link](#))
- Brooklyn lawyers deciding Democratic ballot line for judicial seats get guardian, referee jobs from judges they review, records show ([2019 article link](#))
- Grand Jury Urges Overhaul of Legal Guardianship System ([2004 NYT article link](#))
- The Story of Bertha Shulklapper and her husband Manny Kornicki ([link to probate story post](#))

North Carolina: Articles Highlighting Guardianship/ Conservatorship issues

- North Carolinians describe guardianship as a 'sick, twisted process' ([CBS news article report](#))
- Guardianship reform after investigation hits 4 year mark ([ABC KTNV 2019 news article](#))
- Rethinking Guardianship ([link to stories of individuals](#))

Ohio: Articles Highlighting Guardianship/ Conservatorship issues

- Ohio's Guardianship Laws Leave Seniors Vulnerable to Abuse ([news article link](#))
- Ohio Judge Set to Rule on Forlorn Husband's Racketeering Lawsuit ([2019 news article link](#))
- Protection of vulnerable seniors a growing challenge in Ohio ([2019 news article link](#))
- What can Ohio learn from other state guardianship programs? ([2019 news article link](#))

A field of dark blue umbrellas, with one yellow umbrella standing out in the center. The umbrellas are arranged in a dense, overlapping pattern, creating a sense of depth and repetition. The yellow umbrella is the focal point, positioned slightly to the right of the center.

We guesstimate that there are probably **over 3 million** people in guardianship nationwide, but there are no exact statistics nationwide according to the U.S. Government Accountability Office (GAO).

[New York State Guardian and Fiduciary Services \(GFS\) – Part 36](#)
(website)

Rhode Island: Articles Highlighting Guardianship/ Conservatorship issues

- Elder abuse in R.I.: When a 'guardian' becomes a fiscal predator ([2018 Providence Journal article link](#); [full email copy link](#))

Texas: Articles Highlighting Guardianship/ Conservatorship issues

- How judges, probate attorneys, and guardianship orgs abuse the vulnerable ([2012 San Antonio Current article link](#))
- Fraud In Texas Probate ([link to combined posts and articles in Pinterest](#))
- Who Guards the Guardians? ([2016 Texas Observer news article link](#))
- Half of Texas' Adult Guardianship Cases Violate Reporting Rules, Official Testifies ([2018 news article](#))
- Congress Attacks Elder Guardianship Abuse After Criminal Investigation ([2019 news article](#))

Virginia: Articles Highlighting Guardianship/ Conservatorship issues

- Unguarded: A three-part series on how Richmond's guardianship process leaves vulnerable people unprotected ([2019 Richmond Times article link](#))
- The Strange Political Silence On Elder Care ([2019 Washington Monthly article link](#))

Washington: Articles Highlighting Guardianship/ Conservatorship issues

- How A Washington Elder Fell Into Guardianship, And How It Can Happen To You ([2019 Northwest Public Broadcasting article link](#))
- The Strange Political Silence On Elder Care ([2019 Washington Monthly article link](#))



Part 3

Informational Resources & Data

Informational resources and data on guardianships/conservatorship abuse by Family Advocates

- Informational resources and data on guardianships/conservatorship abuse
 - [Americans Against Abusive Probate Guardianship](#)
 - [Center for Estate Administration Reform \(CEAR\)](#)
 - [Coalition for Elder & Disability Rights \(CEDAR\)](#)
 - [Spectrum Institute: Disability and Guardianship Project](#)
- Alternative to guardianships/conservatorships
 - [Disability Voices United: Self-Determination & Supported Decision-Making Advocacy](#)
 - [Importance of Person-Centered Planning](#) (video presentations)

Documentaries & clips highlighting Guardianship/ Conservatorship issues

- Documentaries & articles highlighting Guardianship/Conservatorship issues
 - [Framing Britney Spears documentary by FX \(NYT article\)](#)
 - [Dirty Money \(S2E6: Guardianship, Inc.\) – article](#)
 - [BROKEN-the fallout from Guardianship \(documentary\)](#)
 - [The Guardians \(documentary film by Billie Mintz\) – trailer](#)
 - [Abuse and exploitation of Michigan's vulnerable by the Oakland County Probate Court \(YouTube video link\)](#)
 - [Who's Guarding the Guardians Part 1 \(YouTube video link\)](#)
 - [Who's Guarding the Guardians Part 2 \(YouTube video link\)](#)

Family interviews and Guardianship Abuse Video Clips by AAAPG

- Americans Against Abusive Probate Guardianship's (AAAPG) Dr. Sam Sugar interviews with family & victims from various States regarding guardianship abuse:
 - Close Family Victim Video Utah 12/30/2018 ([YouTube video link](#))
 - Victim Video OHIO Dr. D. Saghafi, Neurologist ([YouTube video link](#))
 - Victim Video--Ian Ornstein Arizona ([YouTube video link](#))

A hand holding a wooden gavel over a sound block on a table. The gavel has a wooden handle and a brass head. The sound block is a dark, circular wooden block. The background is a blurred courtroom setting with a person in a white robe.

Part 4

Request for Legislative Action & Justice

Request for Legislative Action & Justice

- Coordinated Oversight between Federal & State Court Rulings regarding guardianship/conservatorship and protection of rights of the ward/conservatee and families/whistleblowers
- Alternative to guardianships/conservatorships as first choice
- Reform & investigation of financial abuse, exploitation, and isolation of aging adults and dependent adults with disabilities
- Preserving the rights of the individual and reuniting with families for those who have been taken by the system
- Update Legislative Policies & Oversight
 - End isolation & abuse
 - Support person-centered plans
 - Respect Self-Determination & Supported Decision Making
- Seek a congressional recommendation to the President that he make an Executive Order asking the US DOJ to prioritize investigations of abuse of dependent adults' rights by courts as RICO/Public Corruption, and clarifying the definition of the limit of how a state may not remove constitutional rights but must instead seek different solutions.

Transparency & Accountability of Guardianships/ Conservatorships

1. How many guardians are there?
2. How many guardian agencies are there?
3. How many wards does each professional guardian and agency have?
4. Who are the guardians with the most wards and what are the numbers?
5. The names of the nursing homes and care facilities and agencies that are being paid to care for the wards and how many each has.
6. What professional guardians use which facilities?
7. What facilities receive the most money for housing and/or caring for wards?
8. How many wards are there living in unlicensed facilities?
9. How many homes have been sold by each professional guardian?
10. The names of the real estate each professional guardian has used.
11. How often do probate investigators visit the wards and what is the amount of time in between visits?