

## Agenda

### Utah Working Interdisciplinary Network of Guardianship Stakeholders (WINGS)

December 14, 2016

12:00 to 2:00 p.m.

Administrative Office of the Courts

Scott M. Matheson Courthouse

450 South State Street

Judicial Council Room, Suite N31

12:00 p.m.	Welcome, minutes, meeting agenda		David Connors
12:05 p.m.	Annual Assessment: <ul style="list-style-type: none"><li>• Adult Guardianship Initiative –Strategic Action Plan 2016 by National Center for State Courts</li><li>• Utah WINGS Strategic Goals Chart FY 2017 developed at the February 2016 meeting</li></ul>	Tab 1	David Connors Karolina Abuzyarova
12:25 p.m.	Follow up on implementation of standards of practice for guardians: <ul style="list-style-type: none"><li>• Criminal and credit background checks for guardians – chart by state</li><li>• Utilizing Utah’s White Collar Crime Offender Registry: <a href="http://www.utwhitecollarcrimeregistry.com">http://www.utwhitecollarcrimeregistry.com</a></li><li>• Online training program on standards of practice</li></ul>	Tab 2	David Connors Nancy Sylvester
12:35 p.m.	Guardianship public education class schedule: <ul style="list-style-type: none"><li>• 2016: Dec. 16 – Salt Lake City</li><li>• 2017: Jan. 27 – Salt Lake City; Feb. 9 – Heber; Mar. 9-11 - Richfield, St. George; Apr. 6-7 – Price, Moab; Apr. 27 – Salt Lake City</li></ul>	Tab 3	Karolina Abuzyarova
12:40 p.m.	Documentary “Caring for Mom and Dad” (50 minutes)		

Committee webpage: <http://www.utcourts.gov/utc/wings>

Meeting schedule: February 22, April 26, June 28, August 23, October 25, December 27

Tab 1



# Adult Guardianship Initiative

*An Initiative of the NCSC's Center for Elders and the Courts and the CCJ/COSCA Joint Committee on Elders and the Courts*

## Background

The National Center for State Courts (NCSC) works closely with the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) to address key policy issues and promote court reform. Since the mid-2000s, all three organizations have called for resources and actions to improve responses to elder issues and the adult guardianship processes. In 2008, a joint CCJ/COSCA Task Force on Elders and the Courts was created, which would later become a standing committee. Later that year, the NCSC created a national resource center—the Center for Elders and the Courts (CEC).

In 2010, NCSC debuted its online resource center at [www.eldersandcourts.org](http://www.eldersandcourts.org). With support from the Retirement Research Foundation, the State Justice Institute (SJI), and the US DOJ Bureau of Justice Assistance, the Center for Elders and the Courts added several components to their portfolio—including prosecution and court elder abuse toolkits and a comprehensive online course—*Justice Responses to Elder Abuse*.

Most recently, the topic of adult guardianships/conservatorships has received considerable attention from judicial and court management associations. In 2013, the National College of Probate Judges updated their national probate court standards, which offer guidance on adult guardianship and conservatorship processes. In 2014, the National Association for Court Management released a guide on adult guardianships. In 2015, NCSC began a new research study on the problem of conservator fraud (funded by the Office for Victims of Crime) and with support from SJI, launched the Conservatorship Accountability Project (CAP).

NCSC and the CCJ/COSCA Joint Elders and the Courts Committee have worked collaboratively to develop strategies to further the field. This document recognizes our ongoing efforts and outlines actions that will meet the needs of state courts and the constituents we serve. NCSC’s Center for Elders and the Courts will serve as the “umbrella” organization to meet the stated goals.

## Mission

**The mission of the Adult Guardianship Initiative is to improve state court responses to guardianship and conservatorship matters. This Initiative encourages the use of less restrictive alternatives, the prioritization of the protected person’s individual rights, active court monitoring and oversight, the modernization of processes, and the restoration of rights.**

## Guardianship Initiative Goals

### 1. Develop and maintain a partnership of key stakeholders representing

- Judicial and court management associations (e.g., Conference of Chief Justices, Conference of State Court Administrators, National College of Probate Judges, American Judges Association, National Association for Court Management)
- Federal agencies (e.g., Consumer Financial Protection Bureau, Administration for Community Living, Social Security Administration, Office for Violence Against Women, Department of Justice, Office for Victims of Crime)
- Guardianship and Aging networks (e.g., National Guardianship Association, AARP, American Bar Association, National Adult Protective Services Association)
- State Working Interdisciplinary Networks of Guardianship Stakeholders (WINGS)

## **2. Prioritize the protection and enhancement of individual rights by**

- Encouraging the use of less restrictive alternatives, such as durable powers of attorney and supported decision making agreements
- Crafting individualized limited guardianship/conservatorship orders based on the capabilities and desires of the protected person
- Educating guardians and conservators on their responsibilities and obligations
- Incorporating the National Guardianship Association’s “Rights of an Individual Under Guardianship” into court practices
- Encouraging supported decision making within guardianship and conservatorship arrangements
- Focusing on strategies that will lead to the restoration of rights
- Emphasizing legal representation of the subject of the guardianship/conservatorship petition and protected person

## **3. Promote modernization and transparency in the guardianship process by**

- Adopting and implementing e-filing and conservatorship/guardianship software
- Collecting and reporting basic guardianship/conservatorship data
- Offering forms and advice in plain language
- Establishing a forum in which interested parties can have their concerns heard
- Documenting the specific reasons for a guardianship/conservatorship and whether less restrictive alternatives may satisfy the needs of protected persons
- Engaging in outreach opportunities in the community
- Developing performance measures and moving toward performance management systems
- Using differentiated case management techniques to better allocate resources and strategies
- Training judges/judicial officers on best practices in guardianship/conservatorship proceedings

## **4. Enhance guardianship/conservatorship court processes and oversight by**

- Supporting implementation of the National Probate Court Standards
- Training judges and court staff on reviewing and auditing annual reports
- Encouraging the allocation of resources, including court visitors, auditors, and volunteer monitors, that will improve the oversight capacity of the courts
- Developing innovative approaches and partnerships with community groups that can provide resources to protected persons and their families
- Establishing resources for guardians/conservators that will help them meet their responsibilities and provide assistance and encouragement
- Requiring bonds and background checks for proposed guardians/conservators
- Promoting technology to standardize submissions and facilitate the review process
- Developing model investigative, auditing and monitoring practices that can be replicated
- Proactively and timely responding to allegations of abuse, neglect or exploitation of a person placed under a guardianship or conservatorship

## **Project Concepts**

### **★ Funding and Implementing a Guardianship Court Improvement Program (GCIP)**

**Statement of the Problem:** The demand for adult guardianships is growing as a result of a larger older population and increasing life spans. At the same time, resources that would assist the state courts and executive agencies to efficiently and effectively process and monitor guardianship cases have not kept pace with the need. Resources to improve guardianship processes remain scarce in the vast majority of states.

**Proposed Solution:** In 2010, CCJ and COSCA submitted a letter to the Assistant Secretary for Aging at the U.S. Department of Health and Human Services, in which they proposed the creation of a Guardianship Court Improvement Program (GCIP) in the reauthorization of the Older Americans Act. GCIP is based on the Court Improvement Program, which is a model for federal support of court-community collaboration in the child welfare arena. This proposal supports the creation and assessment of pilot projects for the sole purpose of making improvements in state court handling of adult guardianship proceedings. The highest state court would develop a partnership with the State Agency on Aging and established WINGS (Working Interdisciplinary Network of Guardianship Stakeholders) to identify needs and assist with implementation. GCIP funds could be used to conduct assessments and identify problems in the way adult guardianship works in the jurisdiction, develop strategies for addressing those identified problems, and implement system improvements. GCIP would also be used to establish Guardianship Offices in the administrative offices of the state courts, thus raising the stature of this issue.

### **Conservatorship/Guardianship Accountability Project: Building a National Resource that uses Technology and Analytics to Modernize the Process**

**Statement of the Problem:** State courts are charged with protecting the assets of incapacitated persons who are placed under a guardianship of the estate (conservatorship). However, few courts have the resources or specialized personnel to actively monitor the funds under conservatorships, which are often managed by family members with little training or expertise. Generally, conservators must file inventories and accountings with the court and provide supplemental information. Practices vary considerably, with some states requiring standardized forms and e-filing of the accountings and other states permitting individually crafted forms submitted in person or by mail. Moreover, details of financial transactions are recorded in paper form or in a text field, which is a major obstacle to the courts' ability to audit accountings over time. The combination of insufficient resources and antiquated processes does little to deter or document the exploitation of vulnerable adults placed under conservatorships. Similar problems exist in terms of the guardianship reporting process.

**Proposed Solution:** In 2015, the National Center for State Courts, with support from the State Justice Institute and in collaboration with the Minnesota Judicial Council, launched a pilot project known as the Conservatorship Accountability Project (CAP). The project team is working with five pilot states (Indiana, Iowa, Nevada, New Mexico, Texas) to adapt the MyMNConservator software—which requires conservators to enter transaction level information and submit documentation—for their jurisdiction. The project includes an analytical component that has resulted in the identification of ten risk factors that can be used to predict accountings in which there is a “concern of loss.” The risk factors are currently being tested in the Minnesota dataset for the purpose of refining the factors to improve their predictive powers. The project includes the development of an implementation manual and a technical guide. At least two of the pilot states are also planning to adapt the software so that guardians of the person can submit their annual well-being reports through the software.

The CAP can be adopted by local and state courts to modernize the submission process and improve the ability of courts to review and audit accountings. However, most states do not have the resources necessary to build/implement the software or audit accountings. NCSC envisions a national resource center that will help states adapt the software, periodically analyze anonymized transaction data to improve the algorithms that predict “concern of loss” cases, assist states in developing differentiated case management strategies to audit a subset of accountings, and develop judicial response protocols that emphasize the return of assets that have been misappropriated. The CAP Resource Center would be a long-term project that seeks innovative and streamlined strategies to prevent conservator fraud and provide timely responses that protect the protected person's assets. Ideally, the project would expand to address guardians of the person.

## ★ National Summit for Courts on Improving Adult Guardianship Practices

**Statement of the Problem:** State courts are responsible for overseeing adult guardianships and conservatorships, but encounter similar problems. Nationally, there are seven major issues that pose particular challenges for the court: (1) the determination of capacity; (2) the use of alternatives or limited guardianships; (3) qualifications and availability of guardians (4) costs associated with the administration of guardianships; (5) training and education standards for judges and court staff; (6) court monitoring of guardianships; and (7) the collection of data. While a number of states have worked in recent years to substantively reform their guardianship processes, reform remains a state-by-state effort.

**Proposed Solution:** NCSC proposes convening a National Summit that highlights promising practices and results in state action plans detailing processes, technology and resource solutions that can be implemented in both the short- and long-term. A Summit Planning Team would be created, comprised of NCSC subject matter experts, leaders from innovative programs, representatives from funding agencies, and selected partners. The Planning Team will develop a two-day Summit, with each state/territory requested to send four to five-member teams appointed by the Chief Justice and State Court Administrator, in consultation with WINGS (Working Interdisciplinary Networks of Guardianship Stakeholders) where relevant. NCSC proposes periodic follow-up after the Summit to document activities and to highlight and share notable projects and practices nationwide. To accommodate variations in state court organizational structures and available resources, the Planning Team will feature projects that can be implemented both locally and statewide and will emphasize low-cost innovations that can improve guardianship processes. NCSC and select member organizations of the National Guardianship Network will provide technical assistance and follow-up with attendees following the Summit.

## ★ Establishing Judicial Response Protocols to Address Guardianship Abuse, Neglect and Exploitation

**Statement of the Problem:** The national media and federal and state agencies have highlighted cases in which protected persons have been subjected to abuse, neglect and/or exploitation. Preliminary finds from a study on conservator fraud show that judges and judicial officers do not have any guidance and may face structural barriers in developing timely and appropriate responses to allegations and evidence of wrong-doing in guardianship cases. Additionally, prosecution in these matters is rare.

**Proposed Solution:** NCSC proposes to carry out a national study that explores judicial strategies in responding to abuse, neglect and exploitation in guardianship/conservatorship cases. The project will identify barriers that may inhibit efforts to provide relief to the protected person or estate and highlight specific cases in which relief was provided. Also, the study would explore referrals for prosecution and strategies prosecutors might take to provide relief for the protected person and sanctions where appropriate. Findings will be used to inform a national advisory group, composed of NCSC, a select group of expert judges and prosecutors, and representatives from key stakeholder groups (e.g., National College of Probate Judges, the American Judges Association, the National District Attorneys Association). The group will develop recommendations and national-scope response protocols that will inform prosecutors and guide judicial officials to take actions that prevent and address abuses that occur in guardianship cases. The protocols will be widely disseminated through judicial, court and prosecutions associations and placed on NCSC's Center for Elders and Courts website.

## ★ Developing a Mentor Guardianship Court Program

**Statement of the Problem:** Guardianship practices vary from judge to judge and court to court. The National Probate Court Standards offer a guide to courts, but the lack of judicial training and documented best practices results in a wide array of problems, including the overuse of guardianships/conservatorships and insufficient monitoring. Judicial officers and court managers do not have any nationally-recognized courts on which to model their processes and performance.

**Proposed Solution:** Mentor courts, which have existed in a number of other areas, including child dependency and domestic violence, would provide valuable lessons to judges/judicial officials on the entire guardianship process, from the submission of the petition, the competency hearing, the use of less restrictive alternatives, the appointment of guardians/conservators and their responsibilities, court monitoring and oversight, and the restoration of rights. This concept calls for nominations and selection of one or two mentor court programs that will serve as resources for courts across the country by hosting site visits, facilitating peer-to-peer learning, and providing examples of effective practices for visiting teams of judges, court personnel, and other stakeholders. The National Center for State Courts and key members of the National Guardianship Network would guide the criteria and selection of sites, provide technical assistance, develop marketing materials and resources, schedule tours and learning resources, and develop and deliver webinars. Experts from the mentor courts would help NCSC and the project team develop an interactive online training program for judicial officers and court staff.

## ★ Building a Research Portfolio and Developing Court Performance Management Systems

**Statement of the Problem:** There is very little research on particular guardianship practices and their effectiveness in promoting the well-being of vulnerable adults placed under a guardianship or conservatorship. Evaluations of specialized programs, including volunteer monitoring programs, are non-existent. Moreover, the field lacks performance measures that can be used to gauge and improve court performance over time.

**Proposed Solution:** A research portfolio that includes program evaluations and comparative studies on guardianship practices is proposed to develop best practices. These studies will inform the development of measures that courts can implement to gauge performance over time and to initiate reforms. Initially, court performance measures can be extracted from state requirements and the National Probate Court Standards (e.g., percentage of conservators filing inventories and appraisals within 60 days after appointment, percentage of prospective guardians and conservators subjected to background checks). Following the construction of court measures, several courts would be recruited to participate in a pilot study to inform the usefulness of each measure. The cycle of research—performance measures—implementation—refinement is considered an ongoing effort as additional evidence-based practices become known. Ultimately, the courts should move toward performance management processes that are constantly informed by data.

## ★ Developing Innovative Distance-Learning Programs

**Statement of the Problem:** Individuals considering accepting the responsibility of being a guardian or conservator and those already appointed have very few resources or training available to them. While laws and requirements vary across states and localities, there are national standards that guide good practices. A distance learning course would provide training and resources to individuals who are considering petitioning for a court order, as well as those who have already been appointed by a court.



**Proposed Solution/Funding Promised:** The Department of Justice’s Elder Justice Initiative is working on a contract with National Center for State Courts, in collaboration with the American Bar Association and the Washington State Courts, to develop an online program, *Enhancing Choice and Fulfilling Duties: National Training Resource on Decision Support and Guardianship*. The project will fill a glaring national gap by developing and promoting an overarching national training course that will help people avoid unnecessary or overbroad guardianship, consider less restrictive options, and assist family and other lay guardians to serve in what is one of society’s most difficult roles. The online interactive training program will engage the learner through real-world scenarios, activities based on learning objectives, and interactive animations in 3D environments. The project will be guided by a multidisciplinary advisory team.

### Utah WINGS Strategic Goals Chart FY 2017

	Strategic Goal	Activities	Outcome Measures	Organization, person	Deadline
E V A L U A T I O N	Evaluate Court Visitor Volunteer Program	Partnership with Weber State University students to identify number of cases when guardians submitted annuals reports, as a result of contact by the court visitor.	Only output measures (direct product of activities) will be addressed now. Outcome measures (benefit to vulnerable adults) will be addressed in the next phase	Holly Kees	August 2016
	Evaluate Signature Program	Possibly: surveys for lawyers, court staff, litigants, judges?	Every respondent in guardianship proceedings has representation	Nancy Sylvester	FY 2017
	Estimate online traffic on guardianship webpages	Request quarterly reports		Karolina Abuzyarova	Completed and ongoing
	Track number of guardianship petitions	1. Contact Court Services and request information 2. Make quarterly reports	Regular quarterly reports to be presented to Judicial Council and Legislature for permanent funding	Judge Brady	Every quarter
E D U C A T I O N	Build capacity of the judiciary	1. Provide continuing education to judges (Fall 2016 conference) 2. Encourage to use the latest information on the subject	1. Safety, dignity and respect for vulnerable adults 2. Judges refer to less restrictive alternatives, and thoroughly follow due process in guardianship proceedings	Court Education Department; participating Judges;	Ongoing
	Provide educational support to family guardians and caregivers	Develop Online Training Program (OTP) and post on the Court website	1. Safety, dignity and respect for vulnerable adults 2. Families utilize life planning tools, and choose limited guardianship options when possible.	Education Subcommittee, Court Online Training Specialist	FY 2017

	Offer guardianship training to professionals – training of trainers	Conduct statewide classes with USU grant support (minorities, tribal groups, Area Agencies on Aging, religious leaders, healthcare providers, caregiver support groups, social workers, hospice)	1. Safety, dignity and respect for vulnerable adults 2. Professionals utilize life planning tools, and refer to limited guardianship options when possible	Education Subcommittee, Karolina Abuzyarova	FY 2017
	Place links to Court guardianship related webpages on partner organizations’ websites	Place links to Court guardianship webpages	Clients of WINGS organizations obtain needed information from multiple sources	WINGS organizations	August 2016
L E G	Adopt national guardianship standards as part of the Utah probate statutes				
I S L A T I O N	- Increase the number of limited guardianship appointments - Track cases where guardianship is terminated because capacity is restored or determined not to require guardianship).	1. Track limited appointments in CORIS 2. Educate judges and attorneys on the rights of vulnerable adults 3. Thorough and recent medical evaluation is filed with every guardianship petition 4. Care plans are required in guardianships	More limited guardianship appointments – where vulnerable adults preserve independence and self-determination		Every quarter
	Streamline APS related statutes by clarifying its role in providing protective services in emergency situations			Adult Protective Services, Nan Mendenhall	FY 2017

# Tab 2

**Criminal and Credit Background Checks for Guardians**

State	Who is not Eligible to be Appointed	Criminal Background	Credit Check	Notes
Alaska		<p>§§ 08.26.020 &amp; 08.26.030                      Department shall issue an individual private professional guardian/conservator license if ... criminal history record shows has not been convicted of a crime within 10 years of the application that would affect ability to provide services competently and safely</p> <p>§ 08.26.070(a)                      Department shall request Dept. Public Safety to submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record information check; perform a state criminal history record information check</p>		
Arkansas	<p>§ 28-65-203(a)                      Convicted or unpardoned felon</p>			

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Arizona		<p>§ 14-5106 In petition, under oath, must disclose, whether proposed appointee has been convicted of a felony in any jurisdiction and, if so, the nature of the offense, the name and address of the sentencing court, the case number, the date of conviction, the terms of the sentence, the name and telephone number of any current probation or parole officer and the reasons why the conviction should not disqualify the proposed appointee.</p> <p>§ 14-5657(B) As condition of licensing, fiduciary must submit to full set of fingerprints to obtain state and federal criminal records check</p> <p>§ 14-5304(E) Court may require each person who seeks appointment as a guardian to furnish a full set of fingerprints to enable the court to conduct a criminal background investigation. The court shall submit the person's completed fingerprint card to the dep't of public safety. The person shall bear the cost Does not apply to a fiduciary who is licensed or an employee of a financial institution.</p>		
California	Busi. & Prof. § 6536 Convicted of crime substantially related to the qualifications, function or duties of the professional fiduciary	Busi. & Prof. § 6533.5 To obtain a license as professional fiduciary shall submit fingerprints to obtain criminal offender record of state and federal arrests and convictions. DOJ prepares report of fitness		Judicial discretion re criminal history and nature of crime, nature of petition, case dynamics, whether can be bonded, ties to conservatee, alternative to conservator

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<b>Colorado</b>	§ 15-14-310(4) Owner/operator where receiving long term care	<p>§ 15-14-110(1) Statement with acceptance of office as to whether been convicted of, pled nolo contendere to, or received deferred sentence for a felony or misdemeanor; whether temporary or permanent civil protection or restraining order in any state; whether civil judgment entered; relieved of any court-appointed responsibilities</p> <p>§ 15-14-1102(2) Attach name-based criminal history record check through CO Bureau of Investigation</p> <p>§ 15-14-11(4) Does not apply to public administrator; bank, trust company or other financial institution; state or county agency; parent residing with his or her child; and any other person or entity for whom the court, for good cause shown, determines requirements not apply</p>	§ 15-14-110(2) Attach credit report	
<b>District of Columbia</b>	§ 21-2043(a-1)(1) Provides substantial services; creditor of the incapacitated individual; or employed by any person or entity that provides services.	<p>§ 21-2043(d-1)(1) Court shall not appoint a guardian until the person has submitted signed and sworn statement whether has been convicted of, has pleaded nolo contendere to, is on probation before judgment or placement of a case upon a stet docket for, or has been found not guilty by reason of insanity of lifetime registration offense; registration offense, any offense set forth in Chapters 8, 8A, 9A, 10, 11, 14, 15, and 32 of Title 22, or its equivalent in any other state or territory, dangerous crime, or crime of violence.</p> <p>Shall submit results of a criminal-history check from the Metropolitan Police Department and FBI. Emergency guardians, health-care guardians, and provisional guardians are exempt.</p> <p>§ 21-2043(d-2(1) Presumed not to be in best interest of individual subject to guardianship to appoint a guardian who has been convicted of listed offenses.</p>		

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<b>Florida</b>	<p>§ 744.309(3)            Convicted of a felony, or from any incapacity or illness, is incapable of discharging the duties of a guardian, or is otherwise unsuitable to perform the duties of a guardian</p>	<p>§ 744.3135(1)            Court shall require a guardian and all employees of a professional guardian who have a fiduciary responsibility to a ward, to submit, at their own expense, to undergo level 2 background screening. Court must consider the results of any investigation before appointing a guardian.</p> <p>§ 744.3135(2)            Nonprofessional undergoes state and national criminal history record check using fingerprints. Results filed by clerk.</p>	<p>§ 744.3135(5a)            A professional guardian, and each employee of a professional guardian who has a fiduciary responsibility to a ward, must complete, at his or her own expense, an investigation of his or her credit history before and at least once every 2 years after the date of the guardian's registration with the Statewide Public Guardianship Office.</p>	<p>§ 744.3135 (7)            Requirements not apply to a professional guardian, or to the employees of a professional guardian, that is a trust company, state banking corporation or state savings association authorized and qualified to exercise fiduciary powers in this state, or national banking association or federal savings and loan association.</p>
<b>Georgia</b>	<p>§ 29-4-2(b)            Is a minor, a ward, or a protected person; have a conflict of interest; or owner, operator, or employee of a long-term care or other caregiving institution or facility at which the adult is receiving care, unless related to the adult by blood, marriage, or adoption.</p>	<p>§ 29-10-3(a)(2)            Public guardian must submit to a criminal background check with satisfactory results as prescribed by the Division of Aging Services of the Department of Human Resources; submit to an investigation of the individual's credit history as prescribed by Aging Services, Dep't Human Resources</p>	<p>§ 29-10-3(a)(3)            Public guardian must submit to an investigation of the individual's credit history as prescribed by Aging Services, Dep't of Human Resources</p>	
<b>Idaho</b>	<p>§ 15-5-311(4)            No convicted felon, or person whose residence is the incapacitated person's proposed residence or will be frequented by the incapacitated person and is frequented by a convicted felon, shall be appointed as a guardian of an incapacitated person unless the court finds by clear and convincing evidence that such appointment is in the best interests of the incapacitated person.</p>	<p>§ 15-5-311(5)            Proposed guardian must submit to and paid for criminal history and background check; If ordered by the court, any individual who resides in the incapacitated person's proposed residence has submitted, at the proposed guardian's expense, to a criminal history and background check conducted. The findings of criminal history and background checks are made available to the visitor and guardian ad litem.</p>	<p>§ 15-5-311(5)            The proposed guardian provides report of his or her civil judgments and bankruptcies to the visitor, the guardian ad litem and all others entitled to notice.</p>	



**Criminal and Credit Background Checks for Guardians**

State	Who is not Eligible to be Appointed	Criminal Background	Credit Check	Notes
<b>Illinois</b>	755/5/11a-5(5) Convicted of a felony, unless the court finds appointment to be in the disabled person's best interests; as part of the best interest determination, the court has considered the nature of the offense, the date of offense, and the evidence of the proposed guardian's rehabilitation. No person shall be appointed who has been convicted of a felony involving harm or threat to a minor or an elderly or disabled person, including a felony sexual offense.			
<b>Kentucky</b>		§ 387.025(4) Verified application for appointment must state whether ever been convicted of a crime		
<b>Louisiana</b>	Art. 4561(B)(2) Except for good cause shown, convicted felon; person in debt to adult; adverse party in pending law suit			
<b>Minnesota</b>	§ 524.5-309(c) Individual or agency providing residence, custodial, medical, employment training, other care or services	§ 524.5-118(1) Background study once every 2 years; criminal history data from Bureau of Criminal Apprehension,; from National Criminal Records Repository if not been resident of MN for 10 years or info from BCA indicates a multistate offender or multistate offender status undetermined; state licensing agency if ever been licensed as professional in related field; perpetrators of substantiated maltreatment of vulnerable adult or minor. Professional guardian must pay fees; if in forma pauperis by county; if estate, by estate; or court may order fee paid by G, by C or by court; not apply to state agency or county; parent or guardian of person with developmental disability if raised in family home; background study must be done on all employees responsible for exercising guardian powers and duties; may make appointment pending results of study		

**Criminal and Credit Background Checks for Guardians**

State	Who is not Eligible to be Appointed	Criminal Background	Credit Check	Notes
<b>Nebraska</b>	§§ 30-2627; 30-2639 Agency, owner providing residential care	§ 30-2602.02 A person, except for a financial institution nominated for appointment as a guardian or conservator shall obtain a national criminal history record check and file such report with the court at least ten days prior to the appointment hearing date, unless waived or modified by the court. No report or national criminal history record check required for an emergency temporary guardianship or conservatorship. Court may waive for good cause.		
<b>Nevada</b>	§ 159.059 Incompetent; minor; convicted of felony unless court determines conviction not disqualify; suspended for misconduct or disbarred from law, accounting, other provision involving money, investment, securities, real property; nonresident without registered agent and not petitioner; judicially determined by clear and convincing evidence to have committed abuse, neglect, exploitation of child, spouse, parent, adult, unless court finds best interest	§ 159,0595(3) Private professional guardian shall, at his or her own cost and expense, undergo a background investigation which requires the submission of complete set of fingerprints to the Central Repository for Nevada Records of Criminal History and to the FBI; present to court upon request.	§ 159.044(t) Petition must state whether proposed guardian has filed for or received protection in bankruptcy court.	§159.1852 After appointment, a guardian must immediately inform the court of: convictions of a gross misdemeanor or felony; a bankruptcy filing; suspension, revocation or cancelling of a driver's license for nonpayment of child support; a disbarment from the practice of law, accounting, or other profession requiring a license and involving financial management; or a judgment for misappropriation of funds. The court may remove the guardian and appoint a successor unless the court finds it is in the person's best interest to allow the guardian to continue serving.

### Criminal and Credit Background Checks for Guardians

State	Who is not Eligible to be Appointed	Criminal Background	Credit Check	Notes
<b>New Hampshire</b>	§ 464-A:10(III) An institution or agency providing care and custody of the incapacitated person, unless no one else can be found to serve	§ 464-A:4(v) Court shall review the proposed guardian’s record of criminal convictions maintained by the New Hampshire division of state police. Court may, in its discretion, request a search of the abuse and neglect registry maintained by the dep’t of health and human services. Court Rule 16 requires professional guardians to undergo criminal background check without fingerprints		
<b>New Jersey</b>	§ 52:27G-34(3)(a) Has criminal conviction or found to be civilly liable for any matter involving moral turpitude, abuse, neglect, fraud, misappropriation, misrepresentation, theft, conversion; lacks financial responsibility; committed abuse, neglect or exploitation; engages in persistent or repeated violations of court order or any impropriety involving dishonesty, fraud, deceit, misrepresentation	§ 52:27G-33(2)(d)(4) Professional guardian satisfactory criminal history record background, child abuse registry, domestic violence central registry; not subject to outstanding arrest warrants	§ 52:27G-33(2)(d)(4) Professional guardian submit credit check to OPGEA from one national credit reporting agency issued within 1 month of application	
<b>New Mexico</b>		§ 45-5-303(A)(4) Petition shall state G qualification, including whether convicted of felony		
<b>New York</b>		§ 81.19(g)(1) Allows but not requires court to obtain and consider, and court evaluator to review, proposed guardian’s criminal history, sex offender registry, statewide central register of child abuse, statewide registry of orders of protection. Upon considering the information, court may appoint, refuse to appoint or revoke the appointment		

### Criminal and Credit Background Checks for Guardians

State	Who is not Eligible to be Appointed	Criminal Background	Credit Check	Notes
<b>Ohio</b>		<p>§ 2111.03(A) Petition must state whether applicant ever been charged with or convicted of any crime involving theft, physical violence, sexual, alcohol or substance abuse.</p> <p>Ohio Sup. R. 66.05(A). Requires criminal background check for all guardians, including family guardians. For an attorney, court may accept a Supreme Court certificate of good standing.</p>		No instruction to court on what if proposed guardian has criminal record. Some courts are fingerprinting
<b>Oklahoma</b>	§ 3-104(A) Owner operator employee of facility where residing	§ 3-101(c) Court may receive investigation and report on background and home of prospective G. When required, include petitioner and each adult member of household to establish no record of criminal conviction, protective order, pending criminal charge. Include OK Bureau of Investigation name-based check.	§ 3-101(c) Petitioner disclose case name and status of any civil or criminal matter in state or federal court, including bankruptcy involving petitioner or any adult household member	
<b>Oregon</b>	§ 125.205 Incapacitated, financially incapable, minor, health care provider	<p>§ 125.210(1) Person nominated must inform court of circumstances before appointed or provide in petition if convicted of crime, filed for bankruptcy, had required professional license revoked or cancelled. After appointment must immediately inform the court. Court may decline to appoint or may remove if fails to comply.</p> <p>§ 125.240 Professional fiduciary must have criminal background check paid for by fiduciary</p>		Courts require credit check on periodic basis along with updated criminal background check for professional fiduciaries
<b>Rhode Island</b>	§ 33-15-6(a) Agency, public or private, or representative of, that financially benefits from providing housing, medical, social services	§ 33-15-6(b) Shall find that individual or agency has no criminal background which bears on suitability to serve as guardian, has capacity to manage the financial resources involved; has ability to meet unique needs of adult; has ability to meet requirements of law		
<b>South Dakota</b>	§ 29A-5-110 Employee of public agency, entity, or facility providing substantial services or financial assistance; creditor	§ 29A-5-504(3) Reason to remove is conviction of crime that reflects on fitness to serve		

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Tennessee		<p>§ 34-3-104(3) Requires petition to include a statement of any felony or misdemeanor convictions of petitioner and proposed guardian/conservator</p>		
Texas	<p>§ 1104.351 Minor or other incapacitated person; or because of inexperience, lack of education, or other good reason, is incapable of properly and prudently managing and controlling the ward's person or estate.</p> <p>§ 1104.353(a-b) Conduct is notoriously bad; convicted of any sexual offense, aggravated assault; injury to a child, elderly individual, or disabled individual; abandoning or endangering a child; terroristic threat; or continuous violence against the family of the ward or incapacitated person.</p> <p>§ 1104.358 Found to have committed family violence who is subject to a protective order</p>	<p>§ 698 County clerk obtains criminal history record information maintained by Dep't of Public Safety or FBI for private professional guardian; employee who has personal contact, exercise control or any duties over estate; volunteer in guardianship program; proposed guardian; including family member. May submit own information 10 days before hearing; Guardianship Certification Board conducts criminal history check before issuing or renewing certificate Court use information to determine whether to appoint, remove, or continue appointment; GCB use to determine whether to certify</p>		
Vermont	<p>14 § 3072(a)(2) Operates care facility where resides or receiving care</p> <p>14 § 3072(a)(2) Served as guardian ad litem in same proceeding</p>	<p>14 § 3067(d) Proposed guardian provide information and consent for complete background checks with available state registries, including adult abuse, child abuse, crime information center, sex offender. Court shall consider information received in determining if suitable. May waive reports, may remove based on information in report later received. If lived in VT less than 5 years or nonresident may order background from other state agencies where lives or has lived in past 5 years.</p>		

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<b>Washington</b>	§ 11.88.020 Under 18; of unsound mind; convicted of felony or misdemeanor involving moral turpitude; court finds unsuitable			
<b>West Virginia</b>	§ 44A-1-8(a) Individual employed by or affiliated with any public agency, entity or facility providing substantial services or financial assistance; creditor	§ 44A-1-8(c) Any person being considered shall provide information if convicted of any crime, other than traffic offenses, court or mental hygiene commissioner may order a background check conducted by state police or county sheriff. Shall consider in determining fitness to be appointed		
<b>Wisconsin</b>		§ 54.15(8) Sworn and notarized statement 76 hours before hearing if charged with or convicted of crime;	§ 54.15(8) Sworn and notarized statement 76 hours before hearing if filed for and received bankruptcy protection, had professional license revoked.	

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<b>State</b>	<b>Who is not Eligible to be Appointed</b>	<b>Criminal Background</b>	<b>Credit Check</b>	<b>Notes</b>
<b>Center for Guardianship Certification</b>	<p>Rules and Regulations II.A.6                      Not been convicted or pled guilty or no contest to a felony, or admit to having a felony on record; comply with the NGA Model Code of Ethics and the NGA Standards of Practice; not civilly liable in an action that involved fraud, misrepresentation, material omission, misappropriation, moral turpitude, theft, or conversion; not been relieved of responsibilities as a guardian by a court, employer, or client for actions involving fraud, misrepresentation, material omission, misappropriation, theft, or conversion; is bonded or will obtain appropriate bonding insurance in accordance with state statutes and local practice; not been found liable in a subrogation action by an insurance or bonding agent; not been disciplined by a state or national certification or licensing organization in any profession.</p>	<p>Rules and Regulations II.A.7                      Submit to a criminal background check</p>		

# Tab 3



# Advance Life Planning & Guardianship



**Free class for professionals & caregivers of vulnerable adults**

**Friday, December 16, 2016  
11:00 am–1:00 pm**

**Large Conference Room A, Suite W-19  
1st floor, Matheson Courthouse  
450 South State Street, Salt Lake City, Utah**



\*Instructors will not provide legal advice or legal representation

**Presented by the Working Interdisciplinary Network  
of Guardianship Stakeholders in Utah**

For more information, contact the Utah State Courts:

Email: [KarolinaA@utcourts.gov](mailto:KarolinaA@utcourts.gov)  
Phone: 801-578-3925

Guardianship webpage: <http://www.utcourts.gov/howto/family/GC>  
WINGS: <http://www.utcourts.gov/howto/family/GC/wings>