

## Working Interdisciplinary Network of Guardianship Stakeholders

### February 8, 2018 Summary Minutes

**Attendees:** Judge David Connors, Nancy Sylvester, Judge Keith Kelly, Michelle Wilkes, Dustin Hummers, Cora Gant, Nels Holmgren, TantaLisa Clayton, James Toledo, Nan Mendenhall, Kaye Lynn Wootton, Wendy Fayles, Nicholas Stiles, Andrew Riggle, Kent Alderman, Mary Jane Ciccarello, Karolina Abuzyarova

**Excused:** Daniel Musto, Judge James Brady, Shannon Alvey, Todd Weiler, Robert Denton,

**No show:** Joanne Bueno Sayre

**Introduction:** Judge Connors welcomed guests (Nicholas Stiles, Access to Justice Coordinator of the Utah State Bar) and new members (Third District Court Judge Keith Kelly).

**Legislative session update:** Judge Connors informed the committee that on February 7 the Courts along with other requests proposed permanent funding for the Guardianship Reporting and Monitoring Program, known as the Court Visitor Volunteer Program. Utah WINGS is funded through the GRAMP. Judge Connors thanked everyone who was able to attend the hearing including Shannon Alvey, Kaye Lynn Wootton, Lisa Towner, Jeff Paoletti, Barbara Miller.

Shannon Alvey could not attend the WINGS meeting and delegated the overview of the HB167, sponsored by Mike Winder, to Nancy Sylvester and Andrew Riggle. Nancy Sylvester reported that HB 167 relates to the last year's HB101 and takes out the sunset clause for the representation waiver for the adult children with parents petitioning as guardians. HB 167 also addresses notices in guardianship proceedings and priorities in appointment of a guardian.

Nancy Sylvester provided feedback to the Court Legislative Liaison Jacey Skinner that the initial language about the respondent selecting their own attorney was not appropriate and doesn't reflect the reality of case placement with the Guardianship Signature Program. In addition, the bill suggests assigning a Court Visitor in each case where the respondent is not represented. Kent Alderman suggested the language about the involvement of the Court Visitor. Andrew Riggle stated that the Disability Law Center would like to see visitor in all cases, however there aren't resources designated currently for the program, and they prefer to rather have a fiscal note attached to the Indigent Defense funds to support representation of the respondents in guardianship proceedings.

Kent Alderman stated that Court has ability that this person needs representation and that both the Elder Law Section of the Bar and ACLU are going to oppose it. Mary Jane Ciccarello concurred that everyone has to be represented. Judge Keith Kelly brought up that nearest family does not always has the best interest of the vulnerable adult. Michelle Wilkes said that attorney assigned to represent the respondent is not always even seeing the client and, addressing earlier point, having Court Visitor on every case without representation will require significant resources that the Court currently doesn't have.

Among other guardianship related bills that came out after the February 8th meeting were:

- SB 182 addresses powers or duties of a guardian, provides for appointment of one or more individuals as guardians of a minor becoming an adult.
- HB 402 addresses when a person refuses to accept the authority of a guardian, provides for a court to modify an order or issue a temporary order, addresses when a conservator may use the assets of the estate.

- SB 193 amends provisions regarding sexual offenses against a victim without consent of the victim and amends provisions regarding victim's capacity to consent to a sexual act.

**Judicial education:** Karolina scheduled judicial presentations on the following dates: February 14 in Salt Lake City, February 23 in Ogden (to be rescheduled), March 13 in Provo, April 4 in Farmington, April 11 in Price, April 27 in Vernal and May 10 in St. George

All of the classes are 20-minute presentations at the bench meetings with the exception of a class in Salt Lake City. Karolina asked feedback on the judicial materials: bench book, bench card, checklist, flowchart and local and national online resources for the judges. Benchbook was edited from the version created by Tim Shea, Senior Staff Attorney at the AOC in 2014. Checklist has additional information and is going to be available as a standalone document.

Judge Kelly recommended having the online resources and the flow chart as part of the bench book. Mary Jane Ciccarello had a follow up question to the committee as for who should make the referral on alleged abuse, neglect and exploitation. It was marked that an attorney has to make a referral and committee agreed that it has to be the judge who has to take a proactive role and make a referral if the instance comes up. Michelle Wilkes suggested adding adult children to be served a notice as part of the checklist and Mary Jane will consider it.

After materials are finalized and edits are incorporated, Karolina will laminate the bench card and distribute among district court judges. All materials are going to be uploaded on the internal Court webpages "Intranet" under the resources for district court judges.

**Stakeholder updates:** Judge Connors asked stakeholders to provide an update and then move to the agenda item on collaboration with the tribal courts. Kaye Lynn Wootton informed the group about the successful prosecution of the financial exploitation of vulnerable adult case. The perpetrator was a healthcare provider, financially exploited 14 victims by utilizing their funds to buy expensive products for personal use. He was charged with 7 counts of 3<sup>rd</sup> degree felony, however paid off all the funds to the victim and was excluded from the healthcare provider list.

**Tribal Courts and referral of abuse:** James Toledo of the Office of Indian Affairs presented information in the form of chart on contacts and resources each of the Utah tribes has on addressing the issue of abuse, neglect and exploitation of vulnerable adults. James reported that 5 out of 8 tribes share borders with other states, he also indicated a need for training as often people living on tribal land don't have SSI and documentation. Utah Legal Services provides certain assistance within their Indian Law Section. Nan Mendenhall brought up that there is no formal guardianship process on tribal land. Nancy Sylvester suggested serving the notice of the guardianship proceedings to the Tribal Courts as well as to Social Security office. James will keep working on gathering information from the tribes that have not responded yet.

**Strategic goals:** Karolina provided an overview of the goals accomplished and in the works.

**Roundtable follow up:** Committee approved forming education subcommittee to work on implementation of the action steps developed at the roundtable on involuntary commitment, essential treatment and guardianship.

**Next meetings:** April 5, June 7, August 2, October 4, Dec. 6, 2018.