

Agenda

Utah Working Interdisciplinary Network of Guardianship Stakeholders (WINGS)

February 21, 2019

12:00 to 2:00 p.m.

Utah State Capitol Building

350 North State Street, Salt Lake City

East Senate Building, Room 250

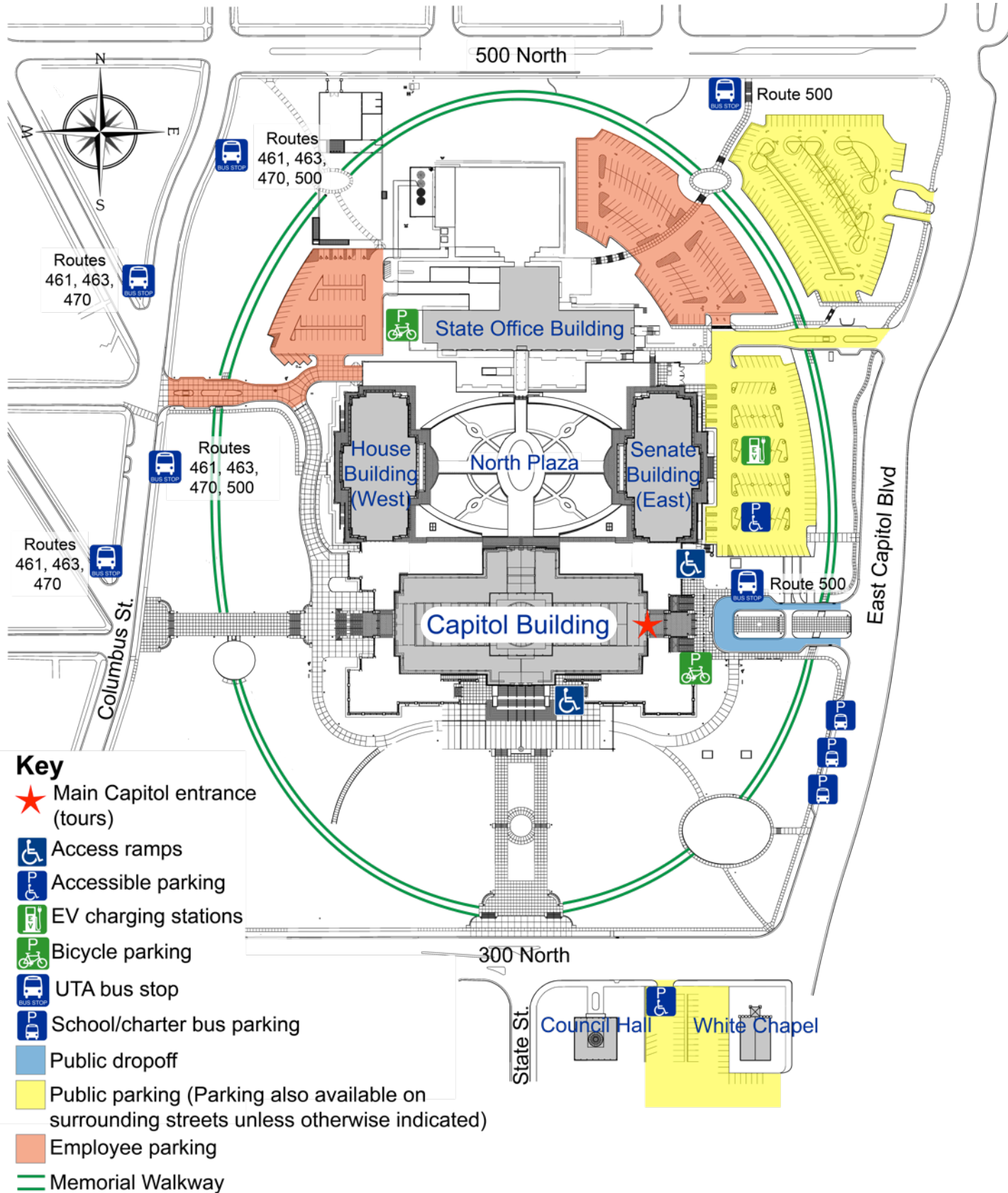
(See maps on pages 2-3)

12:00 p.m.	Welcome, minutes; WINGS 2019 Report to Judicial Council, see previous years at: www.utcourts.gov/utc/wings/links	Tab 1	James Brady
12:15 p.m.	Update on Uniform Guardianship Act: HB53 <ul style="list-style-type: none">• See Tab 2 for bill summary by Disability Law Center	Tab 2	Todd Weiler Andrew Riggle Michael Drechsel
12:30 p.m.	Court guardianship data for review	Tab 3	James Brady
12:45 p.m.	Update on Tribal Collaboration Subcommittee		James Toledo
1:00 p.m.	WINGS annual assessment discussion facilitated by Nini Rich, Director, Court Department on Alternative Dispute Resolution: <ul style="list-style-type: none">• Review of strategic goals in progress;• How would your organization like to advance guardianship reform? What are the new goals?• How often do we need to meet?	Tab 4	Nini Rich James Brady Karolina Abuzyarova












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

2019 schedule: April 18, June 20, August 15, October 17, December 19.

UTAH STATE CAPITOL COMPLEX

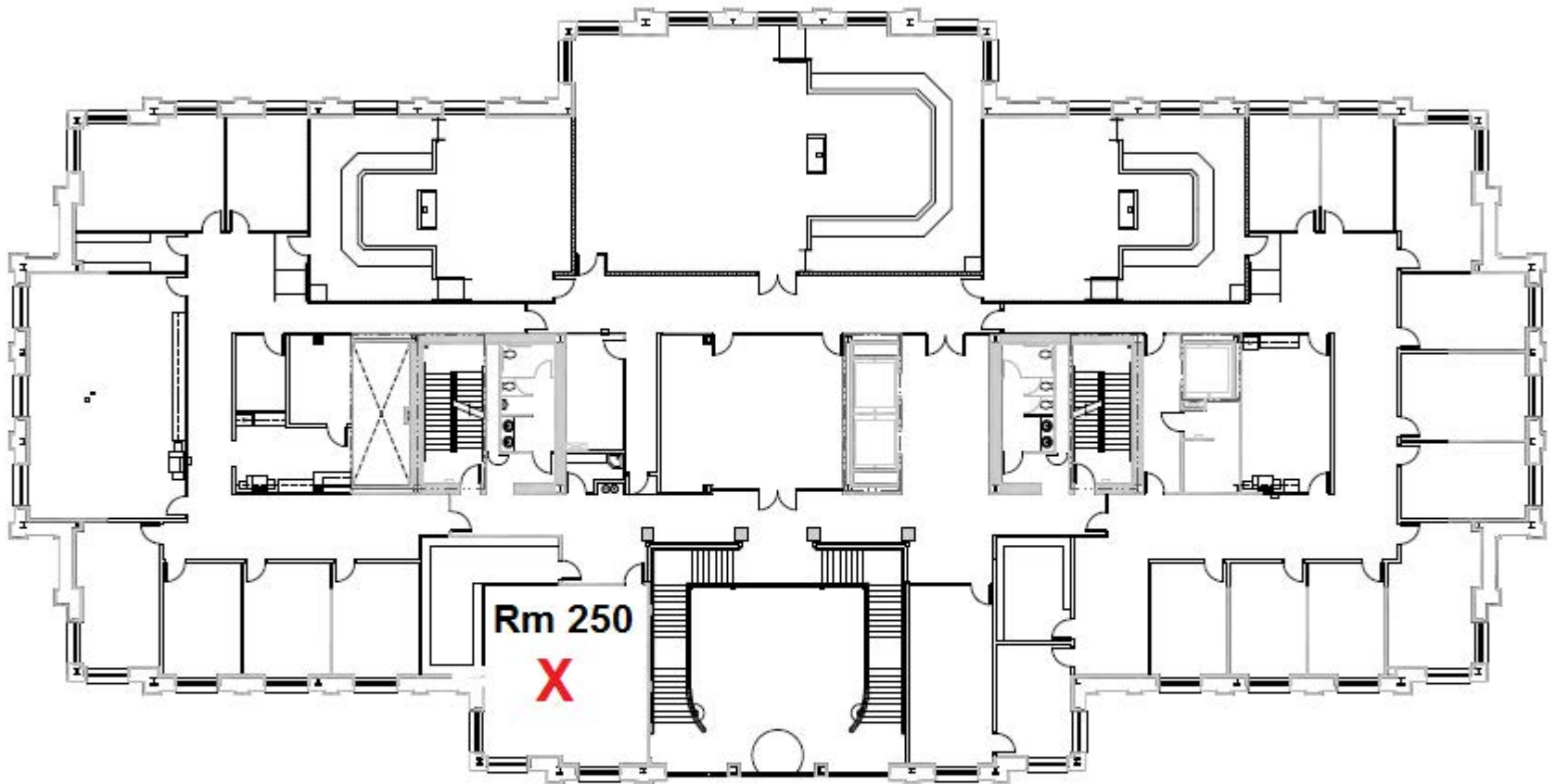


Key

-  Main Capitol entrance (tours)
-  Access ramps
-  Accessible parking
-  EV charging stations
-  Bicycle parking
-  UTA bus stop
-  School/charter bus parking
-  Public dropoff
-  Public parking (Parking also available on surrounding streets unless otherwise indicated)
-  Employee parking
-  Memorial Walkway

Senate Bldg. Second Flr.

EAST



SENATE BUILDING
SECOND FLOOR PLAN
SCALE 1/8" = 1'-0"

WEST

Tab 1

Utah WINGS Update

Working Interdisciplinary Network of Guardianship Stakeholders (WINGS), <http://www.utcourts.gov/utc/wings>, is a multi-disciplinary problem solving body that relies on court-community partnerships to:

- Oversee guardianship practice;
- Address key policy issues;
- Improve the current system of guardianship and less restrictive alternatives;
- Engage in outreach, education;
- Enhance the quality of care and quality of life of vulnerable adults.

WINGS Executive Committee:

1. Andrew Riggle, Policy Analyst, Disability Law Center
2. James Brady, Presiding Judge, Fourth District Court, WINGS Chair
3. Karolina Abuzyarova, WINGS and Court Visitor Program Coordinator
4. Kent Alderman, Elder law attorney, Elder Law Section of the Utah State Bar
5. Michael Drechsel, Associate General Counsel, Administrative Office of the Courts
6. Nan Mendenhall, Director, Adult Protective Services
7. Nels Holmgren, Director, Division of Adult and Aging Services

Steering Committee:

1. Cora Gant, Probate Clerk, Second District Court
2. Daniel Musto, Director, Long-term Care Ombudsman
3. David Connors, Presiding Judge, Second District Court
4. Dustin Hammers, Assistant Professor of Neurology, Neuropsychologist, Center for Alzheimer's Care, Imaging and Research, University of Utah Health Care
5. James Toledo, Program Manager, Utah Division of Indian Affairs
6. Joanne Bueno Sayre, Probate Clerk, Third District Court
7. Kaye Lynn Wootton, Deputy Director, Medicaid Fraud Control Unit, Attorney General
8. Michelle Wilkes, Court Visitor Volunteer Coordinator
9. Robert Denton, Private Elder Law Attorney
10. TantaLisa Clayton, Attorney, Utah Legal Services
11. Wendy Fayles, Criminal Justice Mentor, National Alliance on Mental Illness
12. Xia Erickson, Director, Office of Public Guardian

Utah WINGS activities and accomplishments are:

1. With financial support of the Elder Justice Innovation grant "WINGS Focus on Court Oversight" (\$30,000) from the Commission on Law and Aging of the American Bar Association and National Center for State Courts (funds from the Administration on Community Living) conducted the following:

- a. Developed materials for judges on adult guardianship (bench card, bench book, flowchart on referral of cases to other agencies and checklist on guardianship process) that are now posted on Intranet under the resources for District Court Judges: <https://www.utcourts.gov/intranet/dist/distjudge.htm>.
 - b. Presented on alternatives to guardianship and guardianship procedures on:
 - February 14, 2018, Third District Court, Salt Lake City
 - April 4, 2018, Second District Court, Farmington
 - April 11, 2018, Seventh District Court, Price
 - April 12, 2018, Fourth District Court, Provo
 - May 10, 2018, Fifth District Court, St. George
 - June 15, 2018, Second District Court, Ogden
 - June 29, 2018, Eighth District Court, Vernal
 - c. Produced report to the ABA Commission on Law and Aging that reviews guardianship procedures in Utah and challenges to be addressed:
http://www.utcourts.gov/utc/wings/wp-content/uploads/sites/33/2018/10/2018-09-Program-Report_Utah-WINGS-Phase-II.pdf
2. Provided life planning and guardianship advice to families with children with disabilities on SSI with support from the ASPIRE grant (\$40,000). ASPIRE stands for Achieving Success by Promoting Readiness for Education and Employment and is operating within the Utah State Office of Rehabilitation of the Department of Workforce Services.
 3. Translated into Spanish the third segment of the online training program “Serving as a Guardian and Conservator” at <https://www.utcourts.gov/howto/family/gc/training.html>.
 4. Continued providing support to the Guardianship Signature Program that helps provide representation to indigent respondents in guardianship proceedings. Conducted free CLE for attorneys on guardianship in St. George in June 2018.
 5. In October 2018 WINGS formed Subcommittee on Collaboration with Native American Tribes to address abuse and neglect of vulnerable adults on tribal land.
 6. Court Visitor Program or GRAMP (Guardianship Reporting and Monitoring Program) received legislative funding and from a pilot program since 2011 became a state funded program starting July 1, 2018. Volunteer case management is directed as a priority. Tasks including WINGS policy work, addressing system gaps and fundraising are not identified as priorities. Planned WINGS activities were directed not to be pursued:
 - Follow up on the action steps of the roundtable “Crossroads of Guardianship, Involuntary Commitment and Essential Treatment”.
 - Provide training to the court clerks working on probate matters with the most updated information on Court guardianship resources available to the public.

Tab 2

Support SB 53 (Hillyard): Uniform Guardianship, Conservatorship,
and Other Protective Arrangements Act (UGCOPAA)

UGCOPAA is based on a set of 70 recommendations arising from the Third National Guardianship Summit, held at the University of Utah in 2011. Some version of it has been adopted in the 19 states. The DLC strongly supports UGCOPAA because it protects individual rights, promotes the self-determination and independence of Utahns with disabilities, and strengthens accountability within the state's guardianship system.

The top-line bullets summarize the major changes under UGCOPAA. The sub-bullets are either our reason for supporting them, places where current law may be better, or ways pieces of UGCOPAA could be used to strengthen current law:

- **Person-centered planning.** Under UGCOPAA, each guardianship and conservatorship will have an individualized plan that considers the person's preferences and values. Courts will monitor guardians and conservators to ensure compliance and approve updates to the plan in response to changing circumstances.
 - Currently, no guardian or conservator is required to file a plan for administering the guardianship or conservatorship. In fact, a parent(s) (and any coguardian) who is the guardian of their adult child with a disability is also exempt from reporting under Utah law. Additionally, the requirements which do exist largely emphasize financial management rather than quality-of-life concerns. If the courts are concerned about the workload created by additional reporting, it may be worth considering creating a system where a certain percentage are randomly reviewed for compliance.
 - In addition to lines 2991-3010, the items below (from Minnesota) will add clarity and specificity to the report required under UCA 75-5-312(3)(f)(i), and allow the court to better monitor and assess the state and progress of a guardianship:
 - individual's employment status or opportunities;
 - explanation for restrictions or possible placed on or related to the individual;
 - changes among the individuals and family, friends, or social networks;
 - opportunities the individual has to pursue his or her interests or hobbies; and
 - the individuals short- and long-term goals
- **Express decision-making standard.** UGCOPAA clarifies that a guardian/conservator is a fiduciary and must always act for the benefit of the person subject to guardianship or conservatorship. A guardian for an adult must make decisions the guardian reasonably

believes the adult would make if able, unless doing so would cause harm to the adult. To the extent feasible, a guardian for an adult must promote the adult's self-determination, encourage the adult's participation in decisions, and take into account the values and preferences of the adult.

- This would strengthen language in UCA 75-5-312(7), added by last year's SB 182.
- At the very least, lines 2846-2888 are among the core competencies of a good guardian and should be added to his or her duties under UCA 75-5-312(3).
- The prohibition against admission of a person subject to guardianship to a mental health facility outside of the civil commitment process on lines 2972-2974 should be added as an exception to UCA 75-5-312(c).
- **Enhanced notice.** UGCOPAA enhances protection for individuals subject to guardianship or conservatorship without greatly increasing the costs of monitoring by allowing the court to identify other persons to receive notice of certain suspect actions, and who can therefore serve as extra sets of eyes and ears for the court.
 - This would significantly bolster the protections against abuse, neglect, and/or financial exploitation in UCA 75-5-312(f).
 - UGCOPAA says the court shall appoint a visitor. UCA 75-5-304(4) says a judge may appoint a visitor. With more training around appropriate circumstances for use of a visitor, perhaps it makes sense to maintain the discretion.
 - Some of the information gathered by a court visitor already is or could be included in the physician or psychologist's more in-depth assessment (SB 182, 2018) required by UCA 75-5-317(2)(c).
 - While we prefer the rights specified on lines 4878-4918 carry the weight of law, they could also be included in the training and recently revised bench book or online materials given to judges by the Administrative Office of the Courts.
- **Guaranteed visitation and communication.** Without a court order, a guardian under UGCOPAA may not restrict a person under guardianship from receiving visits or communications from family and friends for more than seven days, or from anyone for more than sixty days. Unless the court orders otherwise, close family members must be notified of any change in residence.
 - UCA 75-5-312.5 seems to at least partially address this issue.
- **Less-restrictive alternatives.** UGCOPAA prohibits courts from issuing guardianship or conservatorship orders when a less-restrictive alternative is available, such as supported decision-making, technological assistance or an order authorizing a single transaction.

- Would go a long way toward making UCA 75-5-304(2)(a)'s preference for limited guardianship a reality. Would also give the force of law to the guidance provided to judges by the Administrative Office of the Courts' updated bench card and bench book around the discussion of less-restrictive alternatives.
- **Enhanced procedural rights.** UGCOPAA requires notice of key rights to individuals subject to guardianship or conservatorship, including the right to independent legal representation. The act allows any interested party to petition a court for reconsideration of an appointment and places limits on a guardian or conservator's ability to charge fees for opposing the efforts to alter the terms of appointment.
 - The option the state selected requires appointment of counsel only if a person potentially subject to guardianship or conservatorship requests it, a court visitor recommends it, or a judge determines an individual needs it. The preservation of an individual's freedom and civil liberties should not depend on him or her knowing that he or she can or being able to request representation, the recommendation of a court visitor who may or may not be appointed, or a judge being able to assess whether counsel is necessary. This seems like a step back from UCA 75-5-303(2)(b).
 - The language on lines 2617-2621 and 2629-2633 relating to accommodating the attendance and participation of a person potentially subject to guardianship could be added to UCA 75-5-303(5)(a).and (c).
 - The language on lines 3126-3127 regarding the modification of a guardianship because the extent of protection or assistance granted is not appropriate or for other good cause should be added to UCA 75-5-307(2).
 - The language relating to representation of individuals wishing to challenge a guardianship from lines 3154-3157 should be included under UCA 75-5-307.
 - The process for transitioning from a minor to an adult guardianship should be subject to the same standard and analysis as an initial petition for guardianship of an adult.
- Updated terminology. The terms "ward," "incapacitated person," and "disabled person" are increasingly viewed as demeaning and offensive. UGCOPAA uses neutral terms such as "respondent" for the subject of a guardianship hearing, and "individual subject to guardianship" once a court order has been issued.
- UGCOPAA was created by guardianship experts. Organizations involved in the drafting process include AARP, the Alzheimer's Association, the National Guardianship Association, the National Center for State Courts, the National College of Probate Judges, the ARC, the ABA Commission on Law and Aging, the National Academy of Elder Law Attorneys, and the National Disability Rights Network.

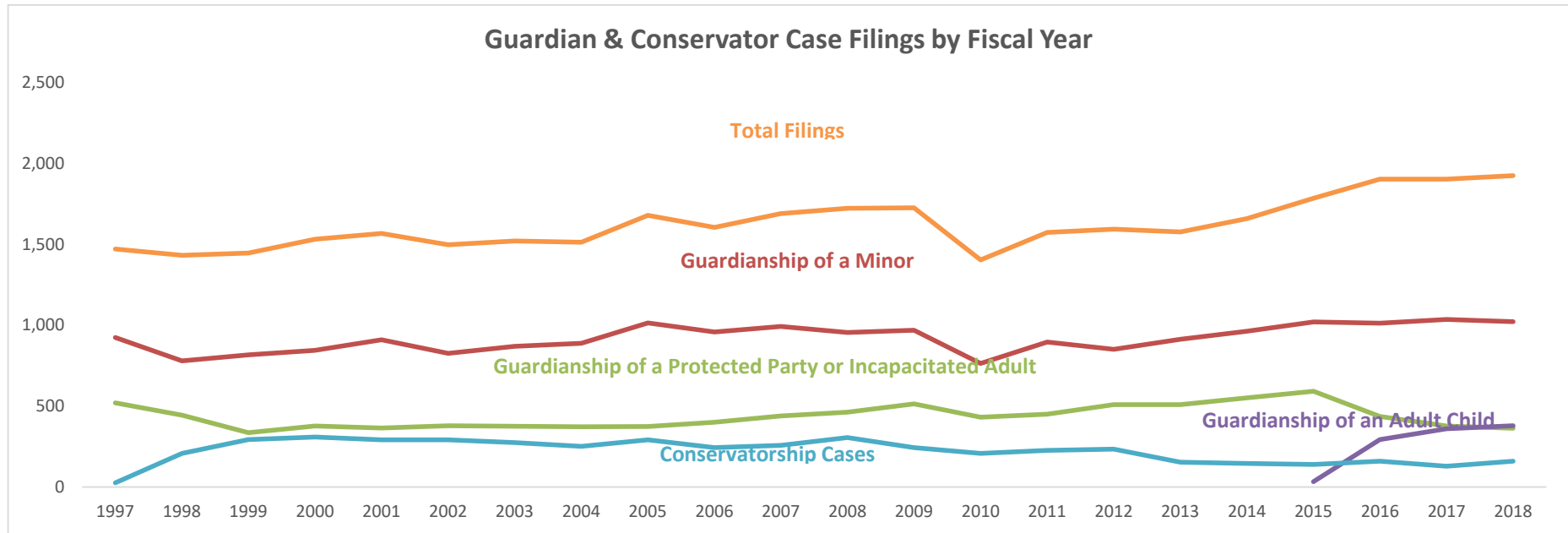
Tab 3

Guardian & Conservator Case Filings by Fiscal Year

Case Filings from FY1997 to FY2018 as of July 5, 2018

	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Guardianship Cases	1,445	1,224	1,153	1,223	1,276	1,206	1,246	1,262	1,388	1,361	1,433	1,417	1,484	1,196	1,348	1,360	1,424	1,514	1,645	1,743	1,774	1,765
Guardianship of a Minor	925	780	817	845	911	827	870	889	1,014	959	993	955	970	764	897	851	914	963	1,020	1,013	1,036	1,022
Guardianship of a Protected Party or Incapacitated Adult	520	444	336	378	365	379	376	373	374	401	440	462	514	432	451	509	510	551	592	437	378	364
Guardianship of an Adult Child										1									33	293	360	379
Conservatorship Cases	26	208	293	309	292	292	275	251	291	244	258	306	243	208	226	234	153	146	140	160	129	160
Total Filings	1,471	1,432	1,446	1,532	1,568	1,498	1,521	1,513	1,679	1,605	1,691	1,723	1,727	1,404	1,574	1,594	1,577	1,660	1,785	1,903	1,903	1,925

Guardian & Conservator Case Filings by Fiscal Year



Guardianship & Conservator Cases Filed Q1 of FY2019

Jul 1, 2018 to Oct 1, 2018

		Guardian-Minor	Guardian-Adult Child	Guardian-Adult	Guardianship	Conservatorship
District 1	Brigham City	5	5	2		8
	Logan	9	3	3		4
	Randolph			1		
	District 1	14	8	6		12
District 2	Farmington	48	14	13		4
	Morgan		2			
	Ogden	21	4	15		5
	District 2	69	20	28		9
District 3	Salt Lake City	185	43	38		13
	Silver Summit	4				2
	Tooele	8		2		1
	District 3	197	43	40		16
District 4	American Fork	1				
	Fillmore					1
	Heber City	2	3			2
	Nephi	2		1		
	Provo	57	20	17		8
	Spanish Fork			1		
	District 4	62	23	19		11
District 5	Beaver	1				
	Cedar City	5	1	3		2
	St. George	42	4	8	1	6
	District 5	48	5	11	1	8
District 6	Manti	1	1	1		1
	Richfield	5	4	1		
	District 6	6	5	2		1
District 7	Castle Dale	1				
	Moab	1				
	Monticello	1		1		
	Price	7		2		1
	District 7	10		3		1
District 8	Duchesne	1				
	Vernal		1	2		2
	District 8	1	1	2		2
Total		407	105	111	1	60

Guardianship & Conservator Cases Filed Q2 of FY2019

Oct 1, 2018 to Jan 1, 2019

		Guardian-Minor	Guardian-Adult Child	Guardian-Adult	Guardianship	Conservatorship
District 1	Brigham City	3	2	1		1
	Logan	8	4			2
	District 1	11	6	1		3
District 2	Farmington	28	11	5		6
	Ogden	18	8	6		7
	District 2	46	19	11		13
District 3	Salt Lake City	81	38	29		7
	Silver Summit					1
	Tooele	6	2	2		2
	District 3	87	40	31		10
District 4	American Fork			2		
	Heber City	1				
	Provo	27	17	20	1	5
	Spanish Fork				1	
	District 4	28	17	22	2	5
District 5	Beaver		1			
	Cedar City	6	4	5		2
	St. George	20	4	7		3
	District 5	26	9	12		5
District 6	Manti	1	2			
	Panguitch	1		1		
	Richfield			1		
	District 6	2	2	2		
District 7	Castle Dale	1				
	Monticello	1				1
	Price	1				
	District 7	3				1
District 8	Duchesne	1				
	Vernal	2	1	2		
	District 8	3	1	2		
Total		206	94	81	2	37

Tab 4

Utah WINGS Strategic Goals Chart FY 2018-2019

	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 Gerontology Program to identify Court follow up and possible red flags in cases where visitor was assigned.	✓ One evaluation report	Graduate Intern, Karolina Abuzyarova	Dec. 31, 2017 Completed
	Provide Representation	1. Reassess attorney appointment process with the Program Board. 2. Recruit attorneys through CLEs.	✓ 100% representation for guardianship respondents	Karolina Abuzyarova Nicholas Stiles	FY 2018-2019 Ongoing
	Track number of guardianship petitions	Make quarterly reports	✓ Regular quarterly reports to be presented to Judicial Council and Legislature for permanent funding	Judge Brady	Every quarter Ongoing
E D U C A T I O N	Build capacity of the judiciary	Provide continuing education to judges (Elder Justice Innovation grant, ABA) at the bench meetings (limited Guardianship; Referral Flowchart)	Number trained by profession: 89 District Court judges and to 20 probate courts and clerks Total # of Trainings: Average training time: 40 mins.	Karolina, Mary Jane Ciccarello, Judge David Connors, Judge James Brady, Kent Alderman	Classes and online materials completed
	Provide educational support to family guardians and caregivers	1. Developed Online Training Program (OTP) and posted on the Court website: (a) Advance Life; (b) Planning, Guardianship Procedures; and (c) Serving As Court-Appointed Guardian. 2. Translate OTP into Spanish 3. Link OTP to Guardianship Test	1. Online Training Program (x unique visitors) 1. Spanish Training Program (x unique visitors) (in progress) 1. Link to Guardianship Test	Education Subcommittee, Court Online Training Specialist	Completed, Online materials translated and posted

E D U C A T I O N	Offer guardianship training to professionals	<ol style="list-style-type: none"> 1. Conducted classes with the Utah State University’s grant support. 2. Plan and convene a roundtable 3. Implement action plan of the roundtable “Crossroads of Guard-p, Involuntary Commitment and Essential Treatment” 	<ol style="list-style-type: none"> 1. Trained 234 Professionals and Caregivers on life planning and guardianship processes. 2. Completed 1 roundtable 3. One roundtable report with action steps 4. One educational subcommittee created 	1. Education Subcommittee	Completed except follow up on roundtable – postponed until after legislative session
	Outreach to court clerks, professionals, minorities on updated online resources on guardianship	<ol style="list-style-type: none"> 1. Educate Court clerks and Self-help Center staff on most recent OTP. 2. Educate minority group leaders on availability of information in Spanish. 	Train xx District Court clerks on OTP and Court Visitor program Total Trainings: 8 Average training time: 30 mins. Make presentations to 3 non-profit target community groups	WINGS organizations	December 2018 – postponed until after legislative session
	Establish partnership between Tribal Courts, District Courts and Aging/Adult Protective Services	Map out the jurisdiction of tribal courts and district court and referrals of abuse and exploitation on tribal land	One jurisdiction chart and referral created X Presentations to Tribal Leaders; Formed Subcommittee	James Toledo Nan Mendenhall	FY 2018-2019
R E G U L A T I O N	Document the number of limited guardianship	Track limited appointments in CORIS.	New data element in CORIS	Clayson Quigley	In progress
	Track cases where guardianship is terminated.	Document restoration of rights and reasons	New data elements in CORIS	Clayson Quigley	In progress
	Adoption of the Uniform Guardianship Act in Utah	Legislative session 2019, passing HB53	Funds appropriated to a fiscal note attached to the bill; Statutory changes	Disability Law Center, Senator Weiler, Michael Drechsel	March 2019