

Utah Working Interdisciplinary Network of Guardianship Stakeholders (WINGS)

Thursday, December 15, 2022, 12:00 pm | 2 hours |

AGENDA

	Topic	Presenter	Materials
12:00	Meeting begins		
	<ul style="list-style-type: none">• Housekeeping• Welcome new members• Minutes	Judge Kelly	– <i>WINGS Minutes (October 2022 – draft)</i>
12:10	Ongoing Projects		
	<ul style="list-style-type: none">• Utah Code 75-5-303	Group Discussion Judge Kelly Shonna Thomas	– <i>Utah Code 75-5-303 (for redlining)</i> – <i>Utah Code 75-5-303 (revision sections)</i>
1:30	Project Updates – time permitting		
	<ul style="list-style-type: none">• WINGS Membership<ul style="list-style-type: none">○ Successor process and nominations○ Missing agency representatives	Judge Kelly Shonna Thomas	– <i>WINGS Succession Plan</i>
1:50	Other Business		
	<ul style="list-style-type: none">• Judge Connors journal article	Shonna Thomas Michelle Wilkes	– <i>WINGS History (2005 -2022)</i>
2:00	Meeting adjourned		

Next meeting: **February 16, 2023** (via WebEx)

Effective 5/8/2018

75-5-303 Procedure for court appointment of a guardian of an incapacitated person.

(1) An incapacitated person or any person interested in the incapacitated person's welfare may petition for a finding of incapacity and appointment of a guardian.

(2) (a) Upon the filing of a petition, the court shall set a date for hearing on the issues of incapacity.

(b) Unless the allegedly incapacitated person has counsel of the person's own choice, the court shall appoint an attorney to represent the person in the proceeding the cost of which shall be paid by the person alleged to be incapacitated, unless the allegedly incapacitated person and the allegedly incapacitated person's parents are indigent.

(c) If the court determines that the petition is without merit, the attorney fees and court costs shall be paid by the person filing the petition.

(d) If the court appoints the petitioner or the petitioner's nominee as guardian of the incapacitated person, regardless of whether the nominee is specified in the moving petition or nominated during the proceedings, the petitioner shall be entitled to receive from the incapacitated person reasonable attorney fees and court costs incurred in bringing, prosecuting, or defending the petition.

(3) The legal representation of the incapacitated person by an attorney shall terminate upon the appointment of a guardian, unless:

(a) there are separate conservatorship proceedings still pending before the court subsequent to the appointment of a guardian;

(b) there is a timely filed appeal of the appointment of the guardian or the determination of incapacity; or

(c) upon an express finding of good cause, the court orders otherwise.

(4) The person alleged to be incapacitated may be examined by a physician appointed by the court who shall submit a report in writing to the court and may be interviewed by a visitor sent by the court. The visitor also may interview the person seeking appointment as guardian, visit the present place of abode of the person alleged to be incapacitated and the place it is proposed that the person will be detained or reside if the requested appointment is made, conduct other investigations or observations as directed by the court, and submit a report in writing to the court.

(5) (a) The person alleged to be incapacitated shall be present at the hearing in person and see or hear all evidence bearing upon the person's condition. If the person seeking the guardianship requests a waiver of presence of the person alleged to be incapacitated, the court shall order an investigation by a court visitor, the costs of which

shall be paid by the person seeking the guardianship.

(b) The investigation by a court visitor is not required if there is clear and convincing evidence from a physician that the person alleged to be incapacitated has:

(i) fourth stage Alzheimer's Disease;

(ii) extended comatosis; or

(iii) (A) an intellectual disability; and

(B) an intelligence quotient score under 25.

(c) The person alleged to be incapacitated is entitled to be represented by counsel, to present evidence, to cross-examine witnesses, including the court-appointed physician and the visitor, and to trial by jury. The issue may be determined at a closed hearing without a jury if the person alleged to be incapacitated or the person's counsel so requests.

(d) Counsel for the person alleged to be incapacitated, as defined in Subsection [75-1-201\(22\)](#), is not required if:

(i) the person is the biological or adopted child of the petitioner;

(ii) the value of the person's entire estate does not exceed \$20,000 as established by an affidavit of the petitioner in accordance with Section [75-3-1201](#);

(iii) the person appears in court with the petitioner;

(iv) the person is given the opportunity to communicate, to the extent possible, the person's acceptance of the appointment of petitioner;

(v) no attorney from the state court's list of attorneys who have volunteered to represent respondents in guardianship proceedings is able to provide counsel to the person within 60 days of the date of the appointment described in Subsection (2);

(vi) the court is satisfied that counsel is not necessary in order to protect the interests of the person; and

(vii) the court appoints a visitor under Subsection (4).

Amended by Chapter 455, 2018 General Session

Effective 5/8/2018

75-5-303 Procedure for court appointment of a guardian of an incapacitated person.

Statute	Notes
(1) An incapacitated person or any person interested in the incapacitated person's welfare may petition for a finding of incapacity and appointment of a guardian.	
(2) (a) Upon the filing of a petition, the court shall set a date for hearing on the issues of incapacity. (b) Unless the allegedly incapacitated person has counsel of the person's own choice, the court shall appoint an attorney to represent the person in the proceeding the cost of which shall be paid by the person alleged to be incapacitated, unless the allegedly incapacitated person and the allegedly incapacitated person's parents are indigent. (c) If the court determines that the petition is without merit, the attorney fees and court costs shall be paid by the person filing the petition. (d) If the court appoints the petitioner or the petitioner's nominee as guardian of the incapacitated person, regardless of whether the nominee is specified in the moving petition or nominated during the proceedings, the petitioner shall be entitled to receive from the incapacitated person reasonable attorney fees and court costs incurred in bringing, prosecuting, or defending the petition.	(b) – the wording here is inconsistent with the wording in Code 75-5-407 (dealing with conservators), which says, “ <i>Unless the person to be protected has already retained counsel...</i> ” What capacity must the respondent have in order to <u>choose</u> their own attorney?
(3) The legal representation of the incapacitated person by an attorney shall terminate upon the appointment of a guardian, unless: (a) there are separate conservatorship proceedings still pending before the court subsequent to the appointment of a guardian; (b) there is a timely filed appeal of the appointment of the guardian or the determination of incapacity; or (c) upon an express finding of good cause, the court orders otherwise.	

<p>(4) The person alleged to be incapacitated may be examined by a physician appointed by the court who shall submit a report in writing to the court and may be interviewed by a visitor sent by the court. The visitor also may interview the person seeking appointment as guardian, visit the present place of abode of the person alleged to be incapacitated and the place it is proposed that the person will be detained or reside if the requested appointment is made, conduct other investigations or observations as directed by the court, and submit a report in writing to the court.</p>	<p>Confusion over what is meant by a “physician appointed by the court.”</p>
<p>(5) (a) The person alleged to be incapacitated shall be present at the hearing in person and see or hear all evidence bearing upon the person's condition. If the person seeking the guardianship requests a waiver of presence of the person alleged to be incapacitated, the court shall order an investigation by a court visitor, the costs of which shall be paid by the person seeking the guardianship.</p>	<p>Define what is meant by “in person”? A respondent cannot be excused from the hearing if the respondent does not have counsel (per (5)(d)). Does this need to be made clearer?</p>
<p>(b) The investigation by a court visitor is not required if there is clear and convincing evidence from a physician that the person alleged to be incapacitated has: (i) fourth stage Alzheimer's Disease; (ii) extended comatosis; or (iii) (A) an intellectual disability; and (B) an intelligence quotient score under 25.</p>	<p>Fourth stage Alzheimer’s and an IQ score of 25 are not legitimate criteria. Update medical criteria to language used in diagnoses. NOTE - medicine is not sufficiently standardized so that any kind of diagnosing system could be used, because not all providers will write notes in the same way. Suggested language (per WINGs member Dr. Michelle Miranda, Clinical Neuropsychologist): (b) The investigation by a court visitor is not required if there is clear and convincing evidence from a physician that the person alleged to be incapacitated has: (i) A progressing neurodegenerative (dementing) disease causing dependence for basic activities of daily living (dressing/eating/etc.) (ii) extended comatosis</p>

	<p>(iii) A severe intellectual disability causing dependence for basic activities of daily living (dressing/eating/etc.)</p>
<p>(c) The person alleged to be incapacitated is entitled to be represented by counsel, to present evidence, to cross-examine witnesses, including the court-appointed physician and the visitor, and to trial by jury. The issue may be determined at a closed hearing without a jury if the person alleged to be incapacitated or the person's counsel so requests.</p>	<p>Discuss including clarifying language that addresses the issues surrounding Court Visitors being called to testify.</p>
<p>(d) Counsel for the person alleged to be incapacitated, as defined in Subsection 75-1-201(22), is not required if:</p> <ul style="list-style-type: none"> (i) the person is the biological or adopted child of the petitioner; (ii) the value of the person's entire estate does not exceed \$20,000 as established by an affidavit of the petitioner in accordance with Section 75-3-1201; (iii) the person appears in court with the petitioner; (iv) the person is given the opportunity to communicate, to the extent possible, the person's acceptance of the appointment of petitioner; (v) no attorney from the state court's list of attorneys who have volunteered to represent respondents in guardianship proceedings is able to provide counsel to the person within 60 days of the date of the appointment described in Subsection (2); (vi) the court is satisfied that counsel is not necessary in order to protect the interests of the person; and (vii) the court appoints a visitor under Subsection (4). 	<p>NOTE – the way the statute is written, if an individual is excused from the hearing under the medical criteria listed in 5b, the attorney requirement <u>cannot</u> be waived, per 5d.</p> <p>Top line, add language: “Counsel for the person alleged to be incapacitated, as defined in Subsection 75-1-201(22), is not required if each of the following criteria are met:”</p> <p>(i) is there value in adjusting/adding criteria to account for parents caring for adult children between the ages of 18-21 with incapacity?</p> <p>(iii) – this means that if the respondent has been excused from the hearing, per (5)(a), counsel cannot be waived. Should this be made clearer?</p> <p>(iv) – What does this look like? If is expressed only during the hearing? To a Court Visitor?</p> <p>(v) – The 60 days language is confusing and should be clarified.</p> <p>(vi) – keep the “and” and the end of the sentence, in addition to adding the redline language above.</p>

	Rule 1-205	Rule 3-421	WINGS Bylaws
Judiciary Representatives <i>Rule 1-205(1)(B)(xv)(a)</i>	<p>All members designated by this rule may make motions and vote unless otherwise specified.</p> <p>Are appointed via the process listed under (3)(A)(i).</p>		
Community Stakeholder Representatives <i>Rule 1-205(1)(B)(xv)(b)</i>	<p>All members designated by this rule may make motions and vote unless otherwise specified.</p>	<p>Community stakeholder organizational representatives (Rule 1-205(1)(B)(xv)(b)) will be designated by their organizations and not subject to the term limitations of Rule 1-205(3)(B).</p>	<p>Individuals serving as representatives of their organizations may continue to serve for a longer term, as determined by their organization.</p>
Individual Community Representatives <i>Rule 1-205(1)(B)(xv)(c)</i>	<p>All members designated by this rule may make motions and vote unless otherwise specified. Except as otherwise provided in this rule, standing committee members shall serve staggered three year terms. Standing committee members shall not serve more than two consecutive terms on a committee unless the Council determines that exceptional circumstances exist which justify service of more than two consecutive terms.</p>		<p>Individual members shall serve a term of three years, and may serve up to two terms at the Executive Committee's election. When a vacancy arises, a new member who can provide the same or similar representation shall be sought within sixty days.</p>
Meeting Attendees (non-members)	<p>Standing committees may invite participation by others as they deem advisable, but only members designated by this rule may make motions and vote.</p>		
WINGS Chair	<p>The Judicial Council shall designate the chair of each standing committee.</p> <p>The Council shall appoint the chair of each committee. Whenever practical, appointments shall reflect geographical, gender, cultural and ethnic diversity.</p>	<p>The Chair of WINGS shall be a Utah District Court judge.</p>	<p>The Utah WINGS chair shall be a judge who is well versed in probate matters. The chair shall serve a term of three years—with an option to renew for a subsequent term—and at the conclusion of his or her service, appoint a successor with the same, or similar, qualifications.</p>
Executive Committee		<p>The WINGS Executive Committee shall consist of the Utah WINGS chair, the GRAMP Coordinator, the Court Visitor Program Coordinator, a staff attorney from the Administrative Office of the Courts, and up to three members of Utah WINGS, as determined by the chair.</p>	<p>The Executive Committee shall consist of the Utah WINGS chair, the Court Visitor Coordinator, a staff attorney from the Administrative Office of the Courts, and up to three members of Utah WINGS, as determined by the chair.</p>

	Rule 1-205(1)(B)(xv)(a)	Rule 1-205(1)(B)(xv)(b)	Rule 1-205(1)(B)(xv)(c)
Stakeholder Name	Judiciary Representatives	Community Stakeholder Representatives	Individual Community Representatives
Judge Keith Kelly	X		
Judge David Connors	X		
Judge James Brady	X		
Shane Bahr	X		
Sarah Box	X		
Deborah Brown			X
Brant Christiansen			X
TantaLisa Clayton		X	
Katie Cox		X	
Rob Denton			X
Dr. Lindsay Embree			
Rob Ence		X	
Wendy Fayles			X
Leslie Francis			X
Nels Holmgren		X	
Eve Larsen			X
Nan Mendenhall		X	
Wendy Naylor		X	
Alan Ormsby			X
Andrew Riggle		X	
Danaka Robles	X		
Keri Sargent	X		
Shonna Thomas	X		
Katie Thomson	X		
Holly Thorson	X		
James Toledo			X
Todd Weiler		X	
Michelle Wilkes	X		
KayeLynn Wooton		X	
Open Spots to be Filled:			
Long Term Care Ombudsman		X	
Utah State Bar		X	
General Counsel's Office	X		

WINGS HISTORY

2005

- The Utah State Bar, Committee on Law and Aging reported that the District Court fell short in protecting incapacitated adults.
- The Utah Judicial Council appointed an Ad Hoc Committee on Probate Law and Procedure to investigate.
- Establishing the Court Visitor Volunteer Program was one recommendation of the [report](#) issued by the Committee in February 2009.

2011

- The Court Visitor Program was initiated by the AOC using seed grant funding from the State Justice Institute. The grant awarded was \$270,000 and covered the period of 07/01/2011 to 07/01/14.
- “The goals of the program are to protect vulnerable adults, assist guardians and inform judges’ decisions.”
- When the Court Visitor Program was created, a committee was developed with the title of The Volunteer Court Visitor Program Steering Committee.
- The National Guardianship Network held the Third National Guardianship Summit, funded by the State Justice Institute and the Borchard Center on Law and Aging. The Third National Guardianship Summit was a landmark consensus conference sponsored by the ten Guardianship Network entities (including National Center for State Courts and the National College of Probate Judges) and participating co-sponsors.
- The 93 summit participants provided 21 “Recommendations for Action by courts, legislatures, and others.”

2013

- In January, Utah Staff Attorney, Tim Shea, submitted a grant application to the American Bar Association - Commission on Law and Aging for the creation of a Utah WINGS chapter. Utah WINGS would replace the Volunteer Court Visitor Steering Committee.
- In the application, it states, “A Utah WINGS provides the opportunity to organize the described efforts to focus on the larger tasks of overseeing and improving the existing system of guardianship and its alternatives... Utah’s pilot guardianship monitoring program, the Court Visitor Volunteer Program, aims at protecting vulnerable adults under guardianship; however, it hasn’t yet addressed preventive measures that would decrease the occurrence of abuse, neglect and exploitation...”
- In April, the American Bar Association - Commission on Law and Aging, awarded Utah as one of the four states to take part in the pilot program, titled WINGS (along with Oregon, Texas, and New York). They provided Utah \$7,000 for one year to participate.
- The award letter included 11 parameters for Utah to participate in the WINGS pilot program.
- Utah WINGS began meeting formally in April 2013.

2014 - Present

- The mission of Utah WINGS is to bring together stakeholders from various disciplines to improve the state's guardianship and conservatorship services and processes. To carry out its mission, Utah WINGS:
 - supports policy initiatives for the enhancement of guardianship and related infrastructure;
 - identifies and develops education and outreach opportunities regarding guardianships, conservatorships, and their alternatives;
 - provides training and support to those engaging the guardianship / conservatorship system;
 - identifies resources that may be available in emergency cases where persons of limited decision-making capacity have no guardian;
 - promotes high standards for guardians and conservators;
 - promotes collaboration between Utah WINGS members and other stakeholders; and
 - regularly evaluates the needs and priorities of Utah WINGS's efforts
- WINGS continually reviews guardianship and conservatorship forms and policies to make improvements and provide recommendations to the court and their committees.

FUNDING

2011 - 2012

- The Court Visitor Program was initiated by the AOC using seed grant funding from the State Justice Institute. The grant awarded was \$270,000 and covered the period of 07/01/2011 to 07/01/14.

2013

- The American Bar Association - Commission on Law and Aging, awarded Utah as one of the four states to take part in the pilot program, titled WINGS (along with Oregon, Texas, and New York). They provided Utah \$7,000 for one year to participate.

2014

- July 2014, the SJI Grant for Court Visitor Program ends. The Administrative Office of the Courts applied for \$100,000 in grants but was not awarded new funding. However, approximately \$40,000 in prior SJI funds carried over into 2015.

2015

- The CVP formally submitted a funding request to the Judicial Council. The Council agreed to put this as a priority for the next legislation session to permanently fund 2 positions of \$174,300. This request was not successful.

2016

- The Judicial Council committed one-time funding of approximately \$160,000.
- The CVP received \$30,000 in grant funding from Utah State University's Center for Persons with Disabilities Interagency Outreach Training Initiative, to conduct public classes on advance life planning and guardianship.
- A second request was made to the Judicial Council to permanently fund the CVP, using a Building Block Request requesting funding for FY 2017. This request was not successful.

2017

- The Judicial Council committed one-time funding of approximately \$160,000, a portion of which was offset by grants the program received for its WINGS Committee work.
- The CVP received \$39,375 in grant funding from ASPIRE, to “provide life planning and guardianship advice to families with children with disabilities on SSI.” ASPIRE (Achieving Success by Promoting Readiness for Education and Employment) operated within the Utah State Office of Rehabilitation of the Department of Workforce Services.
- The CVP secured 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.
- A third request was sent to the Judicial Council to provide permanent funding for the CVP. This request combined the 3 guardianship programs - CVP, Guardianship Signature Program, and Utah WINGS - under the umbrella of the Guardianship Reporting and Monitoring Program, or GRAMP. The Judicial Council agreed to send the GRAMP request to the legislature as a building block. The Legislature gave it high priority and it generated wide support. Unfortunately, it did not make the cut.

2018

- The Judicial Council committed one-time funding of approximately \$160,000, a portion of which was offset by grants the program received for its WINGS Committee work.
- GRAMP again requested funding through the Judicial Council and Utah Legislature. This funding request was approved, and the AOC received permanent funding for 2 full-time positions to manage the administration of the programs under GRAMP, beginning in FY2018.

2022

- Another funding request to the Judicial Council and Utah Legislature resulted in the additional funding approved for a third full-time employee to assist in the increase of guardianship and conservatorship cases, and the resulting increase in workload to the programs under GRAMP.

STAKEHOLDERS

Participation has varied through the years. WINGS currently has 27 stakeholders. The current roster of WINGS stakeholders includes representatives from the following agencies/organizations:

- Administrative Office of the Courts
- Adult Protective Services (APS) – Director
- Attorney General Office Medicaid Fraud Control Unit (MFCU) – Director

- Office of Public Guardian (OPG) – Director
- Division of Adult and Aging Services – Director
- American Association of Retired Persons (AARP)
- Disability Law Center
- Lewis Hansen Law Firm
- Long-Term Care Ombudsman
- National Alliance on Mental Health (NAMI)
- Self Help Center
- University of Utah School of Medicine
- Utah Commission on Aging
- Utah District Courts Staff
- Utah Division of Indian Affairs
- Utah Legal Services
- Utah Legislature
- Utah State Bar

IMPACT

Some of the accomplishments of WINGS, its stakeholders, and its predecessor the Volunteer Court Visitor Program Committee, include:

2013

- Article for Utah Bar Journal, Volume 26 No. 1 January/February 2013 Utah Volunteer Court Visitors in Guardianship Cases.
- Created pro se forms
- Conducted Four classes on managing guardianship and conservatorship cases conducted around the state in April and May
- Created a reference manual for clerks
- Created Publication of Bench books for judges

2014

- Identified medical evidence as part of the appointment of a guardian
- Examined the role of the courts in monitoring guardians
- Provided representation for vulnerable adults and educated lawyers on guardianship proceedings
- Collaborated with the law enforcement agencies to serve victims of abuse, neglect and exploitation

- Collaborated with VA and SSA, to involve family caregivers, guardians, representatives of the Hispanic and LGBT community.
- Published three papers written by WINGS members resulting from the summit in the 2014 Utah Bar Journal:
 - “Improving Service Delivery to Protected Persons and Their Guardians”
 - “The Challenge of Submitting Competent Medical Evidence of Incapacity in Guardianship Proceedings”
 - “Person-Centered Planning and Supported Decision-Making.”

2015

- Created and provided public education classes on guardianship and conservatorship
- Interviewed on KUED, Channel 7 on the guardianship monitoring program in December 2015: [www.kued.org/contact/utah-courts-visitor-volunteer- program](http://www.kued.org/contact/utah-courts-visitor-volunteer-program).
- Adopted organizational bylaws
- Started collaboration with Social Security Administration and Veteran’s Administration via national conference calls and information exchange.
- Utah State Courts and Utah State Bar established Guardianship Signature Program that provides free and low-cost legal representation to vulnerable adults in guardianship proceedings.
- Organized three public classes for guardians and caregivers on alternatives to guardianship, guardianship procedures, and community.

2016

- WINGS Classes in Spanish on advance life planning and guardianship were held at the Consulate of Mexico in Salt Lake City
- Online training program on advance life planning and guardianship published: <https://www.utcourts.gov/howto/family/gc/training.html>
- Presentation to the Elder Law Section "Looking after the rights of the adults with diminished capacity in guardianships - Court Visitor Volunteer Program"
- Panel presentation on guardianship and resources, at the Utah Healthcare Association
- Annual Judicial Conference presentations: "Resources for Capacity Evaluation" and "Addressing Abuse, Neglect and Exploitation in Adult Guardianship Cases"

2017

- Trained 243 professionals and caregivers on advance life planning
- Organized a roundtable with over 40 professionals “Crossroads of Guardianship, Involuntary Commitment and Essential Treatment”
- Guardianship Signature Program had 91 appointments of pro bono or low bono attorneys to represent indigent respondents in guardianship proceedings in 2017.
- WINGS outreach activities included:

- Presented on the Court guardianship resources and oversight at the White Collar Crime Conference of the Certified Fraud Examiners
- Presented at the panel “WINGS: State Interdisciplinary Networks Take Flight to Advance Guardianship Goals” at the National Guardianship Association Conference
- Presented on the Court guardianship oversight efforts in response to New Yorker article “How Elderly Loose their Rights” at the Utah Commission on Aging

2018

- 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>.
- Presented on alternatives to guardianship and guardianship procedures to various courts throughout Utah
- 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
- Provided life planning and guardianship advice to families with children with disabilities on SSI with support from the ASPIRE grant
- 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>

2019

- WINGS Membership has increased by 54%
- An interdisciplinary team was formed to participate in the Strategies and Training to Advance Greater Elder Safety (STAGES) conference in Charlottesville, VA (August 2019). WINGS participants included representatives from Adult Protective Services, Attorney General’s Office - Medicaid Fraud Control Unit, and the Administrative Office of the Courts, as well as a probate judge, clerk, and private probate attorney.
- Presented on guardianship in Park City at the Elder Justice Conference - “Elevating Utah’s Seniors.”
- Guardianship Signature Program (GSP) Recruitment, June 2019 – A CLE was held in St. George to recruit volunteers for the GSP.
- Interagency Record Sharing, August 2019 – WINGS facilitated record-sharing processes for the benefit of vulnerable adults. Adult Protective Services, Office of Public Guardian, the Attorney General’s Office, and the Court Visitor Program coordinated in developing an internal policy and signed contract

2020

- Creation and approval for CJA Rule 6-507. This rule codifies and details the Court Visitor Program. It also defines the process required by the court to review reports submitted by Court Visitors. Reports will be accompanied by a Request to Submit for Decision, to place review of the reports on tracking. In accordance with Rule 3-101, Judges will have 60 days to review and make findings on the report. The new rule went into effect on November 1, 2020.

- Court Order Revision. Due to COVID-19, Court Visitor activities were moved to remote/virtual platforms. A Court Visitor raised concerns about ensuring privacy and confidentiality and limiting undue influence during Court Visitor interviews in these new environments. WINGS collaborated with the Court Visitor Program to resolve this concern. Approved language was added to the existing court orders for assigning a Court Visitor that placed restrictions on parties recording interviews and emphasized confidentiality practices.
- Presented at the Colloquium on Guardianship Oversight in December 2020.

2021

- CJA Rule 6-501 – Reporting Requirements for Guardians and Conservators. WINGS stakeholders identified gaps in this rule where additional language could help clarify. Working alongside the probate subcommittee, revisions to this rule were brought to the Policy and Planning committee in November 2021, for review and feedback. The committee recommended minor changes. WINGS continues to work with the probate subcommittee to make the suggested changes. This rule will be presented again to Policy and Planning in early 2022.
- Annual Report Review Process. In conjunction with Rule 6-501, WINGS created a new form, “Review of Guardianship or Conservatorship Reports” (copy attached). This form is intended to be filed by the guardian/conservator at the time the annual report is submitted, to assist the judge in the review process. The Forms committee reviewed the document and gave approval for its use in October 2021. Guardians/Conservators can begin using the form once revisions to CJA Rule 6-501 have been approved.
- Utah Code 75-5-303. WINGS began reviewing Utah Code 75-5-303, based upon reports from GRAMP, the Court Visitor Program, district court staff, and community partners of the need to clarify some of the language, intent, and training surrounding the statute. WINGS has identified seven areas in the statute that contain (a) confusing language resulting in some districts not properly following the code, (b) contradictions with other language in the statute, or (3) outdated language or criteria. WINGS will continue to review and develop recommendations on improving this statute.
- Rule 1-205 and WINGS Rule. WINGS took on the project of becoming a formal committee under the supervision of the Judicial Council. WINGS stakeholders engaged in discussions on the benefits and potential issues related to seeking this designation. It was determined that formalizing the committee’s status under the Judicial Council would provide a clear succession plan for the district court judges serving on WINGS. It would also allow for improved rotation of court staff interested in serving.
- WINGS created amendments to Rule 1-205 and developed a new supplemental WINGS rule (3-421). In December 2021, WINGS stakeholders unanimously approved the suggested amendments. WINGS will continue to pursue this project in 2022, with plans to present to the Policy and Planning committee in February.