Utah Working Interdisciplinary Network of Guardianship Stakeholders (WINGS)

Thursday, August 20, 2026, 12:00 pm | 2 hours |

AGENDA

	Topic	Presenter	Materials
12:00	**Meeting begins**		
	• Housekeeping, minutes • Welcome guests and new members	Judge Sanchez	*June 2026 – Minutes (draft)*
12:10	**WINGS Updates**		
	• Bench cards / bench books	Keri Sargent	
	• Background Disclosure workgroup • Other workgroups	Shonna Thomas	*White Paper – Strengthening Oversight of Guardians and Conservators (draft August 2026)*

	• GRAMP Pilot Program
	  ○ Status
	  ○ Data collection
		Shonna Thomas	*AOC27001 GRAMP Legal Representation in Guardians RFP*
			RFP Link: https://utah.bonfirehub.com/opportunities/247385
			GSP Pilot Program Invoice (draft 8.14.26)

12:45	**WINGS Topics**		
	• Guardianship Stakeholder Meeting w/ Representative Loubet	Group Discussion	*FY2026 Guardianship Case Filings & Legal Representation* *Attorneys for Protected Persons – By State (Aug 2026)* *Impact Statement – LSO Pilot Project*
	• Right to Association and Cell Phones – LTCO	Ann Humpherys	
1:45	**Other Business**		
	• NCSC Webinar – Court Visitor Programs (September 30)	Shonna Thomas	
	• Stakeholder Agency Updates	Stakeholders	
2:00	Meeting adjourned		

Next meeting:	**October 15, 2026**

Committee Site - https://www.utcourts.gov/utc/wings/
Public Site - https://www.utcourts.gov/gramp/wings/

September 3, 2026

Strengthening Oversight of **Guardians and Conservators**

WINGS
Working Interdisciplinary Networks of Guardianship Stakeholders

Background Disclosures Subcommittee

Contents

Executive Summary

Introduction

Guardians and Conservators play a crucial role by ensuring the well-being and safety of individuals who are unable to care for themselves, due to age, disability, or other incapacitating circumstances. They are entrusted with the profound responsibility of making critical personal, medical, and financial decisions for Utah's most vulnerable populations.

Despite the gravity of these appointments, the State of Utah does not require individuals applying to become guardians or conservators to complete any form of background check, either on a nationwide or state-specific level. Given the immense power granted to these court-appointed fiduciaries, strengthening the Utah Court's oversight is essential to protect incapacitated adults and minors from potential harm.

This oversight could include implementing mandatory background checks for all individuals seeking to become guardians or conservators, establishing a process for courts to track guardianships and conservatorships and the protected individuals they serve, and improving the guardship and conservatorship petition and reporting processes to include more comprehensive screening and disclosure requirements. This will ensure a more thorough evaluation of potential and existing guardians and conservators and identification of potential risks.

Problem Statement

The State of Utah does not require individuals applying to become guardians or conservators to complete either a state-specific or nationwide background check. While petitioners are required to file applications to be appointed, and guardians and conservators are often required to submit annual reports to the court, these standard forms do not solicit critical information regarding histories of criminal convictions or supported allegations of abuse, neglect, or exploitation. By neglecting to require background and credit checks, district court judges lack the necessary tools to identify petitioners with a history that might otherwise preclude them from serving as guardians or conservators.

Recognizing the need to strengthen court oversight and better protect vulnerable adults, the Working Interdisciplinary Network of Guardianship Stakeholders (WINGS) formed a background disclosures subcommittee to evaluate options to reform Utah's policy, and develop recommendations for WINGS, Utah State Court governing boards and committees, including the Judicial Council, and other stakeholders.

Analysis of the Problem

National Landscape and Best Practices

National Probate Court Standards, developed by the National College of Probate Judges through the National Center for State Courts (NCSC) and endorsed by the Borchard Foundation: Center on Law & Aging, State Justice Initiative, and ACTEC (American College of Trust and Estate Counsel) advise probate courts to request national background checks on all prospective guardians and conservators - with the exception of those who have already undergone checks - such as, professional guardians, banks, trust companies, or other financial organizations.[1] Additionally, NCSC advocates that "[e]xcept in unusual circumstances, probate courts should require for all conservators to post a surety bond in an amount equal to the liquid assets and annual income of the estate."[2]

Despite the recommendations, the AARP Public Policy Institute reports that only 13 states mandate that guardians undergo independent criminal background checks before being appointed. These states include Arizona, California, Idaho, Illinois, Maryland, Massachusetts, Michigan, Nevada, New York, North Dakota, Texas, Virginia, and Wisconsin. Other states have adopted protocols, however, to safeguard protected individuals. *(See Appendix B.)* These protocols vary by state, but each are aimed at determining whether an individual applying to become a guardian has had criminal convictions, bankruptcies, supported findings of abuse, neglect, or exploitation, or other events that may put a protected person at risk (see attached).[3]

Precedent in Utah

Utah code 75-5-312(1)(c)(i) states that in plenary guardianships, the "guardian has the same powers, rights, and duties respecting the ward that a parent has respecting the parent's unemancipated minor."[4] With this foundation, the Utah statutes regarding the adoption of a minor stepchild can serve as a legislative and procedural template.

Utah Code 81-13-203 states that an adult may not adopt a minor child if, before adoption is finalized, the adult has been convicted of, pleaded guilty to, or pleaded no contest to a felony or attempted felony involving conduct that constitutes a "disqualifying offense," listing 22 offenses that fall under this umbrella term. To show the court that they do not have any disqualifying offenses, the prospective adoptive parent must complete two background disclosures before the

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[1] Standard 3.3.12 Background Checks, National Probate Court Standards, National Center for State Courts, ISBN 9878-0-89656-284-4 College of Probate Judges. *Last viewed on May 10, 2025 (*https://txcourts.gov/media/414321/National-Probate-Court-Standards.pdf

[2] Id. at Standard 3.3.15, pg. 67

[3] ABA Commission on Law and Aging, www.americanbar.orgLagi.ng, as of December 31, 2015

[4] https://le.utah.gov/xcode/Title75/Chapter5/75-5-S312.html?v=C75-5-S312_2025050720250507

court will finalize the adoption:[5]

- **A Criminal History Clearance:** this requires submitting a fingerprint-based report from the Federal Bureau of Investigation (FBI), delivered to the court in an unopened envelope to preserve the chain of custody. Alternatively, a report from the Utah Department of Health and Human Services can be submitted by an adoption agency or lawyer.

- **Report of Child Abuse History:** this requires requesting this report from the Division of Child and Family Servies by completing a Utah Child Abuse Central Registry Request. For adoptions involving children in state custody, the Department of Health and Human Services also checks the abuse and neglect registries in every state where the prospective parent, and any other adult residing in their household, has lived over the past five years.

These adoption statutes establish a proven, existing framework for assessing safety, stability, and character that can easily be adapted for guardianship and conservatorship proceedings.

Case Studies and Supporting Data

The dangers of inadequate screening are well-documented both nationally and locally and have highlighted the vulnerabilities and instances where a lack of thorough vetting failed to guard the protected person against financial exploitation, theft, neglect, and abuse.

National Level

The Rebecca Fierle case in Florida changed the landscape of guardianships and conservatorships in the state, and had a rippling effect across the country. The guardian, Ms. Fierle, faced numerous charges, and ultimately was convicted of felony elder neglect in relation to the death of one of her wards. The resulting investigation highlighted several concerns:

- Ms. Fierle was improperly appointed by the court as guardian for the ward who died, as there was an active Power of Attorney in place, there were family members with higher priority willing and able to serve as guardian and conservator, and the ward was not legally incapacitated.
- As a professional guardian, Ms. Fierle was required to be certified, and to retain that certification. Investigators determined that while she was originally certified, she lost that certification 7 years prior to the death of her ward.
- Florida law permits professional guardians to have no more than 40 wards under their

[5] https://www.utcourts.gov/en/self-help/case-categories/family/adoption/step-child.html#accordion-bbf890e210-item-eace994b3a

care. Investigators found that at the time of her ward's death, Ms. Fierle was serving as guardian for over 450 wards across the state of Florida.

- Investigators determined that Ms. Fierle had earned approximately $4 million dollars as a professional guardian, including instances where she double billed her wards and their care providers for the same services.

Local Level

Utah is not immune to these types of situations. When courts lack access to a petitioner's full background, they are severely hindered in their ability to assess the character and financial responsibility of the individuals they are empowering to serve as guardians or conservators. Many concerning cases have come to the attention of the courts after the fact, often through the appointment of a Court Visitor, which might otherwise have been avoided or mitigated sooner through the implementation of background checks. Some examples include:

- Guardianship of a minor appointed in 2006, when the protected person was 1 year old. The courts did not receive annual reports from the guardians for over 9 years. The Court Visitor's investigation uncovered that the guardians (the minor's grandparents) had extensive criminal histories dating back decades, with multiple charges including soliciting and servicing prostitution, drug paraphernalia, disorderly conduct, criminal trespassing, possession of a controlled substance, and theft. Several of these convictions occurred before guardianship was appointed, and several occurred after the guardianship was in place. Following the Court Visitor's report, the guardianship was terminated and the minor was placed in the care of her biological father.

- An adult son and daughter were named as co-guardians for their mother, who was diagnosed with dementia, and the son was also named as conservator. Three years after the appointment, a Court Visitor was requested to investigate allegations of financial exploitation. The subsequent investigation learned that the conservator had previously been convicted of 9 counts of molestation and rape of 3 minors. There were additional allegations made that the conservator had also molested his sister (co-guardian) when she was a minor. The Court Visitor uncovered evidence of significant financial fraud and exploitation by the conservator against the protected person. The judge removed the son as conservator and trustee, ordered him to repay the funds, and the case was referred for possible criminal charges.

- Adult Protective Services (APS) requested a Court Visitor to investigate concerns about the overall care of the protected person. The protected person was 19 years old at the time he was placed under the guardianship care of his mother. The Court Visitor determined that the protected person was living in a 3-bedroom home with 8 other adults, one of whom was the protected person's older brother, and another was the guardian's long-time partner. These individuals each had extensive criminal history including forcible sexual abuse, numerous drug charges, grand theft, robbery, burglary, breaking and entering, and battery. The Court Visitor also uncovered evidence that the guardian had previously been convicted of a second degree felony for false claims for medical benefits, and that APS had supported findings of caretaker neglect against the guardian. The judge removed the mother as guardian, and appointed the Office of Public Guardian. Alerted by the Court Visitor, the judge also flagged a petition recently filed involving the same guardian and the protected person's severely disabled younger brother, who was also living in the home and had just turned 18 years old.

- A full guardianship was ordered when the protected person turned 18, naming her mother as her guardian. A Court Visitor was requested several years later, after allegations were made that the guardian was abusive and was interfering with the protected person's marriage, living arrangements, and finances. During the investigation, the Court Visitor uncovered the guardian's criminal convictions for assault, commission of domestic violence in the presence of a child, and possession or use of a controlled substance, which occurred both before the guardianship was appointed, and during. The Court Visitor did not find any evidence supporting the protected person's incapacity. As a result of the investigation, the guardianship was terminated and the protected person's rights were fully restored.

- A Court Visitor was asked to investigate a long-standing guardianship after it came to the court's attention that the protected person's guardian passed away. After the guardian's death, two family members (an aunt and a sister) took over temporary care of the protected person, moving him back and forth between their homes. Because the family members could not agree on who would be best to serve as formal guardian, the judge requested a Court Visitor report. During the Court Visitor's interviews, it was learned that the long term live-in partner of one of the temporary caregivers was a convicted sex offender with felony convictions for aggravated sex abuse of a child and forcible sexual abuse. After reviewing the report, the judge appointed the aunt as the permanent guardian, and restricted overnight home visits with the protected person's sister.

- An adult son was appointed as guardian of his 81-year-old mother who suffered with dementia. Law enforcement was contacted after the protected person was found wandering the streets with no shoes or coat, in the middle of winter, having been kicked out of her home by her caregiver. It was later determined that the guardian was currently serving a 5-month term in jail for violating a restraining order, and that he had entrusted the protected person's care, including access to her bank accounts, to his girlfriend. A Court Visitor investigated and learned that in addition to the restraining order violation, the guardian had a decades-long history of being in and out of jail, with convictions for various drug charges and theft. The Court Visitor also learned that the guardian had personally stolen money from the protected person to fund his ongoing drug addiction and permitted additional financial exploitation of the protected person by his girlfriend and two other friends while he was incarcerated. Following the Court Visitor's report, the judge transferred guardianship to the Office of Public Guardian and issued an order of protection against the son and 3 other named individuals. The case was also referred to the attorney general's office for criminal charges.

Supporting Data

Background disclosures are an essential safeguard for guardians and conservators because they are entrusted with managing the personal care, legal rights, and financial assets of vulnerable adults. Utah Adult Protective Services investigates approximately 4,300 cases of abuse, neglect, and exploitation each year. In FY2023 alone, APS investigated 4,087 cases involving 5,750 allegations, with financial exploitation representing the single most common allegation (1,523 allegations), exceeding caretaker neglect (1,176) and emotional abuse (1,042). More than half (54%) of alleged perpetrators were family members or relatives, underscoring that financial exploitation frequently occurs within relationships of trust. Given these trends, comprehensive criminal background disclosures and screening for prospective guardians and conservators are prudent protections that help courts identify individuals with histories of fraud, theft, abuse, or exploitation before fiduciary authority is granted.

Recommendations

The WINGS background disclosures subcommittee recommends the following actions to address the identified problem:

1. Mandate Background Checks

a. Update UCJA Rule 6-501 to require applicants filing petitions for guardianship of an adult, guardianship of an adult child, guardianship of a minor, guardianship of an adult with severe intellectual disability, conservatorship of an adult, conservatorship of an adult child, and conservatorship of a minor, to undergo a state-level check through the

Utah Bureau of Criminal Identification (BCI). *(See Appendix A.)*

b. Consider whether a national background check would provide additional protection by providing criminal history information from all states, not just Utah. National background checks (formally called Identify History Summary Checks) are conducted by the Federal Bureau of investigations (FBI) through the Criminal Justice Information Services Division, or CJIS, and search out-of-state records. The FBI offers two ways to obtain this record, per their website:

> *You may get a copy of your record by submitting a written request to the CJIS Division. The request must include proof of identity. This proof must include your name, date and place of birth, and a set of* ***rolled-inked fingerprints*** *(which can usually be obtained at your local police department). If there is no criminal record, they provide a report reflecting this/act.*
>
> *You may also submit a request through an FBI-approved channeler. A channeler is a private business that has contracted with the FBI. They receive your fingerprint submissions and data. They also collect any fees. Then they send the submissions and information to the FBI. The FBI will give them the background check results, and they will give them to you. See 11·,1·11·.FBI.gov for the list of FBI-approved channelers.*

2. Update Court Forms

c. Revise application forms for the case types listed above and provided on the Utah State Courts website to include questions about prior convictions, convictions in other states, and supported cases involving Adult Protective Services.

d. Revise the court-approved annual guardianship and conservatorship report forms to include questions about recent convictions, convictions in other states, and supported cases involving Adult Protective Services.

Additionally, legislative initiatives could be considered, if needed, for these new mandates. This could include studying language in Utah Code §78B-6- l 28 (Preplacement Adoptive Evaluations) related to the criminal history background checks required for prospective adoptive parents.

Fiscal Implications

- The cost to obtain a copy of a BCI Criminal History Record check is $20,[6] which includes fingerprinting. The cost for the background check would be the responsibility of the proposed guardian or conservator.

- The BCI check is a simple process which can be completed in person at BCI office in one day, or through the mail, if an applicant prefers to obtain fingerprints from a local law enforcement agency and mail the results to BCI. The time to complete the process is minimal, but the BCI application warns, "*Failure to properly complete one of the steps may cause a delay in processing your application.*"

- If national background checks are implemented, the FBI's website states that the cost for an Identity History Summary Check is $18, plus the cost to obtain fingerprints, which can vary by vendor or location. The FBI offers instructions to request a fee waiver for those who are unable to afford the cost.[7]

- The FBI webpage includes the following estimates to process these records requests:[8]
    - *Online requests:*
        - *Within 48 hours of visiting a United States Post Office location for electronic fingerprints*
        - *Approximately 10 days (after we receive your mailed fingerprint card)*
    - *Mail requests:*
        - *Up to 15 days*
    - *Allow additional time for mail delivery.*

Community Concerns

Court considerations

Conclusion

[6] https://bci.utah.gov/criminal-records/obtain-a-copy-of-your-own-criminal-history-record/
[7] https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/identity-history-summary-checks/identity-history-summary-checks-faqs#Contact-Us
[8] https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/identity-history-summary-checks

Rule 6-501. Testing and reporting requirements for guardians and conservators.

Intent:

To set forth the testing requirements for guardians and conservators and to establish standards and procedures for inventories, reports, and accountings that guardians and conservators are required to file under the Utah Uniform Probate Code.

Applicability:

This rule applies to individuals seeking appointment as guardians and conservators and individuals who are appointed by the court as guardians and conservators.

Statement of the Rule:

(1) **Definitions**.

(1)(A) "Accounting" means the annual accounting required by Utah Code Section 75-5-312 and Section 75-5-417 and the final accounting required by Utah Code Section 75-5-419.

(1)(B) "Interested person" means the respondent, if he or she is not a minor, the respondent's guardian and conservator, the respondent's spouse, adult children, parents and siblings, and any other person interested in the welfare, estate, or affairs of the respondent who requests notice under Utah Code Section 75-5-406. If no person is an interested person as previously defined, then interested person includes at least one of the respondent's closest adult relatives, if any can be found. For purposes of minor guardianship, interested persons include the persons listed in Utah Code Section 75-5-207.

(1)(C) "Inventory" means the inventory required by Utah Code Section 75-5-418.

(1)(D) "Serve" means any manner of service permitted by Utah Rule of Civil Procedure 5.

(1)(E) "Protected person" means a minor or an incapacitated person for whom the court appoints a guardian or an individual for whom the court appoints a conservator.

(1)(F) "Report" means the inventory, accounting, or annual report on the status of the protected person under Utah Code Sections 75-5-209 and 75-5-312, and the final accounting under Sections 75-5-210 and 75-5-419

(1)(G) "Respondent" means a person who is alleged to be incapacitated and for whom the appointment of a guardian or conservator is sought.

(2) **Exceptions**.

(2)(A) Paragraph (3) does not apply to the following:

(2)(A)(i) a guardian certified under Utah Code Section 75-5-311(1)(a);

(2)(A)(ii) the Office of Public Guardian; or

(2)(A)(iii) a conservator issued a permit under Utah Code Section 7-5-2.

(2)(B) Paragraphs (6), (7), (8), (9), and (10) do not apply if the guardian or conservator is a parent of the protected person.

(2)(C) Paragraph (7)(C) does not apply to the guardian of a minor if the minor’s estate consists of funds that are deposited in a restricted account, which requires judicial approval for withdrawal, or if there is no estate.

(2)(D) Paragraph (9) does not apply to a conservator who is appointed for the purpose of receiving a personal injury settlement for a minor if 1) no funds are to be distributed until the minor reaches the age of majority, or 2) no structured settlement payments are to be made until the minor reaches the age of majority.

(3) **Examination, private information record, and background check**.

(3)(A) Before the court enters an order appointing a guardian or conservator, the proposed guardian or conservator must file:

(3)(A)(i) a verified statement showing satisfactory completion of a court-approved examination on the responsibilities of a guardian or conservator;

(3)(A)(ii) a completed and verified Private Information Record form provided by the Administrative Office of the Courts; and

(3)(A)(iii) a completed and verified criminal history background check for each proposed guardian or conservator, based on fingerprint identification, from the Federal Bureau of Investigation, the Utah Bureau of Criminal Identification, or the Utah Department of Health and Human Services

(3)(B) The provisions in Subsection (3)(A)(iii) do not apply if all of the following conditions are met:

(3)(B)(i) the allegedly incapacitated person is the biological or adopted child of the proposed guardian or conservator; and

(3)(B)(ii) the value of the allegedly incapacitated person's entire estate does not exceed $20,000.

(3)(C) The guardian or conservator must continue to keep the court apprised of any changes to the guardian or conservator’s criminal background history.

(3)(D) The guardian or conservator must continue to keep the court apprised of any changes to the guardian or conservator’s contact information.

(4) **Recordkeeping**. The guardian must keep contemporaneous records of significant events in the life of the protected person and produce them if requested by the court. The conservator must keep contemporaneous receipts, vouchers or other evidence of income and expenses and produce them if requested by the court. The guardian and conservator must maintain the records

until the appointment is terminated and then deliver them to the successor guardian or conservator, to the protected person if there is no successor guardian or conservator, or to the personal representative of the protected person's estate.

(5) **Filing and service of required reports and proposed Order on Review**

(5)(A) The guardian or conservator shall file with the court the reports required by Paragraphs 6, 7, 8, 9, and/or 10 using the appropriate Council-approved form or a form that substantially conforms to the format and content of the Council form.

(5)(A)(i) A corporate fiduciary shall attach its internal report or accounting, if any, as an exhibit to the Council form.

(5)(A)(ii) If the protected person's estate is limited to a federal or state program requiring an annual accounting, the guardian may file a copy of that accounting instead of the Council form.

(5)(B) The annual status report and annual accounting must contain sufficient information to put interested persons on notice of all significant events and transactions during the reporting period.

(5)(C) Along with the required report, the guardian or conservator shall also file the Council-approved Order on Review of Guardian or Conservator Report ("Order on Review") as a proposed document.

(5)(D) The guardian or conservator must serve a copy of the required report on all interested persons in accordance with Rule 5 of the Utah Rules of Civil Procedure. The required report must include the following language at the top right corner of the first page, in bold type: **You have the right to object to this report within 28 days of service. If you do not object within that time, your objection may be waived.**

(6) **Inventory.**

(6)(A) Within 90 days after the appointment, the conservator must file with the appointing court the inventory required by Utah Code Section 75-5-418 in accordance with Paragraph 5. The inventory must be in substantially the same form as the inventory form approved by the Council, including the required attachments. The court may extend the time for filing the inventory for good cause.

(6)(B) The judge may conduct a hearing even though no objection is filed. If the judge finds that the inventory is in order, the judge must approve it by signing the Order on Review.

(6)(C) If there is no conservator, the guardian must file the inventory required of a conservator under Utah Code Section 75-5-312.

(7) **Annual status reports.**

(7)(A) The guardian must file with the appointing court a report on the status of the protected person no later than 60 days after the anniversary of the appointment in accordance with Paragraph 5.

(7)(A)(i) The status report must be in substantially the same form as the status report form approved by the Council, including the required attachments.

(7)(A)(ii) The guardian must file the report with the court that appointed the guardian unless that court orders a change in venue under Utah Code Section 75-5-313.

(7)(A)(iii) The reporting period is yearly from the appointment date unless the court changes the reporting period on motion of the guardian. The guardian may not file the report before the close of the reporting period. For good cause the court may extend the time for filing the report, but a late filing does not change the reporting period.

(7)(B) The judge may conduct a hearing even though no objection is filed. If the judge finds that the report is in order, the judge must approve it by signing the Order on Review

(8) **Annual accounting.**

(8)(A) The conservator must file with the appointing court an accounting of the estate of the protected person no later than 60 days after the anniversary of the appointment in accordance with Paragraph 5.

(8)(A)(i) The accounting must be in substantially the same form as the accounting form approved by the Council, including the required attachments.

(8)(A)(ii) The conservator must file the accounting with the court that appointed the conservator unless that court orders a change in venue under Utah Code Section 75-5-403.

(8)(A)(iii) The reporting period is yearly from the appointment date unless the court changes the reporting period on motion of the conservator. The conservator may not file the accounting before the close of the reporting period. For good cause the court may extend the time for filing the accounting, but a late filing does not change the reporting period.

(8)(B) The judge may conduct a hearing even though no objection is filed. If the judge finds that the accounting is in order, the judge must approve it by signing the Order on Review.

(8)(C) If there is no conservator, the guardian must file the accounting required of a conservator under Utah Code Section 75-5-312.

(9) **Final accounting.**

(9)(A) The conservator must file with the court a final accounting of the estate of the protected person with the motion to terminate the appointment in accordance with Paragraph 5.

(9)(B) The court may conduct a hearing even though no objection is filed. If the court finds that the accounting is in order, the court must approve it by signing the Order on Review.

(10) **Objections**.

(10)(A) If an interested person objects to a report, the person must file a written objection with the court and serve a copy on all interested persons within 28 days from the date of service of the report. A request to submit must be included with the objection. The court may for good cause, including in order to accommodate a person with a disability, waive the requirement of a writing and document the objection and request to submit in the court record.

(10)(B) The objection must specify in writing the entries to which the person objects and state the reasons for the objection.

(10)(C) An objection to a report may not contain a request to remove or substitute the guardian or conservator. Any request for removal or substitution of the guardian or conservator must be filed as a separate petition consistent with Utah Code Section 75-5-307 or 75-5-415.

(10)(D) If an objection is filed, the court must conduct a hearing unless the court determines that a hearing is not necessary. If the court determines that a hearing is not necessary, the court must issue a minute entry or order stating why a hearing is not necessary.

(10)(E) At the hearing, the court may require the guardian or conservator to supplement or amend the report if the court determines there is good cause for the objection.

(10)(F) If the court determines that the objection is unfounded or is filed in bad faith, the court may deny the objection and approve the report.

(11) **Waiver.** If an interested person does not object to a report within 28 days of service, the interested person waives any objection unless:

(11)(A) the objection relates to matters not fairly disclosed by the report; or

(11)(B) the time for objection is extended by the court under Rule 6 of the Utah Rules of Civil Procedure. If the request for an extension is made before the time has run, the court may extend the time for good cause. If the request is made after the time has run, the court may extend for excusable neglect.

(12) **Report approval.**

(12)(A) **Approval.** The court must examine and approve the report as required by Utah Code sections 75-5-312 and 75-5-417. Approving a report means the judge has reviewed it, to the court's knowledge notice has been given to every person entitled to notice, no objection has been received, the report meets the requirements set forth by the report form, and the court has not requested additional information or scheduled a hearing. Such approval does not foreclose a valid claim permitted under paragraphs (11)(A) or (11)(B), nor does it start an appeal time.

(12)(B) **Notice to interested persons.** When a court approves a report, the court must sign and enter the Order on Review. When a court does not approve a report, the court must indicate on the Order on Review, or in another minute entry or order, the reasons for non-approval, any additional actions required, and serve it on all interested persons entitled to notice.

(13) **Report on a minor.** Under Utah Code Section 75-5-209, a person interested in the welfare of a minor may petition the court for a report from the guardian on the minor's welfare or the minor's estate. If the court orders a status report from the guardian, the status report must be in substantially the same form as the status report form for guardianships of adults approved by the Council, including the required attachments.

Effective: 11/1/2023

Appendix B – Nationwide Background Checks

Criminal and Credit Background Checks for Guardians

State	Ineligible	Criminal Background	Credit Check	Notes
AK		§§ 08.26.020 & 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 § 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		
AR	§ 28-65-203(a) Convicted or unpardoned felon			
AZ		§ 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. § 14-5657(B) As condition of licensing, fiduciary must submit to full set of fingerprints to obtain state and federal criminal records check § 14-5304(£) 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 dept 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.		
CA	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
CO	§ 15-14-310(4) Owner/operator where receiving long term care	§ 15-14-110(1) Statement with acceptance of office as to whether been convicted of, pied 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	§ 15-14-110(2) Attach credit report	

State	Ineligible	Criminal Background	Credit Check	Notes
		§ 15-14-1102(2) Attach name-based criminal history record check through CO Bureau of Investigation § 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		
DC	§ 21-2043(a-1)(1) Provides substantial services; creditor of the incapacitated individual; or employed by any person or entity that provides services.	§ 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. 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. § 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.		
FL	§ 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	§ 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. § 744.3135(2) Nonprofessional undergoes state and national criminal history record check using fingerprints. Results filed by clerk.	§ 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.	§ 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.
GA	§ 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.	§ 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, Dept Human Resources	§ 29-I0-3(a)(3) Public guardian must submit to an investigation of the individual's credit history as prescribed by Aging Services, Dept of Human Resources	
ID	§ 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	§ 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	§ 15-5-311(5) The proposed guardian provides report of his or her civil judgments and bankruptcies to the visitor,	

State	Ineligible	Criminal Background	Credit Check	Notes
	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.	history and background checks are made available to the visitor and guardian ad !item.	the guardian ad !item and all others entitled to notice.	
IL	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.	Public Guardians must be CGC certified which requires background check		
IA		§ 633.564 Court must request criminal records check, check of child abuse, dependent adult abuse, sexual offender registries for all proposed guardians and conservators.		
KY		§ 387.025(4) Verified application for appointment must state whether ever been convicted of a crime		
LA	Art. 4561(B)(2) Except for good cause shown, convicted felon; person in debt to adult; adverse party in pending lawsuit			
MN	§ 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		
MS		§ 93-20-117 Anyone considered for guardian or conservator must disclose to the court whether debtor in bankruptcy, convicted of a felony, crime involving dishonest, neglect, violence, or use of physical force.		
MO		§43.548.l Courts and department of social services may require fingerprinting of guardians		

State	Ineligible	Criminal Background	Credit Check	Notes
		and conservators for the purpose of positive identification and criminal history to determine ability and fitness to serve.		
NE	§§ 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.		
NV	§ 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. Each natural person who acts in any capacity within a private professional guardian company must submit such fingerprints not less than once every five years.	§ 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.
NH	§ 464-A:I 0(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		
NJ	§ 52:27G-34(3)(a) 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	
NM		§ 45-5-303(A)(4) Petition shall state G qualification, including whether convicted of felony		

State	Ineligible	Criminal Background	Credit Check	Notes
NY		§ 81.19(g)(l) 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		
ND		N.D. Sup. Ct. Admin. R. 59(8)(2) Requires professional and non-professional guardians to provide criminal history record check report to the appointing court before the hearing on the petition to appoint a guardian. (C) provide to the appointing court before the hearing on the petition to appoint the guardian an affidavit stating whether the proposed guardian has been investigated for offenses related to theft, fraud, or the abuse, neglect, or exploitation of an adult or child and shall provide a release authorizing access to any record information maintained by an agency in this or another state or a federal agency		
OH		§ 211 l.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. Ohio Sup. R. 66.0S(A). Requires criminal background check for all guardians, including family guardians. For an attorney, court may accept a Supreme Court certificate of good standing.		No instruction to court on what if proposed guardian has criminal record. Some courts are fingerprinting
OK	§ 3-104(A) Owner operator employee of facility where residing	§ 3-l0l(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-IOI(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	
OR	§ 125.205 Incapacitated, financially incapable, minor, health care provider	§ 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. § 125.240 Professional fiduciary much have criminal background check paid for by fiduciary		Courts require credit check on periodic basis along with updated criminal background check for professional fiduciaries
RI	§ 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		
SD	§ 29A-5-l 10 Felon unless court finds appointment in best interest considering nature, date of offense and rehabilitation, employee of public agency, entity, or facility providing substantial services or financial assistance; creditor	§29A-5-110 A person, except for a financial institution or its officers, directors, employees, or agents, or a trust company, who has been nominated for appointment as a guardian or conservator, shall obtain an Interstate Identification Index criminal history record check and a record check of South Dakota state court civil judgments for abuse, neglect, or exploitation of an elder or adult with a disability. Nominee files the results of these record checks with the court at least ten days prior to hearing. Judge may not sign appointment until record check results filed		

State	Ineligible	Criminal Background	Credit Check	Notes
		and reviewed by the judge. Not apply to temporary appointments. Court may waive the record check for good cause.		
TN		§ 34-3-104(3) Requires petition to include a statement of any felony or misdemeanor convictions of petitioner and proposed guardian/conservator		
TX	§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. § I 104.353(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. § 1104.358 Found to have committed family violence who is subject to a protective order	§ 698 County clerk obtains criminal history record information maintained by Dept 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 IO 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. Judicial Branch Certification Commission conducts criminal background check for persons (other than attorneys and private professional guardians for whom the Commission already conducts a check) seeking to become a guardian.		
VT	14 § 3072(a)(2) Operates care facility where resides or receiving care 14 § 3072(a)(2) Served as guardian ad !item in same proceeding	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.		
WA	§ 11.88.020 Under 18; of unsound mind; convicted of felony or misdemeanor involving moral turpitude; court finds unsuitable	Certified Professional Guardianship Board Regulation 10 I Every person or agency desiring to be certified as a CPG must undergo a criminal history check. 103.3.4 To become certified guardian must provide a fingerprint card that has been processed at a local police department.	Certified Professional Guardianship Board Reg. 103.3.8 To become certified the applicant must provide a personal credit report. 103.3.9 Ifan individual has declared bankruptcy in the seven (7) years prior to his or her application, the applicant must provide copies of the following documents: bankruptcy petition, discharge order, and a copy of the bankruptcy case docket.	

State	Ineligible	Criminal Background	Credit Check	Notes
WV	§ 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		
WI		§ 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.	
UGCO PPA		§ I 17 Before accepting appointment as a guardian or conservator, a person shall disclose to the court whether the person: (I) is or has been a debtor in a bankruptcy, insolvency, or receivership proceeding; or (2) been convicted of: a. a felony; b. a crime involving dishonesty, neglect, violence, or use of physical force; or c. other crime relevant to the functions the individual would assume as guardian or conservator.		
CGC	Rules and Regulations II.A.5-9 5. An applicant must not have been convicted of, or pied guilty or no contest to, a felony. The only two exceptions to this requirement will be court or state agency documentation of one of the following: a) expungement of the felony conviction; or b) that a court or state agency, with knowledge of the felony, has determined that the applicant or re-certificant is eligible to serve as a guardian under state law. 6. submit to a criminal background check. 7. agree to comply with the NGA Ethical Principles and the NGA Standards of Practice. 8. not have been civilly liable or criminally convicted in an action that involved fraud, misrepresentation, material omission, misappropriation, moral turpitude, theft, exploitation, abuse or conversion, turpitude,	Rules and Regulations II.A.6 Submit to a criminal background check		

State	Ineligible	Criminal Background	Credit Check	Notes
	theft, exploitation, abuse or conversion. 9. not have been relieved of responsibilities as a guardian by a court, employer, or client for actions involving fraud, misrepresentation, material omission, misappropriation, theft, exploitation, abuse or conversion			

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REQUEST FOR PROPOSAL
LEGAL REPRESENTATION FOR RESPONDENTS IN GUARDIANSHIP CASES
GRAMP (Guardianship Reporting and Monitoring Program)
Solicitation# AOC27001

PURPOSE OF REQUEST FOR PROPOSAL (RFP)

The purpose of this request for proposal is to enter into a contract with a qualified firm or agency for a pilot project to provide legal representation to respondents in guardianship petitions filed statewide. These cases will be assigned after the statutory 60 days have passed to allow an attorney volunteer for the case through the GSP (Guardianship Signature Program). The (GSP) was established by the Utah State Bar to provide a mechanism for attorneys to volunteer to fill this mandate.

It is anticipated that this RFP will result in a contract award to a single offeror. There will be two phases to this RFP. All vendors who score 51 points or higher out of 85 points possible on the attached evaluation scoresheet will qualify for an interview in the second phase. The winning bidder will be the highest score after the scores calculated in phase two are added to the scoresheet.

This RFP is designed to provide interested offerors with sufficient basic information to submit proposals meeting minimum requirements but is not intended to limit a proposal's content or exclude any relevant or essential data. Offerors are at liberty and are encouraged to expand upon the specifications to evidence service capability under any agreement.

BACKGROUND

Utah Code 75-5-303(2) mandates that respondents in guardianship cases must have legal representation, appointed by the court, unless specific conditions are met. Utah Code 75-5-303(6)(e) mandates appointment of a court visitor in lieu of an attorney if specific conditions are met.

The Court Visitor Program (CVP) was established as a means of utilizing trained volunteers to serve as special appointees of the court in guardianship cases, including those where an attorney has been waived per statute. Both these programs are part of the Guardianship Reporting and Monitoring Program (GRAMP) at the Administrative Office of the Court (AOC).

GSP attorneys may seek reimbursement from the respondent, based on the Modest Means fee scale and facilitated by the Utah State Bar, in their specific cases. Apart from this possible reimbursement, GRAMP lacked funds to incentivize legal representation in mandatory guardianship cases and relied solely on volunteerism to fulfill the statutory mandate.

The Judicial Council has provided funding for this pilot program in which a firm or agency will be incentivized to accept guardianship cases statewide when appointed by the court. The (GSP) receives approximately 130 requests from all the districts and each year that are not eligible for an attorney waiver, as per statute. These are cases where judges would either ask for a court visitor, even though statute requires the appointment of an attorney; or the judge would move forward with the appointment, without a court visitor or attorney.

These 130 requests are the base number to be included in the pilot program, with each case averaging 5-15 hours of work to be completed by an attorney.

The average pay that an attorney working for the State of Utah receives is $100 hourly. With 130 cases needing an average of 10 hours per case, that equals approximately 1300 hours that could be billed by the attorney under a pilot program. This cost is non-negotiable, and proposals should focus on the skills and abilities to efficiently and effectively represent respondents in guardianship cases.

ISSUING OFFICE AND RFP REFERENCE NUMBER

The State of Utah Administrative Office of the Courts (AOC) is the issuing office for this document and all subsequent addenda relating to it, on behalf of GRAMP.

RFP Reference Number: **AOC27001**

SUBMITTING YOUR PROPOSAL

Proposals must be received by the due date and time listed on the Euna Bonfire U3P Utah Procurement Place website, currently:

Wednesday, September 16, 2026 at 3:00 P.M (mdt).

Please refer to the U3P website for any modifications. Proposals received after the deadline will be late and ineligible for consideration.

The preferred method of submitting your proposal is electronically through the Euna Bonfire U3P Utah Procurement Place. However, if you choose to submit hard copies, one original and (3) three identical copies of your proposal must be received at the Administrative Office of the Courts, Attn: Dustin Treanor, 450 South State, PO Box 140241, Salt Lake City, Utah 84114-0241 prior to the posted due date and time. Hard copies must list the Bid number and “Private Bid” on the envelope.

When submitting a proposal electronically through the Euna Bonfire U3P Utah Procurement Place, please allow sufficient time to complete the online forms and upload documents. The solicitation will end at the closing time listed on Euna Bonfire U3P. If you are in the middle of uploading your proposal at the closing time, the system will stop the process, and your proposal will not be received by the system.

Electronic proposals may require uploading of electronic attachments. The Euna Bonfire U3P Utah Procurement Place's site will accept a wide variety of document types as attachments. However, the submission of documents containing embedded documents (zip files), mov, wmp, and mp3 files are prohibited. Cost should be on a separate attachment.

LENGTH OF CONTRACT

The contract resulting from this RFP will be for a period of (1) year. The contract may be extended beyond the original contract period for up to (1) additional year, totaling (2) years at the Judicial Council's discretion and by mutual agreement.

PRICE GUARANTEE PERIOD

All pricing will be guaranteed for the first year. Price adjustments will not be considered prior to that date. Following the guarantee period, any request for price adjustment must be for an equal guarantee period and must be made at least 30 days prior to the effective date. Requests for price adjustment must include sufficient documentation supporting the request. Any adjustment or amendment to the contract will not be effective unless approved by the Utah State Courts. As stated, GRAMP anticipates that 130 cases will require legal representation, with each case averaging 5-15 hours of work necessary to resolve the case. The average pay that an attorney working for the State of Utah receives is $100 hourly. With 130 cases needing an average of 10 hours per case, that equals approximately 1300 hours that could be billed by the attorney under a pilot program. This cost is non-negotiable, and proposals should focus on the skills and abilities to represent respondents in guardianship cases.

CONTRACT TERMS AND CONDITIONS

Any contract resulting from this RFP will include, but not be limited to, the attached terms and conditions.

QUESTIONS

All questions must be submitted through the EUNA BONFIRE U3P UTAH PROCUREMENT PLACE website. Answers will also be given via the U3P website.

INTERVIEWS WITH OFFERORS

All vendors who score 51 points or higher out of 85 possible points on the attached evaluation scoresheet will qualify for an interview in the second phase. The evaluation committee reserves the right to adjust Phase I scores after the interview with proper justification in the public RFP file. The winning bidder will be the highest score after the scores are calculated in the second phase are added to the scoresheet.

PROTECTED INFORMATION

The Utah Rules of Judicial Administration provide that the following business records are protected:

> *(1) trade secrets as defined in Utah Code § 13-24-2,*
>
> *(2) commercial information or non-individual financial information obtained from a person if:*
>
> *(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;*
>
> *(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and*
>
> *(c) the person submitting the information has provided the governmental entity with the information specified in Utah Code Section 63G-2-309; and*
>
> *(3) records the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person.*

To protect information under a claim of business confidentiality, the Offeror must provide a written claim of business confidentiality at the time the proposal is provided to the State *and* include a concise statement of reasons supporting the claim of business confidentiality (Utah Code Section 63G-2-309(1)).

A claim of business confidentiality may be appropriate for information such as client lists and non-public financial statements. Pricing and service elements may not be protected. An entire proposal may not be protected under a claim of business confidentiality. The claim of business confidentiality must be submitted with your proposal.

To ensure the information is protected, please clearly identify in the Executive Summary and in the body of the proposal any specific information for which the offeror claims business confidentiality protection.

DETAILED SCOPE OF WORK

The goal of the Guardianship Reporting and Monitoring Program (GRAMP) is to provide respondents in guardianship proceedings with statutorily required legal representation. GRAMP will also continue to use the GSP to find volunteer attorneys, and the CVP when a court visitor is appointed. Cases will only be funneled to the Offeror upon official referral by GRAMP, confirming that the case has remained open without a volunteer attorney match for a minimum of 60 days. The winning Offeror will serve as the designated Secondary Failsafe Provider for the GSP.

Respondents in guardianship cases that require legal representation vary in age, race and gender, but most may be disabled or otherwise impaired in some way. Due to this, Offerors must show competency in guardianship law and procedures. This can be done by certifying that they are competent in these matters, or by completing the training course offered by GRAMP and providing a certificate of completion from that course to the GRAMP administrator. Offerors must be admitted to practice law in Utah and a member of the Utah State Bar in good standing.

As stated, GRAMP anticipates that 130 cases will require legal representation, with each case averaging 5-15 hours of work necessary to resolve the case. The average pay that an attorney working for the State of Utah receives is $100 hourly. With 130 cases needing an average of 10 hours per case, that equals approximately 1300 hours that could be billed by the attorney under a pilot program. This cost is non-negotiable, and proposals should focus on the skills and abilities to represent respondents in guardianship cases.

<u>Program Objectives for the Offeror:</u>

1. Provide legal representation for respondents in guardianship cases as appointed by the court. Cases will be screened by the GRAMP administrator after the statutory 60 days has passed to allow for volunteers through the GSP. As a result, cases will require navigation of guardianship statutes, including mediation. The Offeror’s ability to provide this will be examined.
2. Legal representation of the respondent must continue until the case is resolved, even if that time exceeds the average of 10 hours as stated.
3. The agency and / or firm may choose the attorney to fill the appointment. They will track the hours spent working on a case and submit an invoice for each separate case to the GRAMP administrator.
4. The agency and / or firm will provide all office and technical support to any attorney involved in the program. Any need for interpreter services will be provided by the AOC, for both court hearings and office meetings.

PROPOSAL REQUIREMENTS AND QUALIFICATIONS

1. Any attorney who the Offeror would use in the pilot program must be an active member of the Utah State Bar.
2. Any attorney who the Offeror would use in the pilot program must either certify to the GRAMP administrator that they are competent in these matters or complete the four-part training course offered by GRAMP. If the GRAMP training is completed, a certificate of completion from that training must be provided.
3. Provide legal representation to the respondent as needed, even if the hours exceed the average number of hours initially contemplated.
4. The Offeror must agree to utilize the standard GRAMP reporting forms and data portals, ensuring judges see no operational difference between a GSP volunteer and a pilot program attorney. Invoices must be submitted to the GRAMP administrator on a monthly basis that includes data requirements given by the GRAMP administrator to achieve the program objectives

PROPOSAL RESPONSE FORMAT

All proposals must include:

1. **RFP Form**. The State's Request for Proposal form completed and signed.
2. **Executive Summary.** The one- or two-page executive summary is to briefly describe the Offeror's proposal. This summary should highlight the major features of the proposal. It must indicate any requirements that cannot be met by the offeror. The reader should be able to determine the essence of the proposal by reading the executive summary. Protected information requests should be identified in this section.
    a. An assurance that the Offeror can meet all requirements.
    b. The Offeror's relevant experience, including the relevant experience of any attorney who may be involved in the pilot program.
    c. The proposed strategy of providing legal representation to guardianship respondents as described including data tracking and invoicing processes.
    d. Assurances that the attorneys who may be involved in the pilot program are knowledgeable in guardianship and conservatorship practices.
    e. Assurance that the attorneys who may be assigned to respondents who are disabled in some way will have the skills available to advocate for the respondents' best interests, even if they cannot directly ask the client what they want. They must do their due diligence to ascertain what the client would want if they could communicate. They also must see a case through, even if the best course of action for their client takes them beyond the assumed billable hours.

3. **Detailed Response.** This section should constitute the major portion of the proposal and must contain at least the following information:

   a. A list of all attorneys that may be used in the pilot program, with a brief summary of work experience. The Offeror must also indicate that the attorneys are knowledgeable in guardianship matters, either by written certification or a certificate of completion of the GRAMP training course. Access to the training courses can be provided by the GRAMP administrator. The response should also detail how experienced the attorneys involved in the pilot program are with working with respondents that may be disabled or otherwise impaired in some way.

   b. To ensure that performance management remains with the Offeror during each attorney's time in the pilot program, the Offeror must confirm that all listed attorneys will be monitored against internal performance expectations and requirements.

   c. The Offeror must provide a list of objectives and methodologies they will impose, in line with feedback from the GRAMP administrator, to meet program goals. This could include criteria to consider when decisions are made regarding which attorney should take on a case in the pilot program.

   d. A description of how the Offeror and each attorney involved in the pilot program will determine if a conflict of interest exists with themselves or the Offeror. This includes reporting conflicts to the GRAMP administrator, how the attorney will be screened off from any other attorneys, and how the attorney will maintain objectivity and confidentiality around the conflict.

   e. To ensure that the respondents in the assigned cases get immediate assistance, the Offeror should describe any processes they can implement to help the attorney assigned to the case can immediately begin work.

   f. A description of the Offeror’s administrative ability to provide clerical and technical support to the attorneys involved in the pilot program. This would include a list of personnel in a supportive position who may assist the attorney while they are representing respondents in pilot program cases.

4. **Examples of Past Work/References:** With the list of attorneys that may be utilized in this program, the Offeror must also submit a total of 3 cases per attorney. These three cases must show that the attorney provided representation to a protected person and /or respondent in a guardianship case and completed the case.

5. **Cost**. Costs are capped at $130,000 annually for 130 cases averaging 10 hours per case, with each case billed at $100 per hour. Each Offerer must show a comprehensive plan detailing efficiencies to maximize the time spent on each case. This would include showing how many hours could be contributed toward the pilot program using senior level attorneys and paralegal support.

PROPOSAL EVALUATION CRITERIA

A committee will evaluate proposals against the following weighted criteria. Each area of the evaluation criteria must be addressed in detail in proposal.

PHASE I **(Offerors must score at least 51 out of 85 points to move to Phase II)**

WEIGHT	**EVALUATION CRITERIA**
25 %	Capacity and Scalability
20 %	Competency and Qualifications
25 %	Guardianship and Disability Law Experience
15 %	References and Rating Prior Guardianship Cases

PHASE II **(for those who score at least 51/85 points in Phase II)**

WEIGHT	**EVALUATION CRITERIA**
15%	Interview

LEGAL REPRESENTATION FOR RESPONDENTS IN GUARDIANSHIP CASES

Administrative Office of the Courts
SOLICITATION# AOC27001
RFP EVALUATION SCORESHEET

Firm Name: ______________________

Evaluator: ______________________

Date: ______________________

Score will be assigned as follows:
0 = Failure, no response
1 = Poor, inadequate, fails to meet requirement
2 = Fair, only partially responsive
3 = Average, meets minimum requirement
4 = Above average, exceeds minimum requirement
5 = Superior

	Points Possible	Score	Weight	Points
PHASE ONE	---------			
1. Capacity and Scalability (25 points possible)		----	----	----
Soundness of operational plan triaging and evaluating assigned cases.	10 points possible		x2	
Is there a dedicated pool of attorneys who can give immediate assistance and immediately begin work on an assigned case.	10 points possible		x2	
Ability to complete to disposition any case that goes beyond the average number of 10 hours.	5 points possible		x1	
2. Competency and Qualifications (20 points possible)		----	----	----
What is the work experience of attorneys who would be assigned cases?	10 points possible		x2	
Are there senior attorneys who can lend knowledge and expertise?	10 points possible		x2	
3. Guardianship and Disability Law Experience (25 points possible)		----	----	----
Do the attorneys have experience working with disabled or otherwise impaired respondents?	15 points possible		x3	
Knowledge and history with the GRAMP (GSP, CVP, WINGS).	10 points possible		x2	
4. References and Rating Prior Guardianship Cases (15 points possible)		----	___	____
Soundness of detailed plan describing how the Offeror will check for conflicts and possible mitigation.	5 points possible		x1	
Submit list of cases that the firm / agency has completed successfully, noting which attorney worked on each case.	10 points possible		x2	
FINAL PHASE ONE SCORE All proposals that score 51 points or more in Phase One move on to the interview in Phase Two.	85 points possible	—----	—----	
PHASE TWO **(only for those who scored over 51 points in Phase One)**	---------	----	----	----
Interview Score (15 Points Possible)	15 points possible	—--	—--	
FINAL EVALUATION POINTS	**100 points possible**	**----**	**Total**	

GUARDIANSHIP LEGAL REPRESENTATION PILOT PROGRAM

Guardianship Reporting and Monitoring Program (GRAMP) | Monthly Reimbursement Invoice

1. Provider & Agency Information

Firm/Agency Name:	[Enter Firm/Agency Name]	**Primary Billing Contact:**	[Enter Billing Contact]
Assigned Attorney:	[Enter Attorney Name]	**Utah Bar Number:**	[Enter Utah Bar #]

2. Invoice & Case Pilot Data

Billing Code & Dept:	[Enter Billing Code]	**Vendor Number:**	[Enter Vendor #]
Case Number:	[Enter Case #]	**Judicial District**	[Enter District]
Billing Period:	[Enter Month/Year]	**Invoice Date:**	[Enter Date]
Case Current Status:	[Active / Resolved]	**Interpreter Services:**	[Yes / No]
Case Resolution Date:	[Enter Date if Resolved]	**Language:**	[Language if used]

DRAFT

TOTAL BILLABLE HOURS	TOTAL REIMBURSEMENT DUE
21.0 hrs	**$2,100.00**
Based on 15-minute billable increments	*Computed at fixed rate of $100/hr*

3. Itemized Billable Hours

Date	Description of Work (incl. Staff Role)	Hours	Hourly Rate	Total ($)
08-03-2026-	Initial interview with respondent at living facility	2.5	$100.00	$250.00
08-04-2026-	Reviewing guardianship petition and preparing response	3.0	$100.00	$300.00
08-06-2026-	Conflict check, file setup, and scheduling hearing	1.5	$100.00	$150.00
08-10-2026-	Court hearing representation for respondent appointment	4.0	$100.00	$400.00
08-11-2026-	Post-hearing client evaluation and drafting final order	2.0	$100.00	$200.00
			$100.00	
			$100.00	
	Total Hours & Reimbursement:	**21.0**		**$2,100.00**

4. Program Compliance & Certifications

PROVIDER CERTIFICATION I certify that the hours logged above were spent representing respondents in appointed guardianship cases under AOC27001, and that all participating attorneys meet the competency and licensing requirements of the Utah State Bar and GRAMP.		**GRAMP ADMINISTRATOR APPROVAL** I have reviewed this monthly billing for alignment with pilot referral tracking, case distribution, and compliance reports. Payment is hereby approved under the pilot program parameters.	
Authorized Preparer Name:		**GRAMP Administrator Name:**	
Signature:		**Signature:**	
Date:		**Date:**	

Notice of Confidentiality: This invoice contains private business records and attorney work product protected under Utah Rules of Judicial Administration and GRAMP program guidelines. Unauthorized distribution is prohibited.

DRAFT

EXECUTIVE BRIEFING

FY2026 Guardianship Case Filings & Legal Representation

An Analysis of Caseload Dynamics and Attorney Appointments

Executive Summary: This briefing analyzes guardianship case filings and attorney appointments for Fiscal Year 2026. Out of 927 total new filings, 361 cases (38.9%) requested representation through the Guardianship Service Program (GSP). While 184 requests (51.0%) successfully secured legal representation through GSP volunteers and petitioner efforts, 177 cases (49.0%) did not obtain an attorney, necessitating alternative court-appointed safeguards such as the Court Visitor Program.

1. Overview

In FY2026, the court system recorded **927 new guardianship case filings**. A segment of these cases entered the Guardianship Service Program (GSP) pipeline to seek formal legal representation. Over one-third of all filings requested a GSP-appointed attorney.

Case Classification Metric	Case Count	% of Total Filings
Total New Guardianship Case Filings	927	100.0%
Sent to GSP for Attorney Requests	361	38.9%
Cases Remaining Outside GSP Track	566	61.1%

2. Analysis

Of the 361 attorney requests received, **184 cases (51.0%)** successfully secured an attorney appointment. A detailed breakdown reveals that GSP volunteer LF represents the primary anchor of the GSP network, filling more than 70% of all secured appointments. This highlights the program's reliance on a single volunteer.

Appointment Source / Channel	Appointments	Share of Appointed	Share of Total GSP Requests
GSP Volunteer LF	131	71.2%	36.3%
Other GSP Volunteers	20	10.9%	5.5%
Secured by Petitioner Directly	33	17.9%	9.1%
Total Cases with Secured Attorneys	**184**	**100.0%**	**51.0%**

3. Gaps and Safeguards

Of the request sent to the GSP, **177 cases (49.0% of requests)** concluded with **no attorney found**. To prevent lapses in oversight, the court system relies heavily on the Court Visitor Program to review unrepresented cases. Over 85% of these unrepresented cases were referred to a Court Visitor, ensuring that vulnerable individuals still receive independent assessment despite the legal representation gap.

Unrepresented Case Resolution	Case Count	Share of Gaps	Share of Total GSP Requests
Referred to Court Visitor Program	152	85.9%	42.1%
Case Dismissed by Court	10	5.6%	2.8%
Attorney or Court Visitor Waived	15	8.5%	4.2%
Total Cases with No Attorney Found	**177**	**100.0%**	**49.0%**

4. Sequential Case Flow Process Diagram

The flowchart below maps the complete caseload lifecycle. It illustrates how filings branch from intake to either representation success or alternative protective resolutions, with specific case volumes and percentage shares outlined at each critical juncture.

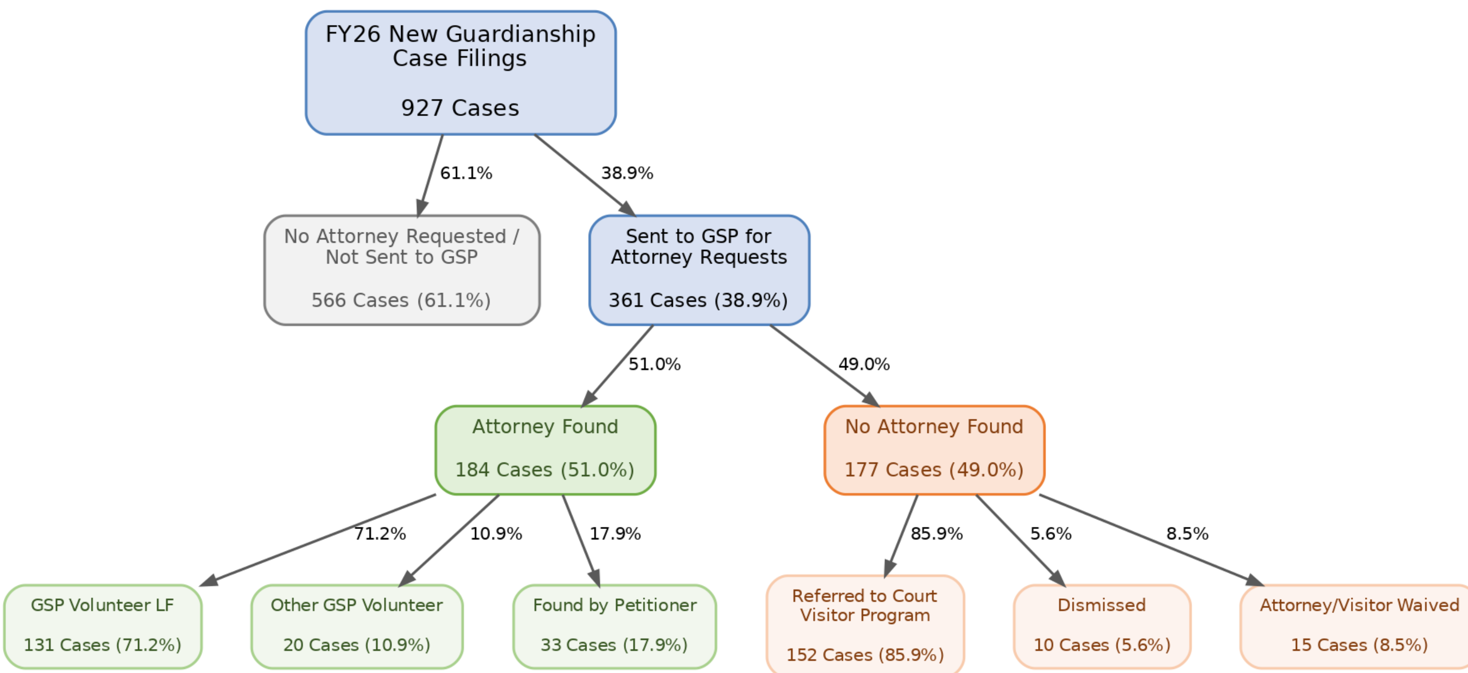

Figure 1: FY2026 Guardianship Case Intake, Attorney Appointment, and Protective Resolution Flow

Attorneys for Protected Persons - By State

AK	This may not be right for Utah, but in the interest of helping you collect info- In Alaska, the state used to contract with a particular small law firm to provide the services, and eventually took that office and created a new division within the Office of Public Advocacy (which is a state catch-all legal office- handling all the legal appointments that are outside the scope of the Attorney General's Office or Public Defender) to handle guardianship representation and parent representation in Child in Need of Aid proceedings. The calculations were made at the time (this was about 20+ years ago) that it was ultimately more cost effective to create this new unit than continued contracting. If you want to learn more, I am happy to tell you more about it (I used to be the Deputy Director of the Office of Public Advocacy).
IN	Indiana has a group called LAVA (Legal Assistance for Vulnerable Adults). It is funded through VAWA, I believe, and it is housed within our state's LSA organization (Indiana Legal Services). If people meet the income/asset requirement for service, they can receive legal assistance to escape an abusive/exploitative situation. I know in the past they have focused on defense against unnecessary guardianship and helping people either change guardians or terminate the entire relationship. If you would like a direct e-introduction to their director, please let me know. Aside from ILS and LAVA, I know that our state P&G group (Indiana Disability Rights) will represent protected persons in some situations, but not all. Further, we have another legal aid organization (Indianapolis Legal Aid Society) that I believe will take on some limited cases for protected adults.None of this is being done in the systemic way you are describing for Utah, so I am interested to follow Utah WINGS on this project. We re-structured our WINGS group in 2025 to resemble states like Utah that have strong systemic ties to the court system. I hope the pilot is a success!
MD	Maryland does have such a program and process. Maryland is a "right to counsel" state. If a respondent in an adult guardianship case does not have an attorney of the respondent's own choosing, the court will appoint an attorney. Md. Code, Estates & Trusts Art., §§ 13-705, 13-709, 13-211; Md. Rule 10-106. If the respondent is indigent, the court will appoint an attorney from a law firm that has a contract with the Maryland Department of Human Services to represent respondents in these proceedings. See Adult Representation, Maryland Legal Service Program. If the court appoints another attorney (e.g., there is a conflict with the "contract" attorney or the respondent's indigence is discovered after the appointment of a non-contract attorney), the attorney who is appointed by the court can seek funding through a separate program administered by the Department of Human Resources at a set hourly rate. Below is contact information for the contract manager. Under the Maryland Trusts & Estate Code, the court must appoint counsel if the person does not have representation. Maryland has a court-appointed attorneys program, with funds to pay the lawyer if the person cannot pay: https://www.courts.state.md.us/lawyers/appointedattorneys/guardianshipproceeding. In the past, Maryland legal aid lawyers helped to fill this role. A good contact for more information would be Nisa Subasinghe, Domestic & Guardianship Program Manager, Administrative Office of the Courts. Nisa staffs the Guardianship/Vulnerable Adults Workgroup of the Maryland Judicial Council's Domestic Law Committee, a reform group with some similarity to WINGS.
MN	Here in Minnesota, court appointed counsel is always ordered for Respondent in civil commitment, matters and in guardianship and conservatorship or protective order proceedings. The person can certainly waive counsel or hire their own private counsel, but the court will always issue an order appointing an attorney for them in the proceedings. We don't have guardians ad litem in adult GC matters, which would be akin to a GAL in minor guardianship matters, but I have had them appointed ad hoc in different types of cases. That is the exception to the rule. The statute referenced is MN Statute 524.5-304(b) (right to be represented by counsel in guardianship (of person)) and MN Statute 524.5-406(b) (conservatorship (of estate)) I so often say Minnesota law is quite strong in its honoring the concept of guardianship as a last resort, as well as due process protections. However, our laws are only as good as the attorneys and judicial hearing officers/court staff who practice in this area. The program for which I am the Director, the Center for Excellence in Supported Decision Making, hosts MN's Guardianship Information Line, and we also have a direct services Social Worker (you know her as WINGS MN Co-Facilitator Kathleen Carlson) who is involved in helping people avoid unnecessary guardianship/conservatorship, establishing when necessary, and modifying/terminating guardianships/conservatorships, so we have first-hand knowledge of several examples (which sadly are likely only the tip of an iceberg) where the intent and letter of the law with regard to the right to legal counsel are not followed. We discussed this issue just this week in our WINGS MN meeting. A few concerning examples (which we brought to the attention of MN Judicial Branch, the other co-facilitator of WINGS MN Jamie Majerus): Parent/proposed guardian signed "Waiver of Rights to Counsel" so PSG (person subject to guardianship) never had attorney representation. (2025) There was no attorney originally appointed to PSG and no waiver of counsel on file either (Gship established in 2016). Only recently was an attorney appointed due to PSG requesting one to assist with petitioning to terminate. There are three co-guardians appointed. Providers supporting PSG have filed reports with MN Adult Abuse Report Center (MAARC) for maltreatment by the guardians. Dad/proposed guardian signed "Waiver of Rights to Counsel" so PSG never had attorney representation (established in 2022). This is an example of divorced parents serving as co-guardians and the dad has been reported to MAARC several times for abuse/neglect. Mom/g'n filed an emergency petition to modify gship this week but the hearing is not scheduled for another month. Court records show Order Appointing Attorney, but this is essentially what it says: "Order appointing attorney [legal firm] to represent the petitioners on behalf of the respondent." The attorneys represented the petitioners, and respondent never had an attorney appointed to them. (2019) The statutory provision for waiving right to counsel is, in my opinion, rather problematic with a bizarre circular logic: The court shall appoint counsel to represent the proposed person subject to guardianship for the initial proceeding held pursuant to section 524.5-307 if neither the proposed person subject to guardianship nor others provide counsel unless in a meeting with a visitor the proposed person subject to guardianship makes an informed decision in writing to specifically waive the right to counsel. If a person is able to make an informed decision to waive right to counsel, don't they actually likely possess the capacity to engage in support and alternatives to guardianship? Conversely, the informed decision to waive counsel: have all the implications and ramifications of having a guardian/conservator being appointed been authentically explained, i.e., is the person truly informed about what rights will be removed from them via the appointment of a guardian/conservator, the scope and permanency of such, how difficult it could be in the future to have the appointment terminated or modified?

NV	In Nevada we do have a process to provide legal representation to proposed protected persons and protected persons (and minors). For adult guardianships, attorneys are appointed at the time of the petition and represent the Protected Person throughout the guardianship. There are recording fees that are designated to provide a funding mechanism for legal services, which are provided by legal aid organizations in Nevada. There have been challenges, as the recording fees alone are not enough to sustain this and legal aid organizations are experiencing funding challenges. Currently, we are currently working on finding a more sustainable source of funding for this needed service. Following guardianship scandals, 2017 legislation created a Nevada Guardianship Commission, and required courts to appoint independent legal counsel, without charge, from a legal services organization. For example, the Legal Aid Center of Southern Nevada operates the Clark County Guardianship Advocacy Project (GAP). See the Justice in Aging Fact Sheet at: https://justiceinaging.org/program-spotlight-nevadas-guardianship-advocacy-project-gap/. For more information, contact Jim Berchtold, jberchtold@lacsn.org. Costs for providing free, court-appointed counsel are primarily paid from court and county fee surcharges, along with other sources.
NY	While imperfect, in new york we have mental hygiene legal services who is often able to fill that role. Here is more info on them: https://www.nycourts.gov/courts/ad2/mhls_mainpage.shtml
PA	Pennsylvania started a project under our 2022 ACL grant to provide an attorney through a legal service organization (LSO) to four pilot counties. Under the project, which ran for roughly three years, the grant paid for zealous representation for every alleged incapacitated person over 60 in the four pilot counties. After the grant ended in 8/2025, all four counties maintained their contract with the LSO for all adult guardianships and several of the judges have been great advocates of the program, supporting its expansion to many other Pennsylvania counties. There is growing momentum for the concept, and our office has facilitated conversations to establish MOUs with LSOs in counties yet to be reached. We also changed our statewide guardianship system to more accurately collect IP representation data and today we are right around 99% of all guardianship cases statewide, with the OEJC reaching out to counties where representation isn't present in the data. At times this is administrative error but there are still a few instances to be corrected. I attached an impact paper we created about our LSO grant project. If you would like more information, feel free to reach out to us anytime. Recent Pennsylvania legislation clearly provides for court appointment of counsel, https://www.palegis.us/statutes/unconsolidated/law-information?sessYr=2023&sessInd=0&actNum=0061. Under its ACL Guardianship Innovation Grant, the Pennsylvania Court launched a pilot project in four counties served by Mid-Pennsylvania Legal Services, see https://www.pacourts.us/news-and-statistics/news/news-detail/1165/pennsylvania-courts-announce-new-pilot-project-providing-free-legal-representation-to-older-adults-in-guardianship-cases. You could get more information from the Office of Elder Justice in the Courts, a WINGS judicial group. Deputy Director Keith Henkel is at Keith.Hinkel@pacourts.us
TN	In Tennessee this is also a problem. State law does not require an attorney for every respondent, but an attorney ad litem must be appointed if an emergency petition is filed, if the respondent requests one, if the respondent contests entry of conservatorship, or if the respondent contests the proposed conservator. There is no funding, and the attorney ad litem fee may only be assessed to the petitioner under extremely limited circumstances (generally bad faith unless it's an emergency proceeding). If the respondent has property, I can fairly easily find a willing AAL. But of course many respondents have no property, thus the appointment may be de facto pro bono. Regular practitioners volunteer to take their lumps periodically, but if we have a lot of need in a short time it can be so difficult to find a willing attorney. I would not dismiss a case for lack of an AAL; I'd just appoint one whether it was voluntary or not. I haven't had to do that yet but I would. I do always assess the fee, regardless of whether it is likely to be paid; and petitioners are sometimes persuaded to pay it. I presumptively approve GAL fees at $150 an hour and AAL fees at $175 an hour. The GAL fee is a little less because (1) it involves a fair amount of non-legal fact investigation (our GALs are what some courts call court investigators, but here they must be lawyers); and (2) a GAL faces considerably less risk of failure to collect because the fee can be assessed to the petitioner under the relevant statute. Those rates are pretty low for attorneys with any experience at all, but if the state reimbursed, the hourly rate might be half that.
UT	Utah statute requires that respondents in guardianship cases must have an attorney, and if they don't have one of their own choosing, the court must supply one. However, no funding has ever been appropriated for this mandate, so we have been relying on the services of volunteer attorneys. Unfortunately, despite years of trying to recruit, entice, and incentivize, the availability of volunteer attorneys has never met the need, so judges are often faced with dismissing cases due to lack of compliance with the statute or appointing guardianships anyway, without proper representation. Utah WINGS has been working for years to obtain funding for attorneys in guardianship cases. We recently received temporary funding for a pilot program to provide this service on a limited scope for a year, to collect data and report back on the outcomes.
WA	Washington State has adopted the Uniform Guardianship Act (UGA). Under the statute, the court must appoint an attorney if the Respondent is unrepresented and objects to the petition, requests an attorney, or if the court determines the Respondent's rights cannot be protected otherwise. If the Respondent cannot afford an attorney, the county will pay the attorney fees (at an hourly rate established by the county). (see RCW 11.130.285 and RCW 11.130.385).

Zealous Advocacy

An Analysis of a Legal Services Model for Court-Appointed Counsel in Adult Guardianship Matters

Office of Elder Justice in the Courts
P. O. Box 62307
Harrisburg, PA 17106
(717) 231-3300 • OEJC@pacourts.us

“This publication was supported by the Administration for Community Living (ACL), U.S. Department of Health and Human Services (HHS) as part of a financial assistance award totaling $2,121,598.64 with 75% funded by ACL/HHS and $530,399.66, and 25% funded by non-government source(s). The contents are those of the author(s) and do not necessarily represent the official views of, nor an endorsement, by ACL/HHS, or the U.S. Government.”

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About the Office of Elder Justice in the Courts

The Office of Elder Justice in the Courts (OEJC), a department within the Administrative Office of Pennsylvania Courts, was created by the Supreme Court of Pennsylvania to assist the Court in implementing recommendations contained in the 2014 Elder Law Task Force's Reports and Recommendations. The OEJC identifies areas of need and challenges faced by older Pennsylvanians and improves the ability of Pennsylvania courts to meet those needs.

The OEJC staff work every day to protect Pennsylvania's rapidly growing population of adults aged 60 and over from all forms of abuse. In addition, the OEJC educates judges, court staff, attorneys, guardians, the public, and others about the warning signs of elder abuse and how to respond to suspected elder abuse. The OEJC also promotes best practices for addressing elder abuse and neglect, guardianship, and access to justice in Pennsylvania courts. In collaboration with the Advisory Council on Elder Justice in the Courts, other elder justice entities, and branches of government, the OEJC works to enhance older Pennsylvanians' ability to fully participate in legal proceedings.

In Sept. 2022, the OEJC was awarded a three-year Elder Justice Innovation Grant from the federal Administration for Community Living to further its work to protect older Pennsylvanians and implement improvements in the handling of adult guardianships cases. The overarching goals of the OEJC's grant are to assure due process for alleged incapacitated persons (AIP) or incapacitated persons (IP), improve guardianship monitoring capabilities to prevent abuse and exploitation, and promote alternatives to guardianships.

One of the OJEC's grant-funded projects aims to explore the effects of a legal services model for the appointment of counsel including the frequency of attendance of the AIP or IP at guardianship proceedings and the outcomes of these proceedings, both key factors in ensuring due process and the preservation of their rights.

Executive Summary

A guardianship court order allows a designated individual, individuals, or entity to act on another person's behalf when they are determined by a court to be incapacitated. An adult who is partially or totally unable to receive or understand information or communicate decisions effectively, to the extent that they are unable to manage their finances or meet their own safety and health needs, is considered incapacitated under Pennsylvania law. Guardianship takes away many rights and freedoms from an individual and per Pennsylvania statute, must only be ordered after all less restrictive alternatives are considered and fail to meet their needs.

The OEJC coordinated a grant-funded pilot project with MidPenn Legal Services (MidPenn) and four Pennsylvania counties' Orphans' Courts to provide free legal representation in all guardianship cases for adults aged 60 and older. "Guardianship is sometimes necessary for persons with diminished capacity or persons with a disability in managing their affairs," said the OEJC's Senior Judge Paula Francisco Ott. "The appointment of counsel through this partnership is a tremendous benefit to all older Pennsylvanians, further ensuring that their concerns, wishes and rights are respected and protected at every step of the legal process."

Data was collected from the pilot project related to both the number of hours the attorney worked on each case and outcomes of the guardianship proceedings. This data, along with available statewide data, was used to measure the effects of the appointment of attorneys from a legal services organization.

Statewide, 99% of AIPs ages 60+ had legal representation for guardianship proceedings from December 2023 through November 2024, the first year of the pilot project. Since representation was nearly universal during this period, outcomes of proceedings for counties across the state were compared to those from the pilot project. Analysis showed significantly lower rates of plenary guardianships ordered and higher rates of limited guardianships ordered and petitions not resulting in guardianship for pilot project cases, suggesting an increased preservation of legal rights and decision-making power for AIPs in these cases.

Additionally, the average cost per case statewide was estimated based on reimbursement forms submitted by Pennsylvania courts to the Pennsylvania Department of Human Services for amounts they paid for court-appointed counsel in 2023. This was compared to billable hour data from the pilot project using an estimated hourly rate based on a budget submitted to the OEJC by MidPenn. While the average cost per case was higher for the pilot project cases, this is to be expected given the time and effort required to explore potential alternatives to guardianship, gain meaningful understanding of clients' wishes, and protect their legal rights by advocating that any guardianship ordered be limited to the extent possible.

Introduction

Adult Guardianship in Pennsylvania

In Pennsylvania, when an adult of any age is deemed incapacitated by a court, a professional or family/lay guardian may be appointed who is responsible for making decisions on their behalf. The nature of these decisions can include financial, medical and personal matters the incapacitated person has been determined unable to make for themself. Courts may appoint a guardian of the person, guardian of the estate, or both, depending on the needs of the person. The court may appoint one or more individual(s) to be guardian of both the person and the estate, or it may appoint separate people for the estate and person. As of October 31, 2024, there were 20,453 active guardianship cases in Pennsylvania, with 726 additional cases pending.

Guardianship should always be the last resort when no less restrictive alternatives are appropriate to maintain the safety and wellbeing of the incapacitated person. This is because guardianship curtails the rights of the person with a guardian, depriving them of civil and decisional rights while appointing a guardian to make decisions related to their finances and/or their health and safety on their behalf.

Attorneys & Due Process Protections

When a guardianship petition is filed, the AIP has certain rights and protections under the law. These include the right to receive notice of the proceeding, be represented by an attorney (separate from the petitioner or any other interested party's attorney), have a hearing on the need for guardianship, present evidence and witnesses, cross-examine witnesses, have guardianship ordered only based on clear and convincing evidence, receive notice of guardianship orders, and appeal the court's decision. The attorney representing the AIP is expected to zealously advocate for the wishes and desires of the AIP. Being represented by counsel is often central to an AIP's ability to exercise their other rights, as they may not be aware of those rights or able to act on them independently. Given the potentially life-changing outcome of guardianship proceedings, protecting the due process rights of AIPs is essential.

Act 61 of 2023

Since June 2024, when Pennsylvania's Act 61 of 2023[1] (Act 61) took effect, courts are required to appoint counsel for AIPs and IPs in all guardianship proceedings regardless of their ability to pay, unless they choose to retain private counsel. Appointed counsel must serve as a zealous advocate for their client's desires and wishes.

While Act 61's requirement for legal representation in guardianship proceedings is key to the protection of due process rights for AIPs and IPs, it can be challenging for courts to identify an adequate number of trained and experienced attorneys who are willing to accept appointments on guardianship cases. There are several contributing factors that can make appointment difficult, including the often lower-than-average hourly rate offered to court-appointed attorneys, the

[1] 20 Pa. C. S. § 5511

challenging nature of some guardianship cases, and the special training and experience needed to zealously advocate for AIPs and IPs in these cases.

Legal Services Model for Court Appointments

One potential approach to ensuring that all AIPs and IPs are represented in guardianship proceedings is for the courts to contract with a legal services organization to provide this representation. Local legal services organizations operate in every county in the commonwealth, so the basic infrastructure for this approach is already in place.

A legal services organization can offer specialized training to its attorneys and assign the same attorneys to many of these cases, allowing them to specialize in guardianships and quickly gain experience, benefiting its clients and the court by providing consistent, highly skilled representation. Also, legal services organizations can structure contracts with courts in a way that works for both parties. In Pennsylvania, court-appointed attorneys for clients without adequate financial resources are paid by the county, which then gets reimbursed by the state the following year[2]. Using this approach, a county can enter into a contract with an LSO that would be paid by the county and reimbursed by the state.

The grant-funded legal services pilot project coordinated by OEJC, through which MidPenn provided legal representation to all AIPs and IPs age 60+ in guardianship proceedings in four counties at no cost to the client, was designed to measure access to due process for AIPs and IPs in these counties to see what added value, if any, was offered by the legal services model of representation, and whether this model has the potential for replicability across the state.

The four counties chosen for the pilot project were Dauphin, Berks, Cumberland, and Perry. These counties were chosen because they vary in population size, demographics, and guardianship caseload. This is important because counties across Pennsylvania vary greatly, and so what might work in a large, mostly urban county, may not be effective in a county will a small, mostly rural population. In order to assess the scalability of a legal services model for representation across the state, these variables needed to be considered.

[2] 20 Pa. C. S. § 5511(c)

Data Collection Method

Pilot Project Data

MidPenn provided the OEJC with data on a monthly basis throughout the pilot project, which began in December 2023. The data collected by MidPenn included case identification numbers, client demographics, petitioner type, proceeding type, client involvement in proceedings, billable hours, and outcomes specific to each case. The OEJC analyzed individual cases as well as aggregate data across all cases and counties.

Each of the four counties involved with the pilot project provided quarterly data to the OEJC specific to guardianship petitions in their county for which they appointed a MidPenn attorney, the age of the AIP, and the case identification number. The OEJC used this data to ensure consistency in reporting and verify data provided by MidPenn by comparing reported case appointments and outcomes from both sources.

Guardianship Tracking System

The OEJC collected statewide data from the Guardianship Tracking System (GTS). Created by AOPC's Information Technology department based on a recommendation of the Elder Law Task Force Report, GTS was first introduced in 2017 and has since set the nationwide standard for a statewide guardianship monitoring system and data collection.

GTS is used by Pennsylvania's guardians and courts to streamline guardianship reporting and monitoring in the Commonwealth. Since its inception, professional and family/lay guardians have used GTS to file annual reports, inventories, and final reports. GTS also has improved the courts' ability to monitor guardianships and protect persons with a guardian by allowing court staff to easily identify late reports and setting automated flags on potential areas of concern.

Act 24 Data

Since Act 24 of 1992 amended Pennsylvania law, counties have paid for appointed counsel representing AIPs and IPs when they are unable to afford to retain their own counsel. Counties submit a form at the end of each year totaling the number of court-appointed counsel for AIPs and IPs and the amount paid by the county for these appointments. The commonwealth reimburses the county for this amount the following year[3]. The OEJC used data included in the forms submitted by counties for 2023, the most recent year for which data was available, to determine the average cost per case for court-appointed counsel statewide.

Significance of Data Studied

Data regarding representation of the AIP by counsel at final decree hearings was collected from GTS. In October of 2023, it became mandatory for court users to indicate whether or not the AIP was represented at the hearing where the judge determines if a guardian needs to be appointed. Additionally, optional fields allow court users to enter counsel information for each case

[3] 20 Pa. C. S. § 5511(c)

including their name, appointment date (if court appointed), start and end dates, and whether they were paid by the estate or the county. This information was used to identify trends in counsel representation at the state level. Due to the nature of the pilot program, all AIPs involved with the pilot were necessarily represented by counsel at their final decree hearing. All AIPs and IPs over the age of 60 in the pilot program counties were represented by MidPenn if private counsel was not obtained.

GTS data regarding the number of petitions filed and the number of each type of guardianship ordered in each county (limited or plenary, person or estate) was collected in order to compare outcomes to those of the pilot project cases. The data recorded by MidPenn for adjudicatory cases includes guardianship type if one was ordered. If a guardianship was not ordered, MidPenn reported the outcome of the case, including if an appropriate less restrictive alternative was identified or if the case was withdrawn.

Additionally, Act 24 data was used to determine a statewide average fee for court-appointed attorneys paid by counties in 2023. While rates paid to court-appointed attorneys fluctuate significantly across the state and the number of billable hours required by each case also varies, the total number of cases for which the counties paid counsel to represent the AIP and the total amount of money paid by counties for these cases was compared to the average cost per case for adjudicatory cases in the pilot project. MidPenn reported the number of billable hours worked by attorneys for each case, and an average hourly rate inclusive of all overhead, work done by support staff, and other costs was determined based on budgets for the pilot project developed by MidPenn. The comparison of the average cost per case is important when considering the potential value replicability of the LSO model for appointment of counsel statewide.

Key Findings

AIP Representation

In order to examine the effects on case outcomes of AIP representation by LSO counsel, GTS data was first used to identify the frequency of AIP representation statewide in final decree hearings (see Appendix A for information on methodology used to determine whether AIPs were represented).

AIP Representation by Counsel at Guardianship Adjudicatory Hearings Statewide

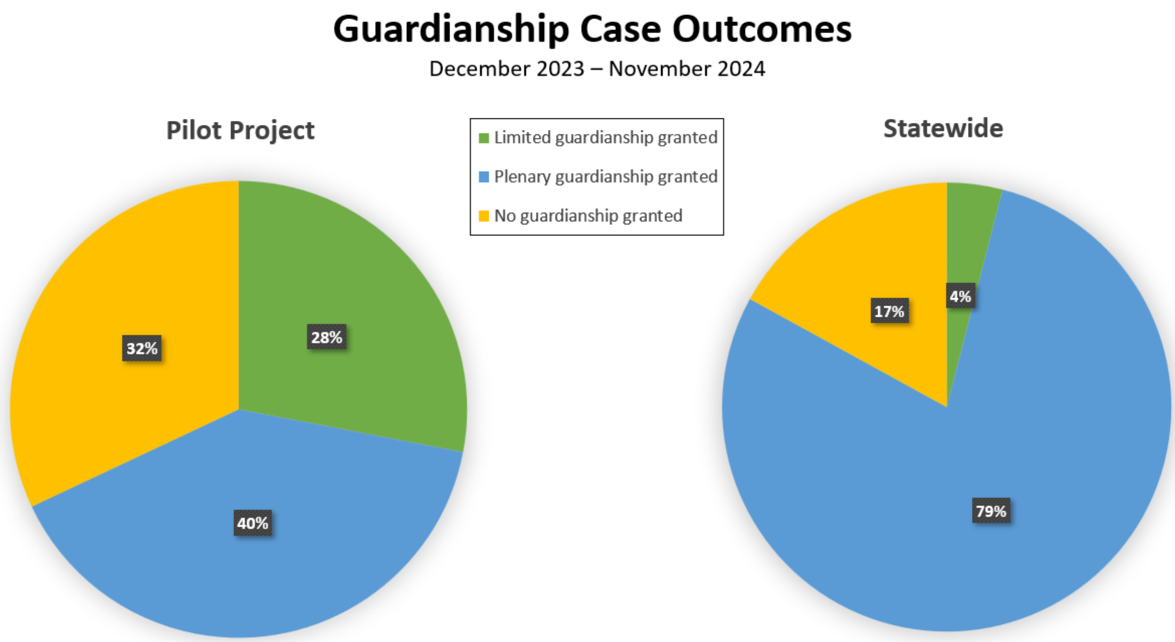
	Percent of AIPs Represented	
Time Period	**AIP Age 60+**	**All AIPs**
Dec. 11, 2023 - June 11, 2024	98%	98%
June 12, 2024 - December 12, 2024	99%	99.54%

During the first year of the LSO pilot project, AIP representation at final decree hearings was close to universal, with a slight increase after Act 61 took effect in June of 2024. The GTS data does not show whether counsel met with their client in advance of the hearing, how much time they spent with the client or working on the case, or other similar details provided by MidPenn for their pilot project cases. However, two areas were identified for comparison to better evaluate the efficacy and value of the LSO model for AIP representation: case outcomes and cost of counsel.

Case Outcomes

The consistent representation of AIPs across the state over the first year of the pilot project allowed for meaningful comparison of case outcomes for those AIPs represented by LSO counsel as part of the pilot project and case outcomes statewide.

The OEJC compared case outcome data entered into GTS by court users for persons aged 60+ alleged to be in need of a guardian to case outcome data provided by MidPenn for the pilot project in the study period. Statewide, 79% of petitions for guardianship resulted in a plenary guardianship being ordered, 4% of petitions resulted in a limited guardianship being ordered, and the remaining 17% resulted in no guardianship being ordered (see Appendix B for more information). For cases included in the pilot project, 40% of petitions resulted in plenary guardianship being ordered, 28% resulted in limited guardianships being ordered, and 32% resulted in no guardianship being ordered.



The differences in case outcome rates are significant and suggest the LSO model and approach to zealous representation of persons alleged to be in need of a guardian has a significant positive effect on preservation of rights of the individual. The percent of plenary guardianships being order is nearly halved, while the sevenfold increase in limited guardianships being ordered suggests that MidPenn's attorneys advocated effectively to preserve their clients' decision-making powers where possible, even when a guardianship was needed in some areas. A 15% increase in cases with no guardianship ordered suggests that alternatives to guardianship are being pursued wherever possible in pilot project cases. Since June of 2024, Act 61 has required a more thorough exploration of alternatives to guardianship in all cases and a preference for limited guardianship where possible in lieu of plenary guardianship.

Case Costs

Another important aspect courts must consider when appointing counsel is the cost. Since the enactment of Act 61, every AIP is entitled to court-appointed counsel, regardless of their ability to pay. When the AIP is unable to afford the cost of court-appointed counsel, the county must pay the fee and may be reimbursed by the commonwealth the following year. It is in the best interest therefore of both the counties and commonwealth to seek cost-effective options for court-appointed counsel while ensuring that AIPs receive zealous representation from experienced and specially trained attorneys in order to improve their access to justice and protect their due process rights.

Based on data provided by counties for reimbursement of fees for court-appointed attorneys for guardianship proceedings in 2023, counties paid court-appointed attorneys an average of $1,014.14 per case (see Appendix C for more information). It is expected that the average fee per case will increase in 2024, since Act 61 requires a thorough review and consideration of less restrictive alternatives in guardianship proceedings, which is likely to require more hours of work per case on the part of the AIP's attorney in order to ensure all alternatives are being considered in accordance with their clients wishes.

Prior to the start of the pilot project, MidPenn submitted a proposed budget for the project based on the hourly rates of their attorneys and staff, anticipated administrative costs, and other overhead expenses. This budget was used by the OEJC to estimate an hourly rate of $103.00 inclusive of all costs identified in MidPenn's budget. This rate was used to calculate the average cost per case for all adjudicatory cases to which a MidPenn attorney was appointed.

In the first year of the pilot project, MidPenn was appointed to 85 cases involving new guardianship petitions for adjudication, including 57 cases for which proceedings had concluded by November 30, 2024. For these 57 cases, the median number of attorney hours worked per case was 14.05, resulting in an average cost per case of $1,447.15 (see Appendix D for more information about hours worked and resolution types). While this is a significant increase over the statewide average for 2023, this is to be expected given the time and effort required to explore potential alternatives to guardianship, gain meaningful understanding of clients' wishes, and protect their legal rights by advocating that any guardianship ordered be limited to the extent possible.

Conclusion

Recent significant changes to Pennsylvania's adult guardianship system have led to increased protections of the legal rights and access to justice of persons alleged to be in need of a guardian and persons with a guardian. New legislation, the efforts of the Advisory Council and other stakeholders, and the work of the OEJC including several grant-funded projects have been central to the systemic improvements made to date.

The LSO pilot project was designed to explore the impacts and costs of an LSO model for appointment of counsel for all AIPs and IPs as required by Act 61. Judge John Joseph McNally presides over guardianship proceedings in Dauphin County, one of the counties participating in the pilot project. In October 2024, he stated "...In the ten months since the launch of the pilot program, we have been able to achieve more equitable outcomes with counsels' zealous advocacy, family engagement and a more collaborative thought process." Judge McNally's observations are borne out in the data, which suggests that the LSO model used in the pilot project has resulted in significant preservation of rights for persons alleged to be in need of a guardian in counties participating in the pilot project.

According to the U.S. Census Bureau, 19.32% of the nation's population was ages 65+ in 2022, and that number is expected to rise to 25.94% by 2040[4]. Continued meaningful transformation of the adult guardianship system will be essential to supporting the safety, wellbeing, and financial security of this growing population while also protecting their legal rights, freedom, and access to justice. Programs like the LSO pilot project will play an important role in determining the move effective use of resources in support of the preservation of legal rights of older adults in Pennsylvania and across the nation.

[4] U.S. Census Bureau, Population Division. (2023, November). *Projected Population by Age Group and Sex for the United States, Main Series, 2022-2100.* 2023 National Population Projections Tables: Main Series

Appendix A

AIP Representation by Counsel at Guardianship Adjudicatory Hearings Statewide

Time Period	Percent of AIPs Represented*	
	AIP Age 60+	All AIPs
Dec. 11, 2023 - June 11, 2024	98%	98%
June 12, 2024 - December 12, 2024	99%	99.54%**

*An AIP was considered to have been represented if one of the following conditions was met:
1. The court user indicated explicitly in GTS at the time of recording the adjudication that the IP was represented (and an attorney is or is not present on the case), or
2. The court user indicated explicitly in GTS that the IP was not represented at the time of recording the adjudication, but an attorney is present on the case representing the IP with an appointment and/or start date preceding the adjudication and no ending date or ending date subsequent to the adjudication (7.3% of cases reviewed met this condition)

**This figure includes two decimal places to avoid rounding to 100%. There were four unrepresented AIPs in this period, and they were all age 60+, so the numbers of AIPs represented were 577out of 581 and 866 out of 870 respectively.

Appendix B

Case Outcomes for AIPs Ages 60+
December 1, 2023 – November 30, 2024

Outcome	Pilot Project	Statewide*
Limited guardianship granted**	28%	4%
Plenary guardianship granted***	40%	79%
No guardianship granted	32%	17%

* Statewide percentages are based on aggregate GTS data entered by court users for the period of December 1, 2023, through November 30, 2024, including number of petitions filed and number of guardianships granted by guardianship type. While this data is not an exact comparison to the pilot project data, since some cases with petitions filed during the period did not conclude prior to the end of the period, and some guardianships granted during the period were for cases filed prior to the start of the period, it is consistent with the overall number of petitions filed and guardianships ordered over a 12-month period across the commonwealth.

** Cases that included a limited guardianship in at least one domain (person or estate), even if a plenary guardianship was granted in the other domain (ex: an order appointing a plenary guardian of the estate and limited guardian of the person), were considered to be limited guardianships for the purposes of this analysis.

*** Only guardianships granted with a guardianship type of plenary in GTS (person only plenary, estate only plenary, and person and estate plenary) were considered to be plenary.

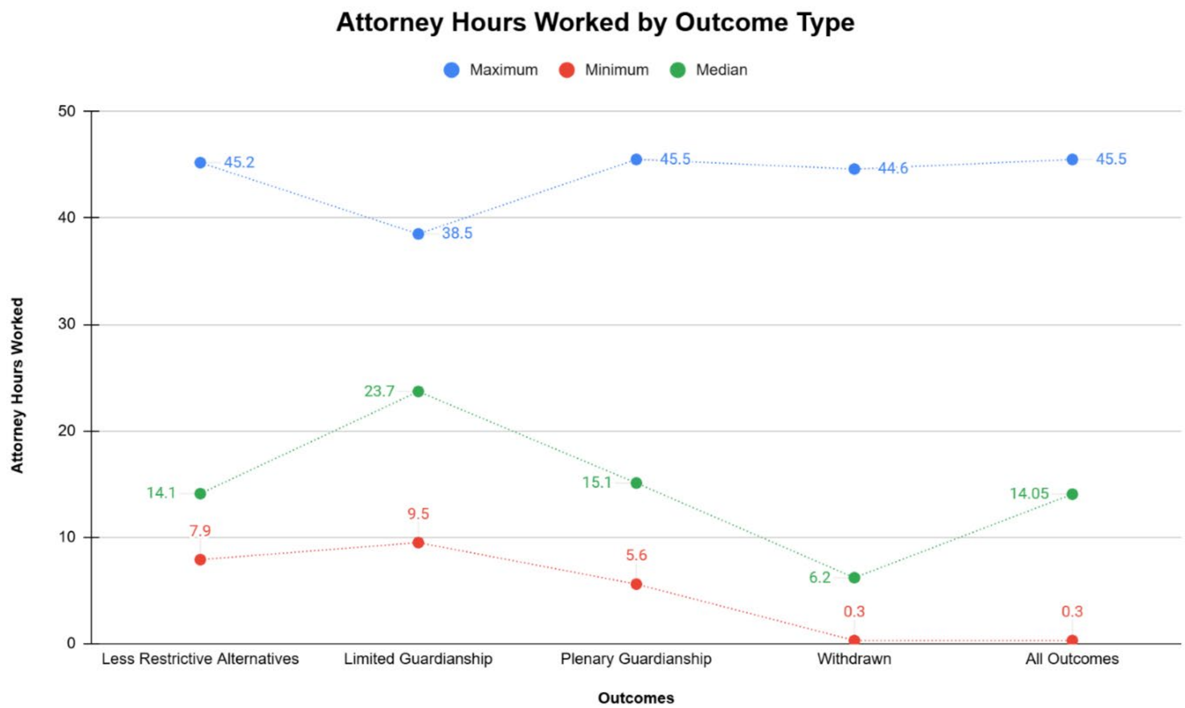
Appendix C

2023 Data Reported by Counties for Act 24 Reimbursement

Number of Counties Included*	52
Number of Cases with Counsel Fee Paid by Counties	1548
Total Fees Paid by All Counties	$1,569,891.62
Average Fee Paid to Counsel per Case	$1,014.14

*The OEJC received copies of 2023 Act 24 Reimbursement forms from 56 out of 67 total counties in Pennsylvania. Of the 56 counties reporting, 52 counties indicated that they made payments for court-appointed counsel in guardianship proceedings in 2023.

Appendix D



This graph shows the minimum, maximum, and median number of attorney hours worked by each outcome type for the 57 adjudicatory cases on which MidPenn was appointed that reached a resolution as of November 30, 2024. While the number of hours worked on cases with all resolution types varied significantly, cases resulting in limited guardianships were most time consuming on average. Cases in which the petition was withdrawn often required fewer hours of work.