

Nevada Supreme Court

Commission to Study the Administration of Guardianships in Nevada's Courts



April 1, 2016, Meeting Materials

Justice James W. Hardesty, Chair

AGENDA

ADMINISTRATIVE OFFICE OF THE COURTS

ROBIN SWEET
Director and
State Court Administrator



RICHARD A. STEFANI
Deputy Director
Information Technology

JOHN MCCORMICK
Assistant Court Administrator
Judicial Programs and Services

VERISE V. CAMPBELL
Deputy Director
Foreclosure Mediation

MEETING NOTICE AND AGENDA

Name of Organization:

**Supreme Court Commission to Study the Creation and Administration of Guardianships
In Nevada's Courts**

Date and Time of Meeting: April 1, 2016, 1 p.m. to 4:30 p.m.

Place of Meeting:

LAS VEGAS	CARSON CITY	ELKO
Regional Justice Center Nevada Supreme Court 200 Lewis Ave., 17 th Floor, Courtroom	Nevada Supreme Court 201 S. Carson Street Law Library, Room 107	Fourth Judicial District 571 Idaho Street Dept. 2

AGENDA

- I. Call to Order
 - a. Call of Roll and Determination of Quorum
 - b. Approval of Meeting Summary from February 26, 2016 (for possible action) (*pages 5 – 18*)

- II. Public Comment

*Because of time considerations, the period for public comment for persons who spoke at previous meetings **will be limited to 1 minute** and speakers who have not spoken at previous meetings **will be limited to 3 minutes**. Speakers are urged to avoid repetition of comments made by previous speakers.*

- III. Presentation
 - a. Eighth Judicial District's Data Collection Process (*Judge Steel, Mike Doan, Riley Wilson*) (*pages 20-31*)

Supreme Court Building ♦ 201 South Carson Street, Suite 250 ♦ Carson City, Nevada 89701 ♦ (775) 684-1700 • Fax (775) 684-1723

Regional Justice Center ♦ 200 Lewis Avenue, 17th floor ♦ Las Vegas, Nevada 89101

- IV. Discussion on Subject Matter Recommendations (General Policy Questions 14, 16 - 30) (for possible action) (*pages 33 – 34*)
- V. Other Business
 - a. Nomination of Guardianship – Power of Attorney Statutes (*pages 53 – 65*)
- VI. Future Meeting Dates
 - a. April 22, 2016 – 1 p.m. to 4:30 p.m.
 - b. May 20, 2016 – All Day In-Person Meeting, Las Vegas
- VII. Adjournment

- Action items are noted by (for possible action) and typically include review, approval, denial, and/or postponement of specific items. Certain items may be referred to a subcommittee for additional review and action.
- Agenda items may be taken out of order at the discretion of the Chair in order to accommodate persons appearing before the Commission and/or to aid in the time efficiency of the meeting.
- If members of the public participate in the meeting, they must identify themselves when requested. Public comment is welcomed by the Commission but may be limited to three minutes per person at the discretion of the Chair.
- The Commission is pleased to provide reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If assistance is required, please notify Commission staff by phone or by email no later than two working days prior to the meeting, as follows: Stephanie Heying, (775) 687-9815 - email: sheying@nvcourts.nv.gov
- This meeting is exempt from the Nevada Open Meeting Law (NRS 241.030 (4)(a))
- At the discretion of the Chair, topics related to the administration of justice, judicial personnel, and judicial matters that are of a confidential nature may be closed to the public.
- **Notice of this meeting was posted in the following locations:** Nevada Supreme Court website: www.nevadajudiciary.us; Carson City: Supreme Court Building, Administrative Office of the Courts, 201 South Carson Street; Las Vegas: Regional Justice Center, 200 Lewis Avenue, 17th Floor.

MEETING SUMMARY

ADMINISTRATIVE OFFICE OF THE COURTS

ROBIN SWEET
Director and
State Court Administrator



RICHARD A. STEFANI
Deputy Director
Information Technology

JOHN MCCORMICK
Assistant Court Administrator
Judicial Programs and Services

VERISE V. CAMPBELL
Deputy Director
Foreclosure Mediation

MEETING SUMMARY

*Prepared by Stephanie Heying and Raquel Rodriguez
Administrative Office of the Courts*

**Supreme Court Commission to Study the Creation and Administration of
Guardianships in Nevada's Courts**

Date and Time of Meeting: February 26, 2016, 1:00 p.m. to 4:30 p.m.

Place of Meeting:

<i>Carson City</i>	<i>Las Vegas</i>	<i>Elko</i>
Nevada Supreme Court 201 South Carson St. Law Library, Room 107	Regional Justice Center 200 Lewis Ave. 17 th Floor, Courtroom	Fourth Judicial District Court 571 Idaho Street, Dept. 2

Members Present:

Chief Justice James W. Hardesty, chair
Chief Judge Michael Gibbons
Judge Frances Doherty
Judge Nancy Porter
Judge Cynthia Dianne Steel
Judge Egan Walker
Assemblyman Michael Sprinkle
Assemblyman Glenn Trowbridge
Julie Arnold
Debra Bookout
Rana Goodman
Susan Hoy
Jay Raman

Sally Ramm
Kim Rowe
Terri Russell
David Spitzer
Kim Spoon
Timothy Sutton
Susan Sweikert
Elyse Tyrell

AOC Staff

Myrna Byrd
Stephanie Heying
Raquel Rodriguez
Sheldon Steele

I. Call to Order

a. Call of Roll and Determination of Quorum

Chairman Hardesty called the Commission to Study the Creation and Administration of Guardianships (Commission) to order at 1 p.m. A quorum was present.

b. Approval of Meeting Summary from January 22, 2016, meeting.

The January 22, 2016, meeting summary was unanimously approved.

II. Public Comment

Public comment was transcribed verbatim, and is included as a separate attachment to the meeting summary.

III. Presentation

a. Second Judicial District's Data Collection Process

Judge Frances Doherty, Judge Egan Walker, Mr. Craig Franden, and Ms. Holly Lujan provided an overview of the data collection process in the Second Judicial District Court (Court).

Judge Doherty explained the Court began review of their guardianship workload in an effort to understand the workload in a quantifiable manner. The collection of data provided the Court insight into the nature and extent of services provided through the Court and allows the Court to target intervention services to the types of respondents and persons under guardianship, as well as the types of persons who are guardians.

Judge Doherty introduced the team working on the data collection effort. Judge Walker oversees the juvenile guardianship cases. Prior to overseeing the juvenile delinquency and dependency, Judge Walker oversaw the adult guardianship cases. Mr. Craig Franden, Chief Information Officer for the Second Judicial District, has guided the courts in its data collection. Ms. Holly Lujan is the Family Court Clerk with over 15 years of experience. In addition to Ms. Lujan's general clerk duties, she enters data into their case management system, schedules and tracks mediations that are ordered in guardianship cases, and attends meetings with the groups so they can review the data to ensure its accuracy and to develop protocols in the guardianship arena.

The Court's mission statement:

The Second Judicial District Court is committed to providing high quality judicial services to persons appearing in adult guardianship matters through holistic application of best practices and implementation of least restrictive avenues of intervention using transparent, data driven case management to serve the best interests of persons subject to guardianships.

Judge Doherty shared the timeframe and work efforts involved in creating a docket and running the guardianship department. The dollar figures represent the amount of time and investment required to get to where the court is

today. The work began three years ago with a caseload of 1300. The Court has a devoted part-time judge (Judge Doherty) for adult guardianship cases, Mr. Franden devotes one fifth of each week to work on this project, Ms. Lujan gives at least 50% of her time, court administration including the court administrator and various other family court clerks also provide their time and support. The Court and the Washoe County Guardianship Bar have a great relationship where they share ideas and ask questions so they can be more responsive to what they are doing and how things can be improved. Judge Doherty stated if there were a dollar figure on the work effort, it would be well in excess of \$300,000.

Mr. Franden stated their work began in 2013, following a site visit from the National Center for State Courts (NCSC) to review the Court's probate and guardianship caseload. The Court reviewed every case they had and refined the data codes they were using in the database and the type of data they were gathering. The Court wanted to generate orders, automatically, based on the data entered into the case management system (CMS). This requires data to be consistently entered by the court clerks, case compliance specialist, and others who touch the cases.

In 2014, the Court began to compile the summary draft report. The Court wanted to capture demographics of the person subject to the guardianship and the types of guardianships. In late 2014, the Court analyzed their data code usage and reset the status in all of the cases. The Court began to review all of the cases to identify which cases were still pending, set for review, and needed an annual report or inventory. In 2015 and 2016, the Court added a fulltime case compliance specialist to review all case reports and began holding bi-weekly meetings to review the information.

The Court uses the data to identify areas of improvement; measuring time to disposition, timely filings of mandatory reports (inventory and accounting), and demographic data. Data has guided the work prioritization including pro per forms and training, bond protocols, least restrictive methods, and the creation of mediation protocols. The automated CMS includes improved automated order generation. The Court is currently testing a way to build milestone queries via a public website so once an order is due e.g. 60-day inventory, the attorney or public member could go to the website, enter a case number, and see the milestones of when items need to be filed. The compliance specialist will also be using this to identify those cases and milestones so there would be more interaction via the website.

Mr. Franden provided an overview of the reports. Methods of data measurement include the Uniform System of Judicial Records (USJR). The Court reports monthly criminal, civil, family, juvenile, and guardianship new filings and dispositions and this data is included in the Nevada Supreme Court's Annual Report of the Judiciary. USJR is in phase II and is moving into phase III so they will begin to capture some of the average time to disposition of these cases. The Court also uses some definitions from the National Probate Court Standards (NPCS) including timeliness of hearing of first petition and timeliness of hearing on extended or temporary petitions.

Mr. Franden said the caseload report includes pending active adult guardianship cases and disposed/set for review. Pending active is a case that is awaiting the first disposition. The bulk of the pending active are awaiting an appointment of guardian. The cases disposed of and set for review are cases where the Court is expecting an annual report (this makes up about 637 cases currently). The chart included in the materials shows 18 current active cases and 7 additional cases with temporary orders. This allows the Court to know what their current active workload is, what the court hearings are, and what parties are waiting for a response to a dispositional order. This report keeps the Court on track and if that number went up disproportionately it would be an indication to the Court that something might be happening in the community or that the Court is not scheduling hearings quickly enough. The pending active cases include new filings the Court is working on and the Court needs to know how many cases they are monitoring. Monitoring occurs after the judge has made a determination of guardianship of the person and/or

estate. That is the end of the active case and the case then goes for review and can remain for the 10 – 30 years or more depending on the the nature and extent of the person under guardianship's needs.

The Court tracks and reports case filings and reports new case filing to USJR monthly for both adult and minor guardianship cases. Judge Doherty noted the Court's new case filings for the last 12 months are the lowest they have been in 15 years. It is the Court's view that the drop from around 180 the previous year and 140 this last year has a lot to do with conscientious cognizant decision making ensuring cases are not being filed where there is an alternative to the remedy being sought in guardianship court. Judge Doherty noted she is proud of the Bar Association for working so closely with the Court in understanding least restrictive intervention, reaching out for durable powers of attorney for health care, and seeing if there are other ways to address a person's needs.

The 15-year filing trends for the Court show adult guardianship cases are down 39 from last year and minor cases were up by 27. Judge Walker noted there are more minor guardianship cases in each judicial district than there are adult guardianships.

Mr. Tim Sutton asked if alternatives available in the adult guardianship realm were also available for minors. Judge Walker responded he could not think of any other than guardianship if you have a minor. Minors are legally incompetent by definition. The challenge is minor guardianship cases are overwhelmingly child welfare cases without social services. Minor guardianship cases are the most needy, most vulnerable children for whom the Court has zero resources. One of the challenges is a system of representation. There are no attorneys available for minor guardianship cases. There is a need for judicial resources such as settlement conferences to divert from guardianship. Since minors are legally incompetent by definition it creates very strong front-end challenges to meet their needs. The Courts need to understand the needs of the children and marshal resources to them. It is another area where civil Gideon is mentioned and will have to be grappled with to have representation for the minors.

Mr. Franden reviewed the data on the types of guardianships. Many guardianships start with guardianship of the person but morphed over the time of disposition to something else e.g. person and the estate. Judge Doherty explained the Court wanted to break down the types of guardianships the court was issuing and what kinds of orders exists. Many people go to court thinking they need a guardianship of person and estate but there is often no estate, except perhaps social security, and the government has a system for payments (representative payees). Judge Doherty noted the statute is complicated because there is nothing in statute called a limited guardianship it is called a special guardianship with limited authority. The Court is slowly turning guardianship cases into special guardianship of limited authority for specific purposes and the Court is tracking those numbers. Judge Doherty said she recognizes that the volume is terrifically more in the Eighth Judicial District, so resources are critical to service the public in the most appropriate manner, this takes tremendous work and investment.

The Court has worked very hard to reduce the number of ex parte orders to get people to their first hearing where the standard of evidence is higher, where notice is more likely, and where the Court can see, touch, and hear information about why a temporary order is necessary at the beginning of the case. The Court had 10 ex parte orders in the last year. This is a new data point so the Court does not have prior data to compare.

The Court's average time to disposition in the last 12-months (time of filing the petition to the disposition of that case) was 74 days.

Justice Hardesty asked if the Court discussed or considered how to define terms that measure the disposition and tracking of review cases i.e., the inventory and annual accounting as well as responses to show cause orders quicker where people do not file their inventory or annual accounting or other reports that are expected. Mr. Franden

responded the Court does have automated orders in the system and the Court reviews cases to see if the annual report has been filed. If it has not been filed an order to show cause would be generated. Justice Hardesty asked if the Court could compile data to show, for example, 600 cases that are pending are in the review process where a person did not file on time...Mr. Franden stated the Court could probably track the data but has not addressed that subject to date. Justice Hardesty said the reason he posed this question is one of the items that concerns him is the judicial district's ability to not only properly capture the failure of the guardian to perform statutory requirements, but to then measure whether the courts address that once it is identified. What percentage of the overall docket is that a problem? Two senior judges are reviewing cases in Clark County that go back many years where the reports were not received and Justice Hardesty is trying to examine how this can be prevented from happening through our data system in the future. Mr. Franden referred to Minnesota's CAP program where everything post adjudication is in that system and guardians have to report to that system and have to do their annual accountings or the case will be flagged and audited by accountants. This is a part of the Clark County CAP pilot program, so going forward judicial districts becoming a part of the CAP pilot is crucial to what Justice Hardesty is asking. Justice Hardesty said it is a critical point and he wants to be in a position that if someone does not file their accounting after being ordered to do so the court is able to initiate a program of action as well as to determine what percentage of cases are reports not being filed in a timely manner. Mr. Franden noted the Court has the milestone program that would be web based and the Court would be able to look at exceptions for what cases did not meet a milestone and then the Court would address those cases. Judge Steel noted the Eighth Judicial District Court tracks this information daily and she receives a 120-page report that shows every active case or an annual report is due and the report provides the number of days they are out of compliance, and how many cases she has. The report includes many of the older cases and the Court is reviewing those older cases case by case. Justice Hardesty asked if the Court has identified how many of the minor guardianship cases are likely to continue into adulthood. Judge Walker responded the Court hopes to cull those numbers by the end of the year. Judge Walker added the minor guardianship working group is looking into the area of minors under guardianship who might need to transition into adult guardianship.

Judge Porter said she recently had their IT Department do a count of the pending minor and adult guardianship cases; current count 330 open cases. Judge Porter does not have the breakdown between minor and adult guardianships but based on her experience she would estimate they have twice as many minor guardianship cases as adults.

The Court tracks types of disposition and those are reported to USJR monthly.

Mr. Franden reviewed data that is measured based on the National Probate Court Standards (NPCS). The Court measured days to initial hearing, which is the time between the filing of the petition and the first hearing on the case. In the last 12 months, 61 cases fell within 21-40 days to initial hearing. The Court also looks at the days to initial hearing for temporary and extended guardianships. In the last 12 months, 16 cases fell within 11-20 days. NPCS also addresses alternatives i.e., what is the least restrictive method to conclude the case. The Court began a mediation program for adult guardianship cases in 2013. The Court offered training for the mediators and asked people to come in who were working with elder issues. The training was free and conducted by one of their local experts. The Court created a list of entities who would be willing to be mediators in guardianship actions and the neighborhood mediation center began to accept cases where there were no resources for the estate. The Court also has a settlement conference process conducted by Judge Doherty.

Mr. Franden noted pages 11 and 12 of the report shows the work of the case compliance officer and the information that goes to the Annual Report. In the last 12 months, the Court has seen 785 inventories and annual accountings filed. Those numbers have increased over time due to having a case compliance officer to review the cases.

The Court also wanted to know how many cases were guardianships of the person, person and estate, and just the estate. The Court has found almost 70% of its cases are either guardianship of person or guardianship of the person and estate where the estate is \$10,000 or below (summary estate) not requiring an annual accounting. This data allows the Court to know what type of cases it has and allows the Court to target their work. Justice Hardesty noted the breakdown of this information would be critical in making assessments about the number of attorneys necessary to assist those who lack means and those who may have means to afford an attorney. Judge Doherty noted this data was a hand count.

The Court looks to NPCA for best practices and how to track court appointed attorneys, guardian ad litem (GAL), and investigators. Best practices include court appointed representation for everyone. The Court has worked with Washoe Legal Services (WLS) and Judge Steel has worked with Southern Nevada Legal Services to get something going. Washoe County also has a grant in which WLS provides representation to persons 60 or older. The numbers the Court has collected are only from September 2015, they are very small and are only for persons 60 years old and older. The data shows 40% of their caseload had representation, which means 60% of persons under guardianship did not have access to counsel with the exception of a few large estates where they were able to pay for their own attorney.

The final three charts are looking outside demographics of the USJR. This is data the Court wanted to track and includes a breakdown of placement, age and types of guardians. Judge Doherty said what the Court wanted to look at is what the role of placement, what is the Court's role in determining least intrusive placement, and where do the litigants and parties that the Court serves fall within the various breakdowns. The Court considers 433 commitments to be the highest most significant level of placement and placement in their own home the least level. The Court also wants to know what percentages of people are in nursing homes, where the Fair Housing Act applies. Placement breakdown is critical and they can print out each case in those categories to drill into those specific cases.

The Court also breaks the data into age and by year increments. Judge Doherty said this data is helpful as the Courts assumed the largest group under guardianship was the elderly, but they are not. Sixty percent of persons under guardianship are below the age of 60, roughly 25% are between the ages of 18 and 30. The school districts often tell guardians of minors to get a guardianship once they turn 18 and there might be other alternative plans that should be considered versus adult guardianship.

The Court collects data on the types of guardianships so they know what percentage of guardians are private professional guardians, public guardian's office, and how many are friends/relatives. Well over 60% of guardians in their Court are relatives, siblings, spouses, children, etc. Those are the people we want to be sure are getting the training to be guardians and that it is sufficient in terms of availability and timeliness. The Court wants to ensure this group is using orders that they understand because many of them are unrepresented. The Court also wants to understand the workload of the public guardian's office and private professional guardians.

Judge Doherty said this is a team effort. The team effort and size and volume of the work in the south is nowhere near compatible and we need to support all of our work and decide what we do like and what we do want to track and how we want to effectuate the system and then support the resources necessary to get the data. Judge Doherty ended with a quote from Justice Hardesty's State of the Nevada Judiciary speech during last year's legislative session where he captured what the mission has been in this work in his State of the Nevada.

"I...believe that Nevada's courts will continue to earn the public's trust and confidence if we adhere to the rule of law, are proactive in the management of our cases, creative in our efforts to provide access to the

courts, sensitive to the needs of people who come before us, innovative in our resolution of disputes, accountable for our behavior and decisions and fiscally responsible and transparent in all that we do.”

This is what they are trying to do in the Second Judicial District and as a Commission.

Assemblyman Trowbridge appreciated the data report and suggested focusing on the types of guardians who receive complaints e.g. are they spousal guardians, private guardians, etc. Once the source of the complaints/problems has been identified and why that particular type of guardian is causing these problems, it might take the elephant of a problem down to a size that could be addressed at the next legislative session. Most of the guardianships are being done correctly from what he has heard first hand from the people who come and talk and for the Court to say no we are going to address all of the elephants, we really just need to look at the tip of the tail to fix that.

Judge Doherty said this was part of the reason the Court wanted the information, to target the response of the court to those various areas. This data allows the Court to pull out a private guardian's percentage, for example, and look at those cases to see if there was cause to determine there was a pattern of behavior that the Court was concerned about. Similarly, the Court could target to provide more input and support. The NPCS also strongly encourages courts to have a standardized protocol for complaints. If Nevada incorporated a standardized protocol that would be another way to track what the complaints are, what the source is, what nature of the complaint is, and what the outcome is.

Justice Hardesty said this chart illustrates 67% of the guardians in Washoe County are spouse, parent, other relative or non-relative. His concern is not that those people are not well meaning and care for the Ward but that they lack training to assume those responsibilities and they might not know or appreciate the responsibilities that they now have. There is a huge need for public education and for educating people who assume these responsibilities. Some of this is occurring because the guardian does not understand what their duties are and this is not an easy area to understand even if an individual has received training.

Ms. Terri Russell asked if the annual estimated cost of \$318,000 was from each year from 2013 – 2015. Judge Doherty responded the figure is the best annual analysis of the current resources being diverted to the project. This figure does not include resources needed for the minor guardianships. Justice Hardesty asked if a similar figure had been quantified for minor guardianships. Judge Walker responded he would do a similar analysis. Judge Walker added they are scrubbing the minor guardianship cases.

Members of the public asked if they could ask questions. Justice Hardesty said the questions would be confined to the Commission members but members of the public could submit their questions to Ms. Stephanie Heying.

b. Eighth Judicial District's Data Collection Process

This agenda item has been deferred to the April 1 meeting.

c. Training Police Officers and Prosecutors in Elder Abuse

Mr. Roland D. Swanson, II, Chief of Investigations for the Nevada Attorney General's Office, has worked for the Attorney General's Office since September 21, 2015. Mr. Swanson retired from the Federal Bureau of Investigation on September 19, 2015 after more than 20 years of honorable service as a Special Agent. Prior to joining the FBI, he was an active duty U.S. Army Infantry Officer for more than eleven years.

In his current capacity, Mr. Swanson has become increasingly aware of the Guardianship, Elder Abuse and Neglect issues having a significant impact on the state. This awareness was highlighted during the previous two Law Enforcement Summits hosted by Nevada Attorney General Laxalt. In September 2015, during side bar conversations, it was brought to his attention by a District Attorney that this problem was of great concern in the rural communities of Nevada. When the audience was polled as to the extent of this problem, all Summit participants confirmed this was a significant issue in their jurisdictions. As a result of this response Mr. Swanson asked to lead a panel discussion on this subject during the recent Law Enforcement Summit in Elko, Nevada that occurred on February 17, 2016. The panel consisted of District Judge Nancy Porter, a representative from the Henderson Police Department, a Public Guardian from Elko County, and a representative from the Carson and Rural Elder Law Program. The audience consisted of metropolitan and rural area law enforcement officers as well as representatives from several District Attorney Offices.

Mr. Swanson noted his comments were based on the fact that unlike some law enforcement trends, Guardianship, Elder Abuse, and Neglect issues are here to stay in Nevada. The elderly population continues to grow, and elderly citizens continue to be victimized across the state in our metropolitan and rural areas. This problem affects senior citizens in managed care facilities, in the court appointed and private guardianship process, and seniors who continue to be scammed out of their assets through various fraud schemes. Mr. Swanson added that state and local law enforcement entities may not have adequate resources and training to address these statewide issues in the most effective manner.

Mr. Swanson shared some of what he has learned over the past five months by covering the following points from a general law enforcement perspective:

The Scope of Guardianship, Elder Abuse and Neglect:

Guardianship, Elder Abuse and Neglect has many forms including criminal acts involving fraud, forgery, and embezzlement. These crimes are often committed for the personal gain of family guardians, private guardians, and individuals forging new relationships with an elder person. These are common themes. Some private guardians are suspected of double billing Wards for services rendered and inflating expenses for their personal benefit. There are instances where fraudulent documents may be filed in the courts that are detrimental to the Ward's interest, to include physician certifications, powers of attorney, quitclaim deeds, etc. These instances can provide law enforcement and prosecutors the clearest avenues to mitigate on-going criminal activity.

Physical abuse, unexplained injury, and isolation of an elder in their home or in care facilities do occur. These instances may include criminal acts of physical battery, sexual abuse, and forms of healthcare fraud. This criminal activity can also provide law enforcement and prosecutors with criminal options to protect the elder person.

Self-neglect and Environmental Neglect issues are more difficult to address and they are occurring in Nevada. An elder person living alone in squalor, who has deteriorated slowly over time, may not realize they need help for their own wellbeing. These instances are often identified by first responders; however, absent a criminal nexus, these situations are mitigated by organizations like the Nevada Aging and Disability Services Division, family members, and other non-law enforcement entities.

Guardianship issues do not apply just to the elderly. Criminal acts, similar to the ones mentioned previously, are committed against younger Wards, or against other Vulnerable Persons, who have financial resources and who are under the supervision of a guardian. For example, there may be a middle-aged person suffering from mental illness

who cannot care for themselves or manage their affairs, and whose care is funded through a trust that is being fraudulently managed.

Reporting and Investigating Guardianship, Elder Abuse and Neglect:

The mechanisms available for citizens to report instances of Guardianship, Elder Abuse and Neglect vary according to jurisdiction and available resources. Complaints are received through 911 calls for service, via email, by telephone, through the U.S. mail, and submitted in person at law enforcement or state offices. While these are reasonable reporting mechanisms for elder abuse and neglect, it appears many citizens do not know how or where to report these occurrences.

There is evidence that rural area citizens report Guardianship, Elder Abuse and Neglect complaints to the Nevada Division of Aging in Las Vegas versus reporting these issues in their local jurisdictions. When this occurs, it slows response time to investigate the allegations, as the complaints have to be referred back to the appropriate jurisdiction for action.

NRS 200.5093 identifies mandated reporters of Elder Abuse and Neglect. The statute applies to physicians and other medical personnel, counselors, hospitals, personal care service providers, law enforcement officers, social workers, first responders, and employees of agencies advising people on abuse and neglect issues. Recent Law Enforcement Summit discussions identified banks and attorneys as possible future additions to the list of mandated reporters as these groups often become aware of criminal activity that is negatively impacting the Ward.

Guardianship, Elder Abuse and Neglect crimes are investigated in several different ways. For the better part of the last year, the Attorney General's Office has been participating in an ad hoc Task Force focusing on private guardianship issues in Las Vegas. In the rural communities, these crimes appear to be investigated by law enforcement officers and Assistant District Attorneys in their specific jurisdictions based on the resources available to them. There is also evidence that some public guardians in Nevada believe guardianship, elder abuse and neglect crimes are left to them to investigate, which is not the role of a public guardian. The public guardians are postured to assist law enforcement and the district attorney offices in these investigations, as are Health and Human Services, Elder Protective Services, Aging and Disability Services Division, and the Division of Aging. However, it seems this process could be more effectively managed. The perception of at least one Summit Panel member was that state entities do not always follow through with public guardians and law enforcement to ensure complaints are addressed in a timely manner. Particularly in the rural areas, delays can occur in complaint response because of the remote area involved and harsh weather conditions. This scenario could have contributed to the death of one or more victims in the past.

It is interesting to note that Tribal Law Enforcement leaders participating in the Summit stated they do not have any laws or established guidelines to address the Guardianship, Elder Abuse and Neglect complaints that may be occurring on the federal reservations in Nevada.

Training for Law Enforcement Officers and Prosecutors:

A common theme, during the recent Law Enforcement Panel discussion, was mandated training is needed for law enforcement, prosecutors, and public and private guardians. There currently is no coordinated effort to provide this specific training and this is a shortcoming across Nevada. Recognizing the different forms of victimization is critical to making appropriate safety and investigative decisions. Complaints may have a criminal and a civil aspect to them, and it is critical that law enforcement and prosecutors recognize the distinctions.

The training deficiency can be corrected; however, this will require a state entity to own that responsibility. Health and Human Services, Elderly Protective Services, Aging and Disability Services Division, and the Division of Aging may be able to assist in this endeavor, and it is possible that training could be incorporated into future Peace Officer Standards and Training requirements specifically designed for law enforcement officers.

In conclusion, Guardianship, Elder Abuse and Neglect are a significant problem throughout Nevada. The scope of the criminal and civil issues involved are complicated, the reporting mechanisms across the state are jurisdiction dependent, and the people charged with protecting our elderly population are not adequately trained to be as effective as possible.

The Attorney General's Office is aggressively looking at ways to engage more effectively in this issue. Additional investigative resources are being sought, outreach to the rural communities in being conducted to let them know the Attorney General's Office is available to assist in these investigations and prosecutions when requested, and a broader statewide Task Force idea is being considered. The Attorney General's Office welcomes feedback and recommendations from this Commission as to ways this office can effectively assist in protecting the elderly and vulnerable citizens.

Mr. Swanson stated he appreciated the opportunity to address the Commission, and would be happy to answer any questions. Justice Hardesty thanked Mr. Swanson for his presentation.

Justice Hardesty asked if consideration had been given to adding the guardian as a reporting person so that, by itself, could be the basis for prosecution, if the guardian does not report. Mr. Swanson responded that is always an option and in some of the cases the Wards are not necessarily capable of reporting or being able to testify against whoever is creating the criminal activity upon them, so that becomes a challenge for law enforcement. The Ward may also want to prosecute one day and not the next. This can present problems for law enforcement as they try to put their case together but it does not deter them from going forward with charges if criminal activity is occurring. Law enforcement will present the case whether or not the victim(s) will or is able to participate in the prosecution.

Justice Hardesty said law enforcement is looking for some suggestions from this Commission in how to coordinate these efforts and to be more successful in what is taking place. Justice Hardesty sincerely appreciates the leadership of the Attorney General and his office in initiating and coordinating these activities.

The Commission discussed developing a protocol for the courts in which they can refer cases for evaluation and review, a coordinated effort between the courts and law enforcement. Mr. Swanson agreed it is not always clear where complaints should be filed in each jurisdiction. Some of the larger jurisdictions are able to manage their complaints and investigate the reports but it can become murky when you get to the rural counties and oftentimes it comes down to whether law enforcement knows the complaint exists and if they have the resources to address this and whether or not the complaint is criminal or civil. The distinction between criminal and civil can be murky and a lot of law enforcement focuses on the criminal aspect of the complaint. When it is one of those close criminal versus civil matters then maybe there are times when things are not getting the attention from law enforcement that they should. A lot of that has to do with training. Different jurisdictions have a larger number of investigative resources where some do not have any. That reporting piece is huge but that comes back needing to find the right place, someone has to own it and Mr. Swanson thinks someone has to own it from the state level. He does not have a solution as to how to do this right now but that is why he was mentioning the different entities within the state that have knowledge and roles in helping the elderly and some of these vulnerable people. Mr. Swanson thought a statewide reporting system could be developed that would ensure the persons and complaints get to the right jurisdiction.

Ms. Rana Goodman noted there have been comments from residents that families were prevented from visiting them because the group home or assisted living says the guardians have left instructions that this person cannot visit and when a person calls the police they are told those are the instructions and they cannot help. Ms. Goodman wanted to know if this new involvement with law enforcement would help in this situation because the statute states you cannot limit family from visiting and you cannot isolate the ward. Justice Hardesty responded that is part of the training issue and law enforcement might not be aware of the situation. Mr. Swanson said training is a portion of that and could potentially help. He added he has not personally seen an example like Ms. Goodman described but the order limiting family members would be in place by the court. Ms. Goodman stated in her experience it is not an order by the court but an order by a specific guardian taking care of the Ward.

The Commission discussed how someone besides a mandated reporter would report a complaint dealing with guardianship elder abuse or neglect. The list of mandated reporters in no way limits anyone e.g. family, friend, acquaintance from reporting those instances to law enforcement within the jurisdictions where that person lives. The concerns have been, until recently, people who made reports to law enforcement were often told this was a civil matter and law enforcement would not undertake an investigation. Part of the effort is to have law enforcement recognize this report and the potential criminal abuse or behavior that requires something other than a civil case. Citizens in Nevada need to be educated on this as well because many elderly do not have family members nearby, are not computer savvy, and do not research things so they do not know how to report. This would be another community outreach type of activity that could be useful in addressing some of these issues by educating the public.

Justice Hardesty would like the Commission to reflect on this over the next few meetings to make some suggestions and to continue the coordinated effort with Mr. Swanson, the Attorney General, and other district attorneys throughout the state. This is a specialized area and law enforcement needs special investigators, trained accountants, and people who are familiar with this area. Many of law enforcements resources are stretched thin throughout the state and when you get into a specialized area such as this, many law enforcement agencies do not have the resources to do this effectively. Consolidating these efforts into some tactical way would make a lot of sense and Mr. Raman and his team have made a lot of progress from the District Attorney's Office standpoint but law enforcement is the area where those investigations start that coordination needs to occur. Mr. Swanson agreed. Mr. Swanson and a couple of his colleagues would be traveling around Nevada visiting various jurisdictions. This subject is one of the items they would be discussing, and they hope to come up with some ideas. Justice Hardesty said the Commission might have a few recommendations for him as well.

IV. Updates

AB 325

Ms. Susan Hoy and Ms. Kim Spoon provided an update on AB 325 and the licensing for private professional guardians. Ms. Spoon spoke to Mr. Leonard Easterly at the the Division of Finance. Mr. Easterly is working with the Legislative Counsel Bureau (LCB) on the two drafts, finalizing the language. The Division of Finance plans to schedule a workshop in March and have an adoption hearing with the Legislative Committee by the end of March. Licensures would begin as soon as the regulations were approved by the Legislative Committee, unless there was some language for a phase in period.

NVGA Conference March 10 and March 17

Ms. Spoon reminded members the Nevada Guardianship Association (NVGA) in coordination with the Nevada Bar Association would be holding its CLE Conference on March 10 in Reno, and March 17 in Las Vegas. Justice Hardesty

would be the keynote speaker. Assemblyman Sprinkle would provide the legislative update in Reno and Senator Becky Harris would provide the update in Las Vegas.

Minor Guardianship Subcommittee

Judge Walker had drafted a new subchapter 159A, exclusively for minors, but after several discussions with the subcommittee it was decided the subcommittee would pull out the current sections in chapter 159, related to minor guardianships, and bring those areas into subchapter 159A. The subcommittee is also working on draft language for the temporary guardianships of minors since they have different needs. The subcommittee would present draft language at an upcoming Commission meeting.

Data/IT Subcommittee

Mr. Hans Jessup had provided a written report from the Data/It Subcommittee, summarizing his presentation at the January 22, 2016, meeting.

Justice Hardesty asked members if they had reviewed the memo and if there was any interest in approving the recommendations. The Commission discussed concerns with having a single petition filed for a single ward and the fiscal impact. The working group's report notes the fiscal impact would be minimal because there would not be a filing fee but there is a concern that the costs would increase for those who have hired an attorney. The attorney would now have to prepare multiple petitions, multiple accountings, multiple inventories, etc. for one family. It would be easier to track each person in their own individual case so there could be some type of sibling or spouse waiver if they are both filing at the same time. This is something the legislature could review e.g. if one petition was filed for each sibling there would be one cost for all siblings. The Commission discussed many of these cases would qualify for in forma pauperis and the fees should be waived. Judge Porter noted her concern is not with the filing fee but when a petitioner(s) hires an attorney. If an attorney has to prepare five individual petitions for each sibling versus one for all, there may be an additional cost charged by the attorney so there would be an impact for the people who hire an attorney. This discussion would be deferred to the working group and discussed at an upcoming meeting.

Ms. Heying researched guardianship filing fees in other states and found many states have a "flat filing fee" that is they do not charge based on the size of the estate or whether it is person, person and the estate or the estate only. Ms. Heying reviewed the filing fees for other states and Nevada. The information was included in the meeting materials.

Justice Hardesty would like the Commission to make some recommendations in this area. The Commission discussed why there was inconsistency in the filing fees charged in each district. Many of the fees being charged were enacted by the Legislature. Ms. Heying noted there are six statutes under Chapter 19 that allow the board of county commissioners to charge additional filing fees for civil actions. Some districts are charging all of those fees and others are only charging some.

Judge Steel and Judge Doherty did not have additional information from their working groups.

Justice Hardesty noted there had been some questions raised about the judge's working groups. He wanted to make it clear that the work the groups generate would come to the Commission to be vetted by the Commission. Additionally, no court rule in any district is adopted unless it is reviewed and approved by the Nevada Supreme Court.

V. Other Business

a. Lock Boxes Nominated Guardian

Ms. Rana Goodman explained the Nevada Secretary of State (SOS) has a Living Will Lock Box (Lock Box). The Lock Box is a virtual box, available since the mid-90s allowing people to file their living wills and can be accessed by emergency personnel. Ms. Goodman has discussed, with Senator Harris, the possibility of adding guardianship nomination forms as a form that could be added to the SOS Lock Box. The Commission discussed whether this would need to be passed by the Legislature. Ms. Arnold noted the Durable Power of Attorney for Health Care form (in statute) has a paragraph where a person can nominate their guardian for both person and estate and the POA can be filed with the SOS Lock Box. Many people may not be aware this is available to them. There was a discussion about whether a person would need to file a new POA since the law changed in January, allowing out-of-state nominated guardians to serve. Ms. Arnold noted clients have always been able to nominate out-of-state family members for guardians. The Commission discussed it would be helpful to educate attorneys and the public about the forms and that a person can nominate a guardian through the POA Health Care form and that form can be filed in the SOS Lock Box.

The Commission discussed whether support agreements and nomination only forms could be filed in the Lock Box. Justice Hardesty asked Ms. Arnold to write an article about the Lock Box in the Senior Law Project and include copies of the forms. Justice Hardesty added it would be beneficial to have a story about this in the Vegas Voice. Ms. Goodman agreed and stated they could use a copy of the suggested guardian nomination form.

The Commission deferred the topic for now, but it is something the Commission should include as a part of its recommendations going forward and on an interim bases people could look at the POA as an alternative. The Commission discussed including health care providers, hospitals, including emergency room staff in the education effort because members are not sure they are aware that this exist or that they are accessing the Lock Boxes.

The Commission was not able to discuss the General Policy Questions at today's meeting under agenda item IV. Justice Hardesty outlined what he would like to accomplish in the upcoming meetings:

- Complete the General Policy Questions
- Vote on subcommittee recommendations

The Commission has a lot to accomplish in the next two meetings. Public comment will need to be restricted so the Commission can vote on its recommendations. Justice Hardesty's goal is to have the draft report prepared by the May 20 meeting for review and feedback. In the interim, subcommittees would develop recommendations and categorize possible legislation so legislative members of the Commission know exactly what is being recommended. Justice Hardesty has met with Clark County to discuss their upcoming budget to include funding for investigators and accountants as well as secure interim funding for appointment of counsel. Justice Hardesty has also been meeting with Ms. Goodman and some other people to discuss the use of volunteers and the development of a volunteer program in Clark County to help facilitate the investigation of some of these guardianship cases. Justice Hardesty would like to formalize that process before the Commission finishes its business in June.

The Commission would receive a presentation from Clark County on their data collection at the next meeting. The remainder of the meeting will focus on the remaining General Policy Questions.


VI. Future Meeting Dates

The next meeting will be held on April 1, 2016.

VII. Adjournment

The meeting was adjourned at 4:20 p.m.

8TH JUDICIAL DISTRICT'S PRESENTATION



EIGHTH JUDICIAL DISTRICT COURT

ADULT GUARDIANSHIP DATA COLLECTION & AUTOMATION EFFORTS

GUARDIANSHIP COMPLIANCE REPORT

Guardianship Compliance Report as of 9/2/2014 - ALL JUDICIAL OFFICERS

Order Appointing Guardian	General Letters of Guardianship	Guardian's Acknowledgment of Duties	Inventory/Appraisal & Record of Value	Report of Guardian	Accounting
100.00 %	39.25 %	50.92 %	21.91 %	4.47 %	3.62 %
<small>Order Appointing Guardian - Most recent XXXX Hearing Date to most recent Order Appointing Guardian (OGAU/DAGE/DAGS/DAGP) Event Date</small>	<small>General Letters of Guardianship - Order Appointing Guardian File Date to first Letters of Guardianship (LEG) Event Date</small>	<small>Guardian's Acknowledgment of Duties - Order Appointing Guardian File Date to first Guardian's Acknowledgment of Duties (ACKN) Event Date</small>	<small>Inventory & Record of Value - Order Appointing Guardian File Date to first Inventory & Record of Value (IARV) Event Date</small>	<small>Report of Guardian - Order Appointing Guardian File Date to first Report of Guardian (ROG) Event Date</small>	<small>Accounting - General Letters of Guardianship File Date to first Accounting (ACRE/ACCT) Event Date</small>

Case Type Description	8 Cases)			Totals
	44-450	451-640	541-630	
Guardianship of Adult - Open	159	150	109	8,330
Guardianship of Adult - Reopened	3	2	1	195
	187	129	114	
	3	1	0	
	392	282	224	

SEP 2014
JUL 2015
AUG 2015
SEP 2015
MAR 2016

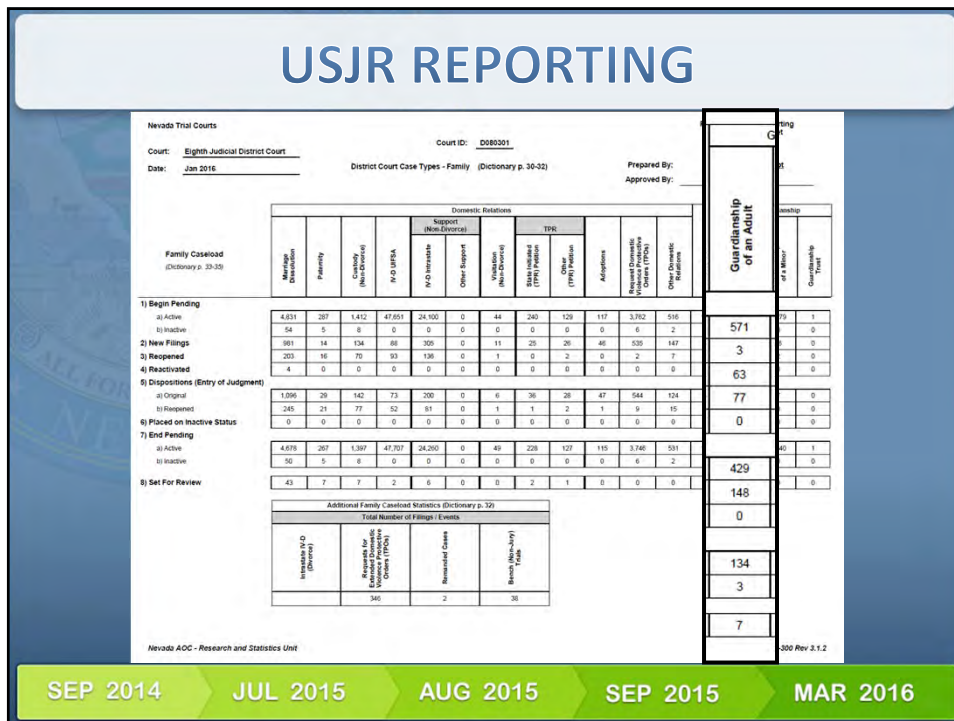
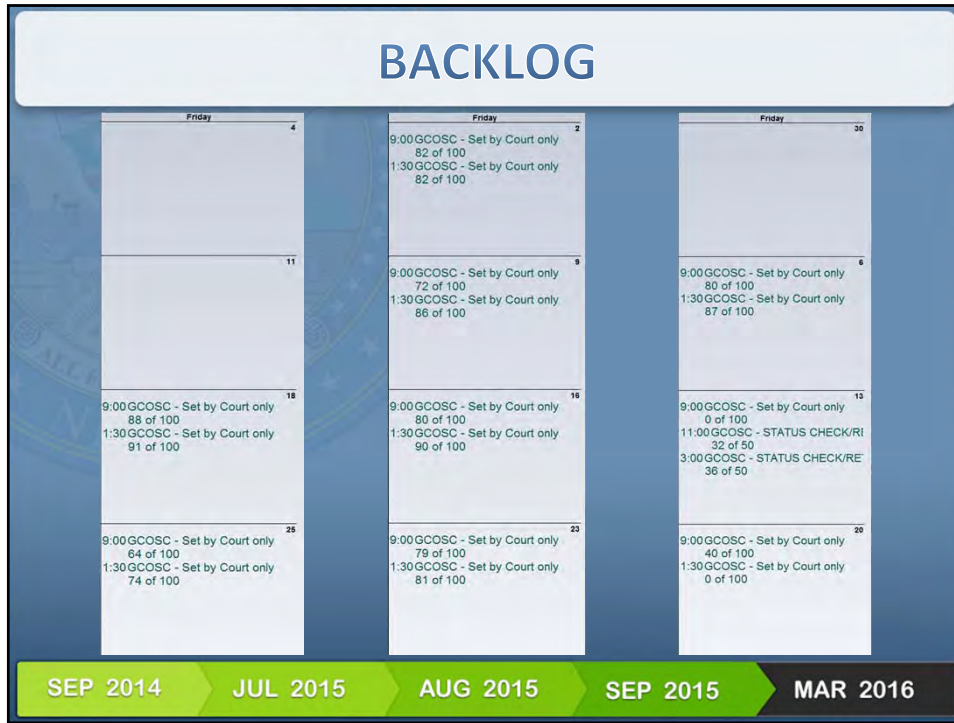
CASE MANAGEMENT & REVIEW

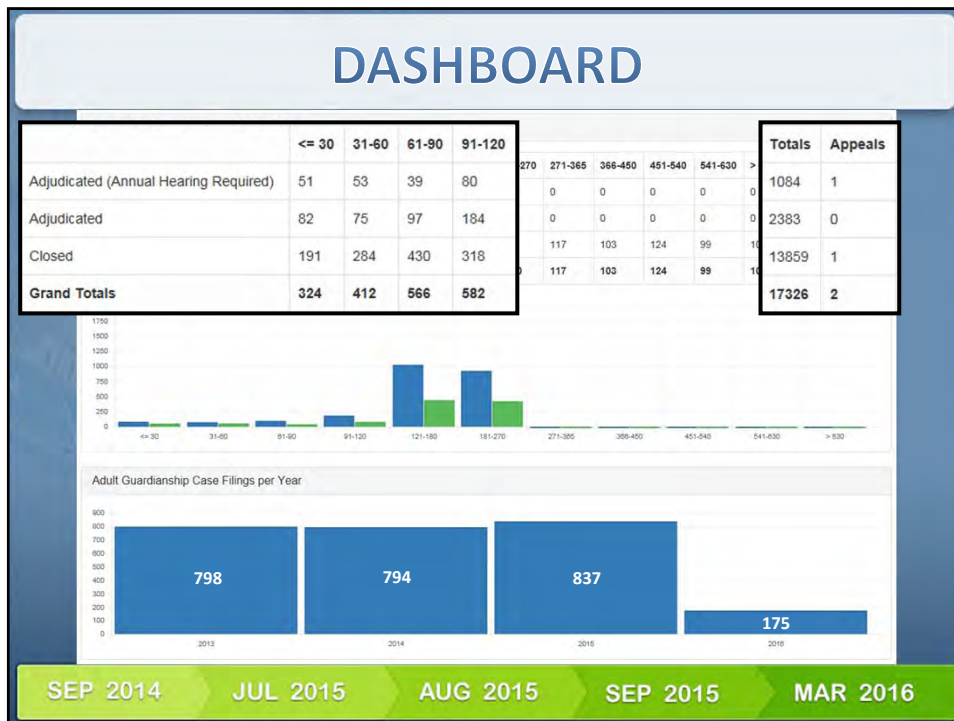
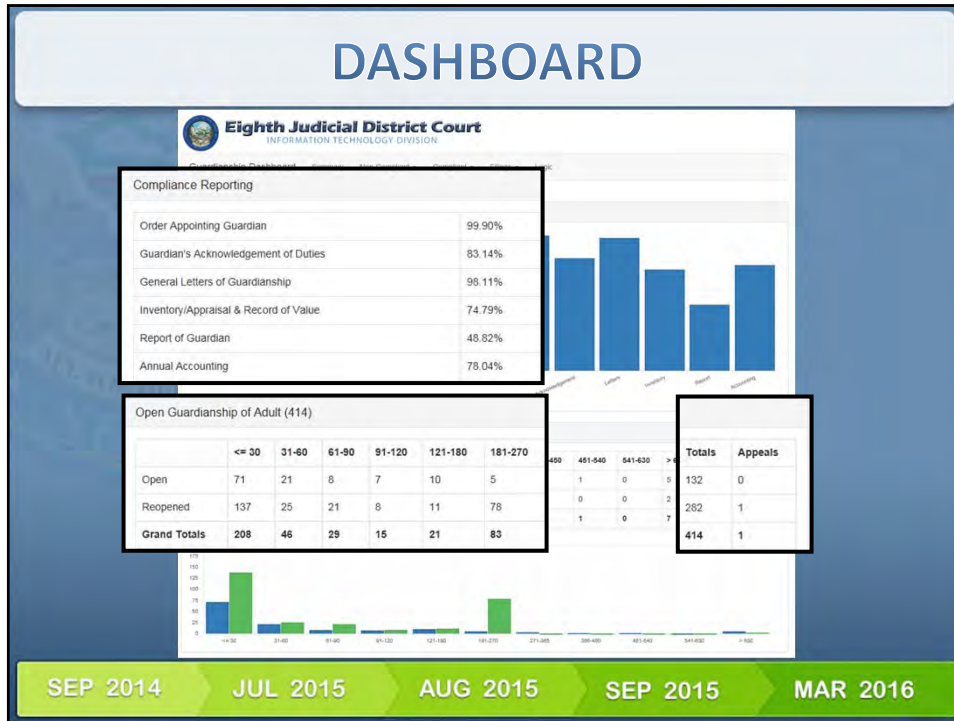
Case#	Type	Sub Type	Style	Last Hearing Date	First Event Document	2nd To Last Event Document	Last Event Date	Last Event Document	DAG	Blocked	Letters	Acknowledg	Inventory	Plans	Accoutnam	ADRT	No Agency
9073399	GAA			8/25/2015	F.C. Judgment Not Filed Document Askins	F.C. Domestic Document	10/25/2015	F.C. Domestic Document				X	X	X	X		
9073399	GAA														X		

SEP 2014 JUL 2015 AUG 2015 SEP 2015 MAR 2016


AUTOMATION

SEP 2014 JUL 2015 AUG 2015 SEP 2015 MAR 2016





DASHBOARD – Non Compliant


Eighth Judicial District Court
INFORMATION TECHNOLOGY DIVISION

[Guardianship Dashboard](#) | [Summary](#) | [Non-Compliant](#) | [Compliant](#) | [Filings](#) | [Logic](#)

Non-Compliant Cases

Show 10 entries


Case Subtype	Status	Case Number (**** = GCMR Event)	Current Anniversary Date	Ward Age	Last Filed Document Date	First Future Hearing Date	Days out of Compliance	Order Appt Guardian	TBD	Acknowledge Duties	Letter of Guardian	Inv Record of Value	Report of Guardian	Annual Accounting
GAB	ADJ	[REDACTED]	2/16/2016	67	10/9/2015		1	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
GABSD	ADJ	[REDACTED]	2/16/2016	29	9/24/2015		1	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
GABSD	ADJ	[REDACTED]	2/16/2016	25	10/10/2015		1	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
GABSD	ADJ	[REDACTED]	2/16/2016	98	11/9/2015		1	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
GPESG	ADJ	[REDACTED]	2/16/2016		1/5/2016		1854	1	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
GAB	ADJ	[REDACTED]	12/17/2015	77	12/22/2015		403	1	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
GAB	ADJ	[REDACTED]	12/17/2015	65	12/22/2015		91	1	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
GPESG	ADJ	[REDACTED]	2/16/2016	42	1/5/2016		9182	1	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
GABSD	ADJ	[REDACTED]	2/14/2016	41	1/9/2016		1128	2	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
GABSD	ADJ	[REDACTED]	2/14/2016	20	9/24/2015		1126	2	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Showing 1 to 10 of 2,911 entries

Previous 1 2 3 4 5 ... 292 Next

SEP 2014
JUL 2015
AUG 2015
SEP 2015
MAR 2016

DASHBOARD – Totals


Eighth Judicial District Court
INFORMATION TECHNOLOGY DIVISION

[Guardianship Dashboard](#) | [Summary](#) | [Non-Compliant](#) | [Compliant](#) | [Filings](#) | [Logic](#)

Non-Compliant Totals

Order Appointing Guardian	4
Guardian's Acknowledgement of Duties	284
General Letters of Guardianship	73
Inventory and Record of Value	975
Report of Guardian	1982
Annual Accounting	849
Compliant Percentage	36.81%

SEP 2014
JUL 2015
AUG 2015
SEP 2015
MAR 2016

DASHBOARD – Accountings Filed

Eighth Judicial District Court
 INFORMATION TECHNOLOGY DIVISION

Guardianship Dashboard Summary Non-Compliant Compliant Filings Log

Accounting (ACCT, FACT, ARR)

Show 10 entries Search

Case Number (***) Status = GCMR Event	Current Anniversary Date (1st OGAL/OAGE/OAGS/OAGP/GOAD/GOASG/ORDR/ORDA Event)	Case First Future Hearing Date	Age (Days)	Event Code - Date (Document Link)	Lead Attorney (** Denotes Multiple Lead Attorneys)
REO	12/16/2015	3/1/2016	6553	ACCT	Dara J Goldsmith
ADJ	11/17/2015	2/12/2016	127	ADCT	Molly S. Rosenbaum
GAB ADJ	10/27/2015	2/11/2016	2088	FACT	Kim Boyer
GAB ADJ	10/15/2015	1/29/2016	1461	ADCT	Stepy D. Perez
GAB ADJ	10/15/2015	1/29/2016	1461	ADCT	Stepy D. Perez
GAB REO	6/19/2015	2/12/2016	1002	ADCT	Matthew D. Carling
GAB REO	7/29/2015	2/4/2016	1001	ADCT	Todd L. Moody
GAB REO	12/19/2015	2/4/2016	361	ADCT	Elyse Tyrel, ESQ
GAB ADJ	11/27/2015	2/12/2016	351	ADCT	Kim Boyer

Showing 1 to 10 of 34 entries

Previous 1 2 3 4 Next

SEP 2014 JUL 2015 AUG 2015 SEP 2015 MAR 2016

REPORT OF GUARDIAN

Eighth Judicial District Court
 INFORMATION TECHNOLOGY DIVISION

Guardianship Dashboard Summary Non-Compliant Compliant Filings Log

Report of Guardian (ROG)

Show 10 entries Search

Case Number (***) Status = GCMR Event	Current Anniversary Date (1st OGAL/OAGE/OAGS/OAGP/GOAD/GOASG/ORDR/ORDA Event)	Case Age (Days)	Event Code - Date (Document Link)	Lead Attorney (** Denotes Multiple Lead Attorneys)
ADJ	2/5/2016	945	ROG	
ADJ	11/17/2015	127	ROG	Molly S. Rosenbaum
GAB ADJ	10/16/2015	1233	ROG	Kim Boyer
GAB ADJ	10/16/2015	1233	ROG	Kim Boyer
GAB ADJ	1/21/2016	1134	ROG	
GAB ADJ	2/5/2016	778	ROG	
GAB ADJ	10/22/2015	311	ROG	
GABSD ADJ	11/29/2015	1244	ROG	
GABSD ADJ	3/30/2016	313	ROG	

Showing 1 to 10 of 98 entries

Previous 1 2 3 4 5 10 Next

SEP 2014 JUL 2015 AUG 2015 SEP 2015 MAR 2016

PETITIONS FILED

Eighth Judicial District Court
 INFORMATION TECHNOLOGY DIVISION

Guardianship Dashboard Summary Non-Compliant - Compliant - Filings - Logic

Petitions (PAG, PTGD, PSG, PET, PTEG, PRG)

Show 10 entries Search:

Case SubType	Case Number (***)	Status	GCMR Event	Current Anniversary Date (1st OGAL, OAGE, OAGS, OAGP, GOAD, GOASG, ORDR, or ORDA Event)	Matter of the Estate of: (Name)	Word Age	Last Filed Document Date	Case Age (Days)	Event Code - Date (Document Link)	Lead Attorney (** Denotes Multiple Lead Attorneys)
O	15-00178-0			2/18/2016	Steel, Cynthia	55	3/17/2016	25	PAG - 2/18/2016	
O	15-00179-0			3/25/2016	Steel, Cynthia	59	3/15/2016	22	PET - 3/15/2016	
O	15-00180-0				Steel, Cynthia	43	3/10/2016	9	PAG - 3/9/2016	
O	15-00181-0				Steel, Cynthia	82	3/10/2016	9	PAG - 3/9/2016	
O	15-00182-0				Steel, Cynthia	56	3/17/2016	9	PSG - 3/9/2016	
O	15-00183-0				Steel, Cynthia	56	3/17/2016	9	PET - 3/14/2016	
O	15-00184-0				Steel, Cynthia	74	3/17/2016	7	PAG - 3/10/2016	
O	15-00185-0				Steel, Cynthia	91	3/11/2016	7	PAG - 3/10/2016	
O	15-00186-0				Steel, Cynthia	26	3/11/2016	7	PET - 3/10/2016	

Showing 1 to 10 of 331 entries

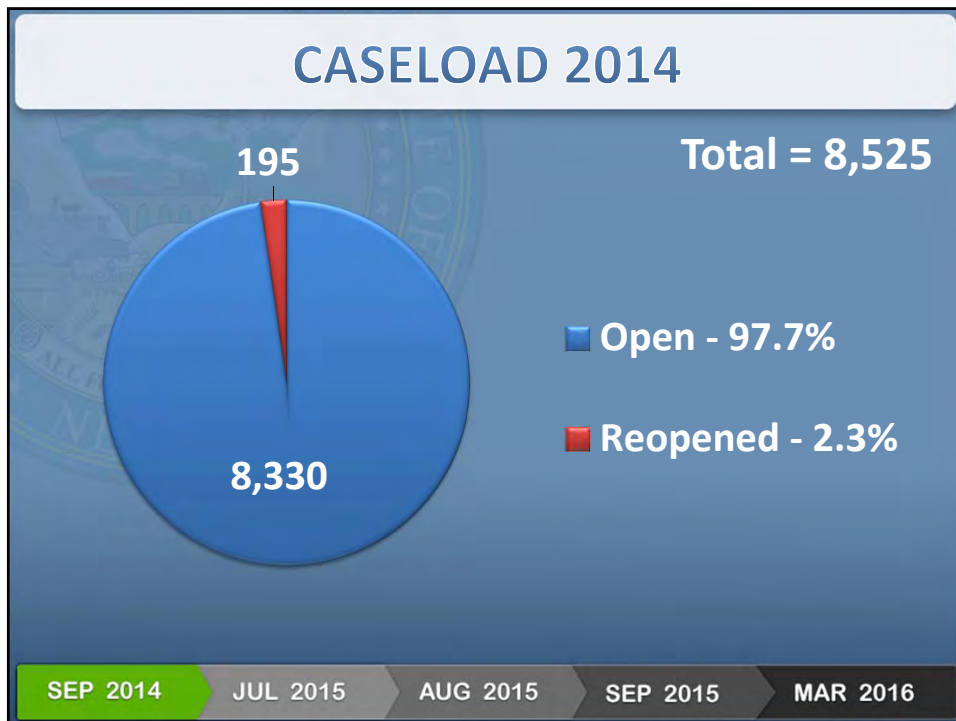
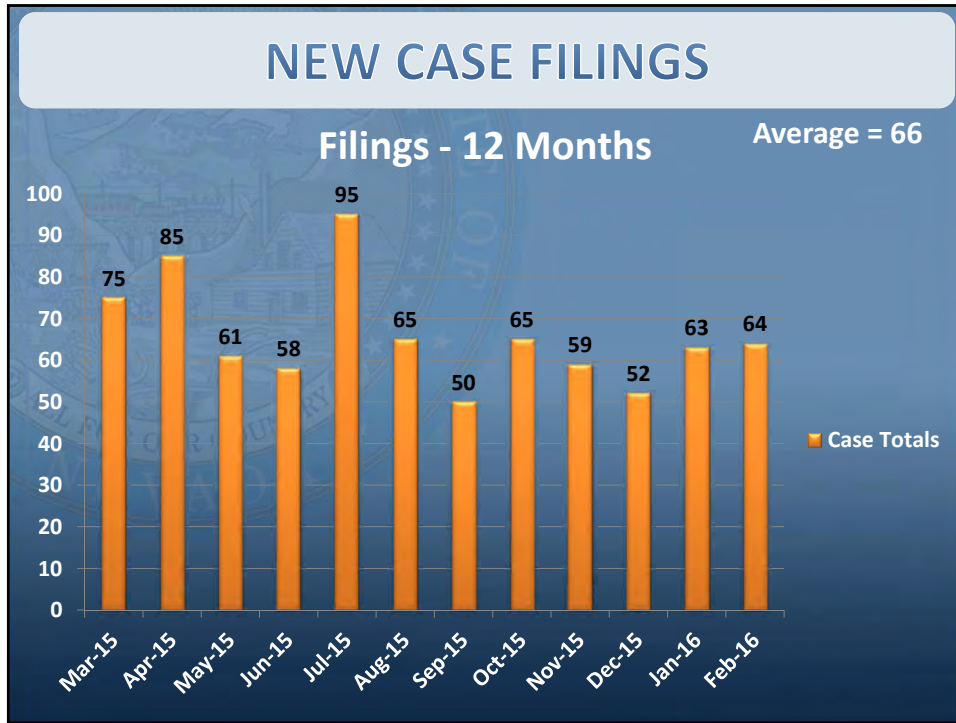
Previous 1 2 3 4 5 ... 34 Next

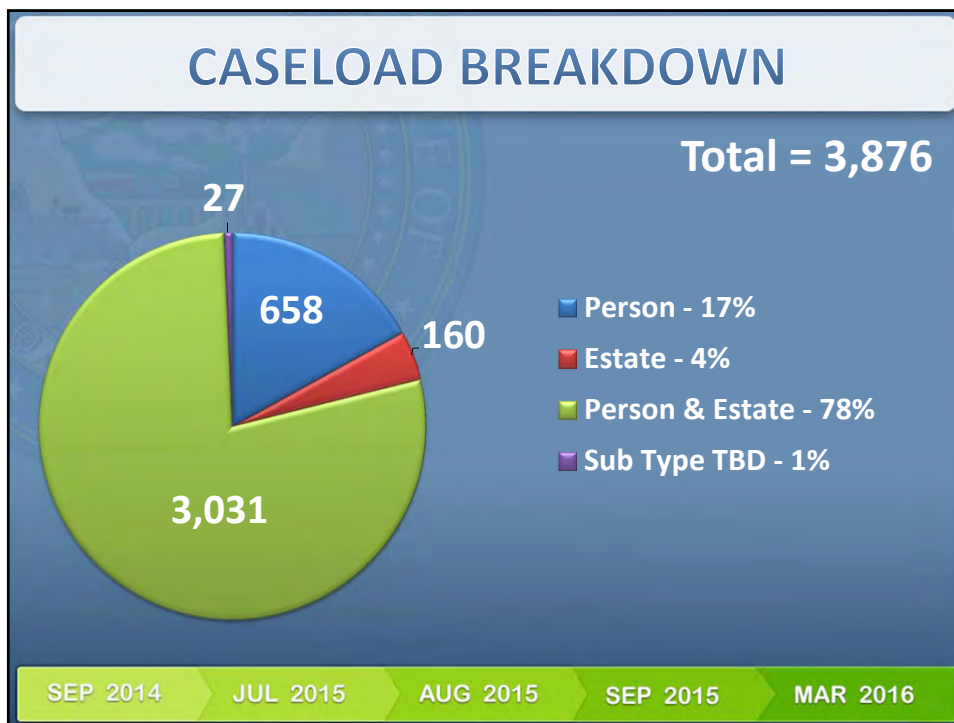
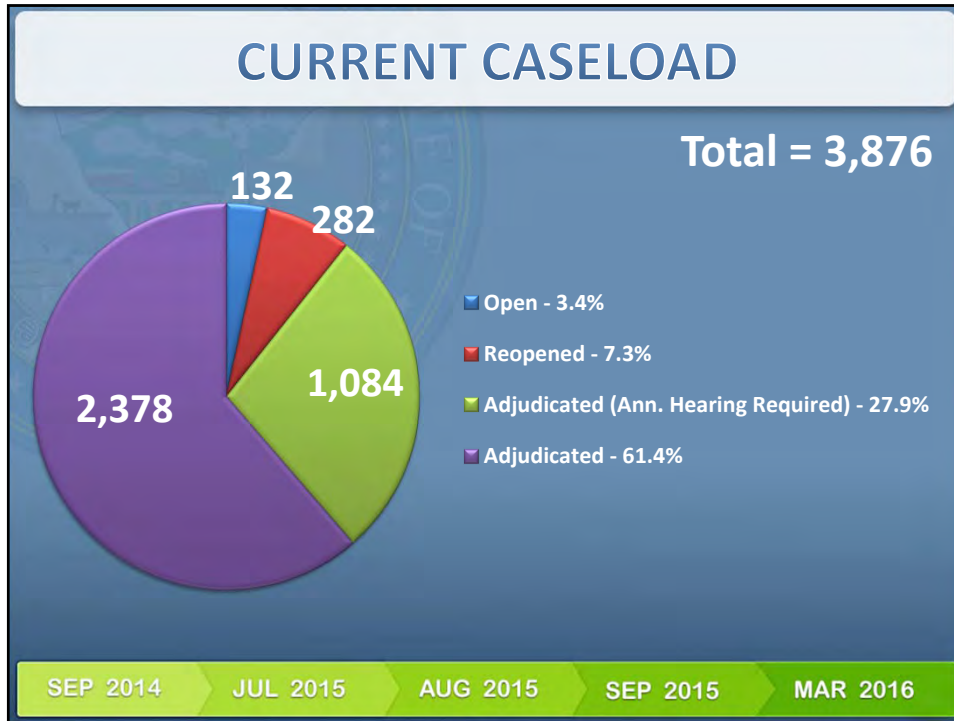
SEP 2014 JUL 2015 AUG 2015 SEP 2015 MAR 2016

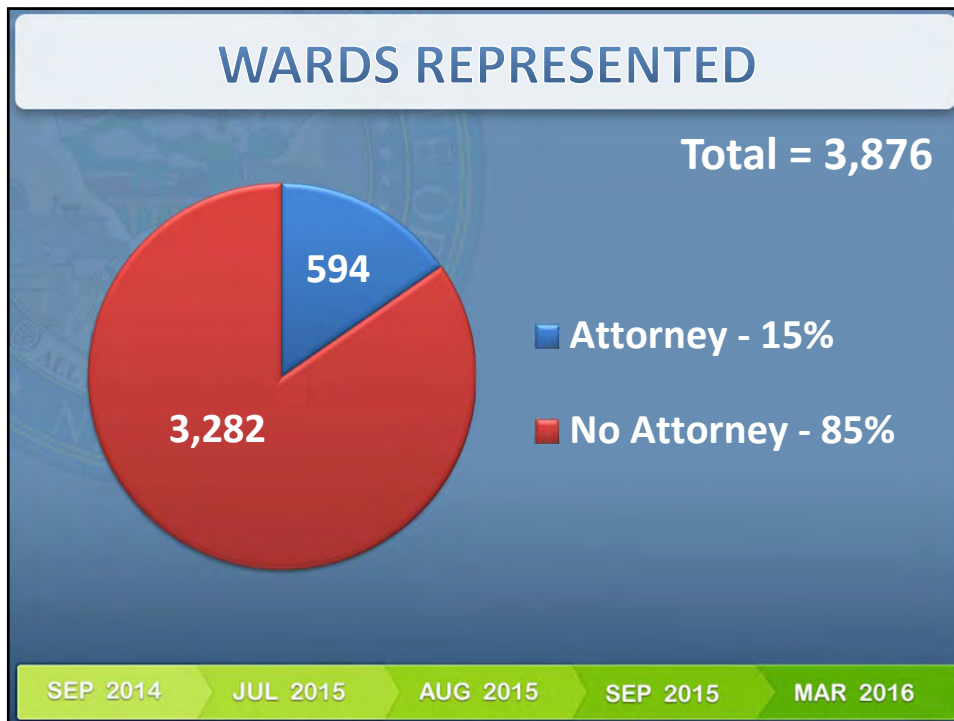
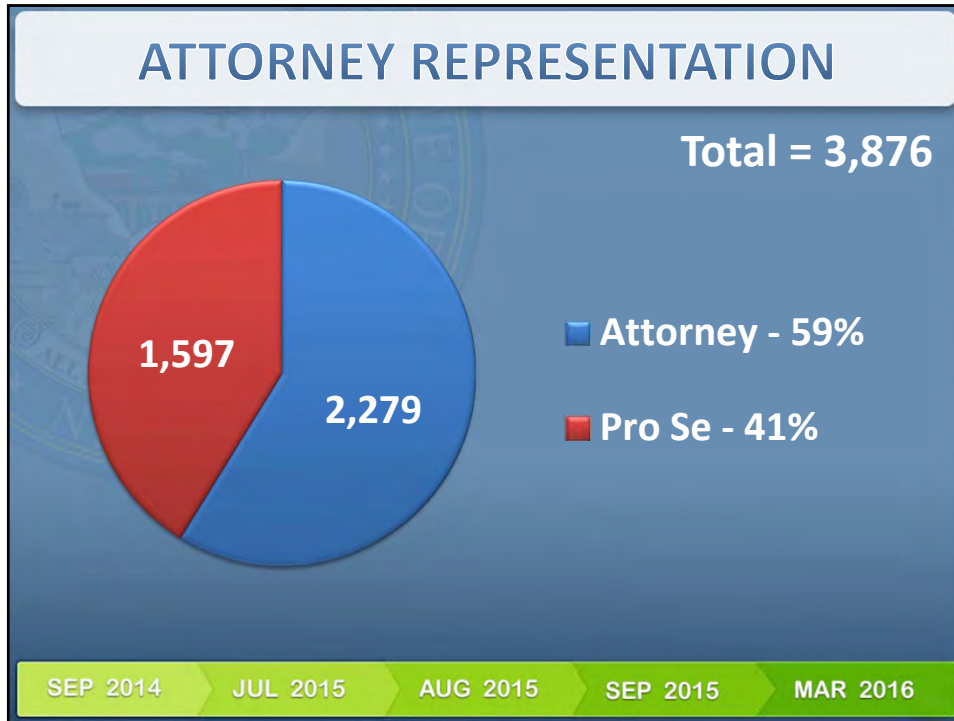
RESULTS OF EFFORTS

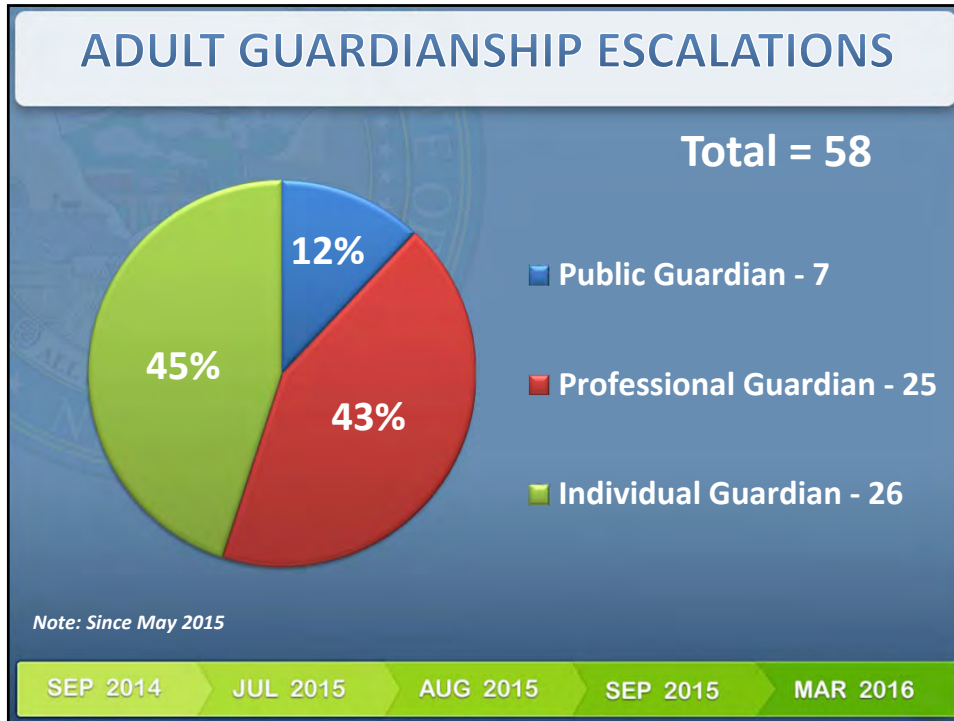
- Over 5,000 Cases “Statistically” Adjudicated
- Over 3,800 Notices Sent
- Over 4,500 Hearings Held
- Proper USJR Reporting
- Dashboard Reporting
- Automation of Notices and Case Filings

SEP 2014 JUL 2015 AUG 2015 SEP 2015 MAR 2016










- ### FUTURE EFFORTS
- Implementation of “My Minnesota Conservatorship” for our Court
 - Implementation of automated real time notifications and mailings
 - National Standards for Guardianship Reporting

FUTURE EFFORTS


MyNVGuardianship
Log Off

MY DASHBOARD
Hi 1

[Dashboard Tutorial](#)
UPDATE LOGIN

Protected Person(s)
Notifications
Reports

+ Add Case

Conservator(s)

Michael Doan
Conservator [Edit](#)

Protected Person(s)	Current Report	Case Number	Anniv Date	Assigned To
Michael Doan	Inventory Report (In Progress)	TEST Case Number	04/22/2015	You ✎

Showing 1 to 1 of 1 Records

[First](#)
[Previous](#)
[1](#)
[Next](#)
[Last](#)

FUTURE EFFORTS

Michael Doan
Period: 4/22/2015
270 Day(s) past due Last Updated 3/17/2016 8:52:00 AM

CASE NUMBER: TEST Case Number

[Previous CAMPUS Data](#) [Upload a File Tutorial](#)

Financial Accounts
Personal Property
Real Estate
Review & Submit

Files: There are currently no files uploaded. [Upload a File](#)

[Help is Off](#) Turn On

All Accounts

[Add Account](#) [Export Accounts](#)

Account Types

- All Accounts (3)
- Bank Account (1)
(i.e. Checking, Savings)
- Investment (1)
(i.e. Stocks, Bonds)
- Debt (1)
(i.e. Loans, Credit Cards)

Name	Type	Value
Bank A		\$1,300.00
Foo	IRA	\$3.00
Visa	Credit Card	(\$500.00)

Financial Assets: \$1,003.00
+
Personal Property: \$13,300.00
= **Bondable Assets: \$14,303.00**

Bondable Assets: \$14,303.00
+
Debt (including net assets): \$500.00
= **Net Balance: \$13,803.00**

Bondable Assets: \$14,303.00
+
Real Estate: \$10,000.00
= **Total Assets: (including real estate) \$24,303.00**

GENERAL POLICY QUESTIONS

General policy questions:

1. Should the Nevada Supreme Court establish a permanent Commission to address issues of concern to the elderly, including continue review of Guardianship Rules/processes in Nevada?
2. Does the Commission favor a recommendation to adopt a Bill of Rights for Wards?
3. Does the Commission recommend the idea that every Ward, regardless of means, is entitled to legal counsel? How and under what circumstances should an attorney be appointed?
4. Does the Commission favor a Guardian Ad Litem program similar to Virginia or under some other model? How and under what circumstances should a GAL be appointed?
5. Does the Commission recommend the use, where available of volunteers or programs similar to SAFE to assist proposed wards and the Court in a guardianship proceeding?
6. Does the Commission favor the idea of changing definitions or terminology? Should the Commission recommend changes to the Physician Certificate and if so how?
7. Does the Commission wish to make recommendations concerning the confidentiality of all or some of the proceedings in guardianship cases?
8. Does the Commission recommend changes to the process for the appointment of temporary guardianships? If so, how should that process be modified?
9. Does the Commission support a recommendation to adopt Supportive Living Agreements similar to the approach taken in Texas?
10. Should every hearing involving a Ward require the Ward's presence, which can only be exempted upon a medical showing or some other good cause approved by the court?
11. Should the notice requirements in Chapter 159 be amended and if so how?
12. Does the Commission favor the idea of limited guardianships in circumstances in which the capacity of the individual may not place them in a position where a full guardianship is warranted?
13. Does the Commission favor so called "person-centered planning" and determinations by the Court that guardianships are approved only for "least restrictive alternatives"?
14. Does the Commission wish to make recommendations concerning the use, timing, scope, process and participants in mediation in guardianship proceedings?
15. Should the Court be required to make specific findings in any order appointing a guardian that includes a conclusion that no other least restrictive means are available to address the needs of the proposed ward?
16. Does the Commission recommend rules to evaluate Court supervision of guardianships including training, staffing, scheduling and caseload limits?
17. Does the Commission favor the use of Elder Protective Services (EPS) or some other entity independent of the court system to conduct investigations as necessary?
18. Does the Commission favor the use of auditors independent of the Court system to evaluate financial records, fee requests and other petitions/motions raising financial issues concerning the ward?
19. Does the Commission favor recommendations concerning the training, licensure or other matters pertaining to the practice of private professional guardians?

20. Does the Commission wish to make recommendations concerning the use, timing, training, or caseloads of the Public Guardians?
21. Does the Commission wish to make recommendations concerning the use and appointment of private professional guardians?
22. Does the Commission wish to make recommendations concerning the fee structure to compensate guardians and others they hire?
23. Does the Commission wish to make recommendations concerning the process, notice and findings required for the approval of fees to guardians and others they hire?
24. Does the Commission wish to make recommendations concerning the process and timing for filing and evaluating an inventory for the ward?
25. Does the Commission wish to make recommendations concerning the process, timing, notice and findings the Court must make concerning accountings of the ward's estate?
26. Does the Commission wish to make any recommendations in the use of bonds and the allocation of costs for bonds in guardianship appointments?
27. Does the Commission wish to make recommendations concerning the management/administration of the wards estate including the process and notice requirements to sell estate assets?
28. Does the Commission wish to make recommendations concerning the data used to manage guardianship cases?
29. Does the Commission wish to make recommendations concerning the use of forms in guardianship proceedings?
30. Does the Commission wish to make recommendations limiting a guardian's authority to isolate or restrict access to a ward from family and friends?

STATE LEGISLATION

PERSONAL RIGHTS

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 16-0475.01 Richard Sweetman x4333

SENATE BILL 16-026

SENATE SPONSORSHIP

Woods,

HOUSE SPONSORSHIP

(None),

Senate Committees

Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING PERSONAL RIGHTS OF PROTECTED PERSONS, AND, IN**
102 **CONNECTION THEREWITH, LIMITING THE ABILITY OF A**
103 **GUARDIAN OR CONSERVATOR TO ISOLATE A PROTECTED**
104 **PERSON.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

A guardian or conservator shall not restrict a protected person's right of communication, visitation, or interaction with other persons, including the right to receive visitors, telephone calls, or personal mail,

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

unless such restrictions are authorized by a court order.

A court may issue an order restricting the communications, visitations, or interactions that a person may have with a protected person upon a showing of good cause by a guardian or conservator. In determining whether to issue such an order, the court shall consider certain factors.

An interested person, including the protected person, who reasonably believes that a guardian or conservator has violated a court order or abused his or her discretion in restricting a protected person's right of communication, visitation, or interaction with other persons may move the court to:

- ! Require the guardian or conservator to grant a person access to the protected person;
- ! Restrict, or further restrict, a person's access to the protected person;
- ! Modify the guardian or conservator's duties; or
- ! Remove the guardian or conservator.

A guardian or conservator who knowingly isolates a protected person in violation of law or a court order is subject to removal.

With certain exceptions, a guardian or conservator shall promptly notify a protected person's closest known family members and any person designated by the protected person to be notified in the event that the protected person:

- ! Changes his or her residence;
- ! Resides at a location other than the protected person's residence for more than 7 days;
- ! Is admitted to a medical facility for acute care or emergency care; or
- ! Dies.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 15-14-119.5 as
3 follows:

4 **15-14-119.5. Limitations on powers of guardians and**
5 **conservators.** (1) THE SHORT TITLE OF THIS SECTION IS THE "PETER FALK
6 ACT".

7 (2) (a) EXCEPT AS DESCRIBED IN PARAGRAPH (b) OF THIS
8 SUBSECTION (2), A GUARDIAN OR CONSERVATOR SHALL NOT RESTRICT A

1 PROTECTED PERSON'S RIGHT OF COMMUNICATION, VISITATION, OR
2 INTERACTION WITH OTHER PERSONS, INCLUDING THE RIGHT TO RECEIVE
3 VISITORS, TELEPHONE CALLS, OR PERSONAL MAIL, UNLESS SUCH
4 RESTRICTIONS ARE AUTHORIZED BY A COURT ORDER.

5 (b) (I) IF A PROTECTED PERSON IS UNABLE TO EXPRESS CONSENT TO
6 COMMUNICATION, VISITATION, OR INTERACTION WITH A PERSON DUE TO A
7 PHYSICAL OR MENTAL CONDITION, THEN THE GUARDIAN OR CONSERVATOR
8 MAY PRESUME THE PROTECTED PERSON'S CONSENT TO OR REFUSAL OF THE
9 COMMUNICATION, VISITATION, OR INTERACTION BASED ON PROOF
10 CONCERNING THE NATURE OF THE PROTECTED PERSON'S RELATIONSHIP
11 WITH THE PERSON.

12 (II) IF A PERSON WHO WANTS TO COMMUNICATE, VISIT, OR
13 INTERACT WITH A PROTECTED PERSON PRESENTS TO THE PROTECTED
14 PERSON'S GUARDIAN OR CONSERVATOR PHOTOS, DOCUMENTS, OR OTHER
15 PROOF CONCERNING THE NATURE OF THE PERSON'S RELATIONSHIP WITH
16 THE PROTECTED PERSON, THE GUARDIAN OR CONSERVATOR SHALL
17 CONSIDER SUCH PROOF.

18 (3) (a) WITH GOOD CAUSE, A GUARDIAN OR CONSERVATOR MAY
19 MOVE THE COURT TO RESTRICT A PERSON'S ABILITY TO COMMUNICATE,
20 VISIT, OR INTERACT WITH A PROTECTED PERSON.

21 (b) A COURT MAY ISSUE AN ORDER RESTRICTING THE
22 COMMUNICATIONS, VISITATIONS, OR INTERACTIONS THAT A PERSON MAY
23 HAVE WITH A PROTECTED PERSON UPON A SHOWING OF GOOD CAUSE BY A
24 GUARDIAN OR CONSERVATOR. IN DETERMINING WHETHER TO ISSUE SUCH
25 AN ORDER, A COURT SHALL CONSIDER THE FOLLOWING FACTORS:

26 (I) WHETHER ANY PROTECTIVE ORDERS HAVE BEEN ISSUED TO
27 PROTECT THE PROTECTED PERSON FROM THE OTHER PERSON;

1 (II) WHETHER THE OTHER PERSON HAS BEEN CHARGED WITH
2 ABUSE, NEGLECT, OR FINANCIAL EXPLOITATION OF THE PROTECTED
3 PERSON;

4 (III) WHETHER THE PROTECTED PERSON HAS EXPRESSED A DESIRE
5 TO COMMUNICATE, VISIT, OR INTERACT WITH THE OTHER PERSON OR HAS
6 EXPRESSED A DESIRE TO NOT COMMUNICATE, VISIT, OR INTERACT WITH
7 THE OTHER PERSON;

8 (IV) IF THE PROTECTED PERSON IS UNABLE TO COMMUNICATE,
9 WHETHER A PROPERLY EXECUTED LIVING WILL, DURABLE POWER OF
10 ATTORNEY, OR ADVANCE DIRECTIVE CONTAINS A PREFERENCE BY THE
11 PROTECTED PERSON WITH REGARD TO THE OTHER PERSON'S
12 COMMUNICATION, VISITATION, OR INTERACTION WITH THE PROTECTED
13 PERSON; AND

14 (V) ANY OTHER FACTORS DEEMED RELEVANT BY THE COURT.

15 (c) BEFORE ISSUING AN ORDER PURSUANT TO THIS SUBSECTION (3),
16 THE COURT SHALL CONSIDER IMPOSING THE FOLLOWING RESTRICTIONS IN
17 THE ORDER LISTED:

18 (I) PLACING REASONABLE TIME, MANNER, OR PLACE RESTRICTIONS
19 ON COMMUNICATION, VISITATION, OR INTERACTION BETWEEN THE
20 PROTECTED PERSON AND THE OTHER PERSON BASED ON THE HISTORY
21 BETWEEN THE PROTECTED PERSON AND THE OTHER PERSON OR THE
22 PROTECTED PERSON'S WISHES, OR BOTH;

23 (II) REQUIRING THAT COMMUNICATION, VISITATION, OR
24 INTERACTION BETWEEN THE PROTECTED PERSON AND THE OTHER PERSON
25 BE SUPERVISED; OR

26 (III) DENYING COMMUNICATION, VISITATION, OR INTERACTION
27 BETWEEN THE PROTECTED PERSON AND THE OTHER PERSON; EXCEPT THAT,

1 UNLESS THE COURT FINDS THAT THE OTHER PERSON POSES A THREAT TO
2 THE PROTECTED PERSON, THE COURT SHALL ORDER SUPERVISED
3 COMMUNICATION, VISITATION, OR INTERACTION UNDER SUBPARAGRAPH
4 (II) OF THIS PARAGRAPH (c) BEFORE DENYING ANY COMMUNICATION,
5 VISITATION, OR INTERACTION.

6 (4) (a) IF ANY PERSON, INCLUDING THE PROTECTED PERSON,
7 REASONABLY BELIEVES THAT A GUARDIAN OR CONSERVATOR HAS
8 VIOLATED A COURT ORDER OR ABUSED HIS OR HER DISCRETION IN
9 APPLYING PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION, THEN THE
10 PERSON MAY MOVE THE COURT TO:

11 (I) REQUIRE THE GUARDIAN OR CONSERVATOR TO GRANT A PERSON
12 ACCESS TO THE PROTECTED PERSON;

13 (II) RESTRICT, OR FURTHER RESTRICT, A PERSON'S ACCESS TO THE
14 PROTECTED PERSON;

15 (III) MODIFY THE GUARDIAN OR CONSERVATOR'S DUTIES; OR

16 (IV) REMOVE THE GUARDIAN OR CONSERVATOR PURSUANT TO
17 SECTION 15-10-503.

18 (b) A GUARDIAN OR CONSERVATOR WHO KNOWINGLY ISOLATES A
19 PROTECTED PERSON AND HAS VIOLATED SUBSECTION (2) OF THIS SECTION
20 OR AN ORDER ISSUED PURSUANT TO SUBSECTION (3) OF THIS SECTION IS
21 SUBJECT TO REMOVAL PURSUANT TO SECTION 15-10-503.

22 (5) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS
23 SUBSECTION (5), THE COURT SHALL SCHEDULE A HEARING ON A MOTION
24 FILED PURSUANT TO SUBSECTION (3) OR (4) OF THIS SECTION NO LATER
25 THAN SIXTY-THREE DAYS AFTER THE DATE THE MOTION IS FILED. THE
26 COURT MAY, IN ITS DISCRETION, ORDER THE PARTIES AND THE PROTECTED
27 PERSON TO PARTICIPATE IN MEDIATION BEFORE THE HEARING. IF

1 MEDIATION RESULTS IN AN AGREEMENT BETWEEN THE PARTIES AND THE
2 PROTECTED PERSON, THE AGREEMENT MUST BE APPROVED AND
3 MEMORIALIZED IN AN ORDER BY THE COURT.

4 (b) (I) IF A MOTION FILED PURSUANT TO SUBSECTION (3) OR (4) OF
5 THIS SECTION STATES THAT THE PROTECTED PERSON'S HEALTH IS IN
6 SIGNIFICANT DECLINE OR THAT THE PROTECTED PERSON'S DEATH MAY BE
7 IMMINENT, THE COURT SHALL CONDUCT AN EMERGENCY HEARING AS SOON
8 AS PRACTICABLE BUT NO LATER THAN SEVEN DAYS AFTER THE MOTION IS
9 FILED.

10 (II) WHEN A COURT ISSUES AN ORDER FOR AN EMERGENCY
11 HEARING PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), THE
12 COURT SHALL ALSO ORDER THE GUARDIAN OR CONSERVATOR TO GRANT
13 THE PETITIONER'S SUPERVISED COMMUNICATION, VISITATION, OR
14 INTERACTION WITH THE PROTECTED PERSON DURING THE PERIOD
15 PRECEDING THE HEARING.

16 (III) NOTICE OF THE HEARING, A COPY OF THE MOTION, AND A
17 COPY OF ANY ORDER ISSUED PURSUANT TO SUBPARAGRAPH (I) OF THIS
18 PARAGRAPH (b), IF APPLICABLE, MUST BE PERSONALLY SERVED UPON THE
19 PROTECTED PERSON AND ANY PERSON AGAINST WHOM THE MOTION IS
20 FILED, AND NOTHING IN THIS SECTION AFFECTS THE PROTECTED PERSON'S
21 RIGHT TO APPEAR AND BE HEARD IN THE PROCEEDINGS.

22 (6) (a) IN ANY ACTION BROUGHT UNDER THIS SECTION, THE COURT
23 MAY AWARD TO THE PREVAILING PARTY COSTS AND REASONABLE
24 ATTORNEY'S FEES; EXCEPT THAT AN AWARD OF COSTS OR ATTORNEY'S
25 FEES MAY NOT BE PAID OUT OF THE PROTECTED PERSON'S ESTATE.

26 (b) THE COURT, UPON MOTION OR UPON ITS OWN INITIATIVE, MAY
27 IMPOSE UPON A GUARDIAN OR CONSERVATOR AN APPROPRIATE MONETARY

1 SANCTION, INCLUDING, AS MAY BE APPLICABLE, AN ORDER TO PAY COSTS
2 AND REASONABLE ATTORNEY'S FEES OF ANOTHER PARTY OR PARTIES, IF
3 THE GUARDIAN OR CONSERVATOR IS FOUND TO HAVE KNOWINGLY
4 ISOLATED A PROTECTED PERSON AND TO HAVE VIOLATED SUBSECTION (2)
5 OF THIS SECTION OR AN ORDER ISSUED PURSUANT TO SUBSECTION (3) OF
6 THIS SECTION; EXCEPT THAT SUCH A SANCTION MAY NOT BE PAID OUT OF
7 THE PROTECTED PERSON'S ESTATE.

8 **SECTION 2.** In Colorado Revised Statutes, **add** 15-14-119.7 as
9 follows:

10 **15-14-119.7. Guardians and conservators required to provide**
11 **notice - exception.** (1) (a) EXCEPT AS DESCRIBED IN SUBSECTIONS (2)
12 AND (3) OF THIS SECTION, A GUARDIAN OR CONSERVATOR SHALL
13 PROMPTLY NOTIFY THE CLOSEST FAMILY MEMBER OF THE PROTECTED
14 PERSON, ALL PERSONS OF COURT RECORD, AND ANY OTHER PERSON
15 DESIGNATED BY THE PROTECTED PERSON TO BE NOTIFIED IN THE EVENT
16 THAT THE PROTECTED PERSON:

17 (I) CHANGES HIS OR HER RESIDENCE, INCLUDING BUT NOT LIMITED
18 TO A CHANGE OF RESIDENCE TO OR FROM ONE NURSING HOME OR ASSISTED
19 CARE FACILITY TO OR FROM ANOTHER NURSING HOME OR ASSISTED CARE
20 FACILITY;

21 (II) RESIDES AT A LOCATION OTHER THAN THE PROTECTED
22 PERSON'S RESIDENCE FOR MORE THAN SEVEN DAYS;

23 (III) IS ADMITTED TO A MEDICAL FACILITY FOR ACUTE CARE OR FOR
24 EMERGENCY CARE; OR

25 (IV) DIES. THE GUARDIAN OR CONSERVATOR SHALL NOTIFY THE
26 CLOSEST FAMILY MEMBER OF THE PROTECTED PERSON IN PERSON OR BY
27 TELEPHONE. FOR ALL PERSONS OF COURT RECORD AND ANY OTHER PERSON

1 DESIGNATED BY THE PROTECTED PERSON TO BE NOTIFIED, THE GUARDIAN
2 OR CONSERVATOR SHALL PROVIDE NOTIFICATION BY WRITTEN
3 CORRESPONDENCE.

4 (b) A NOTIFICATION PROVIDED PURSUANT TO PARAGRAPH (a) OF
5 THIS SUBSECTION (1) MUST INCLUDE THE CURRENT LOCATION OF THE
6 PROTECTED PERSON.

7 (2) A GUARDIAN OR CONSERVATOR IS NOT REQUIRED TO PROVIDE
8 NOTICE TO A PERSON IN ACCORDANCE WITH SUBSECTION (1) OF THIS
9 SECTION IF:

10 (a) THE PERSON INFORMS THE GUARDIAN OR CONSERVATOR IN
11 WRITING THAT THE PERSON DOES NOT WISH TO RECEIVE SUCH NOTICE; OR

12 (b) THE PROTECTED PERSON OR A COURT ORDER HAS EXPRESSLY
13 PROHIBITED THE GUARDIAN OR CONSERVATOR FROM PROVIDING NOTICE
14 TO THE PERSON.

15 (3) A GUARDIAN OR CONSERVATOR SHALL NOT PROVIDE CONTACT
16 INFORMATION TO ANY PERSON IF AN ORDER OF PROTECTION OR A
17 RESTRAINING ORDER HAS BEEN ISSUED AGAINST THE PERSON ON BEHALF
18 OF THE PROTECTED PERSON.

19 **SECTION 3. Act subject to petition - effective date.** This act
20 takes effect at 12:01 a.m. on the day following the expiration of the
21 ninety-day period after final adjournment of the general assembly (August
22 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
23 referendum petition is filed pursuant to section 1 (3) of article V of the
24 state constitution against this act or an item, section, or part of this act
25 within such period, then the act, item, section, or part will not take effect
26 unless approved by the people at the general election to be held in

- 1 November 2016 and, in such case, will take effect on the date of the
- 2 official declaration of the vote thereon by the governor.

HOUSE BILL 2030
By Faison

SENATE BILL 2190

By Crowe

AN ACT to amend Tennessee Code Annotated, Title 34, Chapter 1; Title 34, Chapter 3 and Title 71, Chapter 6, Part 1, relative to conservatorship arrangements.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 34-3-106, is amended by adding the following as a new, appropriately designated subdivision:

() Upon the consent of the respondent, communicate, visit, or interact with other persons, subject to Section 2(c);

SECTION 2. Tennessee Code Annotated, Title 34, Chapter 3, is amended by adding the following as a new, appropriately designated section:

(a)

(1) Unless specifically authorized by court order, a conservator shall not restrict a respondent's right of communication, visitation, or interaction with other persons, including the right to receive visitors, telephone calls, or personal mail.

(2) If a respondent is unable to express consent to communication, visitation, or interaction with a person due to a physical or mental condition, then consent of the respondent may be presumed based on the respondent's prior relationship history with the person.

(b) A conservator may, for good cause shown, move the court to have restrictions placed on a person's ability to communicate, visit, or interact with a respondent in accordance with subsection (c). Good cause includes:

(1) Whether any protective orders have been issued to protect the respondent from the person seeking access to the respondent;

(2) Whether abuse, neglect, or financial exploitation of the respondent by the person seeking access to the respondent has occurred or is likely to occur;

(3) Documented wishes of the respondent to reject communication, visitation, or interaction with specific persons; or

(4) Any other factors deemed relevant by the court.

(c)

(1) A court may order restrictions placed on the communications, visitations, or interactions a person may have with a respondent upon a showing of good cause by the conservator.

(2) In determining whether to issue an order in accordance with subdivision (c)(1), the following factors shall be considered by the court:

(A) Whether any protective orders have been issued to protect the respondent from the person seeking access to the respondent;

(B) Whether the person has been charged with abuse, neglect, or financial exploitation of the respondent;

(C) Whether the respondent expresses a desire to communicate, visit, or interact with the person;

(D) If the respondent is unable to communicate, whether a properly executed living will, durable power of attorney, or advance directive contains a preference by the respondent with regard to the person's communication, visitation, or interaction with the respondent; and

(E) Any other factors deemed relevant by the court.

(3) Prior to issuing an order pursuant to this subsection (c), the court shall consider the following restrictions in the order listed:

(A) Placing reasonable time, manner, or place restrictions on communication, visitation, or interaction between the respondent and

another person based on the history between the respondent and the person or the respondent's wishes, or both;

(B) Requiring that communication, visitation, or interaction between the respondent and another person be supervised; or

(C) Denying communication, visitation, or interaction between the respondent and another person; provided, that, unless the court finds that the person poses a threat to the respondent, supervised communication, visitation, or interaction under subdivision (c)(3)(B) shall be ordered prior to the denial of any communication, visitation, or interaction.

(d)

(1) If any interested person, including the respondent, reasonably believes that subsection (a) or an order issued pursuant to subdivision (c)(1) has been violated, then such person may move the court to:

(A) Require the conservator to grant a person access to the respondent;

(B) Restrict, or further restrict, a person's access to the respondent;

(C) Modify the conservator's duties; or

(D) Discharge and replace the conservator pursuant to § 34-3-108.

(2) Notwithstanding actions available to the court pursuant to subdivision (d)(1), a conservator who is found to be knowingly isolating a respondent and who has violated subsection (a) or an order issued pursuant to subsection (c) shall be subject to discharge and replacement pursuant to § 34-3-108.

(e)

(1) Except as provided in subdivision (e)(2), the court shall schedule a hearing on a motion filed pursuant to subsection (b) or (d) no later than sixty (60) days after the date the motion is filed. The court may, in its discretion, order mediation to be conducted between the parties and the respondent prior to the hearing. If mediation results in agreement of the parties and the respondent with regard to communication, visitation, or interaction with the respondent, the agreement shall be approved and memorialized in an order by the court.

(2)

(A) If the motion states that the respondent's health is in significant decline or that the respondent's death may be imminent, the court shall conduct an emergency hearing as soon as practicable, but no later than ten (10) days after the motion is filed.

(B) When a scheduling order is issued for a motion filed pursuant to subdivision (e)(2)(A), the court shall also order that supervised communication, visitation, or interaction with the respondent be granted during the period prior to the hearing.

(3) Notice of the hearing, a copy of the motion, and a copy of any order issued pursuant to subdivision (e)(2)(B), if applicable, shall be personally served upon the respondent and any person against whom the motion is filed, and nothing in this section shall affect the respondent's right to appear and be heard in the proceedings.

(f)

(1) The court may award the prevailing party in any action brought under this section court costs and reasonable attorney's fees; provided, however, that

an award of court costs or attorney's fees shall not be paid out of the respondent's estate.

(2) The court, upon motion or upon its own initiative, shall impose upon a conservator who is found to be knowingly isolating a respondent and who has violated subsection (a) or an order issued pursuant to subsection (c) an appropriate sanction, including an order to pay court costs and reasonable attorney's fees of the other party or parties; provided, however, that no sanction shall be paid out of the respondent's estate.

SECTION 3. Tennessee Code Annotated, Title 34, Chapter 3, is further amended by adding the following as a new, appropriately designated section:

(a) A conservator shall promptly notify a respondent's closest relatives and any person designated by the respondent to be notified, along with the appropriate contact information and upon the conservator's knowledge of such event and information, in the event:

(1) The respondent's residence has changed;

(2) The respondent is staying at a location other than the respondent's residence for more than seven (7) consecutive days;

(3) The respondent is admitted to or discharged from a nursing home or assisted-care living facility as defined in § 68-11-201;

(4) The respondent is admitted to a medical facility for:

(A) Emergency care in response to a life-threatening injury or medical condition; or

(B) Acute care; or

(5) The respondent dies; provided, that notification of the respondent's death shall be made in person or by telephone.

(b)

(1) A conservator is not required to provide notice in accordance with subsection (a) if:

(A) A person who is entitled to notice under subsection (a) informs the conservator in writing that the person does not wish to receive such notice; or

(B) The respondent or a court order has expressly prohibited the conservator from providing notice to the person.

(2) A conservator shall not provide contact information in accordance with subsection (a) if an order of protection or restraining order has been issued pursuant to title 36, chapter 3, part 6, against the person on behalf of the respondent.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to conservatorships created before, on, or after the effective date of this act.

Links to Legislation – Personal Rights

- New York - S5154-A – Introduced 2015 Leg Session
<http://www.nysenate.gov/legislation/bills/2015/S5154>
- California – AB 1085 –Signed by Governor 7/14/15
http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160AB1085
- New Jersey – AB 4649 – Introduced 2015 Leg Session
<http://www.njleg.state.nj.us/bills/BillView.asp>
- Texas – HB 2665 – Concerns visitation rights of relatives of person under guardianship
<http://www.legis.state.tx.us/BillLookup/Text.aspx?LegSess=84R&Bill=HB2665>
- Iowa – SF 306 – Iowa Code 633.635 – Ensures visitation rights of persons under guardianship
<https://www.legis.iowa.gov/legislation/BillBook?ga=86&ba=SF306>
- South Dakota - SB 152- Introduced 2016 Leg Session
http://legis.sd.gov/Legislative_Session/Bills/Bill.aspx?File=SB152P.htm&Session=2016

Excerpt from the Bill of Rights draft provided by Ms. Barbara Buckley

(16)The Right to unimpeded, private, and uncensored communication and visitation with persons of the respondent's choice, except that if the guardian determines that certain communication or visitation causes substantial harm to the respondent:

- (A) the guardian may limit, supervise, or restrict communication or visitation, but only to the extent necessary to protect the respondent from substantial harm; and
- (B) the respondent may request a hearing to remove any restrictions on communication or visitation imposed by the guardian under Paragraph (A)

NOMINATION OF GUARDIAN

NRS 162A.250 Nomination of guardian of estate; relation of agent to court-appointed guardian.

1. In a power of attorney, a principal may nominate a guardian of the principal's estate for consideration by the court if guardianship proceedings for the principal's estate or person are begun after the principal executes the power of attorney.

2. If, after a principal executes a power of attorney, a court appoints a guardian of the principal's estate, the power of attorney is terminated, unless the court allows the agent to retain specific powers conferred by the power of attorney. In the event the court allows the agent to retain specific powers, the agent shall file an accounting with the court and the guardian on a quarterly basis or such other period as the court may designate.

(Added to NRS by [2009, 177](#); A [2013, 925](#))

NRS 162A.800 Nomination of guardian of person; relation of agent to court-appointed guardian; duties of guardian.

1. In a power of attorney for health care, a principal may nominate a guardian of the principal's person for consideration by the court if guardianship proceedings for the principal's person are begun after the principal executes the power of attorney.

2. If, after a principal executes a power of attorney for health care, a court appoints a guardian of the principal's person, the power of attorney is terminated. The guardian shall follow any provisions contained in the power of attorney for health care delineating the principal's wishes for medical and end-of-life care.

(Added to NRS by [2009, 199](#))

NRS 162A.860 Power of attorney: Form. The form of a power of attorney for health care may be substantially in the following form, and must be witnessed or executed in the same manner as the following form:

DURABLE POWER OF ATTORNEY

FOR HEALTH CARE DECISIONS

WARNING TO PERSON EXECUTING THIS DOCUMENT

THIS IS AN IMPORTANT LEGAL DOCUMENT. IT CREATES A DURABLE POWER OF ATTORNEY FOR HEALTH CARE. BEFORE EXECUTING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS:

1. THIS DOCUMENT GIVES THE PERSON YOU DESIGNATE AS YOUR AGENT THE POWER TO MAKE HEALTH CARE DECISIONS FOR YOU. THIS POWER IS SUBJECT TO ANY LIMITATIONS OR STATEMENT OF YOUR DESIRES THAT YOU INCLUDE IN THIS DOCUMENT. THE POWER TO MAKE HEALTH CARE DECISIONS FOR YOU MAY INCLUDE CONSENT, REFUSAL OF CONSENT OR WITHDRAWAL OF CONSENT TO ANY CARE, TREATMENT, SERVICE OR PROCEDURE TO MAINTAIN, DIAGNOSE OR TREAT A PHYSICAL OR MENTAL CONDITION. YOU MAY STATE IN THIS DOCUMENT ANY TYPES OF TREATMENT OR PLACEMENTS THAT YOU DO NOT DESIRE.

2. THE PERSON YOU DESIGNATE IN THIS DOCUMENT HAS A DUTY TO ACT CONSISTENT WITH YOUR DESIRES AS STATED IN THIS DOCUMENT OR

OTHERWISE MADE KNOWN OR, IF YOUR DESIRES ARE UNKNOWN, TO ACT IN YOUR BEST INTERESTS.

3. EXCEPT AS YOU OTHERWISE SPECIFY IN THIS DOCUMENT, THE POWER OF THE PERSON YOU DESIGNATE TO MAKE HEALTH CARE DECISIONS FOR YOU MAY INCLUDE THE POWER TO CONSENT TO YOUR DOCTOR NOT GIVING TREATMENT OR STOPPING TREATMENT WHICH WOULD KEEP YOU ALIVE.

4. UNLESS YOU SPECIFY A SHORTER PERIOD IN THIS DOCUMENT, THIS POWER WILL EXIST INDEFINITELY FROM THE DATE YOU EXECUTE THIS DOCUMENT AND, IF YOU ARE UNABLE TO MAKE HEALTH CARE DECISIONS FOR YOURSELF, THIS POWER WILL CONTINUE TO EXIST UNTIL THE TIME WHEN YOU BECOME ABLE TO MAKE HEALTH CARE DECISIONS FOR YOURSELF.

5. NOTWITHSTANDING THIS DOCUMENT, YOU HAVE THE RIGHT TO MAKE MEDICAL AND OTHER HEALTH CARE DECISIONS FOR YOURSELF SO LONG AS YOU CAN GIVE INFORMED CONSENT WITH RESPECT TO THE PARTICULAR DECISION. IN ADDITION, NO TREATMENT MAY BE GIVEN TO YOU OVER YOUR OBJECTION, AND HEALTH CARE NECESSARY TO KEEP YOU ALIVE MAY NOT BE STOPPED IF YOU OBJECT.

6. YOU HAVE THE RIGHT TO REVOKE THE APPOINTMENT OF THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU BY NOTIFYING THAT PERSON OF THE REVOCATION ORALLY OR IN WRITING.

7. YOU HAVE THE RIGHT TO REVOKE THE AUTHORITY GRANTED TO THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU BY NOTIFYING THE TREATING PHYSICIAN, HOSPITAL OR OTHER PROVIDER OF HEALTH CARE ORALLY OR IN WRITING.

8. THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU HAS THE RIGHT TO EXAMINE YOUR MEDICAL RECORDS AND TO CONSENT TO THEIR DISCLOSURE UNLESS YOU LIMIT THIS RIGHT IN THIS DOCUMENT.

9. THIS DOCUMENT REVOKES ANY PRIOR DURABLE POWER OF ATTORNEY FOR HEALTH CARE.

10. IF THERE IS ANYTHING IN THIS DOCUMENT THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.

1. DESIGNATION OF HEALTH CARE AGENT.

I,

(insert your name) do hereby designate and appoint:

Name:

Address:

Telephone Number:

as my agent to make health care decisions for me as authorized in this document.

(Insert the name and address of the person you wish to designate as your agent to make health care decisions for you. Unless the person is also your spouse, legal guardian or the person most closely related to you by blood, none of the following may be designated as your agent: (1) your treating provider of health care; (2) an employee of your treating provider of health care; (3) an operator of a health care facility; or (4) an employee of an operator of a health care facility.)

2. CREATION OF DURABLE POWER OF ATTORNEY FOR HEALTH CARE.

By this document I intend to create a durable power of attorney by appointing the person designated above to make health care decisions for me. This power of attorney shall not be affected by my subsequent incapacity.

3. GENERAL STATEMENT OF AUTHORITY GRANTED.

In the event that I am incapable of giving informed consent with respect to health care decisions, I hereby grant to the agent named above full power and authority: to make health care decisions for me before or after my death, including consent, refusal of consent or withdrawal of consent to any care, treatment, service or procedure to maintain, diagnose or treat a physical or mental condition; to request, review and receive any information, verbal or written, regarding my physical or mental health, including, without limitation, medical and hospital records; to execute on my behalf any releases or other documents that may be required to obtain medical care and/or medical and hospital records, EXCEPT any power to enter into any arbitration agreements or execute any arbitration clauses in connection with admission to any health care facility including any skilled nursing facility; and subject only to the limitations and special provisions, if any, set forth in paragraph 4 or 6.

4. SPECIAL PROVISIONS AND LIMITATIONS.

(Your agent is not permitted to consent to any of the following: commitment to or placement in a mental health treatment facility, convulsive treatment, psychosurgery, sterilization or abortion. If there are any other types of treatment or placement that you do not want your agent's authority to give consent for or other restrictions you wish to place

on his or her agent's authority, you should list them in the space below. If you do not write any limitations, your agent will have the broad powers to make health care decisions on your behalf which are set forth in paragraph 3, except to the extent that there are limits provided by law.)

In exercising the authority under this durable power of attorney for health care, the authority of my agent is subject to the following special provisions and limitations:

5. DURATION.

I understand that this power of attorney will exist indefinitely from the date I execute this document unless I establish a shorter time. If I am unable to make health care decisions for myself when this power of attorney expires, the authority I have granted my agent will continue to exist until the time when I become able to make health care decisions for myself.

(IF APPLICABLE)

I wish to have this power of attorney end on the following date:

6. STATEMENT OF DESIRES.

(With respect to decisions to withhold or withdraw life-sustaining treatment, your agent must make health care decisions that are consistent with your known desires. You can, but are not required to, indicate your desires below. If your desires are unknown, your agent has the duty to act in your best interests; and, under some circumstances, a judicial proceeding may be necessary so that a court can determine the health care decision that is in your best interests. If you wish to indicate your desires, you may INITIAL the statement or statements that reflect your desires and/or write your own statements in the space below.)(If the statement reflects your desires, initial the box next to the statement.)

1. I desire that my life be prolonged to the greatest extent possible, without regard to my condition, the chances I have for recovery or long-term survival, or the cost of the procedures. []

2. If I am in a coma which my doctors have reasonably concluded is irreversible, I desire that life-sustaining or prolonging treatments not be used. (Also should utilize provisions of [NRS 449.535](#) to [449.690](#), inclusive, if this subparagraph is initialed.) [.....]

3. If I have an incurable or terminal condition or illness and no reasonable hope of long-term recovery or survival, I desire that life-sustaining or prolonging treatments not be used. (Also should utilize provisions of [NRS 449.535](#) to [449.690](#), inclusive, if this subparagraph is initialed.) []

4. Withholding or withdrawal of artificial nutrition and hydration may result in death by starvation or dehydration. I want to receive or continue receiving artificial nutrition and

hydration by way of the gastrointestinal tract after all other treatment is withheld.....
[]

5. I do not desire treatment to be provided and/or continued if the burdens of the treatment outweigh the expected benefits. My agent is to consider the relief of suffering, the preservation or restoration of functioning, and the quality as well as the extent of the possible extension of my life. []

(If you wish to change your answer, you may do so by drawing an "X" through the answer you do not want, and circling the answer you prefer.)

Other or Additional Statements of Desires:.....

7. DESIGNATION OF ALTERNATE AGENT.

(You are not required to designate any alternative agent but you may do so. Any alternative agent you designate will be able to make the same health care decisions as the agent designated in paragraph 1, page 2, in the event that he or she is unable or unwilling to act as your agent. Also, if the agent designated in paragraph 1 is your spouse, his or her designation as your agent is automatically revoked by law if your marriage is dissolved.)

If the person designated in paragraph 1 as my agent is unable to make health care decisions for me, then I designate the following persons to serve as my agent to make health care decisions for me as authorized in this document, such persons to serve in the order listed below:

A. First Alternative Agent

Name:

Address:

Telephone Number:

B. Second Alternative Agent

Name:

Address:

Telephone Number:

8. PRIOR DESIGNATIONS REVOKED.

I revoke any prior durable power of attorney for health care.

9. WAIVER OF CONFLICT OF INTEREST.

If my designated agent is my spouse or is one of my children, then I waive any conflict of interest in carrying out the provisions of this Durable Power of Attorney for Health Care that said spouse or child may have by reason of the fact that he or she may be a beneficiary of my estate.

10. CHALLENGES.

If the legality of any provision of this Durable Power of Attorney for Health Care is questioned by my physician, my agent or a third party, then my agent is authorized to commence an action for declaratory judgment as to the legality of the provision in question. The cost of any such action is to be paid from my estate. This Durable Power of Attorney for Health Care must be construed and interpreted in accordance with the laws of the State of Nevada.

11. NOMINATION OF GUARDIAN.

If, after execution of this Durable Power of Attorney for Health Care, incompetency proceedings are initiated either for my estate or my person, I hereby nominate as my guardian or conservator for consideration by the court my agent herein named, in the order named.

12. RELEASE OF INFORMATION.

I agree to, authorize and allow full release of information by any government agency, medical provider, business, creditor or third party who may have information pertaining to my health care, to my agent named herein, pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended, and applicable regulations.

(YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY)

I sign my name to this Durable Power of Attorney for Health Care on
(date) at (city), (state)

(Signature)

(THIS POWER OF ATTORNEY WILL NOT BE VALID FOR MAKING HEALTH CARE DECISIONS UNLESS IT IS EITHER (1) SIGNED BY AT LEAST TWO QUALIFIED WITNESSES WHO ARE PERSONALLY KNOWN TO YOU AND WHO ARE PRESENT WHEN YOU SIGN OR ACKNOWLEDGE YOUR SIGNATURE OR (2) ACKNOWLEDGED BEFORE A NOTARY PUBLIC.)

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

(You may use acknowledgment before a notary public instead of the statement of witnesses.)

State of Nevada }

}ss.

County of..... }

On this..... day of....., in the year..., before me,..... (here insert name of notary public) personally appeared..... (here insert name of principal) personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it. I declare under penalty of perjury that the person whose name is ascribed to this instrument appears to be of sound mind and under no duress, fraud or undue influence.

NOTARY SEAL

(Signature of Notary Public)

STATEMENT OF WITNESSES

(You should carefully read and follow this witnessing procedure. This document will not be valid unless you comply with the witnessing procedure. If you elect to use witnesses instead of having this document notarized, you must use two qualified adult witnesses. None of the following may be used as a witness: (1) a person you designate as the agent; (2) a provider of health care; (3) an employee of a provider of health care; (4) the operator of a health care facility; or (5) an employee of an operator of a health care facility. At least one of the witnesses must make the additional declaration set out following the place where the witnesses sign.)

I declare under penalty of perjury that the principal is personally known to me, that the principal signed or acknowledged this durable power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud or undue influence, that I am not the person appointed as agent by this document and that I am not a provider of health care, an employee of a provider of health care, the operator of a community care facility or an employee of an operator of a health care facility.

Signature: Residence Address:

Print Name:

Date:

Signature: Residence Address:

Print Name:

Date:

(AT LEAST ONE OF THE ABOVE WITNESSES MUST ALSO SIGN THE FOLLOWING DECLARATION.)

I declare under penalty of perjury that I am not related to the principal by blood, marriage or adoption and that to the best of my knowledge, I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law.

Signature:

Signature:

Names: Address:.....

Print Name:

Date:

COPIES: You should retain an executed copy of this document and give one to your agent. The power of attorney should be available so a copy may be given to your providers of health care.

(Added to NRS by [2009, 201](#); A [2013, 926](#))

DURABLE POWER OF ATTORNEY FOR HEALTH CARE DECISIONS

WARNING TO ALL PERSONS EXECUTING THIS DOCUMENT:

This is an important legal document. It creates a Durable Power of Attorney for Health Care. Before executing this document, you should know these important facts:

- 1. This document gives the person you designate as your Agent the power to make health care decisions for you. This power is subject to any limitations or statement of your desires that you include in this document. The power to make health care decisions for you may include consent, refusal of consent or withdrawal of consent to any care, treatment, service or procedure to maintain, diagnose or treat a physical or mental condition. You may state in this document any types of treatment or placements that you do not desire.*
- 2. The person you designate in this document has a duty to act consistent with your desires as stated in this document or otherwise made known or, if your desires are unknown, to act in your best interests.*
- 3. Except as you otherwise specify in this document, the power of the person you designate to make health care decisions for you may include the power to consent to your doctor not giving treatment or stopping treatment which would keep you alive.*
- 4. Unless you specify a shorter period in this document, this power will exist indefinitely from the date you execute this document and, if you are unable to make health care decisions for yourself, this power will continue to exist until the time when you become able to make health care decisions for yourself.*
- 5. Notwithstanding this document, you have the right to make medical and other health care decisions for yourself so long as you can give informed consent with respect to the particular decision. In addition, no treatment may be given to you over your objection, and health care necessary to keep you alive may not be stopped if you object.*
- 6. You have the right to revoke the appointment of the person designated in this document to make health care decisions for you by notifying that person of the revocation orally or in writing.*
- 7. You have the right to revoke the authority granted to the person designated in this document to make health care decisions for you by notifying the treating physician, hospital or other provider of health care orally or in writing.*
- 8. The person designated in this document to make health care decisions for you has the right to examine your medical records and to consent to their disclosure unless you limit this right in this document.*
- 9. This document revokes any prior Durable Power of Attorney for Health Care.*
- 10. If there is anything in this document that you do not understand, you should ask a lawyer to explain it to you.*

1. DESIGNATION OF HEALTH CARE AGENT.

I, _____, (insert your name) do hereby designate and appoint:

Name: _____

Address: _____

Telephone Number(s): _____

as my Agent to make health care decisions for me as authorized in this document.

(Insert the name and address of the person you wish to designate as your Agent to make health care decisions for you. Unless the person is also your spouse, legal guardian or the person most closely related to you by blood, none of the following may be designated as your Agent: (1) your treating provider of health care; (2) an employee of your treating provider of health care; (3) an operator of a health care facility; or (4) an employee of an operator of a health care facility.)

2. CREATION OF DURABLE POWER OF ATTORNEY FOR HEALTH CARE.

By this document I intend to create a Durable Power of Attorney by appointing the person designated above to make health care decisions for me. This power of attorney shall not be affected by my subsequent incapacity.

3. GENERAL STATEMENT OF AUTHORITY GRANTED.

In the event that I am incapable of giving informed consent with respect to health care decisions, I hereby grant to the Agent named above full power and authority: to make health care decisions for me before or after my death, including consent, refusal of consent or withdrawal of consent to any care, treatment, service or procedure to maintain, diagnose or treat a physical or mental condition; to request, review and receive any information, verbal or written, regarding my physical or mental health, including, without limitation, medical and hospital records; to execute on my behalf any releases or other documents that may be required to obtain medical care and/or medical and hospital records, EXCEPT any power to enter into any arbitration agreements or execute any arbitration clauses in connection with admission to any health care facility including any skilled nursing facility; and subject only to the limitations and special provisions, if any, set forth in paragraph 4 or 6.

4. SPECIAL PROVISIONS AND LIMITATIONS.

(Your agent is not permitted to consent to any of the following: commitment to or placement in a mental health treatment facility, convulsive treatment, psychosurgery, sterilization or abortion. If there are any other types of treatment or placement that you do not want your Agent's authority to give consent for or other restrictions you wish to place on his or her Agent's authority, you should list them in the space below. If you do not write any limitations, your Agent will have the broad powers to make health care decisions on your behalf which are set forth in paragraph 3, except to the extent that there are limits provided by law.)

In exercising the authority under this durable power of attorney for health care, the authority of my Agent is subject to the following special provisions and limitations:

5. DURATION.

I understand that this power of attorney will exist indefinitely from the date I execute this document unless I establish a shorter time. If I am unable to make health care decisions for myself when this power of attorney expires, the authority I have granted my Agent will continue to exist until the time when I become able to make health care decisions for myself.

(IF APPLICABLE)

I wish to have this power of attorney end on the following date: N/A

6. STATEMENT OF DESIRES.

(With respect to decisions to withhold or withdraw life sustaining treatment, your agent must make health care decisions that are consistent with your known desires. You can, but are not required to, indicate your desires below. If your desires are unknown, your agent has the duty to act in your best interests; and, under some circumstances, a judicial proceeding may be necessary so that a court can determine the health care decision that is in your best interests. If you wish to indicate your desires, you may INITIAL the statement or statements that reflect your desires and/or write your own statements in the space below.)

(a). I desire that my life be prolonged to the greatest extent possible, without regard to my condition, the chances I have for recovery or long-term survival, or the cost of the procedures.

I agree: _____ *I disagree:* _____

(b). If I am in a coma which my doctors have reasonably concluded is irreversible, I desire that life-sustaining or prolonging treatments NOT be used. (Also should utilize provisions of NRS 449.535 to 449.690, inclusive, if agreement is initialed.)

I agree: _____ *I disagree:* _____

(c). If I have an incurable or terminal condition or illness and no reasonable hope of long-term recovery or survival, I desire that life-sustaining or prolonging treatments NOT be used. (Also should utilize provisions of NRS 449.535 to 449.690, inclusive, if agreement is initialed.)

I agree: _____ *I disagree:* _____

(d). Withholding or withdrawal of artificial nutrition and hydration may result in death by starvation or dehydration. I want to receive or continue receiving artificial nutrition and hydration by way of the gastrointestinal tract after all other treatment is withheld.

I agree: _____ *I disagree:* _____

(e). I do not desire treatment to be provided and/or continued if the burdens of the treatment outweigh the expected benefits. My agent is to consider the relief of suffering, the preservation or restoration of functioning, and the quality as well as the extent of the possible extension of my life.

I agree: _____ *I disagree:* _____

(f). I direct my attending physician to mercifully administer such medication to me as will alleviate any suffering I might experience regardless of whether such medication is highly addictive or may shorten my remaining life.

I agree: _____ *I disagree:* _____

(If you wish to change your answer, you may do so by drawing an "X" through the answer you do not want, and circling the answer you prefer.)

Other or Additional Statements of desires:

7. DESIGNATION OF ALTERNATE AGENT.

(You are not required to designate any alternative Agent but you may do so. Any Alternative Agent you designate will be able to make the same health care decisions as the Agent designated in paragraph 1, page 2, in the event that he or she is unable or unwilling to act as your Agent. Also, if the Agent designated in paragraph 1 is your spouse, his or her designation as your Agent is automatically revoked by law if your marriage is dissolved.)

If the person designated in paragraph 1 as my Agent is unable to make health care decisions for me, then I designate the following persons to serve as my agent to make health care decisions for me as authorized in this document, such persons to serve in the order listed below:

(a). Second Choice as Agent (Name): _____
Address: _____
Telephone Number(s): _____

(b). Third Choice as Agent (Name): _____
Address: _____
Telephone Number(s): _____

8. PRIOR DESIGNATIONS REVOKED.

I revoke any prior durable power of attorney for health care.

9. WAIVER OF CONFLICT OF INTEREST.

If my designated Agent is my spouse or is one of my children, then I waive any conflict of interest in carrying out the provisions of this Durable Power of Attorney for Health Care that said spouse or child may have by reason of the fact that he or she may be a beneficiary of my estate.

10. CHALLENGES.

If the legality of any provision of this Durable Power of Attorney for Health Care is questioned by my physician, my Agent or a third party, then my Agent is authorized to commence an action for

declaratory judgment as to the legality of the provision in question. The cost of any such action is to be paid from my estate. This Durable Power of Attorney for Health Care must be construed and interpreted in accordance with the laws of the State of Nevada.

11. NOMINATION OF GUARDIAN.

If, after execution of this Durable Power of Attorney for Health Care, incompetency proceedings are initiated either for my estate or my person, I hereby nominate my agents in order named as my guardian of the person and I nominate my agents in order named as my guardian or conservator of the estate for consideration by the court .

12. RELEASE OF INFORMATION.

I agree to, authorize and allow full release of information by any government agency, medical provider, business, creditor or third party who may have information pertaining to my health care, to my Agent named herein, pursuant to the Health Insurance Portability and Accountability Act of 1996, HIPAA Public Law 104-191, as amended, and applicable regulations.

(YOU MUST DATE AND SIGN THIS POWER OF ATTORNEY)

I sign my name to this Durable Power of Attorney for Health Care on _____, 20___ (date) at _____ (city), Nevada (state).

(Signature)

(THIS POWER OF ATTORNEY WILL NOT BE VALID FOR MAKING HEALTH CARE DECISIONS UNLESS IT IS EITHER (1) SIGNED BY AT LEAST TWO QUALIFIED WITNESSES WHO ARE PERSONALLY KNOWN TO YOU AND WHO ARE PRESENT WHEN YOU SIGN OR ACKNOWLEDGE YOUR SIGNATURE OR (2) ACKNOWLEDGED BEFORE A NOTARY PUBLIC.)

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

(You may use acknowledgment before a Notary Public instead of the statement of witnesses.)

State of Nevada }
 } ss.
County of Clark }

On this _____ day of _____ in the year 20___, before me,

(here insert name of notary public)
personally appeared _____ (here insert name of principal)
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it. I declare under penalty of perjury that the person whose name is ascribed to this instrument appears to be of sound mind and under no duress, fraud or undue influence.

NOTARY

RESOURCES

RESOURCES

Valuable information on guardianship in each state from the ABA Commission on Law and Aging

http://www.americanbar.org/groups/law_aging/resources/guardianship_law_practice.html

Guardianship Law & Practice

- **Guardianship**

On this page, you will find:

- [What's New](#)
- [State Laws and Policy](#)
- [ABA Guardianship Policy](#)
- [Consensus Conferences](#)
- [Guardianship Jurisdiction](#)
- [Court Volunteer Guardianship Monitoring](#)
- [Videos and Publications](#)

What's New

Standards of Practice for Guardians

This [chart by Sally Balch Hurme](#) details the standards of practice for guardians, state-by-state.

State Adult Guardianship Legislation: Directions of Reform

The [2015 Update](#) is now available.

Criminal and Credit Background Checks for Guardians

This [chart by Sally Balch Hurme](#) details the criminal and credit background check requirements for guardians, state-by-state.

State Guardian Certification Chart

This [chart by Sally Balch Hurme](#) details the similarities and differences of guardianship certification, state-by-state.

Attorneys Currently Testing New Guardianship Practice Tool

We are happy to report that we have over 100 volunteer attorneys signed up to help us test a new lawyer practice tool. It is called the PRACTICAL tool, and includes a checklist and background resource guide to lead lawyers through practical and legal options less restrictive than guardianship. PRACTICAL is an acronym for nine steps to examine options and explore resources.

The ABA Commission on Law and Aging is a partner collaborating on this project, along with three other ABA groups – the Section on Real Property, Trust and Estate Law, Commission on Disability Rights, and the Section on Civil Rights and Social Justice. [Learn more \(PDF\)](#).

Health Care Decision-Making Authority of Guardians and Agents

Does the court-appointed guardian or the patient-appointed agent have the ultimate authority over an

incapacitated individual's health care? This [Bifocal article](#) provides a brief update on the statutorily established health care decision-making authority of each state. Additionally, the article highlights the growth of decision-making standards for court-appointed guardians with health care authority and emphasizes that patient-appointed health care agents should be the final authority on an incapacitated individual's health care. The two charts below accompany the article:

- [Health Care Decision-Making Authority: Who Makes the Decision?](#)
- [Health Care Decision-Making Authority: What is the Decision-Making Standard?](#)

Relationship Between Adult and Minor Guardianship Statutes

[This new chart](#) provides a fifty-state examination of the statutory relationship between adult and minor guardianship provisions. By illustrating the statutory outline and the numerical range of the provisions, this chart ultimately clarifies whether the adult and minor guardianship provisions of a given state are integrated, associated, or separated.

Capacity Assessment Curriculum

For a lively and informative series on capacity assessment, see the six-module [interactive online education curriculum on assessing the capacity of older adults](#), a collaboration of the Rush University Medical Center and the Commission on Law and Aging, funded by The Retirement Research Foundation. The course is timely because demographic, technological, medical and other vast changes affecting medical professionals are making capacity assessment a growing challenge. The curriculum is aimed at physicians but valuable for all health care clinicians and students. Continuing Medical Education (CME) credits, Continuing Nursing Education (CNE) credits, Continuing Education Units (CEU) or a Certificate of Completion are available.

New Video on State WINGS Initiatives

The National Guardianship Network (NGN) has developed a new video introduction, "What is WINGS" by District of Columbia Chief Judge Eric Washington, to improve state adult guardianship practices through collaborative court-community partnerships. The five-minute video is a lead-in to the NGN Replication Guide for WINGS (Working Interdisciplinary Networks of Guardianship Stakeholders). Visit the [NGN website](#) to find the video and a link to the Replication Guide.

State Laws & Policy

I. State Adult Guardianship Legislation: Directions of Reform

- [2015](#)
- [2014](#)
- [2013](#)
- [2012](#)
- [2011](#)
- [2010](#)
- [2009](#)
- [2008](#)

- [2007](#)
- [2006](#)
- [2005](#)

II. Adult Guardianship State Legislative Charts:

- [Standards of Practice for Guardians](#) (by Sally Balch Hurme, January 2016)
- [Guardian Felony Disqualification and Background Requirements](#)(by Sally Balch Hurme, December 2015)
- [State Guardian Certification Chart](#) (by Sally Balch Hurme, December 2015)
- [Relationship Between Adult and Minor Guardianship Statutes](#)(July 2015)
- [State Statutory Provisions on Residency of Guardians](#) (February 2015)
- [Emergency Guardianship](#) (December 2014)
- [Capacity Definition & Initiation of Guardianship Proceedings](#) (December 2014)
- [Representation and Investigation of Guardianship Proceedings](#)(December 2014)
- [Notice in Guardianship Proceedings](#) (December 2014)
- [Monitoring Following Guardianship Proceedings](#) (December 2014)
- [Conduct and Findings of Guardianship Proceedings](#) (December 2014)
- [Conservatorship and Guardianship Bonds: State Statutory Requirements](#) (April 2014)
- [Statutory Appeals Provisions in Adult Guardianship](#) (August 2013)
- [Restoration Procedures](#) (June 2013) (and accompanying [paper](#))
- [Guardian Authority for Residential Decisions](#) (August 2010)
- [Limited Guardianship of the Person](#) (December 2008)

III. Health Care Decision-Making: A Guardian's Authority

- [Health Care Decision-Making Authority: Health Care Agents vs. Court Appointed Guardians \(50-state chart\)](#)

IV. State Guardianship Statutory Citations

- [Statutory Table of Authorities \(April 2014\)](#)
- *Terminology for Protected Person in State Adult Guardianship Statutes*

This [helpful table of terminology](#) is current as of November 2014.

V. Restoration of Rights for Adults Under Guardianship

A *Bifocal* article on the [restoration of rights for adults under guardianship](#) is now available. [A chart analyzing the elements of each case](#) is also available for download.

ABA Guardianship Policy

Please visit the [Commission's Policy Page](#) for a listing of Guardianship policy.

Consensus Conferences

Third National Guardianship Summit

- [Third National Guardianship Summit Standards and Recommendations](#)
- An [International Resource Library](#) composed of materials from the Congress is now available.

Wingspan—The Second National Guardianship Conference

- [Conference Introduction and Keynotes](#)
- [Recommendations](#)
- [Action Steps on Adult Guardianship Progress \(National Wingspan Implementation Session\)](#)

Wingspread—The First National Guardianship Conference

- [Wingspread Recommendations and Report](#)

International Guardianship Recommendations

- [2010 Yokohama Declaration](#)

Guardianship Jurisdiction

Find out more about the Commission's [Guardianship Jurisdiction project](#).

Court Volunteer Guardianship Monitoring Handbooks

Find out more about the Commission's [Court Volunteer Guardianship Monitoring Handbooks project](#).

Videos and Publications

Guardianship Videos

- [**In Your Hands: The Tools for Preserving Personal Autonomy**](#)

Narrated by the late Helen Hayes, with an epilogue by her son, James MacArthur, this video addresses the legal aspects of planning for incapacity in a clear and positive way, and introduces four legal tools: durable powers of attorney, medical powers of attorney, living wills and trusts. 1994. 19 minutes.

- [In Your Hands Epilogue, featuring James MacArthur](#)
- [List of Guardianship Video Resources \(As of August 2010\)](#)

Guardianship Handbooks

- [**State Guardianship Handbooks**](#)
- [**Volunteer Guardianship Monitoring Handbooks**](#)

A concise, four-part handbook on volunteer guardianship monitoring. It guides court staff step by step in developing a volunteer guardianship monitoring and assistance program, recruiting and training volunteers, and compiling community information volunteers will need. Detailed forms and appendices are adaptable locally. For technical assistance in using the [handbooks](#) for your court, contact [Erica Wood](#).

Guardianship Publications

- [**Managing Someone Else's Money Guides**](#)

Millions of Americans are managing money or property for a loved one who is unable to pay bills or make financial decisions. Here are four easy-to-understand booklets to help financial caregivers. Written by the Commission and published by the CFPB, the guides are for agents under powers of

attorney, court-appointed guardians, trustees, and government fiduciaries (Social Security representative payees and VA fiduciaries).

- **[WINGS Tips: State Replication Guide For Working Interdisciplinary Networks Of Guardianship Stakeholders](#)**

This publication, produced by the Commission on behalf of the National Guardianship Network, highlights the hallmarks of successful WINGS groups and outlines ten steps for launching and maintaining your own WINGS program.

Working Interdisciplinary Networks of Guardianship Stakeholders (WINGS) are broad-based, collaborative working groups that drive changes that affect the ways courts and guardians practice, and improve the lives of people who have or may need guardians.

- **[Guardianship After 25 Years: In the Best Interest of Incapacitated People?](#)**

by Pamela Teaster, Erica Wood, Winsor Schmidt, and Susan Lawrence

This report includes extensive site visit studies of seven programs; an update on state models of public guardianship or guardianship of last resort; conclusions and recommendations, a model public guardianship act; statutory and programmatic profiles of each state's system of public guardianship or guardianship of last resort; and statutory charts. 203 pp. Jan. 2008. [Executive summary](#).

- **[State-Level Guardianship Data: An Exploratory Survey](#)**

by Erica Wood

Guardianship is a critical protection for at-risk, frequently elderly individuals. However, it is also a drastic intervention in which the guardian is given substantial and often complete authority over the lives of vulnerable wards, and press accounts have detailed significant instances of malfeasance and exploitation. Aug. 2006.

- **[Guardianship Monitoring: A National Survey of Court Practices](#)**

by Naomi Karp and Erica Wood

This report by AARP's Public Policy Institute, in collaboration with the ABA Commission on Law and Aging, explores court oversight of guardians, appointed when an adult lacks capacity to make decisions for him or herself. The paper reports the findings of a 2005 national survey of 387 experts. June 2006.

- **[Judicial Determination of Capacity of Older Adults in Guardianship Proceedings](#)**

by the ABA Commission on Law and Aging, American Psychological Association, and National College of Probate Judges

This book contains practical tools to equip a wide audience of judges to conduct any form of guardianship proceeding more effectively, improve communication with healthcare professionals, creatively use less-restrictive alternatives and limited guardianships, and accommodate disabilities of older adults in ways that will enhance capacity. 2006. ISBN 978-1-59031-764-8. Product Code: 4280026.

- [Electronic version](#), 49 pages

- [Electronic version \(with appendices\)](#), 94 pages
- [Order a print copy from the ABA webstore](#). \$25.
- **[Wards of the State: A National Study of Public Guardianship](#)**
by Pamela B. Teaster, Erica F. Wood, Naomi Karp, Susan A. Lawrence, Winsor C. Schmidt, Jr., and Marta Meniondo.
This report marks the first nationwide examination of public guardianship in 25 years--since the landmark study by Prof. Winsor Schmidt and colleagues, *Public Guardianship and the Elderly*, published in 1981. The report is the result of a comprehensive review of existing literature and law, a national survey of key contacts in all 51 jurisdictions concerning public guardianship programs and practices (with a 100% response rate), in-depth interviews in seven states, and extensive site visits in three states (Florida, Kentucky, Illinois). April 2005. [Executive Summary](#).
- **Good Guardianship: State Court Partnerships with the Aging Network**
These brochures encourage collaboration in guardianship practices between the court system and the aging network. The idea is that by working together, courts and aging organizations— such as agencies on aging, adult protective services (APS), and long-term care ombudsmen—can tackle some of the difficult barriers to good guardianship practice in a cost-effective way. The objective is to get courts and service providers or advocates in the aging field talking to each other about specific constructive improvements in guardianship in their area.
 - [Promising Practice Ideas on Community Links](#)
 - [Promising Practice Ideas on Court Links for Agencies on Aging, Adult Protective Services, and Long-term Care Ombudsman](#)