

**Report of the Guardianship Task Force
to the WSBA Elder Law Section Executive Committee**

August 2009

**Elder Law Section
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INTRODUCTION

More than 16,000 Washington residents have guardians.¹ Courts appoint guardians to assist and protect people with cognitive disabilities who are unable to manage personal or financial matters. Referred to as “incapacitated persons” under the law, they are often vulnerable to financial exploitation, medical neglect, homelessness, and other kinds of harm. Guardians can dramatically reduce the likelihood of such problems by managing finances, arranging for health care, organizing living arrangements, and assisting in other ways. A guardian’s work can be extremely demanding and difficult and often goes unacknowledged.

While a great many guardians provide invaluable help to the individuals they serve, guardianship does not always go well. In recent years, concerns about guardianship in Washington have been raised by legislators, journalists, judges, and lawyers. Often, concerns have focused on the performance of individual guardians. For example, one guardian reportedly hired unqualified people to care for a woman with dementia and left the caregivers unsupervised. Another guardian failed to account for \$140,000 that was missing from the estate of a 94-year-old woman who died the year after the guardian was appointed.²

Concerns have also focused on the capacity of courts to prevent, uncover, and address problems in guardianships. In the case of the 94-year-old woman mentioned above, for example, the court failed to notice that the guardian’s final financial report did not account for the missing \$140,000. Whether guardianship problems are few and aberrational or widespread and systemic has been a subject of speculation.

To examine concerns about the performance of our guardianship system, the Elder Law Section of the Washington State Bar Association formed a Guardianship Task Force in 2007.³ As part of its investigation, the Task Force surveyed courts across the state regarding guardianship policies and procedures. The Task Force also reviewed literature from Washington and elsewhere in the country describing recommended guardianship practices.

The Task Force concluded that Washington lacks a consistent, reliable, and adequately funded approach to management of guardianships. This report describes major findings from the survey and offers recommendations for improving Washington’s guardianship system.

¹ This estimate was extrapolated from available local and statewide data.

² See Maureen O’Hagan et al., Guardianship Cases, *Your Courts, Their Secrets*, Seattle Times, Mar. 2007, available at <http://seattletimes.nwsource.com/html/yourcourts/theirsecrets>.

³ The Task Force is comprised of practicing attorneys and other professionals from the private and public sectors. Members have expertise in many areas, including guardianship, elder law, disability rights, and public-health policy. For a list of Task Force members, see page 17.

EXECUTIVE SUMMARY

Incapacitated persons are vulnerable. Guardians who do their jobs well can significantly reduce this vulnerability and enhance quality of life. Guardians who fail to discharge their responsibilities can cause serious harm.

Because of the unique nature of guardianship, courts have special oversight responsibilities. If problems arise in a guardianship case, the incapacitated person may not be able to bring the concerns to the court's attention or may not even be aware of the problems. This differs from typical adversarial proceedings in which one party or the other is likely to bring problems before the court. Thus, an increased level of involvement is required of courts in guardianship cases.

As "superior guardians," courts ultimately have the duty to protect the interests of the individuals they determine to be incapacitated.⁴ For this reason, the Task Force sought information about how courts monitor guardianships, process complaints, maintain data, and provide for training.

Summary of Findings

Major findings from the Task Force investigation are summarized below and discussed more thoroughly on pages 10-12.

1. Court oversight of guardianships varies dramatically among counties, with virtually no *active monitoring*—proactive, court-initiated oversight of guardians—occurring in most places. Passive approaches are more common, such as examining individual cases in response to complaints or reviewing reports for which guardians seek approval.
2. The majority of Washington courts do not track the outcomes of the guardianship complaints they receive. Procedures for handling complaints lack clarity and uniformity.
3. Dependable statistical information about guardianships is not available.
4. Training for lay guardians is not consistently required or readily available. Training for court staff and volunteers varies considerably.
5. Thousands of incapacitated individuals who are alone and poor continue to live without needed guardianship services.
6. Courts lack the resources needed to oversee guardianships effectively.

⁴ *Seattle-First Nat'l Bank v. Brommers*, 89 Wn.2d 190, 200; 570 P.2d 1035 (1977).

Summary of Recommendations

In contrast to most of Washington, several counties have developed active and successful guardianship monitoring programs. Many of the procedures employed in these counties are reflected in the recommendations of the Task Force, which are summarized here and presented in detail on pages 13-16.

1. Courts should actively monitor guardianship cases.

Serious guardianship problems, such as fraud and neglect, have been uncovered and remedied in counties where courts actively monitor guardianship cases. Active monitoring requires basic but proactive measures: tracking of deadlines; careful review of reports; further inquiry in response to inconsistent or missing information; thorough documentation of complaint resolution; and visits with incapacitated persons. Such practices can directly improve the physical, financial, and emotional circumstances of incapacitated persons. Active monitoring may also result in a more efficient use of public resources by reducing the likelihood that incapacitated persons are abused, neglected, or unnecessarily institutionalized.

2. Reliable, statewide guardianship information should be available.

Reliable information is required for adequate assessment of the guardianship system. Yet, we have only a rough estimate of the total number of incapacitated individuals under guardianship in Washington.⁵ Except in a small number of counties, statistical data about specific areas of guardianship, such as the type and frequency of complaints, is not available. If courts had an adequate data management system and were required to use it, valuable information would be readily available. Those responsible at the county and state levels, as well as members of the public, could use the information for strategic analysis and improvement of the guardianship system.

3. Training should be required for lay guardians.

Although lay guardians assume fiduciary duties and other legal responsibilities for incapacitated persons, Washington does not require lay guardians to receive training. In certain counties, however, useful training is either required for lay guardians or easily accessed by those who seek it. Washington should have a minimum statewide training requirement for lay guardians and provide low-cost, easily accessible training resources.

⁵ As noted in the introduction, the Task Force estimates that more than 16,000 individuals are under guardianship in Washington.

4. The Office of Public Guardianship should be supported and expanded.

The vulnerability of many incapacitated persons is compounded by poverty and isolation. A guardianship system that fails to provide services for such individuals is unacceptable. The Washington Office of Public Guardianship already has a solid framework established for providing public guardianship services, but funds for this incipient program have been drastically reduced. Dedicated funding—commensurate with current needs—should be allocated to the Office of Public Guardianship.⁶

5. Adequate public funding should be allocated to the guardianship system.

Expense is involved for the judicial branch to administer the guardianship system. Without an adequate commitment of public resources at the state level, the improvements called for by this report will not be made.

⁶ Establishment of the Office of Public Guardianship in 2007 was spurred in part by the August 2005 report of the Elder Law Section's Public Guardianship Task Force. The report described the failure of Washington's guardianship system to serve thousands of state residents who are incapacitated, isolated, and impoverished. The OPG is discussed further on page 9.

GUARDIANSHIP IN WASHINGTON

The following section provides a brief overview of guardianship in Washington, including determination of incapacity, duties of guardians, procedures for court oversight, and other important aspects of guardianship.⁷

1. Initiation of proceedings

A guardian is a person or agency appointed by a court as a surrogate decision maker for a person who lacks the capacity to provide for his or her own needs. A guardianship proceeding begins when a person files a petition in a superior court to appoint a guardian for another person. A guardianship petition asks the court to determine whether the person is incapacitated and, if so, to appoint a guardian. Any interested person may file a guardianship petition; it is not necessary for the petitioner to want to be the appointed guardian. At this stage, the person for whom the guardianship is sought is referred to as the “alleged incapacitated person” (AIP).

2. Determination of incapacity

In order to appoint a guardian, a judge or a court commissioner must find that an AIP is incapacitated. In this context, determination of incapacity is a legal decision, not a medical one. The determination focuses on an AIP’s ability to manage personal and financial matters. Although incapacity may stem from dementia, brain injury, developmental delays, or other illnesses and injuries, a medical diagnosis cannot be the sole basis for a finding of incapacity.

A hearing is required for the court to determine incapacity. An AIP is entitled to legal representation, either by a privately hired attorney, or if financial hardship exists, by a court-appointed attorney. An AIP is also entitled to a jury trial on the issue of incapacity. In advance of the hearing, the court must appoint a guardian ad litem (GAL) to investigate and make a recommendation regarding the capacity of the AIP and the appropriateness of the proposed guardian.⁸ If the court determines the AIP lacks capacity and no less restrictive alternative is available, a guardian will be appointed.⁹ A person under guardianship is referred to as an “incapacitated person.”

⁷ Washington guardianships are governed by RCW Chapters 11.88 and 11.92, statewide and local court rules, and case law.

⁸ It is important to understand the difference between a GAL and a guardian. A GAL is appointed on a short-term basis to serve as a neutral investigator for the court and to represent the AIP’s best interests for a specific purpose. Once a guardian is appointed, the GAL is dismissed. A guardian is appointed on a long-term basis to provide for an incapacitated person’s health and safety, to manage financial affairs, or to do both. The findings and recommendations in this report pertain only to guardians.

⁹ Less restrictive alternatives to guardianship, such as durable powers of attorney, are beyond the scope of this report.

3. Orders and letters

In Washington, courts appoint guardians by issuing orders of guardianship. The orders define the scope of the guardian's authority and set forth the guardian's legal responsibilities. Letters of guardianship authorize guardians to act on behalf of the incapacitated persons for whom they are responsible. Although state law expressly requires the issuance of guardianship letters to *standby* guardians (who serve if original guardians cannot), the same requirement is not expressly set forth for guardians generally. This appears to be an oversight in statutory drafting. Most Washington courts—but not all—direct court clerks to issue guardianship letters.

4. Scope of guardianship

Guardianships must be no broader than necessary to meet the needs resulting from incapacity. A guardian may be appointed for a person, a person's estate, or both. A guardianship "of the person" is required when a person is at significant risk of personal harm due to inability to adequately provide nutrition, health, housing, or physical safety. A guardianship "of the estate" is required when a person is at significant risk of financial harm due to inability to manage property or financial affairs adequately. When a person is capable of managing some, but not all, personal or financial affairs, a court may appoint a limited guardian to handle discrete areas of responsibility.

5. Duties of guardians

Consistent with their assigned responsibilities, guardians must make sure that the needs of incapacitated persons are met. Incapacitated persons may not be able to prepare meals, contact doctors, understand paperwork, make banking decisions, or handle other typical decisions and tasks. Depending on whether a guardianship is of the person, the estate, or both, a guardian may be required to make health care decisions, monitor bank accounts, or ensure that bills are paid on time.

In addition to direct responsibility for the needs of incapacitated persons, guardians have administrative obligations to courts, including the filing of initial, periodic, and final reports within specified timeframes. Depending on the scope of guardianship, guardians may be required to file inventories of incapacitated persons' estates, personal care plans for particular health needs, or reports on the guardians' spending.

6. Types of guardians

A. Professional guardians

As defined by Washington law, a professional guardian is a guardian who charges fees for providing services to three or more incapacitated persons who are not the guardian's family members. Guardianship fees are generally paid from the funds of the incapacitated person under guardianship, subject to court approval.

Professional guardians must be certified by the Washington State Certified Professional Guardian Board (CPG Board).¹⁰ Professional guardians may work independently or with a professional guardianship agency that has also been certified by the CPG Board.¹¹

Among other certification requirements, mandatory training is required for professional guardians. The initial training program covers fiduciary responsibilities, navigation of social and health services, legal and regulatory requirements, ethical standards, and constructive problem solving.¹² To maintain certification, professional guardians must meet continuing education requirements.

B. Lay guardians

Lay guardians (also known as nonprofessional guardians) are typically family members or friends who serve without pay. Under state law, lay guardians are not required to receive training. However, a few counties have instituted training requirements for lay guardians in local court rules.

Many lay guardians adapt well to their responsibilities. However, according to comments from judicial officers and experienced guardianship attorneys, it is not uncommon for lay guardians to sometimes feel lost in the guardianship process. Guardians have a broad range of responsibilities that are set forth in complicated statutes and, for some counties, in local rules. Without a statewide training requirement for lay guardians, there is no assurance that lay guardians know or understand their responsibilities.

¹⁰ Appointed by the State Supreme Court, the CPG Board adopts regulations and practice standards, sponsors trainings, issues advisory opinions, and reviews grievances against professional guardians. More information about the CPG Board is available at http://www.courts.wa.gov/programs_orgs/Guardian/?fa=guardian.CPGBoard.

¹¹ Certain financial institutions regulated under separate state or federal laws may serve as professional guardians without obtaining certification from the CPG Board.

¹² See University of Washington Professional & Continuing Education, Certificate in Guardianship, http://outreach.washington.edu/ext/certificates/gr2/gr2_gen.asp.

7. Court oversight

Courts are responsible for overseeing guardians to ensure they discharge their duties to incapacitated persons. Much of the information needed for court oversight should be provided in the periodic reports that guardians are statutorily obligated to file. Although state law *permits* guardians to seek court orders approving such reports, there is no statutory requirement that guardians do so. Without a requirement of court approval, there is no practicable way to know the extent to which guardians' reports are timely, complete, and accurate. Nor is there a way to determine the extent to which courts actually review the information submitted by guardians or the level of scrutiny courts apply.¹³

In certain counties, however, approval of reports and accounts is required either in practice or by local rule. During one court's approval process, a judge discovered that a lay guardian was taking out "loans" from an incapacitated person's account. Because of this discovery, the court was able to put certain protections in place before the person's assets were wholly lost.

Court approval of reports provides benefits beyond opportunities to catch negligence or intentional wrongdoing. As part of the approval process, courts can assist well-meaning but inexperienced guardians who need guidance in fulfilling their duties.

8. Complaints and requests

Any person, including an incapacitated person, may communicate with a court to make a complaint, ask for replacement of a guardian, or request modification or termination of a guardianship. In response, courts may hold hearings, appoint GALs to investigate, or take emergency action. Unless courts direct otherwise, clerks must schedule hearings within thirty days of receiving complaints and requests.

If a person with a guardianship complaint or request is represented by an attorney, a formal motion is required. An attorney who files a guardianship-related motion generally takes responsibility to ensure that the issues presented in the motion are addressed by the court. A person without an attorney is permitted to submit an informal written complaint or request about a guardianship. This informal procedure is designed to make it easy to bring guardianship problems to a court's attention. Although clerks must forward complaints from unrepresented persons to judicial officers within one day of receipt, it is not clear whether this happens uniformly in practice.

¹³ The CPG Board recently adopted regulations authorizing random reviews of professional guardians' cases to determine whether reports are being timely filed. Apart from these reviews, the Board does not ordinarily monitor the activities or court filings of professional guardians unless a grievance has been filed. The CPG Board's grievance procedure is discussed on page 9.

An individual with a complaint against a certified professional guardian has an additional option of filing a grievance with the CPG Board. Although the Board has authority to investigate, take disciplinary action, and impose sanctions, the Board is not a substitute for individual courts. The Board will ordinarily defer to individual courts' decisions concerning allegations of statutory violations or other misconduct.

9. The Office of Public Guardianship

For incapacitated persons with little income and few resources, the options for obtaining guardianship services are quite limited. Some guardians voluntarily waive their fees and provide services on a pro bono basis. A small number of incapacitated persons receive services through the Office of Public Guardianship (OPG), which was created by the Legislature in 2007 as a program of the Administrative Office of the Courts (AOC).

The Legislature funded guardianship services on a pilot basis for individuals who are alone (without family members or friends to serve as volunteers) and poor (without the means to pay for needed services). In 2008, the OPG began to contract with certified professional guardians to provide services in several counties. Expansion of the program continued into the first part of 2009.

Despite broad legislative and public support, the public guardianship program was dramatically curtailed in response to a significant reduction in AOC funding in the 2009-11 biennial budget. While the AOC continues to fund existing OPG cases (approximately 50 cases statewide), it has announced that it will not authorize additional cases in the next biennium. As a result, thousands of Washington residents who are incapacitated, impoverished, and alone continue to lack guardianship services.¹⁴

The statute that created the OPG requires a study of the costs and off-setting savings to the state from the delivery of public guardianship services. One issue the study will analyze is whether public guardianship services saves money by reducing the number or type of hospital admissions of incapacitated persons. The study is expected to go forward, but in light of the small number of OPG cases, it will be difficult to ascertain the level of savings the state might obtain through the public guardianship program.

¹⁴ This estimate is based on the Elder Law Section's 2005 Public Guardianship Task Force Report. Additional information about the Office of Public Guardianship is available at www.courts.wa.gov/committee/?fa=committee.home&committee_id=136.

SURVEY FINDINGS

The Guardianship Task Force administered the guardianship survey by email and postal mail in early 2008. The response rate was 85%, with surveys returned from thirty-three of thirty-nine counties. Information was provided by clerks, administrators, commissioners, and judges. In areas where particular clarification was needed, follow-up interviews were conducted by phone. Significant findings are described below.

1. Mostly passive court oversight

Survey responses revealed that in most counties, virtually no active monitoring of guardianships occurs. Fifteen counties reported that they lacked procedures for monitoring compliance with guardianship responsibilities. Among the counties that reported some form of monitoring, approaches were quite varied. Reported practices included periodic file review and varying degrees of judicial oversight of reporting deadlines.

2. Active monitoring in some counties

Five counties reported a range of more active approaches, such as reminding guardians of upcoming deadlines, notifying guardians of noncompliance, and verifying reported information through calls or in-person visits with incapacitated persons. In a small number of counties, guardianship-specific software is used to track activity in guardianship cases.

Among the counties that engage in some form of monitoring, the activities are performed by individuals with various levels of legal, financial, and other types of expertise and training. Counties reported that monitoring activities are conducted by lawyers, lay volunteers, court clerks, court commissioners, and judges.

In one county, a guardianship monitoring program discovered that a man who was guardian of his 98-year-old stepmother had failed to file court-required financial plans. Further investigation showed that he was \$30,000 behind in payments to her nursing home. A subsequent criminal investigation resulted in the guardian's conviction for stealing more than \$200,000 from the guardianship estate.¹⁵ This example illustrates how guardianship monitoring programs can uncover problems that might otherwise go unnoticed.

¹⁵ Gregg Herrington, *Old and Exploited*, Columbian (Clark Co.), Nov. 16, 2003, at A6.

3. Lack of definitive complaint procedures

Very few counties provided detailed information about procedures for investigating, processing, or tracking complaints. Several counties identified referral of written complaints to judicial officers as the sole means of investigation. A few counties indicated that guardians ad litem might be appointed for further investigation. One county indicated that complaints are simply investigated by the parties. Although clerks are required to forward complaints from unrepresented persons to judicial officers within one day of receipt, the Task Force could not determine the extent to which this occurs in practice.

Almost two-thirds of the counties responding to the survey indicated that they have no means of tracking the outcomes of complaints, although one of these counties reported plans to develop a tracking system in the near future. A few counties indicated that tracking complaint outcomes would require manual file review.

In contrast to most counties, one county utilizes a written complaint protocol that includes procedures for receiving complaints, deadlines for processing them, and mandatory reporting of their resolution to a volunteer monitoring committee. With the exception of that county, no county reported procedures for handling complaints within specified timeframes.

Examples of complaints include accusations of misuse of finances, nonpayment of rent and utility bills, and failure to pay for prescription medications and other health needs. Other complaints involved incapacitated persons objecting to the need for guardianship or the actions of particular guardians. Financial disputes with assisted living facilities were also mentioned.

4. Lack of basic information

The survey revealed that most Washington counties do not collect, maintain, or analyze statistical guardianship data. The lack of basic guardianship information makes it difficult to determine the extent to which the needs of vulnerable incapacitated persons are being met.

A majority of Washington counties reported the total number of existing guardianships, but several did so based on estimates. Most counties could not readily determine how many active guardianships were full or limited, how many were of the estate, of the person, or both, or how many involved professional or lay guardians.

Very few counties provided guardianship data specifically related to complaints. For five counties, responders to the survey were unaware of how many complaints had been filed during the four-year period covered by the survey or had no basis on which to provide an estimate. Fifteen counties reported a range of zero to three guardianship complaints, whereas one county reported that twenty-two complaints had been filed. The county reporting twenty-two complaints also provided detailed information such as type of guardian involved, outcome of the complaints, and whether the court held hearings, appointed GALs, or entered written factual findings. The lack of similar data collection in other counties leaves many questions unanswered.

Several counties reported that compilation of statistical data would require time-intensive manual searches through paper files. Others reported that current case management systems are incapable of managing detailed guardianship data.

RECOMMENDATIONS

Washington's guardianship practices and procedures vary in ways not necessitated by any distinctively local needs. Existing practices and procedures are often not adequate to promote the protection of the vulnerable individuals served by the guardianship system. To allow for ongoing evaluation and improvement of the current system, the Task Force offers the following recommendations.

1. Courts should actively monitor guardianship cases through use of the following essential practices:

A. Use of expiring guardianship letters combined with mandatory approval of annual filings

- i. Letters of guardianship should be prepared by court clerks and issued for all guardianships. Guardianship letters should expire 120 days after the annual deadlines for filing accounts and reports.
- ii. Guardians should receive sufficient notice of the expiration dates of guardianship letters, including conspicuous identification of such dates in orders appointing guardians and in guardianship letters. The AOC should amend the model order appointing guardians (WPF GDN 04.0100) to allow inclusion of expiration dates for guardianship letters.
- iii. Guardians should be required to seek court approval of the statutorily required financial accounts and personal status reports that must be filed on an annual basis.¹⁶
- iv. Orders approving annual accounts and reports should direct issuance of new guardianship letters and prominently identify new expiration dates. The AOC should amend the model order approving reports, accountings, and budgets (WPF GDN 05.0400) accordingly.

B. Tracking deadlines and expiration dates – Based on information identified in guardianship orders, clerk's office staff should enter all filing deadlines and expiration dates into a uniform, statewide data management system. The system should produce automated reminders to notify court staff of overdue accounts and reports and impending expiration of guardianship letters. (See Recommendation 2 for related recommendations.)

¹⁶ This report refers to annual filing deadlines for accounts and reports. In certain cases, courts have discretion to allow filing intervals of up to 36 months.

- C. *Enforcing compliance* – In response to overdue accounts and reports, courts should schedule compliance hearings, which could be cancelled if guardians file the overdue accounts and reports and obtain court approval in advance of the hearings. In response to failures to fulfill guardianship duties, courts should employ a graduated range of remedies, including training, sanctions, or removal.
- D. *Conducting guardianship audits* – Adequately trained court staff should audit guardianships on a random basis and in response to complaints. Audits should include file reviews and in-person visits to incapacitated persons preceded by short-term notice. Guardianship audits should be explicitly authorized by statute or statewide court rule. Uniform requirements should govern the appointment and training of individuals who conduct in-person visits with incapacitated persons.
- E. *Maintaining adequate staffing* – In light of the vulnerability of individuals served by guardians and the confidential nature of guardianship-related information, it is essential that persons who participate in guardianship monitoring be adequately trained and held to a high level of accountability. These ends are most likely to be served when guardianship monitoring is conducted by paid staff that are closely supervised by courts. When volunteers participate in guardianship monitoring, it is essential that adequate resources be dedicated to volunteer recruitment, screening, training, supervision, and retention.
- F. *Avoiding burdens on incapacitated persons* – Monitoring requirements and procedures can impose unnecessary burdens and costs on incapacitated persons and their families. When designing monitoring systems, careful consideration should be given to the burdens they may impose on incapacitated persons.
- G. *Following uniform procedures for complaints, concerns, and requests* – The procedures set forth in RCW 11.88.120 should be followed on a uniform, statewide basis for all motions and other written communications that convey guardianship-related complaints, concerns, and requests.
- i. In addition to the options currently provided in RCW 11.88.120 (filing motions and delivering written requests), unrepresented persons should have the option of using a pattern form to convey concerns, complaints, and requests to courts. The AOC should develop and provide such a form in accordance with Recommendation 2.
 - ii. The AOC should develop a model order for courts to use in response to motions and other written communications that convey guardianship-related complaints, concerns, and requests. The model order should be designed in accordance with Recommendation 2.

2. Reliable guardianship data should be available on a uniform, statewide basis.

- A. *Data management system* – The AOC should provide and courts should be required to use an appropriate database management system to collect, store, and retrieve guardianship data.
- B. *Data categories* – Courts should collect data in at least the following areas: guardianship status (active, closed); guardian type (lay, private, public); scope of authority (person, estate; full, limited); reasons for guardianship;¹⁷ guardianship complaints and concerns;¹⁸ and active monitoring measures.¹⁹
- C. *Pattern forms and model orders* – The AOC should provide and encourage the use of a variety of pattern forms and model orders, which should be designed to facilitate the efficient collection of uniform, statewide guardianship data.

3. Training should be required for lay guardians and made readily available to judicial officers and other court personnel.

- A. *Requirements for lay guardians* – At a minimum, lay guardians should be required to review a guardianship reference manual or an instructional video and submit a declaration of proposed guardian in which they certify to courts that they have completed the minimum training requirements. Courts should be encouraged to provide in-person training. Courts should exercise discretion to waive training requirements for individual guardians.

¹⁷ Reasons for guardianships might be delineated by dementia, developmental disabilities, injuries, age of minority, medical conditions, and mental illness.

¹⁸ This category of data might be delineated by complainant type (family member, friend, incapacitated person, service provider); guardian type (lay, professional, public); form of communication (motion, written request, pattern form); timing of clerk's delivery to court (by next business day, by other time); action requested (modification, termination, guardian replacement, court instruction); issue addressed (abuse, neglect, mismanagement); court response (hearing scheduled, application denied without hearing, guardian ad litem appointed); and remedy ordered (modification, termination, guardian replacement, restoration of rights, training, sanctions).

¹⁹ This category might include data for key case events such as deadlines for filing accounts and reports; expiration dates for guardianship letters; and audit dates, activities, and outcomes.

- B. *Training Materials* – In consultation with judicial officers, bar associations, advocacy organizations, and human services agencies, the AOC should develop and provide a reference manual and an instructional video for lay guardians, and other training materials for judicial officers and court personnel.²⁰
- C. *Accessibility* – Training materials should be available on a uniform, statewide basis in a variety of formats and languages consistent with the various needs of intended audiences. In particular, the reference manual and instructional video for lay guardians should be available online and, when needed, in hardcopy.

4. The Office of Public Guardianship should be supported and expanded.

A guardianship system that lacks the capacity to provide adequate services to residents who are alone and poor is unacceptable. An adequate and dedicated appropriation to the Office of Public Guardianship is needed.

5. Adequate public funding should be allocated to the guardianship system.

- A. *Increased funding* – Funding for the guardianship system should be increased and allocated to the AOC directly from the State’s general fund and specifically designated for guardianship purposes.
- B. *Short-term alternatives* – Given the current fiscal climate, the State should increase funding for the guardianship system through temporary allocations from dedicated revenue sources, such as supplemental fees for court filings and monitoring fees assessed against guardianship estates.

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²⁰ Training content for lay guardians might include an introduction to guardianship, the statutory requirements for all guardians, and an overview of other issues such as abuse and neglect of vulnerable adults, government and community services and resources, identification of residential placement options, rights of incapacitated persons, and standards for substitute decision-making.

Training topics for judicial officers might include an overview of factors underlying the need for guardianships, the use of limited guardianships and guardianship alternatives, the rights of incapacitated persons, and active guardianship monitoring.

Training for court personnel, including administrators and clerks, might include guardianship case management, active guardianship monitoring, and uniform procedures for data management.

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** The recommendations in this report reflect the individual positions of task force members and do not necessarily reflect the policies or opinions of the members' offices, courts, or agencies.*