



# **APPENDIX A**

## **Court Questionnaire**

# APPENDIX A: COURT QUESTIONNAIRE

## ACUS GUARDIANSHIP SURVEY 2014

OMB No. 0960-0788

### **Administrative Conference of the United States Survey of State Court Adult Guardianship Practices**

The Administrative Conference of the United States (Administrative Conference) is an independent federal agency dedicated to improving federal administrative processes through consensus-driven applied research, and provision of nonpartisan expert advice and recommendations to federal agencies. The Social Security Administration (SSA) has asked the Administrative Conference to study state court practices relating to adult guardianships and conservatorships with an eye toward suggesting potential enhancements in information sharing or coordination on overlapping guardianship-representative payee matters.

The Administrative Conference, in partnership with the National Center for State Courts and the Conference of State Court Administrators, requests your participation in this online survey. The goals of this survey are twofold: (1) to gather information on state court practices concerning selection, monitoring, and sanctioning of adult guardians/conservators; and (2) to explore possibilities for greater sharing of information and coordination between SSA and state courts.

We ask that you complete the survey before its closing date of Friday, August 29, 2014. We thank you in advance for your assistance. If you have questions about this survey, please contact Dr. Brenda K. Uekert at [buekert@ncsc.org](mailto:buekert@ncsc.org) or 757-259-1861.

#### **Instructions**

**Definitions.** Because guardianship terminology varies considerably across the country, for purposes of this survey, the following key terms are defined as follows:

"Guardian" is an individual or organization appointed by a court to exercise some or all powers over the person and/or the estate of an adult determined by a court to lack capacity to make decisions on a temporary or permanent basis. When the term "guardian" or "guardianship" is used in survey questions, it should be read broadly to cover both guardians of the person and of the estate.

- "Guardian of the Person" is a guardian who possesses some or all powers with regard to the personal affairs of an adult.
- "Guardian of the Estate" is a guardian who possesses some or all powers with regard to the finances or property of an adult. (In many states, this type of guardian is referred to as a "conservator.")
- "Incapacitated Person" is an adult who has been determined by a court to lack capacity to make some or all personal and/or financial decisions and for whom a guardian has been appointed. (Some states may refer to such individuals as "persons under guardianship," "conservatees," or "wards.")

**Scope.** We understand that some judges, court officials, and others may work or serve in multiple courts. Please respond to each survey question relative to the court with which you have the greatest familiarity concerning adult guardianship practices and procedures.

## Appendix A: Court Questionnaire

### Background

#### 1. Please describe your most frequent role in the guardianship process.

- ☐ Judge/judicial officer
- ☐ Court administrator/clerk/manager
- ☐ Visitor/investigator/evaluator
- ☐ Other (please specify): \_\_\_\_\_

#### 2. State

In which state or territory do you primarily work or serve?

#### 3. In which type of court do you primarily work or serve?

- ☐ Probate court
- ☐ General jurisdiction court
- ☐ Limited jurisdiction court
- ☐ Other (please specify): \_\_\_\_\_

### B. Selection of Guardians

#### 4. In the past year, about what percentage of Guardians of the Person appointed in your court fell into the following categories?

Estimates welcome if data for actual percentages are unavailable. The percentages must equal 100. Please enter a zero for blank percentages. If selecting Other, then both description and percentage must be entered. If not selecting Other, please leave both fields blank.

Family/friends	_____
Professional guardians	_____
Public guardians (such as: public guardian offices, social service or other agencies)	_____
Volunteers (such as: pro bono attorneys, trained lay volunteers)	_____
Other (please specify): _____	_____
<input type="checkbox"/> Don't know	

#### 5. In the past year, about what percentage of Guardians of the Estate appointed in your court fell into the following categories?

Estimates welcome if data for actual percentages are unavailable. The percentages must equal 100. Please enter a zero for blank percentages. If selecting Other, then both description and percentage must be entered. If not selecting Other, please leave both fields blank.

Family/friends	_____
Professional guardians	_____
Public guardians (such as: public guardian offices, social service or other agencies)	_____
Volunteers (such as: pro bono attorneys, trained volunteers)	_____
Other (please specify): _____	_____
<input type="checkbox"/> Don't know	

## Appendix A: Court Questionnaire

**6. Generally, which statement best describes your court's practice regarding review of criminal background reports on prospective non-professional Guardians of the Estate (i.e., individuals who are not certified or licensed guardians) prior to appointment?**

- ☐ All cases
- ☐ Most cases
- ☐ Some cases
- ☐ A few cases
- ☐ No cases
- ☐ Don't know

**7. Generally, which statement best describes your court's practice regarding review of credit or financial reports on prospective non-professional Guardians of the Estate (i.e., individuals who are not certified or licensed guardians) prior to appointment?**

- ☐ All cases
- ☐ Most cases
- ☐ Some cases
- ☐ A few cases
- ☐ No cases
- ☐ Don't know

**8. Does your court or local agency have a roster or list of potential guardians (i.e., individuals or organizations that may be asked by the court to serve as guardians when needed)?**

- ☐ Yes
- ☐ No << Skip to Question 10>>
- ☐ Don't know << Skip to Question 10>>

**9. Is this roster or list of potential guardians currently available to the general public?**

- ☐ Yes, on the court's website
- ☐ Yes, at the courthouse
- ☐ Yes, both on the court's website and at the courthouse
- ☐ Yes, but from elsewhere (please specify):\_\_\_\_\_
- ☐ No, roster only for use of court personnel
- ☐ No, but can be made available to the Social Security Administration

**10. When your court appoints a guardian, does it typically inquire whether that individual or entity is also serving (or expects to serve) as a representative payee for Social Security benefits (OASDI/SSI payments) received by the Incapacitated Person?**

- ☐ All cases
- ☐ Most cases
- ☐ Some cases
- ☐ A few cases
- ☐ No cases
- ☐ Don't know

## Appendix A: Court Questionnaire

### C. Monitoring of Guardians

**11. Generally, which statement best describes your court's practice regarding whether Guardians of the Estate must file inventories at or near the time of their appointment (i.e., within 120 days)?**

- ☐ All cases
- ☐ Most cases
- ☐ Some cases
- ☐ A few cases
- ☐ No cases
- ☐ Don't know

**12. Generally, which statement best describes your court's practice regarding whether Guardians of the Estate must file annual financial accountings?**

- ☐ All cases
- ☐ Most cases
- ☐ Some cases
- ☐ A few cases
- ☐ No cases << Skip to Question 17>>
- ☐ Don't know

**13. Does your court require Guardians of the Estate to file financial accountings on specific court-provided or approved forms?**

- ☐ Yes
- ☐ No << Skip to Question 15>>
- ☐ Don't know << Skip to Question 15>>

**14. Do these financial accounting forms provide a specific line item for Social Security benefits (OASDI/SSI payments) received by an Incapacitated Person?**

- ☐ Yes, all forms
- ☐ Yes, but only some forms
- ☐ No
- ☐ Don't know

**15. Are financial accountings filed by Guardians of the Estate subject to audit or similar type of evaluation by court personnel or other authorized persons?**

- ☐ Yes, all forms
- ☐ Yes, but only some forms
- ☐ No << Skip to Question 17>>
- ☐ Don't know << Skip to Question 17>>

## Appendix A: Court Questionnaire

### 16. In your court, who typically audits or evaluates the financial accountings filed by Guardians of the Estate?

*Select all that apply.*

- ☐ Judge/judicial officer
- ☐ Court administrator/clerk/manager
- ☐ Court investigator/auditor/accountant
- ☐ Other public entity (such as: public guardian office, social service agency)
- ☐ Volunteer
- ☐ Other (please specify): \_\_\_\_\_

### D. Case Management of Guardianship

### 17. Does your court offer e-filing for any guardianship-related documents?

- ☐ Yes
- ☐ No << Skip to Question 19>>
- ☐ Don't know << Skip to Question 19>>

### 18. Which type(s) of guardianship-related documents can be e-filed in your court?

*Select all that apply.*

- ☐ Petition/application for appointment of guardian
- ☐ Acceptance of appointment by guardian
- ☐ Inventory or estate plan
- ☐ Guardianship plan
- ☐ Financial accounting (i.e., initial, annual or final)
- ☐ Report on an Incapacitated Person's status/well-being
- ☐ Other (please specify): \_\_\_\_\_
- ☐ Don't know

### 19. Does your court use an electronic case management system or database for guardianship cases?

- ☐ Yes
- ☐ Not currently, but an electronic system expected in next 3 years << Skip to Question 21>>
- ☐ No << Skip to Question 21>>
- ☐ Don't know << Skip to Question 21>>

### 20. Which statement(s) best describes the capabilities of the electronic case management system or database used in your court for guardianship cases?

*Select all that apply.*

- ☐ Records filing and disposition of guardianship cases
- ☐ Captures additional case-level data elements (such as: type of guardianship, name or age of an Incapacitated Person, nature of incapacity)
- ☐ Generates reminders of upcoming due dates
- ☐ Tracks filing of financial accountings
- ☐ Flags anomalies, errors, or potential "red flags" in financial accountings
- ☐ Other (please specify): \_\_\_\_\_
- ☐ Don't know

## Appendix A: Court Questionnaire

**21. Which statement(s) best describes the extent to which your court's files in guardianship cases, excluding confidential or sensitive information (such as: social security numbers or medical reports), are open to the public?**

*Select all that apply.*

- ☐ All or most files are open to the public, and available electronically
- ☐ All or most files are open to the public, but only available in paper form
- ☐ Guardianship files are routinely furnished to specified interested persons or government entities
- ☐ Guardianship files are sealed, but can be opened under specific circumstances with court approval
- ☐ Guardianship files are uniformly sealed, and not available to the public
- ☐ Don't know

### E. Sanctions/Removal of Guardians

#### 22. Misconduct

In the past 3 years, has your court taken actions against any guardians for misconduct, malfeasance, or serious failure to fulfill their obligations?

- ☐ Yes
- ☐ No << Skip to Question 25>>
- ☐ Don't know << Skip to Question 25>>

**23. Which of the actions listed below has your court taken in the past 3 years against guardians for misconduct, malfeasance, or serious failure to fulfill their obligations?**

*Select all that apply.*

- ☐ Issued show cause or contempt citation
- ☐ Ordered additional training
- ☐ Increased or collected bond (or other security)
- ☐ Reported to adult protective services and/or law enforcement
- ☐ Reported to bar association or other certifying/licensing body
- ☐ Suspended and appointed temporary guardian
- ☐ Removed and appointed successor guardian
- ☐ Convicted guardian of a crime against an Incapacitated Person
- ☐ Other (please specify): \_\_\_\_\_

**24. Which statement(s) best describes how your court currently keeps records on guardians removed for misconduct, malfeasance, or serious failure to fulfill their obligations?**

*Select all that apply.*

- ☐ Records kept in a computer database or other type of centralized list
- ☐ Records kept in individual guardianship case files
- ☐ Other (please specify): \_\_\_\_\_
- ☐ No records are kept
- ☐ Don't know

## Appendix A: Court Questionnaire

### F. Caseload Information

**25. For the past year, please indicate below the number for new adult guardianship filings (i.e., new cases) in your court separately for:**

*Estimates welcome if actual data are unavailable.*

*Note: Use the "Combined" column (Column C) for cases in which the same individual was appointed as both Guardian of the Person and Guardian of the Estate, or when your case management system cannot distinguish between types of adult guardianships.*

	Guardianship of Person	Guardianship of Estate	Combined Both Guardianship of Estate and Person
2013 New Filings			
Fewer than 10	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
10 to 99	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
100 to 499	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
300 to 499	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
500 or more	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Don't know	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**26. Which statement best describes the number of adult guardianship cases (including Guardianship of the Person and Guardianship of the Estate) filed in your court over the last 3 years?**

- ☐ Filings have increased
- ☐ Filings have stayed about the same
- ☐ Filings have decreased
- ☐ Don't know

**27. Please indicate below the current number of open/pending adult guardianship cases in your court separately for:**

*Estimates welcome if actual data are unavailable.*

*Note: Use the "Combined" column (Column C) for cases in which the same individual was appointed as both Guardian of the Person and Guardian of the Estate, or when your case management system cannot distinguish between types of adult guardianships.*

	Guardianship of Person	Guardianship of Estate	Combined Both Guardianship of Estate and Person
2013 Open/Pending Caseload			
Fewer than 50	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
50 to 99	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
100 to 499	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
500 to 999	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
1,000 to 1,999	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2,000 to 2,999	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3,000 or more	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Don't know	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>



## Appendix A: Court Questionnaire

28. What percentage of Guardians of the Estate currently under your court's supervision serve - with respect to the same Incapacitated Person - as both guardian and representative payee for Social Security benefits (OASDI/SSI payments)?

Estimates welcome if data for actual percentages are unavailable.

Guardians of the Estate serving in dual capacity \_\_\_\_\_

☐ Don't know

### G. Court Outreach/Community Interaction

**29. Which statement(s) best describes the extent to which officials in your court interact with community groups and local agencies (such as: long-term care ombudsmen, social service agencies, adult protective services, and guardianship associations) that regularly encounter Incapacitated Persons?**

(Select all that apply.)

- ☐ The court participates in multidisciplinary groups on guardianship-related matters
- ☐ The court has developed referral protocols with such groups
- ☐ The court collaborates with such groups from time to time
- ☐ The court has little contact with such groups
- ☐ Don't know

**30. Over the past 3 years, which statement best describes the nature and extent of your court's interaction with federal agencies (excluding the Social Security Administration) to exchange information or consult on overlapping guardianship-representative payee matters?**

- ☐ Systematic and frequent
- ☐ Systematic but infrequent
- ☐ Case-by-case basis and frequent
- ☐ Case-by-case basis but infrequent
- ☐ None (i.e., no interaction with federal agencies in past 3 years) << Skip to Question 33>>
- ☐ Don't know << Skip to Question 33>>

**31. Please list the federal agency(ies) your court has interacted with during this period and briefly summarize the nature of such interactions.**

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**32. Over the past 3 years, which statement best describes the nature and extent of your (or your staff's) interaction with the Social Security Administration to exchange information or consult on overlapping guardianship-representative payee matters?**

- ☐ Systematic and frequent
- ☐ Systematic but infrequent
- ☐ Case-by-case basis and frequent
- ☐ Case-by-case basis but infrequent
- ☐ None (i.e., no interaction with Social Security Administration in past 3 years)
- ☐ Don't know

## Appendix A: Court Questionnaire

**33. Do you think that enhanced coordination or sharing of information between you (or your staff) and the Social Security Administration would be beneficial?**

- ☐ Yes  
☐ No      << Skip to Question 35>>  
☐ No opinion      << Skip to Question 35>>

**34. Please briefly describe the kinds of coordination or information sharing with the Social Security Administration that you think would be most helpful.**

**35. Please provide any additional comments you may have concerning your court's guardianship program or any other topic related to the survey.**

**36. If you would like to receive a copy of the survey results, please provide your email address below.**

Email: \_\_\_\_\_

**37. If you would like to be contacted by Administrative Conference staff to discuss your survey responses, or, more generally, your court's guardianship program, please provide your name and contact information below.**

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Work phone: \_\_\_\_\_  
Email address: \_\_\_\_\_

Paperwork Reduction Act Statement - This survey, cleared under OMB No. 0960-0788, meets the requirements of 44 U.S.C. § 3507, as amended by section 2 of the Paperwork Reduction Act of 1995. Participation in this activity is voluntary. We estimated that it would take approximately 10 - 30 minutes to complete. If you would like to comment on our time estimate, please send your comments to: SSA, 6401 Security Blvd., Baltimore, MD 21235-6401.



## **APPENDIX B**

# **GUARDIAN QUESTIONNAIRE**

## APPENDIX B: GUARDIAN QUESTIONNAIRE

### ACUS GUARDIANSHIP SURVEY 2014 - GUARDIANS

OMB No. 0960-0788

#### Intro

Administrative Conference of the United States Survey of State Court Adult Guardianship Practices

The Administrative Conference of the United States (Administrative Conference) is an independent federal agency dedicated to improving federal administrative processes through consensus-driven applied research, and provision of nonpartisan expert advice and recommendations to federal agencies. The Social Security Administration (SSA) has asked the Administrative Conference to study state court practices relating to adult guardianships and conservatorships with an eye toward suggesting potential enhancements in information sharing or coordination on overlapping guardianship-representative payee matters.

The Administrative Conference, in partnership with the National Center for State Courts, requests your participation in this online survey. The goals of this survey are twofold: (1) to gather information on state court practices concerning selection, monitoring, and sanctioning of adult guardians/conservators; and (2) to explore possibilities for greater sharing of information and coordination between SSA and state courts.

Please complete the survey by Friday, August 29, 2014. We thank you in advance for your assistance. If you have questions about this survey, please contact Amber Williams, [awilliams@acus.gov](mailto:awilliams@acus.gov) or 202-480-2097.

#### Instructions

Definitions. Because guardianship terminology varies considerably across the country, for purposes of this survey, the following key terms are defined as follows:

- ◆ "Guardian" is an individual or organization appointed by a court to exercise some or all powers over the person and/or the estate of an adult determined by a court to lack capacity to make decisions on a temporary or permanent basis. When the term "guardian" or "guardianship" is used in survey questions, it should be read broadly to cover both guardians of the person and of the estate.
- ◆ "Guardian of the Person" is a guardian who possesses some or all powers with regard to the personal affairs of an adult.
- ◆ "Guardian of the Estate" is a guardian who possesses some or all powers with regard to the finances or property of an adult. (In many states, this type of guardian is referred to as a "conservator.")
- ◆ "Incapacitated Person" is an adult who has been determined by a court to lack capacity to make some or all personal and/or financial decisions and for whom a guardian has been appointed. (Some states may refer to such individuals as "persons under guardianship," "conservatees," or "wards.")

Scope. We understand that some guardians may work or serve in multiple courts. Please respond to each survey question relative to the court with which you have the greatest familiarity concerning adult guardianship practices and procedures.

## Appendix B: Guardian Questionnaire

### BACKGROUND INFORMATION

**1. In which state or territory do you primarily work or serve?**

**2. In which type of court do you primarily work or serve?**

- ☐ Probate court
- ☐ General jurisdiction court
- ☐ Limited jurisdiction court
- ☐ Other (please specify): \_\_\_\_\_

### SELECTION OF GUARDIANS

**3. Does your court or local agency have a roster or list of potential guardians (i.e., individuals or organizations that may be asked by the court to serve as guardians when needed)?**

**Yes**

- ☐ No
- ☐ Don't know

**4. Is this roster or list of potential guardians currently available to the general public?**

- ☐ Yes, on the court's website
- ☐ Yes, at the courthouse
- ☐ Yes, both on the court's website and at the courthouse
- ☐ Yes, but from elsewhere (please specify): \_\_\_\_\_
- ☐ No, roster only for use of court personnel
- ☐ No, but can be made available to the Social Security Administration

**5. When your court appoints a guardian, does it typically inquire whether that individual or entity is also serving (or expects to serve) as a representative payee for Social Security benefits (OASDI/SSI payments) received by the Incapacitated Person?**

- ☐ All cases
- ☐ Most cases
- ☐ Some cases
- ☐ A few cases
- ☐ No cases
- ☐ Don't know

### MONITORING OF GUARDIANS

**6. Generally, which statement best describes your court's practice regarding whether Guardians of the Estate must file inventories at or near the time of their appointment (i.e., within 120 days)?**

- ☐ All cases
- ☐ Most cases
- ☐ Some cases
- ☐ A few cases
- ☐ No cases
- ☐ Don't know

## Appendix B: Guardian Questionnaire

**7. Generally, which statement best describes your court's practice regarding whether Guardians of the Estate must file annual financial accountings?**

- ☐ All cases
- ☐ Most cases
- ☐ Some cases
- ☐ A few cases
- ☐ No cases
- ☐ Don't know

**8. Does your court require Guardians of the Estate to file financial accountings on specific court-provided or approved forms?**

- ☐ Yes
- ☐ No << Skip to Question 10>>
- ☐ Don't know << Skip to Question 10>>

**9. Do these financial accounting forms provide a specific line item for Social Security benefits (OASDI/SSI payments) received by an Incapacitated Person?**

- ☐ Yes, all forms
- ☐ Yes, but only some forms
- ☐ No
- ☐ Don't know

**10. Are financial accountings filed by Guardians of the Estate subject to audit or similar type of evaluation by court personnel or other authorized persons?**

- ☐ Yes, all forms
- ☐ Yes, but only some forms
- ☐ No
- ☐ Don't know

### CASE MANAGEMENT OF GUARDIANSHIP

**11. Does your court offer e-filing for any guardianship-related documents?**

- ☐ Yes
- ☐ No
- ☐ Don't know

**12. Which type(s) of guardianship-related documents can be e-filed in your court?**

*Select all that apply.*

- ☐ Petition/application for appointment of guardian
- ☐ Acceptance of appointment by guardian
- ☐ Inventory or estate plan
- ☐ Guardianship plan
- ☐ Financial accounting (i.e., initial, annual or final)
- ☐ Report on an Incapacitated Person's status/well-being
- ☐ Other (please specify): \_\_\_\_\_
- ☐ Don't know

## Appendix B: Guardian Questionnaire

### COURT OUTREACH/COMMUNITY INTERACTION

**13. Over the past 3 years, which statement best describes the nature and extent of your (or your staff's) interaction with the Social Security Administration to exchange information or consult on overlapping guardianship-representative payee matters?**

- ☐ Systematic and frequent
- ☐ Systematic but infrequent
- ☐ Case-by-case basis and frequent
- ☐ Case-by-case basis but infrequent
- ☐ None (i.e., no interaction with Social Security Administration in past 3 years)
- ☐ Don't know

**14. Do you think that enhanced coordination or sharing of information between you (or your staff) and the Social Security Administration would be beneficial?**

- ☐ Yes
- ☐ No
- ☐ No opinion

**15. Please briefly describe the kinds of coordination or information sharing with the Social Security Administration that you think would be most helpful.**

**16. Please provide any additional comments you may have concerning your court's guardianship program or any other topic related to the survey.**

**17. If you would like to receive a copy of the survey results, please provide your email address below.**

Email: \_\_\_\_\_

**18. If you would like to be contacted by Administrative Conference staff to discuss your survey responses, or, more generally, your court's guardianship program, please provide your name and contact information below.**

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Work phone: \_\_\_\_\_  
Email address: \_\_\_\_\_

Paperwork Reduction Act Statement - This survey, cleared under OMB No. 0960-0788, meets the requirements of 44 U.S.C. § 3507, as amended by section 2 of the Paperwork Reduction Act of 1995. Participation in this activity is voluntary. We estimated that it would take approximately 10 - 30 minutes to complete. If you would like to comment on our time estimate, please send your comments to: SSA, 6401 Security Blvd., Baltimore, MD 21235-6401.



# **APPENDIX C**

## **INTRODUCTORY LETTER TO STATE COURT ADMINISTRATORS**



Mary Campbell McQueen  
President

**Tom M. Clarke, Ph.D.**  
Vice President  
Research and Technology  
Williamsburg Office

June 17, 2014

Dear COSCA Colleagues:

The National Center for State Courts, working in partnership with the Administrative Conference of the United States (ACUS), requests your assistance with the administration of a survey on adult guardianship practices. The ACUS has been engaged by the Social Security Administration (SSA) to collect information on state court adult guardianship practices, with the aim of improving information sharing and coordination between the SSA and state courts.

The COSCA Board has reviewed the survey and its purposes and endorses this effort. The Board recommends that you support this project by encouraging participation from a range of courts in your state. Survey implementation details follow on the next page.

As many of you may already know, there is much work that needs to be done in the expanding adult guardianship area. The proposed survey is a very comprehensive one that addresses important guardianship issues, such as selection of guardians, monitoring, case management, sanctions/removal, caseload information and outreach. Being involved in my state's task force on adult guardianships in Pennsylvania, I am well aware of the need for better communication and coordination on guardianship matters with federal agencies, particularly the Social Security Administration. It is gratifying that there is federal sensitivity to this pressing need.

The survey seeks broad representation from judges/judicial officers and court administrators who oversee adult guardianship cases. Please designate an individual in your office who will be responsible for distributing the survey. We ask that the designated staff identify themselves by sending an email to our survey manager, Dr. Brenda Uekert, at the email address listed below, no later than **June 27**. We hope that your assistance and encouragement of participation will provide ACUS with a robust sample. The survey will be conducted this summer and results of the survey will be shared with you when they become available later this year.

Thank you for assisting us in this project. If you have any questions, please feel free to contact Dr. Uekert at [buekert@ncsc.org](mailto:buekert@ncsc.org) or 757-259-1861.



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Center House  
111 Second Street NE  
Washington, DC 20002-7303  
(866) 941-0229

[www.ncsc.org](http://www.ncsc.org)

## Guardianship Survey Implementation

Survey Title      **Survey of State Court Adult Guardianship Practices**

Website Link      <http://survey.confirmat.com/wix0/p3069512830.aspx>

Survey Materials      NCSC will provide all materials and technical assistance, including draft cover letters to potential participants with survey link and draft follow-up emails for your customization and use.

Survey Contact      Please designate your point of contact for this survey and advise Dr. Brenda Uekert, at [buekert@ncsc.org](mailto:buekert@ncsc.org) or 757-259-1861 no later than June 27.

### Suggested AOC Distribution Options:

Option A      Identify a select group of judges, court administrators, and/or court visitors/investigators to complete the questionnaire. Send the introductory email, cover letter with survey link, and follow-up reminders to the selected individuals.

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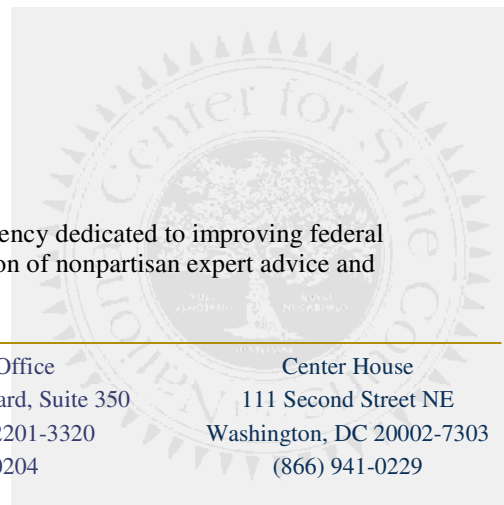
Option B      Send the introductory email, cover letter with survey link, and follow-up reminders to appropriate distribution lists within your state (for example, presiding judges, probate judges, court administrators, court investigators). Encourage those who work on adult guardianship matters to participate in the survey.

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If you have any questions, please feel free to contact Dr. Brenda Uekert at  
[buekert@ncsc.org](mailto:buekert@ncsc.org) or  
757-259-1861.

### About the ACUS

The Administrative Conference of the United States is an independent federal agency dedicated to improving federal administrative processes through consensus-driven applied research, and provision of nonpartisan expert advice and recommendations to federal agencies.



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# **APPENDIX D**

## **INSTRUCTIONS FOR STATE COURT POINTS OF CONTACT**

Mary Campbell McQueen  
President

**Tom M. Clarke, Ph.D.**  
Vice President  
Research and Technology  
Williamsburg Office

June 10, 2014

Dear AOC Survey Contact:

We appreciate your help in distributing the survey on state court adult guardianship practices. We are seeking participation from judges and court staff who work on adult guardianship cases and prefer representation from a variety of jurisdictions. Based on your preferences and the availability of statewide distribution lists, we suggest the following options for distribution.

Distribution Options:

Option A	Identify a select group of judges, court administrators, and court visitors/investigators to complete the questionnaire. Send the introductory email (provided) and survey link to each individual. Send follow-up reminders as necessary.
Option B	Send the introductory email (provided) and survey link to appropriate distribution lists within your state (for example, presiding judges, probate judges, court administrators, court investigators). Encourage those who work on adult guardianship matters to participate in the survey. Send follow-up reminders as necessary.

We are attaching the following items that will help with distribution efforts:

- Introductory cover letter (with survey link) that you can send to individuals or distribution lists.
- Reminder emails 1 and 2 that you may send as follow-up prompts.
- Excel documentation spreadsheet. Please record details in regard to the distribution of the survey in this document (distribution option, date survey sent, email follow-ups, number of judges and court staff on distribution list).

Our recommended timeframe for the administration of the survey follows:

- Tuesday, July 8: Initial distribution	-Tuesday, August 5: Email prompt 2
- Tuesday, July22: Email prompt 1	- Friday, August 29: Survey closes

Thank you for distributing the survey. Please send the completed Excel documentation to me at [buekert@ncsc.org](mailto:buekert@ncsc.org). Feel free to contact me with any questions at that email address or at 757-259-1861.

Respectfully,



Brenda K. Uekert, PhD  
Principal Court Research Consultant

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# **APPENDIX E**

## **COVER LETTER FOR JUDGES AND COURT STAFF**

Mary Campbell McQueen  
President

**Tom M. Clarke, Ph.D.**  
Vice President  
Research and Technology  
Williamsburg Office

RE: ACUS Survey of State Court Adult Guardianship Practices

The National Center for State Courts (NCSC), working in partnership with the Conference of State Court Administrators and the Administrative Conference of the United States (ACUS), requests your participation in an online survey on adult guardianship practices. The Social Security Administration (SSA) has asked the ACUS to collect information on state court guardianship practices, with the aim of improving information sharing and coordination between SSA and state courts. The ACUS seeks broad representation from judges/judicial officers and court managers and staff who handle adult guardianship cases.

The majority of survey questions focus on your practices and experiences in adult guardianship cases. However, a few items pertain to caseload estimates and filing trends. To make efficient use of your time, we recommend that you have estimates of the caseload proportion by type of guardian/conservator and the number of filings and open/pending cases for guardianships and conservatorships available in advance. The survey also explores data that may exist on the percentage of persons who serve as both conservator and representative payee for Social Security benefits. If actual data does not exist or is difficult to retrieve, estimates are acceptable. Details of the survey follow:

Link to Survey: <http://survey.confermit.com/wix0/p3069512830.aspx>  
Time to Complete: Approximately 20 minutes – please complete in one session  
Submit Before: Friday August 29, 2014

We thank you for your contributions to this project. If you have questions or would like a copy of survey results, please contact me at [buekert@ncsc.org](mailto:buekert@ncsc.org) or 757-259-1861.

Respectfully,



Brenda K. Uekert, PhD  
Principal Court Research Consultant

**About the ACUS**

The Administrative Conference of the United States is an independent federal agency dedicated to improving federal administrative processes through consensus-driven applied research, and provision of nonpartisan expert advice and recommendations to federal agencies.

**About the NCSC**

The National Center for State Courts is an independent, nonprofit court improvement organization, whose efforts are directed by collaborative work with the Conference of Chief Justices, the Conference of State Court Administrators, and other leadership associations.

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## **APPENDIX F**

### **COVER LETTER FOR GUARDIANS**



The National Guardianship Association, working in partnership with the Administrative Conference of the United States (ACUS) and the National Center for State Courts (NCSC), requests your participation in an important online survey regarding adult guardianship practices. ACUS is an independent federal agency dedicated to improving federal administrative processes through consensus-driven applied research, and provision of nonpartisan expert advice and recommendations to the federal government. NCSC is an independent, nonprofit court improvement organization, whose efforts are directed by collaborative work with the Conference of Chief Justices, the Conference of State Court Administrators, and other leadership associations.

The Social Security Administration (SSA) has asked ACUS to collect information on state court guardianship practices, with the aim of improving information sharing and coordination between SSA and state courts. The majority of survey questions focus on your practices and experiences in adult guardianship cases. For your information, a separate survey of state court administrators (administered by NCSC) is already underway, and the response so far has been tremendous. Details for participating in the adult guardianship survey are noted below.

Link to Survey: <http://survey.confirmat.com/wix/p3069730378.aspx>

Time to Complete: Approximately 20 minutes – please complete in one session

Submit Before: Friday, August 29, 2014

We thank you in advance for your contributions to this project. We need your help to identify ways in which we can communicate better with our federal partners and better serve our stakeholders. If you have questions, please contact Amber G. Williams at [awilliams@acus.gov](mailto:awilliams@acus.gov) or (202) 480-2097.

**174 Crestview Drive, Bellefonte, PA 16823-8516**  
**Toll Free: 877-326-5992 / Fax: 814-355-2452**  
**Email: [info@guardianship.org](mailto:info@guardianship.org) / [www.guardianship.org](http://www.guardianship.org)**

You have been included in this message because of your interest in NGA. If you wish to unsubscribe, [click here](#). This email was sent by the National Guardianship Association, 174 Crestview Drive, Bellefonte, PA 16823.





# **APPENDIX G**

## **COMMENTS ABOUT ENHANCED COORDINATION WITH SSA**

## Appendix G: Comments about Enhanced Coordination with SSA

Q34: Please briefly describe the kinds of coordination or information sharing with the SSA that you think would be most helpful.

### Theme: Case Information

#### Court Respondents

- Payee for the ward.
- to where checks have been mailed, amount of checks, any signatures on checks other than ward or guardian
- for ss to have name and info about appt conservator
- All federal and state benefits available to the ward
- Current Rep payee contact information available to court. Identification of the rep payee.
- As to representative payee status in an individual's circumstances. Sometimes a court-ordered guardianship/conservatorship might be avoided in certain situations.
- Payee history information. Ward history information relevant to potential guardians.
- Condition of recipient, family of recipient, benefits available
- name of payee for ward
- Amount of benefits and identity of payee
- I would be great if the local Court had information as to the payee. If the payee and guardian are the same and the court was receiving information that question the action of the guardian's expenditures, it would be wonderful to confer with the SSA as to concerns.
- INFORMATION AS TO BENEFITS THE WARD RECEIVES.
- The amount of SS, SSI or SSD that the individual receives would help the Court and the conservator determine what financial situation the conserved person is in.
- WHO THE REP PAYEE IS
- Verify payee.
- Having SSA share the designated Payee
- Anything that could be shared relating to individuals who have open guardianship cases would be helpful.
- Written information and availability of a contact person if there are any questions.
- Shared information about the Guardian/ Rep Payee
- access to applications and status of applicants, benefits available and/or being provided
- REPRESENTATIVE PAYEES
- Access to individual Ward records.
- Benefits eligible, timing of payments
- Name of payee and monthly benefit amount
- Appointments of guardian, and if bond posted.
- Identifying if a protected person has benefits being paid, or is eligible for benefits.
- Status of the case, financial management training and accurate information regarding benefits received.
- If a ward has a disability, it would be nice if we knew what amounts of money they really are getting. Something like a letter stating what amounts, when started who has access over the funds.

## Appendix G: Comments about Enhanced Coordination with SSA

- Ability to know who is the payee for a person would be great
- Access to information
- Ability to log into the SS system and verify information. Ability to check on SS application and assist families with this process if needed. Various and other issues.
- amount of benefits and nature of disability
- informing court of rep payee identity and contact information
- annual accounts and other financial reports
- general access to needed records on individual cases.
- The exchange of such information can enhance the ability of the court to make more informed decisions in these cases.
- basic info/tracing
- The address of the designated payee would help us locate guardians or conservators who have moved without filing a change of address form with the Court.
- Info, from SSA re benefit amount and payee
- Notification of person for whom payments are being managed.
- Names of payees for court wards
- income, employment, known medical issues
- Payment information Qualification criteria
- Having the Fed govt free to confirm the amount of benefit being received by a potential or existing ward as well as the name of the payee, would be most helpful to the court.
- Information from SSA would be helpful to verify income from conservatorship; provision by SSA of representative payee reports would be helpful.
- Their expectations with respect to expenditures of social security funds. The balance of social security funds, and accountings would be helpful
- Information regarding benefits received, by whom, addresses and date of death of beneficiaries.
- Rep Payee - amount of benefits
- Identity of representative payees and amount of benefits.
- amount of SSA benefits paid
- documents concerning how the guardian is spending the assets of the ward.
- Ability to access SSA records electronically at the time of the hearing.
- Information as to where benefits are being paid and any termination of benefits, i.e. death; relocation information of recipient.
- financial and identify the payee and the basis therefor
- Information from Social Security regarding Guardian's/Representative Payee's compliance or non-compliance with required reporting through Social Security. Provision to the Court to distribute to guardians of guidelines for guardians in dealing with Social Security and benefits.
- Social Security Administration will not speak with our court investigators or provide information regarding representative payee matters. The court knows of several "lost" conservatees (conservatees whose whereabouts are unknown to the court) who continue to receive Social Security benefits and have a representative payee. We need to obtain contact information for the representative payee to ascertain the conservatee's whereabouts and perform the periodic investigations required by state law.
- easier access to ssa files

## Appendix G: Comments about Enhanced Coordination with SSA

- If there was a disability determination, that information would be very helpful.
- dates of services, date of involvement and level of involvement. Share rep payee information
- Amount of income and how it is spent.
- MERP Amount of money given to Wards (for County Pay, Indigency)
- The benefit amount. Representative Payee. The amount going directly to a facility v. directly to the payee/incapacitated person for personal use.
- Information concerning the expenditure of funds for the disabled adult, considering all of the resources available to the ward.
- As needed on a case-by-case basis, including potential confidential information sharing.
- Annual Statement of Income and if there are any changes in amount received from Social Security
- Easy access to availability and amount of benefits for incapacitated person would be helpful
- It would be helpful to be informed when an incapacitated person's benefits stop due to death.
- Representative Payee Status - very few guardians understand the terminology used - it would be helpful to contact Social Security and inquire the status of the guardian.
- Whether the person requesting guardianship is the current payee of SS benefits
- electronic exchange with SSA to identify when a new guardian is appointed or when a guardian is removed or resigns
- Accountings, applications, verify what has been done
- Names and addresses of other people that have access to the ward's accounts
- Income information regarding the ward.
- Application information Available benefits
- Confirm benefits as reported if not documentation submitted.
- How much ward receiving from SS. Who is SS payee and relationship to Ward.
- Information about the designated payees. Information about the amount of annual benefits paid and information from the court if the amounts do not match.
- make sure who the payee is and where the money is being deposited.
- Verifying monthly income & allowances for persons under court jurisdiction and confirmation of representative payee information
- How much the payee receives, when it comes in, current named payee
- Inventories, including ss benefits and annual accountings
- Upon request of info from court the SSA should provide earnings info including where and when payments are provided. Once a guardianship is ordered the court should have access to the Ward's SSA file
- ability to access the named payee
- information regarding rep payee and copies of rep payee filings would be helpful
- Who is to receive benefits. Accounting for benefits. Mishandling of benefit funds.
- Access information as to whether there is a representative payee appointed for a particular individual.
- see what the expenditures are used for
- Issues of incapacity & representative payee
- Benefits received; representative payee information, sharing of accounting
- The amount of funds provided, the basis for the funds and who the payee is of those funds.

## Appendix G: Comments about Enhanced Coordination with SSA

- Who payee is, ie health care facility, gdn, when assigned
- need to be open to giving guardians the information needed to prepare annual reports
- Information regarding changes in payees and qualifications of proposed payees
- Regular updates regarding the Guardian activities. Also, regular updates regarding the amount of benefits being paid on behalf of the ward.
- annual reports and financial accountings. whether a guardian is also a payee for social security benefits
- making sure payee records are the same
- Information on ward's payee or lack of payee SSA accepting
- Accounting for Social Security benefits and how wards use them.
- Name of payee and amount of payment.
- identification of rep payee confirmation of and amount of benefits
- Ability to verify guardian is handling SSI/SSD monies correctly
- Information regarding representative payee information and income amounts.
- Information regarding the representative payees whether or not also serving as guardian
- Social Security records would be useful in locating conservatees.
- to be able to interact with a social security representative to find out specific financial information
- Who is receiving benefits and who is controlling and reporting
- Due dates of annual reports and whether or not SS is only source of income.
- Confirmation of a switch in payee and death of a ward.
- Information as to the status of a social security application and information as to the possible accumulation of social security benefits would be most helpful.
- amount of benefits and payee listings
- Dollar figure for payments, where the funds are sent to and to whom they are made payable.
- For annual accountings, and specifically final accountings when termination of guardianship
- Guardian/Payee relationships A Social Security search data base would be helpful
- To verify benefits, legal status
- A report indicating the amount being paid to a guardian would be helpful in determining the accuracy of the accounting reports filed by the guardian.
- BENEFIT INFORMATION, PAYEE INFORMATION
- Easier access to information about benefits received by wards.
- To determine a ward's total financial needs in overseeing their needs for expenditures.
- identity of representative payees, and when changes of payees are made.
- Names and addresses
- Whether ward's have rep-payee and verification of benefits.
- confirming rep payee and amounts received
- If there is a payee in place for a proposed guardian.
- The name and address of the representative payee. the amount of the check the prospective ward receives. where the current check is being mailed.
- Access to information from the death index. Verification of payee and benefits eligibility.
- Information to the court for Limited Conservatorships eligible for SSI.
- information on who is payee or if ward is now deceased

## Appendix G: Comments about Enhanced Coordination with SSA

- to confirm if someone is deceased; to confirm amount the person receives for Soc Sec income for qualification of fee waivers
- Ability to confirm receipt of and amount of Soc Sec benefits
- IT would be beneficial who is the represented payee and the amount distributed.
- notification of payment records

### Guardian Respondents

- Past payment information, especially if the checks were not direct deposited and cashed at a check cashing business and not by a bank. It is very difficult to trace where the funds ended up without SS assistance in garnering the asset when family members are uncooperative and possible fraud has occurred.
- For social Security to let us know where the ward was born, mother's maiden name so we can get benefits for the ward, try and find family.
- Payee applications, reviews, benefit problems, clarification of documentation mailed to guardian that is contradictory.
- Incapacitated persons personal information, such as place of birth, parents names, work history, bank information. I am told all this information is prior to the guardianship and I am not allowed to know it. Would help in cases where my person is unable to give the information. Also helps complete a death certificate and prevent putting "unknown" on everything. Incapacitated people deserve better than that.
- Current Representative Payee, Amount of SSI or SSDI received and when, Ability to sign form for individuals in application process of SSI/SSDI., Ability to view accountings by Representative Payee
- Information regarding eligibility for benefits and legal status prior to the appointment of a guardian.
- Aside from the financial query, work history, known family - statistical information.
- It would be helpful to have information to contact previous payees to gain insight into the incapacitated persons needs or behaviors. It is also difficult to coordinate payment of bills when we are the court appointed conservator but not the SS rep payee.
- Releases of information and SSA understanding the nature of each guardianship
- Past work history Amount Medicare info
- By sharing information, we would have an idea of the work history, family history (parents, birthplace, deaths, etc), and other vital information. In most cases, the Ward cannot tell us that information, there is no family, or SSA will not share the information. We rarely get a work history so we know what they did for a living throughout their life. We typically serve those with profound memory loss and those with no family or friends. We have to do the best we can to investigate and dig for the information which SSA has at their fingertips.
- benefit entitlements/verification of birth documents banking information
- Benefits info, work history, payee status, clarification of information sought by SS on their forms,
- I have a client who is 58 years old and has been disabled since childhood. It's very hard to find his personal information and it would be useful to be able to see the SS filings.

## Appendix G: Comments about Enhanced Coordination with SSA

- Knowing what type and the amount of assistance that is being provided by the SSA. Also, knowing how much oversight the SSA has over the rep payee. We don't have guardians account for Social Security benefits because we assume the SSA has their own reporting requirements.
- Faster and consistent notice of changes in benefit amount or take-back or changes in Representative Payee. More streamlined process for obtaining Rep Payee status.
- be able to get information regarding who rep payee is, changes in benefit amounts and to help figure out what is going on with benefit. As it is right now if we are just guardian they will give us no info at all even if we are trying to solve a problem
- better designed annual rep payee report forms sent out by SSA, Easier access by professional gdns to medical info from SS records. present forms, though brief, are still almost undecipheral. Nor is there any inquiry about anything but financial handling of SSA monies.
- Close communication re where funds are going: to individual as required or is a guardian taking these funds.

### Theme: Coordination and Communication

#### Court Respondents

- Willing to work with - help each other as needed.
- Provide Probate Court with copies of the Representative Payee accountings to SSA.
- Annual reporting coinciding with annual court reports due. address changes, and change in representative payees
- Notification from Court to SSA about the appointment of Conservators so the appropriate person will receive the Social Security/SSI/SSDI income. Representative payee not be allowed to change deposit of check
- Confirmation of benefits and designated payee; information sharing
- coordinate approach to meeting needs of ward in guardianship case
- Coordination of benefits and audits to make sure money is spent properly
- verifying guardian's reports, insuring that wards aren't falling through the cracks in any respect
- Social Security has not seemed to be receptive to changing a payee when a guardianship of an estate is appointed if the appointee is not the payee
- Usually, representative payees are not handling more than \$10,000 without a bond or \$40,000 with a bond, and by statute an itemized accounting can be waived. I have requested that the Guardian attach a copy of their filing as rep. payee --- but never know whether to appoint as guardians of estate, since they are already federal fiduciaries. I do appoint them, but wonder if that is simply making more work for Guardian who shoulder's responsibility already and is simply duplication. There is no way for me to know if appointed Guardian is properly filing with SSA.
- Making certain the rep payee is the guardian
- Professional fiduciaries who have been appointed as conservators by the court are having difficulty in being appointed as rep payees. Anecdotally, supervision of rep payees is inadequate.
- Combined Accounting Report/System.
- Regular Meetings for updates
- the ability to talk to someone when needed

## Appendix G: Comments about Enhanced Coordination with SSA

- Relying on the Court to know who should be the payee
- A point person we could share information with and they could share information with us.
- Educational programs for courts regarding overlapping issues.
- SS should recognize Probate Court Orders and collaborate with Courts and Guardianship efforts to protect people - there should be a contact person familiar with exploitation issues.
- Social Security Administration should be notified of appointment of all conservators ("guardians of the estate"), and should advise the Court whether the person receives any benefits from SSA, and who is serving as representative payee. SSA should give strong preference to court-appointed conservator, who reports and accounts to the Court on a regular basis, in selection of representative payees. All representative payees should be required to make annual accounting to SSA, at least if they are not reporting to the Court, to prevent fraud and abuse. Court and SSA should share information regarding any suspected fraud, abuse, or exploitation of vulnerable persons under guardianship and conservatorship.
- I believe that sharing about who is the Guardian of the Estate and who is the Rep. Payee is essential. Sometimes even after a guardian has been removed from a case and another guardian appointed SSA makes it difficult to change the Rep Payee. This is something that should be easily done.
- The Court could provide copies of financial accountings to the SSA, and the SSA could provide copies of payee reports to the Court.
- SSA should acknowledge in writing the guardians appointed by the court.
- Coordination of payee. Social Security has changed a Payee to someone other than the guardian and/or conservator and then I have no control over the person receiving the wards money.
- Sharing information about community resources to help wards and guardians; sharing educational opportunities; referrals for assistance with financial reporting responsibilities
- Convenient and or efficient means of communicating and or sharing information as opposed to lengthy waiting time on telephone.
- social security should abide by court's determination of need for conservator rather than independently determine ward can be own payee despite court's finding of need for conservator
- Anything mutually beneficial.
- It would be helpful to be able to contact the SSA by telephone and request information regarding a Representative Payee status.
- Social Security is reluctant to share information. I would like to see an MOU about sharing information between the courts and Social Security. Similar to what we have with Child Protective Services
- Share information and I have issued orders and carbon copied them
- Any exchange of information would be helpful.
- If SSA would be respectful to Probate Court
- Coordination of benefit information; payee identification and/or modification or change; notice of death and communication regarding dependent care benefits.
- The most frequent scenario is of a family member (generally not appointed guardian and only sometimes with a power of attorney) becoming representative payee for an incapacitated person, and refusing to turn over SS payments to pay legitimate medical and nursing home



## Appendix G: Comments about Enhanced Coordination with SSA

payment of incapacitated person. In the Court's view the incapacitated person must receive the benefit of those funds, and if there is nursing or hospital care, those needs must be met. The family frequently withholds the funds. An guardian is appointed to seek return of the funds for the benefit of the incapacitated person. There is conflict between the family member who is or was rep payee and the guardian. Most cases do not involve malfeasance by a court appointed guardian. Malfeasance by a court appointed independent guardian is rare. Malfeasance is more common by a family member who may or may not be appointed as guardian. From the vantage point of the court an independent guardian appointed after a court hearing should be consider MORE trustworthy than a family member who was specifically not appointed by the court. Usually such an appointment would occur only where the family member has a conflict or is financially or otherwise exploiting the incapacitated person. However SSA seems to favor the family member over independent court appointed counsel. This makes it extremely difficult for the court to prevent exploitation and other harm to the incapacitated person.

- I had a minor who received money that I ordered be put into a restricted account that he could not access until he turned 18. However, social security was counting these inaccessible funds against as an asset that made him ineligible for benefits. My law clerk spoke with a social security agent who requested that I enter an Amended Decree stating that he could not access the funds. However, because those funds may have been needed for an emergency, I refused to issue a new decree. There was a direct conflict between my decree and the social security rules and this caused some problems.
- Ability to actually have contact. Social Security offices are difficult to contact.
- Naming the Rep payee on court documents and allowing the court jurisdiction over that individual.
- If an individual under a guardianship has a Rep. Payee. Require only one accounting rather than 1 for the court and another for the Social Security Administration.
- Contact person to verify payee for a conserved person's benefits.
- Sharing of accountings filed by the representative payee with the Social Security Administration with the court would be helpful.
- There might be no need for a court supervised guardianship of the person's estate if there is already a payee. The social security payments are oftent the only income and asset.
- The Social Security Administration should honor the appointment of a Guardian of the Estate and should have a mandatory requirement that such person will be the payee so the Court can monitor all of the financial resources of the disabled person.
- I this SSA would be better able to dictate to the Court what's necessary. Always better when there is good communication between agencies.
- We generally provide guardians (conservators) with decrees and fiduciary certificates and send them off). It may be helpful to have a streamlined process or a better understanding of the steps necessary to alert SSA to the appointment and expedite any changes that must be made.
- Determining whether a guardianship or conservatorship (estate) is needed if already a SSA payee
- Our SS office recognizes and cooperates regularly with court appointed conservators. Out of state offices not so much.
- If it leads to obtaining information in a smooth procedure, yes.
- Often social security payments are the only asset and shared reports of payees are a good idea.

## Appendix G: Comments about Enhanced Coordination with SSA

- It would be helpful if the Social Security Administration recognized guardianship appointees as authorized recipients of funds rather than additionally requiring representative payee status as well. It would be appreciated if SSA recognized County Protective Services when trying to determine financial issues for wards.
- If Court appointed fiduciary is in place; procedure to change a rep payee; notice of change
- They should be notified in each case if a person under guardianship/conservatorship is receiving social security benefits and SS should be informed as to the person named to serve. They SS should also be notified when a conservator is removed
- talk to our staf
- It would be very helpful if the SSA would communicate with the Court when problems arise.
- Notification on when payeeships are established, modified or terminated.
- The guardians would likely appreciate one report for both the court and SSA. The reports are different and required at different times for more work for them.
- Notification of ward's death. Acceptance by SSA of variation of meanings of guardian and conservator.
- Direct access to a live person would be a great starting point.
- When yearly accounting is filed it might be helpful if there was a form signed off by SS to verify annual income.
- For small estate values in Guardianship cases, if the Guardian of Estate is also the Rep Payee, only one accounting would be required; both the Court and SSA receive the same accounting each year.
- If an individual under guardianship has only social security / SSI assets, is guardianship of estate necessary? Accounting / reporting requirements of guardians of estate and rep payees could be reviewed and revised to be more consistent for use by both Courts & SSA.
- Confirmation with Court prior to appointing rep payee, as a person suitable to serve as a guardian of person only, may not be suitable to handle financial matters.
- Expediting transition of guardianship from one guardian to another relative to receipt of benefits with minimum of difficulty or lapse.
- for the court, knowing if the guardian is also the rep payee and for how much money would help us determine if other monies are being spent appropriately. also, depseite the fact that we appoooint a guardian, social security will often appoint another person rep payee. that creates lots of problems often centered around providing appropriate care for the incapacitated individual
- input from SSA describing what coordination would be helpful

### Guardian Respondents

- Whether the guardian/conservator has been removed by the court
- Providing information to guardianship which would help meet the needs of the incapacitated person, rather than treating it as proprietary secrets to be withheld.
- Coordination of benefits; banking info; health insurance info
- It has been our experience that Social Security is less than open when working with a guardian of the person or estate. SS is only interested in talking to us about our ward if we are the person's representative payee in addition to being his or her guardian. It would be very helpful if SS were more willing to talk with us, even if we are "only" the guardian.

## Appendix G: Comments about Enhanced Coordination with SSA

- SSA does not contact the Rep Payee when a person with a payee goes in to remove the Payee status or even gets a Dr to attest that they do not need a payee. We have had folks shop for a Dr who will give that stmt, even tho there was a court order that if the Payee status stopped, we were to petition for gdshp since the court was only willing to do the lesser restrictive as long as there was a payee. The person succeeded in getting one check which could not be stopped when we found out the Payeeship was terminated by SSA, immediately went to the casino, did not pay his rent and was evicted.
- They need to recognise the State Court authority. I had one office in San Francisco, tell me my forms were not correct. I went to the Richmond office and they knew what to do.
- Court documents, appointment of Guardian/Conservator paperwork.
- Even though the court has declared the protected person incapacitated, and in need of someone to manage their financial affairs, the local Social Security office does not automatically allow the Guardian of the Estate to apply as rep payee, even when presented with the original Letters of Conservatorship and the judgment appointing a conservator. They send a letter to the person's PCP for verification that a rep payee is needed. This can cause a delay in accessing the Social Security benefits, and a serious problem if the individual does not have a PCP.
- SSA recognition and acknowledgement that the Court appointment authorizes the Guardian of the Estate [or Guardian of the Person in the absence of GofEstate] as the preferred and default personal representative.
- Social Security Administration should honor state guardianship and conservatorship orders to determine who should be representative payee rather than making their own decision
- the actual guardianship orders and having SSA staff trained to read and understand the authority granted in that order as well as specific acknowledgement from them that guardianship exists for adults over age 18.
- Example: When a guardian goes into SSA to become Rep Payee for their ward and your ward is so demented they have no idea the names of either parent, SSA gives guardians a bad time and almost threatens not to make you rep payee.
- Accepting a guardianship of the estate appointment as an automatic designation of rep payee. Accepting guardianship court accountings as sufficient accountings for SS funds.
- It would be helpful if it did not take months to be recongnized as payee. During this time typically benefits are being misused or taken by others resulting in the needed appointment. Local SS office response has been lack of staff creates back log.
- SSA needs to recognize guardian's authority in changing rep payee. Many times SSA still requires the person to be present and agree with guardian's change.
- Acknowledging the authority of the conservator would be a good start. Providing information on the protected person (who stands in the place of the pp) to confirm birth information.
- SSA needs to recognize the authority of guardians of property to obtain and manage SSA benefits on behalf of wards.
- It would be nice if Social Security would speak with the Guardian even if the Guardian is not the Rep Payee.
- SSA does not currently respect the role of guardian of the estate as an authority to gain information. They insist that you must be the rep payee before they will discuss matters.
- Allow the Guardianship process to be recognized by SS, and give some courtesy to Court Appointed Guardians when needed information based on Medicaid compliance.

## Appendix G: Comments about Enhanced Coordination with SSA

- SSA recognize the authority of the guardian of the estate to make inquiries regarding the RP. Evaluate any conflict of interest of RP (ex: RP is also providing services of care and receiving compensation) Conflict that is undisclosed and by-passes the Court. Also, guardian should have authority to examine income & expenses paid by the RP to ensure funds are being used in best interest or even on behalf of the person to prevent known exploitation that exists now. Guardian has no standing with SSA, if they are not RP.
- Although many nursing homes act as Repayee for Social Security, it would be very helpful for Social Security to also accept court orders of guardians to supply them with information that is often needed to best serve the client.
- Cooperation from SS in matters of who can collect SS as a rep payee. Have had cases where they would only use a family member as rep payee even when that person is not financially stable and uses funds inappropriately.
- Court approved documents sent to SSA so that the Representative Payee can be established quicker/automatically.
- Cooperation from SSA when working with clients. New negative and uncooperative attitude amongst SSA staff. Even been told they aren't paid to care about the beneficiary. They have appointed a relative when court appointed us guardian due to financial exploitation from family and told us to work it out with family.
- Would like to have an assigned case worker that I could talk to when needed in our county.
- Quick reference to Rep Payee, Quick information as to existence, types and amounts of assistance.
- When we receive a new case through the courts we need a faster response time with Social Security to find out what our wards financial benefits are as well as where the checks are going, who the payee is and what medical benefits the ward has so we can change everything over to the guardianship of the estate. Also to be able catch the checks before they fall into the hands of people taking advantage of the person and to make sure the wards bills are being paid.
- Would be helpful to have quicker responses from Social Security and be able to communicate with them without having to wait for several hours in the lobby. A dedicated time for guardianship agencies once a month would be sufficient and very helpful
- The biggest issue we face is the time waiting in our local office. Average wait 1 1/2 hours plus. I have waited as long as 2 1/2 hours. The office hours are very limited. We wish we could call the local office rather than use the 800 number. Knowing all of the forms that effect guardianship's would also be helpful and enhance collaboration.
- We encounter difficult and complex situations and desire a SSA person to talk individually with via telephone. We are a state government agency. To have a SSA person we could pick up the phone and call or at least email, would save all of us MUCH time.
- Have a designated SS staff who can send and receive emails with guardians
- We have a great relationship at our local office. They help us all of the time. We have been given a direct line to the supervisor if we need to contact Soc Sec
- having reps at SSA that we can have access to particularly since we serve as rep payee for over 75 individuals. They will not share information with us if we do not know mother's maiden name- etc... this is ridiculous since the folks we generally serve are cognitively impaired and cannot provide us with the information. They do not give our court order any validity since it is State and they are Federal. We do everything in writing rather than communicate by telephone

## Appendix G: Comments about Enhanced Coordination with SSA

in most instances because we have such a hard time getting a representative who understands Guardianship and our role. Prosecution in SSA exploitation cases is almost unheard of in my experience, despite the # of cases we see of financial abuse of elders with cognitive impairments and efforts we have made to try to convince US atty to go after these exploiters.

- A way to make it quick and easy. A way to share client documents that does not require us to wait to speak to SSA representative or mail in original documents. A direct phone line/number to SSA specific for guardian or rep payee use with less wait time. Specific contact person at SSA specializing in understanding of guardianship issues.
- The ideal would be to have SSA appoint a local designated SSA specialist to work all cases who clearly understood the G/C process and roles of the appointed G/C. SSA is very unreachable, disorganized and unwilling to work effectively with local G/C - or with any organizational payee.
- The Social Security Administration might have a dedicated phone line and specialist to serve Guardians.

### Theme: Monitoring

#### Court Respondents

- Indications collected by SSA that representative payees are making incorrect expenditures of the funds of Wards and if any representative payee has been removed for misconduct.
- They should allow the court to monitor the payee and reports of expenditures, in lieu of annual reports of guardians to the Court.
- SSA needs to know when there is a rep payee and also a guardianship/conservatorship in place. The court needs to know if any action taken re the rep payee and information learned about the rep payee and concerns the SSA has re the rep payee or the protected person. It would be helpful to know what if any accountings are done with SS funds and how SSA attempts to prevent abuses by the rep payees
- If the Court removes a guardian of the estate the SSA should certainly know about it and if SSA denied a guardian from being the rep-payee or a successor rep-payee is appointed that information would also be helpful to the Court
- Concerns about persons designated Social Security Payee when the person is not using the funds for the beneficiary and has no legal right to control the funds for the beneficiary, who might not be competent to designate a third party.
- It would be helpful if court were alerted to any problems w rep payee.
- Sharing information on suspicious activity.
- Appropriate use of S/S funds by guardians, fees charged by guardians, and who pays, problems such as misconduct that S/S knows about should be reported to the court, whether and under what circumstances counsel for the ward may be paid by S/S
- Reports or filings with the courts in the event of suspected fraud or abuse.
- SS benefits should come under court management. I do not think the SSA does a good job of preventing abuse of assets
- SS identifying people who have abused their positions
- From time to time information is needed to stop exploitation of incapacitated individuals, information regarding the Representative Payees for incapacitated individuals, their addresses, and where funds are being deposited would be extremely helpful to protect individuals under guardianship; in Texas the guardian of the person has the right to manage the Ward's

## Appendix G: Comments about Enhanced Coordination with SSA

government benefits; to date the Social Security Administration, citing the Privacy Act, have refused to provide the Dallas County Probate Courts with information

- Again to determine benefits. Also to better track whether ward is receiving proper care.
- to make sure there is no wrong doing with the Ward's money and everyone has accurate records
- Abusive of ward's financially
- Knowing whether a proposed guardian has been a rep payee in the past would be helpful. Knowing whether the rep payee has been removed or resigned in the past and why would also be helpful.
- Qualificaiton
- Who has applied to be rep payee once appointed guardian; if the re payee/guardian has been removed by social security or is under investigation
- Courts need to know if a ward is receiving benefits and the Social Security Administration needs to hold payees more accountable for expenditures and report concerns to the courts. The funds in cases that come before the courts are regularly being misappropriated by the payee/Guardian/Conservator
- Seeing if the ward/representative payee is filing statements on a regular basis with Social Security
- Knowing who the representative payee is and whether they are fulfilling their obligations in that capacity.
- Whether there are complaints by ward to SSA
- Notice of investigations of rep payees
- information about people involved in fraudulent practices
- Information whether a representative payee has complied with reporting requirements to the SSA. Questions about overpayments being deducted from a conservatee's benefits or underpayments that result in large lump sum payments
- Cross reporting of fiduciary activity.
- Some system to insure that guardians of estates are properly accounting for the use of social security funds.
- Making sure they are receiving the benefits correctly and timely
- elder abuse
- It would be helpful to be able to share information on whether a rep payee is misusing funds and coordinate when a rep payee should be removed.
- If they have a representative payee on a person they know is under guardianship AND if they see an issue with something a guardian of the estate is doing to work together to make sure that any discrepancies or issues are cleared up or at least we are made aware of them.
- For SSA, they may benefit from receiving notice when a conservator of the estate is appointed, suspended, removed, or surcharged. Our court may benefit from similar notice from SSA when they appoint, suspend, remove, or obtain a conviction against a rep payee who is or was appointed as conservator.
- sharing case file information on thieves
- -helping identify Rep Payees in cases of suspected financial abuse or exploitation -identifying what medicaid services a person is entitle to OR is receiving

## Appendix G: Comments about Enhanced Coordination with SSA

- Previous payees and if any has been removed for non reporting.
- Financial abuse by payee, coordination of SS benefits in person handling other income and assets, possible criminal prosecution of financial exploiters
- The social security administration is not monitoring the true actions of the rep payee. We have had to appoint guardians of the estate as the rep payees were NOT using the assets appropriately. We also had the District Attorney involved and he also requested that anyone handling finances for a ward be required to file accountings (rep payees, county payees and guardians) as it is less tempting to steal and also gives a basis if criminal charges should be filed.
- Information reflecting concerns about payee and any past financial wrongdoing or breaches of fiduciary duty
- Coordination in appointing rep-payee as huardian or vice-versa. Locating guardian or protected person. Confirmation of income. Background checks. Report when rep-payee has been removed or replaced.
- I believe it would be beneficial to know how long an individual has been acting as a Representative Payee and if any problems had been encountered with that individual in that capacity.
- Name of person or entity they appoint representative payee Why they will not appoint the guardian as representative payee Possible misconduct of representative payee Social Security lump sum payments to wards
- Court receiving notice that Guardian is no longer the representative payee, Court notifying SSA of noncompliance of Guardian who is also representative payee
- Designed payee compliance information.
- information sharing in caes where the identity of the payee is in question or in cases of potential financial abuse. The court rarely receives any information regarding Social Security income.
- Notification to the Court of lump sum back payments to insure that the funds are expended with the ward's best interest. If it is a larger sum, a special needs or supplemental needs trust could be established to enhance the quality of the ward's life.

### Guardian Respondents

- SSA should red flag the IP that attempts to reverse the re-payee status back to him/herself - big issue in NY
- placing notes in the electronic file that the beneficiary has a legal guardian and cannot change the rep payee without authorization of the guardian
- SSA representative payee audit; verification of SSA income data.
- Banking information on cases that we receive where there is suspected financial exploitation by the previous payee. Allow Guardians to order and print proof of income statements online. Generally have more access to information online that would otherwise require the client to establish an individual account. Currently we are not allowed to set up an account/PIN for clients.
- If someone has been removed as a guardian or representative payee. If there have been concerns reported to Adult Protective Services (APS) regarding a guardian or representative payee.



## Appendix G: Comments about Enhanced Coordination with SSA

### Theme: Social Security Rules and Administration

#### Court Respondents

- Social Security have their own set of rules. They seldom share their information and it is limited when they do.
- Why the SS Adm sometimes requires a guardian while others just have a payee?
- SSA needs to let me know what language they prefer in my order appointing guardian(s) to facilitate a change in payee status from the subject to the newly appointed guardian.
- Procedure required to account for ward's funds coming into the hands of the guardian
- How the designated payee system works? How long does it take to get the guardian the money? Any other programs SS offers to guardians.
- Just learning general information on how guardians/conservators file on behalf of a protected adult
- Brief, easy to understand description of federal regulations that pertain to benefits.
- Regional training for programs and/or options available, including contact information and individuals.
- What Social Security requires from the Guardian and the payee process.
- Medicaid certif. without need for Guardianship proceeding to allow nursing home to re-coup funds
- Timelines for benefit decisions; changes in payee; changes in SS policies or practices; changes in contacts and/or responsibilities of contacts.
- Representative Payee responsibilities
- NEED SOCIAL SECURITY TO PUT ON TRAINING COURSES FOR STATE AND FEDERAL JUDGES ON ISSUES INVOLVING PAYEE REPRESENTATIVES.
- We often hear from guardians or prospective guardians that "Social Security requires this" or "Social Security won't allow that." We have no contact person to determine whether the person is misinformed or if there is a new policy. With other agencies we have that type of contact. Also, if what we are hearing from litigants is true, Social Security has some strange requirements for representative payees under guardianship. It would be helpful to have some idea of what the guidelines really are. The website is not very helpful.
- Basic procedures
- When Ward dies, is the final check to be returned to SSA? Who is Rep Payee if there is no Gdn of Estate?
- Education opportunity to contrast state law and federal law.

#### Guardian Responses

- When ward's direct deposit account is changed it takes forever to get the checks redirected and often we ask to have the checks mailed.
- social security is in big trouble system wide to be of assistance to any guardian. I am a retired employee from Social Security. I consider myself back on job to make sure they do their job right what a disgrace It's a big nation wide issue
- Clear information on procedures, fill get out the annual rep payee forms and how to fix problems.
- finding new payees. Rule changes and/or updates



## Appendix G: Comments about Enhanced Coordination with SSA

- Social Security should just be forthcoming and helpful.
- Familiarity in general by the Social Security Admin of guardianships / conservatorships.  
Streamlined forms.
- Applying to be payee



## **APPENDIX H**

### **ADDITIONAL COMMENTS**

## Appendix H: Additional Comments

Q35. Please provide any additional comments you may have concerning your court's guardianship program or any other topic related to the survey.

### Comments Referring to SSA

#### Court Respondents

- Many Guardians request waiver of fees due to SSI benefits received or SSA income. This prompts us to inquire as to receipt of federal and state assistance. Inquiry ALWAYS made as to the source of the Wards income at the time the Petition is heard.
- I believe it to be a fairly efficient. Cooperation with any Federal entity, SSA or any other, from my experience would decrease efficiency.
- If the only income is from SS, we have the Rep. Payee handle the financial affairs of the Protected Person per WV Code.
- SSA does not seem to care what Probate Court orders.
- Social Security monitors designated payees on annual basis. Normally, this function is separated from court oversight.
- Both the Social Security Administration need to better explain to payees and fiduciaries their responsibilities and what is prohibited. Attorneys bear a great deal of responsibility as well for failing to instruct the fiduciaries as to their obligations and for also submitting complete accountings and on the courts for failing to require them to comply with legal standards. We all bear a part of the blame.
- Access to Social Security information regarding name of registered payee and also to collect data on amounts would be very helpful
- guardians are very upfront w/reporting their SSA benefits. It does seem odd that they have to report on a State basis AND report on a federal basis also...how redundant.
- The guardianship program is very important to us. Our relationships with the Social Security Administration and the Veterans Administration are also very critical to the success of our program.
- Background checks are conducted on all non-professional, non-public guardians. Social Security benefits are reported on a separate line on court forms but there is no dedicated SS line on the forms. Case file mgt system tracks removed guardians in a specific case. Co-guardians were counted as 1. Developmentally disabled adults are included in G & C #s. Some Conservator cases are open as Cons is designated Personal Rep to probate estate. Our county is extremely rural so there are no professional guardians, agencies, etc. other than public guardian.
- VA & SSA occasionally ask for info on estates; never on guardianships
- Would believe that it is only a small percentage of guardians are rep payees, as many times those types of payments are made directly to the health care provider facility or the nursing home as for the monthly expenses.
- If there is a SS payee, conservator (guardian of the estate) cannot be appointed
- I have worked for the courts for many years, and if the rule says that the filing parties are to serve SSA, then they must show proof. It is not the roll of a court to micromanage all the elements and requirements. We are small in numbers here and some of your question suggest

## Appendix H: Additional Comments

that we act as accountants and other auditors in these cases. We make sure the facts and figures add up, but any other ground work would be levied on the filing parties.

- Never considered it as possible given the difficulty--and normal six month delay--in getting any information from Medicare to allow settlement of personal injury cases as an attorney. I assumed that it wouldn't be worth the effort to try and obtain information from SSA. Fayette county
- If we are going to have any chance of working cooperatively with Social Security we have to have access without waiting 30 minutes on the telephone for the next available representative. We do not have the staff for this kind of a wait for information
- As for Social Security, if that is the sole income and there are no assets (probably 1/3 of our cases), no accounting is requested. Instead, an annual status conference is held to determine whether the ward's needs are being met, whether there are any concerns with mismanagement of funds or not paying bills, and to provide the family to simply report to the court any concerns. The rationale is that social security provides a subsistence standard of living and why have to have the guardian account for each penny. If rent, utilities, food, clothing etc are being provided to the ward, there is little or no discretionary income and no need to account. However, if there are other assets or income, then, full accountings are required.
- We are very fortunate to have begun to foster a relationship with the director of our local Social Security office, which has been helpful to both parties.
- In Guardians of the Estate where there are no significant assets and the only income is regular social security payments, the creation and filing of a full and formal accounting is unnecessary because it is cost prohibitive and there is no 'opposing party' with the resources and desire to check.
- The 10 largest counties in Texas have probate courts created by statute. These courts have Probate Court Investigators that often find incapacitated individuals who are victims of exploitation but who do not have the ability to remember or relate to the investigator what has happened; therefore, the Social Security Administration's assistance would benefit the courts to protect the victimized individuals.
- Forms are provided by our AOC, but not necessarily followed. Often guardians of the estate are appointed but not needed (i.e. there are only social security benefits and the ward is in a nursing home. It is troubling that these cases are not sealed.
- The majority of our cases are handled by the public administrator as we have a state facility for the mentally handicapped in our county. Also, most of the cases that we have involve the Social Security Administration and our public administrator works with them on a daily basis.
- Access to social security records and databases would be very helpful in locating conservatees and knowing when they die.
- Ques.#12-By Statute in Ohio guardians are only required to file accounts biannually, not annually. Most of our wards are indigent and guardianships are established for person only. When Social Security benefits are the only source of income and assets, this Court does not require accounts to be filed with the Court. We found that most Probate Courts in Ohio followed this practice, since Representative Payees are responsible for reporting and accounting to the Social Security Administration regarding their use of funds.
- Social Security is difficult to deal with. They don't respond or ignore the Court and guardians - often don't recognize the guardian's authority.

## Appendix H: Additional Comments

- Guardian files are open to public, however, social security numbers and other sensitive matters are sealed.
- This is a one-judge county. Information about the wards, their families and their circumstances are in some ways reflective of a fully integrated file system. This court has confidence in the social services agencies here to screen the potential guardians. My judge would like to be able to share information with the Social Security Administration and SSDI in guardianship cases, but also paternity actions and family actions. There is a flood of parents seeking disability, and it would be helpful to know what the nature of an individual's disability, and the amount and frequency of the payments received to assist in child support matters.
- I would like APS to be more informed of services they can provide and efforts they can make for adult guardians. It appears that APS will not get involved if the ward does not receive Social Security.
- We closely observe all court-appointed fiduciaries. When a fiduciary is collecting a protected person's social security benefits, that is readily apparent in the details of the accounting. If those funds were not properly held and spent for the protected person, we would find out and take action.
- Collaboration between the Social Security Administration, Veterans Administration and local courts is imperative to curbing the ever-increasing financial exploitation cases.
- I do not know the cost or benefit from sharing additional information with Social Security Administration.
- Our program strives to protect the individuals under its jurisdiction, and access to more information and from federal agencies such as Social Security and Veterans Administration would be helpful.
- Ongoing dialogue with Social Security Administration and Veterans Administration would be beneficial to the ward.

### Guardian Respondents

- Social Security now requires the Ward be present during application for appointment as Rep Payee. This is unrealistic due to the dementia/mental health/physical incapacity of the Wards in many instances and should be revised. In addition, in order to apply for a new Social Security Card or Medicare Card replacement one must now bring the Ward into the office of Social Security again a barrier to process and administration in the best interest of the Ward in cases where there are extenuating mental health/paranoia/dementia issues which are issues in most elderly guardianship cases. The court places trust in the guardian who takes an oath of service to act in the best interest of the Ward. Hauling a demented or severely mentally ill Ward into an appointment at a local Social Security Office, waiting often times 2 or more hours in a crowded room fails in my logic of being in the best interest of the incapacitated person.
- Social Security is only one of many sources of income and is handled as such in our Guardianships. The only benefit to any change would be to allow SSA to drop their reporting process, which would benefit SSA, but have no impact on us or perhaps even a negative impact due to the red tape that would spring out of any such change.
- It seems redundant to need a Rep Payeeship from the SSA when there is a Financial Guardianship established. To have to apply for both seems excessive. Why not establish a category at the SSA called "Financial Guardianship of the Estate"?

## Appendix H: Additional Comments

- SSA should consider contacting guardians who already serve as representative payee for a beneficiary before change payee to someone else just because an application was filed.
- While there is no list of available guardians, the court is fully aware of those who are certified and available. Oregon is currently transitioning to e-filing. My court goes "live" in January. The local SSA administrator is hostile to court appointed professional guardians, asserting that because we are compensated there is a conflict of interest. However, the SSA administrator is happy to routinely name a care facility, a ward's largest creditor, as rep payee and they see no conflict at all!
- no monitoring system; persons facing or under guardianship are represented by counsel only in contested cases or when some issue is brought to the court's attention by an interested party; state statute schematic for appointment of a court investigator is punitive causing appt. can be monetarily punished) in nature and therefore appointment and/or request for appointment is avoided; guardian reporting is the only way the court knows of the guardian's activities in respect to ssa or va rep-payee accounts (or any other acct)
- Signing a memorandum that outlines coordination and communication venues with the SSA in Utah will be helpful. We are looking for having a point of contact that is easy to get hold of in case the Court has questions.
- In Oregon there is no list maintained by the court for approved fiduciaries. Instead, if you're a professional, you must be certified or you cannot serve. Second, Oregon's Uniform Trial Court Rules contains specific requirements for the format of the accountings and what is presented, but there is no mandated form. Lastly, the relationship with Social Security (at least locally- I hear it's different in different parts of the state) is somewhat antagonistic with the local administrator at times actively hostile to professional fiduciaries. At one point in order to get motion on 7-8 cases I had to involve the Senator's office since Social Security was completely unresponsive. In addition, the SSA administrator has expressed reservations about appointing professional fiduciaries because we expect to get paid and in many (if not most) instances the only source of income for the ward is Social Security funds. They cite an apparent conflict of interest, although they have no problem with appointing as rep. payee the facility at which the ward resides (which is an clear conflict of interest and their activities are not supervised by the Court as a professional fiduciary's activities are).
- one would have to greatly improve service at local SSA before additional sharing would be of benefit.
- It is very difficult to work with SSA due to lack of staff and ability to get timely appointments. Also, old, low income seniors do not have a computer to access their benefit letters as is the new proposal by SSA.
- Social Security Administration is very clear in their position that their determination of a rep payee for an individual is entirely separate from and court appointment of a fiduciary and they are not subject to any "State court's" decision. Despite that, they are usually very good about appointing the court appointed fiduciary as payee.
- Guardianship is held to a higher level of professionalism and standards, yet Banking, insurance companies and SS treat guardians like everyone else, (as if we are trying to take advantage of people) Why are they not informed of the what a guardian is required to do for the benefit of its ward, educating Corporations, and the SS is vital with all the laws changing to limit access to personal information.

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- Our Public Guardians' information is on file with our local Social Security offices which reduces the amount of time to appoint the Public Guardians as rep payees of their Wards. All of our state Public Guardians are county employees and undergo full background and credit checks including fingerprinting.
- Avoidable or not, Social Security bureaucracy is so onerous that I can not say more interaction would lead to greater efficiency.
- If the only source of income is social security, we are unable to collect a conservatorship fee since we are a for profit entity. I would like to see an exception made when serving as conservator. This results in our either having to decline to serve as a conservator for low income individuals or provide for free.
- Guardianship in our state is difficult to access. The system is quite opaque for health care professionals. Most of the items here appear to not relate to my day to day interactions with the system as I am usually concerned primarily with health care decision making and not social security payments.

### Other Comments

#### Court Respondents

- There should be a better screening process other than the courts 5 minutes of testimony of potential guardians. The law should require an official background check be provided before a guardian be appointed. In Oklahoma we the Oklahoma State Bureau of Investigation that for \$15 will run a criminal background check at least.
- There is no method available for follow up to make sure the annual reports are accurate, except in the cases where an objection is filed.
- Our program works well. I have multiple reviews of guardianships that have been in effect for many years. i believe that the program works well and our system provides the least restrictive and best protections by law.
- The annual report "forms" are confusing and are sometimes in handwriting that is difficult to read. This makes the process very slow. There are not "uniform" forms that attorneys use and consequently organization of information varies from submission to submission, also slowing the process. Legal Services Corporation is working on an Access to Justice Annual Report online form, however, income qualifications will prohibit "everyone" from using the forms. There has been an increase in adult guardianships regarding exploitation by those recently released from prison, con artists, those "caregivers" who exploit older persons who have declining capacity to recognize what is taking place. There are also cases of relative exploitation, but in cases where there is little income, often the exploitation goes unnoticed until there is a crisis (usually health). We have separate judges handling guardianships for adults and children from those guardianships that originate through Adult Protective Services, which tend to see more of the indigent cases first. Our case management system is inadequate--- we know how many cases are filed, however, there is no way presently to determine the points at which events take place---emergency guardianship granted (ex parte), guardianship granted, whether a trial was held or done by agreement of all, how many adult guardianships are for developmentally disabled, mental health, alzheimer's, stroke, traumatic brain injury, etc. A very large number of guardianships for adults are handled by pro se filers--- and often these adults have no idea where to turn for information.

## Appendix H: Additional Comments

- Please note that the statistics provided are guesstimates
- The majority of my guardianships concern children, not adults. However, we are situated in an "aging community" and I expect the adult guardianships to increase dramatically within the next 10 years.
- I feel overall that Connecticut has a good system in place to appoint and monitor guardians
- As you described "guardianship" our Probate Court refers to it as "conservatorship". If a conservator is appointed through a Probate Court, I think they should get paid a more reasonable rate for their services. If it wasn't for these conservators being devoted to helping the conserved person the Court system would be in a bind to find suitable people willing to take the roll and get paid such a low fee.
- see state of CT court administrator for more information or visit [www.ctprobate.gov](http://www.ctprobate.gov)
- Chief Clerk is appointed only as Guardian of the Property. We only handle Small Guardianship cases. Many of these questions do not pertain to us as compared to Regular Guardianship cases which is handled by attorneys and managed by the Courtroom in our court.
- all filings should be electronic, it would make things faster and easier
- In Alachua County, Florida, we have a high number of guardianships of the person due to there being an intermediate care facility in the area that houses 355 people.
- my guardians serve in foreclosure cases primarily and/or representing interests of injured parties in civil cases
- The numbers provided regarding pending matters are generated from a case management system and count caseloads for statistical purposes; the actual number of pending guardianships may vary greatly
- We are not required gather or keep much of the information you seek. I would estimate 50% of our guardianships are for children. Accountings by statute are required biennially.
- The primary area of growth of guardianship cases are those situations in which neither parent is or can take care of their minor children and family members, primarily grandparents, are seeking custody of those minors.
- We are very proud of having a fully funded Public Guardian Office. Guardianship Program handles approximately 1100 Guardianships a year for Miami-Dade County residents who qualify under Federal indigency guidelines. Guardianship Program recently, again, passed with flying colors a thorough audit conducted by the Office of the Statewide Guardian in Tallahassee.
- Looking forward to the context program so can keep closer eye on cases.
- I wish we had more oversight for estate only cases and also for minor guardianships.
- We are now looking at increasing judicial officer time to monitor and follow up on all probate matters, especially guardianships. We have not done much in the past due to limited judicial time. We would be interested in "best practices" for handling guardianships.
- In response to Section C Monitoring of Guardianship, I indicated annual financial reports are required in only a few cases because under Indiana law most guardianship reports are required to be submitted every two years rather than annually. We do require periodic reports, either every year or every 2 years, in every case.
- No comments. We handle very few Guardianship cases.
- An area that needs attention. Our state mandated financial form is poor



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- For the most part, family members are assuming the role of guardians when needed. And, for the most part, siblings or next of kin are cooperating with the best interests of the ward at heart.
- Veterans Administration is not required to physically visit Veterans who have a financial fiduciary - they only pay the bills and never know if the Vet is living in horrible conditions - they do not recognize state or county court orders and do not cooperate to make the Veteran's safe. they will not tell courts how much money the Veterans have and they often hold back needed money the Veteran needs.
- No Public Guardianship in the State of South Carolina is the biggest concern with the senior population living longer. Seniors are at risk to be without family member and or finances with no one able to assist.
- Much of your questions would have a different answer in a larger community. Fairbanks is small enough we "know" the resources and communicate as needed.
- We are a small rural county. Our guardianship program does not involve large numbers of people, but it generally works very well. Although the Public Administrator (Missouri public guardian) serves in about two-thirds of our cases, she did not receive any new appointments in 2013. Our Court sends reminders of due dates for annual accountings and other filings, takes prompt action if filings are not received when due, and takes prompt action to address any apparent irregularities in the care of the person or management of the estate of persons under guardianship or conservatorship. Investigation of the character, criminal background, etc., of proposed guardians and conservators, is largely handled by the attorney appointed to represent the respondent (proposed ward) in all guardianship and conservatorship proceedings, rather than involving an investigation by court personnel. Under Missouri law, an attorney is appointed to represent the respondent in every adult guardianship and conservatorship case filed.
- Our guardianship program is one of only about five within the State of Florida. There should be more. I believe there should also be more state laws, and perhaps some federal laws. governing professional guardians the way they practice and the way they bill.
- Question 21. Our documents are marked "Private" and are available only to the parties involved. This means they are not quite "open" and not quite "sealed."
- We need more Public Guardians
- Guardianships are primarily used for custody of minors.
- You asked the number of open/pending cases our courts have. Our computer system classifies our cases as closed once a Guardian is appointed. We have approximately 5,500 guardianship and conservatorships closed at any given time. These are cases we would be expecting to receive annual reports on.
- Need more money from State legislation for what we need to do.
- For many years VA and Court had high degree of cooperation concerning monitoring of fiduciary responsibility. Current relation with VA strained (re: fiduciaries) due to openly hostile attitude toward lawyers and State court procedures and stated intentions to disregard State requirements.
- Most individuals have little or no assets beyond the entitlement payments. Requirements for audits and annual reporting does little to encourage third party assistance for those incapacitated individuals

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- I would like a copy of the survey as well as the results of the survey. There were questions asked that could be incorporated onto questionnaires and other information being provided by the court to wards and their families.
- We provide electronic access to the public via public computers located in the Probate Division; specific guardianship case information is not available via the website, but forms, answers to frequently asked questions and the like is available online would have been able to supply answers to question about percentages of guardians of estate and separating out 2013 caseload information had the survey offered the option of saving and returning later
- We appoint an attorney to serve as Guardian ad Litem for every guardianship appointment case. This attorney performs an investigation and makes recommendations to the Court.
- this court only encounters guardianship cases in the rarest of circumstances
- We only have 17 to 24 cases filed per year. The majority are for Development Disabled or Dementia. 3 or 4 are minor settlements.
- within the year will be converting to electronic filing wholly
- We have only recently had the benefit of public guardians, due to the recent involvement of a "rural legal services" office being funded to work in our area. Prior to that (about one year), we had no public guardians at all, and the Court would have to find a lawyer to act on a pro-bono basis. That was very problematic and troubling. Additionally, I have noticed that dementia related illness has risen to very high numbers in the community, because people are living longer. This is the main reason that I believe guardianship cases are on the rise. It seems that the state and federal government are struggling to keep pace with this phenomenon and, unfortunately, I foresee the problem getting worse before it gets better.
- Have very little resources. Also question whether the courts should get more active or push the legislature and executive branches for more oversight.
- We have no public guardian system. It is sometimes difficult to find competent friends or family to serve.
- We are working on improving oversight.
- The biggest portion of guardianship cases which are filed in our court are so minor to go to school in our area.
- The Court has a SAFE (Special Advocates for Elders) program with trained volunteers that are appointed on the majority of the Guardianship cases.
- Guardianship programs are currently a key issue within the Idaho Supreme Court. Within the next six months, each program will be overhauled to exact the most efficient results possible. Right now, only one county is carefully monitoring their cases.
- We offer training for new guardians of person/estate (mandatory) operate a volunteer guardianship program for indigent person only guardianships.
- The Court has a Pro Bono Guardianship Monitoring Program with 70 volunteers attorneys and 12 para-legals(2 on a team) who visit the Ward and the Guardian yearly. The Pro bono Monitors review the financial matters, personal care matters and the Monitor will file a report with the Court. The Monitor's report is the basis for Court intervention if necessary. The program has been a wonderful success for the Monitors, Court, AIP and Guardian. Dauphin County

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- We should have a list of neutral guardians where there are allegations of financial abuse by a relative who is petitioning. I use attorneys because they have licenses and adhere to rules. Erie county
- After the retirement of Lackawanna County's Guardianship Auditor several years ago, the county via its county commissioners no longer funds the position and there is no person in the position to audit the 90 day and annual reports, despite a great need for an auditor. There is no check or review regarding the information contained in the reports, with great potential for financial wrongdoing, in that there should be regular, frequent checks on the persons put in charge of other persons' assets. This is a great concern of both the Orphans' Court Judge and Register of Wills.
- I preside in three different jurisdictions in central Virginia. Each community is close knit and there exists an excellent dynamic between the bar, the bench, and the citizens of the respective communities. This makes it easier to make appointments and monitor the performance of those who are appointed. Almost all of the time, those who serve are trusted family members who have roots in the community. As a result, we are not burdened with any significant problems in these types of cases.
- interesting but due to limited number of cases cost of creating a program would exceed the benefit received. less than 30 cases filed in 2013 and most involved family members with little or no income for the incapacitated individual
- We are a rural county; small in both size and population. Our largest minorities are Hispanic and Native American; we have a Hmong population. Therefore, culturally diverse and communication can be difficult. Any training or coaching for staff in appropriate interaction and communication would be a plus. We have a part-time Self-help staffer who would benefit from this type of orientation.
- We have had little problem with Guardians fulfilling their fiduciary responsibilities. The Area Agency on Aging is responsive to concerns regarding the well-being of guardianship wards and communicate freely with the court if deemed necessary. Somerset county
- The Court monitors the guardianship dockets to ensure compliance. Wayne county
- In our state a "guardianship" of an adult is only by way of a conservatorship of a person and/or estate. All guardianship are as to minors. See California Probate Code section 1515, et. seq.
- Lack of resources is an issue for the court.
- It is a mess!
- Although the number of cases has remained about the same, the financial complexity and likelihood of past POA financial abuse has increased over the past ten years.
- Our court remains open to the provision of services to all potential wards in their best interests.
- Guardians need to have more training opportunities available to them.
- Besides the county DSS we need a disinterested agency who could file and be a guardian of the person.
- We have seen an increase in the number of parties who appear pro se (without an attorney). In response to this fact the court has developed a Guardianship Facilitator program to provide assistance with forms and procedures for pro se guardians.
- My court has experienced a substantial increase in the use of guardianships by relatives, grandparents and even greatgrandparents as a vehicle to obtain custody of children whose parents are unable to function and care for their children.

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- We have a guardianship workgroup that is currently working reviewing statutes and court rules and is proposing a pilot project that would include random audits of accounts and personal visits to wards under guardianship.
- Share best practices with other states. Federal and State share information with the Probate Court.
- Our Supreme Court and staff review all conservator accounting reports and refer needs to the court so I am not sure who they communicate with.
- our certified guardianship program has worked very well in madison county al
- The current rules and regulations are an over reaction to a limited number of instances of criminals taking advantage of those who needed protection. Instead of vigorous prosecution and punishment of the minority, the bureaucrats chose to punish, by excessive reporting requirements, the majority of individuals who are merely trying to take care of a friend or loved one, most without pay. We now operate under a presumption that such a "volunteer" is most likely a thief without any basis for that presumption; we presume a parent who has lovingly taken care of their child in minority will not do so upon the child reaching majority. Those in power demand much of those appointed, in time and expense, but then hypocritically, pawn off the monitoring of the accountings to clerks (most of whom are overworked) and judges, none of whom have been trained to be forensic accountants. Thus while pretending, and proclaiming, protection for the incompetent, in reality those with the authority not willing to expend the funds necessary to hire adequately trained persons to accomplish what they claim. Clearly in many cases the current status of these programs are classic examples of government employees creating a need where none exists to justify their existence by intruding into relationships where they are unneeded, unwanted, and unnecessary; all at the expense of the unwary, over regulated, over burdened taxpayer.
- rules regarding qualification for county residents
- open communication on issues
- We have just instituted electronic filing and probate has not gone up yet.
- All our Guardian of Estate matters are currently in Restricted Accounts, so some of your questions didn't pertain. And there is a three year mandatory requirement on submission of accountings.
- My office is the filing and qualifying office. We do not attend any court sessions as to guardians. All court appointed guardians/conservators matters are referred to Commissioners of Accounts who track inventories and accounting.
- We have indigent estates that we require summary accountings, and then we have asset estates that require detailed accountings. We do not have investigators to investigate personal matters of the ward, but rely on outside agencies to alert us or to investigate for us, or we appoint an attorney to investigate. We are just now trying to put financial settlements in electronic form that can be manipulated by auditors in excel. It would be helpful to have a standard fillable financial accounting software package for courts/attorneys/auditors to use.
- I believe that there is a big loophole in CT law and that CT law should pay for guardianships for people with intellectual disabilities.
- mutual sharing of information in regards to amts of monthly payments, etc
- I believe that by and large guardianships are handled appropriately. I have two areas of concern however: (1) the loopholes in the state laws that allow the courts to waive the filing of some

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documents simply because the ward's estate is so small. I consistently have attorneys come to court and ask that guardians be appointed for estates that do not exist; then, ask the court to waive the filing of the required estate documents and reports because there is no estate. When asked why a guardianship of an estate that does not exist is necessary, the attorney claims that the ward may become eligible in the future for some government assistance and that the guardianship will be necessary then. I think that when that happens, they can come back and make their case. The second concern is the state's practices related to Medicaid benefits. There is a provision in state law that allows the passing on of costs (including attorneys fees) as "additional personal needs allowances" for persons under government medical assistance. I question the intent of this practice and it seems to allow abuses of the system. Those are my two main concerns and it is based solely on the possible abuses, especially by paid professional guardians.

- We strive to meet all standards and statutory requirements set forth by the State of Colorado.
- Our court strives to meet all standards and statutory requirements set forth by the State of Colorado.
- Connecticut has a program to pay for conservators for indigent (less than 150% fed poverty rate) so we are not as reliant on volunteers or state agencies. \$55 per hr makes these individuals, mostly lawyers, quasi volunteers.
- I think that we do a pretty good job monitoring the process but we don't control who gets elected as public administrator.
- I am hoping that this will be a way for us to all work together for the common cause and maybe make things run more smoothly.
- Per California statute, conservators of the estate account to the court on a biennial basis after the first accounting unless the court orders an annual accounting. We permit e-fax-filing, which is a form of electronic filing but does not permit electronic signatures and the like. Full e-filing has not yet been implemented in our court.
- The left hand does not always know what the right hand is doing.
- We are currently exploring the use of pro bono attorney assistance in monitoring guardianships. Cumberland county
- Generally access to the courts is immediate and issues of lack of immediate access for emergencies is being addressed by the court. The process for resolving issues with the is open. In Fulton County lack of attorneys and availability due to small numbers and costs are limiting the effectiveness of the Aging Office. Franklin/Fulton counties
- Since most of our cases are generated by family and friends the best interests of the ward are made with a careful watch on the reliability of the guardian. I feel that at least an annual accounting is essential and often put monies into a restricted account where the guardian must have a court order to obtain funds released. This procedure has shown the inclinations of a guardian who does not have ward's best interests at heart and may be removed.
- court staff not trained accountants and have no real ability to investigate the truth of much of the information being provided in the accountings
- Volunteers monitor where wards placed use Catholic Charities Volunteer Guardian Program
- The survey question regarding appointments of Guardians of Estate was not calculating correcting. 5% of GoE are family/friends 95% are professional/attorneys

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- It seems that Courts' are seeing more families disputes caring for and/or taking advantage of their elderly relatives financially
- Given the size of our County, our guardianship filings are low. In 2013, a total of seven guardianships were sought and awarded. Mifflin county
- Court review of annual reports is an important part of protecting vulnerable adults.
- Strongly recommend that there be a computer program linking court & surrogates for input of orders and other court determinations. Centralized system.
- A person is placed under a guardianship as they are "vulnerable" to be taken advantage of. Filing of accountings should NOT be waived. If deemed incompetent, there should be closer monitoring. Filing a yearly accounting would serve as a basis for honesty and protect not only the ward but also the person handling the funds.
- Guardianship of the Estate is handled by the Circuit Court and not Family Court.
- The Regional Children's Court does not handle Guardian of Estate or adult Guardian of Person.
- I have limited experience with guardianship actions. I serve as a mental hygiene commissioner, but, so far, only in involuntary commitment proceedings, not in guardianship proceedings.
- Additional guidelines needed for limiting access to financial information regarding guardianships as the system moves to e-filing.
- Change in Payee Representative
- Guardians need more training to understand the duties and responsibilities that they have. Serious consequences need to be enforced against guardians who intentionally mismanage the ward's funds and use those guardianship funds for their own benefit.
- Coordination between agencies would be VERY beneficial!
- Parent/guardian does not have to file inventory or annual report. Reports may be reviewed but often are not. Files other than orders and letters are closed to the public.
- More information is always better than less. Wyoming needs to do more insofar of supervision of disabled adults.
- I am working with other judges and interested parties to form an Office of Public Guardian in Colorado which is needed.
- Cases have been referred to the DA's office for fraud, etc., but it seems nothing gets done since this is a very low priority item for law enforcement
- 2014 is the first year this Court has received Guardianship cases. This is the reason 2013 data was not provided.
- Once e-filing is initiating and the kinks are worked out, it will greatly assist us.
- We have sponsored a court Volunteer Guardianship program that has proven helpful to reach out to monitor/assist guardians. We are working to solidify and sustain that program for 2015.
- Pro Se guardianship filings should not be allowed and all prospective guardians should receive adequate guardianship training to demonstrate trustworthiness and proficiency, before appointment.
- Some questions were difficult to answer as they would be better answered by the Court (i.e. Judges).
- Only been working in court system for 1 year - always glad to learn more.
- This court currently has 57 active guardianship cases and 20 active Conservatorships. Most of the guardians have the full power of a conservator as well (there are just a couple cases where a

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separate guardian and conservator have been appointed within the same case). Most of the Conservatorships are assigned to the Public Guardian through the Office of Public Advocacy (OPA). OPA/the public guardian also are appointed in approximately half of the Full Guardianship cases. OPA/Public Guardian is what I am referring to in an above question about a list of available guardians.

- Union County is currently working with a non-profit volunteer program, The Union County Volunteer Guardian Program, to meet demands of our growing county (3rd fastest growing county in Ohio) and our need for persons to volunteer as guardians because no family or friends are able or willing to step up to serve as guardian.
- Question 12 asked about guardian of estate filing annual accountings. We require every guardian of the estate to file an accounting every 2 years at a minimum; the court has the ability to order additional accountings on a case by case basis.
- The Wisc. Register in Probate Assn. is researching the online accounting program for guardianships that is in place in Minnesota. A uniform accounting system would help to ensure all guardians are inputting the correct information in the appropriate section of the form, by not allowing them to continue until each item is complete and that the total balances before they are able to file the accounting electronically. In addition, an audit system could be put in place to screen out those accountings that require further investigation.
- in my opinion, the state of Texas needs a guardian of last resort. we currently do not have one although the department of aging and disability has a guardianship program. their parameters are narrow, however, and do not serve the needs of our population.
- Judicial Council forms don't always include instructions to follow, pro per parties need more assistance with filling out forms. Guardianship forms seem to be the only forms with instructions.
- small, low income county; access to court program cost prohibitive some some.
- Our county has volunteer visitors who meet with wards and guardians and report to the court
- Guardianship caseload statistics provided in section F. are statewide. Also, the intended meaning of "Open/Pending Caseload" in question 27 is unclear; I am unsure whether it refers to cases pending an adjudication of incapacity or post-adjudication cases in which there is an active guardianship. Regardless, such data is unfortunately unavailable.
- In Kings County, individuals under the age of 18 would be considered a "guardianship" filing. Individuals 18 years of age and older would be considered a "Conservatorship" filing.
- Please note the our case management system does not distinguish between conservatorship of the person and the estate.

### Guardian Respondents

- There should be a streamlined, simpler process for professional guardians to be appointed as representative payees, rather than the in-person visits to the busy and overcrowded SSA offices. Some sort of registration followed by ability to apply online for new clients. In Connecticut, the probate courts don't specifically inquire as to whether a conservator will become rep payee because it is assumed that they will because it is one of their duties. No inquiry is necessary.
- NYS has substantially more requirements and safeguards than many other states that I am aware of. Court appointed examiners do bring motions to remove guardians who fail to comply with the statutory requirements.



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- Statutory courts in large areas have funding for investigators and management of guardianship matters. County probate courts receive unfunded mandates continuously. There is no support for guardianship matters and becomes a burden to County funds. Thus, short cuts are made. Plenary guardianships are approved to be on the safe side, avoid additional court time and expense to modify. Doctors complete PCME based upon IDD diagnosis, without sculpting an individual guardianship based upon strengths retained by the individuals to avoid liabilities. There is no funding to support local guardianship programs. The numbers a program can handle are small, b/c once appointed the program serves the same clients sometimes 15-20+ years. Advocacy for GOP requires dedication and time. Guardianship programs can't compete in the #s game with funding of other charitable programs who provide a single services (meals) to the massive. There is a lack of knowledge within the community of what guardianship is and what their responsibilities to the person are. We hold high standards of the NGA. Performance requires time and their is little pay. GOE is a different story and often where guardians negative image results. To destroy the negative image and meaning of the historical practices in guardianship, it would be helpful to design new meaning as advocates. New terminology so guardians are not always fighting an uphill battle against ignorance.
- The courts in the [my] Circuit, Florida do not use the Guardianship list when appointing a registered guardian, but rely on application only. They do not understand the role of the Statewide Public Guardianship Office, nor do they know how to access the list of registered guardians. Most do not keep a current file of local guardians or of bonds for Guardians residing in their circuit. There are attorneys who are not registered Guardians serving in the Circuit as "Attorney Guardians". The common practice is for a family guardian to hire their attorney to complete the required accounting and care plan. The attorney then hires a bank fiduciary and professional care manager to monitor and complete the required court accounting and plans, adding review to the process and passing this cost on to the ward in addition to legal expenses. The Probate Clerk may not always have education or experience in auditing inventories, and there is no standard way for preparing the inventory as it differs from county to county. I suggest that a standard format be adopted statewide for accountings. The Clerk's office needs more education concerning Guardianship to be effective. Detailed care plans are not required or monitored, leaving wards at risk. Most importantly, there is no way for indigent families to be served even though we have a Public Guardianship in the circuit. This is because the attorney wants to be paid. He can be paid by the hospital for the Guardianship petition and filing, but law states that the Guardian can not accept pay from an institution for services. This translates that the only people served are those in an institution that will pay the attorney fees, which can be @ \$5,000 or more per case. The hospital is willing to pay this to move the patient out to eliminate their costly care. I am familiar with two cases where the hospital and insurance company "appointed" a Health Care Surgut, usually a staff RN, to make decisions for the incapacitated person. In some cases, the Surgut approved a feed tube, and as the patient became stronger, placed the patient out of the hospital to a facility willing to accept their SS income as payment. In these cases, they have called me to ask if I am willing to serve "pro bono" for a client with a feed tube as the RN is now unwilling to continue to serve. There are 7 Registered Guardians in the 19th Circuit and the number is dropping. Last year there was a class for Guardianship in the area(40 hr) which 10 people took. No one from the class decided to take the exam and to be a Registered Guardian in Florida. Reasons stated: too stressful dealing with



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courts and families, too many laws and regulations to learn, too many skills sets to learn (health care and legal), not worth the compensation .

- They work hard to make it a good system.
- Not sure what is meant by some of the questions. For example, "audit". The three different county courts I use to submit my annual accounting all have judges who review the information which includes bank statements and many support documents for the documented accounting. Also, many of our courts require annual accounting but, some courts here do require tri-annual accounting. I use an attorney to submit most of my documents so, I may be aware of the method of document submission to the court.
- In VT, each person under guardianship is appointed a lawyer. The quality and attention to the ward varies greatly by lawyer. I sometime have to work with attorneys who primarily practice real estate law but have a few guardianship cases, know very little about aging issues, or don't pay much attention to any of my filings or representing what their client might want. For example, I made a petition to the Court for a move to a more restricted environment which my Ward clearly was opposed to. At the hearing, her attorney didn't even show up. I believe I did right by my Ward for making the move but there was no opportunity for a dissenting voice in this matter which should have been provided by the attorney. We also have a program for voluntary guardianship in VT. A person, with no legal or medical definition of incompetency can opt into the guardianship system. Right now, no attorney is appointed to represent the Ward. There should be one. Just the fact that a person is opting into a voluntary guardianship indicates to me that they are at risk for abuse or exploitation and have a poor support system and therefore should have an independent advocate, separate from the guardian. VT should also require all non-family related guardians to be certified and insured and take on-going/yearly education. All family guardians should have access to training and support through the Courts or OPG. Although VT seems to have more oversight than most states, I still think it is too little and it makes me nervous to be in a field of work that is rife with opportunities to exploit.
- I was hoping for a broader guardianship inquiry.
- Missouri has a public administrator form of safety net wherein each county has a guardian that serves as the guardian of last resort.
- Since I serve as guardian to individuals in various jurisdictions, some of the survey questions were difficult to answer with accuracy.
- Having to create a separate bank account for rep payee accounts while serving as conservator/guardian of the estate is duplicative and burdensome.
- The Utah program is working well. I would like to see the court in Utah have a designated Probate Judge rather than have Judges serve on a rotating basis.
- Each Probate court is different and there is very little uniformity between county Probate offices. There is also no policies or procedure to get a vulnerable adult under APS who needs a guardian from Family court to Probate court.
- It would be beneficial in NC if Guardians of the Person could gather insurance information from medicare and private insurances. Guardians of the Person are charged with getting medical care but don't know who the providers are.
- nothing is co ordinated guardians need government benefit training to be effective

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- [Judge, court Staff] for Palm Beach County (Florida), established a successful multifaceted Guardianship Fraud Program to effectively audit guardianship reports (accountings and inventories) and deter fraud and exploitation. The program has identified over \$3.1 million of unsubstantiated disbursements, fraud, and missing assets. [Staff] recently crafted revisions to Florida Guardianship Law which become effective July 1, 2014 to greatly enhance court oversight. As a result, approximately 20 counties in Florida are planning to develop more aggressive auditing programs.
- The guardianship appointments within the Hudson Valley Region of New York State - 9th Judicial District - is closely monitored by the "The Guardianship Part" - which is Supreme Court in Westchester County. There are appointed Court Examiners per case who review the filed accountings and report to The Guardianship part.
- We have a good working relationship with our court.
- The e-court filing system is relatively new in Oregon. Right now only a select number of counties are using it. Eventually we will be able to file all the documents listed in the previous question through e-court.
- Some financial accounting reports are allowed to be filed on a triennial or biennial basis if assets are low.
- No consistency in court protocols or procedures.
- In this area, we need a court monitoring "service" or "department" or independent non-profit organization to follow up on annuals, accountings, and determine if a guardianship is truly necessary. Our court only knows what the guardian informs it of, there are no checks and balances to verify the information. I work for the County Public Guardian so we have many layers of checks and balances internally, but the court has no such ability to implement checks and balances, but only trust the information filed by the guardian. We also need an organization or some such entity to investigate the need for the guardian and scope of the guardianship itself. We do our own investigations and it seems like a conflict, but we have no other option.
- It would be my "ideal" wish to have all courts (inside one state and outside the state as to other states) manage ALL probate matters in similar fashion. In this modern world where family members share caregiving and move often, continuity of care can be a major issue if not PRE-resolved.
- Our court also audits the accounts
- I work with the Superior Court system in three counties. One monitors and audits the annual report and requires an annual report even if the estate is under \$3000. The other two only requires an annual report if over \$3000 after the first year. They do not audit.
- Our judge is a very hands on person who believes she is the wards advocate. She keeps a close eye on all the transactions and interaction we have with the ward.
- Would like to see stepped-up court-user interface with increased usability of forms and reporting documents.
- The courts need more resources to monitor guardianships and audit accountings.
- After the first year, accountings are filed biannually.
- Our local courts work exceptionally well with our not for profit agency.
- We are very proud of our recent State legislation that requires all professional fiduciaries to be certified and participate in continuing education.

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- Florida has a thorough state regarding guarding ship.
- Our court does allow e-filing of papers of all sorts, but they do schedule a hearing for approval of orders of annual, biennial or triennial approval reports required.
- Our program is by statute limited to appointment as guardian of person only; however, we must work with any guardian of the property/ estate or rep payee for each of our wards to facilitate and effect their care plan.
- It would be helpful if there were a way that financial institutions could have some training on guardians/conservators so they were better educated on the authority and laws pertaining to the state. Every time we deal with a bank to harness accounts, it is extremely difficult to work with certain financial institutions. We try to educate them but the turnover rate is very high. Perhaps some legislation holding banks more accountable for known exploitation of protected persons would help.
- Local attorneys review all Guardian reports to identify problems and fix errors in advance of filing with the court.
- Alaska court has an excellent system in large cities but fails in rural areas.
- This Court's guardianship program is public and open, requires notice to interested persons, provides review by an investigator and Court appointed attorney, allows for objections to be filed and heard, requires an inventory & timely accountings, and requires a care plan to be provided by the guardian & placed in the client file.
- Sadly, guardians are not required to be licensed. Clerk's knowledge about guardianship is not consistent. There is inadequate accountability. Best interest of 'wards' is often not the priority. Mediation is not routinely used. Human Rights declaration guidelines re 'support' should be used as an alternative.
- El Dorado Co. did not notify beneficiaries and kept money, used it, for over two years after the death of the ward. They did not even notify the Public Administrator's office of the death. Unacceptable! Need oversight in all courts. Probate is full of corruption and crimes. Too many to list!
- Our court requires biennial accountings, not annual accountings. I answered the question as if it also meant biennial accountings.
- None
- A statewide database of guardianship cases is desperately lacking, as well as standardized reporting forms and processes. Statutes are clear on many issues but in many jurisdictions local rules trump statutes!
- It might be helpful if Judges were provided with more information about guardians.
- Our State is currently working on implementing Guardianship Training through the State Court, in addition to working on implementing a pilot project of monitoring / auditing of adult guardianships.
- On\_line submission would be so much easier.
- Applying for Medicare on-line is a waste of time. I filed two e-aps for a client each time receiving confirmation that the completed app. had been received. My client's medical benefits were ended because DSHS can not confirm that the app. went through.
- Great relationship with our 6 courts. The judges work well with us.
- The most complicated and overlooked aspect of guardianships is compensation for guardians and their attorneys. Many guardians and attorneys serve individuals with little or no assets.

## Appendix H: Additional Comments

These cases are often the most complex requiring extensive work by the guardian and their attorney. Unfortunately, based upon current Medicaid guidelines, the only asset, income, is expected to be turned over to the nursing facility. This makes representation of these individuals difficult and obtaining legal representation rather hard.

- I am looking forward to a time when guardianship certification is required by my state and there is more oversight of serving guardians.
- I believe more formal arrangement to exchange information about guardianship type, appointment, accounting and financial requirements might be beneficial in Utah



# **APPENDIX I**

## **Table of Authorities**

### **State and Territory Guardianship Statutes**

<b>State or Territory</b>	<b>Guardianship Statutory Table of Authorities</b>
<b>AL</b>	ALA CODE. §§26-2A-102; 26-2A-108; 26-2A-100
<b>AK</b>	ALASKA STAT. §§13.26.145(C), 210(G); 13.26.145(C); 13.26.117
<b>AZ</b>	ARIZ.REV.STAT. §§§14-5312; §14-5101-5315; 14-5304(E); 14-5303(B)
<b>AR</b>	ARK.CODE.ANN. §§ 28-65-203; 28-65-101-707
<b>CA</b>	CAL. [PROB.] CODE §§1821(C); 2614.5; 1851.2
<b>CO</b>	COLO.REV.STAT. §§15-14-318; 15-14-317; 28-5-211
<b>CT</b>	CONN.GEN.STAT. §§ 45A-677(F-G); 45(A)-677
<b>DE</b>	DEL.CODE.ANN. §§110; 117; 3901-3997; 39A-101 TO -402
<b>DC</b>	DC.CODE.ANN. §§21-2043; 21-2064, 2065(B)(C); 21-2065
<b>FL</b>	FLA.STAT.ANN. §§744.1083; 744.309; 744.3135, 744.367
<b>GA</b>	GA.CODE.ANN. §§29-2-2; 29-4-2; 29-3-21; 29-3-83; 29-3-82
<b>GU</b>	GUAM. CODE ANN. §§ 3507, 3510; 4301; 4501- 4502
<b>HI</b>	HAW.REV.STAT.ANN. §§ 560:5-206; 560:5-305; 560:5-317
<b>ID</b>	IDAHO CODE ANN. §§15-5-206; 15-5-311; 15-5-418; 15-5-419
<b>IL</b>	755 ILL.COMP.STAT.ANN. 13-1.2; 11-3; 11A-5; 13-5
<b>IN</b>	IND.CODE.ANN. §§29-3-7-7; 29-3-9-5; 29-3-12-4
<b>IA</b>	IOWA CODE §§633.559; 633.670; 633.671
<b>KS</b>	KAN.STAT.ANN. §§59-3068; 59-3070; 59-3083
<b>KY</b>	KY.REV.STAT.ANN. §§387.032, 387.605; 387.710
<b>LA</b>	LA. CHILD. CODE. ANN. §§ 721; 722; 723;724
<b>ME</b>	ME.REV.STAT.ANN. §§5-101, 410; 5-411; 18-A; 5-103; 419

<b>State or Territory</b>	<b>Guardianship Statutory Table of Authorities</b>
<b>MD</b>	MD.CODE.ANN., [EST.& TRUSTS] §§13-207 TO -222 MD. RULES GUARDIANS & FIDUCIARIES §§ 10-707; 10-206;10-208
<b>MA</b>	MASS.GEN.LAWS CH.190B, §§ 5-107, 207, 305; 5-309
<b>MI</b>	MICH.COMP.LAWS §§700.5417; 700.5418
<b>MN</b>	MINN.STAT. §§524.5-316(A)
<b>MS</b>	MISS.CODE.ANN. §§ 93-13-33; 93-13-67; 93-13-37
<b>MO</b>	MO.REV.STAT. §§475.055.2, 475.055.3; 475.055.2
<b>MT</b>	MONT.CODE.ANN. §§72-5-312; 72-5-424; 72-5-438
<b>NE</b>	NEB.REV.STAT.ANN. §§30-2627; 30-2627; 30-2628
<b>NV</b>	NEV.REV.STAT.ANN. §§159.0595; 159.044 (2)(I)
<b>NH</b>	N.H.REV.STAT.ANN. §§464-A:10; 464-A:35, 36; 464-A:39,40
<b>NJ</b>	N.J.STAT.ANN. §§3B:13A-8; 3B:12A-6; 52:27G-37; 3B:13-11; 3B:13A-25; 3B:13A-27;3B:17-3
<b>NM</b>	N.M.STAT.ANN. §§45-5-206, 45-5-303, 45-5-410
<b>NY</b>	N.Y. SURR. CT. PROC. ACT LAW § 1751; 1703; 1719;1721
<b>NC</b>	N.C. GEN. STAT. §§35A-1213 (C); 35A-1213 (E)(F); 35A-1261
<b>ND</b>	N.D.CENT.CODE §§30.1-27-06, 30.1-28-11, 30.1-29-10; 30.1-29-14, 30.1-29-19
<b>OH</b>	OHIO.REV.CODE.ANN. §§2111.03; 2111.14; 2111.02, 2111.05, 2111.49
<b>OK</b>	OKLA STAT. TIT.30 §§ 4-102, 4-105; 1-114 4-406, 4-801
<b>OR</b>	OR.REV.STAT. §§125.205; 125.210; 125.305
<b>PA</b>	PA.CONSTAT. §§5112-13; 5142, 552
<b>PR</b>	P.R. LAWS ANN. §§ 31, 731; 741; 802, 805; 824-825

<b>State or Territory</b>	<b>Guardianship Statutory Table of Authorities</b>
<b>RI</b>	R.I.GEN.LAWS §§ 33-15-6; 33-15-44; 33-15-19
<b>SC</b>	S.C.CODE ANN. §§62-5-311; 62-5-418; 62-5-419
<b>SD</b>	S.D. CODIFIED LAWS §§29A-5-110, 304; 29A-5-407
<b>TN</b>	TENN.CODE ANN. §§34-1-102, 34-2-102; 34-1-110
<b>TX</b>	TEX. ESTATES CODE ANN. 1104-251; 1104.251, 351, 352, 353, 354, 358; 1101.001 TEX. GOV'T CODE ANN. 111.041, 111.042
<b>UT</b>	UTAH CODE ANN. §§75-5-311; 75-5-418; 75-5-417
<b>VT</b>	VT.STAT.ANN. §§ 2603, 2664
<b>VA</b>	VA. CODE ANN. §§64.2-1703, 2007(C)-(D); 64.2-2011; 64.2-1300
<b>VI</b>	V.I. CODE ANN. 15 §§825; 960; 883, 885; 926
<b>WA</b>	WASH.REV. CODE ANN. §§11.88.020; 11.88.020; 13.36.030; 11.92.040
<b>WV</b>	W.VA.CODE ANN. §§44A-1-8; 44A-2-10; 44A-1-8
<b>WI</b>	WIS.STAT. §§54.15; 54.62; 54.68
<b>WY</b>	WYO.STAT.ANN. §§3-2-107; 3-6-901