

GUARDIANSHIP COMPLIANCE PROJECT

Guardianship is a legal process appointing a competent adult (guardian) to be responsible for the care, custody and control for a vulnerable or incapacitated person often referred to as a ward. Appointed guardians make final decisions regarding a ward's finances, medical decisions, living situation, right to marry, and right to drive.

Guardians are required by law to file with the court for the court's approval:

- **A bond to cover one year of revenue to the estate, plus the value of the ward's personal property (within 21 days)**
- **An initial inventory detailing the assets in the estate (within 30 days)**
- **An annual report of the ward's well-being**
- **An annual accounting detailing financial transactions of the estate**

OCA obtained funding during the 84th legislative session to establish a pilot program to improve guardianship compliance. OCA launched the Guardianship Compliance Project in November 2015 to provide additional resources to courts handling guardianship cases. The goal of this project is to help courts protect our most vulnerable citizens and their assets by:

- Reviewing adult guardianship cases to identify reporting deficiencies by the guardian
- Auditing annual accountings and reporting findings back to the court
- Working with courts to develop best practices in managing guardianship cases

Why is this important?

The population of **Texans over age 65 is projected to double** in size by 2030 to almost 6 million. Some of those individuals will need guardianships as they become unable to make decisions for themselves.

It is estimated that there is currently **\$5 billion in assets under court and guardian control in Texas**. Without sound monitoring practices by courts, there is a high risk for exploitation and/or neglect.

Statutory probate courts are located in 10 of the state's 15 largest metropolitan areas. In Texas' remaining 244 counties, probate matters, including guardianship cases are either handled by the county judge or county court at law judge without sufficient resources to monitor cases.

Over 20,300 of the state's 54,693 active guardianships reside in counties that lack resources to closely monitor these important cases.

Project Observations

- Lack of backup bank statements, receipts, check copies, and invoices for the annual accountings
- Unauthorized or unexplained ATM withdrawals and purchases
- Unauthorized or unexplained transfers
- Unauthorized or unexplained gifts to family members
- Payments to credit card accounts not listed on annual accounting
- Lack of required criminal background checks
- Training and procedures needed

Office of Court Administration
Texas Judicial Council

STATEWIDE EXPANSION

28 guardianship compliance specialists/auditors

- Will audit all newly-established guardianships in non-statutory probate courts
- Will audit estimated 10% of all others – based upon risk
- 165 audits per year each

2 managers for the statewide program

9 additional administrative staff to support the program

Travel and operating expenses

TOTAL ANNUAL COST
= \$3.2 MILLION

Guardianship by the Numbers

- Population of Texans over age 65 projected to double by 2030 to almost 6 million
- 54,693 active guardianships in Texas
- 66% increase in reported guardianships in last 5 years
- \$5 Billion in assets under court and guardians control in Texas



The Texas Judicial Council was created in 1929 by the 41st Legislature and is the policy-making body for the state judiciary. It examines the work accomplished by the courts and submits recommendations for improvement of the system to the Legislature, the Governor and the Supreme Court.