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# Guardianship of Adults

Project Description

July 2024

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## BACKGROUND

When an adult has an intellectual, psychiatric, age-related, or other condition that causes them to be unable to make choices on their own behalf, the court may appoint that individual a guardian. Guardians make decisions about an individual's basic personal needs—such as where to live—based on the powers the court grants to the guardian. In the event an individual needs assistance making financial decisions, the court may appoint a conservator.

By law, the powers that the court grants to a guardian depend on the needs of the person subject to guardianship. These powers could include the ability to make decisions on when and what medical care to provide to the individual, how to manage the individual's belongings, and more. The court may only appoint a guardian if the individual's needs cannot be met through less restrictive means.

Guardians may be someone the person subject to guardianship knows, such as a family member or friend; in other cases, an individual may have a professional guardian who typically has no prior relationship with the person and charges a fee for guardianship services.<sup>1</sup> The Judicial Branch reported that there were about 35,000 Minnesotans subject to guardianship and about 41,000 guardians as of May 2024.

Guardians are subject to the control and direction of the court, and state law assigns the Judicial Branch certain responsibilities for guardianships. For example, the court must establish a process for monitoring guardianships, and the court may intervene if it finds that a guardian is not effectively performing their duties. The Judicial Branch also investigates complaints about guardians and provides some resources for guardians on its website.

## EVALUATION ISSUES

1. To what extent are there adequate minimum qualifications, screening procedures, and training requirements for guardians?
2. To what extent are the procedures for processing and responding to complaints about guardians useful, transparent, and comprehensive?
3. To what extent does the state effectively oversee the guardianship of adults in Minnesota?

## DISCUSSION

This evaluation will focus specifically on matters of guardianship; we will not evaluate matters related to conservatorship. We will review state laws and relevant Branch procedures to understand adult guardianship requirements. Further, we will interview court staff, individuals subject to guardianship, guardians, and select stakeholder organizations.

We will also review a selection of guardianship case files and conduct a survey of judges who have recently been involved in adult guardianship cases. Finally, we will review guardianship-related data, including data on guardianship complaints.

This evaluation will focus on questions pertaining to Minnesota's laws and practices regarding the guardianship of adults. We will not evaluate public guardianship in Minnesota or the court's decisions about specific guardianship cases.

We plan to complete the evaluation and issue a report in early 2025. For additional information, contact project manager Caitlin Badger at 651-297-1917 or [Caitlin.Badger@state.mn.us](mailto:Caitlin.Badger@state.mn.us)

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<sup>1</sup> Less commonly, the courts may assign the state to be the guardian of an individual, which is referred to as public guardianship.