

Guardianship of Adults

Program Evaluation
Released April 2, 2025

OLA | OFFICE OF THE
LEGISLATIVE AUDITOR



Key Findings

- Inadequate oversight
- Insufficient training
- No complaint process in law

OLA | OFFICE OF THE
LEGISLATIVE AUDITOR

State of Minnesota
2

Guardianship Overview

- Used when adults cannot make key personal decisions
- Adults subject to guardianship have diverse backgrounds, needs, abilities



Court appointed a guardian for 78-year-old with memory loss



Court appointed a guardian for 29-year-old with schizophrenia and multiple substance use disorders

Guardian Appointments

Appointment Requirements

Court must find:

- ✓ Adult is “incapacitated”
- ✓ Less restrictive alternatives cannot meet adult’s needs

For example: health care directive, community services

** See p. 4 for additional examples*

Guardian Role

Guardians can be volunteers or professionals

Example Guardian Powers and Duties

Power to have custody of the person subject to guardianship and establish where the person lives

Duty to take reasonable care of the personal effects of the person subject to guardianship

** See p. 10 for complete list of powers and duties*

Guardianship vs. Conservatorship

Guardianship

Focuses on decision-making for **personal** matters

Conservatorship

Focuses on decision-making for **financial** matters*

** Not included in our evaluation*

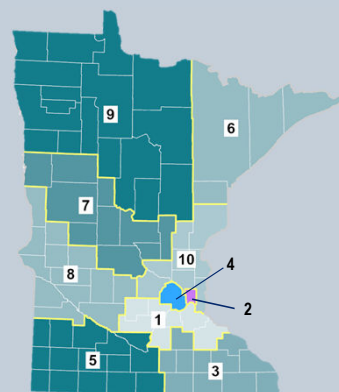
Judicial Branch Role



Decentralized Approach

- No central Branch entity responsible
- Adult guardianship activities managed by judicial districts

Minnesota Judicial Districts



Guardianship Oversight

- Minimal requirements to oversee adult guardianship in law
- Primary oversight is to review guardian reports

Personal Well-Being Reports

Guardians must:

- Describe the condition of the person subject to guardianship
- Submit to the court annually

Guardianship Oversight

Annual reports had limited usefulness for monitoring

Current Conditions

For questions #3 through #5, rate the Person Subject to Guardianship's **current** mental, physical, and social conditions by choosing a number on a scale of 1 to 5 (1 = very poor, and 5= excellent). Then give a brief explanation of why you rated the way you did.

3. I rate the Person Subject to Guardianship's current mental condition as:

☐ 1 ☐ 2 ☐ 3 ☒ 4 ☐ 5

The reason I give this rating: **No changes**

4. I rate the Person Subject to Guardianship's current physical condition as:

☐ 1 ☐ 2 ☐ 3 ☒ 4 ☐ 5

The reason I gave this rating: **No changes**

5. I rate the Person Subject to Guardianship's current social condition as:

☐ 1 ☐ 2 ☒ 3 ☐ 4 ☐ 5

The reason I gave this rating: **No changes**

Guardianship Oversight

Branch takes a largely reactive approach to overseeing guardianship



The system relies on the courts to either glean a problem from the well-being reports all on their own, or other mechanisms in society to catch problems, such as mandatory reporters and case workers fulfilling their duties.

— Judicial officer

Guardian Performance

Guardians submitted
only about

30%

of their personal
well-being reports on
time for the cases
we reviewed.

- Few performance standards for guardians
 - Required annual reports and notifications
- Guardian reports and notifications often not timely (pp. 60-62)

Guardian Accountability

- Few consequences when guardians did not fulfill their responsibilities in law
- Actions to address noncompliance varied and did not always comply with Branch requirements or state law



We are constantly chasing our tails to get guardians to file the proper reports in a timely manner.... The amount of work to get them to do so is untenable, yet there are often no alternative options.

— Judicial officer

Guardian Accountability

Example Court Actions to Obtain Late Report

September 2023	Report was due, but was not submitted on time
November 2023	Sent a notice to file or appear, over 1 month after the due date
December 2023	Issued an order to show cause, almost 3 months after the due date
February 2024	Issued another order to show cause, over 4 months after the due date
March 2024	Issued a warrant for the arrest, over 6 months after the due date
February 2025	Report not yet submitted, 17 months late

* See p. 63 for additional examples

Recommendations

There is inadequate oversight of adult guardianship.

- ☐ The Legislature should establish a centralized entity in statute to administer and oversee adult guardianships.
- ☐ The Legislature should establish specific duties for the oversight and enforcement of adult guardianship requirements.

Recommendation

- ☐ The Judicial Branch should establish a process for systematically reviewing adult guardianships.



“Once a guardianship is imposed, and an individual’s rights are removed, the court must monitor the guardian and the arrangement in order to protect the individual from abuse, neglect, and exploitation by the guardian or others.”

— U.S. Senate Special
Committee on Aging

Guardian Training Requirements

Training requirements for individuals with key roles in the guardianship system are inadequate.

Guardians

No training required

No certification or educational requirements

Judicial Officer Training Requirements

Judicial Officers

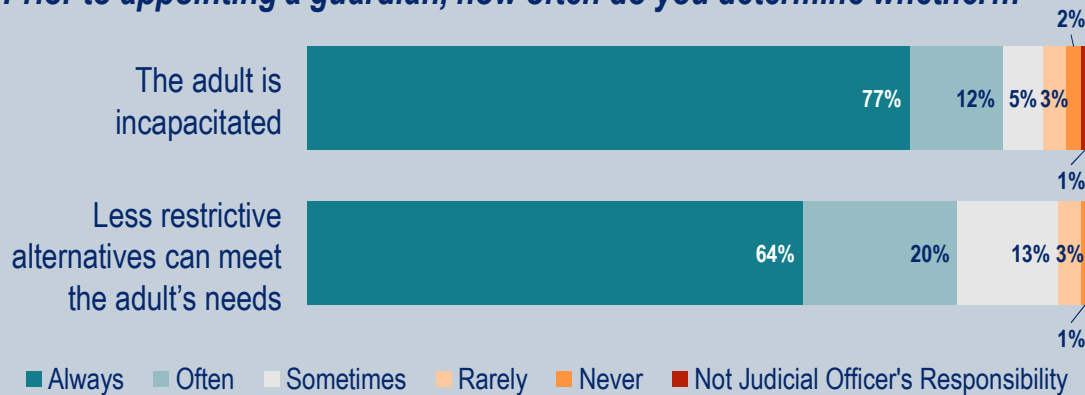
No guardianship training required

Few specialize in guardianship

Some unclear how to do key tasks and do not always follow the law

Judicial Officer Training Needs

Prior to appointing a guardian, how often do you determine whether...

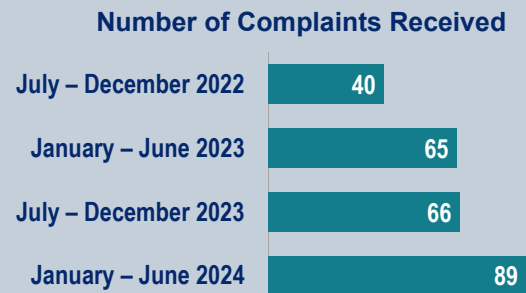


Recommendations

- ☐ The Legislature should require all guardians to complete training prior to their appointment as guardian.
- ☐ The Judicial Branch require all judicial officers who preside over adult guardianship hearings to complete training on guardianship.

Guardianship Complaints

- No process for individuals to register complaints about guardian performance with the Judicial Branch in law
- Branch created guardianship complaint process
 - Grant-funded pilot project
 - Complaint backlog (pp. 89-90)



Recommendation

- ☐ The Legislature should establish a guardianship complaint process in law.

Guardianship of Adults

www.auditor.leg.state.mn.us

OLA | OFFICE OF THE
LEGISLATIVE AUDITOR

State of Minnesota
23