

Briefing Doc: Guardianship Abuse and Probate Reform in Arizona

Main Themes:

- **Widespread guardianship abuse:** While the exact extent is unknown, evidence points to significant financial exploitation, neglect, and abuse of seniors under guardianship in the US.
- **Systemic failures:** Courts often fail to adequately screen and oversee guardians, enabling abuse to persist. Poor communication between courts and federal agencies exacerbates the issue.
- **Need for reform:** Legislative efforts in Arizona and other states aim to strengthen guardianship procedures, enhance accountability, and prioritize the rights and well-being of individuals under guardianship.

Key Facts and Ideas:

Prevalence of Abuse:

- A 2010 GAO report identified hundreds of allegations of abuse by guardians in 45 states and D.C. between 1990 and 2010.
- In 20 investigated cases, guardians stole or misappropriated \$5.4 million from 158 incapacitated victims, many of whom were seniors.
- "GAO could not determine whether allegations of abuse by guardians are widespread; however, GAO identified hundreds of allegations of physical abuse, neglect and financial exploitation by guardians in 45 states and the District of Columbia between 1990 and 2010." - GAO-10-1046

Examples of Abuse:

- A Missouri guardian embezzled over \$640,000 from an 87-year-old man with Alzheimer's, leaving him in squalid conditions.
- An Alaska agency stole at least \$454,000 from wards over four years, using the funds for personal expenses.
- A Kansas guardian and his wife subjected residents of their unlicensed group home to sexual and physical abuse.

Systemic Issues:

- **Inadequate Screening:** Courts often fail to thoroughly vet potential guardians, appointing individuals with criminal records or financial instability.
- **Lack of Oversight:** Courts often neglect to monitor guardians' actions, allowing abuse to continue unchecked.
- **Communication Breakdown:** Poor communication between courts and federal agencies prevents effective intervention in cases of abuse.
- "In 6 of 20 cases, the courts failed to adequately screen potential guardians... In 12 of 20 cases, the courts failed to oversee guardians once they were appointed... Lastly, in 11 of 20 cases, courts and federal agencies did not communicate effectively or at all with each other about abusive guardians..." - GAO-10-1046

Reform Efforts in Arizona:

- **Probate Advisory Panel:** Governor Hobbs signed a bill in May 2023 establishing a panel to hold public hearings and recommend improvements to adult guardianship and conservatorship in Arizona.
- **Proposed Legislation:** Another bill aims to strengthen probate procedures, ensuring individuals are informed of their rights and maintain contact with family and friends.

Case Study: Bill Chalmers

- Chalmers' attorney recommended a conservator during his divorce, but he was placed under guardianship without his full understanding.
- He was stripped of his possessions and control over his life.
- The fiduciary handling his case, East Valley Fiduciary Services (EVFS), is under censure and probation due to mishandling his case.

Challenges and Concerns:

- Slow progress in addressing complaints: The Arizona fiduciary board faces a backlog of complaints, highlighting the need for increased resources and expedited processes.
- Ensuring effectiveness of reforms: The newly established panel and proposed legislation must translate into tangible improvements in guardianship practices.

Overall:

The sources reveal a disturbing pattern of guardianship abuse enabled by systemic weaknesses. The recent developments in Arizona represent a positive step towards reform, but continuous effort is needed to ensure accountability, protect vulnerable individuals, and restore trust in the guardianship system.