

Guardianship in Texas

Office of Court Administration (OCA)

Judicial Branch Certification Commission (JBCC)

- The JBCC regulates certified guardians and guardianship programs in Texas. Certification includes a criminal history check, examination, and continuing education requirements.
- 368 certified guardians, 95 provisional guardians and 28 programs.
- Investigation of complaints against certified guardians and programs.
- The JBCC also registers all proposed guardians which includes a criminal history check and guardianship online training covering alternatives to guardianship.

Guardianship Abuse, Fraud, and Exploitation Deterrence Program (GAFEDP)

On September 1, 2019, the OCA implemented the GAFEDP to provide resources to Texas courts relating to monitoring and compliance of guardianship cases pursuant to SB 31 & HB 1286 (Zaffirini/Smithee). The audit process includes an initial baseline compliance review, financial audits, and a written report of findings with recommendations and best practices for the court. An online guardianship reporting system is in development.

Why is this important?

- Each guardianship represents the loss of civil rights and personal decision-making power, loss of authority to control their money and assets, and vulnerability to exploitation.
- Estimated \$4.9 billion in assets under court and guardian control in Texas.
- Throughout Texas the courts lack personnel and resources to adequately monitor cases.

A guardian is a person who is appointed by the court to protect the individual and/or property of the individual who does not have the capacity to protect his or her own interests.

- **Guardianship of the Person:** a guardian is appointed to take care of the physical well-being of the protected person.
- **Guardianship of the Estate:** a guardian is appointed to care for a protected person's property, including finances.

GAFEDP Review Data	FY 2022	Overall
Courts/Counties reviewed by GAFEDP	131/104	288/230
Total Number of Guardianship Cases Reviewed GAFEDP	13,378	68,192
Total Number of Cases Recommended for Closure	6,882	32,449
Total Number of Active Guardianships Identified	9,348	34,284
<i>Percentage of Cases Missing Annual Reports</i>	27%	26%
<i>Percentage of Cases Missing Annual Accountings</i>	46%	43%
<i>Percentage of Cases Missing Inventories</i>	44%	39%
<i>Percentage of Cases Out of Compliance</i>	34%	33%
Total Number of Deceased Wards Identified	1,434	6,699

Guardianship Trends

- 2014-4,539 Guardianships Granted Statewide
- 2021-3,376 Guardianships Granted- 26% decrease

GAFEDP Case Snapshot (01/2019-03/2022)

15,492 active cases analyzed:

- 10,634 Guardian of Person
- 419 Guardian of Estate
- 4,439 Guardian of Both
- Age at Appointment:
 - 0 – 17 1,410
 - 18 - 44 10,573
 - 45 - 64 1,675
 - 65 - 84 1,384
- 10,772 Intellectually Disabled
- 12,921 Family Member Guardians
- 8,499 Live with Guardian

GAFEDP Finding Examples

- \$1.3 million in loans made from the protected person's estate without court approval.
- Certified guardian's license revoked by JBCC after a financial audit revealed a total of \$10,101.55 in cash withdrawals and other questionable purchases. \$25,000.00 fine imposed and criminal prosecution underway.
- Guardian deposited \$30,000.00 of the protected person's funds into their own personal account to pay bills and personal living expenses.
- Guardian had not visited protected person in 20 years per annual reports.