

Who's Guarding Us From Guardians? AARP Reports an Alarming Lack of Court Monitoring

WASHINGTON, July 6 /U.S. Newswire/ -- Guardianship is a powerful tool used by the courts to provide care and protection to vulnerable adults with cognitive impairments. It is a legal process to help people who can no longer make or communicate sound decisions about their person and property. But according to AARP, individuals under guardianship may suffer great harm when the activities of guardians remain unmonitored.

A new AARP survey found that in about half (40 percent) of responding jurisdictions, no one is assigned to visit the vulnerable individuals under guardianship, leaving many Americans open to physical and financial abuse.

The survey, "Guardianship Monitoring: A National Survey of Court Practices," was conducted by AARP's Public Policy Institute (PPI) with the help of the American Bar Association (ABA). It is the first examination of guardianship oversight practices in 15 years.

AARP Senior Policy Advisor Naomi Karp, who has been studying the practices of courts and guardians explains, "AARP wants to give a voice to those who no longer have one. In many courts, no one is ensuring the safety and well-being of incapacitated adults. In addition, guardian training and collaboration with local support organizations remain a compelling need."

The survey found that although 74 percent of the courts require annual reports on the ward's personal status, over one-third of the survey respondents said no one verifies the information in the reports. Only 16 percent said that someone verifies every report.

In 2006 testimony to a California state task force, **Sacramento Probate Court Administrator James Locke said "We have 707 cases that include the (property) and periodic accountings are required. Of these, only 173 are current with the accounting. This means that 534 conservators have not filed the accounting as required and the case has not been reviewed."**

What happens when guardians remain unchecked?

An elderly woman resided in a nursing home in Peoria, Ariz., and her son was serving as her guardian and trustee. "We ordered a special investigation when we learned that her son had failed to pay nursing home bills, misused her trust monies, and neglected to arrange for urgent dental work," said Diana L. Clarke, Maricopa County Probate Court administrator.

"The woman was within days of being kicked out of her home for non-payment of more than \$27,000 in nursing home bills," added Clarke. "The guardian also allowed her home to become infested with mold, leaving her with no source of liquid assets. Our court immediately commenced proceedings to investigate the fiduciary's conduct," Clarke said.

This is not an isolated case. According to AARP, **stories of abuse by guardians are surfacing all across the country**, a troubling trend for advocates for the aging. Because of the lack of monitoring and reporting, some states are taking action. **Both New Jersey and Wisconsin recently passed legislation to improve the guardianship process, including stronger monitoring, and the California legislature is considering similar measures.**

Karp explains, "The courts have the incapacitated person's best interest in mind, but lack the resources to adequately monitor guardians. **43 percent of the survey respondents said funding for monitoring is unavailable or insufficient.**"

Director of ABA's Commission on Law and Aging Charles Sabatino, whose group has offered 10 steps to effective court oversight, said, "The new PPI study offers the first comprehensive look at where courts stand in implementing these steps during the last 15 years and concludes that, while progress has been made in practices, much remains to be done for the protection of vulnerable wards."

Later this year, AARP will convene state, federal and local officials, volunteers and agencies to search for solutions and better collaboration.

Karp said, "Courts and community groups rarely collaborate on guardianship monitoring. We must find ways to work together, to leverage resources, train volunteers, and better use the technology that can make monitoring easier."

AARP is a nonprofit, nonpartisan membership organization that helps people 50+ have independence, choice and control in ways that are beneficial and affordable to them and society as a whole. AARP produces AARP The Magazine, published bimonthly; AARP Bulletin, their monthly newspaper; AARP Segunda Juventud, their bimonthly magazine in Spanish and English; NRTA Live & Learn, their quarterly newsletter for 50+ educators; and their Web site. AARP Foundation is an affiliated charity that provides security, protection, and empowerment to older persons in need with support from thousands of volunteers, donors, and sponsors. AARP has staffed offices in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.

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