

GUARDIANSHIP IN MAINE: DATA CHALLENGES

PROBATE COURT DATA

Guardianship is a relationship created by state law, in which a court gives one person (the guardian) the duty and power to make personal and/or property decisions for another (the incapacitated person or ward). The appointment of a guardian occurs when a judge decides an adult lacks capacity to make decisions. Guardianship is a critical protection for at-risk, frequently elderly individuals. However, it is also a drastic intervention in which the guardian is given substantial and often complete authority over the lives of vulnerable wards, and press accounts have detailed significant instances of malfeasance and exploitation. This brief examined guardianship data in Maine.

At the moment, basic data on guardianship is scant, offering courts, policymakers, and practitioners little guidance for improving the system. The need for uniform, consistent guardianship data is heightened by demographic trends that will sharply boost the number of cases in the coming years—including the aging of the population, an increasing number of younger adults with mental retardation, developmental disabilities, and mental illness, and a possible rise in elder abuse.

County	Total Number of Applications
Androscoggin	71
Aroostook	100
Cumberland	199
Franklin	11
Hancock	23
Kennebec	
Knox	30
Lincoln	16
Oxford	44
Penobscot	
Piscataquis	
Sagadahoc	
Somerset	
Waldo	18
Washington	30
York	117
Total	659

Data Collection

The probate courts were asked to provide the number of PP505s that were filed in 2005 in order to determine the number of guardianship/conservatorship applications for that year. The total number for the state was 659, however five counties did not provide information.

For the majority of courts, collecting the information involved counting guardianship/conservatorship applications by hand because this information is not tracked, and is not collected in a database. The type of information available varied by county; Androscoggin and Knox Counties were able to provide the breakdown of guardianship and conservatorship applications, while Kennebec and Sagadahoc stated that that information was unavailable.

Three courts did not provide the requested data during data collection. The remaining counties counted completed applications, not PP505s, by hand. Because of this, the number of PP505s was only an approximation. Table 1 reports filings by county.

Data Storage

With the exception of three counties, there was no system of storing information. Three counties, Androscoggin, Cumberland and Oxford, had some type of database that could capture the information. Hancock County indexed applications in a word document. The remaining counties had no system, and instead had to count application files by hand.

Accessibility

Most counties were able to provide the information requested within one week. Overall, the information was not readily available. This was due to the fact that most courts did not track this information, and therefore had to count applications by hand, which is time

Publication Date

November 2006

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Maine Statistical Analysis Center

The SAC serves as a clearinghouse for data collection and statistical analysis for the Maine criminal justice system, promotes a research-based approach and conducts research that support its identified priorities and objectives.

consuming for the clerks. Some counties were able to gather the information in one day, while others required a couple of days. Two counties stated that application data was unavailable, and three counties did not have time in the near future, and did not provide the requested information during data collection. The reasons cited for were vacation, short staffing, and heavy workload.

National Survey

The results from this brief is consistent with a national survey conducted by the National Center on Elder Abuse in August 2006 that examined State-Level Adult Guardianship Data. The National Center on Elder Abuse conducted an exploratory survey of adult guardianship data collected by state court administrators' offices. The ultimate goal of the project was to contribute toward strengthening court collection of data on adult guardianship, which is required for: (1) effective case processing and monitoring of guardians; (2) gauging the extent of abuse by guardians and the extent to which guardians protect individuals from abuse; and (3) shaping guardianship policy, practice, training, and education. The project objective was to gain knowledge about the extent and kinds of guardianship information reported and maintained at the state level.

The survey findings offered a snapshot of state-level adult guardianship data as of 2005. Not surprisingly, state court administrative offices have few guardianship statistics. The following findings were highlighted by the report as national trends, many of which can be found in Maine:

- 1) There is no state-level data in the majority of the reporting states.
- 2) Reported data is limited to filings and dispositions.
- 3) There is almost no data on elder abuse cases.
- 4) Many states express interest in collecting additional information but outline significant barriers.
- 5) Major investment in technology, training, and standardized definitions is necessary.

The survey did identify a handful of areas engaged in practices that effectively capture (or will soon capture) adult guardianship data, and that might serve as models for others. Such models offer potential for courts effectively to secure additional information useful in effective case management and monitoring, as well as enabling courts, policymakers, and practitioners to move toward strengthening the guardianship system and preventing instances of elder abuse. Two examples are listed below:

Brooklyn and Staten Island, New York. New York introduced a statewide guardianship database in 2005 in two test locations (Brooklyn and Staten Island). This database will be expanded incrementally throughout the state over the next few years, and will centralize, in electronic form, guardianship records that previously were available only in hard copy or local databases. The database will include elements on name and contact information for incapacitated person (including data of birth); whether guardian of person, property or both; name of court examiner; history of case; as well as status of reports and accounts. When complete, the database "will not only accurately describe the extent of the pending guardianship caseload in New York, but provide individual judges with a tool to monitor compliance with statutory reporting requirements."

Minnesota. Minnesota convened a Conservatorship Task Force to define best practice guidelines for courts in safeguarding assets of protected persons. The task force devised a system in which the conservatorship accounts would be filed on-line through a Web-based application. The conservator would use a software application such as QuickBooks to manage the account and update the court database. Such a system could also aggregate and run reports on data elements, such as number of conservatorships, income and assets of protected persons, timeliness of filing of accounts, and more.

Conclusion

Some Maine counties, such as Cumberland, have developed a database to track guardianship cases. Probate courts may want to coordinate a state-wide effort to develop a standard set of variables and to use an existing database system as a foundation for a new system. Any effort, however, would require funding to ensure proper training and to purchase the necessary software to maintain the database.