



# Guardianship Oversight Task Force

Final Report

DECEMBER 2025

# GUARDIANSHIP OVERSIGHT TASK FORCE

2025

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Dear Chief Justice Rush & Justices of the Supreme Court,

Guardianships for adults arise in Indiana when a court finds that an individual is incapacitated and the appointment of a guardian is necessary to ensure appropriate care, supervision, or management of the individual's personal or financial affairs. This population includes individuals with disabilities, older adults, and persons recovering from injuries or medical conditions. Indiana courts are guided by principles that promote self-improvement, self-reliance, and independence, even when guardianship is required.

Over several decades, numerous state and national groups have undertaken efforts to review guardianship practices and recommend improvements. As Indiana's population continues to evolve, strengthening oversight and refining procedures remain essential. This report represents an important step in advancing those conversations and supporting a guardianship system prepared to serve Hoosiers effectively in the years ahead.

It has been our privilege to serve as Co-Chairs of this Task Force. We would like to extend our sincere appreciation to all of the members of the Task Force for their hard work, dedication and thoughtful contributions. We also express our deepest gratitude to Nick Parker for his tireless work in distilling and synthesizing the research and recommendations that informed this Report.

Respectfully submitted,

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# Executive Summary

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## About this Report

The Guardianship Oversight Task Force (“Task Force”) was established by the Indiana Supreme Court to research guardianship best practices and innovative programming that affects guardianship oversight; identify possible strategies to align resources and improve oversight capabilities within the Indiana judicial system; recommend innovations and strategies to improve adult guardianship functions (including enhanced communication protocols and the use of technology) to manage the guardianship system in Indiana; assess the potential impact of reform efforts on the judicial system; and develop improvements (including policies, procedures, and pilot programs) that will lead to better outcomes for all stakeholders, including protected persons and people at risk of guardianship.<sup>1</sup>

The Task Force met monthly in 2025 to develop this final report. Members engaged in conversation and research from other states/jurisdictions, including meetings with state leaders and discussions with national organizations. Public comment was sought from attendees at the annual statewide Adult Guardianship Symposium in June 2025, hosted by the Indiana Adult Guardianship Office (IAGO). Those comments were insightful and formed the basis for many improvements suggested.

This report includes recommendations on best practices, future programming, policies, and procedures to improve our statewide guardianship system. If adopted, these recommendations will modify how guardianship is managed by our state judiciary, creating effective processes and oversights that best respond to the needs of Hoosiers. It will also lay the foundation for better communication, data collection, and technology that can support a high-functioning system.

There will be a lot of work ahead to fulfill this state plan. The Task Force recommends that implementation be handled by a team of interdisciplinary stakeholders over the next few years, with an eye to developing the systems, forms, processes, and pilot programs envisioned in this report. The Guardianship Committee of judicial officers

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<sup>1</sup> Indiana Judicial Branch, *Guardianship Oversight Task Force*, <https://www.in.gov/courts/iocs/committees/guardianship-task-force/> (last accessed Nov. 11, 2025).

will be crucial in overseeing and approving many of the suggestions made. The next steps for the Task Force could include contributions from many of the original members, plus newly added members that provide additional perspectives and balance the need for increased collaboration and engagement.

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## Acronyms and Terms

The following acronyms or short titles are used throughout the report. The definition for the acronym or short title is explained within the report itself:

- ABA - American Bar Association
- CGC - Center for Guardianship Certification
- GAI - Guardian Association of Indiana
- GAL - Guardian ad Litem
- IAGO - Indiana Adult Guardianship Office
- IOCS - Indiana Office of Court Services
- NCG - Nationally Certified Guardian
- NGA - National Guardianship Association
- VASIA - Volunteer Advocates for Seniors and Incapacitated Adults
- WINGS - Working Interdisciplinary Network of Guardianship Stakeholders

The Task Force selected the term “protected person” to refer to a person subject to adult guardianship and the term “alleged incapacitated adult” as the terminology for adults who are not yet subject to an adult guardianship but could be in the future.

The term “lay/family guardian” refers to a guardian serving in a non-paid role for a family member or someone with whom they have a kinship relationship or other close non-familial relationship (such as a distant relative or family-friend). By contrast, a “professional guardian” refers to a guardian serving in a paid role (or certain non-profit volunteer role) that usually does not involve a family or kinship connection.

An effort was made to distinguish between “minor” and “adult guardianship.” The two forms of guardianship share the same section of the Indiana Code<sup>2</sup> and generally involve similar terminologies and processes. In many ways, the recommendations for oversight and system change will positively impact both minor and adult cases. However, to the extent that unique interventions may be necessary depending on the case type, distinctions were made in the report.

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<sup>2</sup> See I.C. 29-3-5 *et al.*

# Members

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# Education, Resources, and Data

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## Comprehensive Education and Training

Through a standard curriculum, mandatory education, and professional guardianship registration, Indiana can promote quality standards for guardianship excellence.

1. Create a standard curriculum to promote consistency in statewide education for guardianship.

In 2012, an interdisciplinary group of guardianship stakeholders recommended mandatory education for all appointed guardians in Indiana. Centralized training would remove the burden from local courts to provide such education directly while also ensuring that all guardians receive the same foundational training across the state. It would also foster statewide adoption of professional standards to ensure high-quality guardian performance.<sup>3</sup>

There is not currently a statewide system of centralized guardianship education in our state. To promote its adoption, the Task Force recommends first creating a

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<sup>3</sup> "A state supported and funded system of mandatory guardian education, certification, and registry should be created for all attorney, professional, and nonfamily member guardians appointed by the courts." Indiana Adult Guardianship State Task Force, *Who's Overseeing the Overseers?*, at 30 (Feb. 2012), <https://perma.cc/89UN-RU3C/>.

standardized curriculum for adult guardianship, where all stakeholders would engage in the same learning objectives across Indiana.

Other states have adopted a thorough curriculum that guides state education:

- The Supreme Court of Ohio requires mandatory adult guardianship education.<sup>4</sup> The contents of the Ohio course were set by a curriculum committee.<sup>5</sup>
- Texas maintains a “Code of Ethics and Minimum Standards” for private guardians that includes standards on independence and self-reliance, confidentiality, avoidance of conflicts and self-dealing, responsibilities on caseload management, relationship to the court and to family members, and other topics that help to standardize the role of guardians.<sup>6</sup>
- In Wisconsin, guardians are required to obtain education along a standard list of topics including responsibilities of the guardian, limitations to authority, rights of the protected person, best practices, and alternatives to guardianship.<sup>7</sup>

Without a curriculum to guide all stakeholders on the principles of sound guardianship, trainings across Indiana risk overlooking crucial topics and providing inconsistent education depending on the source(s) that a guardian has available to them. Pockets of our state may also not have access to the same high-quality education, while innovations could go unnoticed due to the lack of communication on consistent practices.

Indiana should have a centralized statewide curriculum to promote consistent guardianship practices. This can be accomplished by convening an interdisciplinary group of key stakeholders to develop a clear set of priorities and topics for guardianship trainings across the state. The stakeholders involved in this group should include judicial officers, attorneys, healthcare professionals, social workers,

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<sup>4</sup> The Supreme Court of Ohio and The Ohio Judicial System, “Adult Guardianship Education,” <https://supremecourt.ohio.gov/education/ohio-adult-guardianship-education-program/> (last accessed Nov. 3, 2025).

<sup>5</sup> See The Supreme Court of Ohio, *Fundamentals of Adult Guardianship Participant Manual*, at 3 (2017), <https://ohiochannel.org/Assets/Files/UserContent/40/155679.pdf> (last accessed Nov. 3, 2025).

<sup>6</sup> Supreme Court of Texas, *Code of Ethics and Minimum Standards for Guardianship Services* (Aug. 27, 2021), <https://perma.cc/GKZ7-6YNA/>.

<sup>7</sup> Family Voices of Wisconsin, “Wisconsin’s Training Requirement: What Families Need to Know” (July 2025), <https://perma.cc/M6K8-NYLG/>.

educational professionals, financial/banking professionals, court services personnel, guardians, and people with lived experience in the guardianship system.

Any proposed curriculum should distinguish between “general education” and “professional principles.” General education should apply to all guardianship stakeholders, including citations to the Indiana Code and professional considerations in areas including law, medicine, and social work. “Professional principles” should include best practices and advanced care tips for the professionals and lay/family guardians, with reference to the National Guardianship Association (NGA) standards and considerations in fields with direct application to Indiana guardianship practice.

As an example, possible topics for inclusion in the curriculum may include:

- General education:
  - Medical reports and evidentiary standards – what is acceptable to submit in court; who is allowed to fill out the reports; what other medical evidence should be submitted.
  - Legal notice – who is required to receive notice of a guardianship filing; waiving notice for protected persons and others; notice by non-traditional means such as social media.
- Professional principles:
  - Management of financial assets – filling out an initial inventory; how to structure accountings; avoiding co-mingling of funds; best practices for fiduciary management.
  - Closing the guardianship upon death – requirements for court reporting and final accounting; best practices on handling funeral and last rites.

The Task Force envisions that the curriculum will be embedded within online training modules, informational booklets, and in-person and recorded trainings on adult guardianship. Any provider of educational materials could directly cite the specific sections of the curriculum that will be covered within a particular training. Approved trainings could also be hosted online at a website managed by IAGO, allowing stakeholders to view and schedule similar to the Ohio model. These online trainings improve access to educational materials and remove any financial burden to obtain necessary training.

IAGO could also facilitate a certificate/approval process for all organizations providing trainings that strictly adhere to the curriculum, providing clear evidence to the court that a guardian attended an approved session or watched an approved video that complies directly with the curriculum.

## 2. Mandate initial education/training for all guardians, with continuing education required every six years.

There is currently no formal educational or training requirement for Indiana guardians:

- For many lay/family guardians, their only training is from an instruction form at the onset of a case. Such a form is not mandated by statute and is not used by every county. In the counties where it is used, the form differs between counties and could contain legal language not well understood by guardians.
- Nor is there any required training for professional guardians, who are typically businesses, organizations, or individuals that accept and manage guardianship cases as part of a model where they are paid for their services.<sup>8</sup> Anyone who meets the requirements to be named a legal guardian can set up a business and serve as a for-profit professional guardian in our state.

Other states require guardianship education/training at the outset of the case and at periodic intervals during the lifetime of all active adult guardianships:

- New York requires guardians to be “sufficiently capable of performing the duties and exercising the powers of a guardian,” with each guardian completing a training program that covers the legal duties and responsibilities of a guardian, the rights of a protected person, available resources to aid the protected person, an orientation on medical terminology, and preparation of annual reports.<sup>9</sup>
- Ohio requires a one-time fundamentals course and an ongoing educational requirement each year for all guardians. Courses are offered online and in-person throughout the state, with trainings listed on a central website.<sup>10</sup>
- Washington has an administrative court office dedicated to providing resources, education, and information about guardianship. This includes pre-

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<sup>8</sup> See Cornell Law School Legal Information Institute, “Professional Guardian,” <https://perma.cc/U23G-5568/>.

<sup>9</sup> New York CLS Men. Hyg. 81.39.

<sup>10</sup> The Supreme Court of Ohio and The Ohio Judicial System, *Adult Guardianship Education*, <https://www.supremecourt.ohio.gov/education/ohio-adult-guardianship-education-program/> (last accessed Nov. 3, 2025).

recorded videos, information on continuing education credits, frequently asked questions, and a phone helpline.<sup>11</sup>

The Task Force recommends that Indiana mandate baseline education/training requirements for all guardians to ensure better state practices and outcomes for adult guardianship cases. This mandatory training is needed to confirm an understanding of complex legal concepts and to start on the “same page” across the state. This will lead to more consistent practices, a better understanding of rights by all parties, and a clear method of ensuring that guardians are confident in their role before they are assigned legal powers and responsibilities by the court. Required education also gives courts an enhanced tool to provide materials directly to guardians, particularly if the judicial officer has concerns about understanding on a particular topic.

Because this recommendation would go hand-in-hand with the curriculum anticipated in this report, educational and training content can be developed by the same multidisciplinary group envisioned in this report, with rollout beginning at the same time.

It is anticipated that this education/training would only be mandatory for all guardians in adult guardianship cases. It is not anticipated that this training would apply to guardians in minor guardianship cases, which went beyond the scope of what was anticipated by the Task Force in this report.

## Content and Structure

This baseline mandatory education/training should generally contain a broad overview of the guardianship system that adheres to the newly created curriculum. It should focus on principles applicable to all guardians, such as understanding incapacity, powers and responsibilities of a guardian, reporting to the court, encouraging self-reliance and independence, and rights retained by the protected person.

Educational requirements for lay/family guardians and professional guardians will likely differ.<sup>12</sup> For example, since professional guardians are often paid for their services, their training could include a specific focus on professional fiduciary

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<sup>11</sup> Washington Courts Guardianship Portal, *Office of Guardianship and Elder Services*, <https://perma.cc/FE2U-4UUJ/>.

<sup>12</sup> The distinction between professional and lay/family guardians is to encourage professionalism in the for-profit guardianship market. It is also a recognition that the kinship bonds often involved in lay/family guardianship are generally different than a profit-generating business and thus involve different expectations and requirements.

standards of practice. The NGA and the Center for Guardianship Certification (CGC) include trainings and professional standards that could be helpful in crafting educational requirements for Indiana’s professional guardians.<sup>13</sup>

Coursework should be encouraged in a broad variety of mediums, such as in-person events, virtual events, and online videos and modules.<sup>14</sup> The Task Force recommends the use of mixed media formats, including visual ways to help guardians and stakeholders understand and engage with the material. The usage of videos is a proven way to provide complex information in a more understandable way for some viewers to help them fully engage in the material.<sup>15</sup>

- California provides a list of approved methods of satisfying the education requirement, including real-time classroom settings or remote delivery.<sup>16</sup>
- Wisconsin has mandatory education for guardians through a free state training provided by the University of Wisconsin – Green Bay.<sup>17</sup> The format is varied and specifically includes videos to help guardians engage with the material.<sup>18</sup>

These educational/training requirements should not be burdensome roadblocks to service, particularly for lay/family guardians. They should also not be too complicated or cost prohibitive.<sup>19</sup> Instead, this should be a baseline knowledge check to maintain a level of compliance and help identify guardians who may need extra support.<sup>20</sup>

## Tracking Compliance

Guardians should be given a user-friendly method to show that they completely reviewed and fully understand the material. To track this, guardians would need a consistent way to receive “credit” for educational units and a standard way to show

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<sup>13</sup> National Guardianship Association, *Standards*, <https://perma.cc/2GWG-SRY3/>.

<sup>14</sup> Any in-person or virtual training should include a method of tracking full attendance and participation. Similarly, any videos used for mandatory education should include a way to ensure that participants engaged with the material and understand basic concepts contained in the video.

<sup>15</sup> See, e.g., Perez, Kathryn E., “Effective Educational Videos: Principles and Guidelines for Maximizing Student Learning from Video Content,” *National Institutes of Health: National Library of Medicine* (CBE Life Sci. Educ. 2016 Winter), <https://perma.cc/ZT95-59AU/>.

<sup>16</sup> Cal. Code Regs. Tit. 16, 4444.

<sup>17</sup> This training is through a partnership with the Wisconsin Department of Health Services. See University of Wisconsin – Green Bay, *Guardianship Training*, <https://perma.cc/4DGN-Y2JE/>.

<sup>18</sup> University of Wisconsin – Green Bay Continuing Education and Workforce Training, “How to Register for the Guardianship Training” (Jan. 27, 2023), <https://perma.cc/ME28-6WTK/>.

<sup>19</sup> This requirement should also not serve as a deterrent for situations where it can be challenging to find anyone to serve as guardian for complex cases.

<sup>20</sup> To promote local control, a county could include specific additional education requirements within their local rules.

they have completed the requirements. The Task Force recommends that a central authority should “certify” these courses, materials, and sessions that adhere to the curriculum and meet the educational requirements.<sup>21</sup>

- Attendance could be measured by hour(s) attended, similar in format to other continuing education unit (CEU) programs.<sup>22</sup> To help attendees track attendance and for ease of court review, certified attendance forms should be handed out with the hours completed clearly shown on the form.
- The guardian could e-file or upload the certified form in a central location for easy tracking. Guardians who are serving in multiple cases would only need to show proof of their successful completion of these requirements one time per reporting cycle, which would cover all active cases at the same time.

## Continuing Education

To show continued adherence to best practices, guardians should be required to engage in continuing education every six years, unless waived by the court. This would allow courts to quickly review guardians who are complying with the requirement and to feel assured that the guardian is aware of changes in law, policy, and procedures.

The “six year” requirement was selected to not be overly burdensome on guardians or courts while still allowing for continued adherence to these principles.

A timeline should be established for the guardian to have clear expectations of how long they have to complete their mandatory training. Other states have created such timelines:

- Before July 1, 2021, South Dakota allowed a guardian up to four months to complete their training. After that date, no guardian may be appointed in that state until the guardian completes their training.<sup>23</sup>

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<sup>21</sup> This certification could be handled centrally by IAGO or by each organization that is approved to teach coursework under the new curriculum envisioned in this report.

<sup>22</sup> CEUs are a standardized unit of measuring participation that learners can use to quantify time that a professional development program has required them to invest. The University of Chicago, “Continuing Education Units (CEU),” <https://perma.cc/Q5A3-B3K7/>.

<sup>23</sup> South Dakota Codified Law 29A-5-119.

- Virginia allows up to 120 days after a guardianship is established to complete the training. A guardian is not required to complete training more frequently than once every 36 months.<sup>24</sup>

## Other Logistics

A centralized schedule of trainings could be hosted on the IAGO website (similar to Ohio). A clear explanation of the topic and how it satisfies the educational requirement should be posted alongside the course offerings. Any training offered as part of this recommendation should be offered free of charge.

Courts should have the discretion to allow certain guardians to “opt out” of initial and continuing educational requirements if they receive certification or training from another entity (for example, nationally certified guardians (NCGs) or guardians working within Volunteer Advocates for Seniors & Incapacitated Adults (VASIA) programs).

- Some Ohio local rules exempt certain guardians from a training requirement on a case-by-case basis. This includes volunteer guardians and public programs as well as guardians with certain levels of experience.<sup>25</sup>

Lay/family guardians who fail to adhere to baseline education should be referred to resources at local organizations or VASIA programs that might help them better understand the role of guardian, with an opportunity to remedy the educational requirements before any removal is sought. However, professional guardians who are paid for their services but fail to engage in required education should be removed from their cases until they meet their requirements.<sup>26</sup>

The multidisciplinary team should research the required steps to effectuate any proposed changes within the state court system. Courts should retain the discretion to decide how to handle education for cases that pre-date the requirements envisioned in this report.<sup>27</sup> Guardians affected by this recommendation should be

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<sup>24</sup> Code of Virginia 64.2-2019(E1).

<sup>25</sup> See, e.g.: Ohio Summit Cty. Probate Div. Local Rule 66.1(G).

<sup>26</sup> The Task Force specifically recommends that guidelines be created for handling these professional guardians who serve on multiple cases yet fail to complete educational requirements.

<sup>27</sup> While the Task Force strongly encourages courts to require all guardians serving in their counties to undergo education and certification, this might not be practicable for guardians who have been serving without issue for many years on a case that pre-dates this report. However, the education may be beneficial to long-term guardians who wish to voluntarily engage with the materials for professional development and guidance.

part of the multidisciplinary team that creates these new metrics. They should also be given a chance to comment on the requirements to help formulate its implementation.<sup>28</sup>

A mandatory system of education for all guardians would create a baseline knowledge and consistent practice across the state. It would show Indiana's commitment to ensuring high-quality guardian services for all and lead to better outcomes for performance in the future.

### 3. Require registration of professional guardians, with adherence to standard performance metrics to ensure quality performance.

Indiana does not have a public guardianship system, which is a "guardian of last resort" appointed by a state governmental body to directly serve as guardian.<sup>29</sup> Since there is no public guardian system, Indiana courts rely on grant funded entities, such as volunteers from their local VASIA programs,<sup>30</sup> to take on the guardian role. If VASIA programs are unable to take cases, the courts must rely on a series of third party professional guardians willing to serve.

The number of people receiving some form of long-term care, such as a legal guardianship, could double by 2050.<sup>31</sup> This increased demand for services will mean an increased need for guardians in our state. Professional guardians are uniquely situated to help these seniors and protected persons navigate complex health and support systems in the future.

Indiana does not currently require registration for professional guardians. There is also not a standard set of performance metrics to show a guardian is following required rules, laws, and policies. As such, our professional guardians are not being

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<sup>28</sup> Public comment should specifically be sought by professional guardians to limit any negative effects this might have on preexisting caseloads after implementation.

<sup>29</sup> See Nebraska Judicial Branch, "Questions About the Office of Public Guardian," <https://perma.cc/67G8-JATZ/>.

<sup>30</sup> For more information on VASIA programs, see Recommendation 16, subsection "Similarities to VASIA," which provides a background on these programs in our state.

<sup>31</sup> See, e.g.: Osterland, Andrew, "Aging baby boomers raise the risk of a long-term-care crisis in the U.S.," CNBC (Nov. 8, 2021), <https://perma.cc/7VX5-MNK9/>.

measured or reviewed in a consistent way across the state, including standard background checks, audits, or adherence to best practices.<sup>32</sup>

Other states have created robust registration and oversight requirements for professional guardians:

- Arizona has a fiduciary licensing program for professionals managing financial affairs, medical decisions, and other vital matters. This includes court-appointed guardians, conservators, trustees, personal representatives, or special administrators. It specifically includes people serving as agents under a Power of Attorney document or as a trustee (with or without court oversight).
- Florida's Office of Public and Professional Guardians is responsible for registration and education of professional guardians. These registration requirements include credit reporting, passing a fingerprint-based background check, obtaining a \$50,000 blanket bond, registering with a state office, and passing a Florida professional guardianship examination.<sup>33</sup>
- Minnesota requires a professional guardian or conservator to submit a criminal history check with the relevant state agency. In turn, that agency reports the results to the court.<sup>34</sup>
- In Texas, private professional guardians are required to hold a certificate issued by a judicial branch certification commission.<sup>35</sup> The Texas Supreme Court may adopt rules for certification and revocation.<sup>36</sup> Any fees collected are deposited into a general revenue fund and held for administration and enforcement.<sup>37</sup>

Similar to practices in other states, the Task Force recommends that a registration system is created for Indiana professional guardians. This would mandate registration with a statewide entity and ensure that professional guardians are adhering to performance metrics and rules of practice for their roles. By creating required minimum steps before allowing professional guardians to serve, this will align us with other states that have thorough methods of overseeing performance.

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<sup>32</sup> Indiana county courts may be able to create county-specific "local rules" that control professional guardianship requirements within an individual county. See Indiana Judicial Branch, "Trial Courts and Clerks by County," <https://in.gov/courts/publications/local-rules/> (last accessed Nov. 3, 2025).

<sup>33</sup> Elder Affairs Florida, "Office of Public and Professional Guardians (OPPG)," <https://perma.cc/34US-62FZ/>.

<sup>34</sup> Minnesota Judicial Branch, "Background Checks - Guardianship," <https://perma.cc/3EM6-9VX7/>.

<sup>35</sup> Tex. Gov't. Code 155.102 ("Certification Required for Certain Guardians").

<sup>36</sup> *Id.* at (c).

<sup>37</sup> *Id.* at (g).

This oversight will not only promote a successful care system, but it will also promote high-quality professional guardians to meet the increased system demands of the future. This recommendation would increase a professional guardian’s confidence and certainty as an expert in fiduciary and oversight principles. By aligning supports and resources, it would give these professional guardians more consistent access to supports, education, and materials to perform confidently in their complex roles. In turn, this may encourage new guardian candidates to enter the profession to help further meet the demands for service in the coming years.

Professional guardians can assert their registration status as a standard of excellence in the field and a way to highlight their adherence to common shared goals of professionalism and accountability.<sup>38</sup> If a professional guardian does not register, those guardians can be replaced with a professional who is adhering to the standards and showing their commitment to excellence.

The Task Force envisions this recommendation would also go hand-in-hand with the curriculum and education requirements anticipated in this report. Therefore, registration should be handled by the same multidisciplinary group, with registration rollout beginning at the same time.

## Applicability

This recommendation is intended specifically for professional guardians in the state. This is distinguished from lay/family guardians, who would not be required to register. Local courts could dictate any uncommon situations in which a lay/family guardian may need to register. For example, if a lay/family guardian is serving three or more individuals or is being compensated for their role, the judge may wish for them to use the same registration requirements as a professional guardian.<sup>39</sup> Registration in those instances may curtail any heightened potential for fiduciary mismanagement that could simultaneously affect several protected persons served by that guardian.

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<sup>38</sup> In developing professional guardianship registration, care should be taken to avoid having the label “professional guardian” improperly convey any implied endorsement by a government entity, including, but not limited to, the Indiana judiciary or Supreme Court.

<sup>39</sup> Other states have recognized “three or more” cases as the threshold for professional guardianship. See, e.g.: Minnesota (including “a person acting as guardian or conservator for three or more individuals not related by blood, adoption, or marriage” as professionals) (Minn. Stat. 524.5-102 Subd. 13c); Oregon (defining “professional fiduciary” as a person who serves for three or more people who are not related to the fiduciary) (O.R.S. 125.240(5)); and Pennsylvania (requiring an individual serving three or more people to become certified) (20 Pa.C.S. 5511(f)(2)).

Any guardian serving in a non-paid capacity for an organization that requires adherence to other statewide laws and policies, such as a VASIA program, would be exempt from registration.

Any exempted guardians, such as lay/family guardians and VASIA volunteers who want to go through the registration process to show adherence to these guidelines, should be allowed to register on a voluntary basis.

## Elements of Registration

Registration should specifically include a way to track and review mandatory accountings and biennial status reports by professional guardians. It should also include a standard background check and way to monitor active or pending criminal arrests/convictions that would affect a guardian's ability to serve. This can include a method to have any new/pending findings quickly sent directly to the county guardianship court on a rolling basis. Any additional registration requirements or policies should be decided upon by the multidisciplinary group.

Adherence to these requirements by professional guardians could be overseen within the anticipated Guardianship Tracking System (GTS) (recommended within this report). This would serve as a quick way for guardians and courts to know that registration requirements are met. Like the Arizona model, any fees collected for registration could be used for oversight activities, such as forensic accountings or contracting professionals to conduct more in-depth audits of specific guardianship cases.

The Task Force believes this recommendation would create structure for the guardianship profession, similar to fields like medicine and law. Professional guardians will have confidence in their roles and courts will have a way to ensure success in service delivery. It will also increase the pool of available guardians by creating more trained individuals who can provide services across the state.

Any increased demand for services will require accountability and efficiency at all levels. Creating a registration system and metrics for success will show a commitment to high-quality care in our state as we prepare for this future heightened need for professional guardianship.

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## Promotion of Resources and Innovative Supports

Resource coordinators, allied legal professionals, a student cohort, and a “best practices” document can help guardians and protected persons navigate the system. A central online portal can bring information together all in one spot.

4. Foster creative support networks to encourage engagement and navigation of the complex guardianship system.

### Resource Coordinators

In the guardianship context, most resource coordination generally falls to the petitioner’s attorney, who is often the legal counsel for the guardian. This includes finding information about public health benefits like Medicaid and Medicaid Waivers; housing options for seniors and adults with disabilities (such as skilled nursing facilities and group/waiver homes); probate processes and preparation; interfamilial management and care coordination; and other complex legal and non-legal issues.

The complexity of guardianship and the many changes that can occur based on funding and availability can be daunting for all stakeholders. Having it fall primarily on legal counsel creates a system where guardians may not get access to information they need to perform their complex roles. Attorneys may only stay on a case for a limited basis and are not always able to help a guardian for an indefinite period of time. There can be challenges getting involved in a case after the fact to assist with complex guardianship questions for a former client. These issues can be amplified when a guardian files *pro se* and does not have an attorney to help guide them at all.

As a potential solution to tackle this issue, the Task Force recommends creation of a pilot program that would link guardianship “resource coordinators” with lay/family guardians who have complex questions about care and support of a protected person. This pilot program could link together key stakeholders to build a sustainable model for self-regulation and sustainability.

Resource coordinators could be particularly effective at assisting with timely and accurate accountings and biennial status reports by guardians. If a county is using court automated notice systems to monitor filings, resource coordinators could be recommended directly by the court within those notices as a potential resource that can help the guardian.

- Those resource coordinators could answer basic procedural questions and provide those guardians information about community resources, such as legal services and financial organizations, that might be able to help guardians file their reports more sufficiently.
- Similarly, if a guardian files a document that is deemed insufficient by the court, a resource coordinator could more quickly recommend help for the filer. This will lead to better, more efficient systems in local courts and stronger connections to community resources.

At the outset of a case, resource coordinators could also help answer questions and provide “warm hand-offs” to identified community resources. This will streamline efforts to help guardians while also encouraging compliance with court rules and procedures.

This anticipated pilot program would have a low financial impact on the courts involved. Potential fees for the services provided by resource coordinators could be identified and collected as part of the pilot program. These fees should be clearly identified to all parties and monitored by the court. These types of programs could be offered as part of a county or district access to justice plan, including possible connections within self-help legal programs. Pilot programs could also link to pre-existing programs (like VASIA and social work clinics) to create new and expanded partnerships.

If a resource coordinator pilot program is successful, this could be a way to quickly and easily inform parties about resources and supports available in their communities. The Task Force should continue developing this model as part of a broader effort to help guardians get resources and supports necessary to effectively perform their roles. These types of connections will foster a stronger guardianship

network and allow courts to quickly connect guardians and petitioners to resources whenever needed.

## Allied Legal Professionals (ALPs)

The documented attorney shortage in Indiana is only expected to grow as the attorney population ages.<sup>40</sup> Indiana attorneys are vital to serving as direct representatives for petitioners, guardians, and protected persons. The attorney shortage has already negatively impacted the availability of counsel to represent petitioners in guardianship proceedings.

To fully realize a successful guardianship system, the use of ALPs should be explored in guardianship cases. ALPs are non-attorney professionals who provide legal services under the supervision of an Indiana attorney and provide enhanced services to clients.<sup>41</sup> ALPs in guardianship could include certified legal interns and skilled paralegals already representing clients in certain proceedings; it could also include VASIA program staff or volunteers transitioning into new legal roles. These ALPs could serve a variety of functions, such as providing legal representation directly in the guardianship itself (for example, an ALP could provide assistance with financial or biennial status reporting) or outside the guardianship context (for example, an ALP could represent a protected person in an administrative law proceeding involving the termination of public benefits). When combined with the recommendation for resource coordinators and student cross-functional cohorts, the Task Force believes that ALPs would be vital to providing full services within the guardianship environment.

If the Indiana Supreme Court develops these programs, the Task Force recommends finding usage for ALPs in guardianship cases. The ALPs should follow all rules promulgated about their role, including certification and training requirements. If successful, these ALPs could fill a much-needed gap in the attorney and guardian shortages seen across pockets of our state, while also ensuring that protected persons and guardians have the benefit of a skilled professional overseeing their cases.

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<sup>40</sup> See Commission on Indiana's Legal Future, *Final Report* (July 1, 2025), <https://in.gov/courts/admin/files/legal-future-final-report.pdf> (last accessed Nov. 3, 2025).

<sup>41</sup> Commission on Indiana's Legal Future, *Interim Recommendations*, at 7-8 (July 30, 2024), <https://in.gov/courts/admin/files/lfc-interim-report.pdf> (last accessed Nov. 3, 2025).

## 5. Support a guardianship cohort for students within Indiana colleges and universities.

Collegiate-level student clinics connect students with real-life experiences that provide practical skills while also supporting those served by the clinic. Law school clinics in particular provide opportunities to students while also strengthening the legal community.<sup>42</sup>

Many courts report issues finding suitable parties to investigate and serve as checks within the guardianship system. There are also shortages in volunteers available for programs like VASIA and the court monitor pilot program (discussed later in this report). As a solution, the Task Force envisions that students can be drivers of change by harnessing their enthusiasm and passion for assisting others and serving in roles as court GALs or within programs aimed at helping protected persons, like VASIA and court monitor programs. Students are uniquely situated to aid projects like these because they would gain practical, hands-on experiences to supplement their classroom learning.<sup>43</sup>

The Task Force recommends creation of guardianship-specific law school, social work, and/or behavioral health clinics and externships within Indiana public universities. The express purpose of the clinic and externships would be to provide students with practical, real-world experience in guardianship under the supervision of an Indiana practitioner, attorney, or professional. In turn, the student would become engaged with the guardianship system and would be more likely to contribute knowledge and skills to improvements and innovations in the future.

Under this recommendation, students would receive class credit or stipends for their work, offering a lower-cost option for courts and VASIA programs that still provides needed assistance in these settings.<sup>44</sup> If the student stays to work full-time in Indiana upon graduation, the skills they received from a clinic or externship setting will augment their professional development in whatever career locations they select.

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<sup>42</sup> See, e. g.: Notre Dame Law School, *Notre Dame Law School Welcomes Four New Clinical Faculty Members for 2025-26* (Sept. 9, 2025), <https://perma.cc/7BEA-5S8J>.

<sup>43</sup> See, e.g.: Maurer School of Law, *Clinics*, <https://perma.cc/R667-6YTP/> (stating that clinics give students “hands-on experience helping real clients while [developing] skills as responsible, ethical, and thoughtful lawyers”).

<sup>44</sup> It is also envisioned that students would be reimbursed for travel costs (if they have the option and ability to travel to clinic sites).

The Task Force strongly encourages a “cross-functional” model, where clinical offerings and externships are expressly intersectional (with different types of student learning and various programs among a variety of majors/disciplines). Though law student clinics may have the most direct impact on court programs, the contributions of non-law students are just as valuable. Contributions to the cross-functional cohort could include social work, behavioral health, pre-med, nursing, actuarial science, business or financial management, accounting, pre-law, and other programs.

As part of the clinic and externship model, students could be recruited and trained in general guardianship principles and then selected for a program based on their interest and time commitment. Practitioners and stakeholders could be made available to help with teaching and supervising the students.

The clinics and externships should focus not solely on the legal requirements and role of guardian, but also on the role of different professions within the guardianship system and the interplay among different resources and supports to help seniors, people with disabilities, and other populations at risk of guardianship. There should be a strong emphasis on less-restrictive alternatives to guardianship and building support for professional links and mentorship within the system.

Paths to professional guardianship that start while a student is still in school, such as encouraging attendance at NGA conferences or assistance with students who want to become certified as NCGs, could also be pursued. Mentorships between students and mentors in the guardianship fields, such as attorneys, health employees, behaviorists, social workers, court staff, guardians, or advocates, may also provide worthwhile learning for students.

The Task Force envisions that counties without robust, pre-existing self-help legal offerings could be linked in a meaningful way to these clinical programs and externship students, thus harnessing these programs to provide assistance through high-quality resources and supports.

The Task Force encourages a dialogue with local colleges and universities to develop a phased plan for clinical and/or externship offerings, including ways to gauge student interest and determine the parameters of the programs. Future iterations of the Task Force can determine the location, scope, duration, and logistics for these programs.

Student engagement in the guardianship world will lead to better outcomes, opportunities, and collaboration. It will allow students to connect and gain first-hand experiences working with vulnerable populations. In turn, it will encourage students

to volunteer or stay connected to these fields upon graduation, perhaps even leading to career opportunities in the future. It also provides a way for programs like VASIA and court monitoring programs to gain a new base of volunteers to assist more people and expand the role of these programs in our state.

## 6. Develop a “best practices” document for guardians and protected persons, with rights, responsibilities, and guidance to better understand their roles.

A “best practices” document for guardians and protected persons would greatly enhance the availability of information about rights and responsibilities in the guardianship system. The Task Force recommends that the Guardian Association of Indiana (GAI), as the state’s recognized NGA chapter, should work together with the state VASIA network and IAGO to create this document. The intention is that once the Guardianship Committee approves this guidance document, it could be made available to every guardian in Indiana when a judicial officer signs an order and Letters of Guardianship are issued.

The document itself could contain references to best practices materials from national organizations, including the Guardianship Bill of Rights promulgated by the National Guardianship Network in 2022<sup>45</sup> and the legal charts from the American Bar Association (ABA) Commission on Law & Aging website.<sup>46</sup> The document should specifically include a section on the importance of continuing to monitor the potential capacities of the protected person and to report to the court whenever a guardianship might no longer be the best support for the protected person. It should also include a section on reporting to the court, including the importance of filing timely and accurate inventories, accountings, and biennial reports. It should clearly state that a guardian who does not comply with those requirements may be removed from their role or replaced by an alternate guardian.

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<sup>45</sup> See American Bar Association, Annual Meeting 2023 – House of Delegates Resolution 506, [https://www.americanbar.org/news/reporter\\_resources/annual-meeting-2023/house-of-delegates-resolutions/506/](https://www.americanbar.org/news/reporter_resources/annual-meeting-2023/house-of-delegates-resolutions/506/) (last accessed Nov. 11, 2025).

<sup>46</sup> American Bar Association, “Guardianship and Conservatorship,” [https://www.americanbar.org/groups/law\\_aging/resources/guardianship\\_law\\_practice/](https://www.americanbar.org/groups/law_aging/resources/guardianship_law_practice/) (last accessed Nov. 11, 2025).

The final guidance document should be made available free-of-charge and hosted online for easy access. To help track the usage of the document, the anticipated GTS could have a quick link to the document and a way to ensure that the guardian received and understood the contents.

By having the same document for guardians and protected persons to know their rights at the outset of the guardianship, the Task Force believes that more consistent guardianship practices will be promoted and that everyone will have quicker access to resources and supports throughout the state to assist them with their roles.

## 7. Create a centralized online portal with guardianship information, resources, and supports available in one location.

A centralized guardianship portal could serve as a one-stop shop for information on guardianship, alternatives to guardianship, and court processes. Without this one-stop shop, members of the public (including guardians and protected persons) may risk receiving inconsistent information about guardianship, which could cause unnecessary distrust of the legal system or confusion about court processes.

Washington has a guardianship portal that quickly provides information to all guardians.<sup>47</sup> It includes guardianship training links; guardianship forms; frequently asked questions; grievance information; videos; and a tool to find a professional guardian to serve.

The current IAGO public-facing website could be one location for hosting such a unified portal.<sup>48</sup> Having this resource centrally hosted by IAGO would increase the easy availability of information on VASIA programs and other court initiatives at the same time, all in one spot. IAGO could solicit feedback and content from other stakeholders to provide a framework for updating or modifying information on the portal, including feedback from the Guardianship Committee and Working Interdisciplinary Network of Guardianship Stakeholders (WINGS) (an interdisciplinary working group promoted by the ABA Commission on Law & Aging).

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<sup>47</sup> Washington Courts, *Guardianship Portal*, <https://perma.cc/FE2U-4UUJ/>.

<sup>48</sup> Indiana Judicial Branch, *Adult Guardianship*, <https://in.gov/courts/iocs/adult-guardianship/> (last accessed Nov. 3, 2025).

- If IAGO is not able to host a portal in this manner, the Task Force recommends that a similar statewide entity should be located for hosting such a resource. Potential alternate hosts might include GAI, Indiana Legal Help, or The Arc of Indiana.

No matter where this portal is hosted, the content of the portal should be overseen by a small group of stakeholders with experience in educational design and the adult guardianship system. Materials created for this online portal should be vetted by the judicial Guardianship Committee to promote oversight of public-facing materials.

Any portal created by this recommendation should be interactive and user-friendly. There could be selective usage of artificial intelligence (AI), including AI chatbots or systems to provide curated information in an accessible way. To that end, the Task Force recommends that a portal may contain a similar chatbot to ID8, the AI chatbot currently used by the Indiana Institute of Disability and Community (IIDC) as part of their Resource FINDER tool.<sup>49</sup> Filling a chatbot with accurate, tightly-held information to curate from specific sources would provide appropriate information to end users while still maintaining guardrails (to prevent the chatbot from providing false or misleading information). The attorneys working on this project could ensure that any chatbot used for this portal would not generate unauthorized practice of law concerns.

This central resource could greatly increase trust in the judicial system and provide consistent, timely, and robust information about the adult guardianship system. A one-stop shop portal could be a cornerstone project for future iterations of the Task Force and could unite guardianship stakeholders in Indiana under a common mission and blueprint for promoting sound guardianship practices.

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## Improved Tracking and Data Collection

Technology, like a new tracking system, would greatly enhance the ability of courts to monitor guardianship

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<sup>49</sup> Indiana Institute on Disability and Community, *Meet ID8, Your Disability Resource Navigator!*, <https://perma.cc/UR4A-XY9X/>.

cases. Better data standards and a visual data dashboard would show our progress on the path to improvement.

## 8. Launch an enhanced Guardianship Tracking System to provide oversight of guardian performance.

Indiana's current Guardianship Registry ("Registry") was first implemented in 2014 and, over time, has been used by the vast majority of Indiana courts to create a statewide system of guardianship tracking.<sup>50</sup> The Registry is currently being used by 87 of Indiana's 92 counties.

Like Indiana, many states host a system that allows judicial oversight of adult guardianship cases.

- Nevada has an electronic platform to monitor guardianship. It permits the guardian and the court to track a protected person's health and welfare, income, expenses, and assets in real time. There is a built-in alert system that flags financial inconsistencies, health and welfare concerns, and timeliness of reporting. An application connects the portal directly to bank accounts to allow for real-time monitoring and further investigations.<sup>51</sup>
- Pennsylvania's GTS allows guardians to submit inventory and estate reports online to assist courts with effective guardianship monitoring.<sup>52</sup> Courts can identify late reports and set automated flags on areas of concern.

Despite the high amount of judicial buy-in to the Registry, there are some issues with its current performance. Certain enhancements or improvements to the Registry would be impractical given both the age of the program and limitations of the current system. There are new features seen in other tracking systems that are beyond the

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<sup>50</sup> Indiana Guardianship Registry, <https://public.courts.in.gov/GRP> (last accessed Nov. 3, 2025).

<sup>51</sup> State Justice Initiative, *Nevada Guardianship Portal - Supreme Court of Nevada, Administrative Office of the Courts* (June 1, 2025), <https://perma.cc/HB3A-G8F5/>.

<sup>52</sup> The Unified Judicial System of Pennsylvania Web Portal, *GTS - The Guardianship Tracking System*, <https://perma.cc/WTX7-BVWC/>.

current capabilities of the Registry yet would provide better and more innovative ways to track and manage guardianship cases within the courts.

To truly stay on the forefront of online guardianship information systems, the Task Force recommends that Indiana adopt an enhanced GTS in our state. Similar to Nevada and Pennsylvania, this new GTS system could allow guardians to better update the court about their role and performance, including enhanced ways to track compliance with educational requirements, reporting deadlines, and resources. This will lead to better understanding of the guardian's role and encourage communication with community partners. In turn, courts could more easily oversee and supervise guardianship cases through an updated system. Beyond displaying information about a case, this new GTS system could be a true guardian oversight system built to help courts identify and respond to problematic situations and track a guardian's compliance with new requirements.<sup>53</sup> This would equip courts to respond to unresponsive guardians and potentially terminate unnecessary guardianship cases.

Under the new GTS, there would be an enhanced focus on the guardian's performance in their court-assigned role:

- Guardians would be required to verify their own information from Odyssey on the GTS itself by logging into the new system and creating a profile. The guardian would then report their activities, such as any mandatory education; changes in status of the case; changes in address or contact information; registration (for professional guardians); and other factors. The guardian would also continue to file required accountings and inventories directly to Odyssey, but could see that they were received by a notification on the GTS.
- The GTS would create an automatic queue for court staff to review what the guardian has submitted. In this system, a court could decide whether the information provided would warrant having the guardian appear before the court for an update/status hearing or other action. Reminders could go out to the guardian to let them know about key reporting deadlines and when a court did not receive necessary documents or reports.<sup>54</sup>
  - Courts could design their own metrics and systems of review, with training provided by IAGO and informed by national standards and best

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<sup>53</sup> The current Registry was intended to provide timely information about the case, including data about locating a protected person. Though the system provides this information, it does not address guardianship performance, such as timely filing of reports, on the public-facing website.

<sup>54</sup> It is envisioned that guardians would still file reports and inventories on Odyssey, but that notifications could also be sent to the GTS to alert the guardian as well.

practices.<sup>55</sup> The usage of automated systems or AI may also be pursued in the future to further help courts review the filed reports.

- “Red flags” on guardian actions could be put in place within the GTS system. For example:
  - An address change for the protected person could be flagged if the court has not approved it ahead of time or if it is outside the county that currently has jurisdiction.
  - Certain missing financial records could be flagged to alert the court that something might be amiss about the guardian’s financial accounting.
  - A pending criminal matter identified on a background check for a professional guardian could be reported directly into the GTS.
  - A case where another Indiana judge finds a guardian in contempt or removes a guardian for poor performance can be reported to the court, ensuring that this information is shared if the guardian attempts to serve elsewhere in the state.

Many new features could be explored within an updated GTS. The GTS could include standard contact information for the guardian, including a guardian’s picture for verification purposes by third parties. It could be built with data collection in mind, working in tandem with the data dashboard (also envisioned in this report).

To help better understand when a protected person is subjected to an active guardianship, the Task Force recommends that a marker or indicator of some kind be implemented within Odyssey to quickly show when a party has been adjudicated an incapacitated adult. This would be similar to when an active warrant is entered against someone who shows up on cases within Odyssey. A similar marker for protected persons could quickly alert other parties about the case and contain a link back to the GTS system for more information.

Since the current Registry currently holds information on active minor and adult guardianship cases, the Task Force envisions that the new GTS would still oversee minor guardianships. That said, future iterations of the Task Force should consider whether some of the features that were designed for adult guardianship would be feasible or necessary for minor guardianships.

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<sup>55</sup> This should include the National Open Court Data Standards (NODS) in their June 2024 report on recommended data elements for guardianship monitoring. See National Open Court Data Standards, *Guardianship/Conservatorship Monitoring* (June 2024), <https://perma.cc/4VPK-B62R/>.

The Task Force envisions that the Indiana Office of Court Services (IOCS) and Indiana Office of Court Technology (IOCT) could discuss a phased plan for implementation. Recognizing the significant financial impact of this recommendation, the Task Force recommends all solutions be discussed, including enhanced filing fees or federal/state grant opportunities to fund the new system.

A new GTS would enhance the current capabilities of the Registry and allow courts access to a cutting-edge system to ensure high-quality guardian performance. This will lead to a smoother, more effective guardianship system by linking technology with court oversight to deliver better results for Indiana.

## 9. Develop a visual guardianship data dashboard with up-to-date information on county and state statistics.

The Court Improvement Program (CIP) within IOCS currently maintains a “Child Welfare Court Performance Measures Dashboard” online.<sup>56</sup> This data dashboard shows metrics for court performance within the child welfare system. It provides transparency and a framework for tracking progress on several key elements within Indiana, including the “time to permanency” for children in foster care.<sup>57</sup>

The Task Force believes that a CIP-style dashboard would be the best way to visually show guardianship data to the public. If a similar dashboard were created for guardianship, it could provide up-to-date information on county and state guardianship statistics in several categories, including:

- Total number of guardianships in Indiana
- Breakdown of guardianship by sex, age, and location in the state
- Time between filing a guardianship and final disposition of the case
- Guardianships terminated in favor of less-restrictive alternative supports
- Guardians who do not file biennial reports or financial reports
- Frequency of guardians attending necessary trainings and meeting educational requirements
- Availability of NCGs in various portions of the state

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<sup>56</sup> See CIP Data Dashboard, <https://in.gov/courts/iocs/cip/welfare/> (last accessed Sept. 29, 2025).

<sup>57</sup> *Id.*

By providing information on guardianship in a dynamic, interactive way, it would increase public awareness and engagement with the data and allow for progress to be tracked overall. The system could also track “spot” data (such as the number of VASIA cases) on the day the report was run. This will increase transparency in the guardianship system and smoother functions for courts across the state.

Population of this system could occur through quarterly reporting to IOCS. In turn, IOCS would update the system information and re-publish the data on a quarterly or bi-annual basis. Courts would be trained on how to collect this data. Much of the data could be collected from the GTS. De-identification of the data would be crucial for success of this recommendation to prevent any privacy or security concerns.

Any future dashboard should specifically measure how resources, supports, and outcomes are being used in both urban and rural areas of Indiana. Any issues with guardianship that are affecting particularized areas of the state should be addressed through coordination and collaboration with those counties to provide the same high-quality guardianship services and supports throughout Indiana. To the extent possible, disparate impacts to underserved portions of the state can be minimized by consulting the data and recommending targeted interventions when necessary.

Having a data dashboard will show a commitment to progress and enhancing court oversight and transparency for guardianship. It would also show buy-in and awareness of standards for all Indiana courts. The Task Force believes this recommendation could coincide with a new GTS to best collect user feedback and promote collective trainings across the state during implementation.

# Standardized Practices and Procedures

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## Consistent Forms and Reports

A standard medical report and judicial order will create consistency in guardianship processes across the state.

### 10. Promote usage of a standard medical report with a consistent basis for incapacity declarations.

A finding that the protected person is legally incapacitated is a required element for adult guardianship cases in Indiana.<sup>58</sup> Since it is a judicially-made final determination (where the person either “has capacity” or “lacks capacity”), it differs from medical incapacity (which is a spectrum of strengths and weaknesses in decisional capabilities).<sup>59</sup> The judicial officer uses medical opinions, statements, and reports to help guide the final decision on legal incapacity.

To help determine whether the person is incapacitated, Indiana law also requires the petitioner to describe the “nature of the incapacity” directly in the petition.<sup>60</sup> This often is accomplished by having the petitioner show the court some type of medical documentation. However, there is not currently a statutory requirement for a

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<sup>58</sup> See I.C. 29-3-1-7.5 (Definition of “Incapacitated Person”).

<sup>59</sup> Elder Justice Initiative Decision-Making Capacity Symposium: The Role of Decision-Making Capacity in Elder Justice Cases, *Elder Justice Decision-Making Capacity Resource Guide*, at 7 (2022), <https://perma.cc/9MFZ-RZWN/>.

<sup>60</sup> I.C. 29-3-5-1(a)(2).

particular medical form to be submitted nor for specific documentary evidence of incapacity to be shown.<sup>61</sup>

Because of this, many courts have created their own forms. Some local rules reference or adopt a “Physician’s Report” that is in common usage throughout the state.<sup>62</sup> The most widespread version of this form is two pages long and asks a series of questions about management of property, self-care, and the reason requested for the appointment.<sup>63</sup> Some courts do not have a local form.

By not having a standard medical report, Indiana courts are not necessarily considering the same factors in determining legal incapacity and, in turn, the necessity of an adult guardianship. This lack of formal structure could lead to concerns about the over- or under-usage of guardianship in portions of the state. In courts without a local physician’s report, petitioners may file excessive amounts of medical information directly into the case, leading to concerns about oversharing sensitive information with the court.

In most court proceedings, a medical professional does not attend a court hearing, despite authorizing release of medical documents or filling out a Physician’s Report. This has led to concerns that a health professional might not realize the ways that their documents or reports are being used by the court after they are filed by the petitioner or how those forms are used to justify appointing a legal guardian.

The Task Force recommends that Indiana should have a consistent medical report across the state. An implementation committee of medical and legal professionals should design the form, with an eye to the considerations most important to the relevant fields.

- The Michigan Health Association published a report for hospital and healthcare teams to support patients and families navigating the guardianship process.<sup>64</sup> This health-centered approach to guardianship information shows

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<sup>61</sup> Jenuwine, Michael J., *The State of Adult Guardianship in Indiana: An Empirical Perspective*, at 46 (Oct. 2011), <https://perma.cc/89UN-RU3C/> (“There is no specific statutory requirement for documentary evidence of incapacity.”).

<sup>62</sup> See, e.g.: Hamilton County Local Rule LR29-PR00 714.20; Marion County Local Rule LR49-PR00 Rule 413.2). In 2011, a report showed that 64% of sampled guardianships used the Physician’s Report form. See Jenuwine, Michael J., *The State of Adult Guardianship in Indiana: An Empirical Perspective*, at 46 (Oct. 2011), <https://perma.cc/89UN-RU3C/>.

<sup>63</sup> See Monroe County, *Petition for Appointment of Permanent Guardian for Incapacitated Person*, <https://perma.cc/FA88-AUYD/>.

<sup>64</sup> Michigan Health and Hospital Association, “MHA Publishes Guardianship Guide for Providers and Patients” (Aug. 21, 2024), <https://perma.cc/V8BX-VE9Y/>.

how health systems, care teams, and other supporters can come together to help navigate a complex guardianship system. It could be the basis for how the implementation committee is selected and goes about this task overall.

- Other sources may be helpful to the implementation committee to use as a starting point on this project, such as the Elder Justice Initiative Help for Judges Hearing Guardianship Cases<sup>65</sup> and USC Center for Elder Justice Judicial Guardianship Worksheet Implementation Project.<sup>66</sup> Both of these had similar multidisciplinary approaches that led to creation of specific reports and materials to assist the legal and medical communities.
- It is strongly suggested that non-attorney professionals, such as court staff, social workers, and behavioral health professionals, also be included in the implementation committee to create this report.

To help support those filling out the report, guidance documents on using the report and clear indications of how the report is used by Indiana courts should be published, particularly within the medical and healthcare communities. Any lack of awareness of the usage of the documents or forms could be remedied by trainings for medical professionals on how the information they submit to a court is used in a legal context.

The report should capture a wide range of information from medical professionals. The categories used should be understandable by both a broad array of healthcare and legal experts. This will ensure that these professionals use the same criteria to discuss and determine legal and medical capacities and incapacities.<sup>67</sup>

There should be safeguards in place to ensure that any disabilities identified in the report are not used negatively to push a guardianship on someone who may not need it. Similarly, the report should not assume an incapacity based on a particular diagnosis.<sup>68</sup> To the extent possible, the report should allow medical professionals to

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<sup>65</sup> Elder Justice Initiative, "Help for Judges Hearing Guardianship Cases," <https://perma.cc/M53J-YZPN/>.

<sup>66</sup> USC Center for Elder Justice, "Judicial Guardianship Worksheet Implementation Project," <https://perma.cc/P35H-34KN/>.

<sup>67</sup> The report could include a section on "retained capacities," which would allow medical professionals to give an opinion to judicial officers about how the guardianship could be limited in scope.

<sup>68</sup> For example, the difference between "early onset dementia" and "dementia" may differ dramatically yet carry the same general diagnosis. The Task Force recommends that the report include degrees and gradations to show how a particular diagnosis affects the person. This is particularly salient for mental health cases (ensuring that people seeking mental health treatment are not pre-emptively placed under a guardianship due to their diagnosis).

guide judicial officers on their interpretation of the person’s abilities, inabilities, and functional capacities.

A list of professionals who are medically qualified to fill out this report should be determined at the time the new medical report is published.<sup>69</sup> There should be clear guidelines for the credentials and experiences that would be necessary to qualify someone to fill out the report. The Task Force recommends that a broad range of medical professionals should be given the opportunity to provide their medical insights into the discussion, showing courts numerous perspectives on the need for guardianship and existence (or nonexistence) of legal incapacity.

The Task Force specifically recommends that any created report should be given a broad name, such as “Expert’s Assessment of Medical Capacity” or “Guardianship Medical Report,” to prevent the erroneous assumption that a “physician” is the only party qualified/permitted to fill out the report.

This report would need to be approved by the Guardianship Committee. To that end, the Guardianship Committee should be consulted before forming the implementation committee.

Legal incapacity is not generally a standalone requirement for obtaining a minor guardianship. Therefore, this report is likely to be unhelpful to a court determining the need for a minor guardianship unless the minor is also alleged to be incapacitated. If this occurs and the minor will be subjected to the guardianship into their adulthood (past obtaining the age of majority), the Task Force highly recommends that medical documentation, including this recommended new report, should be required in those cases.

Standardizing the basis for legal incapacity in guardianship will go a long way toward standardizing guardianship practice more broadly in Indiana. This project will lead to better communication and collaboration between healthcare and legal professionals, which in turn may lead to further innovations and opportunities in the future.

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<sup>69</sup> For a potential list of professionals who can assess capacity, see US Department of Justice, “Professionals who Assess Capacity,” *Elder Justice Decision-Making Capacity Resource Guide*, at 8 (Aug. 10, 2022), <https://perma.cc/8WML-6ZPB/>.

## 11. Adopt a standardized court order for guardianship cases across the state.

It is standard practice in many Indiana counties for attorneys to tender boilerplate language within proposed orders, including language granting a guardianship without limitations. The unintended consequence of such a practice is that many guardianship orders are not case specific and may be overly broad, failing to provide appropriate guidance to guardians.

There are also times where lack of standard practices can lead to inconsistent reporting by courts. For example, under federal law, a person who is adjudicated “mentally defective” (lacks the mental capacity to contract or manage their own affairs) is prohibited from possessing firearms or ammunition.<sup>70</sup> While Indiana courts frequently make findings that some protected persons are mentally incapable of handling their own affairs, courts do not consistently share this information routinely with the FBI NICS Firearms Checks system (as they do for other cases, such as: civil commitments, firearms seizures, domestic violence convictions, and/or incompetency/insanity/not guilty by lack of mental responsibility determinations).<sup>71</sup>

Indiana stakeholders, including members of the public, continue to have questions about interpretation of judicial orders. Public comment to the Task Force focused on the dissimilar reporting standards between county courts, which would be contained within a guardianship order. These inconsistencies are likely fueling confusion and frustration with adult guardianship processes and leading to disparate outcomes in different portions of the state.

### Benefits of a Standard Order

To address these concerns, the Task Force believes that a standardized court order for guardianship cases across the state should be created. This would greatly cut down on using proposed orders drafted almost entirely by petitioners (or their counsel), which often only represents the preferences and circumstances of a particular guardian candidate. It will provide a clear roadmap for judicial officers to better conduct hearings and ensure that all facets of guardianship are considered in every case, including opportunities to limit the guardianship when appropriate. It

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<sup>70</sup> 18 U.S.C. 922(d)(4); 18 U.S.C. 922(g)(4).

<sup>71</sup> Federal Bureau of Investigations, *Firearms Checks (NICS)*, <https://perma.cc/EK35-ALRM/>.

would benefit all stakeholders by providing clear guidelines for what will be considered in the judicial order, clearing up confusion and frustration.

The Task Force used other jurisdictional forms to make this recommendation:

- Michigan has a state form that uses checkboxes in a standard order.<sup>72</sup> Aside from making this easier to use for a judicial officer, this checkbox form may also allow for smoother data collection.
- Nevada’s state form includes standard sections for guardianship review. For example, the form order quickly shows if the guardian must participate in a guardianship training class. It also shows the anniversary date of the guardianship and due dates for the guardian’s reports, as well as information on required inventory, accountings, and bonds.<sup>73</sup>

A standard order would consider all perspectives (not just that of the petitioner) in determining the parameters of the guardianship. This would serve as a check and balance to guardianship oversight while also tailoring the order to the unique structure and facts of the individual case. It could reduce the likelihood of error about portions of the case that could otherwise have been contained in a proposed order while still maintaining judicial discretion to make particularized findings.

By using the same form, all parties will also have an equal playing field with the court – including those parties who may lack legal counsel or have issues with capacity to understand the legal proceeding. It empowers interested parties to question why a standard order is not being used in their case, which allows them leverage to communicate concerns. By having standard categories that are known before a hearing, it will also better equip all parties (and their legal counsel) to consider sensitive issues (such as removal of certain rights) before a guardianship is even filed.

## Format of the Standard Order

An Indiana-specific standard guardianship order could include checkboxes or other methods for a judge to easily indicate the limits of a guardian’s powers and authorities directly in the order itself. This would accomplish two goals:

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<sup>72</sup> See Michigan Courts, Form 631 – “Order Regarding Appointment of Guardian of Incapacitated Individual,” SCAO – *Approved Forms for Use in Guardianship Cases*, <https://perma.cc/AFM9-KPHQ/>; see also Michigan Courts, Form 660 – “Order Appointing Guardian for Individual with a Developmental Disability,” SCAO – *Approved Forms for Use in Guardianship Cases*, <https://perma.cc/8QGE-JMPW/>.

<sup>73</sup> State of Nevada Self-Help Center, “Order Appointing Guardian – Adult (pdf fillable),” *Guardianship Forms*, <https://perma.cc/AS2Q-83UH/>.

- It would show judges the categories of limitations that they might select in a case to encourage usage of those limitations whenever possible.
- It would clearly indicate to all parties (including the guardian and protected person) the limitations on the role of a guardian, which would allow for better communication and effectuation of the relationship.

Iowa has a statutory list of defined authorities that could be granted to the guardian and a clear indicator of which authorities are granted with or without court approval. There is specific authority to modify the responsibilities based on clear and convincing evidence that justify a modification.<sup>74</sup>

Standard orders with checkboxes have worked in other Indiana case types, including mental health and protection order cases. A similar format for guardianship cases would allow courts to narrow the issues on a complex case type while still addressing all facets of the case in consideration of next steps.

## Effect on Limited Guardianship

In theory, an adult guardianship can be limited in scope or duration to satisfy the needs of the protected person in the least-restrictive way possible. In practice, not much data or statistics support the concept that judicial officers are using limited-scope or limited-duration guardianships to effectively serve protected persons. Previous studies have shown that almost all guardianships sought in Indiana are plenary in nature and do not contain many limitations to the powers and duties of a guardian.<sup>75</sup>

- By handing guardians almost unlimited powers, courts may be restricting the freedoms and liberties of protected persons unnecessarily, even in ways that were not necessarily imagined at the outset of the case.

A standard order will better equip judges to look at alternatives to guardianship and consider specific alternatives directly in a checkbox format. A limited guardianship

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<sup>74</sup> Iowa Code Ann. 633.635.

<sup>75</sup> "Less than 1% of the cases reviewed in our sample included limited guardianships, with plenary guardianships sought in nearly every case reviewed." Jenuwine, Michael J., *The State of Adult Guardianship in Indiana: An Empirical Perspective*, at 49 (Oct. 2011), <https://perma.cc/89UN-RU3C/>.

could function as a less-restrictive alternative by not requiring plenary guardianship powers to be given to a guardian unnecessarily.<sup>76</sup>

This standard order would allow consistent consideration of limited guardianship in our state and provide data to show if the trend toward plenary guardianships in most cases is alleviated in the coming years.

## Other Logistics

Creation of such an order should be approved by the Guardianship Committee and distributed throughout the state so that parties know the exact form that a judge is using at the guardianship proceeding. The order could be hosted online and contained within the state's Guardianship Benchbook for easy access by judicial officers. A potential standardized order is included with this report as an Appendix.

The Task Force noted that the current Indiana system requires a judge to specifically revoke a Power of Attorney (POA) in the judicial order to terminate its authority. If this is not addressed by the court order, the POA will likely still be in effect, complicating the relationship between a guardian and a previous (and often different) attorney-in-fact named in the POA. The Task Force believes that a standard order could specifically include a section on previous POAs, allowing all courts to address this interplay each and every time a guardianship is ordered. This will streamline the role of guardian and provide clear parameters for the authority that might need to be shared between two parties.<sup>77</sup>

If a standard order is created, it would allow for consistency across the state. If it included limited guardianship principles, this would show Indiana's commitment to providing only necessary guardianship authority that is still effective to help another person with decision-making and support. Future research could compile data and statistics on the usage of limited guardianship after the standard order is implemented, which would show its effectiveness and widespread adoption.

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<sup>76</sup> Though the limited-scope or limited-duration guardianship would still require a finding of legal incapacity, the powers and duties provided to the guardian would make it more limited than a plenary (full) guardianship.

<sup>77</sup> Other opportunities to address the interplay between the guardianship and POA authorities, including the need to create better public understanding of guardianship's unique role within the broader probate system, could also be pursued in future projects.

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# Indiana Law and Process Improvements

Some recommendations will require law and policy changes. It is believed these improvements will improve adult guardianship functions and foster a greater understanding of judicial procedures statewide.

## 12. Define “guardianship of the person” and “guardianship of the estate” in the state law.<sup>78</sup>

Indiana guardianships are often separated into “guardianship of the person” and “guardianship of the estate.” Despite the majority of the state using this distinction, there is not a standard statutory definition of these terms within the Indiana Code.

Since there is not a statutory definition, many entities (including banks or healthcare providers) have insisted on specific “types” of guardianship to allow a guardian to perform their duties. This is often done in a manner that is possibly inconsistent with Indiana law, given that these “types” of guardianships are not clearly defined within the Code. This leads to frustration and unintended red tape when a guardian is forced to go back to court to obtain a certain “type” of guardianship, especially when there are not limitations to acting on those authorities contained within the guardianship order.

In practice, the lack of standard definitions will continue to create confusion among competing interpretations of the same guiding laws. To prevent confusion and to provide clear parameters for stakeholders, the Task Force recommends that the state consider defining “person” and “estate” guardianship in a future legislative session, or that any future pending changes to the Indiana guardianship laws specifically include the addition of these definitions.

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<sup>78</sup> Since this item involves changes to legislation or agency rules, Task Force member Rakuya Trice recuses herself from an endorsement of this recommendation.

## 13. Adopt separate case types for minor and adult guardianships.

Under the current Indiana e-filing system, most guardianships are filed as a “GU” case type, regardless of age or situation. The only alternative code for guardianship filing is the “GM” code, which is used primarily to avoid having minor guardianships placed on the Registry when the purpose of the minor guardianship is financial management of a large sum of money on behalf of a minor child.<sup>79</sup>

Having only one case type for all guardianship cases creates a confusing system where it is not immediately clear by the cause number if the guardianship is intended for a minor or incapacitated adult.

There are many reasons why a minor guardianship and adult guardianship differ:

- Statutory differences - the Indiana guardianship statutes make a distinction between a minor and an incapacitated adult throughout.<sup>80</sup> This includes heightened petition requirements (such as showing the usage of less-restrictive alternatives to guardianship)<sup>81</sup> and additional hearing requirements (such as requiring the presence of the person alleged to be incapacitated at the guardianship hearing) for adult cases.<sup>82</sup> It also includes different processes for minors (such as notifying the department of child services if there is a simultaneously pending Child in Need of Services (CHINS) case).<sup>83</sup>
- Showing of incapacity - adult guardianship cases require a showing of incapacity, often shown through filing a physician’s report or other medical documentation. For minors, the “nature of incapacity” on a guardianship can generally be assumed based on their age and the general inability of minors to care for themselves independently until the age of majority is reached.<sup>84</sup>

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<sup>79</sup> Indiana Trial Court Administration Manual for Judges and Clerks, *Special Processes and Procedures - Guardianship* (July 1, 2025), <https://in.gov/courts/iocs/files/pubs-trial-court-guardianship.pdf> (last accessed Nov. 4, 2025).

<sup>80</sup> See broadly I.C. 29-3-5 *et al.*

<sup>81</sup> I.C. 29-3-5-1(a)(11).

<sup>82</sup> I.C. 29-3-5-1(d).

<sup>83</sup> I.C. 29-3-5-1(g).

<sup>84</sup> I.C. 29-3-5-1(a)(2) (requiring petitioners to state the “nature of the incapacity” on a guardianship petition). A judicial officer could elect to extend a minor guardianship beyond the age of majority for some types of cases if it is in the best interest of the protected person (up to a particular termination date or age 22). I.C. 29-3-12-7. Though minors can also be declared incapacitated (forming the basis for their need for a guardianship), the guardianship could have also independently been granted simply for the minor having not attained the age of majority, without further consideration of capacities/incapacities at all.

- Permanency planning for child welfare cases – minor guardianship is an option on a permanency plan for a child in need of services (CHINS) case. A third-party guardian will sometimes take custody of the child through a guardianship instead of adoption; this can be done more temporarily to avoid having to terminate parental rights while the child is still a minor.<sup>85</sup> This does not occur for adult guardianship cases.

Because of these major differences, the Task Force recommends creation of a two-tiered case type system for guardianship cases that expressly recognizes the difference between minor and adult guardianships. The case type could be created at a point in time moving forward (where only new cases have the bifurcated code), or it could be retroactively applied to previously ordered guardianship cases across the state. For ease and simplicity, the Task Force would consider “GM” (for minor guardianship and settlements) and “GA” (for adult guardianship) as suitable filing codes. The “GU” code could be preserved for miscellaneous guardianship matters and/or for historic preservation of preexisting filing codes.

## 14. Implement court ombudsman services directly within guardianship courts.

While Indiana has a process for reporting abuse and neglect of endangered adults to Adult Protective Services (APS), there is not a specific way to directly report concerns to a guardianship court about the suitability of guardianship and/or the guardian. Family members, social support organizations, health providers, and others would have to currently hire legal counsel and/or appear directly in a case to share these concerns. It is unclear how often these concerns are actually being shared with guardianship courts.<sup>86</sup>

Creating a way for an ombudsman-like resource or service to directly work alongside the guardianship courts would greatly benefit the courts in their oversight duties while also allowing potential intervenors or interested parties to quickly share information. In this proposal, an ombudsman would take complaints or concerns from

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<sup>85</sup> See Indiana Dept. of Child Services, “Chapter 6: Court, Section 10: Permanency Plan,” *Child Welfare Policy*, at 4-5 (July 1, 2025), <https://perma.cc/54ZP-S6ST/>.

<sup>86</sup> See US Dept. of Justice, “What is abuse by guardians?,” *Mistreatment and Abuse by Guardians and Other Fiduciaries*, <https://perma.cc/ETG3-CH58/>.

stakeholders and craft them into legal interventions into the guardianship case if the complaint or concern was substantiated.

- The US Department of Justice has a list of ways the court can respond to allegations of abuse, which includes freezing assets, ordering repayment for lost assets/property, limiting the powers of guardianship, or removing the guardian.<sup>87</sup>

A court ombudsman program specifically catered to guardianship abuse, neglect, and exploitation would greatly help the courts address concerns and remove any problematic guardianships. The Task Force recommends that a working group of high-level staff from organizations like APS, the Indiana Prosecuting Attorneys Council (IPAC), and the judiciary meet to discuss these concerns and create a program to address and respond to this issue.<sup>88</sup>

Reports could be received anonymously and/or through a hotline, similar to the current APS system. Direct links to law enforcement, APS, CPS/DCS, and/or other investigative entities could be made directly by the guardianship ombudsman, or direct action could be filed into the preexisting guardianship case upon substantiation of the allegations. The Task Force recommends that this program could be standalone or imbedded within the court monitor program envisioned within this report.

- Some Ohio courts have fillable forms to easily allow for complaints to be filed directly with the court, with references to the steps required and general process printed directly on the form.<sup>89</sup>
- Washington also has a list of forms for those who want to file a complaint about a particular guardianship.<sup>90</sup>

This recommendation would both assist the court with administration of its guardianship oversight responsibilities while also reducing the likelihood that a guardian or protected person could be unnecessarily brought to court for

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<sup>87</sup> US Dept. of Justice, "How can the courts with jurisdiction over guardianship cases respond to abuse?," *Mistreatment and Abuse by Guardians and Other Fiduciaries*, <https://perma.cc/ETG3-CH58/>.

<sup>88</sup> This working group should include similar entities recognized by the US Department of Justice as entities that can serve as responders to abuse by guardians. See US Dept. of Justice, "Besides courts with guardianship jurisdiction, who can address abuse by guardians?," *Mistreatment and Abuse by Guardians and Other Fiduciaries*, <https://perma.cc/ETG3-CH58/>.

<sup>89</sup> See, e.g.: Franklin County (Ohio) Probate Court, *Guardianship Complaint Form*, <https://perma.cc/JDV4-XRVY/>.

<sup>90</sup> Washington Courts, *Court Forms: File a Guardianship and/or Conservatorship Complaint*, <https://perma.cc/J5CJ-3JNY/>.

unsubstantiated allegations of abuse, neglect, or exploitation. It would create consistency and predictability in handling complaints received, ensuring that nothing would fall through the cracks and that a guardian would be removed quickly if necessary.<sup>91</sup>

## 15. Support a new process that allows former protected persons to expunge or seal an expired guardianship.

There is currently no formal mechanism for a former protected person to request that the court expunge or seal evidence of a preexisting, yet expired or dismissed, guardianship case. There is also no ability for Indiana courts to similarly expunge or seal guardianship petitions that were filed and guardianship was never ordered on the case.

The consequences of not having such a mechanism are that a former protected person may face discrimination from the public, who can easily view the previous details of a guardianship on any publicly-available case search system.<sup>92</sup> If the public does not sufficiently understand the details in the case search system to know that the case is expired, dismissed, or inactive, they may inadvertently risk seeing that person as a currently incapacitated adult.

Other states have methods of sealing a guardianship after it is dismissed or terminated. Maine and Washington have similar laws that proclaim the existence of a guardianship a matter of public record unless a request is made for the court to seal the record.<sup>93</sup>

The Task Force supports any effort to create a mechanism that would allow for guardianship expungement or sealing as a legal remedy. It is recommended that this item be managed by a group working in law and policy for re-entry programs, expungements, and/or expanded rights within our state. A small working group may be suitable to create a white paper exploring this concept, including whether other

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<sup>91</sup> For a general overview of long-term care ombudsmen programs and their links to guardianship programs, see National Long-Term Care Ombudsman Resource Center, *Long-Term Care Ombudsman Program: Ombudsmen Talk about Guardianship* (Feb. 2004), <https://perma.cc/2XNM-V8L8/>.

<sup>92</sup> See, e.g.: MyCase Case Search, <https://mycase.in.gov/> (last accessed Nov. 4, 2025); DoxPop Case Search, <https://www.doxpop.com/prod/> (last accessed Nov. 17, 2025).

<sup>93</sup> See 18-C Maine Rev. Statutes 5-308; Rev. Code Wash. (ARCW) 11.130.410.

jurisdictions have similar expungement or sealing processes and whether the current Access to Court Records rules provide an avenue for expunging or sealing such cases.<sup>94</sup>

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## Enhanced Court Monitoring

Expanding a court monitor pilot project into a potential statewide solution for judicial oversight would greatly improve outcomes for all stakeholders. Clear guidelines for GALs and court monitor programs would lead to better practices for courts.

### 16. Support expansion of the court monitor pilot program.

Indiana courts lack a consistent process for investigating adult guardianship cases. In other states, court-led programs have been created to help judges assess circumstances that gave rise to the filing of a petition, finding ways to avoid or limit the guardianship, and checking the qualifications of the proposed guardian.<sup>95</sup> Indiana would benefit from such a program that could specifically help judicial officers investigate a guardianship as it progresses through the court and upon periodic review.

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<sup>94</sup> For a comprehensive resource on privacy and confidentiality in state guardianship laws, see ABA Commission on Law & Aging, *Privacy and Confidentiality: Guardianship Statutes and Court Rules* (Aug. 30, 2020), [https://www.americanbar.org/content/dam/aba/administrative/law\\_aging/chartguardianshipprivacy.pdf](https://www.americanbar.org/content/dam/aba/administrative/law_aging/chartguardianshipprivacy.pdf) (last accessed Nov. 21, 2025).

<sup>95</sup> National Guardianship Association, *The Fundamentals of Guardianship: What Every Guardian Should Know* (Second Edition (2023)), at 6 (“Guardianship Initiation: Prehearing Process”).

Many other states have created court monitor programs to help courts review and monitor guardianship cases.<sup>96</sup> Our pre-existing state law uniquely provides a framework for such a program within the VASIA statutes.<sup>97</sup> By using these statutes to create a court monitor program, our Indiana courts could benefit from a structured process for court staff and volunteers to investigate adult guardianship consistently throughout the state.

There is currently a “Court Monitor Pilot Program” overseen by IAGO in Fountain County. The pilot program operates through usage of the preexisting VASIA statutes, which authorize temporary guardian powers to help an alleged incapacitated adult. As the case progresses, a permanent guardian candidate is located or recommended (if full-time guardianship services are determined necessary in the case). At the end of the investigation period, the court monitor typically withdraws.

Our state would benefit from broader usage of a court monitor program:

- Judicial officers would be able to order an independent investigation into select adult guardianship cases. The court monitor could use temporary guardian powers to help an adult at risk of guardianship reach a level of stability in their case while also investigating the need for full-time guardianship.
- The court monitor would submit their report to the court and a judge would have the final say on a future arrangement. By having a designated party to perform consistent reviews, interviews, and visits with the parties involved in a guardianship, the courts would benefit in both improved case outcomes, efficiency for the court, and resource coordination in their county.

## Similarities to VASIA

In 2001, a Lake County pilot program led to the creation of what would eventually be known as VASIA.<sup>98</sup> This pilot provided “short term volunteer advocate[s] to assist

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<sup>96</sup> For a comprehensive list of other state court monitor and visitor programs, see National Association for Court Management, *Adult Guardianship Guide*, at 59 (“Appendix F”) (2022 (Updated)), [https://www.txcourts.gov/media/1453677/adultguardianshipguide\\_withcover.pdf](https://www.txcourts.gov/media/1453677/adultguardianshipguide_withcover.pdf) (last accessed Nov. 21, 2025).

<sup>97</sup> See I.C. 29-3-8.5 *et al.*

<sup>98</sup> “Lake County Judge Schneider Pioneers Senior Guardian Volunteer Program,” *Indiana Court Times* (Apr. 30, 2008), <https://perma.cc/U3AZ-LCWM/>.

individuals.”<sup>99</sup> Volunteers met with the parties and delivered reports to the court about immediate and long-term needs, including the need for guardianship.

- The initial VASIA programs were designed to assist individuals on a temporary basis. This model was intended to be similar to Court Appointed Special Advocates (CASA) programs for children, which identify and provide advocacy on the best interests for a minor.<sup>100</sup>
- Based on the success of the initial Lake County pilot, the VASIA program was codified into law in 2004.<sup>101</sup> By that time, VASIA programs were not just partnering with courts; volunteers were also providing professional guardianship services as full-time guardians.

Given the importance of professional service VASIA programs to their local courts, a court monitor program needs to distinguish its role from that of the current VASIA programs. It is recommended that pre-existing VASIA programs should be referred to as “professional service VASIA programs” to help maintain these differences. Court monitor programs are not competing with professional service VASIA programs, as they are not serving as full-time permanent guardians. The two programs will need to work hand-in-hand to collaboratively address court needs and provide long-term solutions. Any court monitor program created should delicately recognize the balance between court-related investigations (for the court monitor programs) and the long-term need for guardians (for the professional services organizations).

If implemented, a court monitor program would help all courts, with or without a VASIA program. However, for counties with professional service VASIA programs, a court monitor program will allow for smoother operations, as these professional service programs would no longer have to perform robust case investigations and interviews with parties. They would also not have to perform complex tasks like assessment of medical/legal capacity. Instead, many case-related tasks would be handled through the court monitor process, with the professional service VASIA being free to handle day-to-day guardian duties.<sup>102</sup>

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<sup>99</sup> Indiana Adult Guardianship State Task Force, *Who’s Overseeing the Overseers?*, at 86 (Feb. 2012), <https://perma.cc/89UN-RU3C/>.

<sup>100</sup> *Id.*

<sup>101</sup> “Lake County Judge Schneider Pioneers Senior Guardian Volunteer Program,” *Indiana Court Times* (Apr. 30, 2008), <https://perma.cc/U3AZ-LCWM/>.

<sup>102</sup> It is generally believed that a preexisting VASIA professional service program could modify their operations to serve as both the court monitor and professional service provider in a given county. However, additional research and consultation will need to occur to determine the feasibility of this plan. Any VASIA serving in both roles would have to have robust conflict of interest protocols and

## Similarities to Guardians *ad Litem* (GALs)

The court monitor role is highly similar to a GAL, but there are key differences. Indiana state law already allows GALs to deliver court reports in an adult guardianship case. But the court monitor program is specifically designed for adult guardianship; to that end, the court monitor will be better equipped to look at a case beyond the confines of the petition. Further, while most GALs are largely regulated by new state guidelines, these guidelines specifically exempt adult guardianship at this time.<sup>103</sup> Much of this was because of the myriad differences between GAL work in other areas, like child welfare and family law, versus the adult guardianship context.

There has been confusion about the usage of the term “guardian” in the acronym “GAL.” Other jurisdictions have referred to similar programs as “court visitors” or “court monitors” to avoid this confusion of the double-usage of the word “guardian.”<sup>104</sup> Indiana would benefit from having the term “GAL” replaced with “court monitor” in the adult guardianship context to further cut down on this confusion. In essence, if court monitors were used in a county, the county would not have the need to also use GALs for adult guardianship cases.

## Other Logistics

The Task Force recommends that a court monitor program includes methods to relay information to the court concerning:

- Whether a guardianship is necessary;
- Whether the potential guardian is suitable to serve; and
- Whether any limitations on the guardianship would assist the protected person with maintaining or developing independence.

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policies, including a firewall on information sharing between a court monitor and guardian candidate that might lead to an improper perception that the programs were colluding to promote unnecessary guardianship. If these ethical considerations are surmounted, it could be possible for one organization to provide dual services to a county or service area.

<sup>103</sup> Family Law Taskforce, *Recommendations* (March 2021), at 35, <https://in.gov/courts/admin/files/innovation-flt-report.pdf> (last accessed Nov. 4, 2025).

<sup>104</sup> Court visitors, much like Indiana GALs, are “appointed when a petition for adult guardianship [is filed] to investigate the involved person and his or her circumstances, and recommend to the court an appropriate resolution.” Alaska Office of Public Advocacy, *Court Visitors*, <https://perma.cc/47HE-GU4J>. See also The Supreme Court of Ohio, *Establishing a Court Visitor Program to Monitor Guardianships: Toolkit for Judicial Use* (June 2021), <https://supremecourt.ohio.gov/docs/JCS/CFC/resources/courtVisitorProgramToolkit.pdf> (last accessed Nov. 4, 2025).

The court monitor program could also enhance supports traditionally provided by a guardian, but on a limited basis. For example, the court monitor could sign the protected person up for health benefits or ensure housing is obtained. This would all be done between an initial guardianship filing and determination of a full-time care plan and necessity for guardianship (after which the court monitor would no longer be needed for that role).<sup>105</sup>

The Task Force recommends expansion of the court monitor programs into multiple additional pilot project sites. IAGO should secure additional funding to provide county-level grants to serve as expansion sites. Selections on new sites should be made with consideration to having both urban and rural representation as well as geographic diversity between the different areas of the state. Expansion should occur into counties with a large guardianship docket to allow for better data collection and a higher number of testable cases. At least one new pilot site should include a preexisting VASIA program so that guidance can be provided to pre-existing VASIA programs on how to amend operations to handle additional or separate court monitor duties.

Given the recent changes in the structure of state programs, including APS, there may be need for court monitoring services to bolster work being done to protect vulnerable Hoosiers overall. Since court monitoring programs will likely be working on similar issues to APS and other stakeholders, it is recommended that stakeholders work together in these programs to find quick and efficient ways to quickly remove problematic guardianships. This could include information sharing between APS and court monitoring programs. It could also include quarterly discussions with high-level leadership to ensure that red tape and logistical hurdles are overcome smoothly and effectively. Practical communication and coordination between stakeholders can leverage partnerships and increase the experiences and well-being of people subject to guardianship in Indiana.

Data collection and analysis should be key tenets of the expansion. IAGO should ensure uniformity in standards, skills, and services for court monitor pilot sites. Data collected should inform further expansion of the program. Data collection and

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<sup>105</sup> In the pilot program, these authorities are derived from pre-existing powers that a VASIA program would be granted under state law. See, e.g., I.C. 29-3-8.5-4 (“Actions a Volunteer Advocate for Seniors and Incapacitated Adults May Take”).

analysis should meet the national recommended data elements and guidelines for court monitoring.<sup>106</sup>

In designing expansions to the pilot project, the Task Force recommends working toward a future “district-level” court monitor program, with judicial districts banding together to provide monitoring services (at the district level rather than county level). This could create multiple unique court monitoring programs across the state.

This project provides a unique opportunity to provide direct court oversight of guardianship while allowing for independent investigations by professionals and volunteers, whose passion for assisting others and creating a better guardianship system will enhance the work of the courts overall. A successful court monitor system in Indiana would show the commitment to oversight by all stakeholders and allow collaboration and efficiency in providing these services to our courts.

## 17. Adopt guidelines for GALs and court monitor programs in adult guardianship cases, similar to requirements in minor guardianship cases.

The Indiana Family Law Taskforce recently adopted numerous improvements to the GAL system for juveniles. For example, GALs working with children are now required to go through mandatory training and inclusion in a state GAL Registry.<sup>107</sup> Their actions specifically exempted GALs working in adult guardianship cases from these requirements due to the differences in the minor and adult systems.

The Task Force now recommends creation of adult-specific GAL and court monitor guidelines. These guidelines could greatly mirror the juvenile guidelines, or there could be deviation as a whole to identify the unique needs of adults.<sup>108</sup> GALs and court monitors working with adults should be sufficiently informed about resources and community supports, such as Centers for Independent Living or Area Agencies

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<sup>106</sup> See National Open Court Data Standards, *Guardianship/Conservatorship Monitoring* (June 2024), <https://perma.cc/4VPK-B62R/>.

<sup>107</sup> Dunn, Leslie, “Guardian ad Litem Guidelines adopted by Indiana Supreme Court,” *Indiana Court Times* (Nov. 20, 2024), <https://perma.cc/XN3N-PWRW/>.

<sup>108</sup> For example: where juveniles are generally expected to need a guardian due to their minority, adults may have the option to receive zero supports and to function independently due to their reaching an age of maturity. This is not usually an option for unemancipated minors.

on Aging, that might allow for greater adult independence, including ways to receive support without the need for a legal guardianship.

Anyone serving in a GAL or court monitor capacity should follow the same written guidelines to promote consistency and ease of understanding. These guidelines should incorporate the Guardianship Review Protocol established by the National Center for State Courts (NCSC). They should be informed by national standards created by the NGA.<sup>109</sup>

The Task Force further recommends mandatory initial training and continuing educational requirements for GALs and key staff within a court monitor pilot project or future long-term program. These requirements should be similar to those required for juvenile GALs. There should be included language about removal or disqualification of GALs and court monitors, as well as how to alert other counties about people who have been disqualified. The Task Force specifically leaves open whether the adult GALs and court monitors should be listed in a public-facing GAL Registry.<sup>110</sup>

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## Increased Supports for Guardians

Increasing guardian pay will enhance guardian effectiveness and decrease an incentive to take on too many cases at once. Linking high-performing guardians to volunteer opportunities will allow VASIA programs to expand and grow operations across the state.

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<sup>109</sup> See National Guardianship Association, *Standards of Practice* (Fifth Ed. 2022), <https://perma.cc/XN3N-PWRW/>.

<sup>110</sup> Inclusion in the juvenile GAL Registry may create confusion, especially if court monitor pilot projects are included (where availability could be limited and subject to change).

## 18. Support an increase in the Medicaid rate for certain professional guardians, from \$35/month to at least \$75/month.<sup>111</sup>

Professional guardians are generally paid for their work by petitioning for court approval of reasonable compensation for services they provide the protected person. For protected persons with the means to pay a guardian, this arrangement allows for adequate care and compensation. But for many Hoosiers who rely on governmental assistance programs and have fixed incomes, finding ways to compensate a guardian can become more complex and difficult.

As of 2024, nearly two million Indiana residents receive Medicaid services. This peaked in April 2023 (2.3 million) and is up from pre-pandemic numbers (1.5 million).<sup>112</sup> As of December 2024, there are also 35,670 people residing in nursing facilities in Indiana.<sup>113</sup>

Our state Medicaid system is often the only way for Hoosiers in nursing facilities, group/waiver homes, or community living settings (with a Medicaid Waiver) to pay for professional guardian services. Without this reimbursement method, many adults in these settings would risk going without crucial guardianship services altogether.

Federal law requires states to compute a post-eligibility budget to determine how much liability (co-pay) of a Medicaid recipient's income goes to a facility for their care.<sup>114</sup> The Indiana Medicaid State Plan currently allows a Medicaid recipient in this setting to reimburse a professional guardian, not to exceed \$35 in court-approved legal guardianship fees.<sup>115</sup> In essence, this amount is paid to the guardian for their role as an offset to the amount that would otherwise go to the facility. Payment to a professional guardian in that way does not result in additional amounts owed by the

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<sup>111</sup> Since this item involves changes to legislation or agency rules, Task Force member Rakuya Trice recuses herself from an endorsement of this recommendation.

<sup>112</sup> Downard, Whitney, "Medicaid rolls higher than pre-pandemic enrollment as unwinding concludes," *Indiana Capital Chronicle* (May 15, 2024), <https://perma.cc/766V-YQ3U/>.

<sup>113</sup> Statista, "Number of residents in certified nursing facilities in the United States as of 2024, by state," <https://perma.cc/9H4V-46L3/>.

<sup>114</sup> See 42 CFR 435.725.

<sup>115</sup> Indiana State Plan Under Title XIX of the Social Security Act, *Variations from the Basic Personal Needs Allowance*, at 407 (March 1, 1998), <https://perma.cc/3S55-CEMU/>.

protected person, as it is an off-set of funds that are already determined through the terms of the Medicaid program itself.<sup>116</sup>

The current \$35/month rate is very low and not reflective of the cost for services performed by a professional guardian in today's economy. This low amount also disincentivizes certain guardians from taking these cases at all, deflating the pool of available guardians to help institutionalized, indigent Hoosiers.

Other states have different, higher rates that more adequately allow guardians to perform their services and seek a reasonable amount of reimbursement:

- Michigan allows \$83/month for professional guardian services to this population.<sup>117</sup>
- Minnesota uses a percentage system (5% of the member's gross income and a maximum of \$100/month).<sup>118</sup>
- Pennsylvania allows up to \$300/month, increased from \$100/month in 2023.<sup>119</sup>
- Texas has no fixed rate - they defer to the courts in setting an amount.<sup>120</sup>

The Task Force recommends that Indiana take measures to increase the current rate allowed under Medicaid for certain types of professional guardians under the state plan. By increasing the \$35/month to at least \$75/month, professional guardians will be better able to serve protected persons in nursing facilities while still supporting an ethical business model.

- Increasing the rate will minimize the propensity for some professional guardians to seek a high active caseload to collect enough operational fees to support their business model. A higher rate will mean that these guardians could take less cases, alleviating recent concerns about professional guardian caseloads.
- The fee will also attract new professional guardians to work in Indiana and increase the number of guardians available to take on the increased needs of the future. This recommendation would increase competition by incentivizing

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<sup>116</sup> The amount is not a direct reimbursement - instead, it is a deduction from the total out-of-pocket liability costs. Rather than going to the Medicaid program, the guardian can be paid the \$35/month directly, subject to court approval. See Indiana Medicaid Eligibility Policy Manual 3455.15.10.

<sup>117</sup> Michigan Guardianship Association, "What fees may I charge as a guardian?" (Aug. 11, 2011), <https://perma.cc/GCC6-ZY2B/>.

<sup>118</sup> Minnesota Dept. of Human Services, *Guardian or Conservator Fees* (Aug. 2015), <https://perma.cc/H3PY-T6KD/>.

<sup>119</sup> See, e.g.: York County Local Court Rules (Pennsylvania), *Increase in Fees for Court-Appointed Guardian of Medicaid Recipient Incapacitated Persons* (Jan. 28, 2023), <https://perma.cc/CVG5-2VXX/>.

<sup>120</sup> 1 Tex. Admin. Code 358.439.

other guardians to care for these Medicaid recipients, allowing protected persons more options for quality guardianship care.

To tie the increase to an objective metric, the Task Force recommends that guardians with active NCG status through the CGC should be given priority for this higher amount.<sup>121</sup> These guardians are providing services tied to a nationally recognized metric for performance from an accrediting body, which could justify the higher reimbursement.

- Guardians will be incentivized to seek national certification if this new rate is limited to only those who are certified by the CGC. This will alleviate the need for the state to create a separate licensing or certification process, which is a reduced cost to Indiana as well.

This task is a heavy lift that involves changes to the Indiana Medicaid State Plan communication with multiple agencies and entities. Therefore, the Task Force recommends assigning one or two “liaisons” to begin communicating with these agencies and entities to explore the feasibility of this change. These liaisons should be given the authority to communicate this request and to relay back to the Task Force about any challenges or steps that would be necessary to effectuate it. Communication with states who have successfully increased this rate is also encouraged.

If the Medicaid rate were increased for Indiana professional guardians, a more sustainable system of care for indigent Hoosiers in these settings would be created. If the metrics for seeking that higher rate were tied to objective national standards, it would increase the number of certified guardians in our state as well. The Task Force believes this recommendation could also alleviate concerns about high caseloads and lack of professional guardians in certain portions of the state.

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<sup>121</sup> See Center for Guardianship Certification, <https://guardianshipcert.org/> (last accessed Nov. 23, 2025).

## 19. Encourage high-performing family guardians to volunteer with local VASIA programs to serve more people and support program expansion.

The current system of VASIA programs serves fifty-four counties across the state. These counties receive access to high-quality guardianship services for people without suitable friends or family to take on this role, effectively becoming a guardian of last resort for at-risk adults in our state.

In those counties, courts can serve as a catalyst to connect high-quality family and professional guardians to their county VASIA programs. If a judicial officer routinely sees high performance from a guardian who is not serving in a VASIA capacity, they should be encouraged to provide information to directly connect that person to consider volunteering.

In turn, VASIA programs should be ready to accept referrals from courts that identify high-performing guardians who can aid VASIA operations, either as a volunteer, board member, or in another capacity decided upon by the program.

VASIA programs traditionally operate on a county-by-county basis, with each county given the authority to authorize a VASIA program.<sup>122</sup> The Task Force encourages courts in counties without a VASIA program to reach out to a nearby program to see if they can potentially link volunteers directly to that program, especially for volunteer candidates willing to travel.

The Task Force believes that channeling high-performing guardians into local VASIA programs will solve some of the issues with volunteer and staff recruitment, allowing the programs to serve more protected adults. In turn, this would generate interest in professional opportunities, such as paid staff positions. It will also promote consideration of VASIA in counties not currently served by a program, generating innovation and expansion even further.

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<sup>122</sup> I.C. 29-3-8.5-1.

# Alternatives and Limiting Guardianship

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## Preventive Measures and Planning Ahead

By taking actions and planning ahead, many guardianship issues can be addressed to prevent further complications from arising.

20. Allow guardians to directly alert the court about a standby guardian candidate to avoid delays in authority if/when a guardian becomes unable to serve.

At this time, Indiana law permissively allows a guardian to name a standby guardian at their discretion, subject to the terms of the law itself.<sup>123</sup> However, there is no guarantee that this standby guardian form will be prepared or seen by the court. The discretion to name a standby guardian is left solely to the current guardian, with no court oversight on the choice they make. Nor is there any guarantee that the named standby guardian will qualify as a guardian or have a desire/ability to serve in that role, presuming that they even become aware of their appointment.

To remedy these issues, the Task Force recommends that a standard method of alerting the court about a standby guardian candidate be created. This would allow guardians to name their preferred candidate, and this name and contact information

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<sup>123</sup> I.C. 29-3-3-7.

could be tracked by the court. Recognizing that current law allows the guardian the discretion to change a standby guardian, courts should also allow a guardian to change their selection periodically. It is envisioned that the alert (and any changes) could be tracked in the new GTS (recommended in this report) or through another technological solution.

If a standby guardian is identified with the court, this will cut down on lapses of support for the protected person if/when a guardian is unable to serve. Avoiding these delays will provide necessary care while avoiding risk of injury. It will also encourage the parties to engage in advance care planning, including thinking about who will serve as guardian if the guardian is unable to serve.

## 21. Develop a process for more frequent review of certain cases of incapacitated minors and emerging adults aged 14 to 24.

NCSC has recognized the importance of reviewing guardianships involving “emerging adults” who are aged 18 to 25.<sup>124</sup> They urge courts to consider the “unique characteristics” that define this age group, including identity exploration and formation, ongoing emotional and social development, legal rights without full developmental maturity, high-risk decision-making with limited experience, and issues with practicing self care. NCSC also recognizes the difficulty in weighing consequences against immediate rewards, heightened peer influence, and resistance to authority that affects this age group.<sup>125</sup>

Under Indiana law, a child could be placed under a permanent guardianship by being adjudicated incapacitated and having the guardianship extend past the age of majority.<sup>126</sup> Since our state law allows a guardianship to be placed over an incapacitated minor child (which would expand into the age of majority), this could cause issues if that guardianship is not routinely reviewed for necessity as that child continues to age, mature, and develop into adulthood.

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<sup>124</sup> National Center for State Courts, *Facing Guardianship: Emerging Adults (18-25) in Transition and the Court’s Role*, Live Webinar (Sept. 24, 2025).

<sup>125</sup> *Id.*

<sup>126</sup> These types of guardianships do not terminate by law when the protected person attains the age of majority. See I.C. 29-3-12-6(a).

Families and support networks can sometimes view guardianship as the default solution, unaware of less restrictive options.<sup>127</sup> This makes emerging adults a population that is at heightened risk for being subjected to guardianship. The ABA has recognized a “school-to-guardianship pipeline” where schools are, by default, recommending parents assume guardianship over their children before they become an adult.<sup>128</sup>

Certain interventions can significantly impact long-term outcomes for emerging adults, such as fostering independence, balancing protection, building skills, and preventing crisis.<sup>129</sup> Failure to balance protection with development can lead to “learned helplessness,” a condition in which a person faces a negative situation and stops trying to change their circumstances, even if they have the ability to do so.<sup>130</sup> If an emerging adult is placed in a guardianship without sufficient consideration of their goals and abilities, this will negatively affect their future development.

The Task Force recommends creation of a systematic review process for guardianships involving these emerging adults, defined as incapacitated minors who were placed under a guardianship due to their incapacity and are currently between the ages of 14 and 24. This ten-year period was selected in reference to the research available on emerging adults and consideration of Indiana’s laws and policies.

The value in creating this court process is to allow courts the opportunity to review these cases more frequently than traditional guardianship cases. This would permit a court to consider the growth and development of the emerging adult when they craft the parameters for usage of a long-term guardianship. It would also allow the court to cater any supports needed to the emerging adult, limiting the guardianship when suitable or terminating it if no longer needed. Courts may gain a better appreciation for the unique situation of this population while also setting incremental goals, review schedules, and ways to monitor future progress.

Only cases where a minor was declared incapacitated need to be reviewed more frequently; cases where the minor has not been deemed incapacitated would not need to be reviewed under this anticipated process.

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<sup>127</sup> National Center for State Courts, *Facing Guardianship: Emerging Adults (18-25) in Transition and the Court’s Role*, Live Webinar (Sept. 24, 2025).

<sup>128</sup> See, e.g.: American Bar Association, “Addressing the School-to-Guardianship Pipeline,” (March 17, 2025), <https://perma.cc/6M5K-CXXX/>.

<sup>129</sup> *Id.*

<sup>130</sup> Psychology Today, *Learned Helplessness*, <https://perma.cc/98ES-FMYZ/>.

Courts may structure their review in any way they find feasible. Yet for courts who may not have the resources necessary to conduct these frequent reviews, the Task Force recommends that funding be made available for use of senior judges. These senior judges would be best suited to help conduct these more frequent reviews. A guidance document should be created to explain this process and assist courts in review of emerging adult guardianship cases. The document should be reviewed by the Guardianship Committee and included on InCite for all judicial officers to use.

The Task Force believes this expanded review of certain cases would help foster independence and support for emerging adults. These reviews could limit the potential over-usage of guardianship and provide added supports to this vulnerable population.

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## Clear Off-Ramps from Guardianship

Making it easier to divert protected persons away from guardianship if it is not the most appropriate intervention is important to prevent the over-use of guardianship in our state.

### 22. Support a process for protected persons to more easily challenge guardianship on a periodic basis.

Indiana does not currently have a routine or easily accessible method to allow a protected person to challenge a guardianship or to show that a guardianship is no longer necessary. This lack of a mechanism to allow a challenge creates due process concerns for a vulnerable population that often cannot seek and secure legal representation.

The right to legal counsel for people subject to guardianship is not guaranteed under Indiana law. Though courts “shall” appoint a GAL to represent the best interests of the

protected person,<sup>131</sup> this is not done routinely in Indiana practice. Many protected persons never get the chance to discuss their preferences during the creation of an adult guardianship. They also rarely obtain legal counsel to talk about their rights, including challenging the guardianship overall.<sup>132</sup>

Many states have created a periodic way to “challenge” a guardianship:

- Ohio law allows a protected person (or their attorney or other interested party) to request a hearing “to evaluate the continued necessity of the guardianship.”<sup>133</sup> The hearings can be conducted at least once per year. If a protected person alleges capacity, the burden of proving incapacity is upon the guardian by clear and convincing evidence.<sup>134</sup>
- Michigan requires review by the court “not later than 1 year after the guardian’s appointment and not later than every 3 years after each review.”<sup>135</sup>
- Virginia sets periodic review hearings for guardianship “no later than one year after the initial appointment and no later than every three years thereafter” unless it is waived by the court.<sup>136</sup> Any such waiver must be supported in the order and address reasons for the determination.<sup>137</sup>
- Washington, DC requires the appointment of a case reviewer (who shall be a social worker) to investigate the continued need for guardianship within the three-year period after the appointment of the guardian and within every three-year period thereafter.<sup>138</sup>

The Task Force recommends a special process be created to allow protected persons to more easily indicate that they wish to challenge an adult guardianship on a periodic basis. These periodic reviews will greatly enhance the ability of courts to identify cases where guardianship might no longer be necessary. It will also allow better communication among the court, the guardian, and the protected person.

IAGO is encouraged to work with the Guardianship Committee to create a state form that would allow a protected person to clearly indicate their intention to challenge the guardianship. The Indiana Code may need to be amended, but in the meantime

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<sup>131</sup> I.C. 29-3-2-3(a).

<sup>132</sup> See also Indiana Adult Guardianship State Task Force, *Who’s Overseeing the Overseers?*, “Representation and Advocacy,” at 44-45 (Feb. 2012), <https://perma.cc/89UN-RU3C/>.

<sup>133</sup> Ohio Revised Code Section 2111.49(C).

<sup>134</sup> *Id.*

<sup>135</sup> MCLS 700.5309.

<sup>136</sup> Virginia Code Ann. 64.2-2009(A1).

<sup>137</sup> *Id.*

<sup>138</sup> D.C. Code 21-2045.01(a).

(in the absence of a state law), courts could be encouraged to allow this form to be filed on a periodic basis if the protected person so chooses. Courts could create local rules that limit this challenge to prevent frivolous filings or to limit it to certain time periods, such as once per calendar year or on a schedule dictated by the judicial officer. To prevent unnecessary barriers for this type of challenge, courts should be encouraged to allow leniency when a protected person wishes to make their challenge, recognizing that barriers from intellectual/developmental disabilities and confusion about court processes might be more acute within this population.

Any form created to allow a protected person to challenge the guardianship should include a way for the protected person to make a request for legal counsel to represent and advocate for their position. Courts are encouraged to hold a hearing and assign counsel if the request appears facially valid and if counsel would likely provide crucial and necessary assistance to the protected person.

- Indiana faces a well-documented shortage of attorneys in our state.<sup>139</sup> As such, it would be impractical to recommend that each person wishing to challenge an adult guardianship automatically be assigned legal counsel. The legal realities in our state require other creative solutions and practical innovations to meet the demand while this attorney shortage continues.
- Funds may be identified to serve protected persons in specific under-served regions where independent legal counsel might not be readily available to serve in this role. Attorneys should also consider volunteering pro bono hours to represent these adults, who otherwise would have limited access to the justice system.
- Alternative ways to provide legal representation to protected persons (such as ALPs or law students assigned through legal clinic models) could be considered as well.

To help with data collection, courts should track the number of requests made to challenge a guardianship, whether counsel was assigned, and the outcome of the request.

This special court process would create a consistent means for protected persons to seek access to courts and advocate on their own behalf. It could prevent cases of

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<sup>139</sup> See, e.g.: Commission on Indiana's Legal Future, *Final Report* (July 1, 2025), <https://in.gov/courts/admin/files/legal-future-final-report.pdf> (last accessed Nov. 3, 2025).

guardianship overuse while recognizing the complexity of guardianships and the need for guardians to only serve as a last resort legal intervention.

## 23. Implement a “temporary suspension” mechanism to immediately revoke guardianship authority if abuse, neglect, or exploitation concerns arise.

Guardians may be unable to meet their duties and requirements of their role for a variety of reasons. Whether malicious or unintentional, whenever this becomes a reality, time is of the essence to remove the guardian’s authority to prevent future damage from being done. A “temporary suspension” mechanism could be created to help oversee guardianship by putting a guardian’s authority on hold. Within that “pause” period, the court would seek to remove the impetus for harm and possibly elect to place another guardian on the case.

During the temporary suspension, an investigation on whether to continue using the guardian could be made by a committee of professionals, including APS, VASIA programs, court monitor programs, judicial officers, and court staff. Any temporary suspension used by a court should be predictable and limited in such a time as to avoid putting the protected person’s care in limbo. A period of not less than 60 days may be sufficient for pausing the case to investigate further and determine next steps.

The Task Force leaves open whether a court would elect to place a validly selected “standby guardian” in place during a pause period. A court may elect to do so if the standby guardian shows an ability to comply with court orders to avoid further issues on the case. However, familial considerations should be considered; if the guardian who was removed is too close to the standby guardian, the court may wish to pick a more objective third party guardian to serve while an investigation is ongoing.

Creating a mechanism like this will ensure a consistent process for quickly addressing underperforming guardians in our state. It will also be an additional service for court oversight of guardianship and a way to encourage an environment that supports the protected person at all stages of the proceeding. After the temporary suspension, steps can be taken to transition the case away from the improper guardian, possibly even away from guardianship entirely if that is the appropriate solution for the case.

## 24. Support “sunset provision” clauses on certain cases to terminate a guardianship automatically if the guardian does not check in with the court.

It has been observed that many guardians do not file required accountings and/or biennial status reports on their guardianship cases. Though the lack of reporting is often not done maliciously, the consequences of non-reporting are vast. The failure to file crucial reports could result in a protected person languishing in care with an unsupportive or underperforming guardian. Further, the lack of reporting limits the court’s role in oversight of a guardianship case. Since courts have a duty to oversee guardianship cases, the guardian should be required to show the court that they are following sound fiduciary practices and not exploiting or misusing the protected person’s funds or property. There is unpredictability when a guardian does not report to the court in a timely fashion.

The Task Force recommends that judicial officers consider putting “sunset provisions” directly into guardianship orders to induce the guardian to more carefully report on the status of a case in the future. This would provide a natural termination date for the guardian’s authority if the guardian does not provide the necessary reports to update the court on the welfare of the protected person and the actions they are taking as guardian. In turn, a court could order the parties back to court to pick another guardian or terminate the guardianship entirely.

- Judicial officers would retain the discretion to omit these provisions in guardianships if they are not warranted. However, sunset provisions could allow for an easier mechanism to oversee cases by providing an incentive to report on a case.
- Courts could use technology, such as the ability to push out notifications via the state e-filing system, to warn guardians 30-60 days before their report is due. Those notifications could mention that the guardianship may sunset due to a failure to report.

If courts begin ordering sanctions or penalties when guardians fail to report, this could lead to improved monitoring of guardianship cases. This could also weed out cases where a guardian either needs to be replaced or needs to be provided more education and support. Finally, this system could locate cases where a guardian or

protected person has passed away or moved away from Indiana, allowing that case to be removed from the docket and terminated efficiently.

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## Emphasizing Usage of Limited Guardianship and Alternatives

Standard agreements and materials for third parties will greatly enhance knowledge of limited guardianship and less-restrictive alternatives.

### 25. Create a standard Supported Decision-Making Agreement that can be used statewide.

Supported decision-making became part of the state guardianship code in 2019 after passage of Senate Enrolled Act 380.<sup>140</sup> Much work has since been done by stakeholders across Indiana to promote the usage of less-restrictive alternatives to guardianship, such as supported decision making agreements (SDMAs).<sup>141</sup> At this time, there is not a standard SDMA, though there are a few different versions hosted on various websites available to the public.

The Task Force sees value in a standard SDMA that would align the principles of alternative decision-making into a consistent set of categories that do not vary across the state. For example, a category of “Housing” could align various decisions between supporters and adults that could be made within housing, landlord/tenant relationships, home ownership, roommates, living conditions, and other decisions affecting domicile. A standard SDMA could also allow courts to better gauge the

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<sup>140</sup> Indiana Governor’s Council for People with Disabilities, *Supported Decision-Making*, <https://perma.cc/N53S-9HFG/>.

<sup>141</sup> See, e.g.: Indiana Disability Rights, *Get Started with Supported Decision-Making (SDM)*, <https://perma.cc/9PPM-AZ33/>.

areas that an adult might be struggling to make independent decisions by using the same language on all forms.<sup>142</sup>

By its nature, an SDMA is a document that catered to the individual's needs and circumstances. There may be reasons why an SDMA would not follow a traditional format or contain different categories than a standard document. However, there is value in having a standard document to promote usage of SDMA across the state and to show a clear template for those who are interested in learning more about how supported decision making might best assist them.

A working group within the state WINGS group could create a standard SDMA and provide it to the Guardianship Committee for consideration as a state document. If approved, this could be hosted online at the IAGO website and potentially on other websites, such as Indiana Legal Help.

## 26. Provide materials to third parties about limited guardianships and their effects within the financial/banking, education, and healthcare industries.

One common theme that emerged in research for this report is that many third-parties do not typically accept a time-limited or limited-scope guardianship in the same manner. Many have questioned the limited guardianship as a mechanism for guardians to validly act on behalf of a protected person. One reason for this lack of acceptance might be that the time-limited guardianship would not give a guardian full, non-restricted access to financial accounts or to make healthcare or educational decisions past a future static date in time. Another reason for this lack of acceptance could be confusion about the scope, duration, and effect of the specific limited guardianship. Whatever the reasons, the lack of acceptance could cause issues for limited guardians who, acting under court authority, aim to provide time-limited services and supports to the people they serve.

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<sup>142</sup> By law, a court cannot consider an adult's execution of an SDMA as evidence of an incapacity. I.C. 29-3-14-4(c). However, since an SDMA can be created for a variety of reasons, and since an SDMA can be used by a protected person subject to guardianship, there would still be value in a court knowing the categories of assistance on a standard document and using that to gauge areas of greatest need for a person subject to guardianship.

To remedy these concerns, the Task Force recommends that a working group meet to discuss ways to help bridge the gap between judicial/legal orders and industries like financial/banking, education, and healthcare. This working group should specifically include members of the financial industry, members of the public education sector (specifically guidance counselors), members of the healthcare industry, practicing attorneys, professional guardians, and judicial officers.

The Task Force believes that a one- or two-day summit might suffice to have sufficient conversations about the scope of this issue and identify possible statewide solutions. Some solutions may include changes to judicial orders; changes to financial/banking, education, and healthcare policies; or new resource materials to let both legal and other third-party stakeholders know about these issues and how to resolve them.

Aside from resolving issues with limited guardianship, interventions to discuss gaps in communication could have positive effects in other areas of guardianship, including any pipelines (such as the school-to-guardianship pipeline) that might exist within third party organizations.

At the end of the day, bridging these gaps will lead to smoother operations between guardians and other organizations that aim to support a protected person. Opportunities for clearer communication can allow for better and smoother guardianship administration.