

GUARDIANSHIP ABUSE, FRAUD, AND EXPLOITATION DETERRENCE PROGRAM

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PROGRAM OVERVIEW

(Effective 09/01/2019)

The umbrella is a nationally-recognized symbol of protection in guardianship.

Since November 1, 2015, the Office of Court Administration (OCA) has managed the Guardianship Compliance Project to provide additional resources to courts handling guardianship cases. On September 1, 2019 the OCA initiated the Guardianship Abuse, Fraud, and Exploitation Deterrence Program (GAFEDP) pursuant to SB 31 & HB 1286 (Zaffirini/Smithee) to provide assistance to courts throughout the state in the administration of guardianship cases. Guardianship compliance specialists assist in reviewing guardianship files to identify reporting deficiencies by guardians; auditing annual accountings and report their findings back to the Judge; and report to the courts any concerns of potential abuse, fraud or financial exploitation being committed against a ward under guardianship. The program is offered at no expense to all Texas counties.

SB 31 & HB 1286 requires OCA maintain an electronic database to monitor filings of inventories, guardian of the person reports, and annual accountings. This database, the Texas Guardianship Online Reporting System is currently in development and is slated for Phase I Annual Report of Guardian Pilot testing Spring of 2020.

Courts throughout the state are required to participate with the program if selected but may also request voluntary participation. There are currently 14 counties on the waiting list for voluntary participation.

Additionally, the OCA director may notify the Judicial Conduct Commission of any concerns with judges who fail to act upon concerns raised by compliance specialists. To date no judges have been referred to the Judicial Conduct Commission.

OCA will file annual reports on January 1 of each year including number of courts involved, number of guardianships reviewed, number of cases out of statutory compliance, number of cases reported to courts concerning potential issues, and status of technology developed to monitor guardianship cases.

GAFEDP information may also be viewed at <http://www.txcourts.gov/programs-services/guardianship-abuse-fraud-and-exploitation-deterrence-program-gafedp/>.

TRANSITION

The OCA has expanded from a project to a program by hiring two program managers, hiring staff throughout the state and coordinating all equipment assignments. All GCP protocols have been carried over into the GAFEDP and expanded. All data-collection strategies have been expanded to allow for increased extrapolation of data.

Protocols for annual account document access have been implemented with the identification of all counties with online capability. Financial audit processes have been streamlined and expanded in order to allow for high-volume audit completion.

Two counties are currently slated to begin participation with the program by facilitating annual accounts and supporting documents for annual account financial audits beginning January 2020.

DEVELOPMENT

The GAFEDP has developed a procedures manual highlighting all auditor responsibilities. The manual was developed after collaborating with several courts throughout the state and has resulted in the only known comprehensive procedures manual for conducting financial audits of annual accounts in the entire state.

A complete auditor training protocol has been developed and implemented for all new employees.

New collection and tracking procedures for tracking abuse, fraud, and exploitation have been developed in order to allow for proper annual reporting data collection. Occurrences are tracked and identified based on GAFEDP identification and intervention as well as previously identified by the county/court requiring additional follow-through. These distinctions were implemented in order to correctly attribute discovery of abuses to either the program or the courts.

Lastly, notices to court annual account filers along with a list of required supporting documentation, a financial audit scope checklist and a report to the court with findings information and

recommendations have all been developed for financial audits of annual accounts.

Quality control protocols are currently in development but also being partially implemented at this time. Protocols will include quality control measures for all program output but also planned to include implementation with the JBCC guardianship registration system data.

Program quality control measures will encompass:

- Data integrity for all guardianship compliance file review data collection
- Initial case file review report data integrity
- Data integrity for financial audit data collection
- Financial audit report to the court data integrity
- Program auditor performance plans to include 95%+ quality control accuracy ratings are also currently in development.

The Texas Guardianship Online Reporting System is currently in final preparation for pilot testing. Data mining strategies are currently in development in order to allow for auditor review.

EMPLOYEES AND TRAINING

The program has hired ten new auditors and an Executive Assistant to date. There are currently ten vacant auditor positions. In the future, the team will consist of two quality control analysts/trainers in addition to management staff.

Interviews for additional hires will resume in January 2020 with the goal of filling all vacancies by the end of the fiscal year.

All newly hired employees have been provided with in-depth progressive and customized program training in conjunction with agency training. An internal program website containing resources has also been created to provide training support. Auditor training plans are divided into four phases and may be extended based on skill level.

New Hire Training

Four-day group training at the OCA in Austin which includes new hire orientation, travel training, program overview, auditor expectations and interactive spreadsheet exercises.

Phase I

Self-paced beginners guardianship training, OCA online guardian training, JBCC guardian registration, GCP historical information and protocols, and expanded GAFEDP procedures manual protocols.

Phase II

Self-paced specific data - collection protocol review, spreadsheet exercises, and quiz.

Phase III

Team case review assignment inclusive of data-collection and assessment skills development.

Phase IV

On-site county guardianship compliance case file review training.

FINANCIAL AUDITS

Program auditors will be conducting financial audits on all guardianship files of all qualifying estates of participating counties in addition to audits of individual estates from requesting counties. The program may also select counties for audit whose participation is mandatory. Additional audits of guardianships of estates will also be targeted through risk-based assessment and routine-periodic review.

Financial audits of annual accounts will specifically encompass eleven key items outlined in the Texas Estates Code listed below. Audit protocols have been implemented to ensure strict adherence with the Texas Estates Code and further adhere to relevant Texas College of Probate Judges recommendations.

General Powers of Guardian



Inventory



Allowance



Investment Plan



Sale of Ward's Property



Abandonment of Property



Gifts and Transfers



Ratifications



Guardian's Compensation/Atty Fees



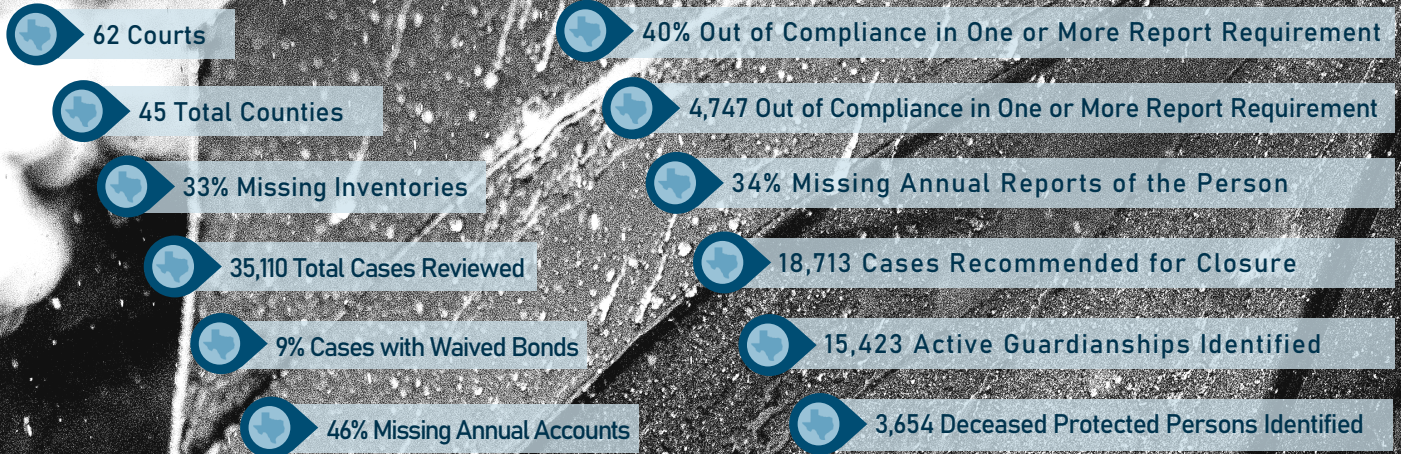
Claims owed by the Estate



Settlement of Guardianship



OVERALL PARTICIPATING COUNTY STATISTICS



Since 2015, the Guardianship Compliance Project has worked to identify guardian reporting deficiencies and assist courts. As a program, the GAFEDP will continue to collaborate with previously participating counties to complete financial audits. The program also continues to complete initial file reviews on new counties. To date, five cases have been reported to GAFEDP counties concerning potential abuse, fraud, or exploitation. Outcomes for the five guardianships and others will be tracked for future reporting.

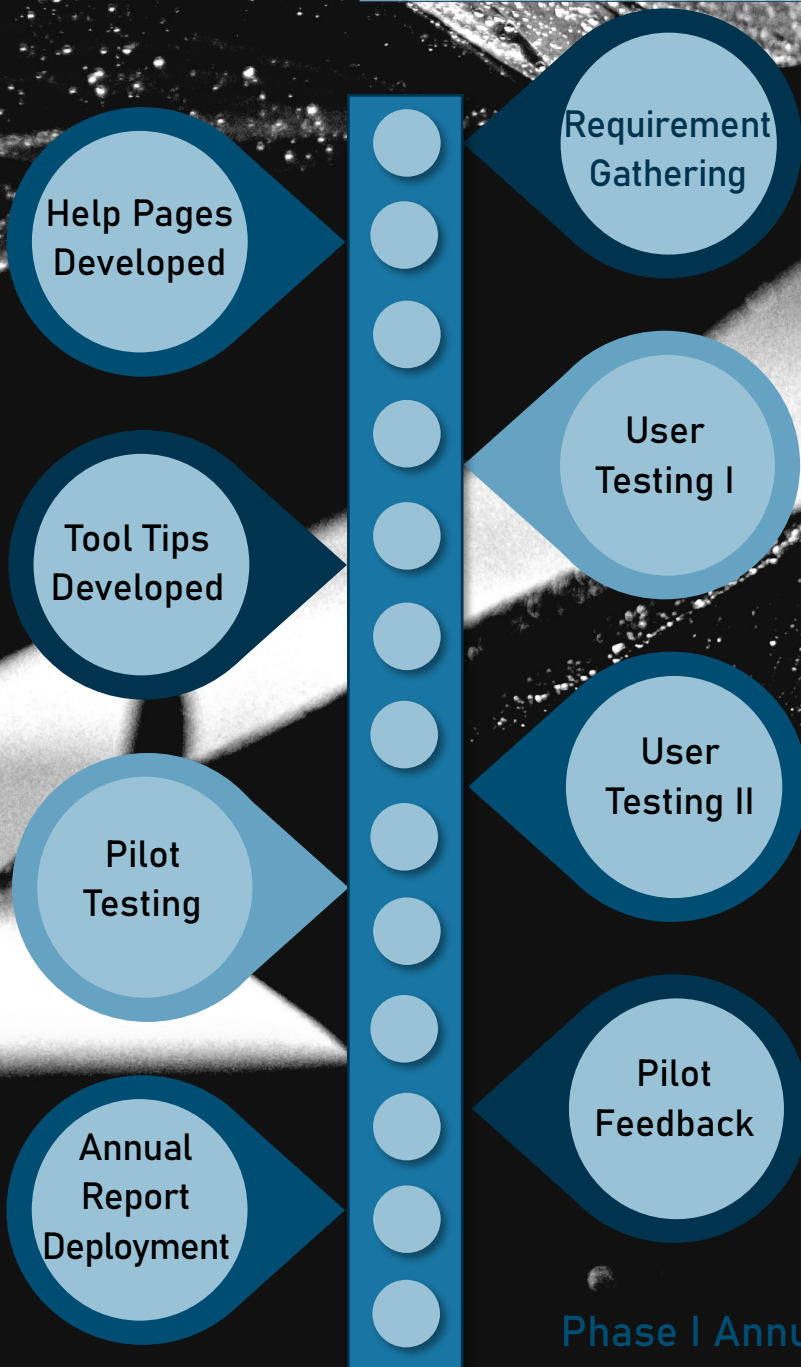
GAFEDP COUNTY STATISTICS



TEXAS GUARDIANSHIP ONLINE REPORTING SYSTEM ELECTRONIC DATABASE

The Texas Guardianship Online Reporting System electronic database has been in development and is currently in preparation for pilot testing for guardian's use in Montgomery and Cameron counties. 15 to 20 guardians of person in each of these counties will be selected to test the annual report module and will be providing feedback for possible system improvements.

This testing phase is slated for March/April of 2020.



Phase I Annual Report Pilot Testing

GUARDIANSHIP REGISTRATION

SB 1096 (Zaffirini/Smithee) created a safety net for protected persons throughout the state to not only ensure guardians received proper training, received a criminal history background check prior to appointment but also to make guardian contact information available to law enforcement in the event a protected person made contact with them. Guardians were required to register with the OCA and the database has been functional since June 1, 2018. The registration system continues to successfully register guardians statewide.

With the goal of educating and informing counties throughout the state of the registration requirement and to promote compliance with the new registration rules, the GAFEDP makes relevant best practice recommendations to all participating counties. Best practices are contained in all initial case review reports and are listed below.



36,365 GUARDIANSHIP REGISTRATIONS TOTAL

32,466 Adults 1,484 Minors 2,415 Minor Becoming Adult



12,533 GUARDIANSHIP TRAINING TOTAL LEARNERS

12,250 English Learners 283 Spanish Learners



CRIMINAL HISTORY BACKGROUND CHECKS

6,246 Total Criminal Histories Checked

All figures as of 12/06/2019

BEST PRACTICES

1. Establish a process to maintain a record of all guardianships registered with the JBCC upon notification from the JBCC of their registration.
2. Provide written notice of the guardianship registration requirement to each person who applies for or seeks appointment as a guardian and to each attorney who files an application to create a guardianship per JBCC Rule 10.2 (a).
3. Respond to the JBCC guardianship registration staff with request for clarification, correction, or completion of guardianship information in relation to JBCC Rule 10.2 (b).
4. Provide written notice and direction to proposed guardians to instruct the proposed guardians on completing the training and criminal history background check required by GCT §155.204 & 155.205 per JBCC Rule 10.2 (c).
5. Make notice to the JBCC that a proposed guardian has been appointed by the court and the date of qualification per 10.6 (a) and in relation to JBCC Rule 10.2 (d).
6. Notify the JBCC of the dismissal, denial, or non-suit of a guardianship application within 10 days of the dismissal, denial or non-suit; and if the guardian is not appointed or qualified as a guardian for any other reason within 10 days of the date it becomes apparent that the person will not be guardian per JBCC Rule 10.6 (c).
7. Send notice of the removal or termination of a guardian to the JBCC per JBCC Rule 10.6 (d) and GCT §155.151 (B).
8. Notify the JBCC of a transfer to another venue or jurisdiction within 10 days of receipt of confirmation that the receiving court has accepted the guardianship per JBCC Rule 10.6 (e).
9. Provide existing guardians a written notice of the requirement to register their guardianship with the JBCC as well as provide the guardian's qualification date no later than the date the next annual report or annual accounting is due per JBCC Rule 10.7 (b).
10. Provide the JBCC written notice of waiver or postponement of a training requirement, and / or the reason for the waiver of postponement, within 5 days after the appointment of the guardian per JBCC Rule 10.4 (d).