

Texas Guardianship Cases:  
Improving Court Processes and  
Monitoring Practices in Texas Courts



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## I. Background & Report Overview

Guardianship has become a topic of growing importance in the court community in recent years as courts grapple with how best to handle the increase in cases requiring the appointment of a guardian and in institutionalizing proven case management practices that are associated with ensuring a ward's well-being and best interests. In recent years such leading national organizations as the National Center for State Courts, the National Association for Court Management, the Conference of Chief Justices, the Conference of State Court Administrators, the National College of Probate Judges, the American Bar Association and others have contributed to the discussion about these issues through the publication of policy papers, reports, and practice guides, and through sponsoring training designed to focus attention on the need for courts and justice system partners to ensure that they are doing all that they can to protect those whose interests are placed in the hands of a guardian.

This work has both informed and inspired state and local court leaders to review their practices and undertake planning for the "Silver Tsunami" – the term coined to describe the demographic trend suggesting that as the Baby Boomer generation ages, the need for guardianships will increase dramatically.

Statistics justify the need for court leaders to be aware of this trend. According to the U.S. Census Bureau, the fastest growing segment of the U.S. population is comprised of those 85 years of age and older. In addition, the population 65 years of age and over in the U.S. is likely to increase as a percentage of the total population, from 13 percent in 2010 to 20 percent by 2030. In Texas, the population over age 65 increased by 25.5 percent between 2000 and 2010. Further, between 2010 and 2013 Texas was one of the fastest growing states in the country.

The National Association for Court Management cites several other trends likely to impact courts in this area. These include an increase in number of people with Alzheimer's disease and related illnesses; an increase in the number of people with intellectual disabilities; an increase in the incidence of elder abuse; and an increase in the number of guardianship agencies.

As in many other states, case-level data about guardianship proceedings in Texas is incomplete for the purpose of state-level and statewide analysis. In recognition of this, and in order to inform discussion about what courts in Texas can do to ensure effective appointment and oversight practices in this area, the Office of Court Administration (OCA) undertook a review of guardian assignment and case management practices in use in several counties throughout the state. While not intended to be a comprehensive review of all of the important policy and practice issues faced by courts in handling these cases, it is hoped that this report helps fill a knowledge gap and that its content can be used to inform discussion, prioritize needs, and point to opportunities for additional study and action.

This report identifies the characteristics of guardians and wards in select jurisdictions and highlights features of the guardianship process relating to the use of court visitors and investigators, electronic case management systems, training issues, the public complaint process, and reporting issues. Finally, key observations and recommendations are identified.

## II. Methodology and Scope of Review

OCA identified 14 counties in which to conduct its review. These 14 counties were selected from among those counties *without* a statutory probate court and from which fewer than 100 guardianship cases were filed in FY 2013. A mix of semi-urban and rural jurisdictions was selected. A total of 165 cases involving the application for a guardianship were reviewed. A list and map of the counties in which files were reviewed and the number of cases reviewed in each county is included in this report as *Exhibit 1*.

A detailed file review checklist was developed which tracked all key elements of the guardian appointment and reporting process as outlined in the Estates Code. The checklist is included in this report as *Exhibit 2*. Interviews were also conducted with a number of local guardian experts and stakeholders. Those interviewed included eight judges, 16 county and district clerks or deputy clerks, and others, including a court auditor, a court investigator, and a representative from a local legal aid office. A complete roster of all individuals interviewed is included in this report as *Exhibit 3*.

In addition, OCA staff consulted national and local census data and other sources of information regarding trends and policy issues in this area. These and other resources referenced during the course of the project are listed in this report under the “References and Resources” section.

## III. A Summary Review of Guardianships in Texas

The Texas Guardianship Association defines guardianship as:

“a legal process designed to protect vulnerable persons from abuse, neglect (including self-neglect), and exploitation. Guardianship provides for the person’s care and management of his or her money while preserving, to the largest extent possible, that person’s independence and right to make decisions affecting his or her life.”

Persons under guardianship, referred to as a “ward,” may be incapacitated as the result of developmental disability, disease, aging issues or life-impact events, such as an injury. Guardians, often family members, are appointed to care for the ward’s well-being (guardian of the person), or to care for the ward’s property (guardian of the estate), or both. In general, Texas law favors the least restrictive form of guardianship.

### A. Key Practices in Guardianship Proceedings

The Estates Code provides for all aspects of a guardianship case, from the selection and appointment of a guardian, to annual and other reporting, maintenance of the estate property, and final settlement and accounting. The Estates Code also details the process for initiating a guardianship proceeding and outlines the powers and duties of a guardian over a ward and an estate.

The table below outlines the general considerations for a court in the pre- and post-qualification phases of a case in which a guardian may be appointed. While not intended to be exhaustive, the items below are illustrative of the varied and significant steps associated with a court’s appointment and oversight of a guardian.

Table 1 — Court Considerations in a Guardianship Case

<b>Pre-Qualification Phase of a Guardianship</b>	<b>Post-Qualification Phase of a Guardianship</b>
<p><b>Application and Service:</b></p> <ul style="list-style-type: none"> <li>- Is the ward a minor or adult?</li> <li>- If the ward is turning 18, is the application timely?</li> <li>- What are the reason(s) for the guardianship?</li> <li>- What alternatives were considered before the application of guardianship?</li> <li>- Is the proposed guardianship to be permanent or temporary?</li> <li>- Is the application for guardianship of the person, estate, or both?</li> <li>- What is the relationship of the potential guardian to the ward?</li> <li>- Has the ward been served? Have all interested parties been served?</li> <li>- Has a disclosure of the ward’s assets been prepared?</li> <li>- Is there a codicil to a will which directs a person other than the proposed guardian for the ward?</li> <li>- Are there proper and timely medical evaluations or medical letters on file?</li> <li>- Is the guardian indigent?</li> <li>- Is the guardianship contested?</li> </ul>	<p><b>For Guardianship of the Person Only:</b></p> <ul style="list-style-type: none"> <li>- Is there compliance with all applicable reporting requirements, including the inventory and appraisal of the ward’s assets, the first annual report of well-being, and the first annual report of the ward?</li> <li>- Are reports completed and submitted timely and are they otherwise sufficient?</li> <li>- Was a trust created, if ordered by the court?</li> <li>- Has a notice for lack of reporting been sent to the guardian, if necessary?</li> <li>- Has the guardian been cited for failure to report, if necessary?</li> <li>- Has a waiver of the obligation to file a final report for an indigent ward been granted, if necessary?</li> <li>- Are bonds annually reviewed?</li> </ul> <p><b>For Guardianship of the Estate Only, or Both Person and Estate:</b></p> <ul style="list-style-type: none"> <li>- Has the first annual accounting been received?</li> <li>- Have annual accounting reports been received, as necessary</li> <li>- Are accounting reports submitted timely, are they detailed and otherwise sufficient?</li> <li>- Have notices been sent regarding lack of accounting and lack of reporting, as necessary?</li> <li>- Are bonds annually reviewed?</li> </ul> <p><b>For Settlement or Closure of Guardianship Case:</b></p> <ul style="list-style-type: none"> <li>- Has an attorney been appointed for settlement, if necessary?</li> <li>- Has a successor been appointed to close the case, as necessary?</li> </ul>
<p><b>In Qualifying a Guardian, does the Court Consider?</b></p> <ul style="list-style-type: none"> <li>- The appointment of a guardian ad litem</li> <li>- The appointment of a court investigator</li> <li>- The report from the attorney ad litem</li> <li>- Whether the bond and oath of guardian in lieu of guardianship has been filed</li> <li>- The eligibility status and qualifications of the guardian</li> <li>- The ward’s preference(s)?</li> </ul>	<p><b>In Addition to the Above, does the Court?</b></p> <ul style="list-style-type: none"> <li>- Assure that restrictions on the ward are communicated with state agencies (i.e. no voting, no driver’s license), as necessary?</li> <li>- Define whether the restrictions of a ward should be defined in a court order?</li> <li>- Appoint a court visitor to monitor the well-being of the ward and care of the ward’s property, on an annual basis?</li> <li>- Review its guardianship files annually to assure that reports and annual accounting are filed?</li> <li>- Maintain a complaint process in guardianship cases?</li> <li>- Monitor income paid to the guardian to assist with care of the ward?</li> </ul>

## Practice Spotlight *Brazoria County's Court Investigator Program*

***The Brazoria County investigator program has been in operation since the county had a statutory probate court. When that court was discontinued the County Court at Law Judge worked with the Commissioners Court to secure funding for the investigator position.***

### Program Highlights

- The court appoints the investigator in every case, jointly with the attorney ad litem;
- The investigator reviews the application and notifies the parties of any deficiencies;
- Both the investigator and the attorney ad litem visit the ward together, although they interview the ward individually;
- The investigator reviews the medical evaluation before visiting the ward;
- The investigator's report to the court is submitted as testimony and made part of the record;
- All documents filed in a guardianship case must be reviewed by the court investigator for completeness and accuracy;
- All active guardianship cases are reviewed periodically, and at least annually – guardians and attorneys are notified of any pending financial and/or well-being reports;
- The investigator and court coordinator search for wards and guardians whose whereabouts are unknown using online resources and vital statistics records;
- When appropriate, the investigator recommends to the court that a successor be appointed to close a case.

The Estates Code also provides for the establishment and operation of programs designed to assist the court in its oversight of guardians. These include court investigator and court visitor programs. According to the code, statutory probate courts *must* have a court investigator program. Other courts *may* operate a program “in accordance with the population needs and financial abilities of the area the court serves.” OCA paid special attention to the existence and benefits of these programs in its review.

## **B. Field Work Results**

OCA staff reviewed files and conducted interviews in 14 counties to obtain information regarding the characteristics of cases and key processes used in counties in cases in which an application for guardianship was filed. A description of these case characteristics and court and county guardian case processes follows.

### **1. Observations Regarding Guardians and Wards**

The following characteristics were noted in the cases reviewed:

#### Characteristics of the Ward

- The majority (55%) of the wards were male
- The majority (58%) of the appointments were made due to the ward's intellectual incapacity
- Half (51%) of the cases involved a ward turning 18
- The majority (74%) of wards were living at home at the time of the appointment. Other places of residence included an extended stay health care facility (21%), in a hospital (2%), in foster care (1%) or unknown (2%)

#### Characteristics of the Guardian

- The vast majority (85%) of the guardians were family members
- Public guardians were appointed in 10 (6%) of the cases. In a small number of the cases (4%), the Department of Aging and Disability Services (DADS) was appointed as guardian

## Practice Spotlight

### *Montgomery County's Court Investigator Program*

*The Montgomery County Court Investigator, a former probate attorney, plays a vital role in the qualification of a guardian. The court relies heavily on the investigator's reports.*

#### Program Highlights

- The investigator is appointed in all guardianship cases;
- The investigator monitors the case from filing to closure and alerts the court of any deficiency in the application and activity in the post-qualification phase, as may be necessary;
- All of the investigator's reports are submitted as formal written reports and the court will not proceed with the case until reports are submitted;
- The investigator does not sign off on all documents filed in a case, however, the investigator reviews the documents, makes findings and conclusions, and reviews all cases for compliance of service, reporting and payments to ad litem attorneys; and,
- The investigator oversees any court visitors who may be appointed.

- "Mother" or "Parents" accounted for nearly 50% of the guardianship appointments

#### Scope of the Guardianship

- When made, appointments were made over the person *and* the estate in a majority (60%) of cases
- The incidence of appointments over the person or the estate exclusively were lower (21% and 13%, respectively)

## 2. Observations Regarding Guardianship Practices

OCA's review of guardianship files and interviews with judges, clerks and others about the manner in which these cases are handled included a review of practices in the areas below.

### **The Use of Visitors and Investigators**

Texas law provides for the use of court investigators and court visitors in guardianship proceedings. OCA found that the use of these potential resources was generally limited in the counties visited. OCA notes that the smaller jurisdictions visited may lack the resources needed to adequately monitor a guardianship case once the guardian has been appointed.

Officials in Brazoria and Montgomery counties reported that they have a court investigator, and officials in Williamson County reported that they have a court auditor who focuses on the activities of guardians. Lubbock County officials also reported that they have a court visitor program.

In Brazoria County, the role of the court investigator includes providing the guardian with a reminder of annual reporting deadlines that may have passed. This practice has been extremely beneficial – in 90% of the cases involving a delinquent annual report, such reports are submitted within a month following the reminder.

Montgomery County has a court auditor on staff. The auditor regularly reviews activity in cases in



## Practice Spotlight

### *Williamson County Court Auditor*

*Williamson County uses a court auditor to assist it in managing the guardianship caseload.*

The court auditor flags cases recommended for show cause for failure to file required reports. The court in turn reviews the flagged cases and will either make a determination to close a case, notice the attorney or the guardian and conduct a show cause hearing.

In cases in which the ward or guardian's location is unknown, the court appoints an attorney ad litem to investigate the whereabouts of the guardian and/or ward and, if necessary, files paperwork to close the case.

## Practice Spotlight

### *Guadalupe County Clerk*

The County Clerk in Guadalupe County is exploring the possibility of having guardianship cases with outstanding pending annual reports flagged in the case management system. A query could then produce a report of those cases involving a pending report or other action by a guardian.

which a guardian has been appointed and identifies cases that may be in need of a show cause hearing for failure to file required reports.

Courts using visitors to help monitor the well-being of wards saw generally higher compliance rates in the annual reporting of both the well-being of the ward and financial accounting.

### **Case Management Systems**

All of the counties visited maintained their guardianship cases in an electronic case management system, though to different degrees. For example, in the remote rural counties these case management systems were observed to be generally limited in functionality and used primarily to receive a case – these systems generally were not used to schedule key case events or for case monitoring. In several counties, particularly in those areas where e-filing has been implemented, the case management systems have the capability of flagging or tracking a future event, though this feature does not appear to be routinely used.

Online assistance to guardians varies widely. Several counties visited had forms posted online that a guardian could view, download, complete, and file; however, none of the courts had instructions for filling out those forms. While some counties only provide court contact and biographical information on the judges hearing the guardianship cases, some counties provide online access to case information, and some counties even provide access to case documents.

### **Training Issues**

#### *Private Professional Guardians*

Ten of the 165 cases reviewed involved the appointment of a private professional guardian. Although this represents only six percent of the total cases reviewed, OCA noted the absence of or untimely inventory reports in four of these cases. OCA staff received feedback from a number of judges indicating that there is often confusion on the part of private professional guardians regarding things such

as the limits to the compensation available to them. Additionally, an instance was noted in which a private guardian failed to deposit certain monetary profits into a trust for the ward as directed by the court.

The judges interviewed during the review generally perceived the non-compliance of private professional guardians to be the result of a lack of knowledge and training. Also noted was a shortage of certified individuals.

Finally, it was reported that some of the private professional guardians have heavy caseloads that may make it difficult for them to have contact with their wards at the requisite frequency.

#### *Ad Litem Attorneys*

An ad litem attorney was appointed in the vast majority (90%) of the cases reviewed. OCA's review of these cases revealed that the appointments were made timely.

In some of the counties included in the review, ad litem attorneys were selected from a roster of attorneys maintained by the court. In other counties, courts appointed members of the bar who merely frequented their court. In the cases reviewed, ad litem attorneys were compensated at rates ranging from \$50 to \$1,000 per case. Compensation was provided either from estate funds or the county general fund. In Montgomery County the filing fee in a guardianship case is required to include a flat fee of \$400 for compensation of the ad litem.

OCA noted that although reports were timely filed by ad litem attorneys, they were only filed approximately 50% of the time, and that those that were filed were often incomplete. The judges interviewed commented that ad litem attorneys are often not knowledgeable or prepared for their role in guardianship cases.

#### **Public Complaint Process**

On several occasions OCA observed written correspondence or other documentation from concerned family members or other persons relating to the well-being of the guardian or the care of the estate. Often it did not appear that the correspondence or documentation had been provided to the court. In some instances, even though the court may have been made aware of the query, the matter did not appear to have been addressed.

In contrast, in counties with a court investigator or auditor, concerns of this nature were typically investigated. Following the investigation, the person(s) was advised of next steps, or the court was notified and the appropriate measures were taken. Examples of such measures included setting the matter for a status hearing or appointing an ad litem attorney to inquire into the concern.

#### **Reporting Issues**

Overall, OCA found the reporting required of guardians was lacking. OCA observed that reports are more commonly filed in the early stages of a case, with compliance tapering off as the case ages. Keeping current on the issuance of letters of guardianship—the official document issued by the clerk which certifies the guardian's authority—is dependent on the filing and court approval of annual reports.

OCA observed the following with regard to reporting:

- Inventory and Appraisement (Due no later than the 30<sup>th</sup> day after qualification of the guardian) – A guardian for the estate of the ward, or for the person and the estate, is required to file this report unless doing so is waived by the court. An Inventory and Appraisement report was filed in 32% (39) of the cases in which it was required.
- First Annual Report (Due 60 days after first anniversary of qualification) – All guardians are required to file this report, unless the court waives the filing. This report was filed in 28% (47) of the cases reviewed.
- First Annual Report of Well-being of the Ward (Due one year from the establishment of the guardianship) – All guardians are required to file this report, unless the court waives the filing. This report was filed in 18% (30) of the cases reviewed
- First Annual Accounting Report (Due no later than 60 days after first anniversary of qualification) – Guardians for the estate only or for the person and the estate are required to file this report unless doing so is waived by the court. This report was filed in 15% (19) cases in which it was required.

## IV. Summary Observations and Recommendations

OCA's review of records in which an application for guardianship was filed was designed to generate summary information on guardianship cases in select jurisdictions. While not a comprehensive review of all of the important policy and practice issues faced by courts in handling these cases, it is hoped that this report will help fill a knowledge gap and that it can be used to inform discussion, prioritize needs, and point to opportunities for additional study and action.

OCA makes the following summary observations and recommendations regarding next steps.

### **The Use of Visitors and Investigators**

Observation: Court investigators and visitors provide a critical function. OCA observes that courts with an investigator are better equipped to determine if a guardianship is needed, who would be appropriate to act as guardian, and what the scope of the guardianship should be.

Those courts with investigator and/or visitor programs rely heavily on these individuals in making determinations in guardianship cases, and OCA noted that courts using visitors to help monitor the well-being of wards saw higher compliance rates in the annual reporting of both the well-being of the ward and financial accounting.

Recommendation: *Courts presiding over guardianship cases should make use of the services provided through court visitor and court investigator programs. The use of visitors in courts that are not statutory probate courts is optional under Texas law, to be provided for "in accordance with the population needs and financial abilities of the area the court serves." The Estates Code allows for volunteers to work in a*

*court visitor capacity. Courts are encouraged to explore all avenues available regarding the involvement of court investigators and visitors.*

### **Case Management Systems**

Observation: The use of technology as a tool for managing guardianship cases and informing guardians and others about the guardianship process and local rules regarding case management vary widely in the jurisdictions visited. Tickler systems which would alert the court as to pending or delinquent reports are generally lacking.

Recommendation: *Courts should make full use of all tools available in local case management systems to track key guardianship case activity. Courts should also work with clerks and other local justice system partners to define and provide for functionality to generate reports on the status of guardianship cases in the jurisdiction. Information about guardianship proceedings should be made available online, as appropriate.*

### **Training Issues**

Observation: Judges interviewed commented on the lack of knowledge of some private professional guardians about important aspects of the guardianship process, attributing this to a lack of training. A shortage of certified guardians was also noted. Large caseloads were also identified by the judges interviewed as a possible reason for lack of compliance with reporting and other requirements.

Ad litem attorneys were appointed in the majority of cases reviewed, though different local source lists are relied on. Different compensation schedules were observed across the jurisdictions visited. Judges interviewed noted instances of the lack of preparation on the part of these individuals in fulfilling their role. Compliance with reporting requirements by ad litem attorneys was observed by OCA to be generally low.

Recommendation: *Courts should have access to well-trained and prepared private professional guardians who demonstrate knowledge of their role, scope of responsibility, and compensation protocols.*

*Local area bar associations should promote and encourage involvement of attorneys as ad litem and train their members on the requirements, individual court customs, and the role of an ad litem attorney in a guardianship case.*

### **Public Complaint Process**

Observation: Several of the files reviewed contained correspondence which alerted the court to concerns regarding the management of the ward's estate or well-being of the ward. In some of these cases the correspondence never reached the court. In others it appeared that court may have been alerted to the query but that no action was taken. Fear of engaging in ex parte communication may be one of the reasons for the lack of communication by the court about these cases. Generally, concerns of this nature were addressed more timely and completely in those counties with a court investigator or auditor.

*Recommendation: Family members and other person(s) with an interest in the case should be provided with a clear and easy-to-use process for communicating with the court, up to and after the guardian is appointed.*

*While judges and court staff should not engage in ex parte communication with parties to a case, complaints regarding a guardianship case should be addressed by the court. The National Probate Court Standards provide for a process for communicating about guardianship cases. Courts in Texas are encouraged to adopt rules providing for such communication.*

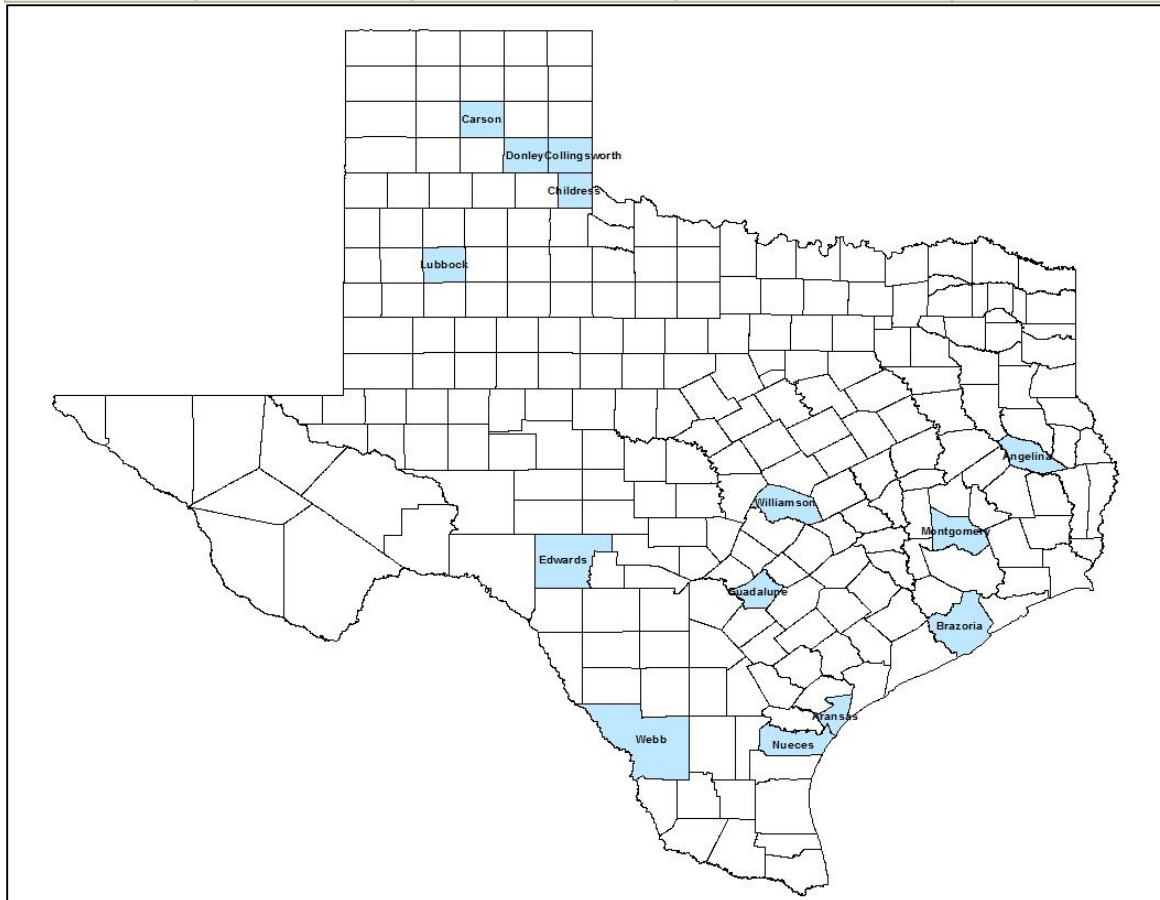
## **Reporting Issues**

*Observation: Overall, timely reporting in guardianship cases in the counties visited appeared generally to be low. OCA observed that while required reports may be filed in the early stages of a case, reporting compliance rates often declines as a case ages. Renewal of letters of guardianship, which expire one year from the date of qualification, are dependent on the submission and approval of annual reports. Texas law outlines reporting requirements and the reviews that courts should conduct to ensure the well-being of the ward and/or the wards' estate.*

*Recommendations: Courts should review their guardian reporting oversight protocols and adopt case management strategies that ensure timely court reviews and accurate and complete reporting.*

**EXHIBIT 1 – PARTICIPATING COUNTIES**

County	Population	Guardianship Cases Filed FY 13	Guardianship Cases Active as of 8/31/13	Files Reviewed
Angelina	87,597	26	94	5
Aransas	23,818	0	44	5
Brazoria	324,769	37	284	8
Carson	6,157	2	0	7
Childress	7,029	0	19	7
Collingsworth	3,036	0	1	1
Donley	3,598	1	7	5
Edwards	1,968	0	0	4
Guadalupe	139,841	9	245	18
Lubbock	285,760	98	1,347	19
Montgomery	485,047	74	730	24
Nueces	347,691	89	500	14
Webb	259,172	28	1,055	28
Williamson	456,232	69	462	20
<b>TOTAL</b>	<b>2,431,715</b>	<b>433</b>	<b>4,788</b>	<b>165</b>



County:	Court:
Case Number:	Date Filed:

	ACTION:	FILED:	HEARING:
	Enter (v) or (NA) in box		

Guardianship of a Minor				Ward DOB:	Sex:
Guardianship of an Adult					

General Guardianship	
Aging Issues (Alzheimer's, Dementia)	
Intellectual Disability	
Experienced Health Event (Heart Attack, Accident)	
Guardian - Minor/Adult (Investigation or Removal) DADS	
Minor Ward with Disability turns 18	
Guardian for Minor with Incompacitated Parents	
Guardian for Minor with Deceased Parents	
Other Reason Guardian is Requested	

Guardian of Ward is:	
An Attorney	
Private Professional Guardian	
Member/Public Guardianship Prgm.	
A Friend of the Ward	
A Family Member or Spouse	

Petition for Guardianship of Estate	
Petition for Guardianship of Person	
Petition for Both (Person & Estate)	

Reason:
Notes:

Temporary Guardianship	
Service/Notice	
Permanent Guardianship	
Medical Evidence Letter	

<b>COURT ACTIONS:</b>
Date Approved/Dismiss:
Date of Service:

Date Approved/Dismiss:
Date Received:

Attorney Ad Litem Apt. (Advocate for Ward's Wishes)	
Guardian Ad Litem Apt. (Advocate, Best Int. of Ward)	
Attorney Ad Litem for Purpose of Restoration of Capacity	
Court Investigator (Required for Permanent)	
Consultation with Social Worker	
Inventory (incl. Appraisement, List or Affidavit in Lieu of)	
Bond or Oath After Determination of Incapacity	
Trust in Lieu of Guardianship (Adult/Minor)	

Date Appointed:
Date Appointed:
Date Appointed:
Date Appointed:
Date of Consultation:
Date Filed:
Date & Bond Amt.:
Date Created:

<b>FINANCIAL REPORTING:</b>	
1st Annual Report of Person	
Annual Report of Person	
Waiver of Final Report for Indigent Ward	
Final Report or Certificate of Death if Ward is Deceased	

Date Court Approved Report:
Date Court Approved Report:
Date Court Approved Report:
Date Court Approved Report:

1st Annual Accounting - Estate Only (Attorney Required)	
Annual Accounting - Estate Only (Attorney Required)	
Final Accounting or Certificate/Death of Ward -Estate onl	

Date Court Approved Accounting:
Date Court Approved Accounting:
Date Court Approved Accounting:

# OBSERVATION OF TEXAS GUARDIANSHIP CASES SUMMER 2014

7/24/2014

### FINANCIAL REPORTING: (Continued)

Reports/Accounts are Detailed per EC 1163.001 (b)				<b>Accounting Requirements (See Below)</b>
Report From Trustee Apt. in Lieu of Guardianship				Date Filed:
Final Settlement of Account				Date Filed:
<i>Service/Notice/Waiver</i>				Action by Court:
Attorney Appointed for Settlement of Account				Date/Apt & Amt Paid:
Guardian Cited-Failure to Deliver Account				Date/Apt & Amt Paid:

<b>MODIFICATION OF GUARDIANSHIP:</b>
Terms of Modification:

	Action by Court:
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<b>CLOSURE OF GUARDIANSHIP:</b>
Adult Ward - Capacity Restored
Adult Ward - Deceased
Adult Ward - Estate is Exhausted
Adult Ward - Has no Separate Property in Community
Adult Ward - Income is Negligible/Guardianship is Burden
<i>Income Paid to Parent/Guardian to Assist with Ward</i>
Assets Placed in Trust & Guardianship no longer needed

<b>COURT ACTIONS:</b>
Date:
Date:
Date:
Date:
Date:
Date:
Date:

Minor's Parents- Capacity Restored
Minor Ward - Becomes Adult of 18 Years of Age
Minor Ward - Removal of Disability According to the Law
Minor Ward - Gets Married
<i>Estate of Minor Ward (&lt;100K) to be Managed by Clerk</i>

Date:
Date:
Date:
Date:
Date:

Guardianship Removed from Active Docket
Guardianship Eligible to be Removed from Active Docket
<i>3 Years After Minor Reaches 18</i>
<i>3 years After Adult Ward is Deceased</i>
<i>Whereabouts of Ward Unknown</i>
Successor Appointed to Close Guardianship Case
Attorney Appointed for Settlement of Case
Last Review of Guardianship by Court

	Date Removed:
	Date Eligible for Removal & Action Pending:
	Date of Apt.:
	Date of Apt. & Pmt.
	Date Reviewed:

<b>OBSERVATIONS:</b>
Alternatives to Guardianship Were Considered
<i>Insuror/guarantor</i>
<i>Trustee</i>
<i>Power of Attorney</i>
<i>Co-signer (Checking Acct. or Ceiling Max w/Pour Over)</i>
<i>Representative Payee with SSI</i>
<i>Advance Directive (Declaration for MH Treatment)</i>

<b>Accounting Requirements</b>	
1. List of Property Not Listed/Inventoried	
2. Change in Ward's Property	
3. Provide Complete Acct. -Receipts/Pmts. Including Source/Nature w/Principles	
4. Complete, Accurate & Detailed Description Property Being Administered Condition of Property & Use If Rented, Terms & Price	
5. Cash in Hand & Depository	
6. Cash in Savings & Depository	
7. Detailed Description of Property	

<b>RESTRICTIONS AS RESULT OF GUARDIANSHIP:</b>



**EXHIBIT 3 - LIST OF INTERVIEWEES**

<p><b>Angelina County</b>  Hon. Derek C. Flournoy, Judge,  County Court at Law No. 2  Amy Fincher, Civil Deputy Clerk  Maria Solis, Probate Deputy Clerk</p> <p><b>Aransas County</b>  Hon. William Adams, Judge, Court at Law</p> <p><b>Bexar County*</b>  Hon. Polly Jackson Spencer, Judge,  Probate Court No. 1</p> <p><b>Brazoria County</b>  Hon. Jerri Lee Mills, Judge,  County Court at Law No. 1  Hon. Joyce Hudman, County Clerk  Ann Bradley, Court Coordinator,  County Court at Law No. 1  Barbara 'BB' Brannan, Guardianship Investigator  Marita Lewis, Guardianship Secretary  Toni Kersey, J. D., Lone Star Legal Aid</p> <p><b>Carson County</b>  Hon. Lewis Powers, County Judge  Hon. Celeste Bichsel, County and District Clerk</p> <p><b>Childress County</b>  Hon. Jay Mayden, County Judge  Hon. Zona Prince, County and District Clerk</p> <p><b>Collingsworth County</b>  Hon. Jackie Johnson, County and District Clerk</p> <p><b>Donley County</b>  Hon. Jack Hall, County Judge  Hon. Fay Vargas, County Clerk</p> <p><b>Edwards County</b>  Hon. Sauli A. Shanklin, County Judge  Hon. Olga Lydia Reyes, County and District Clerk</p>	<p><b>Guadalupe County</b>  Catherine L. Horvath, Chief Deputy/Supervisor,  Courts Department</p> <p><b>Lubbock County</b>  Hon. Tom Head, County Judge  Hon. Kelly Pinion, County Clerk  Karen Sweat, Probate Coordinator</p> <p><b>Montgomery County</b>  Hon. Cynthia Laird, Judge,  County Court at Law No. 2  Hon. Mark Turnbull, County Clerk  Darin Bailey, Chief Deputy/Court Administrator  Lisa Aufill, Chief Court Clerk  Jacqueline Ullum, J.D., Probate Investigator,  County Court at Law No. 2  Peggy Freeman, Court Coordinator,  County Court at Law No. 2</p> <p><b>Nueces County</b>  Hon. Amanda N. Torres, Judge,  County Court at Law No. 5  Alva Turincio, Guardianship Clerk  Lillian Fanning, Court Manager</p> <p><b>Webb County</b>  Hon. Margie R. Ibarra, County Clerk</p> <p><b>Williamson County</b>  Hon. John B. McMaster, Judge,  County Court at Law No. 4  Regina Brown, Supervisor, County Clerk Office  Amanda Vega, Court Auditor</p> <p>* Bexar County was not among the counties selected for the review. Judge Spencer was interviewed in her capacity as Chair of the Judicial Council's Elders Committee.</p>
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## References and Resources

### **American Bar Association–Commission on Law and Aging:**

([http://www.americanbar.org/groups/law\\_aging.html](http://www.americanbar.org/groups/law_aging.html))

### **Conference of Chief Justices (CCJ) and Conference of State Court Administrators (COSCA)**

*Select Resolutions Addressing Guardianship and Elder Issues:*

- [In Support of The Court-Appointed Guardian Accountability and Senior Protection Act](#) (Joint resolution)
- [Encouraging Collection of Data on Adult Guardianship, Adult Conservatorship, and Elder Abuse Cases by All States](#) (Joint resolution)
- [In Support of The Court-Appointed Guardian Accountability and Senior Protection Act](#) (Joint resolution)
- [Endorsing the Report of the CCJ/COSCA Joint Task Force on Elders and the Courts](#) (Joint resolution)
- [Encouraging Consideration of the Standards and Recommendations from the Third National Guardianship Summit](#) (Joint resolution)
- [Encouraging Consideration of the Revised National Probate Court Standards](#) (CCJ)

*Other Materials:*

- COSCA Policy Paper: “The Demographic Imperative: Guardianships and Conservatorships.” (2010)  
<http://cosca.ncsc.org/~media/Microsites/Files/COSCA/Policy%20Papers/COSCA%20White%20Paper%20-2010.ashx>

### **National Association for Court Management**

Adult Guardianship Guide. “A Guide to Plan, Develop and Sustain a Comprehensive Court Guardianship and Conservatorship.” (2014).

(<https://nacmnet.org/sites/default/files/publications/AdultGuardianshipGuide.pdf>)

### **National Center for State Courts**

- Center for Elders and the Courts: <http://www.eldersandcourts.org/>
- Guardianship/Conservatorship Resource Guide: <http://www.ncsc.org/Topics/Children-Families-and-Elders/Guardianship-Conservatorship/Resource-Guide.aspx>

**National College of Probate Judges** (<http://ncpj.org/welcome-to-ncpj/>)

**National Probate Standards (2013)** (<http://ncsc.contentdm.oclc.org/cdm/ref/collection/spcts/id/240>)

**Texas Guardianship Association** (<http://texasguardianship.org/>)

**Texas Office of Court Administration** (<http://www.txcourts.gov/oca.aspx>)

- Statistics and Other Data: <http://www.txcourts.gov/statistics.aspx>

**University of Houston, Hobby Center for Public Policy**

- “Patterns of Population Change in Texas, 2010-2013.” (No date):  
<http://www.uh.edu/class/hcpp/docs/research/population/Patterns%20of%20Population%20Change.pdf>

**U.S. Census Bureau** (<http://www.census.gov/en.html>)

- State and County Quick Facts: <http://quickfacts.census.gov/qfd/states/48000.html>
- The Older Population, 2010 (2011): <http://www.census.gov/prod/cen2010/briefs/c2010br-09.pdf>
- The Next Four Decades, The Older Population in the United States: 2010 to 2050 (2010):  
<http://www.census.gov/prod/2010pubs/p25-1138.pdf>