

GUARDIANSHIP DATA, ON THE RECORD

A Policy Framework for Transparency & Accountability

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OVERVIEW

Adult guardianship and conservatorship in the United States is administered primarily through state and local court systems, yet its consequences can be profound and long-lasting. Guardianship may restrict or transfer authority over finances, medical decisions, housing, and other fundamental aspects of a person's life and autonomy. Despite the gravity of these interventions, the United States still lacks a comprehensive, standardized, and publicly accessible system for understanding how guardianship is used, who is affected, how long restrictions remain in place, or what happens to people over time.

The insufficiency of data about guardianship does not mean that guardianship leaves no paper trail. Courts routinely generate petitions, orders, annual reports, accountings, reviews, and other case records, while state and federal agencies collect additional information through programs that sometimes intersect with guardianship. The problem is that these records are fragmented across jurisdictions and systems, collected using different definitions and practices, difficult to aggregate or compare, and often unavailable in forms that support meaningful oversight or analysis. Federal datasets provide additional fragments and proxies, but no existing source provides a complete national picture of guardianship. The lack of reliable data on guardianship is, to some extent, by design, as probate court records are often subject to state privacy provisions.[4]

Appropriate protections for sensitive individual information are essential. But protecting the privacy of court records does not require guardianship systems to remain invisible. Aggregate and appropriately de-identified data can make it possible to understand patterns in how guardianship is used while protecting the personal information of people subject to it. At present, however, governments rarely have the infrastructure, reporting requirements, or common standards necessary to do this consistently.

This fragmented data landscape both reflects and reinforces the structural invisibility of people subject to guardianship, particularly disabled people, older adults, and people at the intersections of race, poverty, and other forms of marginalization. Without reliable information, it is difficult to identify disparities, evaluate whether legal protections are working, determine whether less restrictive alternatives are being used, monitor pathways into and out of guardianship, or hold courts and guardians accountable.

This report examines what guardianship-related information currently exists at the federal, state, and local levels, what those data can and cannot tell us, and why the remaining gaps matter to people directly affected, advocates, courts, researchers, and policymakers. It concludes by proposing the RECORD Framework, a coordinated set of policy actions to Require, Equip, Communicate, Oversee, Resource, and Develop the infrastructure necessary to turn fragmented guardianship records into a more transparent, usable, and accountable guardianship data system.

DATA FOR ADVOCATES

Guardianship data is information about how guardianship works in real life. It can tell us things like how many people are under guardianship, what rights are limited, whether courts review cases, and how often guardianships change or end.

This information can help people:

- Understand what is happening in guardianship
- Compare their experiences with other people's
- Know what questions to ask a lawyer, court, guardian, or service provider
- Show when a problem is happening to many people, not just one person
- Push courts and governments to be better
- Check whether changes are actually making things better

Data does not tell us everything. We also need to listen to people who are under guardianship and their families. Because guardianship records can include private information, data should be collected and shared in ways that protect people.

Data Makes the System Visible

People affected by guardianship may receive very different (sometimes incomplete or inaccurate) information about what guardianship means, when it is necessary, what authority it gives another person, what rights remain, and what alternatives are available. People may also approach guardianship from very different experiences: as a person under guardianship, a guardian, a family member, or an advocate.

Better data can provide a shared foundation for understanding how the system actually operates without assuming that every guardianship, or every person's experience of it, is the same. It can also help advocates compare what laws, courts, and professionals say should happen with what happens in practice. For example, information on how often courts limit guardians' authority, modify existing orders, or restore rights can help advocates understand what outcomes are possible and whether those options are genuinely accessible in their communities.

Data Connects Experience to Patterns

Guardianship data can also be useful in everyday life. A person under guardianship, family member, or guardian may encounter a practice that does not seem right but may not know whether it is legally required, common in their jurisdiction, or unusual.

Data can help people place their experiences in a larger pattern, recognize that a problem may not be isolated, and identify questions to ask an attorney, court, service provider, or advocate. For people under guardianship, in particular, data can help make visible patterns that might otherwise be treated as individual or private experiences.

At the same time, data can also challenge assumptions. Something that happens all the time may not actually be required or appropriate, while something that rarely happens may actually be necessary. Good data can help advocates distinguish among what is allowed, what authorities say is allowed, and what actually happens in the real world.

How to Turn Data Into Advocacy

Personal experiences and stories are essential to guardianship advocacy, but decision-makers may dismiss an individual experience as an isolated case. Data can help show whether many people are having similar experiences, who is most affected, whether disparities exist, and whether conditions are improving or worsening.

Advocates can use guardianship data to:

- Identify courts, counties, populations, or settings that may require closer examination
- Challenge misinformation about when guardianship is necessary or how it operates
- Compare local practices with state law, standards, or practices elsewhere
- Support calls for stronger legal representation, court oversight, accessible proceedings, rights restoration, and less restrictive alternatives
- Demonstrate unmet needs for housing, personal assistance, communication support, supported decision-making, and other community services
- Track whether new laws, policies, or reforms actually create the change that is needed

Pairing data with lived experience can be powerful. Data can establish the scope or pattern of a problem, while the experiences of people directly affected help explain what those numbers mean in real life.

Looking Beyond the Numbers

Using data does not mean you need to become a statistician. It means asking questions about what the information can and cannot tell us. Who collected it? Who is included or missing? What exactly is being counted? Can results be broken down by type of disability, race, age, gender, geography, or type of guardianship?

The absence of data also does not mean the absence of a problem. A low number of complaints, for example, could reflect an inaccessible complaint process rather than effective oversight. Few petitions for rights restoration could reflect a lack of information, legal assistance, or access rather than satisfaction with guardianship. For this reason, guardianship data should be understood alongside legal analysis, community knowledge, and lived experience rather than treated as complete or self-explanatory.

Privacy Rights Can Protect People

More data is not always better data. Guardianship records can contain sensitive information about disability, health, finances, family relationships, and personal history. Data collection and reporting should protect privacy, avoid unnecessary surveillance or stigma, and provide enough information to identify patterns without unnecessarily exposing individuals' private information. People under guardianship and others directly affected should also have a meaningful role in deciding what information is collected, what questions are asked, and how findings are interpreted.

Ultimately, guardianship data matters to advocates because people cannot effectively understand, navigate, improve, or challenge a system they cannot see. Reliable, accessible, disaggregated, and responsibly governed data can help advocates move from assumptions to evidence, connect individual experiences to broader patterns, raise expectations for how guardianship should operate, and demand accountability when practice falls short.





CURRENT STATE OF GUARDIANSHIP DATA

Guardianship data in the United States is fragmented across federal, state, and local governments, largely because guardianship itself is decentralized. States establish the laws governing when guardianship or conservatorship may be imposed, what powers may be granted, and what protections and oversight are required, while cases are typically filed, decided, and monitored by local courts. Federal agencies generally encounter guardianship indirectly, through programs such as veterans' benefits, Social Security, healthcare, aging services, and adult protective services. As a result, local courts often hold the most detailed information about individual cases; states may be able to aggregate some information across jurisdictions; and federal agencies collect narrower data related to particular programs or populations.

These systems were not designed to function as a coordinated guardianship data infrastructure, and differences in laws, terminology, court structures, data systems, and reporting requirements further complicate efforts to connect them. The result is a patchwork in which substantial information may exist somewhere within the government, but it is often difficult to aggregate, compare, or use to answer even basic questions about who is under guardianship, how guardianship is being used, and what happens to people over time. These gaps limit oversight, make disparities and differences in practice harder to identify, and leave policymakers, courts, advocates, researchers, and people directly affected by guardianship without the information they need to evaluate the system. Understanding what data exists (and what is missing) at each level of government is therefore an important first step toward building a more transparent and accountable guardianship system. As discussed later in this brief, emerging federal involvement in guardianship also makes it increasingly important to understand these divisions.

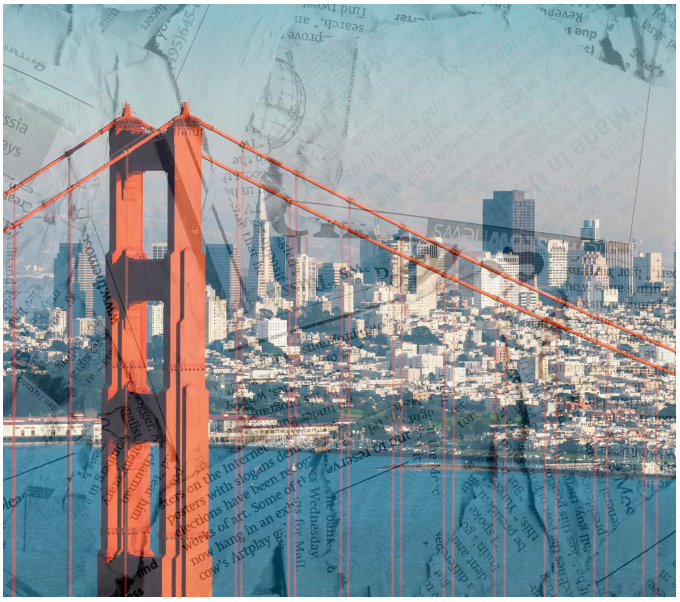
Federal Level

At the federal level, there is no national registry or unified dataset of state-court guardianship or conservatorship orders. Federal agencies do not collect or publish direct counts of how many adults are under guardianship nationwide, nor demographic or outcome data.

However, several adjacent federal datasets provide partial proxies:

- Adult Protective Services (APS) Reporting: The Administration for Community Living's (ACL) National Adult Maltreatment Reporting System (NAMRS) aggregates state APS investigation data. This can illuminate patterns of abuse, neglect, and financial exploitation involving adults with support needs, but it does not track court-ordered guardianship status or provide longitudinal oversight data.
- Federal Fiduciary Programs: The Social Security Administration's (SSA) Representative Payee program and the Veterans Administration's (VA) Fiduciary Program publish statistics on beneficiaries whose benefits are managed by another person. These data reflect federal benefit-management arrangements, not state guardianship orders, but they provide indirect indicators of the prevalence of substituted decision-making.
- Federal Oversight and Accountability Reports: The Government Accountability Office (GAO) and the Senate Aging Committee (SAC) periodically assess guardianship abuse risks and data gaps. These documents are often the clearest federal acknowledgment that the scope of guardianship and associated harms is unknown.

WHAT FEDERAL DATA **CAN** TELL US	WHAT FEDERAL DATA **CANNOT** TELL US
Approximate scale of federal benefit beneficiaries with financial proxies. ■ How many people have federal-program financial decision proxies (SSA rep payees; VA fiduciaries). Patterns in adult maltreatment investigations. ■ What APS investigations look like across states (NAMRS), including patterns relevant to exploitation and vulnerability. Systemic weaknesses in oversight and coordination.	How many people are under state-court guardianship or conservatorship. Who is placed under guardianship (as well as their race, disability, age, gender, income). How long guardianship lasts. How frequently abuse or neglect occurs within guardianship arrangements. Geographic or jurisdictional variation in practices.



Because guardianship is state-based, federal invisibility enables national policy decisions to be made without national evidence. Inadequate federal data stewardship prevents macro-level equity analysis and obscures whether particular communities are disproportionately subject to capacity-stripping interventions.

State Level

States hold the formal authority over guardianship law and administration. Accordingly, most of the data that exists resides within state court systems. However, data collection practices vary dramatically from state to state.

Some states publish:

- Annual court statistics including guardianship filing counts.
- Limited data on case types or court workload.
- Oversight reports from state guardianship monitoring offices, where such offices exist.
- Compliance tracking for required annual guardian reports or financial accountings.

Only fourteen states could readily produce aggregate numbers of people under guardianship, per a 2023 study. Many states, including Arizona, Florida, Michigan, Nevada, New Mexico, New York, Pennsylvania, and Texas, have convened task forces to assess guardianship practices, but most of these initiatives have not involved significant data collection efforts. Some states, like Texas, New Mexico, and Florida, have invested in more robust case management systems capable of aggregating guardianship data statewide, but many have not.[5] Even states that record data may not do so in a way that is consistent with other states; therefore, comparing data between states can be complicated.

Most existing research and court-reform analyses emphasize this absence—that in most states, courts do not aggregate guardian case data statewide at all.[6]

Even when courts require annual reports from guardians, these reports are rarely digitized, standardized, or made available for aggregate analysis, mostly because the records are sealed and not required to be produced in response to researchers' information requests.

State-level data gaps have significant consequences for accountability and equity in guardianship systems. Because most states do not systematically collect or publish demographic, disability, or outcome data in guardianship cases, it is exceedingly difficult to monitor whether racialized communities, disabled people, or low-income individuals are disproportionately subjected to capacity-stripping interventions. The absence of longitudinal case tracking also prevents evaluation of whether guardianship is truly being used as a last resort or whether less restrictive alternatives, such as supported decision-making frameworks, are meaningfully reducing the use of plenary guardianship.

At the same time, limited oversight data makes it difficult to assess the scale or conduct of professional guardianship industries, identify patterns of abuse or neglect, or evaluate compliance with reporting and review requirements. Without reliable statewide data, legislatures, courts, advocates, and community organizations lack the evidence necessary to design, target, and assess reforms, leaving life-altering legal capacity decisions largely insulated from public scrutiny and evidence-based policymaking.

WHAT STATE DATA **CAN** TELL US	WHAT STATE DATA **CANNOT** TELL US
Where available, state data can sometimes show:	In most states, data systems do not systematically collect:
■ Number of guardianship or conservatorship petitions filed.	■ Race or ethnicity
■ Number of active cases	■ Disability type or diagnosis
■ Types of guardianship (full vs. limited).	■ Whether the guardian is a family member or a professional.
■ Basic compliance rates with reporting requirements.	■ Duration of guardianship.

WHAT LOCAL DATA **CAN** TELL US	WHAT LOCAL DATA **CANNOT** TELL US
Procedural history of a guardianship.	Jurisdiction-wide trends.
Identities of petitioners and guardianship.	Comparative analyses across counties.
Court findings of incapacity.	Demographic breakdowns.
Financial accounting details.	Longitudinal outcomes.
Specific right removed or retained.	

Local Level

At the local level, guardianship and conservatorship systems operate primarily through probate, surrogate, or county courts, which serve as the frontline institutions for determining legal capacity and appointing substitute decision-makers. These courts are responsible for receiving petitions, conducting hearings, issuing determinations of incapacity, appointing guardians or conservators, and supervising ongoing arrangements. In theory, this means the most detailed and authoritative records of guardianship practice are kept at the local court level. In practice, however, these records are maintained in highly fragmented case management systems that vary by jurisdiction and are rarely designed for aggregation, transparency, or public accountability. As a result, local courts hold rich individual-level information, but little of it is structured in ways that enable systematic analysis across cases, counties, or over time.

Guardianship cases therefore typically exist in local court records as:

- Individual case files.
- Docket entries.
- Orders appointing guardians.
- Annual reports and accountings.
- Petitions for modification or termination.

Most local courts do not systematically aggregate or publish bulk data, and the data they collect is non-standardized and typically not housed in integrated statewide databases. The lack of data collection at the local level significantly limits what can be learned from that data.

Accessing local guardianship data often requires individual record requests, in-person review, or paid court portal subscriptions, placing research and oversight beyond the reach of most affected communities.

Because guardianship data remains siloed within local court systems, guardianship practices are effectively insulated from public visibility and meaningful accountability. The fragmentation of records across counties and probate courts keeps capacity-determination processes opaque, limits communities' ability to monitor how and where guardianship is used, and impedes research, particularly participatory research led by disabled people, older adults, and community-based organizations. At the same time, the absence of aggregated local data enables substantial variation in practice across jurisdictions with little external scrutiny, allowing deeply consequential legal determinations about autonomy, medical decision-making, housing, and finances to occur largely outside the reach of systematic oversight or evidence-based reform efforts.





VETERANS ARE FACING INCREASED RISK OF GUARDIANSHIP

The need for better guardianship data has taken on new urgency for veterans. Guardianship and conservatorship have historically been matters of state law, with cases initiated, decided, and supervised primarily by state and local courts. In March 2026, however, the Department of Veterans Affairs (VA) and Department of Justice (DOJ) entered into a Memorandum of Understanding (MOU) that allows VA attorneys to be appointed as Special Assistant U.S. Attorneys to initiate and participate in state guardianship and conservatorship proceedings for certain veterans who VA determines lack healthcare decision-making capacity and do not have an available legal decision-maker. This represents a significant shift whereby the federal government is now assuming a direct role in initiating and participating in a legal process that has historically operated through state systems.

This emerging federal role has implications that extend beyond the individual cases brought under the MOU. It changes the guardianship data landscape itself. Historically, much of the difficulty in understanding guardianship has resulted from fragmented state and local court records and the absence of a national reporting system. Federal involvement now creates new sources of information and new responsibilities for collecting, connecting, and reporting it. VA and DOJ may possess information about veterans before a guardianship petition is filed, including capacity assessments, healthcare and discharge needs, housing status, available supports, and the reasons guardianship is being considered. State courts then hold information about the petition, representation, proceedings, orders, and subsequent court oversight. Understanding the impact of the new initiative therefore requires looking across federal, state, and local data systems rather than treating them as separate silos.

It also raises important questions for everyone who interacts with the guardianship system:

For advocates, better data are necessary to understand who is being referred for guardianship, identify disparities or recurring pathways into the system, and determine whether veterans are receiving appropriate supports and less restrictive alternatives.

For lawyers and courts, the initiative raises questions about how federal referrals interact with state guardianship standards, what information accompanies a federal referral, whether veterans receive independent representation, and how federal and state actors share responsibility for monitoring cases and outcomes.

For policymakers, data are necessary to evaluate whether the initiative addresses an unmet need, whether federal resources are being used appropriately, whether adequate rights protections are in place, and whether guardianship produces better outcomes than available alternatives.

Existing data cannot answer these questions! VA reports substantial information about its Fiduciary Program, but a VA fiduciary manages federal benefits and is not the same as a court-appointed guardian. There is no current federal dataset that shows how many veterans are under state guardianship or conservatorship, how many have both a VA fiduciary and a guardian, how veterans enter guardianship, which rights are restricted, whether less restrictive alternatives were considered, how long guardianships last, or whether rights are restored. As the federal government becomes more involved in initiating guardianship proceedings, it should not reproduce the data gaps that have made state guardianship systems so difficult to understand and oversee.

The VA–DOJ MOU therefore creates both the opportunity and obligation to establish a stronger data and accountability framework at the outset. That framework should allow policymakers, courts, advocates, researchers, and veterans themselves to follow the pathway from federal identification and referral, through state court proceedings, to longer-term outcomes. It should measure not simply how many guardianships result, but why guardianship was pursued, what alternatives were available, what rights were retained or removed, where veterans live afterward, whether circumstances change over time, and whether federal involvement produces equitable and rights-protective outcomes. Just as importantly, data collection and sharing must include appropriate privacy, accessibility, and civil rights safeguards so that greater federal visibility does not become greater surveillance of disabled veterans.

These questions also extend beyond the MOU itself. As federal agencies develop and implement new approaches involving guardianship, decision-making capacity, discharge planning, and support for veterans without available decision-makers, it will be increasingly important to understand how these initiatives relate to one another, how they are implemented across jurisdictions, and what their cumulative effects are on veterans and state guardianship systems. Establishing clear data standards and transparency requirements now can provide the foundation needed to evaluate these emerging federal practices as they develop.

For more information regarding policies for veterans, visit CRDJ's federal policy recommendations resource, **Strengthening Federal Oversight, Data Collection & Accountability for Veterans Under Guardianship.**



LIMITATIONS OF CURRENT DATA

Across Federal, State, and Local systems, there is a striking absence of critical data needed to understand how guardianship operates and whom it affects. Because no national prevalence data exists, we cannot establish how many adults are under guardianship or conservatorship. Moreover, courts rarely collect standardized demographic information about "wards", including race, ethnicity, income, or disability type, and almost never track the health status or the medical rationales underlying supposed "incapacity" determinations. Data on the duration of guardianships, frequency of review hearings, and outcomes (including modification or termination) is sparse or nonexistent. Similarly absent is systematic information on restoration of rights,[7] institutional placements following guardianship, the use of less restrictive alternatives such as supported decision-making, or complaints and findings related to guardian misconduct, abuse, or neglect. Finally, administrative systems almost never integrate qualitative or lived-experience data from people subject to guardianship, leaving the human impacts of capacity removal structurally unrecorded.

These data gaps are not merely technical shortcomings. Instead, they reflect structural choices about whose experiences are rendered visible to law and policy. Without comprehensive and accessible data, guardianship remains largely invisible within civil rights enforcement frameworks. Consequently, disparities in who loses legal capacity go unmeasured, and risks of abuse or neglect remain undercounted. Courts and legislatures lack the empirical foundation necessary to evaluate reforms or assess whether guardianship is being used as a last resort. Disabled people and older adults are consequently excluded from knowledge production about the very systems that govern their autonomy. From a disability justice perspective, this data vacuum reflects a deeper pattern: systems that remove rights from marginalized communities rarely build mechanisms to track, justify, or publicly account for those removals. The result is a governance structure that is profoundly consequential yet largely unobservable.



The bottom line is that **federal data** provides only partial proxies and oversight reports, without direct guardianship counts or demographic insights. **State data** is unevenly collected and tends to measure court workload rather than human outcomes. **Local data**, while detailed at the case level, remains fragmented and exceedingly difficult to access. No level of government systematically collects critical demographic, outcome, and equity data. As a result, this fragmented data environment undermines accountability, limits evaluation of reform, and obstructs justice-centered policymaking—making data justice interventions in guardianship systems both necessary and urgent.



POLICY RECOMMENDATIONS

The data gaps described above are significant, but the basic building blocks for reform already exist. The central policy challenge is therefore not simply to collect more information or create another set of voluntary standards. It is to establish a coordinated system that requires consistent data collection, gives courts the capacity to comply, makes information publicly usable, creates meaningful oversight, provides sustained resources, and produces a national picture of guardianship practice and outcomes.

The recommendations below divide responsibility across federal, state, and local governments. Local courts generate much of the underlying case information; states are positioned to standardize, aggregate, validate, and report that information across jurisdictions; and the federal government can provide funding, technical assistance, national coordination, and infrastructure for cross-state analysis.

Building on Existing Reform Efforts

These recommendations are not starting from scratch. The National Center for State Courts (NCSC) and Conference of State Court Administrators (COSCA) developed the National Open Court Data Standards (NODS) to create common definitions and technical standards that make court data easier to collect, compare, and use. Guardianship-specific guidance identifies recommended data elements that allow courts to follow cases beyond the initial filing, including case type and status, powers granted, transfers, closure, restoration of rights, and consideration of less restrictive alternatives.

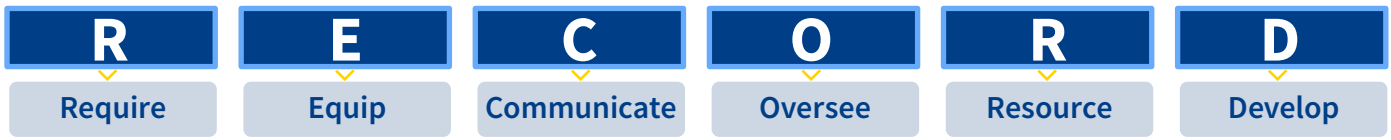
NCSC has also worked with the ABA Commission on Law and Aging and the National Disability Rights Network (NDRN) on technology standards tailored to guardianship and conservatorship case-management systems, recognizing that these cases may remain open for years or decades and require ongoing monitoring. The State Justice Institute (SJI) has supported NODS implementation and court-

data modernization in multiple states. This work demonstrates that implementation is possible, but also that it depends on resources, leadership, staffing, technical capacity, and sustained resources.

Justice in Aging has similarly called for reforms that move beyond voluntary technical standards, including federal support for state court improvement, standardized guardianship forms and data collection, stronger demographic and disability data, public access to aggregate information, and a national guardianship data repository. Together, these efforts have done much of the foundational work of identifying what courts could collect and how that information could be standardized. The next step is to create the policy mechanisms necessary to put that foundation into consistent practice.

RECORD Framework

The RECORD Framework organizes six connected policy actions needed to move from fragmented court records to a functioning guardianship data and accountability system. Each component responds to a different weakness in the existing guardianship data landscape. Together, they provide a pathway from fragmented court records to a coordinated guardianship data and accountability system.



	POLICY RECOMMENDATION	PRIMARY ACTORS	PRIMARY MECHANISMS
R — REQUIRE	Require standardized guardianship data reporting	■ States ■ State court systems	■ State legislation ■ Court rules ■ Standardized forms ■ Reporting requirements
E — EQUIP	Fund statewide longitudinal guardianship data systems	■ States ■ Federal government	■ Court-modernization funding ■ Judicial IT plans ■ Technical standards
C — COMMUNICATE	Require public guardianship reporting and responsible data access	■ States ■ State court systems	■ Annual reporting requirements ■ Public-data standards ■ Research-access procedures
O — OVERSEE	Require independent audits, corrective action, and complaint tracking	■ States ■ Independent oversight bodies	■ Audit mandates ■ Complaint systems ■ Corrective-action requirements
R — RESOURCE	Establish a Federal Guardianship Court Improvement Program	■ Congress ■ Federal agencies	■ Authorizing legislation ■ Appropriations ■ Grants ■ Technical assistance
D — DEVELOP	Establish national guardianship data and coordination infrastructure	■ Congress ■ Federal agencies ■ States	■ National repository ■ Standardized state submissions ■ Federal reporting and coordination

REQUIRE: Standardized Guardianship Data Reporting

States should establish a common minimum guardianship dataset that every court with guardianship or conservatorship jurisdiction is required to collect and report. Existing NODS and NCSC guardianship standards provide a strong foundation. The goal should be consistent implementation rather than development of another competing set of standards.

The required dataset should make it possible to examine more than court workload. It should capture the course of guardianship and the rights and experiences of people affected by it, including:

- Petitions and case dispositions
- Relevant demographic and disability information
- Basis for the petition
- Access to counsel and procedural supports
- Less restrictive alternatives considered
- Guardian or conservator type
- Powers requested, granted, retained, and later modified
- Limited versus plenary appointments
- Living setting and changes in setting
- Reviews and monitoring
- Complaints and identified concerns
- Case duration
- Modification or reduction of guardianship
- Termination and reason for termination
- Restoration of rights

Reporting should also capture cases in which guardianship does not result, including petitions that are denied, dismissed, or withdrawn and cases resolved through less restrictive alternatives. Otherwise, the system will measure pathways into guardianship far better than alternatives to or pathways out of it.

Standardized petitions, orders, annual reports, review documents, and termination or restoration forms can help ensure that required information is captured consistently when it is generated rather than reconstructed later.



EQUIP: Statewide Longitudinal Guardianship Data Systems

Reporting requirements cannot succeed if courts lack the infrastructure and capacity to comply with them. States should therefore develop or modernize systems capable of aggregating information from local courts and following guardianship cases from petition through monitoring, modification, transfer, termination, or restoration.

This does not necessarily require every court in a state to use the same software. However, it does require systems that can exchange information using common definitions and technical standards. Modernization should include the less visible infrastructure that makes data reliable, such as staff training, standardized data-entry practices, procedures for identifying missing or inconsistent information, preservation of historical records, data-quality review, and procurement requirements that ensure courts can access and use their own data.

States should also be able to connect guardianship information with other relevant administrative data where necessary for a defined research or oversight purpose. For example, adult protective services (APS), Medicaid and long-term services and supports (LTSS), public guardian programs, or institutional and community-based services. Such linkage should be purpose-specific and privacy-protective rather than creating unrestricted information sharing across systems.

COMMUNICATE: Public Guardianship Reporting & Responsible Data Access

Collecting better data will have limited value if the resulting information remains inaccessible inside court systems. States should therefore publish standardized guardianship information regularly and create appropriate mechanisms for researchers, advocates, oversight entities, and affected communities to obtain additional de-identified data.

At minimum, statewide reporting should make it possible to understand patterns in petitions and outcomes, representation, guardian types, scope of orders, less restrictive alternatives, monitoring, case duration, modification, termination, restoration of rights, complaints, and disparities across populations and jurisdictions.

Public access should go beyond posting an annual summary. Depending on the data, states should provide:

- Accessible dashboards and reports
- Plain-language summaries
- Appropriately de-identified machine-readable data
- Clear definitions and data dictionaries
- Information about missing data and data quality
- Explanations of methodology and limitations
- Controlled processes for access to more detailed de-identified information

The standard should be usable transparency. Information should be understandable and accessible to people directly affected by guardianship while also being sufficiently documented for meaningful research, advocacy, and policymaking.

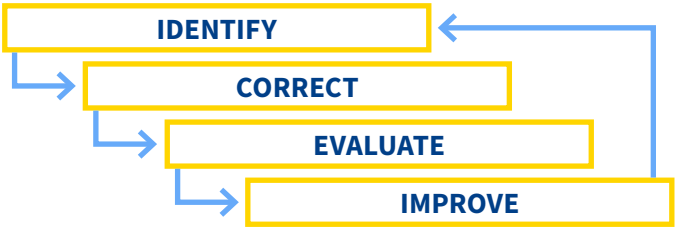
OVERSEE: Independent Audits, Corrective Action & Complaint Tracking

Better data should be used to determine whether guardianship systems are actually implementing the law and protecting individual rights. States should require periodic independent review of guardianship systems rather than relying solely on courts to evaluate their own performance.

Audits should examine whether people receive required procedural protections, whether less restrictive alternatives and limited guardianship are meaningfully considered, whether court orders are tailored to individual circumstances, whether monitoring occurs as required, whether modification and restoration procedures are accessible, and whether outcomes differ across populations or jurisdictions. Audits should also assess the completeness and reliability of the guardianship data themselves.

States should maintain centralized information about complaints, investigations, substantiated findings, sanctions, removals, and other enforcement actions. This is especially important for identifying patterns involving professional guardians who work across multiple courts or counties.

Oversight must also lead to action. Material findings should trigger corrective action plans, remediation timelines, and follow-up evaluations. The resulting process should operate as a continuous cycle:







RESOURCE: A Federal Guardianship Court Improvement Program

Many courts lack the staffing, technology, or financial resources to implement these reforms on their own. Congress should therefore establish a dedicated Guardianship Court Improvement Program that provides sustained funding and technical assistance to state court systems.

Rather than funding isolated technology purchases, the program should support implementation of the broader data infrastructure, including:

- Common data standards and standardized forms
- Case-management modernization
- Statewide longitudinal systems
- Staffing and training
- Data-quality improvement
- Accessible public reporting
- Independent evaluation
- Privacy and security infrastructure
- Community participation and data governance
- Research and continuous quality improvement

Federal support should build on existing NCSC and SJI work rather than duplicate it. Participating states should be required to meet baseline standards for data collection, reporting, accessibility, and accountability while retaining flexibility to adapt implementation to their own laws and court structures.

Federal investment is particularly important because imposing national expectations without providing implementation resources could widen the gap between states with modern court systems and those with fewer resources.

DEVELOP: A National Guardianship Data & Coordination Infrastructure

Improving state systems alone will not produce a reliable national picture of guardianship. Congress should establish a national infrastructure through which standardized state information can be aggregated, compared, and analyzed across jurisdictions.

A national guardianship data repository should form the core of this infrastructure. States should submit a defined set of standardized aggregate or appropriately de-identified information. The repository should support national estimates and cross-state comparisons while clearly documenting differences in state law, terminology, definitions, reporting practices, missing information, and data quality.

National coordination should also address relevant information held outside state courts. Federal programs such as the Social Security Representative Payee Program and VA Fiduciary Program involve decision-making arrangements that are legally distinct from guardianship but may overlap with populations affected by state guardianship proceedings. Federal agencies should identify which guardianship-related information they already collect, clarify distinctions among these arrangements, and determine which additional standardized reporting would improve national understanding.

Where state and federal information needs to be connected for a legitimate research or oversight purpose, that coordination should occur through lawful and privacy-protective mechanisms rather than unrestricted information sharing.

REQUIREMENTS ACROSS RECORD

Several requirements should apply throughout the RECORD Framework rather than being treated as separate recommendations:

Participation & Data Governance

People currently or formerly under guardianship should have a meaningful role in determining what data are collected, how information is interpreted, what is made public, and how the system changes over time. States receiving federal support should establish a Guardianship Data Advisory Council or comparable multidisciplinary body that includes people directly affected by guardianship, disability-led and aging organizations, Protection and Advocacy organizations (P&A) and other advocates, court personnel, researchers, and other affected communities. A comparable national structure should help guide federal implementation and development of the national repository.

Privacy, Accessibility & Protection Against Harmful Use

Expanded data capacity should increase accountability without increasing surveillance. RECORD should therefore incorporate data minimization, clearly defined purposes for collection and use, appropriate de-identification, tiered access to sensitive information, data security, restrictions on harmful secondary uses, accessibility, plain-language public information, and civil-rights and equity review.

Continuous Evaluation

RECORD should not be treated as a one-time modernization initiative. Audits, research, implementation experience, and community knowledge should continually inform revisions to standards, forms, infrastructure, funding priorities, and oversight practices.

The goal is not simply to create more guardianship records. It is to make the records courts already generate part of a reliable, accessible, and accountable information system capable of showing how guardianship operates, where protections are failing, whether reforms are working, and where policy needs to change.



CONCLUSION

Guardianship is one of the most consequential exercises of legal authority over an individual. It can transfer control over where a person lives, how their money is spent, what medical care they receive, and many of the decisions that define everyday life. It has therefore sometimes been described as a form of "civil death." Yet despite the gravity of these interventions, guardianship remains one of the least transparent areas of the legal system. Courts and governments often cannot answer basic questions about how frequently guardianship is used, who is affected, what rights are restricted, whether less restrictive alternatives were considered, how long guardianships last, or how often people regain their rights.

That invisibility is not a technical problem. It is an accountability problem. Without reliable data and meaningful external oversight, it is difficult to know whether guardianship, as practiced, complies with state and federal law, constitutional due process, civil rights protections, ethical standards, or principles of self-determination. Courts and guardians cannot be meaningfully held accountable for patterns that remain hidden in individual case files. Disparities may go unrecognized, failures in monitoring may remain undetected, and reforms may be enacted without any reliable way to determine whether they actually changed practice or improved people's lives.

> ***Guardianship should not be one of the most consequential legal interventions in a person's life yet one of the least visible in our public data.***

The absence of data also shapes whose experiences count as evidence. Individual experiences of unnecessary restrictions, inaccessible proceedings, inadequate monitoring, abuse, or barriers to rights restoration may be treated as isolated incidents rather than recognized as patterns that require an institutional or policy response. In this sense, the data vacuum surrounding guardianship is not neutral. It limits public scrutiny, weakens civil rights enforcement, and makes evidence-informed policymaking extraordinarily difficult.

At the same time, the answer cannot simply be to collect more information about people under guardianship. Guardianship records contain deeply sensitive information about disability, health, finances, family relationships, housing, and one's personal life. A stronger data system must therefore be designed to make the exercise of guardianship power more visible without making the people subject to that power more vulnerable to surveillance or harm. Privacy, data minimization, accessibility, meaningful participation by people directly affected, civil rights review, and limits on harmful secondary uses must be built into the system from the beginning.

We do not need to start from scratch. Existing court-data standards, guardianship-specific technology guidance, state implementation efforts, and reform proposals already provide much of the foundation. What remains is to turn those pieces into a coordinated and sustainable policy infrastructure. The RECORD Framework provides a practical pathway for doing so: require comparable information, equip courts to collect and maintain it, communicate findings through accessible public reporting, oversee implementation and correct failures, resource states to sustain the work, and develop the national infrastructure needed to understand guardianship across jurisdictions and systems.

Ultimately, the goal is not only better guardianship data, but also better accountability for the exercise of state power. A legal system that can remove or substantially restrict a person's rights should also be capable of showing when that power is used, how it is used, whom it affects, what protections accompany it, whether less restrictive options were available, and whether the restriction remains necessary over time.

Guardianship should not be one of the most consequential legal interventions in a person's life yet one of the least visible in our public data. Building a coordinated guardianship data infrastructure is part of the civil rights infrastructure necessary to protect due process, support self-determination, hold courts and guardians accountable, evaluate whether reforms are working, and make meaningful change possible.



NOTES

1. **Collective for Racial & Disability Justice,** UCLA School of Law

2. Research Fellow, **University of Pennsylvania**

3. Disability Policy Research Fellow, **Northwestern University**

4. **The American Bar Association** maintains a list of privacy regulations concerning adults under guardianship here. As the ABA notes, these data protections are necessary to prevent identity theft, scams, and fraud, as well as to protect the dignity of people subject to guardianship proceedings. However, because no level of government consistently captures data about probate hearings and people under guardianship in each state, these privacy rules also make it difficult to fully understand the extent and character of guardianship.

5. Other states, like **Virginia**, have implemented data tracking measures in more limited ways. For example, Virginia retains data on the "school to guardianship pipeline," which provides insights into the use of guardianship and alternatives.

6. **Godfrey, D.** (2021, March 11). Challenges in guardianship and guardianship abuse. *Bifocal, 42*(4). American Bar Association. https://www.americanbar.org/groups/law_aging/publications/bifocal/vol-42/vol-42-issue-4-march-april-2021/challenges-in-guardianship-and-guardianship-abuse/

7. A study conducted by the **ABA** indicates that restoration of rights is rare. People rarely bring suits to restore their rights, and when they are brought, such suits are met with moderate success. However, this study is dated (conducted in 2013-14) and relied on the participation of probate judges and attorneys. However, the limited research available on this subject generally confirms the idea that restoration of rights is a rare occurrence.

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