Disability, Abuse, and Guardianship

Reducing Risk and Improving Response in Missouri

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My Long Journey to Missouri

* Alerted by **Three Cases** in Los Angeles (2012-2014)
* **Auditing** the Local Court System (2014-2015)
* Analyzing the System in **Washington State** (2016)
* Reaching Out to Officials in **10 States** (2016)
* **Contact** with Disability Rights Groups (2012-2017)

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Gathering Information

* Mentoring from Dr. Nora Baladerian
* Reviewing Missouri Guardianship Law
* Obtaining Data and Advice from:
  - Susan Eckles, Protection & Advocacy
  - Les Wagner, County DD Services
  - Gary Schanzmeyer, DD Division, DMH
  - Catherine Zacharias, Missouri State Courts
* Applying Constitutional and ADA principles to Missouri
The Big Picture

* Lack of reliable data
* No statewide oversight
* Need for **trauma-informed justice**
* **Statutory defects** increase abuse risk
* **Judicial flaws** increase abuse risk
* Lawyers ignore the **ADA rights** of their clients
* More advocacy is needed for **systemic reforms**
Special Areas of Concern

* Lack of Statewide Oversight & Coordination

-- Judicial Branch

Virtually no appeals by wards
Local judges control attorney appointments

Need: Chief Justice Guardianship Task Force
Need: State Courts Guardianship Coordinator

-- Executive Branch

Need: State Guardianship Ombudsperson
Functions: Audit Cases; Investigate Complaints

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Particular Areas of Concern

* Supported Decision-Making

Only 15% of adults with cognitive disabilities of all types (seniors, I/DD) are in guardianships.

65% of adults with I/DD are not known to the state and local DD agencies.

Most of these adults are using *informal* methods of supported decision-making.

Because they are not being monitored, these adults are at a higher risk of abuse.

**Safe and Legal** SDM should be promoted.

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Special Areas of Concern

* Guardians as Mandated Reporters
  - Guardians **not being told** of duty
  - Guardians **not being told** of penalty
  - **No prosecutions** for failure to report
  - Need to:
    * Amend law to **add** “guardian” to the list
    * Amend law to **require courts to advise** guardians of duty to report and penalties
Special Areas of Concern

* Vetting of guardians & placements
  - State has **duty to protect** wards
  - **High risk of abuse** for I/DD persons
  - **Insufficient screening** of guardians
  - Need: **abuse training** for judge & attorneys
  - Need: **notice** sent to grandparents & siblings
  - Need: **background checks** on guardians and all adult members of proposed households

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Special Areas of Concern

* Annual review of wards and households
  - Inadequate review system
  - Ward does not participate
  - No real monitoring by state
  - Need new laws requiring:
    * background check on new householders
    * brief report from all service providers
    * guardian’s report sent to close relatives
Special Areas of Concern

* Better Screening of Service Providers
  - Guardians have a **duty to protect** wards
  - Guardians should **vet paid service providers**
  - Guardians should **vet volunteer providers**
  - Need new law to require such screening through **Family Care Safety Registry** and **Caregiver Background Screening Service**
  - **Court hearing** if negative vendor/volunteer info
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For More Information

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