

**Nevada Supreme Court
Permanent Guardianship Commission**



April 25, 2018, Meeting Materials

Justice James W. Hardesty, Chair

AGENDA

Permanent Guardianship Commission
January 23, 2017, Agenda and Meeting Materials
Supreme Court of Nevada
ADMINISTRATIVE OFFICE OF THE COURTS

ROBIN SWEET
Director and
State Court Administrator



JOHN MCCORMICK
Assistant Court Administrator
Judicial Programs and Services

RICHARD A. STEFANI
Deputy Director
Information Technology

MEETING NOTICE AND AGENDA

Name of Organization:

Supreme Court Permanent Guardianship Commission

Date and Time of Meeting: April 25, 2018, 9:30 a.m. to 5:00 p.m.
VIDEOCONFERENCE (Carson City, Las Vegas)

Place of Meeting:

LAS VEGAS	CARSON CITY
Nevada Supreme Court 408 E. Clark Street First Floor Conference Rooms A & B Las Vegas, NV 89101-4088	Nevada Supreme Court 201 S. Carson Street Conference Room 107 (Law Library) Carson City, NV 89701-4702

AGENDA

- I. Call to Order
 - a. Call of Roll and Determination of Quorum
 - b. Approval of Meeting Summaries from October 10, 2017, and November 13, 2017. *See attached*
 - c. Opening Remarks

- II. Public Comment
Because of time considerations, the period for public comment by each speaker may be limited to 3 minutes, and speakers are urged to avoid repetition of comments made by previous speakers

- III. Introduction of Kate McCloskey, Guardianship Compliance Manager
 - a. Presentation by Kate McCloskey regarding Guardianship Compliance Office
 - Introduction of Donna Kingman-Silva, Guardianship Compliance Investigator and Ronda Lethcoe, Financial Forensic Specialist
 - Guardianship Fraud Hotline 1-833-421-7711

Supreme Court Building ♦ 201 South Carson Street, Suite 250 ♦ Carson City, Nevada 89701 ♦ (775) 684-1700 • Fax (775) 684-1723

Supreme Court Building ♦ 408 East Clark Avenue ♦ Las Vegas, Nevada 89101

IV. Case Load Statistics

- a. Update Report from Compliance Officers and/or IT departments of Second and Eighth Judicial District Courts on existing program limitations (**Presentation by Sabrina Sweet, Mallory Nelson, Riley Wilson**) *See attached Guardianship Outcome Measurements Report ('GOMR')*
 - i. Identify information each district is collecting that the other district is not and if they can be reconciled *See 'GOMR'*
 - ii. Feasibility of tracking the outcome measurements suggested by Commission members at November 13, 2017, meeting *See 'GOMR' starting at # 27*
 - iii. Report from Riley Wilson regarding feasibility of implementing a Milestone Tracking system in the Eighth Judicial District Court similar to the one used in Second Judicial District Court *Not included in Report*
 - iv. Report from Riley Wilson regarding feasibility of tracking attorney fee awards and estate sizes in Eighth Judicial District Court *See 'GOMR' # 41 & 43*
 - v. Report from Riley Wilson regarding feasibility of tracking guardianship mediations in Eighth Judicial District Court *See 'GOMR' # 23*
 - vi. Report regarding the District Courts in Carson City and Elko-Sabrina was going to reach out to them as part of expanding the grid that was provided for the November 13, 2017, meeting *See attached email from Sabrina dated 3/15/18*
 - vii. Feasibility of tracking guardians removed for cause *See 'GOMR' #21*
 - viii. Report on comparison of document codes used in Second and Eighth Judicial District Courts *Sabrina Sweet reports that they have determined it is more appropriate to remove the code number from the documents and that the filing of the document will be utilized for accurate statistics*
 - ix. Update from Judge Sturman on whether cases filed under Patient's Bill of Rights statute would be heard in general jurisdiction or family court. *See also, definitions on page 2 of 'GOMR' and # 41 & 64*
- b. Discuss feasibility of tracking and consideration of adopting the following overarching outcome measurements:
 - i. 100% of guardianship estates protected by either bond, blocked account, or verification on file that shows the protected person only receives SSA or SSI income and all of the funds are used each month for costs of care *See 'GOMR' #45*
 - ii. Every protected person has an attorney assigned to them *See 'GOMR' # 30-32*
 - iii. Detecting possible fraud within three months of the first anniversary of the guardianship *See 'GOMR' # 70*
 - iv. Verification by court prior to granting temporary guardianship or establishment of permanent guardianship as to whether or not the potential

- protected person has any documents on file with the State Lockbox *See 'GOMR' # 58*
- v. Filing of care plan, budget, and inventory within 90 days of the establishment of a general guardianship *See 'GOMR' # 8, 12, 13, & 17*
- V. Adoption of State-Wide Rules - *See attached rules*
- a. Report from Rules Subcommittee Co-Chairs John Michaelson and Dania Reid. *See attached consolidated report of feedback.*
 - b. Discuss and vote on rules recommended by Rules Subcommittee
- VI. Adoption of State-Wide Forms - *See attached forms*
- a. Report from Forms Subcommittee Chair Jim Berchtold. *See attached consolidated report of feedback.*
 - b. Discuss and vote on forms recommended by Forms Subcommittee
- VII. Administrative Docket 507 - General discussion regarding report of recommendations due to Supreme Court May 31, 2018
- VIII. Future Meetings Dates/Agenda Items (*for possible action*)
- IX. Public Comment
Because of time considerations, the period for public comment by each speaker may be limited to 3 minutes, and speakers are urged to avoid repetition of comments made by previous speakers.
- X. Adjournment

AGENDA ITEM I(b)
MEETING SUMMARIES
October 10, 2017, & November 13, 2017

Supreme Court of Nevada
ADMINISTRATIVE OFFICE OF THE COURTS

ROBIN SWEET
Director and
State Court Administrator



JOHN MCCORMICK
Assistant Court Administrator
Judicial Programs and Services

RICHARD A. STEFANI
Deputy Director
Information Technology

MEETING SUMMARY
PERMANENT GUARDIANSHIP COMMISSION
Summary Prepared by Sharon Coates, PP, CLP

Date and Time of Meeting: October 10, 2017, 9:30 a.m. to 3:15 p.m.

Place of Meeting: Reno-Tahoe International Airport--River Room
200 E. Plumb Lane
Reno, NV

Members Present:

Justice James W. Hardesty, chair
Judge Gloria Sturman
Dawna Richert
Shelly Register
Jim Berchtold
Lynn Hughes
John Michaelson
Jennifer Rains
Mary Bryant
Lynda Hascheff

Judge Vincent Ochoa
Judge Egan Walker
Karen Kelly
Debra Amens
Elizabeth Brickfield
Michael Keane
Jennifer Salem
Dania Reid
Senator Becky Harris
Homa Woodrum

AOC Staff:

Robin Sweet

Supreme Court Staff:

Sharon Coates

Guests:

Sabrina Sweet, Case Compliance Specialist,
Second Judicial District Court
Mallory Nelson, Case Compliance Specialist,
Second Judicial District Court

I. Call to Order

Chairman Justice Hardesty called the Permanent Guardianship Commission to order at 9:35 a.m.

II. Welcome and Opening Remarks

Justice Hardesty welcomed everyone to the first meeting of the Supreme Court's Permanent Guardianship Commission, and expressed his gratitude to the members for accepting the court's invitation to serve on the Commission. Justice Hardesty explained that the Commission has a lot of work ahead of it, which is to implement the policies and findings that occurred during the course of the previous Commission's efforts. This is more of a nuts and bolts effort, and what is important from the Supreme Court's point of view is to get the Commission's take and assessment on how the legislative changes that were made are working or not working, what needs to be done further in that area, and get prepared to start implementing a number of the practical and budgetary changes that the Legislature enacted. This Commission will serve as an implementation and oversight process and he expects the Commission's work to continue at least two years, and possibly longer, as it monitors what came out of the effort of the first Commission. Justice Hardesty pointed out that some of the current Commission members served on the previous Commission and that he wants to state publically his appreciation for all of those who served on the previous Commission. There was an awful lot of work that went into that effort.

Justice Hardesty introduced Sharon Coates as the staff liaison for the Commission and stated that if there is reason to communicate with him or other Commission members between meetings, he would like that to be communicated through her. It is important that there be effective communication between everyone.

Roll call was taken and all Commission members were present except for Henry Cavallera, who was unable to attend, and Senator Becky Harris who joined the meeting shortly thereafter.

III. Welcome and Introduction of Commission Members

Justice Hardesty asked each of the Commission members to introduce themselves, share a little bit about their professional and personal background, and their connection to guardianship and elder issues.

Justice Hardesty stated that Senator Harris and Assemblyman Sprinkle were the driving forces in getting the new legislation through the Legislature during this last session; and that both of them, as well as Senator Cannizzaro, were a big help through the whole process.

Justice Hardesty introduced Robin Sweet, Director of the Administrative Office of the Courts, who has been extremely effective along with the AOC Budget Director in developing numbers and details that were needed during the course of the last legislative session as they worked through some of the proposals that the Legislature entertained regarding guardianship. Justice Hardesty asked Robin to make a number of important comments about the significant assets the Legislature financed out of the State General Fund. The Legislature was very open to the need in this area. Robin will attend future meetings and continue to monitor all of the work of the Commission so that resources are used as effectively as possible.

IV. Public Comment: Judge Walker introduced two guests, Sabrina Sweet and Mallory Nelson, who are both Case Compliance Specialists for guardianship cases in the Second Judicial District Court. There was no further public comment from either location.

V. Final Report-Nevada Supreme Court's Commission to Study the Administration of Guardianships in Nevada's Courts

The materials for the meeting included a copy of the Executive Committee Summary of the Final Report of the Nevada Supreme Court's Commission to Study the Administration of Guardianships in Nevada's Courts. The summary provides an overview of the prior Commission's thought process and policy directives as well as a framework with respect to where the permanent Commission is going. Justice Hardesty stated that one thing that was most valuable to the prior Commission was about 10.5 hours of public comment, which covered a panoply of problem areas in the guardianship world. Justice Hardesty pointed out that with a couple of limited exceptions, every vote of the prior Commission was unanimous. In the end, the report and all of its recommendations were unanimous. Justice Hardesty referenced the Policy Statement of Support adopted by the previous Commission located on page 5 of the Summary of Recommendations provided with the meeting materials, which sets the tenor on how the Permanent Guardianship Commission should revisit guardianship administration. Justice Hardesty also talked about the increase to document recording fees, which will provide funding to the various counties around the state to enable the appointment of legal counsel for proposed protected persons in guardianship proceedings. Legal Aid organizations were viewed as the primary source for the appointment of legal counsel.

Below is a summarized list of the broad goals and objectives that Justice Hardesty sees for the Permanent Guardianship Commission.

- Sort out how the Legal Aid organizations are working across the state and what more needs to be done in that area.
- Establish rules to recognize when you have someone with assets who should transition away from legal aid and use compensated counsel.
- Establish guidelines for the use of limited guardianships and reduce and eliminate temporary guardianships, except in the most extreme circumstances.
- Establish rules to be used to evaluate temporary guardianships and what findings the judges will be expected to make.
- Establish guidelines to employ the least restrictive means in the guardianship process to effectuate the needs of the individual.
- Establish guidelines to encourage the use of volunteer programs. Some are currently operating and others have been proposed. The Commission will need to gain more information about the progress there and support the volunteer programs coupled with appropriate training across the board for guardians, family members, and attorneys who represent people in this process.
- Review rules already in place to assure that a protected person's confidential information can be sealed by the court with guidance and look at that process in order to better effectuate it.
- Establish guidelines and rules insuring that every protected person be present for all hearings, unless there is good cause articulated and supported by appropriate affidavits allowing the judge to relieve that person from being present. Anything short of that will fail in the current legislation and fail that policy requirement.

- Review existing rules regarding the use of special guardianships and establish new guidelines and rules encouraging the process of least restrictive means.¹
- Establish rules and guidelines requiring greater evidence for judges to make the determination of exactly what incapacity is and how it is documented and supported.
- Review existing outcome measurements currently used by the Second and Eighth Judicial District Courts and establish statewide outcome measurements so the Commission can make sound business decisions based upon what the facts are known to be.
- Establish statewide rules for guardianship cases.
- Get the entire state organized and communicating with each other so that resources are used to their best potential.

Justice Hardesty asked the Commission members for any comments or thoughts on what they perceive to be the Commission's goals and objectives. Below is a summarized list.

- Establish a system to appoint attorneys for protected persons previously placed under guardianship, possibly when the guardians file their annual reports.²
- Clarify if the guardianship statutes need to be revised as to attorneys being appointed in minor guardianships.
- Educate attorneys that they can bring a petition for limited purposes only rather than asking for a full blown guardianship.
- Set guidelines for getting a plan in place for the potential protected person as quickly as possible.
- Establish criteria for the judges to consider during the initial guardianship procedure.
- Establish a mediation program to be used at the early stages of the guardianship process, encouraging least restrictive means.
- Have judges accountable for the outcome measurements.
- Establish notice guidelines, similar to TPOs, for temporary guardianship petitions.
- Increase the number of legal aid organizations available to take on cases.
- Establish a pilot program to hire private attorneys at a reduced rate to help locate protected persons who the courts have lost contact with.³
- Establish guidelines for notice in minor guardianship cases where the parents are located in Mexico that will work within the existing civil service rules that require service through the Mexican Consulate.⁴
- Establish guidelines to streamline minor guardianship cases that were originally abuse and neglect cases so that one judge has all the facts.⁵

¹ Justice Hardesty also noted that he will have Judge Doherty give a presentation at a future meeting regarding a grant she received to develop work in this area.

² Judge Ochoa informed the Commission that when they see the cases for their annual reviews, an attorney is appointed for the protected person if there is any issue at all. They have had limited resources, but are hopeful that legal services will grow beginning in January.

³ This is a pilot program that Judge Walker said he is going to start in Washoe.

⁴ Judge Walker advised that this is a common problem in his jurisdiction. He said that service to the Mexican Consulate cannot be done because nobody understands the treaty that was established with Mexico.

⁵ Sabrina Sweet, Case Compliance Specialist (minor guardianships) in Washoe County, advised that they developed a policy earlier this year to initiate a minor guardianship case through a dependency action in a different manner so that the DA's office is now filing a new guardianship petition rather than a dependency action.

Mary Bryant asked Judge Ochoa if protected persons are attending the annual report hearings to which he responded about 50/50. With regard to the ones who do attend, it's 50/50 whether they add anything to the hearing. If they are able to speak, Judge Ochoa will ask them questions on how they are doing. If they can't speak he has to rely on the attorney, which brings up a matter he is concerned about. Who do the attorneys really represent and whose viewpoints they should represent to the court.

Justice Hardesty asked Debra Amens what is happening in the rural courts with regard to attorney representation. Ms. Amens advised that some counties have public guardians and others don't. Oftentimes the judges she works with will try to appoint an attorney and make sure that the proposed protected person attends the hearing. However, there are a limited number of attorneys. There are a couple of communities who have legal aid organizations who do representation in guardianship cases. She has spoken to a couple of judges that are concerned about the resources, but are attuned to the fact that these people need representation.

VI. Overview of 2017 Legislative Amendments – Copies of these bills are available to download from the Nevada Legislature website:

<https://www.leg.state.nv.us/App/NELIS/REL/79th2017/Bills/List>

- a. AB 130
- b. AB 254
- c. AB 319
- d. AB 150
- e. AB 288
- f. SB 229
- g. SB 433
- h. SB 360

VII. Administrative Docket 507

- a. August 2, 2017, Order Setting Forth Duties of the Permanent Guardianship Commission

VIII. Case Load Statistics from Second and Eighth Judicial District Courts

Judge Sturman and Judge Walker each gave presentations explaining the case load statistics for their Judicial Districts. These statistics were included with the materials for the meeting and can be reviewed at <https://nvcourts.gov/AOC/Templates/documents.aspx?folderID=19668>. [Pages 32-98 for Second Judicial District Court and pages 100-107 for Eighth Judicial District Court.]

Below is a summary of the discussion during both presentations:

- The Eighth Judicial District Court began tracking guardianship statistics in 2013. With the efforts of Judge Steel, the adult guardianship case numbers decreased. There is still an average of 800-900 adult guardianships. Minor guardianship caseloads are similar.
- A question was asked about the numbering system in Clark County with regard to multi-child families. At this time there is one case number no matter how many children there are in a family, therefore, there are more children in guardianships than the numbers currently reflect.

- Judge Sturman said that some kind of training is necessary for guardians in order to increase case compliance after guardianships have been put in place.
- Michael Keane said that he and other attorneys teach mandatory guardianship training courses through the Washoe County Public Guardian's office.
- Judge Sturman advised that there are online training courses that are used in other states. You have to take a test after completing the course before you can receive a certificate.
- Justice Hardesty said that if an online training course was established, the Commission could make it mandatory for new guardians to take the course.
- Judge Walker suggested that the Commission consider instructional videos before the court has invoked jurisdiction. He indicated that a majority of the minor guardianship cases are pro se and don't understand service of process or the self-help packets, which state you need to bring the children to court for every hearing.
- Robin Sweet stated that the National Center for State Courts (NCSC) has a webinar that addresses the basics in guardianships and suggested that the Commission may want to evaluate it as a tool that could be shared on all Nevada court websites.
- Justice Hardesty stated that based on the statistics, the previous Commission concluded that there is a lack of accountability. Judges need to be held accountable for the outcome measurements, but it is very difficult when you have 15 or more judges involved in the process.
- Judge Ochoa advised that the number of minor guardianship cases will continue to rise because of the drug problem. More parents are turning to grandparents to raise their children. The grandparents are then forced to petition for guardianship so they can register the children in school and get them medical insurance.
- Homa Woodrum talked about kinship care. She recently had a meeting with an individual from the Administration for Community Living about using federal money for grants for legal aid organizations to assist grandparents in guardianship cases. They need assistance in navigating the system for things like reduced fee daycare because they are on reduced incomes.
- Lynn Hughes asked for clarification on whether the statistics separate out the minor guardianship for abuse and neglect versus minor guardianships for other reasons.
- Judge Ochoa advised that he does not think so. These are cases where the grandparents are filing for guardianship after the abuse and neglect cases have been adjudicated and they have been given custody of the children.
- Lynn Hughes stated that when he served as a pro tem in abuse and neglect cases, the hearing masters would establish guardianships under the same procedures but that he does not know if the cases were monitored.
- Judge Sturman suggested that is an issue that should be considered when establishing state rules.
- Elizabeth Brickfield suggested establishing different court hours for minor guardianship cases to make it easier for the guardians to bring the children into court and does not conflict with school. The same can be said for caregivers of adult protected persons. Sometimes it is impossible to get an elderly person into court by 9 a.m. Maybe minors could go after 3 p.m. and adults after 5 p.m.
- Mary Bryant said that transportation for disabled persons is another problem they are seeing.

- During his presentation about the Second Judicial District Court's case load statistics, Judge Walker advised that next year the courts will have to start reporting guardianship cases consistent with the NCSC guidelines, which require a case to be cleared within 45-60 days. Washoe currently has about 1200 minors and 800 adults in guardianships.
- Karen Kelly advised that in Clark County she has noticed that hospitals are relying on temporary guardianships as a way to get a person on Medicaid or to get them placed in another facility. The problem is that once the person has been placed they don't need a guardian anymore. It was an emergency for the hospital, but not for the person. By the time they are moved from a hospital to an appropriate nursing facility and Medicaid kicks in, all of a sudden there is no one there to make decisions for them.
- Judge Walker advised that the IT department for the court has set up a system where reports are produced daily showing newly filed guardianship cases, including ex parte petitions. This allows the court to assign attorneys for the potential protected person almost immediately.
- Justice Hardesty explained that a uniform statewide reporting system is needed. The daily report that Washoe is getting should be available in Clark County as well. If counsel is appointed at the very beginning for the potential protected person, the attorney is going to find out who needs to receive notice of the petition.
- Homa Woodrum asked if there is a framework in place to allow for other legal aid organizations in Southern Nevada to take on guardianship cases.
- Justice Hardesty responded that the Access to Justice Commission is looking into how those organizations allocate their resources. The understanding with respect to guardianship is that those fees should be sufficient to add enough lawyers to cover their caseload. The same is true in Washoe County. Washoe Legal Services will get enough resources to hire more lawyers. Washoe Legal Services is also offering guardianship representation in Elko and Churchill Counties. Not every rural county is covered, although there are a couple of counties where CASAs are functioning like legal aid organizations and they are getting IOLTA money.
- Homa Woodrum asked if there is at least one organization in each county tapped to be the contact point for the judiciary. Justice Hardesty answered that is the goal of the Access to Justice Commission. An active pro bono program will need to be set up to handle conflict issues.
- Another point was brought up that representation of a protected person is not limited to simply going to court and getting the guardianship issues resolved. It becomes an ongoing relationship with a client who may feel that the attorney assigned to them is the only person they can talk to for any future legal matters.
- Dania Reid expanded on that. She has seen in cases that she handles for the Public Guardian's office where the protected person often has legal needs and issues that require a legal resolution. For example, divorce proceedings that have fallen through the cracks or making a will if the person has the capacity. They don't have attorneys and she can't represent them since she represents the public guardian.
- Justice Hardesty brought the conversation back to case load statistics. Washoe County is currently capturing information about their caseloads that isn't being captured in other judicial districts. Are the measurements that Washoe is describing the kinds of measurements that the Commission would optimally like to see? Assuming that's the case, whether it's Clark or Esmeralda County, the Commission needs to figure out a way to start capturing that information and use that data to make decisions.

- In response to a question from Homa Woodrum, Judge Walker pointed out that the great thing about one of the reports generated by Washoe County's system is that each number has a case behind it. They can see which cases were resolved without mediation and what they looked like versus the cases that were resolved with mediation. He pointed out that the report also shows that the number of attorney appointments over the past twelve months exceeds the number of cases filed, which means that attorneys are being assigned in previous guardianship cases during the status review process.
- Judge Walker referred to the milestones section of their case load statistics and suggested it is something the Commission may want to consider. He believes that the case management programs used in Clark County as well as the program the AOC has pushed down to the rural courts can also set milestones. Milestones, for example allow the court to measure each case type and see how many letters of guardianship have been issued, which should be 100%. Milestones allow the court to see when the annual report is due in each case and provide a list of the cases that are not in compliance. The state compliance officer could easily utilize this across the state and set whatever milestones you want to set in terms of case compliance. For Washoe, this has been a game changer because it lets the court know what cases are out of compliance so it can focus on them.
- Judge Walker made another suggestion for the Commission to consider statewide. He had a case last year where he had issued an order to show cause and the grandmother/guardian came to court with only one of her two grandchildren. It was a guardianship case that had been filed when the court allowed multiple children in the same case. Since then, the court has issued an administrative order stating that a separate case will be filed for each child. Otherwise the court can't track where the kids are or when the case can be closed. The grandmother came into court with the one child and after Judge Walker and the grandmother had discussed the one child he asked where the other child was and found out that the child and its mother had been killed by a drunk driver while crossing the street in another county, where they were living. The grandmother was unaware that she had to inform the court in Reno that the child had passed away because she thought that the Reno court would have been informed by the probate court in the other County. This is a problem that will be seen statewide if an ombudsman position or an oversight committee is not created. People live across jurisdictional boundaries and the guardians don't understand that if they told the judge in one county the child was deceased, why the judge in the county with guardianship jurisdiction isn't informed. From their perspective, the courts should be communicating with each other.

Homework Assignment: Justice Hardesty asked the Commission members to review all of the materials they received for this meeting and prepare a list of what they perceive to be appropriate outcome measurements the state should be operating under. The suggestions should be made without regard to whether or not the individual counties' IT systems have the capability or not. Justice Hardesty asked for the information within 20 days.

Justice Hardesty asked that the compliance officers for the Second and Eighth Judicial Districts communicate about their IT capabilities. He would like to have a clear picture as to what the limitations, if any exist, in capturing the data that is being captured in the Second. Then the Commission needs to figure out how to get it statewide. The IT people at the Supreme Court are

very effective and they are going to be coming up with some systems that the rest of the country is going to want to use.

In reference to appointment of counsel, Justice Hardesty pointed out that in about a year the Commission will need to offer some statistics to the Legislature that supports either an increase in funding or the utilization of funding that will be connected to case load measurements.

IX. Newly Created State Guardianship Compliance Office

Justice Hardesty advised that the new State Guardianship Compliance Officer will come on board in January as well as two investigators and two accountants. Robin Sweet will oversee the State Compliance Office. Justice Hardesty talked about the information that was provided in the meeting materials regarding the State of Florida's approach to state compliance offices and a presentation given to the previous Commission. Nevada's State Compliance Officer will be a resource to every judicial district in the state and the Commission will play a role in implementing this program. The funding for the State Compliance Office will come from the State General Fund and is completely separate from the funding to be provided by the increased recording fees. Justice Hardesty asked Robin Sweet to give a report on what she and her office have done to prepare for the implementation of the State Guardianship Compliance Office.

Robin reported that her team communicated with several other states to obtain copies of forms and job descriptions to aid in implementing Nevada's compliance office. The AOC was able to get funding for an IT system to track the statistics and has communicated with other states and vendors to investigate what is available. They are still working out the details on whether to hire the two accountants first and then the two investigators in July or to hire one investigator and one accountant in January and the other two in July. Justice Hardesty pointed out that the investigators are not intended to be a supplement for law enforcement, but will be there to help support the court system in its administration of the guardianship process. Robin also discussed the class specification memo that was provided with the materials and then distributed a draft job description of the State Compliance Officer to the Commission members for their feedback.

Below is a summary of the discussion by the Commission members with regard to the State Compliance Officer job description as well as what the role of the State Compliance Office may be:

- Karen Kelly asked if the investigators will be able to investigate abuses reported to it or is the compliance office only going to be focused on financial issues. Robin responded that her understanding of the statutes is that they will be largely working with the courts and that at this point in time there will not be a public hotline.
- Justice Hardesty advised that Florida has a hotline and that this Commission may want to take a look at making that part of Nevada's system. The judicial code puts constraints on a Judge's ability to have ex-parte communications for those types of complaints and issues. A vehicle needs to be provided so that someone detached from the District Court Judge can learn the true facts of the underlying problem and generate a report for the court that isn't an ex-parte communication because everyone connected to the case receives a copy of it.
- Dania Reid explained how investigations are handled in Washoe County with the participation of the Public Guardian's office. (1) If there is insufficient information for the

court to feel confident about rendering a decision in a new guardianship case, it will issue an order appointing the Public Guardian to act as an investigator, pursuant to NRS 159 and 253. The Public Guardian will do an independent review of the case and file a report based on the person's needs, finances, or whatever else might be at issue;⁶ or (2) while working on its docket, the Court will find that protected individuals have not appeared in court for some time. After an Order to Show Cause has failed to get the person into court, an order will be issued to have the Public Guardian undertake an effort to locate the person, find out what's happened to the individual, their assets, and debts, and file a report with the court. Dania is curious as to whether the vision is that the State Compliance Office will be a replacement or a complement for this practice or if there will be any overlap.

- Justice Hardesty stated that this Commission will determine the answer to that question. The Florida model uses their district wide group compliance officer to supplement the local levels and to coordinate those efforts so that everyone is on the same page. Florida discovered there were a lot of cross district issues they were able to investigate and address. It is a complementary resource, but also one to help make those resources uniform. It's not made to take away resources that are currently available. There will be no reason to remove the current compliance officers in Clark and Washoe Counties. These kinds of investigations are not available in rural counties at all so the state compliance office would probably be called upon to do front line work in those instances. The Florida model provides us with a starting point.
- Judge Ochoa wants the state compliance officer to be the first point of contact for the public if they have any concerns about a particular individual or the guardianship system. The compliance officer could then direct the complaint to the individual counties.
- Karen Kelly referred to a section of the class specification memo that talked about one of the functions of the State Compliance Officer as being "oversight of individual guardianship cases, including accountings and investigations of the estates of individual protected persons for whom a guardian has been or may be appointed." Karen thought the officer would only be involved in cases where a guardian has already been appointed.
- Robin Sweet explained that the language was added based on information from judges who may want the State Compliance Office to investigate or review cases prior to a guardian being appointed.
- Justice Hardesty talked about the goal of least restricted means. To the extent that there is family or neighbor tension with conflicting views and how to approach the needs of the individual, the court can get an independent view of this before the ultimate decision is made. Having that resource available on a statewide basis might help guide that effort. He would envision someone from Legal Aid standing up on behalf of the protected person, asking for an investigator to look at this, and provide some independent assessment of some of the conflicting issues.
- Judge Ochoa said that he thought a decision had already been made to use Guardians ad Litem, private attorneys, or CASAs to do those investigations instead of going through the State Compliance Office. Justice Hardesty agreed that the Commission needs to discuss that, but it also needs to discuss the role of the Guardian ad Litem and their training. Having a more professional resource like the State Compliance Office is superior to that approach.

⁶ The court has developed certain language that complies with HIPPA to allow the Public Guardian access to medical records as well as documentation from the banks and financial institutions that can be used to compile a report for the court.

- Judge Walker stated that ultimately someone is needed who can investigate, for example, a 15 year old case where a sizable estate has an unusual burn rate. Perhaps someone who has some law enforcement, forensic, or traditional audit training, so that they will go where the trail leads.
- Judge Ochoa stated that it is important that any investigator from whatever source has some knowledge of the system and has the right type of training so that he is not wasting time going down paths that are not productive.
- John Michaelson wanted to clarify that he does not want us to put a lengthy investigative system in place that delays the appointment of a guardian in cases where money is being stolen and abuse is happening. He is concerned that a judge may say that he is not going to appoint a guardian until after the State Compliance Office has investigated and issued a report.
- Justice Hardesty responded that these are difficult judgment calls for judges, but that if you have a hypothetical situation like you described, he cannot imagine a judge punting and saying let's get a report while Rome is burning. The way to handle those situations is to appoint a temporary or special guardian.
- Homa Woodrum stated that from the view of an elder rights attorney, powers of attorney are also exploited. She had an issue come up recently where a facility was being forced to impose an attorney-in-fact's personal health views on a patient that could have had dire health consequences. How does a person go to court to revoke an attorney-in-fact? Do you seek declaratory relief if the attorney-in-fact is not properly exercising their fiduciary obligations and you have an individual who lacks capacity to bring a case themselves?
- Justice Hardesty stated that under the concept of least restrictive means, the court's jurisdiction is invoked when a petition is filed, whether it be for full guardianship or a lesser guardianship. He said he doesn't know why one couldn't assert a petition for a lesser guardianship to address this type of problem. Under the amended statutes the court gets the petition and it doesn't have to be a petition for a full guardianship. There are a lot of different hypotheticals coming here, but at the end of the day once the court's jurisdiction is invoked, Justice Hardesty is interested in hearing about alternatives and challenges to the efficacy of the continued use of a power of attorney or other in-place means that develop during somebody's estate planning process. For example, the non-financial circumstances where there is a power of attorney for health decisions and conflicts develop within the family about health decisions made by the attorney-in-fact. There is no better place than the courts to assess that. Justice Hardesty asked the district court judges what they think about the jurisdiction of the court in those areas.
- Judge Ochoa stated that once a petition is filed he thinks the court has jurisdiction even if the person who brought the petition wants to withdraw it. He had a case where Legal Services was involved and after he noticed some problems, the petition was withdrawn. He kept the case open, but was not sure if there was statutory authority to keep it open after the petition was withdrawn.
- Justice Hardesty stated that the current rules provide that once the case has been filed and the judge has put his or her hands on it in some fashion, the court's approval is needed to dismiss it. To the extent there is some doubt about it, statewide rules would address those circumstances.
- Judge Sturman suggested that those types of issues may be better suited for mediation.

Homework Assignment: Justice Hardesty asked the Commission members to provide him with any suggestions they have, by Monday, October 16, 2017, for the state compliance officer job description as well as what they would like to see the compliance office doing. Justice Hardesty also asked the Commission members to review the information in the materials regarding the Florida model presentation made to the previous Commission. He wants to use it as a baseline for Nevada.

X. Commission Recommendations for the Adoption of State-Wide Rules

Below is a summary of the discussion by the Commission members regarding the adoption of state-wide rules:

- Judge Sturman suggested that when the Rules of Civil Procedure are rewritten, the probate and guardianship bench bars need to be told that the rules also apply to them. She constantly has to argue with them about certifying petitions and complaints.
- Justice Hardesty advised that was a question brought up by the prior Commission. An order was issued by the Supreme Court in ADKT 507 making it clear that the rules of civil procedure apply to guardianship and probate proceedings.
- Justice Hardesty stated that Judge Sturman brought up a good point about mediation. One of the recommendations of the prior Commission was to develop procedures or court rules to require mediations in all contested guardianship proceedings. Mr. Cavallera, who was unable to attend today's meeting, has some important views the Commission needs to hear on the subject of mediation. Justice Hardesty urged the Commission to think about this topic. There are currently 31 senior judges or justices in this state to backstop a lot of district court work. They could be available as a resource for mandatory mediation along with the Supreme Court Settlement Program, which is extremely effective in a lot of civil cases that have already gone to trial. Copies of those rules will be given to the Commission.
- Justice Hardesty stated that under the Supreme Court Settlement Program, the settlement judges or attorneys are paid at a reduced rate, about \$80 an hour. He said it's been a little frustrating to see the amount of money being reverted out of the Supreme Court Settlement Program back to the State General Fund. This is a resource available that could be used to pay lawyers to handle these mediations. It just needs to be coordinated.
- Judge Walker stated that his district has a successful child dependency mediation program for minor guardianship cases. Minor guardianships in many cases are simply child welfare cases without social services.
- Judge Sturman advised there is a subset of the ADR Bar in Clark County that is trying to get a mediation program off the ground. Perhaps a module could be inserted into the training program for guardianship cases.
- Justice Hardesty advised that it starts with a rule out of this Commission and the Supreme Court.
- Shelly Register suggested that the mediation criteria include a sufficient amount of time before the actual mediation meeting to give the attorney time to negotiate.
- Dania Reid pointed out that mandatory mediation will not work in procedural, statutory, or jurisdictional issues. The rules need to include an exemption for these types of issues.
- Justice Hardesty explained that within the Supreme Court Settlement Program there are exception guidelines established for cases the Court knows cannot be resolved. A couple of examples would be, if the subject of the appeal requires the governmental defendant to pay

more than the statutory cap, or a medical malpractice case where there's an issue about physician consent. A procedure is set up for the settlement judge to conduct a meet and confer with the parties within two days of their appointment to discuss the threshold question, are there constraints on the parties that can't be controlled that prevent this from being mediated? If yes, the settlement conference judge reports that to the Supreme Court and the case is immediately bumped out of the program and briefing begins.

- Judge Walker stated that mediation has a value to the protected person quite apart from the process. For example, the judge may require mediation for the parties to work toward the least restrictive plan, which the parties don't always agree about. But the protected person sees value at having their voice heard at the mediation and having a forum where they can offer their point of view. This has been profoundly beneficial and the rate of agreement has consistently gone up. He would suggest an opt-out if someone has an IQ of 50 and a functional capacity that is not much different than that.
- Justice Hardesty stated that one of the most rewarding things he did as a district court judge was conduct settlement conferences. He said that you settle about 90% of your cases while providing a vehicle for people to express their views.
- Judge Sturman stated that one type of case where mediation will not work is a criminal investigation into allegations of abuse. The Court has no control over that and they should probably be exempted from mediation.
- Senator Harris stated that during the last Legislative session there was a restorative justice piece to one of her bills built around a mediation model. If the Commission is interested in having a discussion about it, she may try to bring the bill up again for the next Legislative session.
- Homa Woodrum stated that when she worked in Clark County representing the Public Guardian's office, they were able to use settlement conferences in criminal cases as a tool toward recovery actions. They would make an offer to the defendant that if they agreed to pay back all the money they had taken, the charges would be dropped. A payment plan would be agreed upon and those family members were able to go on having a relationship with their parents.
- Lynn Hughes suggested putting a procedure in place for pre-petition mediation. The parties can sit down with a settlement judge, discuss the issues, and come up with a solution. He also stated that during mediation you can come up with practical solutions that are not always easy to get in a courtroom.
- Elizabeth Brickfield expressed some concerns with mediation. Before the parties sit down you need to make sure that there is enough information available for everyone to meaningfully participate in the mediation. You also need to be aware of the cultural background of the family that's coming in and have the ability to communicate with them in their own language through interpreters. Court interpreters are usually there for only a limited time while the parties are in the courtroom. There isn't time then to talk and do an investigation. Southern Nevada is becoming a more diverse society which needs to be addressed.
- Lynn Hughes pointed out that training mediators is very important. He has been involved in mediations with family law attorneys acting as mediators who don't understand guardianship law. He also pointed out that a timeline for the mediation process needs to be put in place so the parties don't use the process to just run up bills, especially in cases that are not going to settle.

- Justice Hardesty stated that the Supreme Court Settlement Program has a deadline built into it. He then asked Mary Bryant and Lynda Hascheff to give their thoughts as non-lawyers.
- Mary Bryant stated that she likes the idea of pre-petition mediation. She represents people with disabilities and said that even people with low IQs can tell you if they like someone or are afraid of them. It is important for them to have some place where they can talk freely and answer questions.
- Lynda Hascheff agreed.
- Jim Berchtold stated that he also likes the idea of mediation for recovery actions. Mediation can be a valuable tool for cases where the potential protected person is adamant that they do not need a guardian and their families are just as adamant they do. If you can get the parties to sit down and discuss the issues, mom and dad may realize that they do need help in some areas of their life without a guardianship having to be put in place.
- Jennifer Rains advised that Washoe County has been experiencing a severe spike in involuntary hospitalization cases. These are vulnerable people with acute issues and the default ends up being hospitalization. There ends up being tension with the Public Guardian's office who cannot accept the cases for valid reasons. She suggested that these might be cases that would be better suited for some kind of guardianship.
- Justice Hardesty asked where the guardian comes from in a case like that.
- Jennifer Rains advised that there is no good answer. Sometimes the Senior DAG or NAMS may petition the court. Sometimes the individuals are indigent and may not have any family members, or if they do, there is dysfunction. Sometimes Senior Bridges can petition some of the private hospitals, but this is definitely not a least restrictive placement if the person has dementia or some other physical limitation. This seems to be a pocket of people who are not being captured and are certainly impacting resources.
- Justice Hardesty suggested that rather than defaulting to a mental health system, why not be a little more creative and figure out how to redirect those resources into providing support for private, professional guardians to take on those cases.
- Homa Woodrum advised that Nevada's mental health statutes explicitly exempt dementia. When she received her pro tem training in mental health court, she was told that sometimes they have to do mercy holds on people until a guardianship can be put in place. Homa further stated that everyone recognizes that this is a problem that a bandage has been put on for too long. She is not sure if this is really related to guardianship or if it should be a subcommittee matter.
- Senator Harris stated that the Commission needs to be in a position to identify people who are not being served under the current system and why not. The answers need to be reported to the Legislature so they can understand where the gaps are. It's going to give the Commission and Legislature a vision on how to best utilize precious state resources that make up the budget when they have a conversation about funding, and also look at who is able to be served and who still needs to be served.
- Justice Hardesty stated that this program will be shaped by this Commission and recommended to the court. There are resources available between the Supreme Court Settlement Program as well as the Senior Judge Program, and if the Commission can formulate a set of rules and a program, people can be trained and move forward.

Homework Assignment: Justice Hardesty requested that Judges Sturman, Ochoa, and Walker comment briefly at the next meeting about what work they have been involved in as well as their

local bench-bar committees with respect to local guardianship rules and policy. The materials for this meeting included a lot of work product. At the next meeting, he wants the Commission to begin to take those rules apart and start getting into the nitty gritty of what the statewide rules will be.

Judge Sturman suggested that the Commission may want to think about separate guardianship rules for adults and minors.

Judge Walker pointed out that the materials that his district provided for this meeting included a few proposed local rule changes that were drafted before the 2017 Legislative session.

XI. Status of Guardianship Forms

Homework Assignment: Prior to the next meeting, Justice Hardesty would like Judge Walker to provide Sharon with copies of the forms being used in Washoe County for forwarding to the rest of the Commission. Justice Hardesty wants everyone to then go through all the forms and report back to Sharon any concerns about omissions and forms that should be added, so that it can be discussed at the next meeting. Justice Hardesty would like to finalize the statewide forms subject sooner rather than later, which will benefit the users of the system too.

Below is a summary of the discussion by the Commission members regarding statewide guardianship forms:

- Justice Hardesty referred the Commission to a copy of the Legal Aid Center of Southern Nevada's *Guardianship Community Legal Education Class Attendee Manual* provided with the meeting materials, which includes 80 pages of forms. He said that a lot of work went into those forms and that if the Commission is going to have statewide forms it should work from an existing slate to shorten the work. Justice Hardesty hopes that some of the Commission members will be willing to work on a forms subcommittee.
- Judge Ochoa suggested having something in the forms requiring a doctor to actually meet the proposed protected person instead of just relying on records from a hospital.
- Homa Woodrum talked about an issue that she noticed regarding Douglas County's forms. She said that in their guardianship orders, they include a notice to the DMV about revoking driving privileges of the protected person, which she said she has never seen in Clark County. She was told by Judge Young that it is a rule, but was unable to find anything about it in NRS 159. Homa said that Douglas County also restricts voting and gun rights in their Guardianship orders, which she said Clark County doesn't do either. These are issues that may need to be addressed when working on statewide forms.
- Judge Walker responded that these are statutory findings that are to be considered by the Judge before issuing the Guardianship order. He went on to say that when a judge is considering incompetency, he is supposed to make separate judicial findings about the ability or usefulness of the protected person having or possessing firearms. There is a list of specific findings the judge can make related to each of those constitutional rights.
- Dania Reid said that she has some background on the voting rights issue. She served on a task force two Legislative sessions ago and the presumption is to always leave the protected person's voting rights in place, absent a specific finding.

- Justice Hardesty asked if the cover sheet that is filed at the commencement of a case is the same in all counties.
- Robin Sweet responded that an agreement was made several years ago allowing Washoe and Clark Counties to have separate cover sheets because of additional information that they needed to collect for their case management systems. The remaining judicial districts are all using a different cover sheet.
- Justice Hardesty would like to get a copy of the cover sheets being used in each of the counties. He stated that he wants to set this work effort in a timeline so the Commission knows what it is operating under. The Supreme Court order creating this Commission seeks the Commission's recommendation for statewide rules by January 31, 2018. That is why the Commission should take advantage of the work effort that has already been done on rules and forms so that hopefully by the end of December the Commission will have accomplished pretty much the general statewide rules and forms for recommendation to the Court. Other issues that have been discussed can be deferred to after that deadline is made. In order to achieve this, monthly meetings will need to be held.

XII. Future Meetings Dates/Agenda Items

Justice Hardesty advised that the next agenda will include a couple of the settlement options that were discussed today and other settlement programs in different context so that the Commission can start to shape the type of settlement program that might be set out in rules. These rules will need to include training for a specific number of hours.

Justice Hardesty asked the Commission members to let him know if they would like to add anything to future agendas. The next couple of agendas will be pretty full, but if there are any topics anybody would like to discuss, please raise it.

Below are some issues that were brought up by some of the Commission members:

- Judge Walker stated that Justice Saitta is trying to populate a children's Commission in that and other circumstances in the juvenile justice arena. He and Judges around the state have agreed to sit on each other's benches. It might be useful to do the same thing in the guardianship arena. He said he would love to see what Judge Ochoa and Judge Sturman do in adult and minor guardianship cases. He is sure there are things he can learn.
- Michael Keane stated that one issue for further consideration would be uniform jurisdictional law that provides home state jurisdiction. He said the uniform law provided for an intermediate jurisdiction when the person is in Nevada, but their home is in a different state. Nevada has not adopted that intermediate jurisdiction. It leaves a gap in jurisdiction and he thinks the Commission should take look at that. He said he does not know how the judge can read the Nevada law in uniformity with the uniform law if that intermediate piece isn't there.
- A comment was made that this issue comes up a lot in mental health court. Tourists come in and for whatever reason they have to take medication. Especially in Vegas which gets such a transient population so often that there needs to be something put in place for when somebody is there in the hospital and for whatever reason needs to have a guardianship established.

- Michael Keane said that he has done some research and found some legislative history on it, and the reason for not adopting is that Nevada doesn't want people coming to Vegas on vacation and ending up in a guardianship here. Mr. Keane thinks that is very narrow and short-sighted. It just leaves these people in a jurisdictional black hole.
- Senator Harris asked Mr. Keane to send her the legislative history and she will try to bring that up.
- Mary Bryant thinks another area that needs to be briefly talked about is educating the school districts, medical providers, and families about alternatives to guardianships.
- Justice Hardesty stated that the lawyers here certainly know about the IOLTA program. The Nevada Banker's Association contacted the Supreme Court to raise some concerns about the interest rate that's charged with respect to IOLTA accounts. He and Justice Douglas had a meeting with the Nevada Banker's Association and think they have started a dialog on several issues. Justice Hardesty said that he will be meeting with the representatives of the Banker's Association next week and plans to raise this topic with them. They need to educate their association about what the requirements are and stop having the tail wag the dog. The medical society was very responsive to the effort made to try and resolve some of the conflict in the terminology in the guardianship statute versus their approach to the medicine and he thinks they would be open to those kinds of conversations. The Commission may want to set up some meetings with them and have representatives from the state and Washoe and Clark Counties.
- Justice Hardesty stated that coming up with legislative recommendations is a lesser goal of the Commission. The previous Commission got an awful lot out of the Legislature during this last session, far more than is normally given on a subject. He does not want to foreclose it, but said it is certainly not a high priority. Justice Hardesty hopes that over the next year and a half the Commission will be able to monitor the effect of the changes, and how successful or unsuccessful they are. Especially the appointment of counsel and those kinds of things; and obviously the Legislature is going to want to know how the compliance officer is doing and how effective the office has been. If it is a substantive change, the Commission should at least talk about it. Justice Hardesty said he will prefer to do research before the Commission talks about it and see what information is out there. He said he likes to reach out to the national organizations and do some legislative research so that the Commission will have some background and is not just flying by the seat of its pants.

XIII. Public Comment: There was no public comment from either location.

XIV. Adjournment – The meeting was adjourned at approximately 3:15 p.m.

Supreme Court of Nevada
ADMINISTRATIVE OFFICE OF THE COURTS

ROBIN SWEET
Director and
State Court Administrator



JOHN MCCORMICK
Assistant Court Administrator
Judicial Programs and Services

RICHARD A. STEFANI
Deputy Director
Information Technology

MEETING SUMMARY
PERMANENT GUARDIANSHIP COMMISSION

Summary Prepared by Sharon Coates, PP, CLP

Date and Time of Meeting: November 13, 2017, 9:36 a.m. to 3:04 p.m.

Place of meeting: Videoconference (Carson City, Las Vegas)

Members Present:

Justice James W. Hardesty, chair
Judge Gloria Sturman
Dawna Richert
Shelly Register
Jim Berchtold
Lynn Hughes
John Michaelson
Jennifer Rains
Mary Bryant
Lynda Hascheff

Judge Vincent Ochoa
Homa Woodrum
Karen Kelly
Debra Amens
Elizabeth Brickfield
Michael Keane
Jennifer Salem
Dania Reid
Henry Cavallera

AOC Staff:
Robin Sweet

Supreme Court Staff:
Sharon Coates

Guests:
Judge Frances Doherty, Dept. 12,
Second Judicial District Court
Sabrina Sweet, Case Compliance Specialist,
Second Judicial District Court
Mallory Nelson, Case Compliance Specialist,
Second Judicial District Court
Riley Wilson, Guardianship Compliance
Administrator, Eighth Judicial District Court
Timothy Andrews, Assistant Court
Administrator, Eighth Judicial District Court
Alan Pearson, REO Limited

I. Call to Order

Justice Hardesty called the meeting to order at 9:36 a.m.

- a. Call of Roll and Determination of Quorum: Role was taken, a quorum was present.
- b. Approval of Meeting Summary from October 10, 2017 (for possible action)
The minutes were not available. A draft of the minutes will be circulated prior to and approved at the next meeting.
- c. Opening Remarks

II. Public Comment: There was no public comment from either location.

III. General Discussion - U.S. Senate Bill 178 Elder Abuse Prevention and Prosecution Act signed by President Trump 10/18/17

- a. Overview of the contents of U.S. Senate Bill 178 and of Section 501 of the Act, which discusses amendments to the Elder Justice Act of 2009 and places new responsibilities on the highest courts of each state

b. Presentation by Robin Sweet:

Robin Sweet gave an overview of the new statute, a copy of which was included in the agenda materials:

- Effective October 18, 2017. Official title is the Elder Abuse Prevention and Prosecution Act, which amended the Elder Justice Act of 2009, which amended the Social Security Act.
- Appears to provide a potential resource from the U.S. Attorney's office and possibly support for the Supreme Court to access for purposes of training and development or expansion of best practices.
- Many of the requirements have a one-year deadline for the Department of Justice to act upon, without any additional funding provided.
- The Department of Justice will support federal cases involving elder abuse and justice issues.
- Each federal judicial district must appoint an Assistant U.S. Attorney as an Elder Justice Coordinator. Part of their duties will include statistical gathering.
- The DOJ and the Federal Trade Commission have to publish best practices for data collection online and provide technical assistance to state and local tribes in adopting these best practices.
- Technical assistance from a federal agency entails sending somebody in to review procedures and advise how to implement the changes. There are no funds provided to implement the changes.
- Additional DOJ activities include providing training and technical assistance to state and local governments regarding neglect and exploitation of elders.
- The DOJ must publish a model power of attorney, best practices for improving guardianship proceedings, and model legislation relating to guardianship proceedings.
- The Elder Justice Coordinators must report to Congress on the nature and amount of funding used from the Victims of Crime Act for elder victims of crime and when it collaborates with states on investigations and prosecution of interstate and international crimes.

- The federal criminal code has been expanded to prohibit telemarketing and email marketing fraud that induces investment in financial projects, business opportunities, or commitments to loans.
- State Departments of Health and Human Services must work with the DOJ by providing statistical data on elder abuse cases investigated by adult protective services.
- Submit legislative proposals to facilitate the interstate agreements and compacts in consultation with the State Justice Institutes and others.
- Section 501 is specific to the court-appointed guardianship oversight activities under the Elder Justice Act of 2009, and basically amends the block grant for social services from the Department of Health and Human Services to allow demonstration programs to assess the fairness, effectiveness, timeliness, safety, and integrity and accessibility of guardianship and conservatorship proceedings, background checks for potential guardians, changing systems, implementing systems, technology to enable an annual accounting and other required filings to be completed, filed, and reviewed electronically, to help detect fraud. (no additional funding)
- Any grants have been transferred to the highest court in each state. Grant applications must be coordinated with the state agencies on Aging and Adult Protective Services.

Justice Hardesty asked if there were any questions about the federal statute or issues they may have heard about in relationship to this statute.

Discussion was held regarding addressing the mandated background check requirements with the Legislature in the 2019 session.

- Justice Hardesty thinks there is a disconnect between that objective and the practicality of doing it, which was demonstrated in Nevada's initiative regarding gun control. Access to the Nevada Criminal History Repository is restricted and the FBI has no resources to help states do these kinds of things. One has to be a little careful about requiring these kinds of background checks as a condition to appointment. Justice Hardesty asked if anybody currently initiates or orders background checks in this context.
- Dania Reid relayed that as a Deputy District Attorney, she is able to access the criminal history of proposed protected persons in order to determine what the risks might be from placing individuals who have certain types of criminal records. It turns out that even though there is a statute allowing the Public Guardian access to criminal history, the FBI will not allow access by her office for a civil purpose. She thinks that a general background check of any and all guardians is a high bar to try and get cooperation from the FBI.
- Shelly Register advised that private professional guardians are already mandated under state statute to be background checked as part of the licensing process.

Judge Ochoa asked what the procedure would be to obtain a grant through the Supreme Court to which Robin Sweet responded that AOC will watch for the grant opening announcement and share it with the Commission members so they can decide what options might be pursued.

Homework Assignment: Justice Hardesty asked Robin Sweet to reach out to the U.S. Attorney's office and the court administrators in the U.S. District Court to find out the name of the Elder Justice Coordinator designee for Nevada. It is his intent to invite that individual to attend these Commission meetings so that the Commission can start federal/state communication as quickly as possible. The designee is supposed to be named within 60 days from the 10/18/17 effective date. Justice Hardesty also asked Robin to monitor the grant process.

Justice Hardesty discussed some of the other deadlines. He said he is not sure how they are going to accomplish this with one staff member and no money, but in addition to the best practices report to the Congress, they are also required to provide a huge amount of statistical data to Congress within 18 months. He doesn't see how that's even possible without the collaboration of the various state court administrators. With what this Commission is doing now, it might be possible to get way out in front of this based upon its work in outcome measurements, rules, and forms, which could be a contributor to best practices for the rest of the country.

Justice Hardesty also mentioned a lawsuit that was filed by the U.S. Attorney's office against the state of Michigan over its guardianship practices. The suit is based in part on the authority of the statutes. A copy of the suit will be provided to all Commission members.

IV. General Discussion - Supported Decision-Making

a. Presentation by Judge Frances Doherty

Justice Hardesty introduced Judge Frances Doherty who gave a presentation on Supported Decision-Making (SDM). The highlights are listed below:

- On behalf of the Second Judicial District Court, Judge Doherty applied for and received a \$4,000 grant from the National Resource Center for Supported Decision-Making. <http://www.supporteddecisionmaking.org/>. This program awards grants for state-based projects that increase awareness of and access to supported decision-making by adults with intellectual and developmental disabilities (I/DD) The Second Judicial District Court is one of six jurisdictions in the country to receive the grant.
- The court's adult guardianship website has information on SDM at <https://www.washoecourts.com/index.cfm?page=adultguardianship>. There is also a *Practical Tool for Lawyers* booklet on the website that takes a lawyer step by step through the ethical obligations in working with families and their legal obligations as well as sample SDM agreements.
- In August, the ABA came up with a resolution that indicates that SDM must be considered a less restrictive alternative before guardianship is imposed. SDM must be considered as a valid ground for terminating a guardianship and restoring rights.¹

¹ https://www.washoecourts.com/adult_guardianship/PDF/ABA%20PRACTICAL%20Tool%20for%20Lawyers.pdf

- The National Guardianship Association says that alternatives to guardianship, including SDM, should always be identified and considered whenever possible before a guardianship is initiated.
- Judge Doherty has made presentations to each of the rural district courts and communities to educate them about SDM and get their input.
- SDM is a least restrictive alternative to guardianship of adults with I/DD who are independent in some areas of life and require assistance in others. SDM Agreements help a person with I/DD to make life choices regarding housing, healthcare, education, employment, social supports, etc. Used appropriately, this model supports and assists adults with I/DD without the need for a court-appointed guardian.²
- Judge Doherty said that one of the great ideas that the legislation and the Commission promoted was that Nevada come up with a new definition for incapacity. The term incompetency has been eliminated and replaced with the more dignified word, incapacity. That term is promoted nationally.
- Judge Doherty recently attended a national conference on SDM and Nevada was mentioned in the materials as one of the top four states to implement progressive guardianship legislation.
- The person who might be supported has to be able to communicate within the realm of understanding of the person who is supporting them. The supported person must be able to form a trusting relationship and be able to convey their wishes. If they can't do those things, SDM is not an arena that may assist that person.
- Recent research determined that persons who are involved in their own self-determination decisions have better overall physical health, are more likely to be employed and well connected to their community, and are better able to recognize signs of abuse. Persons who lose their ability to control their self-determination through guardianship have symptoms of depression, passivity, and institutionalized thinking, which everyone is all familiar with in the skilled-nursing environment.
- *Ross v. Hatch*, Case No. CWF120000 426-DP, Virginia Circuit Court of the City of Newport News is the most famous SDM case. Jenny Hatch, who has Down syndrome, successfully petitioned the court to have her guardianship terminated. She can now make decisions for herself using SDM.
- SDM has made it all the way to the United Nations, which passed the first major human rights treaty of this century, called The Convention on the Rights of Persons with Disabilities (CRPD). Between 2006 and 2009, 140 countries, including the United States voted to support the convention.³
- Homa Woodrum pointed out that the 2015 Nevada Legislative session created a healthcare power of attorney for individuals that might have an intellectual disability. A link to the document can be found on the Second's website.
- Judge Doherty advised that they are sponsoring an SDM event in Las Vegas on November 28. One of the guest speakers will be Jonathan Martinis, Esq., who was

² From Second Judicial District Court's guardianship website, information regarding the grant that it received. https://www.washoecourts.com/adult_guardianship/PDF/PR%2016-183%20Grant%20for%20adults%20with%20disabilities.pdf

³ See: <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

Jenny Hatch's attorney. The materials for the event can be found on the Second's website.

- Justice Hardesty suggested that the Commission may want to consider a statewide rule requiring that SDM or other alternatives to guardianship must be considered before a Judge can rule on a petition for guardianship.
- Mary Bryant expressed her concern that SDM may not be accepted by the medical profession when a person with an SDM in place must go into the hospital. Judge Doherty advised that they have included HIPAA and FERPA language into the sample SDM agreements. Some attorneys nationwide are folding SDM language into POAs as a way to get things effectuated very quickly.
- The role of the judiciary is critical in all guardianship cases by asking what alternatives have been tried or discussed, either at the beginning of the petition process or during the annual review hearing. The judiciary also has to be receptive to the concept of restoration of rights.
- Justice Hardesty expressed his concern on who is the lawyer's client in SDM context. Do they represent the protected person or are they representing the parent? What is the role of the lawyer in this situation and should for example, the state bar and the Supreme Court consider modifications to the rules of professional conduct that allow lawyers to make contributions without putting them in an absolute conflict situation. Judge Doherty advised that the lawyer's client is clearly the person with disabilities.

V. General Discussion - Case Load Statistics from Rural Courts

- a. Homework Assignment from 10/10/17 meeting: Review various materials provided in the 10/10/17 meeting packet, and prepare a list of what you perceive to be appropriate outcome measurements that we should be operating under. Responses provided:
 - i. Jim Berchtold (10/30/17 email)
 - ii. Mary Bryant (10/23/17 email)
 - iii. Karen Kelly (11/6 email)
 - iv. Dania Reid (11/3/ email)
 - v. Debra Amens (11/6/ email)
 - vi. Elizabeth Brickfield (11/6 email)
 - vii. Jennifer Salem (11/6 email)
 - viii. Homa Woodrum (11/6 email)
- b. Report from Compliance Officers and/or IT departments of Second and Eighth Judicial District Courts on existing program limitations. **(Presentation by Sabrina Sweet, Mallory Nelson, and Riley Wilson)**

The highlights of the presentation are below:

- The task was to review and compare the compliance reports and statistics that are currently gathered in each district and determine what is available to gather through each case management system.
- A grid was prepared, a copy of which is provided with the meeting materials under agenda item V(b).
- Page 43 of the meeting materials is a grid titled "Guardianship Compliance." Each document is required per statute at either the start of a case or annually. Second

and Eighth Judicial District Courts are both tracking this information and able to pull statistics.

- Second uses a Milestone tracker. The IT department developed a report that can be run at will that shows which cases are or are not in compliance. The court can then go through each non-compliant case and develop documents through the system to send to the guardians.
- Page 44 of the meeting materials is a list of guardianship statistics that are collected in both the Second (SJDC) and the Eighth (EJDC).
- The statistics reports in the Second also have defined outcome measures at the top of each report. The Second is able to collect information on the status of the pending guardianship cases, types of guardianships ordered, average time to disposition, timeliness of hearings, alternative dispute resolution, etc. All of those outcome measurements and statistics are based on recommendations from the National Probate Court Standards as well as USJR definitions.
- It is recommended that the Second continue collecting this information as well as any other outcome measurements the Commission determines necessary.
- The Second and Eighth have different computer systems, but are both capable of generating the same or similar data.
- Justice Hardesty asked if they had an opportunity to compare some of the suggested outcome measurements included in the eight or so emails that were received for the Commission meeting today.
- Mallory Nelson responded that they did address some of the suggested outcome measures, including times to disposition, breakdown of counsel assignment, things of that nature. Many of those suggested measurements can be tracked by the Second.
- In terms of existing program limitations, the current case system and the Milestone program in the Second are heavily reliant upon the docket codes and correct hearing codes being entered to generate the data.
- Sabrina advised that she and Mallory have both spent a significant amount of time on guardianship cases over the last two years going through each case to insure that docket codes, order codes, and party codes are entered correctly. Riley Wilson, from the Eighth, agreed that a large portion of his time is spent on this as well.
- Riley Wilson advised that the capabilities of both systems are very similar and code driven. Training is important for the judges, attorneys who file cases, and their staff in order to have more accurate reports and statistics.
- At this time, it is unknown what capabilities the rural courts have to provide this statistical data. They have a variety of systems and the different IT departments may struggle to provide these statistics and outcome measurements, depending on the resources they have.
- **Homework:** Justice Hardesty advised it would be of assistance to the Commission if Sabrina, Mallory, and Riley could provide an update at the next meeting which identifies in each of their respective reports what information each district is collecting that the other is not and supplement it with some of the suggested outcome measurements of the Commission members.
- **Follow-up item:** In response to a question from one of the Clark County Commission members, Sabrina advised that the Second's Milestone tracker is

available on the court's website. Parties to the individual cases can log into the system by case number to review the court file, which shows when the petition and all other documents were filed in the case. It also shows when the annual reports or any other court mandated documents are due in the case. Sabrina said that their IT department spent quite a bit of time developing that program and if the Eighth would like to reach out to Second as far as seeing if they can mimic something similar, that may be helpful and save some time. Riley will discuss this further with Sabrina and Mallory and also reach out to their respective IT departments and make every effort to provide that in the Eighth. They will provide a supplemental report on that along with any other areas where there are differences being reported in the two districts and see how those can be reconciled.

- Shelly Register commented that from a user standpoint, the Milestone tracker is very user friendly. It gives you the number of days that you have to get something filed. The most difficult thing is to make sure that you have the correct case number.
- Shelly asked if the court documents are available to look at online to which she was told yes. She then stated that sometimes when she talks to people who have gone through the pro per process and she is trying to help them sort through what they are supposed to be doing they say, "oh yeah, it's somewhere in all that paperwork I have." If they can get that information online that would be very helpful.
- Robin Sweet informed the Commission that with regard to the rural districts, there are a couple, like Carson City, that have an AOC sponsored case management system that could probably provide some of this data.
- Most of the rural district courts have a very old case management system that is being phased out. The courts have been given notice that it will no longer be supported as of 2018 or 2019. AOC has given presentations to those rural district courts about a new AOC sponsored system. Any outcome measurements that the Commission decides on could be built into the new system so that the district courts who go with it will be able to provide those outcome measurements. Some of the courts have already decided to go with a different system. The Commission would have to let them know what measurements are wanted and have them work with their vendors in order to capture that data.
- Homa Woodrum made the following suggestions for outcome measurements:
 - Cases dismissed and the reasons why, i.e. insufficiency of a petition, physician's certificate never obtained, and proposed guardian had a felony related to financial management. Depending on the reason for dismissal, this could be a red flag of possible abuse.
 - Confirmation that the Acknowledgement has been filed.
 - Confirmation the Protected Person Bill of Rights was provided.
 - Confirmation counsel has been appointed and their name.
 - Confirmation that the parties participated in mediation.
- Justice Hardesty made the following observation and suggestion. The outcome measurements as well as other aspects of the Commission's work is something that is going to have to be phased in. The Commission can't expect to have a Cadillac operation immediately. There are lots of challenges to the IT departments in the Second and the Eighth and they are doing extraordinary work. Justice Hardesty said

he is so impressed by what this Commission is seeing versus what the previous Commission saw. It is astounding how much progress has been made in those districts. Justice Hardesty's objective for the initial report to the Supreme Court is for the Commission to recommend the most reasonable, doable measurements today that would be expected statewide and how to get there. What is critical is to give the Judges and the public the best information that can be reasonably captured within the existing systems and then work forward to determine how other measurements can be identified.

A discussion was held regarding the suggestions made in each of the emails listed in agenda item V(a). The Commission members were given the opportunity to supplement their suggestions and advise whether or not their suggestions were covered in the reports received from the Second and the Eighth. (See pages 23-38 of the agenda materials for the emails)

- Jim Berchtold advised that he did not have anything to add other than what was in his email. From Legal Aid's perspective, tracking appointment of counsel and how many pending cases do or do not have counsel. He said that most of those statistics are included in the report from the Second.
- In response to a question from Justice Hardesty, Mallory Nelson stated that under their case management protocol, they do capture court appointed attorneys and legal aid attorneys, which are coded differently than private attorney cases. They can accurately pull the number of counsel appointments. They do currently track sizes of the estate, summary, and non-summary, but not necessarily in conjunction to the protected person's representation by either legal aid or private counsel.
- **Follow-up item:** In response to the same question Riley Wilson advised they may be able to track the appointment of counsel from the filing of the orders appointing attorney, but he would have to work with the IT department to refine that. A code would have to be created to split between the appointment of private and the legal aid attorneys. He also indicated that since everything is so code driven, there may need to be a reconciliation of codes across the state so that when documents are filed in different districts the proper code is used so that the statistics are accurate.
- **Homework.** Second and Eighth need to compare the existing codes used in both courts and identify the differences.
- Karen Kelly asked about the possibility of tracking guardians that are removed for exploitation of the protected persons to determine if there is a decline or if it is still a problem.
- Elizabeth Brickfield asked about tracking the number of foreign guardians (outside the state of Nevada), and the number of contested guardianship petitions.
- Judge Doherty suggested tracking actions filed under the Protected Person Bill of Rights. It would be beneficial to know if any have been filed and possibly the outcome. John Michaelson suggested that a hotline may be a good way of tracking these.

The Commission broke for lunch at 12:30 p.m. and reconvened at 1:06 p.m.

VI. General Discussion – Commission Recommendations for the Adoption of State-Wide Rules

- a. Review Administrative Docket 507, August 2, 2017, Order Specifying Areas for Statewide Rules-There were nine recommendations from the previous commission of rules to be set in place by the permanent commission. Please see page two of the order.
- b. Presentation by Judge Gloria Sturman, Judge Vincent Ochoa, and Judge Egan Walker on their bench-bars' efforts on local guardianship rules (**presentation by Judge Gloria Sturman and Homa Woodrum**) (**Discussion by Judge Frances Doherty**)
 - i. Email from Judge Frances Doherty
 - ii. Email from John Michaelson

Judge Sturman began the presentation for the Eighth Judicial District Court by stating that she would talk about the history and what they are doing at the present time and that Homa Woodrum will talk about the set of rules that were previously submitted. See pages 195-249 of the meeting materials. Below are the highlights of their presentation:

- Judge Steel began the effort to update the local guardianship rules. The original thought was to make some of the changes as local rules through the rules committee and then submit them as an ADKT to the Supreme Court.
- Due to some problems with number correlation and the new proposal with existing rule numbers, it didn't work out, so a different set of rules are currently in place.
- The decision was made to delay a new set of local rules until after the statewide guardianship rules are established in order to correlate them properly.
- The materials, pages 195-249, are a snapshot of what the rules looked like and the discussion on potential changes.
- The committee looked at guardianships in a chronological format with the goal to make the guardianship process more accessible for those filing in proper person.
- The potential changes included definitions for terms that were not explained in NRS 159 and pointing out inconsistencies in the statutes.
- Temporary Guardianships were addressed extensively.
- Sale of real property, which can be difficult, was addressed.
- Some of the proposed changes might be better suited for a procedure manual.

Justice Hardesty stated that statewide rules will eliminate the use of district specific rules that create confusion. Statewide rules will be used in every district to marshal and administer guardianship proceedings. He invited comment from the Commission members about what they think conceptually the rules should consist of. Some of the suggestions that were made are set forth below:

- Process of service.
- Clarification about changing the residency or location of the protected person.
- Rules that are clear, concise, and apply in every courtroom throughout the state.
- Care plans and budgets setting out the minimum requirements that apply in every courtroom throughout the state.
- Final accountings be filed at the end of a temporary guardianship.
- Court appointed counsel file a report prior to the first hearing.
- Notice of acceptance of counsel filed prior to first hearing.
- Rules that clear up the confusion on the differences between a Guardian ad litem and attorneys.

- Requirement that the amount of requested fees be put in the notice of hearing on the petition for fees.
- Requirement that the notice of hearing include a copy of the moving document.
- Requirement that the petition be verified.
- Requirement that an investigator be appointed in minor guardianship cases and that the current loopholes in the various statutes that make this procedure difficult be eliminated.

During discussion, an issue came up that the Eighth Judicial District Court is currently having a problem assigning attorneys in every guardianship petition as Legal Services is in the process of trying to hire more attorneys. Justice Hardesty will schedule a meeting with the Clark County judges and Legal Services to discuss this problem. He indicated that with the money that is now coming in from the additional recording fees, there are funds available to pay for attorneys outside the Legal Aid program.

c. Court Guardianship Rules for Second, Eighth, and Ninth Judicial Districts

d. Appointment of Rules Subcommittee

A rules subcommittee was formed with Co-Chairs Dania Reid and John Michaelson. The rest of the subcommittee consists of Homa Woodrum, Lynn Hughes, and Michael Keane. Justice Hardesty asked that Mr. Michaelson and Ms. Reid be cognizant of the fact that since the statute is now separated between adult and minor it may also be necessary have separate rules. It's something to think about. Justice Hardesty stated that his objective is to try to have a working draft by the middle of January. This would enable the Commission to provide a tentative report to the Supreme Court, as required, by the end of January.

VII. General Discussion – Creation of Statewide Guardianship Forms

Justice Hardesty advised that Ms. Buckley from the Legal Aid Center of Southern Nevada has offered the assistance of Stephanie McDonald, from their office, to help the Commission with revising and reconciling the various forms that are set out. Jim Berchtold added that Stephanie is the directing attorney at the Family Law Self-Help Center. Ms. McDonald wrote the guardianship manual and created the forms that are on the self-help website, all of which are included with the materials today. Justice Hardesty pointed out the plethora of forms from the Second, the Legal Aid Center of Southern Nevada, and so forth. His concern about the forms issue is that the Commission is going to get a lot of different forms that are going to create total confusion throughout the state. Getting the forms reconciled is going to be very critical. The Supreme Court is expecting uniformity in statewide rules as well as forms.

a. Appointment of Forms Subcommittee

A Forms Subcommittee was formed with Chair Jim Berchtold. The rest of the subcommittee consists of Sabrina Sweet, Homa Woodrum, Michael Keane, Emily Reed from the Second Judicial District Court, and Stephanie McDonald. Justice Hardesty is going to extend an invitation to Judge Young from the 9th Judicial District Court and Judge Porter from the 4th Judicial District Court to join both subcommittees. Justice Hardesty stated that some forms will be common for both adult and minor guardianships, but obviously some will be different. There should be a set of minor guardianship forms to the extent that the statute calls for a different way to handle that process. For examples, forms appointing investigators might be something that would only be in the minor guardianship arena.

b. Existing District Court Guardianship Forms from Second and Eighth Judicial Districts

- c. Review forms previously provided with Legal Aid Center of Southern Nevada's Legal Education Class Attendee Manual (item number XI, pp. 206-247 of 10/10/17 packet)
- d. Homework Assignment from 10/10/17 meeting: Look through the forms manual listed in item c above, and come up with a list of forms to be added. Responses provided:
 - i. Jim Berchtold (10/30/17 email)
 - ii. Mary Bryant (10/23/17 email see V(a)(ii) above)
 - iii. Robin Sweet (10/20/17 email)
 - iv. Karen Kelly (11/6 email see V(a)(iii) above)
 - v. Elizabeth Brickfield (11/6 email see V(a)(vi) above)
 - vi. Jennifer Salem (11/6 email see V(a)(vii) above)
 - vii. Homa Woodrum (11/6 email)

VIII. General Discussion – Mandatory Mediation Program

- a. Nevada Supreme Court Settlement Program overview (**presentation by Shaunna Troop and Harriet Cummings**)

A copy of the PowerPoint presentation can be found at <https://nvcourts.gov/AOC/Templates/documents.aspx?folderID=19668> and choosing the November 13, 2017, supplemental meeting materials. Guardianship cases have the highest rate of settlement in the Nevada Supreme Court's Settlement Program at 69%. The highlights of questions asked and comments made after the presentation are as follows:

- A question was asked about how the fees and costs are assessed. Harriett Cummings stated that the settlement judges are paid \$100 an hour up to a maximum of ten hours, which is paid by the Supreme Court.
 - Justice Hardesty explained that the funds for the fees is in the Court's budget. He would like to explore modifying the settlement program to see if there is a way to incorporate the structure for mandatory statewide mediation for contested guardianship cases. The mediators would need additional training beyond what they currently have. The whole state would benefit from a statewide system that is equipped to be able to handle those cases and mitigate the impact on district courts.
 - Judge Doherty stated that they have a two-day training session for mediators in addition to the 40 hour training through the University. After mediation is ordered, counsel and parties pick from a list of mediators. They mediate the fee and the parties are informed as well as the other family members that it isn't free. The estate will not necessarily bear the entire cost. If it is a low income case, they go to the no-cost neighborhood mediation center.
 - Judge Sturman said that they use senior judges for mediation in adult guardianship cases. Judge Ochoa uses the family mediation system for minor guardianship cases.
 - Justice Hardesty wants to have a conference call with the judges involved in the guardianship process, including Judges Young and Porter to see what can be done to build a mediation structure that would be accommodating to the rural counties as well as the two larger district courts.
- b. Existing Programs or Approaches in District Courts and Supreme Court Settlement Program-NRAP 16

IX. General Discussion – Newly Created State Compliance Office

- a. State Guardianship Compliance Program Manager job posting closes 11/17/17

- b. Suggestions and Comments From Commission Members For Creation of Job Description of Accountant and State Investigators for State Compliance Officer
- X. Future Meeting Dates/Agenda Items (for possible action)
- XI. Public Comment: There was no public comment from either location
- XII. Adjournment

DRAFT

AGENDA ITEM III (a)
Presentation by Kate McCloskey
Guardianship Compliance Manager

AGENDA ITEM IV (a)
Update from 2nd and 8th
Judicial District Courts'
Compliance Officers

Guardianship Outcome
Measurements Report

IV (a)(vi)

3/15/18 Email from Sabrina Sweet

GUARDIANSHIP OUTCOME MEASUREMENTS REPORT

TO: SUPREME COURT OF NEVADA
PERMANENT GUARDIANSHIP COMMISSION

FROM: MALLORY NELSON
SABRINA SWEET
RILEY WILSON

SUBJECT: GUARDIANSHIP OUTCOME MEASUREMENT REPORT

DATE: JANUARY 11, 2018

The Nevada Supreme Court Permanent Guardianship Commission (Commission) directed a review of the outcome measurements currently in place and outcome measurements proposed by Commission members, both in person at the November 13, 2017 Commission meeting, and in prior written communication. Additionally, the Commission requested the statistics reported by both the Second and Eighth Judicial Districts be as unified as possible. A review of the outcome measures follows herein. It is anticipated that each district's reports will match going forward.

The Outcome Measurements were identified as described above. All suggestions for new Outcome Measurements were evaluated. Duplicative requests of Outcome Measurements were combined in the report.

The information required by the Nevada Revised Statutes (as amended in 2017 legislative session) and recommended by the National Probate Court Standards receive priority in statistical reporting and tracking. All other outcomes remain subject to the Commission's decision. Any data which is available can also be reported if the Commission decides this is necessary.

Each suggested Outcome Measurement is listed in a numbered row in the matrix below. The numbered left column is a proposed performance measure or statistic.

- Items 1 – 26 list statistics reported based on requirements of the Nevada Revised Statute, the National Probate Court Standards, ADKT or Uniform System for Judicial Records.
- Items 27 – 73 list new suggestions from Commission members, organized by category.

The four middle columns are the status of data collection and reporting in the Eighth and Second Judicial Districts. The right “Comments” column includes:

- Notes on items of interest
- Information regarding how to complete or track the requests by commission members
- Recommendations to the Commission
- Decisions which need to be made by the Commission

DEFINITIONS

Tracking: Describes data piece that currently is captured by the case management system for statistical or compliance purposes.

Reporting: Describes a data piece that is tracked for statistical or compliance purposes, and is reflected in regularly generated reports.

Work in Progress: Describes data piece that can be captured by the case management system, and current efforts are underway to track and report data.

Data Available: Describes data piece that currently can be captured by the case management system but can be tracked or reported upon if required by the commission.

Limited Data Available: Describes data piece that may be currently captured by the case management system but must be retroactively applied to existing cases, e.g. resident agent reporting requirements. It also represents information that may need to be entered in manually as it is not extractable by the case management systems. This information can be tracked or reported upon if required by the commission.

Data Not Available: Describes data piece that is not extractable by the case management system.

Not Trackable: Describes data piece that cannot be tracked, even if extractable, e.g. remedies sought under Bill of Rights or other compliance components because the data piece largely depends upon self-reporting.

COMPLIANCE REQUIRED PER NRS	EJDC ADULT	EJDC MINOR	SJDC ADULT	SJDC MINOR	COMMENTS
1. Petition for Guardianship	Tracking & Reporting	Tracking & Reporting	Tracking & Reporting	Tracking & Reporting	Data available through docket code
2. Required Information Sheet	Tracking & Reporting	Tracking & Reporting	Tracking & Reporting	Tracking & Reporting	Data available through docket code
3. Order Appointing Counsel	Data available	Data available	Tracking & Reporting	Tracking & Reporting	Data available through docket code
4. Order Appointing Guardian	Tracking & Reporting	Tracking & Reporting	Tracking & Reporting	Tracking & Reporting	Data available through docket code
5. Acknowledgment of Duties	Tracking & Reporting	Tracking & Reporting	Tracking & Reporting	Tracking & Reporting	Data available through docket code
6. Letters of Guardianship	Tracking & Reporting	Tracking & Reporting	Tracking & Reporting	Tracking & Reporting	Data available through docket code
7. Notice of Firearms Restriction	Tracking	N/A	Tracking & Reporting	N/A	Data available through docket code
8. Inventory ¹	Tracking & Reporting	Tracking & Reporting	Tracking & Reporting	Tracking & Reporting	Data available through docket code Best practice to file within 90 days 100% of the time.
9. Certificate of Guardian Class	Work in Progress	Work in Progress	Tracking & Reporting	Tracking & Reporting	Data available through docket code ²
10. Annual Report of Guardian	Tracking & Reporting	Tracking & Reporting	Tracking & Reporting	Tracking & Reporting	Data available through docket code
11. Annual Accounting	Tracking & Reporting	Tracking & Reporting	Tracking & Reporting	Tracking & Reporting	Data available through docket code

¹ NRS 159.085(1) requires a guardian of the estate to file an inventory within 60 days of appointment specifying all property belonging to the protected person that comes into the guardian's possession or knowledge. Goal to have 100% Inventory filed w/in 90 days

² AB319.Sec. 44. As a condition of the appointment of a guardian, the court may require the guardian to complete any available training concerning guardianships that the court determines appropriate. NRS 159.0592. Court may require guardian to complete training. As a condition of the appointment of a guardian, the court may require the guardian to complete any available training concerning guardianships that the court determines appropriate.

COMPLIANCE REQUIRED PER NRS	EJDC ADULT	EJDC MINOR	SJDC ADULT	SJDC MINOR	COMMENTS
12. Care plan	Can be tracked as of 1/1/18	Can be tracked as of 1/1/18	Work in Progress	Work in Progress	Tracking prospectively for guardians appointed after 1/1/18 in EJDC. SJDC will be able to track upon designation of a separate docket code. Data available through docket code. NRS Chapter 159, as amended by AB130 sec. 2, provides for the Court's discretion to order the proposed guardian to file a care plan or budget. Best practice to file within 90 days 100% of the time.
13. Budget	Can be tracked as of 1/1/18	Can be tracked as of 1/1/18	Work in Progress	Work in Progress	Tracking prospectively for guardians appointed after 1/1/18. Data available through docket code. Need to educate parties on filing as a separate document and create code. NRS Chapter 159, as amended by AB130 sec. 2, provides for the Court's discretion to order the proposed guardian to file a care plan or budget. Best practice to file within 90 days 100% of the time.
14. OSC for review of guardianship at Third Year	Judges and staff review report of the guardian and accountings annually	Judges and staff review report of the guardian and accountings annually	Judges and staff review report of the guardian and accountings annually	Tracking & Reporting	Data available through hearing code ³

³ AB319 Sec. 127. Every guardianship established pursuant to this chapter must be reviewed by the court annually. AB 319 Sec. 210. NRS 616C.505 is hereby amended to read as follows: 11. If a dependent is entitled to receive a death benefit pursuant to this section and is less than 18 years of age or incompetent, the legal representative of the dependent shall petition for a guardian to be appointed for that dependent pursuant to NRS 159.044 [.] or section 25 of this act, as applicable. An insurer shall not pay any compensation in excess of \$3,000, other than burial expenses, to the dependent until a guardian is appointed and legally qualified. Upon receipt of a certified letter of guardianship, the insurer shall make all payments required by this section to the guardian of the dependent until the dependent is emancipated, the guardianship terminates or the dependent reaches the age of 18 years, whichever occurs first, unless paragraph (a) of subsection 12 is applicable. The fees and costs related to the guardianship must be paid from the estate of the dependent. A guardianship established pursuant to this subsection must be administered in accordance with chapter 159 of NRS [,] or sections 2 to 157, inclusive, of this act, as applicable, except that after the first annual review required pursuant to NRS 159.176 [,] or section 127 of this act, as applicable, a court may elect not to review the guardianship annually. The court shall review the guardianship at least once every 3 years.

CASELOAD STATISTICS	EJDC ADULT	EJDC MINOR	SJDC ADULT	SJDC MINOR	COMMENTS
15. Case Status	Pending Active, Pending Active – Temp Order, Disposed/Set for Review, Disposed Final	Pending Active, Pending Active – Temp Order, Disposed/Set for Review, Disposed Final	Pending Active, Pending Active – Temp Order, Disposed/Set for Review, Disposed Final	Pending Active, Pending Active – Temp Order, Disposed/Set for Review, Disposed Final	Unified terminology based on USJR definition (p. 41 USJR Dictionary). Pursuant to ADKT No. 295, the Supreme Court of Nevada ordered statewide adoption and implementation of the Uniform System for Judicial Records (“USJR”). <i>See also</i> NRS 3.243.
16. New Case Filings	Tracking & Reporting	Tracking & Reporting	Tracking & Reporting	Tracking & Reporting	Unified Numbers and Trends.
17. Initial and Annual Documents	Tracking & Reporting	Tracking & Reporting	Tracking & Reporting	Tracking & Reporting	Data available through docket codes. Annual Report, Annual Accounting, Inventory. Budgets and Care Plans are a work in progress; waiting on further instruction.
18. Appointment of Counsel upon Filing of Initial Petition	Tracking & Reporting	Tracking & Reporting	Tracking & Reporting	Tracking & Reporting	Data available in party screen on cases. SJDC does not track privately retained counsel appearing on behalf proposed protected person at the initial hearing. Number appointed over last 12 months
19. Type of Guardianship Ordered	Tracking & Reporting Subtypes and Numbers in each subtype	Tracking & Reporting Subtypes and Numbers in each subtype	Tracking & Reporting Subtypes and Numbers in each subtype	Tracking & Reporting Subtypes and Numbers in each subtype	Unify Subtypes based on NRS 159.0487, NRS 159.0523, and NRS 159.0525. SJDC utilizing subtypes: Estate and Person, Estate, Person, Temp, Temp Extended, Special Guardianship, Ex-Parte Order EJDC utilizing subtypes: Person And Estate, Person And Estate Summary, Estate, Estate Summary, Person, Temporary Person And Estate, Temporary Person And Estate Summary, Temporary Estate, Temporary Estate Summary, Temporary Person, Special Person And Estate, Special Person And Estate Summary, Special Estate, Special Estate Summary, Special Person

CASELOAD STATISTICS	EJDC ADULT	EJDC MINOR	SJDC ADULT	SJDC MINOR	COMMENTS
20. Average Time to Disposition for Pending Active Cases	Tracking & Reporting	Tracking & Reporting	Tracking & Reporting	Tracking & Reporting	Data available through disposition codes. This is mandatory per phase 3 of USJR, which is effective July 2018. Commission Member Recommendation: New uniform performance measures developed and adopted by all jurisdictions regarding age of pending cases, time to disposition and clearance rates.
21. Cases Disposed	Tracking & Reporting First and Final Disposition	Tracking & Reporting First and Final Disposition	Tracking & Reporting First and Final Disposition	Tracking & Reporting First and Final Disposition	Unified dispositions based on USJR definitions (pp. 44 – 46 USJR Dictionary). Commission Member Recommendation: 1) Track causes of dismissal 2) Closures of guardianship 3) Number of cases where guardianship was appointed or denied
22. Timeliness of First Hearing	Tracking & Reporting	Tracking & Reporting	Tracking & Reporting	Tracking & Reporting	Unified numbers and trends. ⁴
23. ADR through Mediation or Settlement Conference	Work in Progress	Work in Progress	Tracking & Reporting	Tracking & Reporting	Data available through hearing codes. Numbers over the last 12 months and outcome of ADR. ⁵ Procedure for using mediation developed in SDJC. Commission Member Recommendation: Procedures developed for mediations in contested guardianship cases.
Demographics 24. Age	Tracking & Reporting	Tracking & Reporting	Tracking & Reporting	Tracking & Reporting	Data available in party screen on cases. Unify necessary demographics.

⁴ NPCS 3.3.8 Hearing. A. Probate courts should promptly set a hearing for the earliest date possible. B. Respondents should be present at the hearing and all other stages of the proceeding unless waived. C. Probate courts should make reasonable accommodations to enable the respondent's attendance and participation at the hearing and all other stages of the proceeding. D. A waiver of a respondent's right to be present should be accepted only upon a showing of good cause. E. The hearing should be conducted in a manner that respects and preserves all of the respondent's rights. F. Probate courts may require the court visitor who prepared a report regarding the respondent to attend the hearing. G. Probate courts should require the proposed guardian or conservator to attend the hearing.

⁵ NPCS 2.2.1 Court Control. Probate courts should actively manage their cases. The court should monitor and control case progress from initiation, establish time expectations for completion of discovery and progress toward initial disposition, make an early appointment of counsel for a respondent when appropriate, use pretrial conferences and ADR to promote early resolution, and set an early date for trial or hearing. Although trials occur in only a small percentage of probate cases, they can consume a great deal of a judge's time. A trial management conference shortly before the scheduled trial date can help ensure effective use of trial time.

CASELOAD STATISTICS	EJDC ADULT	EJDC MINOR	SJDC ADULT	SJDC MINOR	COMMENTS
25. Placement type	Work in Progress	Work in Progress	Tracking & Reporting	Tracking & Reporting	Data Currently not gathered in the EJDC. Need to update the Family Court Coversheet to request demographic information.
26. Type of guardian or relation to PP	Work in Progress	Work in Progress	Tracking & Reporting	Tracking & Reporting	Data Currently not gathered in the EJDC. Need to update the Family Court Coversheet to request demographic information.

Statistical outcomes suggested by various commission members					
CASELOAD STATISTICS	EJDC ADULT	EJDC MINOR	SJDC ADULT	SJDC MINOR	COMMENTS
27. Length of time guardianship in place	Tracked for open guardianships	Tracked for open guardianships	Data available	Data available	Unify manner in which this is tracked, i.e. average of all cases, % of cases open for number of days or years. Is this for current open cases or closed cases?
28. Petitions filed by attorneys	Data available	Data available	Data available	Data available	Data available through petition code and party code, if they are a party to the case. Not available if documents are paper filed.
29. Petitions filed by pro se	Data available	Data available	Data available	Data available	Data available through petition code and party code, if they are a party to the case. Not available if documents are paper filed.
30. Number of cases protected person has private counsel	Limited Data available	Limited Data available	Data available	Data available	Data available through party codes. Systems do not have separate codes for private counsel vs. legal aid in EJDC.
31. Number of cases protected person has legal aid counsel	Limited Data available	Limited Data available	Data available	Data available	Data available through party codes. Systems do not have separate codes for private counsel vs. legal aid in EJDC.
32. Number of cases private counsel initially appointed by court	Limited Data available	Limited Data available	Limited Data available	Limited Data available	Unify definition of "initial" appointment. Data available through party codes. Systems do not have separate codes for private counsel vs. legal aid in EJDC.
33. Percentage of existing protected persons who are appointed attorneys at annual review	Data not available	Data not available	Data not available	Data not available	There is no manner in which to extract the data regarding the time of appointment.

Statistical outcomes suggested by various commission members					
CASELOAD STATISTICS	EJDC ADULT	EJDC MINOR	SJDC ADULT	SJDC MINOR	COMMENTS
34. Appointment of CASA (Order Appointing CASA)	N/A	N/A	N/A	N/A	Pursuant to the Bylaws of the National CASA Association, CASA advocates are specific to abuse and neglect proceedings involving minors. ⁶
35. Physician attendance at hearings	Data not available	Data not available	Data not available	Data not available	This data is only available through review of minutes or orders. This is most appropriate in contested cases.
36. Percentage of existing guardianship cases that are reviewed by the court at least annually	Requires clarification	Requires clarification	Requires clarification	Requires clarification	Does this mean reviewing through the annual reporting or through a review hearing? Currently tracking and reviewing cases via review of the annual reports/accountings.
37. Notice as required by statute, or continuation	Data not available	Data not available	Data not available	Data not available	This data is only available through review of minutes or orders. Notice is reviewed prior to and during hearings. NRS 159.034 and 159.0345.
38. Identification filed prior to appointment ⁷	Data not available	Data not available	Data available	Data available	Data is available through milestone tracking in SJDC. Filing of documents reviewed prior to hearing to appoint guardian.
39. Protected person or proposed protected person attending initial hearing	Data available, but not easily trackable	Data available, but not easily trackable	Data available, but not easily trackable	Data available, but not easily trackable	Applicable law ⁸ This data is only available through review of minutes or orders.

⁶ Bylaws of National Casa Association, Art. 2.1. The purposes for which this Association is organized are [t]o promote and encourage the formation, recruiting, training, development and activities of those programs providing individuals to act as the Court Appointed Special Advocate or Guardian Ad Litem for neglected, abused, deprived, or otherwise dependent children, and to represent the best interests of these children in court proceedings[.]

⁷ NRS 159.044(2)(c) and (h) require the proposed guardian to file a suitable form of identification for himself or herself and the proposed protected person not later than 120 days after appointment. AB319 Sec. 25 requires the proposed guardian to file a suitable form of identification for himself or herself and the proposed protected minor not later than 120 days after appointment.

⁸ AB319 Sec. 38. 1. A proposed protected minor who is found in this State must attend the hearing for the appointment of a guardian unless: (a) A certificate signed by a physician or psychiatrist who is licensed to practice in this State specifically states the condition of the proposed protected minor, the reasons why the proposed protected minor is unable to appear in court and whether the proposed protected minor's attendance at the hearing would be detrimental to the physical or mental health of the proposed protected minor; or (b) A certificate signed by any other person the court finds qualified to execute a certificate states the condition of the proposed protected

Statistical outcomes suggested by various commission members					
CASELOAD STATISTICS	EJDC ADULT	EJDC MINOR	SJDC ADULT	SJDC MINOR	COMMENTS
40. Percentage of multi-person petitions that have been separated into individual cases	Not trackable. We are not currently splitting them	Not trackable. We are not currently splitting them	Not trackable. We are not currently splitting them	Not trackable. We are not currently splitting them	Unify rule. SJDC has grandfathered in multi-person cases prior to 2016, but currently requires a separate petition for each proposed protected person. If cases are separated, new orders and letters will need to be issued with new case numbers. All documents in file may need to be refiled in new case as well.

minor, the reasons why the proposed protected minor is unable to appear in court and whether the proposed protected minor's attendance at the hearing would be detrimental to the physical or mental health of the proposed protected minor. 2. A proposed protected minor found in this State who cannot attend the hearing for the appointment of a guardian as set forth in a certificate pursuant to subsection 1 may appear by videoconference. NRS 159.0535 Attendance of proposed ward at hearing. 1.A proposed ward who is found in this State must attend the hearing for the appointment of a guardian unless: (a) A certificate signed by a physician or psychiatrist who is licensed to practice in this State or who is employed by the Department of Veterans Affairs specifically states the condition of the proposed ward, the reasons why the proposed ward is unable to appear in court and whether the proposed ward's attendance at the hearing would be detrimental to the physical or mental health of the proposed ward; or (b) A certificate signed by any other person the court finds qualified to execute a certificate states the condition of the proposed ward, the reasons why the proposed ward is unable to appear in court and whether the proposed ward's attendance at the hearing would be detrimental to the physical or mental health of the proposed ward. 2. A proposed ward found in this State who cannot attend the hearing for the appointment of a general or special guardian as set forth in a certificate pursuant to subsection 1 may appear by videoconference. If the proposed ward is an adult and cannot attend by videoconference, the person who signs the certificate described in subsection 1 or any other person the court finds qualified shall: (a) Inform the proposed adult ward that the petitioner is requesting that the court appoint a guardian for the proposed adult ward; (b) Ask the proposed adult ward for a response to the guardianship petition; (c) Inform the proposed adult ward of his or her right to counsel and ask whether the proposed adult ward wishes to be represented by counsel in the guardianship proceeding; and (d) Ask the preferences of the proposed adult ward for the appointment of a particular person as the guardian of the proposed adult ward. 3 If the proposed ward is an adult, the person who informs the proposed adult ward of the rights of the proposed adult ward pursuant to subsection 2 shall state in a certificate signed by that person:(a)That the proposed adult ward has been advised of his or her right to counsel and asked whether he or she wishes to be represented by counsel in the guardianship proceeding; (b)The responses of the proposed adult ward to the questions asked pursuant to subsection 2; and (c) Any conditions that the person believes may have limited the responses by the proposed adult ward. 4. The court may prescribe the form in which a certificate required by this section must be filed. If the certificate consists of separate parts, each part must be signed by the person who is required to sign the certificate. 5. If the proposed ward is not in this State, the proposed ward must attend the hearing only if the court determines that the attendance of the proposed ward is necessary in the interests of justice.

Statistical outcomes suggested by various commission members					
ESTATE STATISTICS	EJDC ADULT	EJDC MINOR	SJDC ADULT	SJDC MINOR	COMMENTS
41. Size of estate	If only sorted by above \$10,000 or below	If only sorted by above \$10,000 or below	Tracking & Reporting	Tracking & Reporting	Data available through secondary note in case management system, requires manual entry after hearings. Data Currently not gathered in the EJDC. May need to adjust the Family Court Coversheet to request that information.
42. Dollar amount of fees sought by retained counsel	Data not available	Data not available	Data not available	Data not available	No data in court case management system reflecting this item.
43. Dollar amount of fees awarded to retained counsel	Data not available	Data not available	Data not available	Data not available	No data in court case management system reflecting this item.
44. Number of cases legal aid attorney relieved based on size of estate	Data not available	Data not available	Data not available	Data not available	No data in court case management system reflecting this item. Legal aid may be best suited to track this item.
45. 100% of estates protected through a Bond or Blocked Account	Data not available	Data not available	Limited Data Available	Limited Data Available	NRS 159.065 requires a bond or blocked account. NRS 159.076(2)(a) indicates the Court may waive bond on a summary estate. Data available through docket code of surety bond or proof of blocked account, only on cases in which it was ordered. Extremely difficult to track on a percentage basis.
46. Verification on file showing protected person only receives SSA/SSI and all funds used for costs of care	Data not available	Data not available	Data not available	Data not available	If there was additional requirement for filing required on all cases, then it could be tracked through a docket code.

Statistical outcomes suggested by various commission members					
RULES	EJDC ADULT	EJDC MINOR	SJDC ADULT	SJDC MINOR	COMMENTS
47. Expectations of judges/state re: new statutes	Not Tracking	Not Tracking	Not Tracking	Not Tracking	Requires new rules. Not able to track in court case management system.
48. Guardianship bill of rights adopted by all jurisdictions	Completed	Completed	Completed	Completed	NRS Chapter 159, as amended by SB360 sec.6, sets forth the Protected Person's Bill of Rights as a statutory provision whose enforcement does not depend upon individual jurisdictions' adoption. Not able to track in court case management system
49. Rules proposed and adopted outlining duties of an attorney for a proposed protected person or an existing protected person	Not Tracking	Not Tracking	Not Tracking	Not Tracking	Requires new rules. Not able to track in court case management system.
50. Uniform rules adopted regarding training and caseloads for guardians, both private and public	Not Tracking	Not Tracking	Not Tracking	Not Tracking	Requires new rules. Not able to track in court case management system.
51. Uniform rules developed and adopted by all jurisdictions regarding initial plans for guardianship	Not Tracking	Not Tracking	Not Tracking	Not Tracking	Requires new rules. Not able to track in court case management system.
52. Uniform rules developed and adopted by all jurisdictions regarding counseling regarding less restrictive alternatives to guardianship, including POA and SDM agreements	Not Tracking	Not Tracking	Not Tracking	Not Tracking	Requires new rules. Not able to track in court case management system.

Statistical outcomes suggested by various commission members					
RULES	EJDC ADULT	EJDC MINOR	SJDC ADULT	SJDC MINOR	COMMENTS
53. Uniform rules developed and adopted by all jurisdictions regarding fee structures for guardians	Not Tracking	Not Tracking	Not Tracking	Not Tracking	Requires new rules. Not able to track in court case management system.
54. Uniform rules developed and adopted by all jurisdictions regarding accounting for protected person's welfare and estate	Not Tracking	Not Tracking	Not Tracking	Not Tracking	Requires new rules. Not able to track in court case management system.
55. Implementation of new statutes, education for judges, lawyers, public on changes to laws/rules	Not Tracking	Not Tracking	Not Tracking	Not Tracking	Requires new rules. Not able to track in court case management system.
56. Supported Decision Making Agreements adopted in all jurisdictions.	Data not available	Data not available	Data not available	Data not available	SDMA recognized in SJDC and EJDC. By design SDMA, like other alternatives to guardianship, may not follow a specific form and are not tracked by the court.

Statistical outcomes suggested by various commission members					
POLICY / PROCEDURE	EJDC ADULT	EJDC MINOR	SJDC ADULT	SJDC MINOR	COMMENTS
57. Sustainable funding established to provide an attorney for a protected person or proposed protected person without financial means	Not Tracking	Not Tracking	Not Tracking	Not Tracking	NRS Chapter 159, as amended by SB433 Sec. 23 provides for mandatory appointment of counsel for proposed protected person regardless of ability to pay such counsel. NRS Chapter 247.305, as amended by SB433 Sec. 36, provides for an additional recording fee as a funding source. Additional monitoring, by all stakeholders, is required to determine whether funding is sufficient.

Statistical outcomes suggested by various commission members					
POLICY / PROCEDURE	EJDC ADULT	EJDC MINOR	SJDC ADULT	SJDC MINOR	COMMENTS
58. Check guardianship lockbox	Work In Progress	N/A	Work in Progress	N/A	NRS Chapter 159, as amended by SB229 sec. 2 provides individuals may nominate another as their guardian using the model form, which may be registered with the Nevada Lockbox. NRS 159.0613 requires the Court to give preference to an individual nominated by the proposed protected person.
59. Determine if any new statutes are either unworkable or create burden on protected person or proposed protected person or caretakers. Additional unworkable burdens should not be an outcome	Data Not Available	Data Not Available	Data Not Available	Data Not Available	Guardianship Commission may consider development of subcommittee to address this area, to include development of legislative recommendations for change. Not able to track in court case management system. Possible component to be measured by statewide compliance.
60. Guardianship hotline for attorney, caretaker, concerned citizens. (similar to State Bar Attorney Hotline) would discuss/advise concerns	Not Tracking	Not Tracking	Not Tracking	Not Tracking	Not able to track in court case management system. Possible component to be measured by statewide compliance office. EJDC and SJDC both have reporting protocol specific to that jurisdiction. Statewide number would be appropriate for state compliance office.
61. Ease process for statewide forms	Work in Progress	Work in Progress	Work in Progress	Work in Progress	Guardianship Commission assigned subcommittee to develop statewide forms. Not able to track in court case management system. Possible component to be measured by statewide compliance.

Statistical outcomes suggested by various commission members					
NRS REVISIONS	EJDC ADULT	EJDC MINOR	SJDC ADULT	SJDC MINOR	COMMENTS
62. NRS 159 revised to include: Visits / communication	Data Not Available	Data Not Available	Data Not Available	Data Not Available	NRS Chapter 159, as amended by SB433 sections 5 through 9 inclusive, generally prohibits a guardian's restriction of visitation/communication with the protected person subject to identified exceptions and procedure. Not able to track in court case management system. Possible component to be measured by statewide compliance. Best Practice for Judges/staff to review when guardian does not self-report sufficient visits each year.
63. NRS 159 revised to include: Change of Residence and Change of Location	Data available when filed. Cannot track compliance or enforce as it is self-reported.	Data available when filed. Cannot track compliance or enforce as it is self-reported.	Data available when filed. Cannot track compliance or enforce as it is self-reported.	Data available when filed. Cannot track compliance or enforce as it is self-reported.	NRS Chapter 159, as amended by SB433 section 12, requires guardians to give prior notice of their intent to relocate the protected person subject to identified exceptions and procedure. Data available through docket code. Track total numbers or numbers in each case?
64. NRS 159 revised to include: Remedies	Data not available. Cannot track compliance or enforce as it is self-reported.	Data not available. Cannot track compliance or enforce as it is self-reported.	Data not available. Cannot track compliance or enforce as it is self-reported.	Data not available. Cannot track compliance or enforce as it is self-reported.	NRS Chapter 159, as amended by SB360 Sec.6(2), provides the Protected Person's Bill of Rights may be addressed through a private right of action or the guardianship proceeding. Not able to track in court case management system. Possible component to be measured by statewide compliance.
65. NRS 159 revised to include: Accountings	See Above	See Above	Data Available	Data Available	NRS Chapter 159, as amended by SB433 sections 28 to 29 inclusive, requires service of accountings on the protected person and additional accounting content requirements, including receipts for expenditures greater than \$250. Data available through docket code?

Statistical outcomes suggested by various commission members					
NRS REVISIONS	EJDC ADULT	EJDC MINOR	SJDC ADULT	SJDC MINOR	COMMENTS
66. NRS 159 revised to include: Appointment of volunteer GAL, advocate or attorney	Any appointments can be tracked with a data code	Any appointments can be tracked with a data code	Any appointments can be tracked with a data code	Any appointments can be tracked with a data code	NRS Chapter 159, as amended by SB433 sec. 22 provides for appointment of a GAL or volunteer advocate on behalf of the protected person. Data available based on type of party.
67. NRS 159 revised to include: Advising a protected person about his/her legal rights	Data Not Available	Data Not Available	Data Not Available	Data Not Available	NRS Chapter 159, as amended by SB360 sec. 6, sets forth the Protected Person's Bill of Rights, which includes the right to counsel and be educated about guardianships. Not able to track in court case management system. The admonishment of rights is included on the Physician's Certificate in SJDC. Possible component to be measured by statewide compliance. Recommend to place an acknowledgment of rights statement in the order appointing guardian.

Statistical outcomes suggested by various commission members					
MISCELLANEOUS	EJDC ADULT	EJDC MINOR	SJDC ADULT	SJDC MINOR	COMMENTS
68. More transparency between the court and guardian	Data Not Available	Data Not Available	Data Not Available	Data Not Available	There is no manner in which to quantify data. The cases are public, to include milestones.
69. Uniform guardianship information sheet created and destroyed	N/A	N/A	Data Available for GRRJ	Data Available for GRRJ	Guardianship Commission assigned subcommittee to develop statewide forms. Clarification needed on what form was created and what needs destroyed.

Statistical outcomes suggested by various commission members					
MISCELLANEOUS	EJDC ADULT	EJDC MINOR	SJDC ADULT	SJDC MINOR	COMMENTS
70. No Exploitation of protected person or proposed protected person's estate, reasonable interim measurement could be any fraud is detected by the court within 3 months of 1 st anniversary of guardianship	Not Tracking	Not Tracking	Not Tracking	Not Tracking	Not able to track in court case management system. Possible component to be measured by statewide compliance. Best practice. Data not available. An objective tracking system would be necessary. Cannot track compliance or enforce as it is unknown to court until new report is filed.
71. Protected person or proposed protected person held in psychiatric unit without legal hold pending appointment	Data Not Available	Data Not Available	Data Not Available	Data Not Available	Pre-guardianship appointment. Not able to track in court case management system. In order to track this data, would require additional placement category.
72. Number of referrals to state and local agencies and state compliance office	Data Not Available	Data Not Available	Data Not Available	Data Not Available	Not a statistic that shows up in case management system. Many times the information received would be considered ex-parte so it would not be able to be put into the case management systems.
73. Registered agent (next to in or out of state guardian)	Not Tracking	Not Tracking	Limited data available	N/A	Requires clarification regarding "next to in or out of state guardian" Data available through secondary note in SJDC case management system, requires manual entry after case is reviewed. NRS Chapter 159, as amended by SB229, Sec. 4, provides non-resident guardians must provide notice of designation of a registered agent to the court.