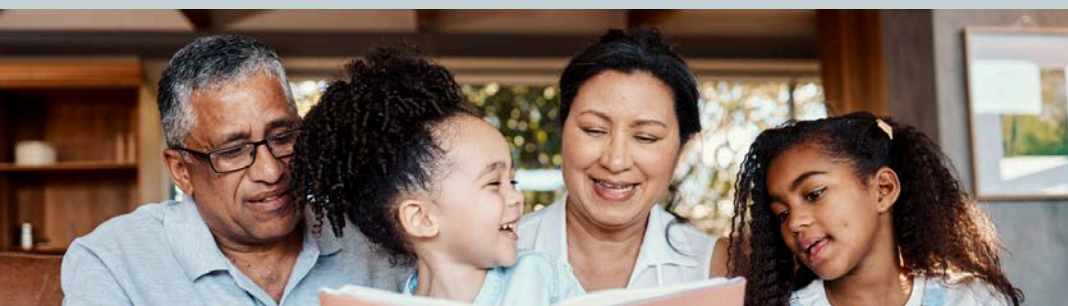


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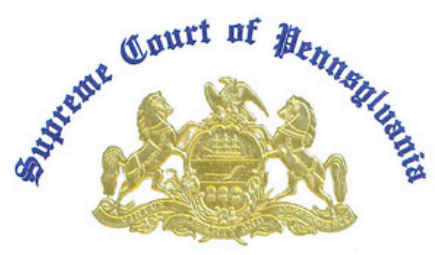


ADVISORY COUNCIL
ON ELDER JUSTICE

2023 ANNUAL REPORT



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Pittsburgh, Pennsylvania 15219



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Chief Justice Debra Todd

August 2024

Greetings,

On behalf of the Supreme Court of Pennsylvania, I am honored to introduce the 2023 Annual Report of the Advisory Council on Elder Justice in the Courts. It is my pleasure to recognize the tremendous accomplishments of the Council’s leadership, members, and contributing staff, along with the staff of the Office of Elder Justice in the Courts (“OEJC”) in addressing the needs of older Pennsylvanians and the challenges they face.

The genesis of our elder justice initiative in Pennsylvania was the Elder Law Task Force in 2013, which I was privileged to Chair. After 18 months of study, our panel of 36 volunteers, experts in all areas of elder law, published a report containing 130 recommendations on how we can best assist elders who come in contact with our judicial system. I express my personal gratitude to former Chief Justice Ronald D. Castille and former State Court Administrator Zygmunt Pines, Esquire, for their leadership in launching the Task Force, and to our current State Court Administrator Andrea Tuominen, Esquire, for her stewardship and support.

In 2015 we established the OEJC as well as the Advisory Council to implement the Task Force’s recommendations and to identify areas of need and challenges faced by elders, and to improve the ability of Pennsylvania courts to meet those needs. The Advisory Council is comprised of 24 members who generously volunteer their time.

In October 2023, Senior Judge Paula Francisco Ott and Zygmunt Pines stepped down as Chair and Vice-Chair of the Advisory Council, after serving tirelessly in those positions for nine years. Judge Lois Murphy of Montgomery County and Judge Sheila Woods-Skipper of Philadelphia became the new Chair and Vice-Chair of the Council. I am grateful to both the former and current Chairs and Vice-Chairs for their dedicated service. I also acknowledge former OEJC Director Cherstin Hamel, who steadfastly headed that office for over nine years, as well as current OEJC Director Amy Whitworth, along with Keith Hinkel, Jr., AOPC Legislative Affairs Director Damian Wachter, Esquire, and my Chief Administrative Judicial Assistant Rhonda Campbell for their time and effort in the preparation of this Report.

The Advisory Council members are to be commended for their commitment to meeting the challenges faced by our Commonwealth in addressing the growing needs of older Pennsylvanians. This Report highlights the work of the Council and the OEJC, which received a three-year (approximately \$3 million) Elder Justice Innovation Grant from the federal Administration for Community Living. Pennsylvania is one of three states





to receive this grant supporting our ongoing efforts to protect older adults. One of those efforts was the first Pennsylvania Guardianship Justice Summit, hosted by AOPC and OEJC in September 2023 in State College.

In addition, our Guardianship Tracking System (GTS), which was created in-house by AOPC information technology personnel, continues to be enhanced to provide an improved experience for guardians and court staff, and to help courts protect persons with a guardian and safeguard financial assets under court supervision. Active guardianships in Pennsylvania currently number over 20,000; and financial assets currently exceed 2 billion dollars.

Court Administrator Andrea Tuominen and I recently attended a national conference of all the state court chief justices and state court administrators from around the nation which focused on guardianship reform and the court’s role in protecting vulnerable elder adults. Along with Advisory Council Chair Judge Lois Murphy, I had the opportunity to speak to the assembly about the great strides we have made in Pennsylvania. In particular, our Guardianship Tracking System was the first of its kind to monitor both guardianships of the person and guardianships of the estate in order to protect elders from abuse and exploitation. I am pleased to report that, throughout the nation, Pennsylvania’s elder justice program is regarded as a model for other states to follow.

Vice President Hubert H. Humphrey once said, “The moral test of a government is how it treats those who are at the dawn of life, the children; those who are in the twilight of life, the aged; and those who are in the shadow of life, the sick, the needy, and the handicapped.” The progress recounted in this Report represents our Supreme Court’s ongoing effort to meet this moral test, and I could not be more proud of the work that has been accomplished.

Warmest regards,

Debra Todd



ELDER JUSTICE



The Advisory Council on Elder Justice in the Courts focuses on ensuring access to justice and due process for older Pennsylvanians, the protection of vulnerable persons with a guardianship, and the prevention of elder abuse, neglect, and exploitation.



ABOUT THE ADVISORY COUNCIL

The Advisory Council on Elder Justice in the Courts (Advisory Council) was established in 2015 to advise the Office of Elder Justice in the Courts (OEJC) regarding the implementation

of the Elder Law Task Force’s (ELTF) Report and Recommendations regarding best practices, judicial rules, and legislation to benefit older citizens of the Commonwealth. In addition to the 2023 accomplishments discussed in this Annual Report, the Advisory Council continues its work implementing those recommendations.

The mission of the Advisory Council is to identify and address elder justice issues affecting older Pennsylvanians.

The Advisory Council and OEJC exist to identify areas of need and challenges faced by elders, and to improve the ability of Pennsylvania courts to meet those needs.



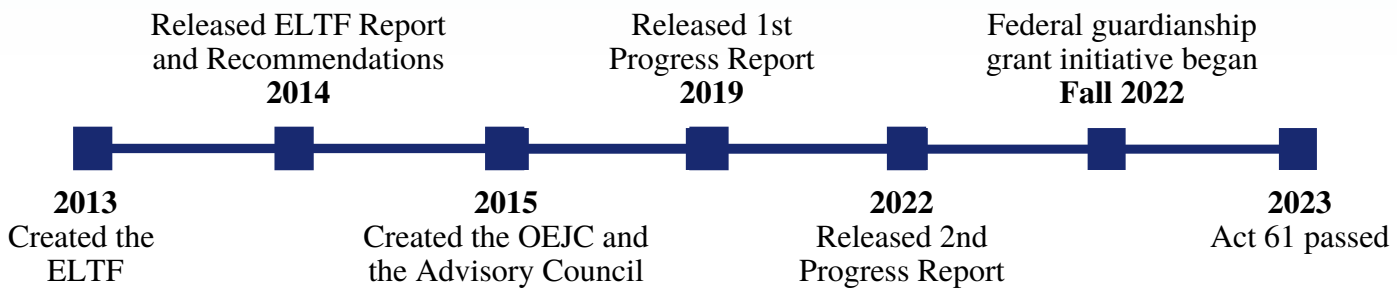
ABOUT THE OEJC

The OEJC was established in 2015 to promote best practices to address elder abuse and neglect, guardianship, and access to justice in the

Commonwealth’s courts. The OEJC also educates judges, court staff, attorneys, guardians, and the public about the warning signs of elder abuse, and how to respond to suspected elder abuse.

In addition to education and best practices, the OEJC actively fosters collaboration with other elder justice entities and branches of government to enhance older Pennsylvanians’ ability to fully participate in legal proceedings.

TIMELINE OF PENNSYLVANIA SUPREME COURT'S ELDER JUSTICE INITIATIVE





ADVISORY COUNCIL ON ELDER JUSTICE IN THE COURTS LEADERSHIP UPDATE

Senior Judge Paula Francisco Ott and former Pennsylvania State Court Administrator Zygmunt (Zig) Pines, Esq. announced they would be stepping down as chair and vice-chair of the Advisory Council, positions they held since the Advisory Council’s formation in 2015. Their leadership helped establish the Advisory Council as an important workgroup to address the growing needs and issues faced by older Pennsylvanians; guide the creation and work of the OEJC; develop partnerships with various state and federal agencies; and provide guidance to the courts, attorneys, guardians, and the public, on identifying and addressing elder abuse and exploitation.



L to R: Advisory Council leadership, Judge Lois Murphy (chair), Chief Justice Debra Todd, Judge Sheila Woods-Skipper (vice-chair), Senior Judge Paula Francisco Ott (fmr. chair), and Zig Pines (fmr. vice-chair)

The Supreme Court named current members Montgomery County Judge Lois Murphy as the new chair and Philadelphia County Judge Sheila Woods-Skipper as the new vice-chair of the Advisory Council. Senior Judge Paula Francisco Ott and Zig Pines will continue as advisors to the Advisory Council.

Chief Justice Debra Todd expressed her thanks to the former chair and vice chair in an October 10, 2023 [press release](#). The members of the Advisory Council, OEJC, AOPC, and the courts thank Senior Judge Paula Francisco Ott and Zig Pines for their leadership, and congratulate Judge Lois Murphy and Judge Sheila Woods-Skipper on being named the new chair and vice-chair of the Advisory Council.



2023 ADVISORY COUNCIL MEMBERS

**Long Range Planning
Committee Members*

LEADERSHIP

Chair

Honorable Lois E. Murphy*
Administrative Judge, Orphans' Court Division
Court of Common Pleas, Montgomery County

Vice-Chair

Honorable Sheila A. Woods-Skipper*
Administrative Judge
Philadelphia County Orphans' Court Division

Director, OEJC

Cherstin Hamel*
Administrative Office of Pennsylvania Courts
(AOPC)

Supreme Court Liaison

Chief Justice Debra Todd*
Supreme Court of Pennsylvania

STANDING MEMBERS

Secretary, Pennsylvania Department of Aging
Secretary Jason Kavulich
Staff Designee, Althea O. Bennett, Esquire

Pennsylvania Bar Association Designee
Anne N. John, Esquire
Past President, Pennsylvania Bar Association
John and John, Attorneys at Law

Pennsylvania Senate
Senator Maria Collett
Staff Designee, Tom Holroyd
Staff Designee, Kayla Burnham

Allegheny County Orphans' Court Division
Honorable Lawrence J. O'Toole
Administrative Judge

Pennsylvania House of Representatives
Representative Steven C. Mentzer
Staff Designee, Annemarie Robey, Esquire

Philadelphia County Orphans' Court Division
Honorable Sheila A. Woods-Skipper*
Administrative Judge

*Chair, Supreme Court Orphans' Court
Procedural Rules Committee*
Julian Gray, Esquire

*Register of Wills and Clerks of Orphans' Court
Association Designee*
Sarah E. Edwards
Butler County Register of Wills & Clerk of Orphans'
Court

Pennsylvania Attorney General
Attorney General Michelle Henry
Staff Designee, David Shallcross

MEMBERS

Karen C. Buck, Esquire*
Executive Director
SeniorLAW Center
Philadelphia

Jason Karlawish, M.D.
Division of Geriatrics, Ralson-Penn Center
Philadelphia

Honorable Dale M. Fouse
Judge
Court of Common Pleas
Beaver County

John N. Kennedy, Esquire
Kennedy, PC Law Offices
Harrisburg

2023 ADVISORY COUNCIL MEMBERS

**Long Range Planning Committee Members*

MEMBERS (CONT.)

Rebecca May-Cole
Executive Director
Pennsylvania Association of Area Agencies
on Aging, Inc.
Harrisburg

Diane Menio*
Executive Director Emerita
Center for Advocacy for the Rights and Interests
of the Elderly
Philadelphia

Grace W. Orsatti, Esquire
Assistant Professor of Clinical Legal Education,
Tribone Center for Clinical Legal Education
Duquesne University School of Law
Pittsburgh

Honorable Paula Francisco Ott*
Senior Judge, former Advisory Council Chair

Elizabeth L. Pettis, Esquire
Chief Counsel
Governor’s Office of General Counsel
Harrisburg

Zygmunt A. Pines, Esquire
former Advisory Council Vice-Chair and Court
Administrator of Pennsylvania
Rydal

Mary Catherine Scott, Esquire
Director and Assistant Clinical Professor, Central
Pennsylvania Law Clinics
Widener University School of Law
Harrisburg

Pamela Walz, Esquire
Co-Director, Aging and Disabilities Unit
Community Legal Services
Philadelphia

Honorable George N. Zanic*
President Judge
Court of Common Pleas
Huntingdon County

Stephen A. Zappala Jr., Esquire
District Attorney
Allegheny County
Staff Designee, Dick Skrinjar

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Rhonda Campbell
Chief Judicial Assistant
Chief Justice Debra Todd
Supreme Court of Pennsylvania

Cherstin Hamel
Director
OEJC
AOPC

Amy Whitworth
IT Analyst Manager
AOPC

Damian Wachter, Esquire
Director
Legislative Affairs
AOPC

OEJC Staff, AOPC:

Keith Hinkel Jr.
Analyst Supervisor

Joan Bertone
Grant Compliance
Coordinator

Cole Benko
Analyst

Robert Campbell
Trainer

GRANT PROJECT SUMMARY

OEJC UTILIZES GRANT FUNDS TO IMPLEMENT CHANGE AND CREATE RESOURCES FOR GUARDIANS, COURTS, ATTORNEYS, AND THE PUBLIC



The Administrative Office of Pennsylvania Courts (AOPC) is the recipient of a three-year (approximately \$3 million) Elder Justice Innovation Grant. Pennsylvania is one of three states to receive a portion of the funds awarded by the federal Administration on Community Living through a highly competitive process. The funding is used by the AOPC to further its work to protect older adults through assessing and implementing improvements in the handling of adult guardianship cases in the Pennsylvania courts. The work is overseen by the OEJC. The grant, which runs from September 1, 2022, through August 31, 2025, has three overarching goals: (1) assure due process for the alleged incapacitated person; (2) improve guardianship monitoring capabilities to prevent abuse and exploitation; and (3) promote alternatives to guardianship.

Many of the projects envisioned under the grant were launched or continued in 2023, including:

The first *Pennsylvania Guardianship Justice Summit* (Summit) was held in September 2023. For more information on the Summit see pages 9-10. A second Summit is planned for 2025.

A *pilot project providing public interest legal services* counsel to represent older adults (age 60 and over) who are alleged incapacitated in guardianship proceedings. This project is underway in Dauphin County and is expanding to other counties in 2024. For more information see page 9.

The development of *online video education modules* for guardians on a wide range of guardianship topics, including alternatives to guardianship. 14 videos are in production with an expected release date of Summer 2024. In conjunction, a *Pennsylvania Guardianship Handbook* will be published in the spring of 2024 (cover pictured above) to help educate guardians and potential guardians on their role and responsibilities when appointed by the court.

Work continued to *create educational programs* for hospitals, nursing homes and other residential settings, protective services agencies, and families/caregivers to encourage consideration of *alternatives to guardianship*.

Work continued on *analyzing guardianship data* collected through Pennsylvania’s *Guardianship Tracking System (GTS)* to identify areas that can be improved to assist courts in their guardianship monitoring responsibilities.

The development of a *web-based resource for alternatives to guardianship*, in conjunction with a redesign of the *OEJC webpage*, to provide the public with valuable information in a user-friendly format.

PENNSYLVANIA CONTINUES TO ADVANCE GUARDIANSHIP MONITORING THROUGH ENHANCEMENTS TO GTS

PENNSYLVANIA COURTS



GUARDIANSHIP TRACKING SYSTEM

Through grant funded and non-grant funded initiatives, the *Guardianship Tracking System (GTS)* received various enhancements in 2023 to assist courts with guardianship monitoring.

1. A requirement for court staff to indicate if the alleged incapacitated person (AIP) or incapacitated person (IP) was represented by an attorney, if the attorney was court-appointed, and if the attorney was paid by the AIP’s estate, at the adjudication hearing where the determination of incapacity and the appointment of a guardian occurs.
2. The courts now have functionality to record the most recent date of a guardian’s required criminal background check. These new requirements in GTS were implemented to ensure the guardian is qualified to serve in this important role.
3. Guardians are now required to review and confirm the accuracy of the personal information in GTS annually to ensure the guardian contact information is accurate.

The Advisory Council and the OEJC continue to work with AOPC’s Information Technology department to identify opportunities to enhance GTS to improve the guardian user’s experience and the ability for courts to effectively monitor guardians and guardianships.

BY THE NUMBERS

Pennsylvania’s Guardianship Tracking System (GTS) Statistics as of 12/31/23

18,822

Total number of active guardianship cases

20,158

Number of family/lay guardians

346

Number of professional guardians

\$2,052,761,697.77

TOTAL ASSETS UNDER COURT SUPERVISION



AOPC & OEJC HOST FIRST PENNSYLVANIA GUARDIANSHIP JUSTICE SUMMIT

AOPC and OEJC hosted the first Pennsylvania Guardianship Justice Summit (Summit) on September 20-22, 2023, in State College, PA.

The Summit is one of several projects funded through a grant awarded to the AOPC by the federal Administration on Community Living. The Summit supported the three overarching goals of the grant: (1) to assure due process for the alleged incapacitated person (AIP), (2) to improve guardianship monitoring capabilities to prevent abuse and exploitation, and (3) to promote alternatives to guardianship.

An interdisciplinary group of stakeholders from across the Commonwealth, chosen based on their professional involvement with guardianship and related topics, participated in the Summit. The 165+ attendees included orphans' court judges and clerks, professional guardians, staff from state agencies involved with elder justice, elder law and legal aid attorneys, legislators, disability advocates, medical providers and evaluators, social workers, long-term care providers, and adult protective services representatives.

Featured speakers included Pennsylvania Supreme Court Chief Justice Debra Todd, Pennsylvania State Senator Maria Collett, U.S Deputy Assistant Secretary for Aging Edwin Walker, Esq. (Administration for Community Living), Secretary Jason Kavulich (PA Department of Aging), Dr. Jason Karlawish (Penn Geriatric Medicine), Dr. Mark Lachs (Weill-Cornell Medicine), Michael Gamel-McCormick, PhD (U.S. Senate Special Committee on Aging), and Jim Berchtold, Esq. (Justice in Aging), along with several judges, attorneys, and other experts on elder justice.

Topics discussed at the Summit included assuring due process in guardianship proceedings, advancing improvements in monitoring guardians, promoting alternatives to guardianship, and increasing the development of collaboration between state and local organizations. Notable sessions included: "What is Incapacity?", "Assuring Due Process in Guardianship", and "Alternatives to Guardianship – Legal and Community Alternatives". Additional featured topics included limited guardianship, assisting adults with decision-making, preventing financial exploitation, and guardianship in long-term care/hospitals.



Attendees collaborated within regional groups to discuss the needs and challenges their regions face. Regional Collaboration Groups will engage community members to determine what interventions are most needed in their region.

Attendees will discuss the information provided at the Summit within their professional networks, incorporate and apply the knowledge gained to their day-to-day work, and cultivate the new partnerships and collaborations that were established during the Summit. One attendee remarked, "Meeting and networking with other attorneys, guardians, social workers, and judges was very meaningful. We have outlined a lot of ideas and thoughts for improvement of the process and most importantly, for protecting the rights of our elder population."

A second Pennsylvania Guardianship Justice Summit will be held in 2025 to continue the collaborative work and discussions that defined the first Summit. The Regional Collaboration Groups will continue to meet to facilitate dialogue and collaboration between stakeholders in advance of the 2025 Summit.



LEGAL SERVICES ORGANIZATION PROJECT

In December 2023, the OEJC, in partnership with MidPenn Legal Services, launched the ACL grant funded *Legal Services Organization(s) to Represent Alleged Incapacitated Persons and Incapacitated Persons in Guardianship Proceedings (LSO Project)* pilot project in Dauphin County. Under the project, an attorney from MidPenn Legal Services is appointed to represent AIPs and IPs age 60 and over in all guardianship proceedings where the person did not hire their own attorney, regardless of the person’s ability to pay.

The pilot project was originally envisioned to demonstrate the importance of having appointed counsel to represent an AIP or IP at guardianship hearings, to promote the use of alternatives to guardianship, and to make sure the AIP’s or IP’s best interests are the priority. With the passage of Act 61 of 2023, it is anticipated that the pilot project will demonstrate that legal services organizations, which are available in every county in the Commonwealth, are a viable option for appointment to represent AIPs and IPs during guardianship proceedings. The availability of private attorneys that specialize in elder law and guardianship varies by county, and the court’s ability to appoint a legal services organization will ensure attorneys trained to represent AIPs and IPs will be available for the court in all jurisdictions.



The pilot project launched in Dauphin County in 2023, and will expand to Cumberland, Perry, and Berks counties in 2024. MidPenn Legal Services provides representation in all counties taking part in the LSO Pilot project.

COLLABORATION AT A LOCAL LEVEL



Four Regional Collaboration Groups (RCGs); Western, Northern, Southcentral, and Southeastern, were established at the first Pennsylvania Guardianship Justice Summit (see pages 9-10) to continue collaborative efforts throughout the Commonwealth. RCG members include Summit attendees and other experts in the region that meet and work collaboratively on how to address the needs or challenges identified by the local community, including promoting alternatives to guardianship, assuring due process for AIP/IP, and improving guardianship monitoring. Work

undertaken by each RCG reflects the commitment made in the grant to respond to the special challenges of access to legal assistance, due process, and lived experiences of racial and linguistic minority communities.

The first goal of each RCG is to host a community listening session on guardianship and elder justice related issues facing local communities in Pennsylvania. At least one listening session will be held in each region by the end of May 2024 and invitees will include those that normally do not have a platform to share their experiences, such as family/lay guardians, persons with a guardian, family members of persons with a guardian, and other members of the public. The information learned in each listening session will inform the RCGs on the needs of the community and assist its members in creating meaningful change in the region.

Each RCG will be asked to make a presentation on what they learned at the listening session(s) and the work that has taken place in their region at the second Pennsylvania Guardianship Justice Summit. The most impactful change often occurs at the local level. The creation of these RCGs consisting of local experts across the state is a positive step in making sure the voice of the community is heard and appropriate changes are made to better the lives of older Pennsylvanians and others in need of a guardian.



LACKAWANNA COUNTY BUILDING THE COMMONWEALTH'S FIRST "OLDER ADULT ADVOCACY CENTER"

Advisory Council chair Judge Lois Murphy and vice chair Judge Sheila Woods-Skipper, along with staff of the OEJC, attended a roundtable discussion on elder justice issues and resources hosted by Department of Aging Secretary Jason Kavulich in Scranton, PA. The roundtable discussion was held at Telespond Senior Services, which will also be the location of Lackawanna County's Older Adult Advocacy Center (Advocacy Center), currently under construction. The Advocacy Center will be attached to the existing adult day center already in operation. Attendees of the roundtable discussion were invited to tour the adult day center and view the progress of the construction of the Advocacy Center.



The Advocacy Center will be a first-of-its-kind facility. It will be a four-bed unit and will function as a centralized location where older adults in Lackawanna County and surrounding counties can go in a time of need. The Advocacy Center will connect the individual to resources and services through a person-centered approach, while providing trauma-informed care. An older adult can be evaluated and treated in one location, rather than having to be transported to multiple locations. The Advocacy Center is anticipated to provide shelter to four, while serving over 100 older adults per month with non-residential services, such as medical consultations, service planning, legal resources, and more. The Advocacy Center is expected to be completed in 2024.

"The Older Adult Advocacy Center is a true example of community commitment and determination. This collaboration will impact the lives of an entire region of older adults, provide a model for communities across the commonwealth, and help shape the evolving practice across the country." -Secretary Kavulich

The Advisory Council looks forward to the positive impact the Advocacy Center will have in Lackawanna and surrounding counties and hopes this model can be replicated in other parts of the Commonwealth in the future. A special thanks to Advisory Council member Secretary Jason Kavulich for his work on creating the Advocacy Center.



2023 ELDER JUSTICE LEGISLATIVE HIGHLIGHTS



The Advisory Council, together with the AOPC’s Legislative Affairs Department, provided input and feedback to the legislature on legislation of importance to older Pennsylvanians.

2023 is the first of a two-year legislative session and the information provided in this section reflects bill status as of December 31, 2023. Legislation discussed herein not signed into law in 2023 can still progress in 2024.

GUARDIANSHIP REFORM

Senate Bill 506 / Act 61 of 2023 – The Act amends the Decedents, Estates and Fiduciaries Code to require the court to appoint counsel to represent the alleged incapacitated person (AIP) in any matter for which counsel has not been retained, including initial proceedings and any subsequent proceedings to consider, modify or terminate a guardianship. For more information see page 13.

EXPANSION OF THE SLAYER STATUTE

House Bill 1760 – This Bill expands the provisions of Chapter 88 of the Decedents, Estates and Fiduciaries Code to prevent elder abusers – individuals convicted of offenses constituting abuse against the victim from inheriting or otherwise financially benefitting from their victim. The bill defines the term elder abuse to include offenses including assault, sexual offenses, theft, and forgery and fraudulent practices, as well as criminal attempt, solicitation, and conspiracy to commit such offenses when the offense is committed against a person 60 years of age or older. The Bill passed the House 203-0 on December 13, 2023.

OLDER ADULTS PROTECTIVE SERVICES ACT (OAPSA)

Senate Bill 885 – This Bill amends OAPSA, creating a statewide registry of perpetrators of abuse in facilities, as that term is defined in the act. Referred to Senate Aging and Youth on July 27, 2023. A co-sponsorship memo seeking sponsors to legislation to update and overhaul the OAPSA has been circulated. The bill has not yet been introduced to the full Senate.

DELINQUENT REAL ESTATE TAX NOTIFICATION

House Bill 1646 – This Bill amends the Real Estate Tax Sale Law, requiring the Department of Community and Economic Development to develop a designation form for use by a property owner who is an incapacitated adult or older adult to assign a designated individual to receive a notification regarding delinquent real estate taxes on the owner’s real property. Reported unanimously from House Commerce on November 15, 2023.

UNIFORM LAWS

The Uniform Health-Care Decisions Act that was promulgated by the Uniform Law Commission and released on October 17, 2023, has not yet been introduced as legislation in Pennsylvania.

2023 ELDER JUSTICE LEGISLATIVE HIGHLIGHTS (CONT.)

PENNSYLVANIA ENACTS MONUMENTAL GUARDIANSHIP REFORM: ACT 61

On December 13, 2023, Senate Bill 506 was signed into law as *Act 61 of 2023* by Governor Josh Shapiro after passing unanimously in the Pennsylvania House of Representatives and Senate. The Act takes effect June 11, 2024. Co-sponsored by Senators Lisa Baker (R-Luzerne) and Arthur Haywood (D-Montgomery), this groundbreaking legislation represents the culmination of years of advocacy by a large coalition of invested stakeholders, including:

- Office of Elder Justice in the Courts (OEJC)*
- AARP Pennsylvania*
- Center for Advocacy for the Rights and Interests of Elders*
- Community Legal Services of Philadelphia*
- Disability Rights PA*
- Pennsylvania Bar Association*
- Pennsylvania Elder Law Attorneys*
- Philadelphia Bar Association*
- SeniorLAW Center*
- and others.*

Advisory Council members Senator Maria Collett (D-Montgomery), Judge Lois Murphy, and Pam Walz, Esq. took part in a guardianship reform hearing hosted by the Senate Aging and Youth and Judiciary Committees to discuss Senate Bill 506 on March 14, 2023. Judge Lois Murphy and Pam Walz, Esq. presented on the importance of having court appointed counsel to represent the alleged incapacitated person and improving awareness of alternatives to guardianship and voiced their support for the reforms ultimately enacted in Act 61 of 2023. A special thank you to Senator Maria Collett, Senator Lisa Baker, and Senator Arthur Haywood for their leadership in enacting Act 61 of 2023.



2023 ELDER JUSTICE LEGISLATIVE HIGHLIGHTS (CONT.)

ADVANCEMENTS IN ELDER JUSTICE: ACT 61

- **Appointment of Counsel for all Alleged Incapacitated Persons (AIPs) and Incapacitated Persons (IPs):** Courts will be required to appoint an attorney for the AIP/IP in all guardianship hearings unless the AIP/IP obtains their own counsel, regardless of their ability to pay. Attorney costs can be paid by the estate of the AIP/IP or by the court at the discretion of the judge. Attorneys are to represent the AIP/IP's legal interests and to zealously advocate on their behalf.
- **Certification of Professional Guardians:** An individual seeking guardianship of three or more IPs must be certified and provide proof of the certification to the court. The certification must be equivalent to a reputable national certification; for example, like that provided by the Center for Guardianship Certification (CGC). This certification will require criminal background checks and continuing education. The certification requirement does not apply to family lay guardians responsible for one or two family members. The certification requirement can be waived on a case-by-case basis by a judge if the guardian in question demonstrates equivalent qualifications due to proven experience and demonstrated expertise.
- **Mandatory Exploration of Alternatives to Guardianship:** In a guardianship hearing, the court must explore possible alternatives to guardianship prior to rendering a guardianship decision. Alternatives to guardianship include limited guardianships, representative payees, financial or healthcare powers of attorney, advance directives for health care decisions, mental health directives, supported decision-making, and more.
- **Review Hearings for Cases Where the IP's Condition May Improve:** The court is required to hold a review hearing within one year of a new guardianship appointment in situations where the AIP/IP has the potential to recover capacity, such as short-term health related incapacity (for example, a car accident or medical procedure).

"Act 61 of 2023 adds essential protection for vulnerable individuals. I first introduced this legislation in 2017, in partnership with then-Senator Stuart Greenleaf. With collaboration and support from Senator Baker, I am proud to see this bi-partisan legislation has passed with unanimous consent and was immediately signed into law by Governor Shapiro." -Senator Art Haywood

"Guardianship is a meaningful way to provide protection and assistance for individuals no longer capable of handling their circumstances. However, fraud cannot be tolerated. This bill strengthens requirements, procedure, and accountability to reduce the potential of fraud and allow for options other than full guardianship when circumstances warrant a lesser surrender of control." -Senator Lisa Baker

The passing of Act 61 of 2023 will affect guardianship in Pennsylvania by ensuring all persons at risk of needing a guardian are represented by an attorney, a review hearing will occur within a year for those that may only temporarily need a guardian, and alternatives to guardianship are considered in all cases to ensure a guardian is appointed only as a last resort. The OEJC continues to work with courts, guardians, and the public to assist with the implementation of the requirements of Act 61.

OEJC LAUNCHES REVAMPED FUNDAMENTALS OF GUARDIANSHIP TRAINING PROGRAM FOR FAMILY/LAY GUARDIANS

The OEJC has offered online training for newly appointed and existing guardians since 2021. In August 2023, based on feedback received from guardians attending the training, the OEJC split the family/lay guardian training into two separate sessions, one focused on the *guardian of the estate (fiscal)* and the other on *guardian of the person (well-being)*. The training sessions focus on the fundamentals of guardianship, ethics and liabilities, best practices, and more.

Each session is conducted by Keith Hinkel Jr., OEJC Analyst Supervisor and Joan Krechmer, professional guardian. The new approach allows the training to cover a wider array of topics related to each type of guardianship, including a full review of the inventory and annual report forms required to be filed by all guardians. Digital handouts and reference materials are provided before and after the training.

The feedback on the new split sessions has been overwhelmingly positive with attendees highlighting the ability to ask a professional guardian or the OEJC questions, the review of the statutorily required reports, and best practices as highlights of the course. In total, 183 guardians attended the guardian of the estate course, 164 guardians attended the guardian of the person courses, and an additional 154 guardians attended the original versions of the courses in early 2023. The OEJC is excited to continue to offer and expand its educational efforts for guardians and others in 2024.



EMERITUS PRO BONO STATUS AND CLE REQUIREMENTS FOR RETIRED LAWYERS ESTABLISHED IN RULE 403

In 2018, the Supreme Court adopted *Pennsylvania Rule of Disciplinary Enforcement 403*, which established an emeritus status for retired attorneys to provide pro bono legal representation, and *Pennsylvania Rule of Continuing Legal Education 105(d)*, which established an annual continuing legal education (CLE) requirement of eight hours for attorneys in emeritus status. As of December 31, 2023, 38 retired attorneys were participating. Work is ongoing with the Pennsylvania Bar Association and court boards to increase awareness about the program through local bar associations and to generate pro bono support. The pro bono CLE program began as a pilot in January 2019. The program was formally approved for continuation in 2022 and will continue in future years.

ADVISORY COUNCIL MEMBERS AND OEJC STAFF JOIN SWPPA TO HEAR FROM THE COMMUNITY

Advisory Council members Anne John, Esq., Grace Orsatti, Esq., and OEJC staff Keith Hinkel Jr. and Joan Bertone took part in a guardianship listening session hosted by the Southwestern Pennsylvania Partnership on Aging (SWPPA). Over 60 people attended the listening session, including members of the public, guardians, Area Agency on Aging staff, Adult Protective Services staff, medical professionals, attorneys, and other professionals. Attendees were given the opportunity to share their stories and challenges faced regarding guardianship, access to justice, and finding available resources for older Pennsylvanians. Attendees also shared their ideas on how Pennsylvania can improve its guardianship practices.

Key takeaways from the listening session included:

- Education is needed to increase awareness of available public resources, advance planning to avoid issues later in life, and identifying alternatives to guardianship.
- There is a need for low-cost or free legal assistance for families looking to file a guardianship petition.
- Community agreement that guardianship should always be considered as a “last resort” when no other alternatives to guardianship are viable.

The information gathered at the listening session will be utilized by the Advisory Council and OEJC when developing future educational efforts and when discussing guardianship reform.



OEJC ASSISTS COURTS BY NOTIFYING IF A GUARDIAN'S ADDRESS HAS CHANGED

Guardians are required to notify the court in a timely manner when they or the person with a guardian moves, but at times, this information is not relayed to the court as expected. In 2023, the OEJC launched a new project to identify guardians with an incorrect address and assist in finding the guardian’s new address. The OEJC maintains a list of guardians whose mail was returned to the OEJC due to an incorrect address. The guardian’s name and case information (retrieved from GTS) is reviewed, and efforts are made, using internet search tools, to find the guardian’s correct address. This information is then relayed to the clerk of the orphans’ court office in the county in which the guardianships are filed so they may update GTS and their case records. In 2023, the OEJC notified 51 counties regarding 418 incorrect guardian addresses in GTS. The efforts of the OEJC and the courts to maintain accurate contact information for guardians is important to make sure the courts can contact the guardian at any time regarding the physical and financial well-being of a person with a guardian.

2023 ADVISORY COUNCIL TRAINING PROGRAMS AND EDUCATIONAL PRESENTATIONS

February 9, 2023

Office of Elder Justice in the Courts

Virtual Training

Monitoring Guardianship Cases

Senior Judge Paula Francisco Ott, Judge Lois E. Murphy, Judge Sheila Woods-Skipper, Keith Hinkel, Jr.

February 28, 2023

First Judicial District of Philadelphia

Philadelphia, PA

The Guardians: Incapacitation Hearings, Guardianship Alternatives, and GAL Appointments

Judge Sheila Woods-Skipper

March 21 & 23, 2023

Office of Elder Justice in the Courts

Virtual Training

Fundamentals of Guardianship: What Family and Non-Professional Guardians Need to Know

Joan Kretchmer and Keith Hinkel Jr.

April 11 & 12, 2023

Office of Elder Justice in the Courts

Virtual Training

Fundamentals of Guardianship: What Family and Non-Professional Guardians Need to Know

Joan Kretchmer and Keith Hinkel Jr.

May 9, 2023

**Pennsylvania Commission on Crime and Delinquency
Harrisburg, PA**

Victim Services Advisory Committee Meeting

Secretary Jason Kavulich

May 10 & 11, 2023

Office of Elder Justice in the Courts

Virtual Training

Fundamentals of Guardianship: What Family and Non-Professional Guardians Need to Know

Joan Kretchmer and Keith Hinkel Jr.

May 31, 2023

Pennsylvania Bar Institute

Online Presentation

Capacity, Surrogate Decision-Making, Representation, and Fundamental Rights: Legal and Medical Perspectives 2023

Judge Lois Murphy, Karen Buck, Esq., Jason Karlawish, M.D.

June 6 & 7, 2023

Office of Elder Justice in the Courts

Virtual Training

Fundamentals of Guardianship: What Family and Non-Professional Guardians Need to Know

Joan Kretchmer and Keith Hinkel Jr.

June 7, 2023

Southwestern Pennsylvania Partnership for Aging (SWPPA)

Pittsburgh, PA

Listening Session on Guardianship Use and Practice Reforms

Anne John, Esq., Grace Orsatti, Esq., Joan Bertone, and Keith Hinkel, Jr.

July 3, 2023

Pennsylvania Bar Institute

Elder Law Institute Program

Alternatives to Guardianship and Appointment of Counsel

Judge Lois Murphy, Pam Walz, Esq.

July 26, 2023

Elder Law Institute

Harrisburg, PA

Elder Law Institute Roundtable

Secretary Jason Kavulich

August 8 & 9, 2023

Office of Elder Justice in the Courts

Virtual Training

Fundamentals of Guardianship: What Family and Non-Professional Guardians Need to Know

Joan Kretchmer and Keith Hinkel Jr.

September 6, 2023

Office of Elder Justice in the Courts

State College, PA

Financial Exploitation of Older Adults (guardian training)

Althea Bennett, Esq.

September 13, 2023

Pennsylvania Bar Institute

Online Presentation

Guardianship and POA - the Guardianship Hearing

Judge Lois Murphy

2023 ADVISORY COUNCIL TRAINING PROGRAMS AND EDUCATIONAL PRESENTATIONS (CONT.)

September 20-22, 2023
Pennsylvania Supreme Court, Advisory Council on Elder Justice in the Courts, Office of Elder Justice in the Courts Pennsylvania Guardianship Justice Summit
State College, PA

Various Topics
Many Advisory Council members presented at the Summit.

September 26 & 27, 2023
Office of Elder Justice in the Courts
Virtual Training
Fundamentals of Guardianship: What Family and Non-Professional Guardians Need to Know
Joan Kretchmer and Keith Hinkel Jr.

October 5
Office of Elder Justice in the Courts
Virtual Training
Financial Exploitation of Older Adults (judicial training)
Althea Bennett, Esq.

October 12, 2023
Office of Judicial Education
Virtual Webinar
Alternatives to Guardianship and Appointment of Counsel
Judge Lois Murphy

October 25, 2023
Bucks County
Newtown, PA
Keynote: 20th Annual William Neff Symposium on the Prevention of Crimes Against Older Adults
Secretary Jason Kavulich

October 25, 2023
Office of Elder Justice in the Courts
Virtual Training
Fundamentals of Guardianship: What Family and Non-Professional Guardians Need to Know
Joan Kretchmer and Keith Hinkel Jr.

November 2, 2023
Office of Elder Justice in the Courts
Virtual Training
Fundamentals of Guardianship: What Family and Non-Professional Guardians Need to Know
Joan Kretchmer and Keith Hinkel Jr.

November 14, 2023
Pennsylvania Bar Institute, Estate Law Institute
Harrisburg, PA
Healthcare Powers of Attorney, Living Wills, & POLST – Decision-Making Tools in the Event of Temporary or Permanent Incapacity, and the Role of Healthcare Agents, Supported Decision-Making Arrangements in Advance Care Planning
Grace W. Orsatti, Esq.

November 16, 2023
Southwestern Pennsylvania Partnership for Aging (SWPPA)
Pittsburgh, PA
Social Determinants for Aging: Practice Tools for Positive Impact
Grace W. Orsatti, Esq.

November 28, 2023
Office of Elder Justice in the Courts
Virtual Training
Report Reviewer Training for Court Staff: Reviewing the Report of the Person
Senior Judge Paula Francisco Ott and Keith Hinkel, Jr.

December 11, 2023
Pennsylvania Association for Area Agencies on Aging (P4A)
Boalsburg, PA
Update on Guardianship Symposium at Quarterly Meeting
Rebecca May-Cole

December 12, 2023
Office of Elder Justice in the Courts
Virtual Training
Report Reviewer Training for Court Staff: Reviewing the Report of the Person
Senior Judge Paula Francisco Ott and Keith Hinkel, Jr.

December 13, 2023
Office of Elder Justice in the Courts
Virtual Training
Fundamentals of Guardianship: What Family and Non-Professional Guardians Need to Know
Joan Kretchmer and Keith Hinkel Jr.



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&
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www.pacourts.us/judicial-administration/court-programs/office-of-elder-justice-in-the-courts

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