



POSITION PAPER ON GUARDIANSHIP REFORM IN FLORIDA

A White Paper by Americans Against Abusive Probate Guardianship

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The primary purpose of government is to protect its citizens. Statutes governing guardianship, a process designed and intended to assist vulnerable, destitute individuals with assistance from the state to provide basic needs, have become an existential threat to the well-being of middle class Floridians with assets. Predatory guardians and those who support them and protect them throughout the state have created a hugely profitable industry which preys upon families with assets by color of law and staged litigation. This industry has developed a sophisticated methodology to systematically mine the wealth of innocent people who have committed no crime. With guile, and self-dealing deceit they render vulnerable citizens legally dead calling them wards. When families protest, these predators use the Ward's own money to fight their own family. Instead of using a lifetime estate for the benefit of the Ward in their last years, the Ward is the helpless victim of this industry's exploitation and so is the family.

More than just a financial abuse, this industry and its stakeholders ruthlessly force the helpless Ward into lethal chemical restraints, impose severe isolation from family and friends, hasten the death of the Ward all to solidify the ultimate power they hold, beat back and retaliate against any opposition, and extract every last dollar from an innocent individual's life's work. When the money runs out, so do the guardians leaving what should have been a self-sufficient senior on the public aid dole.

PREDATORY MALICIOUS GUARDIANS THRIVE IN THIS STATE

Americans Against Abusive Probate Guardianship is a 501c3 corporation composed of families of victims of this outrageous industry. We have documented large numbers of egregious guardianship abuses throughout the state with sworn affidavits. We have been active in pushing for reform of the statutes governing guardianship and our most recent efforts include the development and fervent support of HB 5 and SB 318.

THERE IS AN URGENT NEED FOR COMPREHENSIVE REEVALUATION AND REFORM OF PROFESSIONAL FOR-PROFIT GUARDIANSHIP IN FLORIDA.

The Florida Department of Elder affairs maintains responsibility for Professional Guardian Registration, Professional Guardian Coursework and Competency Examination and Electronic Fingerprint Criminal History Record Check.

However, it would appear that the Department of Elder affairs has no well-defined responsibility for the guardians they certify once they pass the certifying examination. There is no mechanism in place in the department for intake of complaints of malicious behavior by guardians, self-

dealing by guardians, fraud committed by guardians, abuse, neglect and exploitation against wards committed by guardians and no effort at standardization of reasonable Guardian charges and fees statewide not to mention the incredible legal fees generated by Guardian lawyers in staged litigation.

Although discussed in the statutes, there is no mechanism in place to distinguish guardians who have specific talents or expertise as opposed to other guardians who do not.

Although recognized by federal and state law as inviolate, we have watched case after case in which advance directives are simply ignored in probate court to the benefit of the Guardian who aids and abets this rush to guardianship which become so financially lucrative

“The Wheel” in probate court which is designed to allow unbiased selection of guardians has not been used in the state of Florida for at least a decade. We have determined that in many counties throughout the state. Nearly all of the profitable wealthy guardianships go to a tiny handful of clout heavy guardians and their lawyers.

Records of all guardian bankruptcies are to be included in the department’s evaluation for possible guardianship certification. However, only personal bankruptcies appear to be recognized and business bankruptcies appear to be ignored allowing deception in applications and the appointment of individuals with checkered financial pasts into the management of multimillion dollar estates.

Our experience statewide indicates that once certified, these unlicensed guardians are essentially free to do as they please with no mechanism or likelihood of censure or accountability. We have documented case after case of malicious, inhumane and predatory behavior by certified professional for-profit guardians throughout the state.

It is our understanding that at this time the abuse hotline of the Department of children and families has been historically the venue to which Guardian complaints should be directed. In discussions with top leadership at that department, it is clear that in addition to their own internal dysfunction, DCF has a long and sordid history of aggravating guardianship abuse by portraying complainants in a negative light and even accusing them of wrongdoing by the very act of filing a complaint.

In dialogue with the department of Elder affairs, we seek a deeper understanding of the role of the department and ways by which the department might take greater responsibility in holding the guardians that it certifies accountable for their actions.

Respectfully submitted

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