

Pennsylvania State Senate

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Senate Co-Sponsorship Memoranda

Senate of Pennsylvania Session of 2023 - 2024 Regular Session

MEMORANDUM

Posted: February 7, 2023 09:31 AM
From: [Senator Lisa Baker](#) and [Sen. Art Haywood](#)
To: All Senate members
Subject: Strengthening Pennsylvania's Guardianship Laws

When an adult of any age is deemed incapacitated by a court, a professional or family guardian may be appointed who is responsible for making certain decisions on their behalf, either fully, or in a limited capacity. The nature of these decisions can include financial, medical, and personal matters the individual has been determined unable to make for themselves.


Currently, there are over 19,000 active guardianships in Pennsylvania. While many are helpful, others result in devastating abuse and exploitation. Trends show that guardianships are being sought and implemented with greater frequency. In the near future, we plan to re-introduce legislation to better protect this vulnerable population.

Although there are circumstances when the appointment of a guardian is unavoidable, there are a variety of alternatives available. Many individuals seek the help of family or friends to manage money or serve as a health care representative. Habilitation programs are also an option. Public benefits can be managed through the appointment of a representative payee. And advance planning by families can usually avoid the need for a guardian to manage inheritances or other assets.

Unfortunately, cases where guardians have stolen or misused money belonging to their wards are not uncommon. Instances of fraud and deception are on the rise across the country. [In October 2019, three court-appointed guardians embezzled more than \\$1 million from 108 victims.](#) Several states have subsequently passed legislation to improve the process. **Last Session, we took the initial step by introducing Senate Bill 1333.** This bill was supported by the Pennsylvania Bar Association, Disability Rights PA, and others because it worked to help prevent fraud, abuse, and exploitation, and increase representation by:

1. Appointing counsel for alleged incapacitated persons when none has already been retained.
2. Certifying professional guardians.
3. Ensuring the courts first explore alternatives to guardianship.
4. Requiring that petitions for guardianship demonstrate that less restrictive alternatives were considered and why they are insufficient.

While guardianship can be an appropriate tool to support some individuals who cannot make decisions themselves, it should be limited and used only as a last resort. Alternatives to guardianship may prove equally effective at a substantially lower emotional and financial cost. We hope you will join us in this effort to strengthen Pennsylvania's guardianship laws.

 Introduced as [SB506](#)

