

JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

EQUITABLE GUARDIANSHIP REFORM SERIES



PROGRAM SPOTLIGHT:

Nevada

Justice in Aging is pleased to spotlight programs that have demonstrated promising practices to address inequities in the guardianship system. These unique and replicable models hold the promise of positive change to reduce bias and increase due process, reforming and improving the guardianship system for low-income older adults.

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NEVADA'S GUARDIANSHIP ADVOCACY PROJECT (GAP)

About GAP

The Guardianship Advocacy Project (GAP) is a program of Legal Aid Center of Southern Nevada, the largest legal aid provider in Nevada. GAP provides legal representation to all persons facing or under guardianship in Clark County, the most populous county in Southern Nevada. GAP currently has fourteen lawyers who represent older adults and adults with disabilities in guardianship proceedings and five lawyers who handle defense of minor guardianship cases.

Since its inception in 2017, GAP has represented well over 12,000 older adults and adults with disabilities in guardianship court with impressive results. Of the GAP cases closed in 2022, for example, 28% closed due to the guardianship being denied and 18% closed because the guardianship was terminated for cause. In that same year, GAP obtained recovery awards exceeding \$858,000 and avoided over \$117,000 in charges to their clients' guardianship estates.

GAP's work is funded through a statutory fee levied on recordings made with the county recorder's office and is supplemented by private grants and other funding sources.

What motivated GAP to start defending the due process rights of low-income older adults facing guardianship, and what does GAP's practice in that area look like?

On the heels of a scandal that revealed some glaring problems with guardianship in Nevada, GAP was created in 2017 when the Nevada legislature enacted several guardianship reforms. One of those reforms required that the court appoint counsel to represent all persons facing guardianship. Additionally, the new law required that the representation be free and that counsel be appointed from a legal services organization operating in the county where the person facing guardianship lived. In Clark

County, that organization is Legal Aid Center of Southern Nevada.

The guardianship court appoints a GAP attorney as soon as a new guardianship petition is filed. This allows time for the attorney to meet with their client to discuss the case well in advance of the first hearing. After that initial meeting, the GAP attorney works to achieve the client's desired goals in the case, whatever those goals might be. Even if the guardianship is eventually granted, GAP attorneys remain in the case until the guardianship is terminated. This continued representation means that throughout the guardianship the client has an attorney to advocate for their wishes with regard to any decision that impacts the client's life.

What has GAP found to be the biggest hurdles to doing this important work, and what strategies has it used to make real change in guardianship systems and practices?

One of GAP's biggest hurdles has been the need to educate those involved in the guardianship process about GAP's role. Family members, guardians, attorneys who represent guardians, and even judges frequently do not understand that the GAP attorney's job is to zealously advocate for the wishes of the person facing or under guardianship, even if those wishes might be contrary to what everyone else thinks should happen in the case. To overcome this hurdle, GAP ensures that its attorneys understand their role and approach their cases consistently. GAP also takes every available opportunity to educate others about the critical role of client-directed legal representation in guardianship.

What strategies has GAP developed to reach underserved and marginalized communities in need of help in this area?

GAP has a robust and growing outreach program. Given that GAP attorneys are assigned by the court, any client who needs help gets it. As such, GAP's outreach focuses on preventing unnecessary guardianships in the first instance through education about advance estate planning. Individuals from low-income and marginalized communities without ready access to legal assistance are statistically less likely to have basic estate planning documents in place, like powers of attorney or healthcare designations, which can be utilized as less-restrictive alternatives to guardianship.

What advice does GAP have for other organizations looking to start a guardianship defense program or expand work in this area?

Look for ways within current funding to start taking on these cases. It is important work. Look at the statutes in your state. Is there language allowing for or requiring the appointment of counsel for the person facing guardianship? If so, find the interested parties who work with older adults and adults with disabilities. They can be a source of case referrals.

You can learn more about GAP on the [Legal Aid Center of Southern Nevada website](#).