

115TH CONGRESS
2D SESSION

S. 3669

To assist States in improving guardianship oversight and data collection.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 28, 2018

Ms. COLLINS (for herself and Mr. CASEY) introduced the following bill; which
was read twice and referred to the Committee on Finance

A BILL

To assist States in improving guardianship oversight and
data collection.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Guardianship Account-
5 ability Act of 2018”.

6 **SEC. 2. PURPOSE.**

7 The purposes of this Act are to help States improve
8 guardianship oversight and data collection by—

9 (1) designating a National Online Resource
10 Center on Guardianship;

1 (2) authorize grants for the purpose of devel-
2 oping State Guardianship Databases; and

3 (3) establishing procedures for sharing back-
4 ground check information related to appointed
5 guardians with other jurisdictions.

6 **SEC. 3. DEFINITIONS.**

7 In this Act:

8 (1) ELDER JUSTICE COORDINATING COUNCIL.—
9 The term “Elder Justice Coordinating Council”
10 means the Council established under section 2021 of
11 the Social Security Act (42 U.S.C. 1397k).

12 (2) GUARDIANSHIP.—The term “guardianship”
13 means a legal relationship established by a court in
14 which a person is given the legal authority over an-
15 other person because the other person is unable to
16 make safe and sound decisions regarding their per-
17 son or property.

18 (3) INDIVIDUALS SUBJECT TO GUARDIAN-
19 SHIP.—The term “individuals subject to guardian-
20 ship” means any individual 18 years or older placed
21 under a guardianship.

22 **SEC. 4. NATIONAL ONLINE RESOURCE CENTER ON GUARD-**
23 **IANSHIP.**

24 (a) DESIGNATION.—The Elder Justice Coordinating
25 Council shall establish a National Online Resource Center

1 on Guardianship (referred to in this section as the “Cen-
2 ter”).

3 (b) THE NATIONAL ONLINE RESOURCE CENTER ON
4 GUARDIANSHIP.—The National Online Resource Center
5 shall—

6 (1) collect and publish information for use by
7 individuals subject to guardianship, guardians,
8 courts, State and local governments, and community
9 organizations;

10 (2) post model standards, best practices, and
11 guidelines for the appointment and regulation of
12 guardianship cases developed under section 505 of
13 the Elder Abuse Prevention and Prosecution Act (34
14 U.S.C. 21752);

15 (3) promote the use of less restrictive alter-
16 natives to guardianship and the restoration of rights
17 of individuals subject to guardianship;

18 (4) annually compile and publish, a summary of
19 recently conducted research on guardianship sys-
20 tems, including information from agencies across the
21 government;

22 (5) collect data from States regarding—

23 (A) the number of individuals subject to
24 guardianship;

25 (B) the duration of guardianships;

1 (C) the extent of authority granted to
2 guardians;

3 (D) the amount of financial assets under
4 guardianship; and

5 (E) whether an appointed guardian is clas-
6 sified as a—

7 (i) family guardian;

8 (ii) private or institutional guardian;

9 or

10 (iii) public guardian;

11 (6) maintain a public, national database on
12 State laws regarding guardianship and less restric-
13 tive alternatives to guardianship, including—

14 (A) requiring for the use of least restrictive
15 alternative;

16 (B) reporting requirements for appointed
17 guardians;

18 (C) oversight of appointed guardians; and

19 (D) requirements for the restoration of
20 rights of individuals subject to guardianship;

21 (7) identify issues relating to guardianship and
22 provide and publish annual recommendations to
23 States and Congress to address identified problems;

24 (8) collect and analyze best practices relating to
25 guardianship, and publish a report of such best

1 practices, including model guidelines and standards
2 for—

3 (A) ensuring appropriate representation
4 and protection of legal rights for individuals
5 subject to guardianship and guardianship pro-
6 ceedings;

7 (B) conducting background check inves-
8 tigations on prospective and appointed guard-
9 ians;

10 (C) promoting the use of less restrictive al-
11 ternatives to guardianship;

12 (D) obtaining restoration of all or some
13 rights;

14 (E) implementing oversight programs; and

15 (F) responding to abuse, neglect, and ex-
16 ploitation;

17 (9) compile and publish training materials for
18 court appointed guardians related to duties and obli-
19 gations, as well as ways in which to effectively sup-
20 port individuals subject to guardianship;

21 (10) facilitate State collection of guardianship
22 information and the sharing of such information
23 among States; and

24 (11) carry out other activities, as determined by
25 the Elder Justice Coordinating Council.

1 **SEC. 5. STATE GUARDIANSHIP DATABASES.**

2 Section 2042(c)(2) of the Social Security Act (42
3 U.S.C. 1397m–1(c)(2)) is amended—

4 (1) in subparagraph (E), by striking “or” at
5 the end;

6 (2) in subparagraph (F), by striking the period
7 at the end and inserting a semicolon; and

8 (3) and by adding at the end the following:

9 “(G) methods to assess State guardianship
10 statistics such as the creation of State data-
11 bases to collect information about the number
12 and characteristics of guardianship arrange-
13 ments, guardians, and individuals subject to
14 guardianship;

15 “(H) the use of trained court visitors to
16 improve court administration of guardianship
17 arrangements, including the appointment and
18 oversight of guardians; or

19 “(I) methods for collecting, storing, and
20 making available to the appropriate individuals,
21 organizations, and entities information on pro-
22 spective, current, and previously appointed
23 guardians, which may include—

24 “(i) contact and identifying informa-
25 tion;

1 “(ii) information relating to back-
2 ground check investigations;

3 “(iii) court decisions regarding peti-
4 tions for appointment as a guardian, in-
5 cluding the rationale for such decisions;
6 and

7 “(iv) information relating to the cause
8 for removal of the guardian or termination
9 of the guardianship arrangement.”.

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