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Guardians' Abuses Persist as One State's Easy Fix Goes Unmatched

Deep Dive

In the Name of Protection: Part 5: A Solution

Nevada has adopted a legal reform that eliminates unnecessary guardianships and seeks to prevent the type of fraud and abuses examined in a Bloomberg Law series. Why hasn't the rest of the country followed suit?

Across the US, uneven oversight and accountability mar the legal process by which adults are placed under guardianship. The lack of rigor has opened the door to stolen funds, judicial errors, bulging caseloads, and legal entanglements for vulnerable people.

But one straightforward reform could help ensure adults placed under guardianship aren't abused, defrauded, or silenced. Nevada overhauled its system and achieved meaningful results. Advocates are waiting for the rest of the country to catch up.

Triggered by high-profile guardianship scandals, Nevada in 2017 began requiring independent lawyers be assigned to represent adults whenever a petition for guardianship is filed. This legal help comes at no cost, much like in criminal cases where indigent defendants are guaranteed free counsel.

States typically say adults under guardianship have a right to counsel, but Nevada goes significantly further. It requires that representation come before a petition is approved, that the lawyer's sole role is to represent the protected person's interests, and that the legal guidance is free. Court fees pay the costs.

With more than 2 million people, Clark County, home to Las Vegas, is the epicenter of a system in which legal aid lawyers scrutinize guardianship petitions.

The idea was to stop guardians from depriving people unnecessarily of their liberty and stealing their money. "Before the scandal, most of the time the individual and their families didn't even have notice that this was going on or didn't have the ability to challenge it," said Barbara Buckley, executive director of the Legal Aid Center of Southern Nevada.

When a petition is filed, Buckley said, lawyers start by asking their clients to-the-point questions.

"Do you know a guardianship has been filed against you? And in some cases, they may say yes, this is my daughter and I need their help and this is fine," she said. "In some cases, they say, 'What? By who? I have never met this person before in my life.'"

When the client has grounds to push back, Legal Aid Center lawyers press the point in court.

In 2021, they defeated 25% of guardianship petitions in Clark County, according to the center's most recent [annual report](#). The core reason: The guardianship wasn't needed.

In January, Buckley said the office had 2,344 open adult guardianship cases, plus 563 involving minors. Buckley's staff includes 15 adult guardianship attorneys, four focusing on minor guardianship cases, four advocates, and five legal assistants. Its annual budget for the unit: \$3.2 million.



Filling a Void

Nevada's overhaul alone couldn't resolve all the problems documented in the Bloomberg Law series. But having independent lawyers on the front end, courthouse veterans say, can steer away unnecessary cases and provide protection for vulnerable adults.

Such protections are crucial. Across the US, adults can be placed under guardianship with little warning or legal help; once in, they encounter a system in which guardians are rarely regulated or certified, and where judges often provide scant scrutiny. More stringent oversight could've aided [Britney Spears](#), who spent years fighting a conservatorship.



All other states have done an excellent job of making sure that investigations like I ran in Nevada are almost impossible to do. Because this profit center today is so big.”

**Rick Black,
Guardianship Reformer**

Bloomberg Law

Lawyers like those in Nevada fill a void, providing accountability often sorely lacking.

Nevada’s system is “a wonderful step forward,” said Erica Wood, the former assistant director of the American Bar Association Commission on Law and Aging.

She noted that many state laws provide a right to counsel, but that can be “an empty right” unless the court consistently appoints counsel for those without representation and the state covers the cost for those who can’t pay. “Having the right to counsel doesn’t mean the person will actually get counsel in practice—or if they do, often it’s not counsel as an independent advocate but more of a court investigator.”

A December [2022 ABA survey](#) bears this out. At least 25 states say those under guardianship are “entitled” to counsel, have the “right to be represented,” or can request counsel, all standards below Nevada’s mandate. Another 21 states say counsel “shall” be appointed, but that can be murky. Pennsylvania says, for instance, that counsel “shall be appointed in appropriate cases.” Maine says lawyers shall be appointed “when respondent requests” or under other conditions.

New Hampshire, by contrast, says the right to counsel is “absolute, unconditional,” and the state seeks to avoid unnecessary guardianships. Nevada says legal counsel “must” occur.

So why aren’t others following Nevada’s model?

“All of this stuff costs money,” said Alice Liu McCoy, who became executive director of New Mexico’s Developmental Disabilities Council after guardianship fraud left that state agency in turmoil.

McCoy, a former disability rights lawyer, said guardianship is too often a first resort when it should be the last. She agrees the changes to Nevada’s system have worked.



Alice Liu McCoy became executive director of New Mexico’s Developmental Disabilities Council after a guardianship scandal rocked the state.

Photographer: Adria Malcolm/Bloomberg

Legal Help

Across the country, independent lawyers have been the difference in guardianship cases for those who get trapped in the system, Bloomberg Law found.

In Indiana, disability rights lawyer Justin Schrock helped Nicholas Clouse end a guardianship that lasted several years after he recovered from a brain injury sustained in a traffic accident; Clouse remained under guardianship even after marrying, having a child, and gaining work. Now Schrock is working to help Sara Abbott, a young adult with autism whose case was also detailed earlier in this series, terminate a guardianship in which her former guardian billed nearly Abbott's entire monthly income while questioning the family's spending.

Georgia Advocacy Office senior staff attorney Julie Kegley helped Kalei Bulwinkle be freed from guardianship in a case in which the local judge was found to have improperly restricted her rights. In Texas, disability rights lawyer Kayla Puga helped Ruby Campos end her guardianship more than a decade after it began. "One of the biggest decisions I couldn't make on my own was the right to speak for myself," Campos said.

Without such legal backing and support, fraud or abuse can fester.

In New Mexico, directors of Ayudando Guardians stole nearly \$12 million from 1,000 clients, leaving many destitute as the guardians globe-trotted and rented sports skyboxes. In Nevada, a court-appointed financial guardian named [April Parks](#) was sent to prison for up to 40 years in 2019 after admitting she stole more than half a million dollars.

Bloomberg Law asked legal professionals to analyze topics including the role guardianship plays in states and what reforms would serve vulnerable populations.

No Traction

Rick Black, executive director of a nonprofit advocating guardianship reform, said he has examined thousands of cases nationwide, including many in Nevada. There, he spotlighted guardianship abuses and [pushed the state](#) to adopt changes.

Black said Nevada's system sets a clear national standard. Once it passed, he said, he looked forward to other states following suit.

But six years later, "We have had no success," he said.

Black blames the industry and those who profit from it. Unlike some states, Nevada's public records laws require guardianship files to be open to the public. Black said that allowed him to scrutinize volumes of case files. But nationwide, that's not often the case. Some localities seal guardianship files. Others that make them available require record seekers to travel to the courthouse to manually pull paper files.

Those hurdles make uncovering fraud more daunting. Another reform Black seeks is for all US probate courts to have their guardianship case files not only public, but searchable online. He also wants hearings to be videotaped.

With more transparency, abuses occurring in the shadows could come to light.

"All other states have done an excellent job of making sure that investigations like I ran in Nevada are almost impossible to do," he said. "Because this profit center today is so big." Experts speculate that guardians control more than \$50 billion in assets for those under court control.

In Nevada, the changes have made a tangible difference.

Legal Aid Center lawyer Debra Bookout helped Victoria Gonzales, a 35-year-old woman with cerebral palsy, terminate a guardianship that had lasted more than a decade.



Victoria Gonzales, at left, escaped her guardianship with help of Legal Aid Center lawyer Debra Bookout.

Photographer: Bridget Bennett/Bloomberg

Gonzales had been adopted by her grandmother. But after her grandmother died, another relative became Gonzales' guardian in 2009. Gonzales said she felt powerless. She later connected with Bookout, directing attorney for the office's Guardianship Advocacy Project, and, in court in November 2021, officially escaped the system.

"Victoria, we're going to give you your wish. We're going to give you back your guardianship," she recalled the judge saying. Her first thought: "Freedom!"

Now living on her own and working as a movie theater usher, she said she finally feels empowered to make her own decisions. "I feel like there's a whole bunch of confidence," she said, "and no one can tell me what to do."

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