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# New law aims to make guardianship a last resort in Pa. Some experts say it doesn't go far enough.

By [Angela Couloumbis](#) | [Spotlight PA](#)

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*Leise Hook / For Spotlight PA*

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With little fanfare, Gov. Josh Shapiro in December signed into law a bill aimed at fixing long-standing problems within Pennsylvania's vexing system for safeguarding adults — many of them seniors — whom courts deem incapable of making critical life, health, and financial decisions for themselves.

[The bill](#), now Act 61 of 2023, makes changes to the process of assigning guardians to people who are considered incapacitated, whether due to age-related illnesses, mental health issues, or cognitive disabilities. Those guardians can be family members but are often professionals in the private sector who do such work for a living.

Families who have experienced the system have long complained it is rife with pitfalls: trapping people in guardianship for years, if not a lifetime, with little chance of escape. Spotlight PA last spring highlighted the story of [one woman](#) who alleges in a long-running civil case now before a top Pennsylvania court that her late mother's guardianship (including her legal representation) was rife with conflicts of interest.

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The new law, championed by state Sens. Lisa Baker (R., Luzerne) and Art Haywood (D., Montgomery) and signed by Shapiro in mid-December, is at its core an effort to make guardianship a choice of last resort. It requires judges and others involved in the process to first consider less restrictive alternatives, even when individuals are found to be incapacitated or unable to make many decisions for themselves.

In short, the law states, “the court may not use a determination of incapacity alone to justify a guardianship.” If a judge does decide on guardianship of a person, anyone can file a petition with the court to end or modify the oversight. And if there is evidence that a person’s incapacitation is temporary, or that circumstances may change, the court has to schedule a review hearing within a year.

competent. And it would require professional guardians to pass a certification exam administered by a national guardianship certification organization.

As it stands now in Pennsylvania, those guardians aren't required to be certified or trained before taking on the role.

The new law has received positive reviews from elected officials ([the vote](#) to approve it in both chambers was unanimous), the [state chapter of the AARP](#), and others.

But some advocates for families who have struggled with guardianship believe the new law won't make a dent in improving flaws in the current process.

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(CEAR), that advocates for older and dependent adults.

In an interview, Black said the “No. 1 issue” is securing effective legal representation — not lawyers, he said, who are “financially incentivized” to create guardianships, and then profit off them. Oftentimes, there is a set stable of lawyers who practice in orphans’ courts (where guardianship cases in Pennsylvania are heard) and who benefit financially when guardianships are granted.

The new law, he said, does not address that perceived conflict. Nor does it create rigorous certification standards for professional guardians, which he believes are currently lax. (The Center for Guardianship Certification states on its website that [it tests applicants](#) on financial and medical management and knowledge of the courts and the law, among other areas of competency.)

“The problem we have today is that the burden of proof to create a guardianship is too low, the oversight is too low and it allows the predatory legal community to make millions off the backs of vulnerable people,” Black said.

Pennsylvania has [over 18,000 active guardianships](#), nearly half of which involve people over the age of 60, according to data compiled by the state Supreme Court’s Advisory

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