

# Florida Professional Guardianship Information 2024

Report 24-07

October 2024



# OPPAGA

Office of Program Policy Analysis and Government Accountability

# Florida Professional Guardianship Information 2024

## EXECUTIVE SUMMARY

Guardianship is a judicial process to protect and exercise the legal rights of individuals (known as wards) facing functional limitations that prevent them from being able to make their own decisions. Guardians typically perform activities such as paying living expenses for the ward, investing the ward’s assets, and selling or leasing the ward’s property. Since adults placed under guardianship lose many of their basic civil rights—such as the ability to decide where to live, how to spend money, and what medical care to receive—guardianship is considered an option of last resort.

A professional guardian in Florida is a guardian who has at any time rendered services to three or more wards. Professional guardians must be registered by the Office of Public and Professional Guardians (OPPG). OPPG oversees the registration and discipline of professional guardians.

OPPAGA examined other states’ guardianship laws and the Center for Guardianship Certification in three areas related to safeguards against abuse by guardians to determine how other states compare to Florida in protecting wards. As many states OPPAGA identified do, Florida requires a criminal background check for professional guardians. However, Florida is one of only nine states that OPPAGA identified that require a financial background check. In addition, Florida is 1 of 17 states that OPPAGA identified that require professional guardians to be registered or certified.

In response to media reports of guardians mistreating wards and at the urging of several clerks of court, the Guardianship Improvement Task Force was formed and made multiple recommendations. The Legislature has since taken steps to improve guardianship data and court oversight of guardianship cases. These steps include requiring the Florida Clerks of Court Operations Corporation (CCOC) to create a database of statewide guardianship information for judges and clerks and to develop a publicly accessible website. For each professional guardian, the database must include registration status, disciplinary history, compliance with qualifications, and status of required reports. The database must be searchable by the name of the petitioner, ward, guardian, and legal counsel;

### REPORT SCOPE

Section 744.2112(5)(b), *Florida Statutes*, directs OPPAGA to analyze data compiled in the statewide database of guardian and guardianship case information established by the Florida Clerks of Court Operations Corporation and the clerks of court. OPPAGA is to use data from the statewide database to analyze trends in the use of guardianships in Florida and to conduct a comparative analysis of guardianship laws in other states. This is the first report in a series of four reports.

ward demographic information; location of the guardian's office; name of the judge and circuit; and number of wards served by each guardian.

OPPAGA found that CCOC encountered several challenges creating the database, including a lack of standardization across data systems and the absence of processes for capturing required data elements. CCOC reports making progress on some of the challenges, but the absence of a unique identifier continues to be an issue.

OPPAGA's future reports will provide updates on database implementation and will use the database to examine trends in guardianship in Florida.

# BACKGROUND

Guardianship is a judicial process to protect and exercise the legal rights of individuals facing functional limitations that prevent them from being able to make their own decisions. An individual facing a loss of capacity and for whom less restrictive alternatives are not sufficient may require the assistance of a guardian to make legal decisions regarding their property or person. Various individuals may need guardians, including those with dementia, Alzheimer's disease, developmental disabilities, chronic mental illness, or any condition that limits the ability to make decisions. If the court determines that an individual is incapacitated, a guardian is appointed and the court issues an order explaining what rights are removed from the incapacitated person (known as the ward).

Guardians typically perform activities such as paying living expenses for the ward, investing the ward's assets, and selling or leasing the ward's property. Some of the tasks performed by guardians, including selling property, require prior court approval. Since adults placed under guardianship lose many of their basic civil rights—such as the ability to decide where to live, how to spend money, and what medical care to receive—guardianship is considered an option of last resort.

Once a guardian is appointed, the clerk of court and the court monitor the performance of the guardian's duties. Although most guardians may perform their duties appropriately, in Florida and other states, there have been instances of abuse or mismanagement of funds. As a result, states are trying to improve the quality of guardianships and prevent abuses.

## Guardianship in Florida

**Florida courts make guardian appointments in response to petitions.** A petition to determine whether an individual is incapacitated and needs a guardian can be filed by any adult. The person filing the petition must be able to attest as to why they believe the person may be incapacitated. Once a petition is filed, the court appoints an attorney to represent the alleged incapacitated person (AIP). The court assigns a committee of three members to examine the AIP. The examining committee includes one licensed physician or psychiatrist. The remaining members of the committee must be either a psychologist, a gerontologist, a psychiatrist, a physician, an advanced practice registered nurse, a registered nurse, a licensed social worker, a person with an advanced degree in gerontology from an accredited institution of higher education, or any other person who, by knowledge, skill, experience, training, or education, may advise the court in the form of an expert opinion. The examining committee's report includes a physical examination, mental health examination, and functional assessment. The court must hold a hearing to determine capacity at least 10 days but no more than 30 days after the examining committee files its report with the court. (See Exhibit 1.) The AIP has the right to be present at the hearing to testify, call and cross examine witnesses, and present evidence. The standard for proving incapacity is clear and convincing evidence.<sup>1</sup> If the court finds that the AIP is incapacitated, the court appoints a guardian and issues letters of guardianship. The court's order must be consistent with the ward's welfare and safety, must be the least restrictive alternative, and must reserve to the ward the right to make decisions in all matters commensurate with their ability to do so.

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<sup>1</sup> Clear and convincing evidence is a medium-level burden of proof that must be met for certain judgments. It is a higher standard to meet than preponderance of the evidence, but less rigorous than proving evidence beyond a reasonable doubt.

## Exhibit 1 The Guardianship Process in Florida Has Multiple Steps



Adjudicating a person incapacitated and in need of a guardian deprives them of their civil and legal rights. Therefore, Florida law recognizes that the least restrictive form of guardianship should be used. For some individuals, an alternative to guardianship may be the most appropriate. Less restrictive alternatives to guardianship include powers of attorney, health care surrogates, or supported decision making.<sup>2,3,4</sup>

Florida law provides for both limited and plenary adult guardianship. A *limited guardianship* is appropriate if the court finds that the ward lacks the capacity to do some, but not all, of the tasks necessary to care for themselves or their property. A *plenary guardian* is a person appointed by the court to exercise all delegable legal rights and powers of the adult ward after the court makes a finding of incapacity.

**The guardian is either a family guardian, professional guardian, or public guardian; certain individuals may not be appointed as guardians.** *Family guardians* are family or friends of the ward who the court determines are qualified to serve as guardian. *Professional guardians* are individuals who have at any time served three or more wards; a person serving two or more relatives is not considered a professional guardian. *Public guardians*, a subset of professional guardians, provide services to people with little to no assets and who lack family or friends willing or qualified to serve.

By law, the court-appointed guardian may be

- any resident of Florida who is 18 years of age or older and has full legal rights and capacity;
- a non-resident if they are related to the ward by blood, marriage, or adoption;
- a trust company, state banking corporation, or state savings association authorized and qualified to exercise fiduciary powers in Florida or a national banking association or federal savings and loan association authorized and qualified to exercise fiduciary powers in Florida;
- a non-profit corporation organized for religious or charitable purposes and existing under Florida law;
- a judge who is related to the ward by blood, marriage, or adoption, or who has a close relationship with the ward or the ward's family and serves without compensation;

<sup>2</sup> A power of attorney is a legal document in which an individual (the principal) gives someone else (the agent) the power to act in their place without the principal losing their right to act on their own behalf.







<sup>3</sup> A designation of a health care surrogate is a legal document that gives permission to another person (the surrogate) to receive an individual's health information and make healthcare decisions for that individual.

<sup>4</sup> Supported decision making is an alternative to guardianship that allows adults with disabilities to make their own decisions with support.

- a provider of health care services to the ward, whether direct or indirect, when the court specifically finds that there is no conflict of interest with the ward’s best interests; or
- a for-profit corporation that meets certain qualifications including being wholly owned by the person who is the judicial circuit’s public guardian in the circuit where the corporate guardian is appointed.

However, various individuals are disqualified from being appointed as guardians. For example, individuals who have been convicted of a felony are ineligible, as are those incapable of discharging their duties because of illness. (See Exhibit 2.)

**Exhibit 2**  
**Certain Individuals Are Disqualified From Being Appointed as Guardians in Florida**

-  Convicted of a felony
-  Incapable of discharging the duties of a guardian due to incapacity or illness
-  Judicially determined to have committed abuse, abandonment, or neglect against a child
-  Found guilty of any criminal offense under s. 435.04, F.S.<sup>1</sup>
-  Provides substantial services to the ward in a professional or business capacity or is a ward’s creditor
-  Employed by any person, agency, government, or corporation that provides service to the ward in a professional or business capacity

<sup>1</sup> Section [435.04, F.S.](#), lists more than 60 crimes persons subject to background screening cannot have been arrested for and are awaiting final disposition of, found guilty of, or entered a plea of nolo contendere or guilty to.


Source: Section [744.309, F.S.](#)

**Guardians have a fiduciary duty to their wards; some guardianship powers can be exercised only with court approval.** Guardians are required to act within the scope of the authority granted by the court and as provided by law, act in good faith, not act in a manner contrary to the ward's best interests, and use any special skill or expertise the guardian possesses when acting on behalf of the ward. The fiduciary relationship between the guardian and the ward may not be used for the private gain of the guardian. If a guardian breaches their fiduciary duty to the ward, a court may intervene.

The guardian may exercise only those rights removed from the ward and delegated to the guardian. Although the guardian has many powers they can exercise, some require pre-approval by the court. (See Exhibit 3.)

### Exhibit 3

#### There Are Numerous Examples of Guardianship Powers That Can Be Exercised With and Without Court Approval

 Without Court Approval	 With Court Approval
<ul style="list-style-type: none"><li>• Retain assets owned by the ward</li><li>• Insure the assets of the estate against damage, loss, and liability</li><li>• Pay reasonable living expenses for the ward</li><li>• Prudently invest liquid assets belonging to the ward</li></ul>	<ul style="list-style-type: none"><li>• Enter into contracts</li><li>• Alter the ward's property interests including selling, mortgaging, or leasing any real property including the homestead</li><li>• Make gifts of the ward's property to members of the ward's family in estate and income tax planning</li><li>• Borrow money to be repaid from the property of the ward or the ward's estate</li></ul>

Source: Sections [744.441](#) and [744.444](#), *F.S.*

In addition to powers a guardian can exercise, the law imposes multiple duties on the guardian. Specifically, a guardian must

- file an initial report within 60 days after the letters of guardianship are signed;
- file an annual report with the court consisting of an annual accounting and/or an annual guardianship plan;<sup>5</sup>
- implement the guardianship plan;
- consult with other guardians appointed, if any;
- protect and preserve the ward's property, invest it prudently, apply income first to the ward, and account for the property;
- observe the standards in dealing with the guardianship property that would be observed by a prudent person dealing with the property of another; and

<sup>5</sup> The annual guardianship report of a guardian of the property must consist of an annual accounting, and the annual guardianship report of a guardian of the person must consist of an annual guardianship plan.

- if authorized by the court, take possession of all of the ward's property and of the rents, income, issues, and profits from it, whether accruing before or after the guardian's appointment, and of the proceeds arising from the sale, lease, or mortgage of the property or of any part thereof.

The guardian is entitled to a reasonable fee for services rendered and reimbursement for costs incurred on behalf of the assets of the guardianship estate. The guardian must file a petition for fees or expenses accompanied by an itemized description of the services performed.

**The Florida Office of Public and Professional Guardians oversees the registration and discipline of professional guardians and shares oversight with clerks of court and judges.** The 1999 Public Guardianship Act created the Statewide Public Guardianship Office within the Department of Elder Affairs to provide and oversee guardians for those without sufficient income or assets to afford a private professional guardian (i.e., public guardians).<sup>6</sup> In 2016, the Legislature renamed the office as the Office of Public and Professional Guardians (OPPG), requiring the office to oversee professional guardians as well.

OPPG has oversight responsibilities for all public and professional guardians. Public guardians are considered professional guardians for the purposes of regulation, education, and registration. In consultation with the chief judge of each circuit, OPPG appoints and contracts with 16 Offices of Public Guardians to serve the wards in all 67 counties who have little to no assets and no qualified or willing family members or friends to serve as guardian.

**There are multiple requirements for professional guardian registration, including initial and continuing education, financial and criminal history background screening, and bonding.** There are more than 400 professional guardians registered with OPPG. Professional guardians must renew their registration annually and identify professional guardians that they employ as well as their fiduciary staff who have access to or manage the ward's assets, supervise care, or make any health decisions on behalf of the ward.

Florida requires new professional guardians to complete a 40-hour initial training course and pass a state exam. Continuing education is required every two years and consists of 30 credit hours including specialized hours in fiduciary responsibility; professional ethics; advance directives; abuse, neglect, and exploitation; and guardianship law. In addition to education requirements, each professional guardian and member of their fiduciary staff must provide a credit report with their initial application and every two years with their renewal application. Every professional guardian and member of their fiduciary staff must also complete a background screening initially and every five years thereafter. Any of the enumerated offenses in s. 744.309, *Florida Statutes*, are disqualifying. Finally, professional guardians are required to have a blanket fiduciary bond posted with the clerk of court for the circuit where their primary place of business is located. The bond must be at least \$50,000.<sup>7</sup>

**OPPG must review complaints against guardians and take action on substantiated complaints.** The office receives complaints against registered professional guardians through a statewide toll-free hotline.<sup>8</sup> Complaints may also be submitted by email, letter, or referral.<sup>9</sup> The OPPG Office of General Counsel determines if complaints are legally sufficient. A complaint is legally sufficient if it contains facts that show a violation of a standard of practice by a professional guardian has occurred. For legally

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<sup>6</sup> Chapter 99-277, *Laws of Florida*.

<sup>7</sup> The bond must cover all wards for whom the guardian has been appointed and the act or omissions of each employee of a professional guardian who has direct contact with the ward or access to the ward's assets is covered by the terms of the bond.

<sup>8</sup> The OPPG hotline number is 1-855-305-3030.

<sup>9</sup> Complaints to OPPG may be submitted via email at [OPPGcomplaints@elderaffairs.org](mailto:OPPGcomplaints@elderaffairs.org).



sufficient complaints, OPPG must initiate an investigation no later than 10 business days after receiving a complaint. OPPG previously partnered with the Florida Court Clerks and Comptrollers Statewide Investigation Alliance for investigations. The alliance terminated the contract effective July 14, 2024. During the same month, the Department of Elder Affairs established the Guardianship Investigations Unit and hired five investigators to conduct investigations of complaints under the oversight of the department’s inspector general.

Initial findings and recommendations must be provided to the professional guardian and the person filing the complaint within 45 days. OPPG is also required to obtain supporting information for the investigation, including interviewing the ward, family member, or interested party. OPPG must coordinate its activities with the clerks of court to avoid duplication of duties. If an investigation substantiates the alleged violation, the case may be referred to law enforcement, another state agency, or the ombudsman.

Multiple acts by guardians constitute grounds for disciplinary action by the OPPG. The grounds are listed in s. 744.20041, *Florida Statutes*. (See Exhibit 4.)

**Exhibit 4  
Statute Identifies Various Acts That May Result in Disciplinary Action Against a Professional Guardian in an Administrative Hearing**

<ul style="list-style-type: none"> <li>• Making misleading, deceptive, or fraudulent representations in or related to the practice of the guardianship</li> <li>• Violating any rule governing guardians or guardianships adopted by OPPG</li> <li>• Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of or the ability to practice as a professional guardian</li> <li>• Failing to comply with educational course requirements</li> <li>• Having a registration, a license, or the authority to practice a regulated profession revoked, suspended, or otherwise acted against</li> <li>• Knowingly filing a false report or complaint with OPPG against another guardian</li> <li>• Attempting to obtain, obtaining, or renewing a registration or license to practice a profession by bribery, by fraudulent misrepresentation, or as a result of an error by OPPG which is known and not disclosed to OPPG</li> <li>• Failing to report to OPPG any person who the professional guardian knows is in violation of this chapter or OPPG rules</li> <li>• Failing to perform any statutory or legal obligation</li> <li>• Violating any provision of Ch. 744, <i>F.S.</i>, or any rule</li> <li>• Failing to post and maintain a blanket fiduciary bond</li> </ul>	<ul style="list-style-type: none"> <li>• Making or filing a report or record that the professional guardian knows to be false or intentionally or negligently failing to file a report or record required by state or federal law</li> <li>• Using the position of guardian for the purpose of financial gain</li> <li>• Violating a lawful order of OPPG or failing to comply with an OPPG subpoena</li> <li>• Improperly interfering with an investigation or inspection authorized by statute</li> <li>• Using the guardianship relationship to engage or attempt to engage the ward, or an immediate family member or a representative of the ward, in verbal, written, electronic, or physical sexual activity</li> <li>• Failing to report to OPPG in writing within 30 days after being convicted or found guilty of, or entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction</li> <li>• Being unable to perform the functions of a professional guardian with reasonable skill by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of substance or as a result of any mental or physical condition</li> <li>• Failing to maintain all records pertaining to a guardianship for a reasonable time after the court has closed the matter</li> </ul>
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Source: Section [744.20041](#), *F.S.*

When OPPG finds a professional guardian has committed any of these acts, the office may enter an administrative order imposing one or more of six penalties.

1. Refusal to register the guardian
2. Suspension or permanent revocation of a professional guardian’s registration

3. Issuance of a reprimand or letter of concern
4. Requirement that the professional guardian undergo treatment, attend continuing education courses, submit to reexamination, or satisfy any terms reasonably tailored to the violations found
5. Requirement that the professional guardian pay restitution of any funds obtained, disbursed, or obtained through a violation of any statute, rule, or other legal authority to a ward or the ward's estate
6. Requirement that the professional guardian undergo remedial education

The Legislature intends for the disciplinary guidelines adopted by OPPG to provide a meaningful range of designated penalties based on the severity and repetition of specific offenses and for minor violations to be distinguished from those that endanger the health, safety, or welfare of a ward or the public. OPPG rule provides possible mitigating and aggravating circumstances. If the final determination is to suspend or revoke the guardian's registration, the determination must be provided to any court that oversees any guardianship to which the professional guardian is appointed. OPPG is required to report any suspected abuse, neglect, or exploitation of a vulnerable adult to the Department of Children and Families' abuse hotline.

From 2019 through 2023, the number of complaints filed with OPPG varied, ranging from a low of 79 in 2022 to a high of 208 in 2021. The number of filed complaints that OPPG deemed legally sufficient also varied, ranging from 54 in 2022 to 109 in 2019. (See Exhibit 5.)

#### Exhibit 5

#### The Number of Complaints and Legally Sufficient Complaints Filed With OPPG Has Fluctuated Since 2019

Year	Complaints Received	Legally Sufficient Complaints
2019	112	109
2020	124	69
2021	208	95
2022	79	54
2023	115	92
2024 <sup>1</sup>	74	47

<sup>1</sup> Data for 2024 is as of August 1, 2024.

Source: Office of Public and Professional Guardians.

## Guardianship in Other States

OPPAGA examined the guardianship laws in other states in three areas related to safeguards against abuse by guardians to determine how other states compare to Florida in providing protections for wards: criminal background checks, financial background checks, and registration/certification requirements for professional guardians. Regarding registration/certification requirements OPPAGA also examined information from the Center for Guardianship Certification (CGC). Additionally, OPPAGA identified four states that limit the number of cases a guardian can have in statute or court rules.

Like Florida, many states that OPPAGA identified require a criminal background check for professional guardians. However, Florida is one of nine states that OPPAGA identified that require a financial background check. Also, Florida is 1 of 17 states that OPPAGA identified that require professional

guardians to be registered or certified. In these states, the professional guardian must meet certain requirements laid out by the state or the delegated certification entity.

**Criminal background checks.** Florida is 1 of 22 states that OPPAGA identified that affirmatively require a criminal background check for professional guardians. Also, Florida is 1 of 18 states that OPPAGA identified that include criminal convictions as disqualifying for guardians. However, many of the states that include criminal convictions as disqualifying allow judges discretion when deciding which appointment would be in the best interest of the ward. For example, as part of the best interest determination, South Dakota requires the court to consider the nature of the offense, the date of the offense, and the evidence of the proposed guardian's or conservator's rehabilitation.<sup>10</sup> Similarly, Nevada requires courts to consider felony convictions of individuals nominated to be guardians and determine whether any such conviction should disqualify. In Illinois, court discretion is limited to certain convictions.<sup>11</sup>

**Financial background checks.** In Florida, professional guardians must submit a credit check with their initial application and every two years thereafter with their renewal application. The credit report helps OPPG determine if the applicant possesses the character, general fitness, and financial responsibility to be a professional guardian. OPPAGA identified eight other states that require a financial background check or make bankruptcy or other financial indicators disqualifying. For example, Idaho requires proposed guardians to provide a report of their civil judgements and bankruptcies to the visitor, the guardian ad litem, and all others entitled to notice of the guardianship proceeding.<sup>12</sup> In Oklahoma, the court is responsible for determining whether the proposed guardian is insolvent, has declared bankruptcy during the five years prior to the filing of the pleading, or is under any financial obligation to the ward.

**Registration/certification requirements for professional guardians.** Florida is 1 of 17 states that OPPAGA identified that require professional guardians to meet registration or certification standards, either through the CGC or the state's own system. (See Exhibit 6.) The CGC is the steward of the national certification process, overseeing exam content, scheduling, and decertification. Certification entitles the guardian to represent to the courts and the public that they are eligible to be appointed, are not disqualified by prior conduct, agree to abide by universal ethical standards governing a person with fiduciary responsibilities, submit to a disciplinary process, and can demonstrate through a written test an understanding of basic guardianship principles and laws.

Florida requires registration through OPPG pursuant to s. 744.2003(9), *Florida Statutes*, but not through the CGC. In Alaska, CGC certification is a requirement for individuals seeking private professional full guardian licensure through the state's Department of Commerce, Community, and Economic Development.<sup>13</sup> New Jersey requires registration through its Office of the Public Guardian for Elderly Adults. Other examples of state certification bodies include Arizona's supreme court and Texas's Guardianship Certification Advisory Board.

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<sup>10</sup> Specific guardianship terminology may vary from state to state. Guardianships tend to be distinguished between guardianships of the person and guardianships of the estate, sometimes referred to as conservatorships.

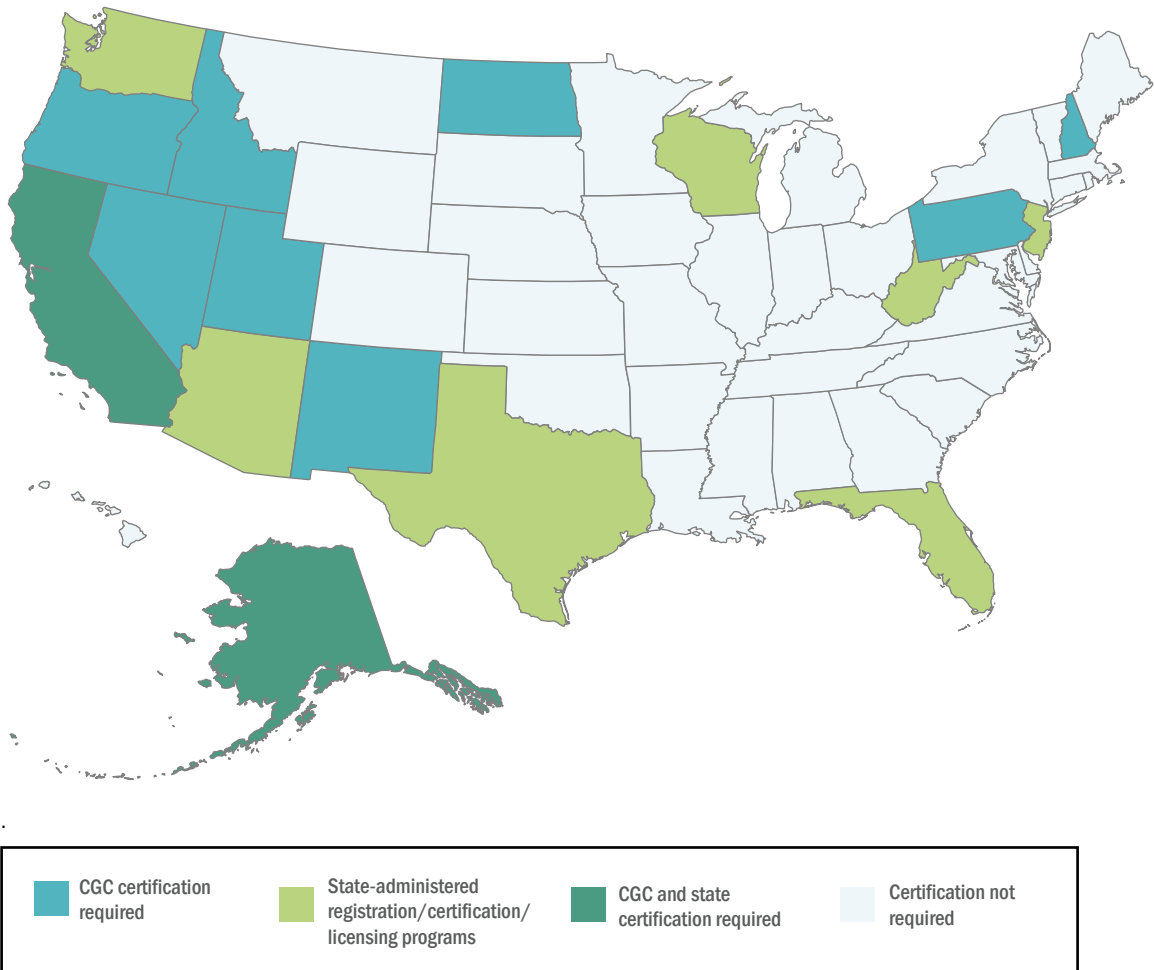
<sup>11</sup> These convictions are felonies involving harm or threat to a minor or an elderly person or a person with a disability, including a felony sexual offense.

<sup>12</sup> With respect to guardianship proceedings, a visitor is an individual with no personal interest in the proceedings and who meets the qualifications identified in Idaho Supreme Court rule. A visitor may either be an employee of or appointed by the court. If appointed, a visitor becomes an officer of the court.

<sup>13</sup> The CGC website indicates that the certification requirement mentioned in Alaska statute is through CGC.

Exhibit 6

OPPAGA Identified 17 States That Require Professional Guardians to Meet Registration or Certification Standards

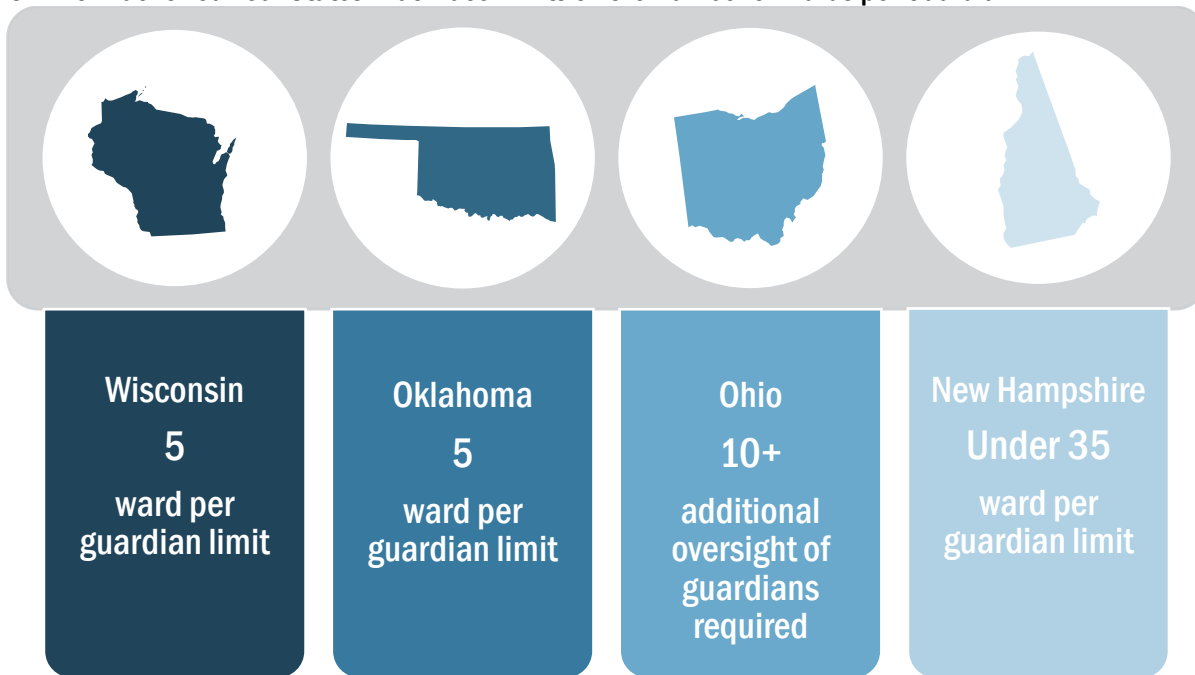


Source: OPPAGA review of other states' statutes and the Center for Guardianship Certification.

**Caseload limits.** OPPAGA identified four states that place a limit on how many cases a guardian can have in statute or court rules. Those limits range from 5 in Wisconsin to under 35 in New Hampshire. (See Exhibit 7.) Florida does not currently place limits on the number of cases a professional guardian may have.

## Exhibit 7

### OPPAGA Identified Four States That Place Limits on the Number of Wards per Guardian



Source: OPPAGA review of other states' statutes.

## FINDINGS

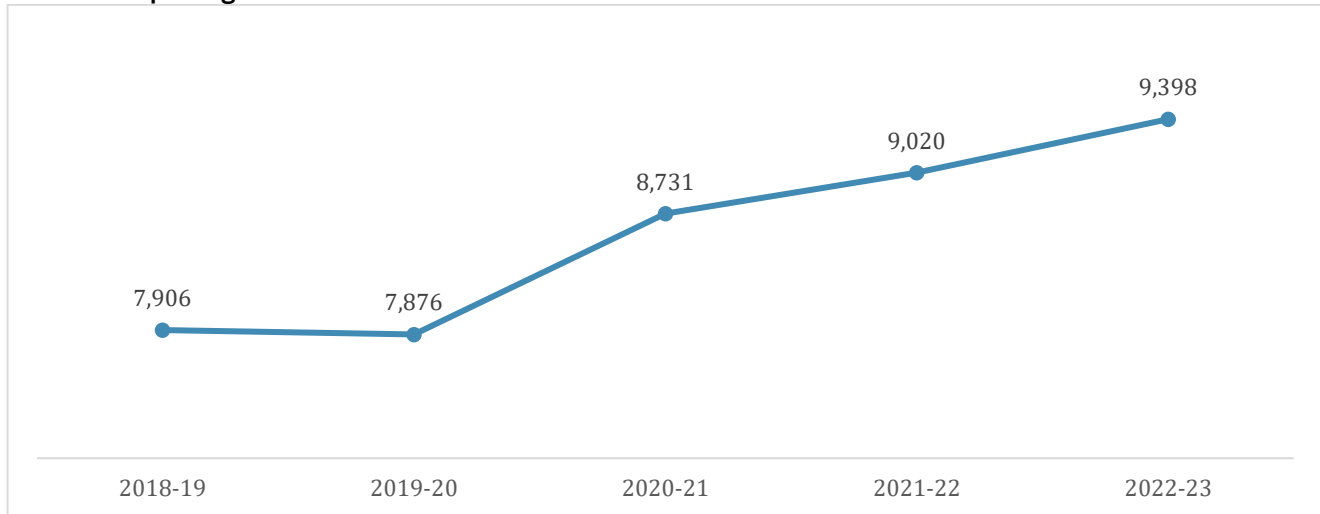
Over the last few years, guardianship cases have steadily increased in Florida, but information available to stakeholders and the public about how many wards are under guardianship statewide has been difficult to obtain. In response to media reports about guardians mistreating wards and at the urging of several clerks of court, the Guardianship Improvement Task Force was formed and made multiple recommendations in a 2022 report. The Legislature has since taken steps to improve guardianship data and court oversight of guardianship cases.

## Guardianship filings have steadily increased; the Legislature has recently taken steps to improve data and enhance guardian oversight by the courts

**Filings of guardianship cases increased by 19% from Fiscal Year 2018-19 to Fiscal Year 2022-23.** Guardianship case filings are increasing statewide. (See Exhibit 8.) Filings include petitions for both adult guardianship and guardianship of minors. As of August 19, 2024, there were 34,565 guardianship cases that remained open in Florida. This number includes both cases served by family and professional guardians.

## Exhibit 8

### Guardianship Filings in Florida Increased From Fiscal Year 2018-19 to Fiscal Year 2022-23



Source: Office of the State Courts Administrator.

**While the Office of Public and Professional Guardians maintains select information on registered professional guardians and courts have information on cases in each county, limited information has been available statewide.** Guardianship case data in Florida exists in the 67 separate case maintenance systems of the clerks of courts. In terms of professional guardian information, prior to the enactment of Ch. 2022-218, *Laws of Florida*, OPPG published a list of registered professional guardians on its website, which included the guardian's name, counties of practice, bond information, corporation name, and registration expiration date. Disciplinary information, number of wards overseen, and compliance with statutory requirements was not included.

Partially in response to media reports of instances of guardianship abuse in Florida and nationally, the Florida Court Clerks and Comptrollers organized the Guardianship Improvement Task Force to examine various aspects of Florida's guardianship system and identify improvements.<sup>14</sup> The task force was comprised of 22 members, including legislators, judges, clerks, attorneys, the Attorney General, and guardianship and stakeholder organizations. The task force made several recommendations, including creating a statewide data collection system to gather data on all guardianship cases and developing a professional guardian database.

**The 2022 Legislature required the creation of a statewide database of guardianship information.** Related to the findings of the Guardianship Improvement Task Force on the need to increase accessibility to guardianship information, the Legislature enacted Ch. 2022-218, *Laws of Florida*, which required the Clerks of Court Operations Corporation (CCOC) and the clerks of court to establish, by or after July 1, 2023, a statewide database of guardianship information.<sup>15</sup> Each circuit should be able to easily access the data for regular use in guardianship proceedings. The database must include, at a minimum, the

<sup>14</sup> For example, in 2019, after investigations by the Clerk of Okaloosa County and the Orange County Comptroller, a judge in Orange County removed a professional guardian from 100 cases to which she had been assigned; the guardian subsequently resigned from approximately 450 cases in 13 different counties. Other recent media reports in Florida include a guardian charged with stealing \$400,000 from his wards and a professional guardian arrested for paying herself \$1,600 per day from her ward's bank account.

<sup>15</sup> Section 28.35, *F.S.*, establishes the CCOC as a public corporation with duties that include developing and certifying a uniform system of workload measures and applicable workload standards for court-related functions.

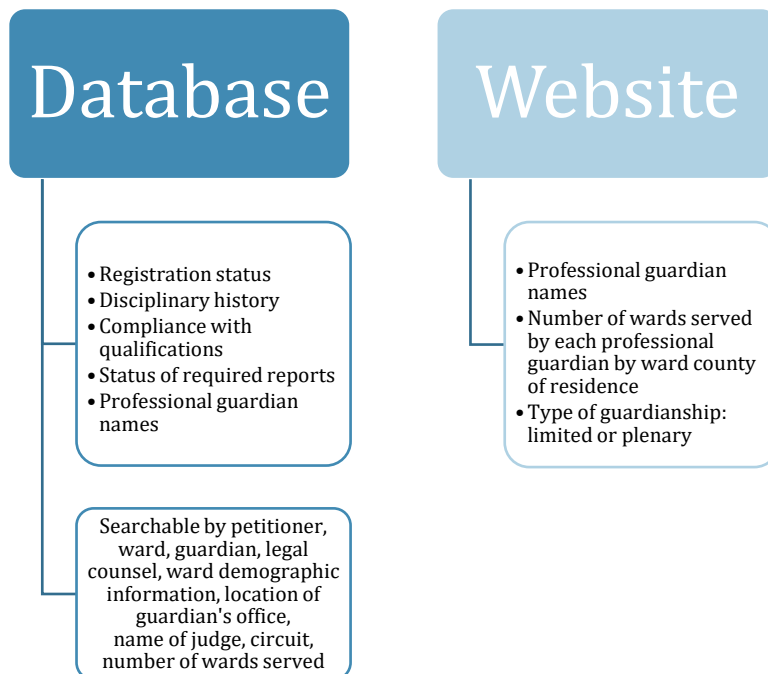
- registration status of each professional guardian;
- substantiated disciplinary history of each professional guardian;
- status of each guardian’s compliance with the statutory qualifications for guardianship; and
- status of statutorily required reports and submissions.<sup>16</sup>

The database must be accessible only to members of the judiciary, their direct staff, and court personnel and clerks of court personnel authorized by a judge to assist with guardianship matters. Judges and clerks should be able to use the database to determine, for example, whether a guardian has filed required reports on time. Additionally, the database is to be searchable by, at a minimum, the name of the petitioner, ward, guardian, and legal counsel for all parties; the demographic information of the ward; the location of the guardian’s office; the name of the judge and the circuit in which the case is brought; and the number of wards served by each guardian, by ward’s county of residence.

From the database, CCOC must upload certain professional guardian information to a searchable webpage accessible to the general public. The webpage information is limited to the names of professional guardians and current data regarding the number of wards served by each guardian, counties of residence of such wards, number of wards residing in each county, and whether the wards are under limited or plenary guardianships. Personal identifying information of wards cannot be included. CCOC is also required to generate monthly data reports to help the courts and the Department of Elder Affairs and to provide transparency to the public and the Legislature regarding the state’s guardianship system. (See Exhibit 9.)

**Exhibit 9**

**Florida’s Guardianship Judicial Database and Public Website Contain Various Types of Information**



Source: Chapter 2022-218, *Laws of Florida*.

<sup>16</sup> Chapter 744, *F.S.*, requires that guardians submit certain reports to the court. The required reports include the initial guardianship report, the initial guardianship plan, the verified inventory, the annual guardianship report, and the annual guardianship plan.

Chapter 2022-218, *Laws of Florida*, also required OPPG, on or before July 1, 2023, to publish on its website a profile of each registered professional guardian.<sup>17</sup> The profiles must be accessible and searchable by the public and include the guardian’s name and business address, whether the guardian meets the education and bonding requirements, the number and type of substantiated complaints against the guardian, and any disciplinary actions taken against the guardian. (See Exhibit 10.)

## Exhibit 10

### OPPG Registered Professional Guardian Profiles Provide Key Information About Guardians

#### Guardian Info

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- Principal Guardian: ABC Guardians
- Guardian: Jane Smith
- 511 Main St.  
Venice, FL 34293

#### Registration Info

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- Registration Expiration Date: 6/11/2025
- Education and Bonding Requirements Met: Yes
- Bond Issued To: ABC Guardians

#### Counties Served

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- Sarasota, Charlotte, Lee

#### Total Substantiated Complaints

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- 0

Source: OPPAGA analysis of OPPG guardian profile website.

### **CCOC entered into a contract with Cloud Navigator, Inc., in January 2023 to create the database.**

The contract language acknowledges the lack of a central system or location for guardianship information and identifies the data sources that store the data elements as the Florida Comprehensive Case Information System (CCIS), OPPG, and others including but not limited to county-level case maintenance systems (CMS).<sup>18</sup>

During implementation, CCOC and the vendor determined that some data elements required in statute could not be collected due to two primary issues—lack of standardization across the different systems that are sources of the data and the absence of mechanisms within these systems to capture certain data elements. Lack of standardization across the source systems is an issue because there is variation in processes and formats used by the 67 county-level CMSs. While the individual data elements may exist in these systems, the lack of uniformity in how the processes operate leads to inconsistent data and challenges in ensuring data accuracy and comparability. Additionally, the county-level CMSs may lack a mechanism to capture a newly required data element. As a result, both new processes and modifications to existing systems are required to collect new data elements using the existing systems.

**Three data elements were initially not captured during implementation, but CCOC and the vendor report making progress on two of the data elements.** CCOC and the vendor encountered obstacles to capturing (1) the status of statutorily required reports and submissions; (2) the type of guardianship the ward is under (i.e., limited or plenary); and (3) the number of wards served by each

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<sup>17</sup> [OPPG Registered Professional Guardian Profile Search](#)

<sup>18</sup> CCIS is a secure, single point of search for court case information statewide. The Florida Court Clerks and Comptrollers provide clerks with interface standards that define the data elements and format for submitting data elements to CCIS.



guardian (by ward county of residence). The challenges with each of these elements is discussed further below.

- ***Status of statutorily required reports and submissions.*** The vendor and CCOC were able to identify a list of documents related to this data element including the initial and annual guardianship reports and the verified inventory. However, although each county clerk's office is responsible for tracking the submission of these required reports, the tracking process varies across counties. In particular, the data regarding the submission of these reports is not always present in or represented in the county-level CMSs.
- ***Type of guardianship the ward is under.*** The vendor discovered the lack of a standardized practice across counties for recording the type of guardianship, and this information was not uniformly reported in county-level CMSs.
- ***Number of wards served by each guardian.*** Three case attributes present challenges to tracking the number of wards served by each guardian. First, to determine how many wards are served by each guardian, data on case status must be clear. Open cases should be attributed to guardians in their ward count, but closed cases should not be part of the ward count. However, there were at least nine different case status codes available in CCIS including open, closed, reopened, reclosed, open/inactive, reopened/inactive, transferred, closed by dismissal, and pending. Second, matching cases to registered professional guardians is difficult without a unique identifier common to both systems. Matching based on first and last names alone involves the potential for multiple inaccuracies. Third, the database rules allocated wards to a single guardian per case, not allowing for scenarios of co-guardianship or cases with multiple associated guardians but only one active guardian at a time.

CCOC, the vendor, and the clerks report making some progress on the uncaptured data elements. The planned approaches to the three data elements are discussed further below. All of the planned approaches must be implemented by each of the 67 clerks.

- ***Status of statutorily required reports and submissions.*** CCOC and the vendor amended the CCIS interface manual to introduce 10 new codes to match documents in each county-level CMS. The codes link each document or pleading that triggers a status change and will be transmitted to the database from CCIS. The counties continue to update existing cases with the new codes and to create processes that ensure new cases are properly coded.
- ***Type of guardianship the ward is under.*** CCOC and the vendor introduced specific party name/type codes, resolving multiple data collection issues. Eight new party name/type codes were created in CCIS for use in the county-level CMSs. For example, PGLA is a professional guardian in a limited guardianship case that is active. The PGPI code indicates a professional guardian in a plenary guardianship case that is inactive. This coding structure distinguishes between limited and plenary guardianships and captures the active or inactive status of guardians.
- ***Number of wards served by each guardian.*** The incorporation of active or inactive status into the eight new party name/type codes allows the identification of cases that should be included in each guardian's ward count. The new codes also distinguish active and inactive guardians within a case so that guardians are only identified as serving the wards in cases on which the guardian is active.

**Some data quality issues will persist once the database is officially launched.** As of September 9, 2024, 21 of 67 counties had completed the data improvement process. CCOC estimates that the official launch of the database will take place on November 1, 2024. Also, after the official launch of the database the lack of a unique identifier to link guardians across the different data systems will continue to impact reliability of the linkage of cases with the correct professional guardian.

## **Future OPPAGA Reports**

Future OPPAGA reports will provide updates related to the status of the database and analyze trends in Florida professional guardianships. OPPAGA will provide a status update on the database and webpage in its 2025 report. As the database becomes available, OPPAGA will use the data to identify trends such as the average number of wards per professional guardian, extent of missing required reports and submissions, and whether limited or plenary guardianships are more common.



# OPPAGA

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Project supervised by Jim Clark (850/717-0575)  
Project conducted by Laurie Scott (850/717-0566)  
Jordan Berry, Tim Girard, and Shelby Pederson  
Kara Collins-Gomez, Coordinator