



Michigan Elder
Justice Initiative

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Advocating for Autonomy and Dignity:

Lessons Learned from the Michigan
Guardianship Diversion Project

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Executive Summary

The Michigan Guardianship Diversion Project (MGDP) was supported by the Michigan Health Endowment Fund over a three-year period. Its mission was to reduce the number of unnecessary guardianships by connecting individuals at risk with less restrictive alternatives that promote independence and dignity.

The MGDP provided a framework for collaboration between individuals at risk of guardianship, petitioners, probate courts, and community partners. It helped link individuals with the services, benefits, and legal supports needed to maintain autonomy and avoid unnecessary court intervention.

The pilot was implemented in **four counties across Michigan's lower peninsula** and was guided by the following core objectives:

- Develop a guardianship diversion model that is replicable and sustainable.
- Reduce unnecessary guardianships of older adults and adults with disabilities in the pilot counties.
- Ensure that guardianships that are granted are narrowly tailored to the needs of the individual.
- Increase the use of less restrictive alternatives to guardianship whenever possible.
- Expand awareness of the negative impact guardianship can have on an individual's autonomy and quality of life.
- Measure the impact of diversion efforts in each of the four pilot counties.
- Assess the feasibility of statewide expansion.

The MGDP continuously assessed and modified procedures and materials to increase buy-in from courts, petitioners, and community partners. Project activities included case handling; active participation in community task forces and events; training community partners, court personnel and appointed attorneys; facilitating training and conversation between geriatricians and court personnel; and producing consumer-friendly materials to demonstrate the project's potential benefits to their organizations and the individuals they serve. The project achieved its greatest success when the probate court consistently referred individuals to the program. In Bay County, where the probate judge typically directed individuals seeking guardianship to consult with the MGDP prior to filing a petition, court case data reflected substantial reductions in the number of guardianships granted.

To assess the project's impact on the Bay County Probate Court caseload, we focused on cases that were successfully diverted before a guardianship petition was filed. In 2024 and 2025, the MGDG diverted 28 and 36 cases, respectively, prior to court involvement. These early interventions were associated with 38.9% and 45% fewer cases entering the court system in 2024 and 2025, respectively, compared to the 2023 baseline. This data demonstrates the program's effectiveness in resolving concerns before formal legal action became necessary.¹

These outcomes show that early intervention, combined with consistent judicial referral practices, can significantly reduce court involvement while better supporting individuals and families in crisis. By diverting nearly half of potential guardianship cases before formal filing, the MGDG not only alleviated pressure on the Bay County Probate Court but also promoted less restrictive, more person-centered solutions. The results in Bay County illustrate the program's potential as a model for other counties with a similar number of petitions and similar resources to promote both judicial efficiency and improved community outcomes.

"People with greater self determination are healthier, more independent, and better able to recognize and resist abuse."²



The project also encountered barriers that prevented successful diversions. These barriers included obstacles encountered by the individual participants, community service providers, and MGDG processes.

- The project found that most individuals facing potential guardianship had long-standing and complex needs that required a coordinated approach among several agencies. However, case management services were not often available.
- Lack of available medical, social, and mental health services.
- Restrictive eligibility criteria for programs and services.
- Denials of service for individuals perceived as difficult.

While community service providers were consistently positive about the benefits of guardianship diversion, some of their policies, procedures, liability concerns, and other factors made it difficult to change their long-standing practices. Some probate judges were assigned to serve multiple roles or changing roles which limited their ability to fully participate in the project. The project also encountered probate staff who hesitated to refer individuals to the project out of concern they (probate staff) would be providing impermissible legal advice.

Since the initial planning grant, the project continuously evolved and altered tools, processes, and attempts to engage the public and community partners. Initial promotional materials provided to community partners were not as effective as we first expected. Not all courts posted and promoted the project's six topic-specific brochures on their public websites. Even if potential petitioners received the brochures and contacted the identified community partners, the project did not have a mechanism to track this engagement or determine if that interaction helped divert guardianships. The project pivoted to a single brochure that directed individuals to the project to discuss guardianship and potential alternatives. Nevertheless, the brochures did not appear to be a key driver of program success because most individuals connected with the project were referred directly by the probate court.

While the project had ongoing communication with community partners, conducted numerous presentations, participated in multiple multidisciplinary teams, and attended resource fairs, the project would have benefited greatly from setting clearer expectations with partners during project development. The project likely would have received more referrals if it had achieved a shared sense of accountability for the success of the MGDGP. Even stakeholders' enthusiastic endorsement of the goals of the project was not necessarily sufficient, given their many pressures and responsibilities, to change practices that typically resulted in guardianships.

"Guardianship is a double-edged sword....For an older adult who has experienced some form of elder abuse, guardianship can be a critical means to preventing further mistreatment....On the other hand, at times guardians can abuse their authority by financially exploiting, neglecting, or otherwise mistreating those they have been appointed to serve."³



It is also worth noting that where staff had a daily physical presence (Bay County), rapport and trust were more easily established with community partners, petitioners/potential petitioners, and individuals at risk of guardianship. A physical presence allowed staff to conduct in-person interviews of individuals at risk of guardianship, which allowed for a more comprehensive perspective of the individual's strengths, needs, and situation.

In establishing the MGD, we adopted the following strategies to limit unnecessary guardianships:

- Improve access to effective case management to address long-standing, complex needs.
- Promote collaboration between case managers and other community resources to improve access to services and achieve the individual's goals.
- Address barriers individuals encounter with eligibility and access to services.
- Provide ongoing education for professionals and the public about alternatives to guardianship and its potential harm to individuals.
- Seek permanent funding to support guardianship diversion projects or policies and strategies across the state.

One of the project's central findings is that guardianship diversion is not accomplished through information-sharing alone. Effective diversion requires a process for individualized assessment, service connection, follow-up, and sustained collaboration with courts and community partners. Regardless of the model employed, reducing unnecessary guardianships and connecting individuals at risk to appropriate supports will not occur without commitment; ongoing stakeholder education; and a framework to assess individual needs, preferences, and capacities. Any strategy must also be capable of identifying relevant resources and facilitating timely and effective connections to services that promote autonomy and well-being.

Persons under guardianship have been described as "legal ghosts."⁴



Guardianship in Michigan

A. By the Numbers

On December 31, 2024, the Michigan State Court Administrative Office (SCAO) interactive court data dashboard showed that Michigan had a total of **62,846 adults under legal guardianship** because of orders pursuant to both the **Estates and Protected Individuals Code (EPIC)** and the **Mental Health Code**. Of those:

- **31,877 individuals** had guardians appointed under **EPIC** as **incapacitated individuals**, and
- **30,969 developmentally disabled adults** had guardians appointed under the **Mental Health Code**.

“The appointment of a guardian... removes from a person a large part of what it means to be an adult: the ability to make decisions for oneself... We terminate this fundamental and basic right with all the procedural rigor of processing a traffic ticket.”⁵



Although the Michigan State Court Administrative Office (SCAO) collects information on county and statewide caseload sizes, the demographic data gathered on alleged incapacitated individuals is extremely limited and is neither reported nor available on the SCAO website. The Petition for Appointment of Guardian of Incapacitated Individual (PC 625) under the Estates and Protected Individuals Code (EPIC) includes fields for date of birth, race, and sex of the alleged incapacitated individual. However, the Petition for Appointment of Guardian for an Individual with an Alleged Developmental Disability (PC 658), filed under the Mental Health Code includes even less demographic information. Petitioners demographic data is neither summarized nor published in existing SCAO reports.

In addition, the following critical information exists only in individual case records, is not compiled, and may not be recorded anywhere:

- Relationship of Petitioner to the Alleged Incapacitated Individual
- Stated Reason for Filing the Petition / Alleged Basis for Incapacity
- Specific Nature of the Alleged Disability
- Presence of the Alleged Incapacitated Individual at the Hearing
- Representation by Counsel
- Consideration of Less Restrictive Alternatives
- Specific reason for Appointment or Dismissal
- Relationship of the Appointed Guardian to the Individual
- Number of Professional Guardians

There is also no way to accurately count the number of limited guardianships because not all cases of this kind are accurately identified in the case code.

The lack of available information significantly limits the ability to evaluate key aspects of the adult guardianship system in Michigan. Specifically, the absence of comprehensive data prevents stakeholders from understanding:

- **Who are the subjects of guardianship petitions**, including demographic characteristics.
- **Why petitions are being filed**, including the type of disability and circumstances leading to the petition being filed.
- **Whether courts are adhering to statutory requirements**, particularly in considering less restrictive alternatives to guardianship.
- **What services or supports might reduce the perceived need for guardianship.**

Without adequate data, it is not possible to determine whether full guardianships are being inappropriately imposed or whether members of marginalized populations are disproportionately subjected to guardianship. The lack of data prevents a meaningful assessment of the overall equity and fairness of the guardianship system. Addressing these critical data gaps would promote greater transparency, allow for targeted reforms, and support a more equitable, person-centered guardianship system in Michigan.

B. Statutory Requirements

To appoint a guardian, Michigan law requires courts to find by clear and convincing evidence "both that the individual for whom a guardian is sought is an incapacitated individual and that the appointment is necessary" because no less restrictive alternative exists.

However, judges may not be aware of or know the eligibility requirements for non-legal alternatives, such as home and community-based services or public benefits. As a result, they typically rely on the report of the Guardian ad Litem (GAL). GALs, who are often attorneys without formal training in geriatrics, social services, mental health, or other critical areas, may likewise be unaware of the availability of or eligibility requirements for a wide range of less restrictive supports and services.

It is therefore crucial that potential petitioners, GALs, and court personnel have access to a reliable resource that can provide information about and referrals to these alternatives. In the MDGP, diversion efforts relied heavily on staff knowledge of and established relationships with community partners and service providers to connect individuals to appropriate services and supports. Other models could include having trained court staff available to provide individuals seeking guardianship with non-legal information and referrals, inviting local service providers to utilize courthouse space to offer assistance, or having formal referral arrangements with community resources so that individuals willing to pursue alternatives can easily obtain those services, and exploring having an attorney and social work team that would support a comprehensive, dual-disciplinary approach to problem-solving.



Project Description

A. Goals

The MGDGP identified the following goals:

1. **Develop a replicable and sustainable statewide guardianship diversion model.**
2. **Reduce unnecessary guardianships** of older adults and individuals with disabilities.
3. **Raise awareness** about the impact of guardianship.
4. **Increase use of alternatives** to guardianship.
5. **Evaluate the project's impact** in four pilot counties.
6. **Explore statewide expansion** based on pilot results.

B. Objectives

In meeting these goals, the MGDGP identified the following objectives:

1. Stakeholder Engagement

- a. Identify and build relationships with key community partners.
- b. Provide regular training.

2. Education & Training

- a. Develop and distribute tailored materials on guardianship alternatives.
- b. Use multiple formats (in-person, virtual, brochures) to reach diverse audiences.

3. Service Mapping

- a. Identify local programs, services, and public benefits that could eliminate the need for guardianship in appropriate situations.
- b. Work with multidisciplinary teams to learn about and leverage local resources.
- c. Identify common needs of the target population.

4. Individual Assessment

- a. Engage with adults at risk of guardianship to:
 - i. Understand the core issue prompting the petition.
 - ii. Assess the individual's capacity and decision-making ability.
 - iii. Identify personal goals, strengths, needs, and support systems.
 - iv. Explore available services and alternatives to guardianship.
 - v. Connect individuals to needed services and legal alternatives.

C. Strategies

1. Conducted scheduled introductory and informational meetings with key stakeholders to build relationships, increase awareness, and encourage collaboration.
2. Developed consumer-friendly brochures outlining alternatives to guardianship, addressing common reasons individuals seek guardianship, and promoting less restrictive options.
3. Requested permission to join and actively participate in community multidisciplinary teams to foster cross-sector collaboration and improve coordinated responses.
4. Engaged with the public at local senior events and community fairs, distributing project materials and providing education about guardianship alternatives.
5. Provided training on capacity assessment and alternatives to guardianship for stakeholder groups to enhance understanding and informed decision-making.
6. Facilitated capacity training sessions led by geriatricians for probate judges and registers, including discussions highlighting ways in which medical reports are frequently misinterpreted.

D. Case Process

1. Referral

The MGDGP received virtually all referrals from the probate court. The people referred were primarily petitioners or potential petitioners.

2. Intake

During the initial call, staff explained that the project's focus was helping the individual at risk of guardianship take advantage of less restrictive alternatives. Staff also clarified that the project would not represent individuals in court proceedings.

Staff collected the following information from the person referred by the probate court:

- Client demographic information
- The reason guardianship was being considered
- Information about the client's living arrangements, relationships, finances, and supports or challenges

3. Initial Client Contact, Assessment, and Service Planning

Although initial contact with the client sometimes occurred by phone, MGDGP staff typically scheduled an in-person meeting at a location chosen by the client. The assessment focused on identifying the client's strengths, wishes, and needs, as well as their ability to make informed decisions. Before the visit concluded, the client and project staff worked together to develop a plan of action that included potential services or legal remedies aimed at eliminating or reducing the risk of guardianship.

4. Contacts with Professionals

After meeting with clients, staff obtained permission for the project to contact any professionals who had recommended guardianship to the petitioner. These professionals could include physicians, nursing home administrators, social workers, or other service providers. During these conversations, staff sought to understand the specific concerns that led the professional to believe guardianship was necessary and whether less restrictive alternatives might address those concerns.

Often, the concern was related to the individual's ability to consent to care or to admission to or discharge from a facility. Once the underlying issue was clarified, MGDGP staff assessed whether the client could provide informed consent regarding these decisions which in many cases alleviated the perceived need for guardianship.

5. Referrals/Follow-up

Following the client meeting/assessment, the project began making contacts and/or referrals for services/remedies agreed upon by the client. These referrals could be for:

- Housing
- Personal care and/or chore services (Home Help, MI Choice, PACE, etc.)
- Medicaid applications
- Legal Services (Powers of Attorney for health and/or finances)
- Mental health services

6. Case Resolution/Outcomes

Cases were considered resolved when the immediate risk of guardianship was reduced or eliminated, or when the client chose not to continue working with the project. In most cases, the case closed after the client was connected to services, supports, or legal remedies that addressed the concerns that led the petitioner/potential petitioner to consider guardianship.

Some cases required ongoing follow-up to ensure that referrals were completed, and services were successfully put in place. In situations where the Petitioner still filed for guardianship, the project worked to ensure guardianship was limited and tailored to the specific needs of the client, preserving as much of the client's autonomy as possible.

E. Case Examples

1. An older woman with a cognitive impairment and a history of evictions was referred by the probate court to the MGDGP. She faced eviction from a shelter and had been victimized repeatedly by online housing scams. MGDGP staff built trust, helped secure a professional representative payee, assisted with a Social Security application, and provided scam-prevention guidance. With increased income and financial oversight, she is now moving toward stable housing and greater independence—without the need for guardianship.
2. An older man with significant mental and physical health challenges who relied on a motorized scooter for mobility faced both eviction and a potential guardianship. Through collaboration with his family and Legal Services, the MGDGP helped him secure needed services, avoid eviction, and execute a power of attorney. As a result, he maintained his autonomy, remained in the community, and gained trusted decision-making support without the need for guardianship.
3. A nursing home resident was referred to MGDGP after his family was advised that guardianship was necessary to apply for Medicaid. After meeting with him, MGDGP determined he had the capacity to complete the application and execute powers of attorney. With assistance from Legal Services, he completed his Medicaid application and signed health care and financial powers of attorney. When the nursing home pursued guardianship, the court dismissed the petition because these less restrictive supports were already in place.

"Even where the imposition of a guardianship is a genuinely benevolent action...it nonetheless results in a profound restriction of fundamental rights. It removes a person's ability to be the author of their own life."⁶



Results and Impact

A. Tangible and Intangible Costs to the Individual

Individuals subject to guardianship petitions face significant tangible and intangible costs—both from the court process and the experience of living with a guardian. These impacts can be profound and long-lasting, affecting quality of life, dignity, and social connection. Some of the key costs are outlined below:

1. **Loss of personal choice:** crucial and everyday decisions that define the essence of the individual's life including where to live, with whom to associate or socialize, and what medical care to receive.
2. **Loss of privacy:** every aspect of the individual's life including financial, medical, and personally intimate matters may be subject to court and guardian oversight.
3. **Loss of independence:** the ability to manage one's own affairs and daily decisions is taken over by someone who may not know the individual's personal values and preferences.
4. **Stigma and social consequences:** being determined by a court to be incapacitated and living under guardianship can deeply affect how individuals view themselves and how they are perceived by others. Shifts in attitudes among friends, family, and professional contacts may place a strain on relationships and guardians may intentionally limit social interactions. Both circumstances can lead to isolation and the loss of meaningful social and familial connections. Individuals may lose confidence, self-respect, and experience diminished capacity to make even simple decisions.
5. **Loss of home and possessions:** a guardian may make residential or placement decisions contrary to the individual's preferences, often moving individuals from their homes to institutional settings and disposing of cherished belongings.
6. **Finances:** an individual under guardianship or conservatorship may lose total control of their finances. This can include paying bills, sending gifts to family members, or having cash to pay for a coffee or a haircut. Additionally, the cost of objecting to a guardianship petition can mean paying tens of thousands of dollars in legal and expert fees.

"The oft-stated purpose of guardianship is to protect people who are seen to be at risk of harm. But that protection comes at a cost.... Guardianship can leave individuals with limited rights, often effectively resulting in their 'civil death.'"⁷



By helping individuals avoid unnecessary probate court proceedings and potential guardianship, these significant losses can be prevented. Moreover, preserving an individual's autonomy enables them to continue contributing to their families, communities, and society and allows them to share their relationships, experiences, and wisdom rather than being isolated or disempowered by legal intervention.

B. Impact on Probate Court Time Spent on Guardianship Cases

According to the **National Center for State Courts' Trial Courts Judicial Weighted Caseload Study: Final Report** (April 2025; revised December 2025), Michigan probate judges spend an estimated 14,938 hours annually handling guardianship cases. This estimate is based on the 2021–2023 annual average of 11,491 guardianship filings/admissions, with a weighted average of 78 minutes of judicial time required per case.⁷ The report notes that "The preliminary case weights generated during the time study measure the amount of time judicial officers in Michigan's trial courts currently spend handling various types of cases, but do not necessarily indicate whether this is the amount of time they should spend."⁸

In achieving a 39-45% reduction in guardianship filings in Bay County over the two-year duration of the project, the Michigan Guardianship Diversion Project (MGDP) demonstrated the potential for significant reduction in judicial time spent on adult guardianship cases.

Although it is unlikely that every county would replicate Bay County's level of success, even partial statewide adoption of similar diversion practices could yield significant systemic benefits. If comparable reductions were achieved statewide, Michigan could experience a decrease of more than 4,500 guardianship filings annually. Based on the current workload estimate of 78 minutes per case, this would translate into a savings of more than 5,800 judicial hours per year - equivalent to approximately 146 full-time workweeks (assuming a 40-hour workweek).

These findings highlight the substantial potential of diversion strategies to reduce judicial workload, improve court efficiency, and allow probate judges to dedicate time and resources to more complex or high needs matters.

C. Cost Savings by Avoiding Guardianship Filings

When guardianship can be avoided through alternative measures, individuals and families can avoid thousands of dollars in legal and court-related expenses. At the same time, courts and taxpayers benefit from reduced administrative workload and decreased reliance on publicly funded legal and guardian services. Additionally, guardianship often leads to the prompt move of an adult from their home in the community to a Medicaid-funded nursing home. The following outlines an estimate of typical costs that may be avoided:

Expense ⁸	Cost	Who Bears the Cost
<u>Filing fees</u> plus electronic filing fee (\$25.00)	\$175	Petitioner
Guardian Ad Litem or Appointed Counsel for Respondent	Varies by county: Flat fee range can be \$175 - \$225 per case. Hourly rate can range from \$150 - \$200 or more per hour	Respondent's estate. If Respondent is indigent, fee is paid by court.

Private attorney fees	\$1500 - \$6,000 (Varies)	Each litigant is responsible for their own private attorney fees.
Medical/Psychological Exam	\$1500 - \$6,000 (varies)	Respondent's estate. If Respondent is indigent, fee is paid by court.
<u>Probate Judge Salary</u>	\$112.79 per case based on an average of 78 minutes per case at \$86.90/hour (\$180,740.89/year)	State and County taxes.
<u>Professional Guardianship Fees</u>	Various fees	
Respondent has no payment source	\$0	
Respondent is in a Medicaid nursing home	\$83 per month	The respondent's income
Respondent is a CMH client or Petitioner was APS	Various monthly fees	APS or CMH contracts where available
Respondent has an estate from which to pay fees	"Reasonable compensation" as determined by the court	Respondent's estate
Medicaid nursing home cost if guardianship results in nursing home placement that would not have occurred otherwise	\$6,200 per month	<u>Michigan Medicaid</u>

"Before putting someone in a guardianship, the most important question we can ask: what else have you tried?. Because if something could empower them and let them maintain their rights, that would be a far better option."⁹



D. Unanticipated Challenges

1. Community Engagement

As noted previously, the initial strategy to engage the public through six brochures did not achieve the intended outcomes. Each brochure was designed to capture the attention of potential petitioners by highlighting common concerns that often lead individuals to seek guardianship. The brochures outlined possible remedies for these concerns and directed readers to community partners who could assist with alternatives to guardianship.

However, it quickly became clear that the brochures were not having the intended impact. Because they referred petitioners to community partners rather than the MGD, the project had no way to track whether the materials were effectively reducing the number of petitions filed. In response, the team developed a single, two-page brochure that summarized common reasons for petitioning, described possible remedies, and directed potential petitioners to the MGD. Despite this adjustment, the revised brochure still did not generate the desired engagement with the project.

Additionally, the brochure strategy assumed that potential petitioners would pause before filing and voluntarily seek help. In practice, many petitioners appeared to contact the court only after a crisis had escalated, after a professional had already recommended guardianship, or after they had already decided guardianship was necessary.



One partner probate court reported that it consistently distributed MGDG brochures to individuals seeking to file for guardianship and posted the brochures on the court's public website. Despite these efforts, the project did not receive a sizable number of referrals attributable to the court's outreach. During exit interviews, court staff suggested reasons we may have had this outcome: petitioners may wait until a situation is too critical for alternatives to be effective; some long-term care facilities may prefer that residents have guardians; petitioners may have been advised by a professional that guardianship is necessary; or the petitioners may have already made up their minds and were not open to considering alternatives.

Ultimately, the team found that direct outreach to community partners and community members was far more effective in promoting the project. Staff were able to participate in community multidisciplinary team meetings, offer and conduct presentations on guardianship and alternatives, participate in community outreach events for older adults and adults with disabilities, and maintain regular communication with community partners. The MGDG hopes this direct outreach has encouraged community partners and the broader public to recognize the importance and benefits of exploring supports, services, and legal alternatives before initiating restrictive guardianships for adults.

2. Partner Engagement

Despite strong initial buy-in from community partners during the project's planning phase, this support did not consistently translate into referrals or tangible engagement. The challenge then became determining how to transform that early enthusiasm into meaningful, actionable collaboration.

3. Physical Location of MGDG Staff

Initially, the project anticipated that most interactions with callers and individuals at risk of guardianship would occur over the phone, with staff triaging referrals to community or legal services that could help prevent the need for guardianship. However, the project quickly determined that assessing the strengths, needs, and wishes of individuals at risk could not be done effectively through phone contact alone. Meaningful assessment required in-person engagement to accurately identify and coordinate the community services best suited to support each individual.

MGDG staff were physically located in only one of the pilot counties, which made timely, in-person engagement feasible in that area.

This proximity also allowed staff to regularly observe probate court proceedings and meet face-to face with agency partners to discuss client needs. In contrast, staff assigned to the other pilot counties were based one to three or more hours away. This significantly limited the project's ability to conduct prompt, in-person assessments in those counties and created challenges for timely engagement.

4. Role "Drift"

While working with individuals at risk of guardianship, the project found that many participants had long-standing, complex needs requiring intensive and ongoing case management. Unfortunately, few community providers were able to offer the type of long-term case management these individuals needed and some individuals had alienated the agencies that offered services for which they were eligible.

Although this approach helped prevent unnecessary guardianships, it represented a "role drift" from the project's intended function. This role drift was not simply an implementation issue; it reflected a broader service-system gap. Diversion efforts often identified individuals whose needs were too complex for brief referral but who did not have access to sustained case management. This shift was neither anticipated in the original project design nor sustainable over the long term, highlighting gaps in community-based service capacity and the need for stronger cross-system collaboration and referral infrastructure.

"The typical ward has fewer rights than the typical convicted felon... It is, in one short sentence the most punitive penalty that can be levied against an American citizen, with the exception ...of the death penalty."¹⁰



Planning a Project

Though there is broad support for the concept of guardianship diversion projects, there is no established operational model. The Fourth National Guardianship Summit held in 2021 recommended that “every state should have a guardianship diversion program tasked with facilitating alternatives to guardianship, reducing the likelihood that guardianships will be granted where not necessary, and monitoring for the continued need for the guardianship.” Despite this national call to action, the MGDGP needed to construct the project from the ground up due to a lack of existing guardianship diversion frameworks.

Diversion on the scale contemplated by the MGDGP does not occur unless there is an effective model to provide direct assessment, referral, and follow-up. It is crucial to have a structure in place to connect individuals to less restrictive alternatives and maintain their autonomy. Readily available information and training on alternatives alone is not enough. Because of this, we offer the following recommendations for building an effective diversion project.

1. Identify Core Elements Prior to Project Start Date

For a project to have the greatest chance of success, the project must identify and document critical components s before the project’s start date. These components include:

- Clearly defined project goals and objectives
- Specific data elements to be captured and tracked
- Detailed project staff roles, responsibilities, and expectations
- Community resources, service gaps, and legal and non-legal alternatives most likely to be needed
- Training necessary to prepare staff and partners for implementation

Additionally, promotional and educational materials should be developed and made available, both in print and online, at project launch to ensure immediate and consistent use. Written policies, procedures, and any necessary agreements with partner organizations should also be established early to clarify roles, improve accountability, and reduce confusion during implementation. At the same time, while having a well-developed concept prior to implementation is helpful, staff should remain flexible and open to refining these elements as they identify the most effective strategies and address any local conditions, stakeholder feedback, or unforeseen challenges

2. Endorsement and Meaningful Engagement are Related but Distinct

Community partner endorsement does not always translate into sustained or active engagement. Although there was initial enthusiasm from key stakeholders, not all community partners actively participated in the project. Some partners acknowledged they had not kept the project on their radar and had forgotten to consider it in their day-to-day interactions with clients. Others considered making a referral to the project but instead pursued long-standing practices that were familiar.

This experience highlighted the importance of setting clear expectations from the outset, maintaining ongoing and active engagement with partners highlighting the project, inquiring about potential candidates, and identifying opportunities to interact with staff on a regular basis.

3. Effective Assessment Requires In-Person Engagement

As noted previously, adequately assessing an individual's strengths, abilities, needs, and personal wishes requires face-to-face interaction. In-person engagement, especially in the individual's own home, enables a more comprehensive and meaningful understanding of how an individual manages daily activities, exercises decision-making, and articulates what matters most to them. Incorporating in-person assessment, whenever possible, can contribute to more accurate assessments and service planning better tailored to the individual's needs and circumstances.

4. Individual Communities and Probate Courts are Distinct and Unique

Probate courts are administered by their respective judges in accordance with the State Court Administrative Rules, but each judge also brings personal preferences regarding how court proceedings and cases are managed. For example, the depth of interaction registers and clerks have with petitioners, expectations for guardians ad litem, willingness to grant emergency guardianships, presence of the respondent, and many other factors can affect the likelihood that a guardianship case will be resolved with a less restrictive alternative. Additionally, communities differ widely in geographic size, population, demographics, and the availability of social and supportive services.

Because of these variations, the choice of guardianship diversion project strategy and manner of implementation should be tailored to meet the specific needs, capacity, and preferences of each court and community. Adapting programs to local circumstances is essential for achieving the best outcomes. Alternative guardianship diversion models may include:

- Trained court staff available to provide information and referrals.
- Use of individuals familiar with legal and non-legal alternatives to guardianship as guardians ad litem or court visitors.
- Providing office space in the courthouse to a local service provider such as legal services, disability service organization, or an adult services agency to help individuals seeking guardianship.
- Formal referral arrangements so individuals willing to pursue alternatives can easily obtain those services.



Future Plans for MGD

Despite mixed outcomes across pilot sites, the Michigan Elder Justice Initiative (MEJI) gained valuable insight about guardianship diversion from the implementation of the MGD. This included the success seen in Bay County as well as the multiple and complex challenges faced by individuals at risk of guardianship.

As a result of the outcomes in Bay County, the Bay County Department on Aging applied for and received a two-year grant from the Michigan Health Endowment fund to continue a modified version of the guardianship diversion project. This project will build on the successes of the MGD and will expand training and collaboration with courts.

In addition, MEJI received a two-year grant from the Michigan Health Endowment Fund to further advance statewide guardianship reform efforts through the Michigan Advancing Guardianship Innovations Center (MAGIC). MAGIC is designed to promote systemic improvements that:

- Prevent unnecessary guardianships
- Advance effective alternatives to guardianship
- Promote practices that maximize autonomy, independence, and dignity

MAGIC will center individuals at risk of guardianship in all decision-making processes and will establish an advisory committee composed of individuals with lived experience of guardianship to guide its work.

The major initiatives of MAGIC include:

- **Multidisciplinary Cross-Training:** Strengthening collaboration and shared knowledge among courts, attorneys, social workers, service providers, and community partners.
- **Functional Assessment as a Tool to Inform Probate Courts:** Developing and promoting the use of person-centered functional assessments to support judicial decision-making and ensure guardianship is considered only when truly necessary.
- **Guardian Ad Litem Training:** Enhancing the quality and consistency of guardian ad litem practice to ensure thorough investigation, clear reporting, and a strong focus on individual rights and preferences.

The continuation of the program in Bay County including possible expansion into other counties, and the launch of MAGIC, will, we hope, advance meaningful, sustainable reform that improves guardianship outcomes across Michigan while protecting individual rights and promoting self-determination.

Conclusion

The MGDGP highlighted a need for significant systemic change. Issues include the availability of sustained case management services; the need for affordable, accessible, and sustainable housing; systemic ableism and ageism that result in decisions favoring safety over autonomy; and failure to implement statutory due process protections. Despite these challenges, MEJI remains firmly committed to reducing unnecessary guardianships and advancing less restrictive alternatives. Achieving that transformation can involve—but does not necessitate—establishing a formal project. It does, however, require a sustained commitment to applying practical strategies, an openness to innovation, and improved cross-system collaboration. By building on these lessons and continuing to pursue new approaches, we can transform entrenched systems and beliefs and drive meaningful system change to better promote autonomy and protect individual rights.



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- **Michelle Lindsay**, Executive Director, Disability Rights Michigan
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- **Steven E. Burnham**, JD

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- The Honorable **Kenneth S. Hoopes**, Judge, Muskegon County Probate Court, and staff
- The Honorable **Jennifer L. Whitten**, Judge, Grand Traverse County Probate Court, and staff
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- The Adult Services staff of the Michigan Department of Human Services in Bay, Genesee, Grand Traverse, and Muskegon Counties
- The multidisciplinary teams serving Bay, Genesee, Grand Traverse, and Muskegon Counties
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The collective efforts of all those listed strengthened cross-system collaboration, promoted the goals of the project, and enhanced the project's ability to protect vulnerable adults while promoting autonomy, dignity, and person-centered decision-making.

Appendix

[1] In early 2025, Bay County reported a 42% reduction in the number of appointed guardians and conservators from CY2023 to CY2024. Once MGD data was available, we could measure the impact of the cases we know were diverted by the project. When compared to the expected number of cases in the probate court, as noted in the report, we calculated a slightly lower percentage in 2024 and a higher percentage in 2025.

[2] See Khemka et al. (2005), O'Connor and Vallerand (1994), and Wehmeyer and Schwartz (1998) for related research.

[3] U.S. Department of Justice, Elder Justice Initiative, Guardianship Overview.

[4] Kohn, N. A., & Koss, C. (2016). Lawyers for legal ghosts: The legality and ethics of representing persons subject to guardianship. *Washington Law Review*, 91, 581–625.

[5] Ad Hoc Committee on Probate Law and Procedure. (2009). Final report to the Judicial Council.

[6] Pollock, J., & Rusciano, M. (2021, March 11). Right to counsel in restoration of rights cases. *Bifocal*, 42(4). American Bar Association Commission on Law and Aging.

[7] Justice in Aging Issue Brief, Addressing Bias in the Guardianship Process, (Feb. 29, 2024) citing Fred Bayles, AP News, *Guardians of the Elderly: An Ailing System Part 1: Declared 'Legally Dead' by a Troubled System* (1987).

[8] Some probate court filing fees may be waived depending on the petitioner's circumstances. This request is done by completing and filing a MC 20, Fee Waiver Request along with the petition.

[9] WGBH. (2021, November 15). Greater Boston: November 15, 2021 (Season 2021, Episode 162) [Television series episode].

[10] United States Congress, House Select Committee on Aging. (1988). *Abuses in guardianship of the elderly and infirm: A national disgrace* (House Comm. Pub. No. 100-641, p. 8). U.S. Government Printing Office.