

To assist states in improving guardianship and data collection, Congress recently re-introduced H.R. 4174. The house bill is identical to the Guardianship Accountability Act, currently pending in the Senate Judiciary Committee. As McKinney estate planning attorneys, we stay up-to-date on developments in estate planning law that impact our clients. Primarily about education, the bills require the Elder Justice Coordinating Council to create a National Online Resource Center on Guardianship for the publication of resources and data relating to court-determined adult guardianships. Many agencies, including the AARP and the Alzheimer's Association have expressed their support for the legislation.

## How Does Guardianship Work?

A guardianship is a relationship established by a court of law between the person who needs help (called a ward) and the person or entity (called a guardian) named by the court to help the ward. Some people need a guardian for their entire adult life because of long-term disabilities, while others may need a guardian as a result of a brain injury or other traumatic event.

Although a guardianship relationship has many benefits, including assistance with personal and business affairs, as well as with making decisions on where to live and what medical treatments to receive, there are downsides, including the fact that guardianship is the most restrictive action taken to protect a vulnerable person. Furthermore, without sufficient supervision, a guardianship relationship can go horribly wrong. One federal report identified hundreds of allegations of abuse, exploitation or neglect by guardians over a 20-year period.

## Legislation Targets Guardianship Abuses

HR 4174 was re-introduced in response to recent criminal investigations of court-appointed guardians. One of the bill's sponsors, Florida representative Charlie Crist stated that "guardianship abuses are resulting in seniors literally being held against their will, isolated from family members and friends, their liquidated and drained by unscrupulous people gaming a broken system."

## Texas Bill of Rights for Wards Under Guardianship

Texas has a Bill of Rights for Persons Under Guardianship which sets forth 24 specific rights for wards, including rights to:

Have a guardianship that encourages the development or maintenance of maximum self-reliance and independence, with the eventual goal, if possible, of self-sufficiency

Exercise full control of all aspects of life not specifically granted by the court to the guardian

Personal privacy and confidentiality in personal matters, subject to state and federal law

## Let Our McKinney Estate Planning Attorneys Assist You

If you have questions concerning the pending legislation or need assistance with a guardianship proceeding, we welcome you to contact The Nordhaus Firm at (214) 726-1450 or by email for a free consultation.