

The Columbus Dispatch

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Rules for guardians in Ohio? Not until 2015

Unguarded



The Ohio Supreme Court could be a year away from issuing rules to govern how local courts handle guardianship cases, even as legislators race to enact laws to correct problems identified in a *Dispatch* investigation.

After almost eight years of debate, a court-gathered committee issued draft rules for guardians this past spring. Guardians are people, typically lawyers or family members, entrusted by a county probate court to make decisions for people deemed incapable of managing their own affairs.

But those draft rules, which for the first time would hold all guardians in Ohio to uniform standards, could take another year or more to finalize. In the meantime, probate court judges are free to set their own rules.

“Unguarded,” a yearlong *Dispatch* investigation, found widespread problems with the way some guardians were managing the care of the people the courts call wards, including instances of abuse, neglect and financial exploitation. The series, online at Dispatch.com/unguarded, prompted calls for guardianship reform in Ohio, one of the few states in the country without a statewide oversight system.

The Ohio Supreme Court received more than 120 pages of responses to a call for public comment on the draft rules, from lawyers, judges, advocates and guardians.

Now, court officials say, those comments have been sent to another subcommittee to be incorporated into a final version of the rules. Once redrafted, the rules must pass through two more committees before they can go back before the justices for adoption.

The subcommittee working with the rules has met just once since the public comment period ended in late June, though members say they plan to meet two more times this year.

When asked when the rules might be made final, Supreme Court spokesman Bret Crow would say only that it would be sometime in 2015. He said the court is being responsible by not rushing such an important decision.

“The court is taking a thoughtful, deliberate approach to ensure the rules that will be adopted are effective, don’t unnecessarily burden probate courts, consider all the potential unintended consequences and provide the necessary care and protection for those who need it,” Crow said.

“Our first priority is the safety of Ohio’s citizens, especially those most vulnerable, so that’s why many different views are being considered.”

He said the court’s process will work simultaneously, but separately, from legislation that has been introduced to provide all wards in Ohio with a “bill of rights” for their care. The justices generally support such legislation, Crow said.

State Rep. Dorothy Pelanda, a Republican from Marysville, introduced House Bill 624 last month to guarantee certain rights for people under guardianship and to ensure that guardians across the state read and understand a guidebook developed by Attorney General Mike DeWine’s office.

Crow said both the legislation and the new rules seek to protect wards from exploitation. “If enacted as proposed, Rep. Pelanda’s legislation would complement our efforts to raise the bar for guardianships,” he said.

Michael Kirkman, the executive director of Disability Rights Ohio, said he is worried that the delay in completing the court rules could dilute the final product. He is a member of the subcommittee that first drafted the rules.

“I understand that the court wants to be deliberate,” Kirkman said. “My concern is that every time it gets looked at, it gets watered down or changed in ways not in line with the committee’s original intention.”

Julia Nack is one of the state’s few certified master guardians, the director of the volunteer guardianship program at the Central Ohio Area Agency on Aging and one of the people working on redrafting the rules. She said her best guess is that it will be more than a year before the rules go back before the justices for approval.

She said the volume and nature of the commentary received by the court will make it difficult for the committee to incorporate all the feedback.

“We’re trying to change the whole culture of guardianship” in Ohio, Nack said. “It may take this kind of upheaval to accomplish that.”

It surprised her that so many comments the court received asked for the new rules to apply to all guardians, including family members.

The draft rules apply to only professional and attorney guardians, which was a point of contention between advocates on the subcommittee, such as Nack, and probate judges and lawyers. If the public feedback leads to the rules applying to everyone, it will affect how the Supreme Court develops guardian training, Nack said.

Christy Tull, interim director of the Ohio Supreme Court’s Judicial College and the curriculum-development manager there, said she thinks the training for new guardians will be ready for testing in the spring. The group planning the training decided to design it for professional guardians who already understand the court system, Tull said. However, members knew they might need to include a wider audience.

The challenge has been to create training that is approachable for new guardians but also is valuable to long-serving attorneys and professionals, she said.