



Future Trends in State Courts

1999 - 2000



Guardianship Mediation

National Center for State Courts Staff

With an aging population and a trend toward mediation, one would expect guardianship mediation to be used across the map.^[1] The guardianship situation seems tailored to mediation.^[2] Yet, guardianship mediation is just emerging as an option for many probate courts.

Florida, Illinois, Michigan, Ohio, Oklahoma, Oregon, and Wisconsin all have some form of guardianship mediation in at least one county. It has been recommended or studied in other areas, including Fulton County, **Georgia**; however, these programs have few clients.^[3] In Summit County, **Ohio**, 10% of the probate court's adult guardianship cases were mediated; this is one of the most successful programs in existence. In Cook County, **Illinois**, about three cases are mediated annually.

The Coalition of **Wisconsin** Aging Groups (Dade, Milwaukee, and Winnebago Counties) mediates approximately 25 cases per year.^[4] Due to this lack of a sound statistical sample, there have been few studies on guardianship mediation. One of the most extensive was conducted by the Center for Social Gerontology.^[5] In that study, cases in Washtenaw County, Michigan, were monitored over a three-year period. Over 60% of these cases were mediated to an agreement; approximately 80% of the participants stated that they felt that mediation was a useful, successful process.^[6]

Obstacles to the widespread use of guardianship mediation include:

- Lack of referrals
- Uncertain funding
- Few training resources

These are similar to the obstacles facing mediation of other types of disputes. However, the interest in guardianship mediation exists. We foresee such interest increasing as the population ages and as existing programs become part of the culture.

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[1] Eva M. Soeka, "Adult Guardianship Mediation: An Option for Families and Older Adults," *Experience*, Spr. 1999.

[2] Susan N. Gary, "Mediation and the Elderly: Using Mediation to Resolve Probate Disputes over Guardianship and Inheritance," 32 *Wake Forest L.Rev.* 397 (1997).

[3] See Ellen E. Deason, et al, *Report to the Fulton County Courts: Dispute Resolution Opportunities* (Columbus: OSU, 2000).

[4] *Ibid.*, Table 1.

[5] <http://www.tcsg.org/>.

[6] Soeka, pp. 12-13. See also Deason.

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