

# Ensure More People With I/DD Retain Their Rights and Have Support They Need to Make Choices in Their Lives

- People with disabilities can acquire new skills and decision-making capacity throughout their lives.
- Everyone, no matter their limitations, needs opportunity, experience, and support in order to learn how to make well-informed decisions. This include the opportunity to make and learn from mistakes.
- Too often, families of people with disabilities are advised—often when a child is just 17—to obtain guardianships, which once imposed are rarely changed or reversed.
- In many cases, restrictive guardianships can limit opportunities to make decisions, learn from mistakes, and impact individual's "dignity of risk."

**34,000**

There are almost **34,000** people under guardianship in Wisconsin<sup>1</sup>

**\$690,000,000**

More than **\$690,000,000** in assets under the supervision of a guardian<sup>2</sup>

**6,000**

Almost **6000** guardianship petitions were filed in 2016 alone; the median age at disposition was 40.

**Under Wisconsin law, all adults are considered to have the capacity for decision-making.**



- When guardianship is imposed at a young age, the court is limited in its ability to project the maturation and capacity-building that will occur over the course of a person's lifetime.
- There is a need for an additional option in Wisconsin guardianship law that gives young people the time needed for their brains to fully mature, gain life experience, and practice with decision-making, and offers an opportunity to re-assess competency<sup>3</sup>.
- In addition, many families that pursue and obtain guardianships do not fully understand the what role and responsibilities of a guardian are under Wisconsin law.
- There is no consistent approach or capacity across the state to offer routine training to guardians—on roles, responsibilities, and duties required of guardians under the law<sup>4</sup>.
- There is a need for standardized, required training for guardians with a formal infrastructure to support and monitor training.

# Recommendations



Create a time-limited guardianship option within the statutes when the petition for guardianship is sought between the ages of 17 and 9 months and 25. Require an automatic review of the guardianship—with limited exemptions—so the court has the opportunity to review additional decision-making, life experiences, and other evidence of the individual's growth and decision-making capacity. Wisconsin law requires the preservation of an individual's civil rights to the greatest extent possible, the review process would enable the court to determine whether the terms of the guardianship can be modified, kept the same, or removed completely.



Create requirements within the statutes that specify core topics in which all guardians of the person and estate must be trained, a timeline by which core training must be completed, establish continuing education requirements for all guardians, and establish an advisory committee and oversight agency to administer the training program.



<sup>1</sup> 2015 Wisconsin Consolidated Court Automation Programs (CCAP) analysis conducted in August 2015 for Wisconsin's Working Interdisciplinary Network of Guardianship Stakeholders (WINGS) group, formed to improve the court system's ability to work with the elderly and other vulnerable groups in reducing abuse and improving guardianship practice.)

<sup>2</sup> This does not include money in small estates under \$50,000 where many counties do not require accountings to be filed; actual assets under supervision of a guardian would be greater than \$700,000,000.

<sup>3</sup> Several states have incorporated into their statutes an automatic court review process to evaluate whether to modify, continue, or terminate an existing guardianship. Kentucky, North Dakota, Missouri, Connecticut, Michigan, New Mexico, and the District of Columbia all have guardianship review or expiration processes within their statutes. [https://www.americanbar.org/content/dam/aba/administrative/law\\_aging/restoration%20report.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/administrative/law_aging/restoration%20report.authcheckdam.pdf)

<sup>4</sup> Currently, Wisconsin does not have any training requirements for family or volunteer guardians. Wisconsin requires limited training for Corporate guardians under Admin Code DHS 85.01. Some County Registrars of Probate are trying to offer voluntary trainings for guardians in their jurisdiction, despite having no budget to do so. Counties investing in training events assert these trainings save county-funded monitoring and enforcement work. Twenty-one states have training requirements for all guardians. Wis. Stats. 54.18(1).