

Guardianships/ Conservatorships in South Carolina

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Greenville County Probate Judge
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Overview of Process

- Article 5 of Title 62 S. C. Code of Laws
 - See Handout-
- S. C. Rules of Civil Procedure
- U. S. Constitution/Due Process
- Title 23-31-1040/Reporting to SLED

Emergency Procedures

- Temporary Orders: 62-5-310
- Single Transaction Orders: 62-5-401,409
- Ex Parte Orders to Enjoin/Restrain until
a hearing can be held Rule 65 of SC Rules
of Civil Procedure

Mediation

- Rule 5 of Probate Rules of Practice
- Promotes Privacy
- Avoids hearings and protracted litigation
- Reduces legal costs
- Reduces delays
- Preserves family relationships

Court Oversight of Guardians and Conservators

- Background Checks
- Annual Accountings from Conservators
- Annual Reports from Guardians
- Case differentiation/ Red Flags
- Volunteer Court Monitors
- Court Investigators
- Enforcement Proceedings
- Interface with APS

In Debora's Perfect World

- SC would have a state Public Guardian Office (See population handout)
- Supreme Court would create a Commission on Elder Justice
- APS cases would come under the jurisdiction of the Probate Court
- Bank/ Financial Institution personnel would be added as mandatory reporters of suspected financial exploitation
- Adults who are the subjects of capacity proceedings would have a court appointed attorney advocate and a separate Guardian Ad Litem with appropriate qualifications
- More Judges and Attorneys would utilize limited guardianships
- Funds to order more complete assessments and evaluations
- Standard of proof change to “Clear and Convincing”
- Revamp terminology in G/C cases , streamline Article 5, Refurbish forms, create form orders to be used statewide
- More but these would be a good start!