

**CONFERENCE OF CHIEF JUSTICES  
CONFERENCE OF STATE COURT ADMINISTRATORS**

**Resolution 14**

**Encouraging Collection of Data on Adult Guardianship, Adult Conservatorship, and Elder Abuse Cases by All States**

WHEREAS, the number of vulnerable elderly persons will increase rapidly over the next twenty years; and

WHEREAS, this demographic trend is likely to result in a substantial increase in the number of cases intended to protect vulnerable elderly persons including guardianship, conservatorship, and elder abuse proceedings; and

WHEREAS, most state court systems are not currently able to determine the number of guardianship, conservatorship, and elder abuse cases that are filed, pending, and closed each year; and

WHEREAS, timely, accurate, and complete data on the number of guardianship, conservatorship, and elder abuse cases is essential in determining the policies, procedures, approaches, and resources needed to address these cases effectively and in measuring how the courts are performing in these cases; and

WHEREAS, the National Center for State Court's Court Statistics Project overseen by a Committee of the Conference of State Court Administrators has developed the attached standard definitions applicable to guardianship, conservatorship, and elder abuse proceedings;

NOW, THEREFORE, BE IT RESOLVED that the Conferences urge each state court system to collect and report the number of guardianship, conservatorship, and elder abuse cases that are filed, pending, and concluded each year.

*Adopted as proposed by the CCJ/COSCA Task Force on Elders and the Courts at the CCJ/COSCA Annual Meeting in August 2009.*

**Guardianship?Adult:** Probate/Estate cases that include cases involving the establishment of or a controversy over the relation existing between a person (guardian) and an adult (ward). *Note: The guardian is lawfully invested with the power and charged with the duty of caring for and managing the affairs of an adult (ward) who is considered by the court to be incapable of caring for himself/herself.*

**Conservatorship/Trusteeship:** Probate/Estate cases that include cases involving the establishment of, or a controversy over: 1) the relation existing between a person (conservator) and another person (ward) or 2) the legal possession of real or personal property held by one person (trustee) for the benefit of another.

*Note: The guardian is lawfully invested with the power and charged with the duty of caring for and managing the affairs of an adult (ward) who is considered by the court to be incapable of caring for himself/herself.*

**Probate/Estate?Other:** Cases that include the establishment of guardianships, conservatorships, and trusteeships; the administration of estates of deceased persons who died testate or intestate, including the settling of legal disputes concerning wills. Use this case type for Probate/Estate cases of unknown specificity, when Probate/Estate cases are not attributable to one of the other previously defined Probate/Estate case types, or when all Probate/Estate cases are reported as a single case type. As distinguished from:

**Probate/Wills/Intestate:** Probate/Estate cases that include cases involving: 1) the determination of whether a will is a valid instrument; 2) the statutory method of establishing its proper execution; and 3) the determination, in the absence of a will, of the disposition of the decedent's estate. Court actions providing for estate administration, appointment of executors, inheritances, and so forth should be included in this category.

The data requested are the various categories of Incoming, Outgoing, and Pending cases outlined in the Guide. You can see these as the column headings on this web page:

[http://www.ncscstatsguide.org/civil\\_caseload.php](http://www.ncscstatsguide.org/civil_caseload.php)

**Elder Abuse:** Criminal cases involving offenses committed against an elderly person. Seven types of offenses are usually included: physical abuse, sexual abuse, psychological abuse, neglect, abandonment and isolation, financial or fiduciary abuse, and self-neglect. Physical abuse is generally defined as improper use of physical force that may or does result in bodily harm, injury, physical pain, or restraint of an individual. Sexual abuse is any non-consensual sexual touching or contact with an elderly person or a person who is incapable of giving consent (e.g., a mentally disabled individual). Psychological abuse is the intentional or reckless infliction of psychological pain, injury, suffering, or distress through verbal or nonverbal acts. Neglect is the failure to provide for the care and treatment or safety of an elder. Abandonment is the desertion of an elderly person by an individual responsible for providing care or by a person with physical custody of an elder. Financial or fiduciary abuse is the illegal or improper use of an elder's funds, property, or assets, or the conversion or misappropriation of such property, for uses other than for the elder. Self-neglect is behavior of an elderly person that threatens his/her own health or safety.