

(1) Why the Guardianship Signature Program?

- Because [Utah Code §75-5-303](#) provides that “[u]nless the allegedly incapacitated person has counsel of the person's own choice, the court shall appoint an attorney to represent the person in the proceeding” and this appointment of counsel is to ensure the court has all the information it needs to make findings under [Utah Code §75-5-304](#).
- Because the need for representation of respondents exists throughout the state and resources are extremely limited outside the Ogden-to-Provo urban corridor. Despite many generously contributed hours, there remained a large unmet need.
- Because [Informal Opinion 10-2](#) and [Informal Opinion 12-02](#) casted doubt on the previous methods used in some courts of appointing lawyers to represent respondents.
- Because representation of respondents by Utah Legal Services is very limited, and the organization focuses more on providing help to indigent petitioners.
- Because some lawyers have been representing both petitioner and respondent, creating a conflict of interest, and judges had no resource for an alternative appointment.
- Because the lawyers in the Self Help Center regularly receive requests for representation, but they did not have a list of lawyers to which they could refer clients.

(2) How does it work in a typical case?

- When a guardianship petition is filed without a lawyer assigned to the respondent or the petitioner files a request to appoint counsel for the respondent, the clerk will email the list of lawyers in their district. The first lawyer to respond is appointed as counsel for the respondent.
- The clerk prepares an order appointing the lawyer, which the judge signs, and then the clerk attaches the lawyer to the case. The lawyer has access through e-filing to contact information for his or her client and all previously filed documents.
- The lawyer then meets with the respondent and the case proceeds from there.
- At the conclusion of the case, the lawyer will file a notice of withdrawal as counsel and may also file a request for attorney’s fees if the respondent has assets.

(3) Who supports this program?

The Judicial Council, the Board of District Court Judges, and the Bar Commission support this program. The courts have helped to build other lawyer volunteer programs similar to this one:

- [Service Member Attorney Volunteer Program](#), in which a volunteer lawyer represents a service member who is facing a default judgment. The SMAV program is strictly pro bono, regardless of income.
- [Private Guardian ad Litem Program](#), in which a volunteer lawyer represents a child in divorce proceedings who is alleged to have been abused. The private GAL program has a fee structure similar to the one proposed for this program.

(4) Will petitioners' lawyers still be able to ask the judge to appoint a particular lawyer to represent the respondent?

Yes. This Guardianship Signature Program does not prohibit a petitioner's lawyer from requesting that the judge appoint a particular lawyer to represent the respondent, but [Informal Opinion 10-2](#) and [Informal Opinion 12-02](#) might restrict the judge's ability to do so.

(5) How do the fees work?

By volunteering to be appointed, a lawyer is agreeing to represent the client for a fee in accordance with the standards established for pro bono and modest means programs:

- \$0, if the client's income is not more than 125% of poverty;
- \$50/hour if the client's income is not more than 200% of poverty;
- \$75/hour if the client's income is not more than 300% of poverty; or
- a reasonable fee approved by the judge if the client's income is more than 300% of poverty.

As part of the representation, the lawyer will assist the respondent in completing a form to identify the respondent's income and assets. This information might then be used to help the guardian prepare an inventory of the protected person's estate.

(6) What if the client has a lot of assets but very little income?

The program outline includes the principle that the respondent's assets should be considered as a source for establishing and paying the fee when the respondent has substantial assets but low income and for other good cause.

(7) What resources are available to help volunteer lawyers?

The courts have several webpages about [guardianships and conservatorships](#) (see <http://www.utcourts.gov/howto/family/gc/>) including a webpage on the Guardianship Signature Program, found at <http://www.utcourts.gov/howto/family/gc/signature/>. That webpage includes several online training programs for lawyers. The Board of Directors also holds annual CLE courses and works with the law schools to develop administrative and research assistance and representation under [Rule 14-807](#).

(8) Wasn't the Volunteer Court Visitor Program supposed to address all of these problems?

No. Volunteer court visitors do not represent parties. That program's scope is limited to investigating the respondent's circumstances, assisting the judge in reviewing a guardian's annual reports, and finding missing guardians and protected parties.

(9) Who can I contact with questions?

You may contact Nancy Sylvester, Staff Attorney with the Administrative Office of the Courts, by phone at (801) 578-3808 or by email at nancyjs@utcourts.gov.