



ADMINISTRATIVE OFFICE of PENNSYLVANIA COURTS

## News for Immediate Release

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### **Pennsylvania Supreme Court’s Advisory Council on Elder Justice Highlights Need to Protect Incapacitated Persons**

**HARRISBURG** —The Pennsylvania Supreme Court’s Advisory Council on Elder Justice in the Courts today is calling attention to the importance of strengthening laws to protect alleged incapacitated Pennsylvanians.

Current law allows a court, upon petition and hearing and presentation of clear and convincing evidence, to find a person to be incapacitated and appoint a guardian of the person and/or estate and does not require the appointment of counsel in every case.

“For older Pennsylvanians who may not have family to help them make financial and health decisions once they are no longer able, current Pennsylvania law does not require an attorney to be appointed to protect the rights of an alleged incapacitated person in a guardianship proceeding,” said Pennsylvania Supreme Court Justice Debra Todd. “It is critically important for them to have a voice during a time when they are unable to speak for themselves.”

A judge needs information about the person's medical condition, background, current circumstances and family resources in order to decide how best to protect them. Counsel provides this information and advocates for the person's wishes.

In 2018, Pennsylvania’s Orphans’ Court Procedural Rules Committee adopted new guardianship rules which followed current law and stated, “a court may appoint counsel if deemed appropriate in a particular case.”

“Given the Orphans’ Court Procedural Rules Committee’s deference to existing statute in the rule change, we want to continue working with the legislature on a change to require the appointment of counsel in all cases,” said Senior Judge Paula Ott, Chair, Advisory Council on Elder Justice in the Courts.

Legislation addressing this issue has been introduced in the current legislative session.

Created in 2015, the Advisory Council works to implement the recommendations made by the Elder Law Task Force and to identify and address elder justice issues affecting older

Pennsylvanians. Along with the Office of Elder Justice in the Courts, the Council focuses on efforts to educate judges, court staff, attorneys, guardians and the public about guardianship and elder abuse including:

- Educational programs for judges handling guardianship cases;
- Educational sessions for judges and court staff on the warning signs of abuse and financial exploitation; and
- Training for family and lay guardians about their powers, duties and responsibilities.

As the fifth oldest state in population age 65 and older, Pennsylvania has approximately 2.2 million residents over the age of 65. This population is growing at 20 times the rate of the general population.

For more information on the work of the Advisory Council on Elder Justice in the Courts, visit <http://www.pacourts.us/judicial-administration/court-programs/office-of-elder-justice-in-the-courts>.

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