

# City of Philadelphia



Council of the City of Philadelphia  
Office of the Chief Clerk  
Room 402, City Hall  
Philadelphia

(Resolution No. 190089)

## RESOLUTION

Authorizing City Council's Committee on Aging to hold hearings on the potential for abuse in the guardianship appointment process and the financial burdens that such abuse could have on individuals being placed into guardianships.

WHEREAS, With age, some citizens of our population may be incapable of managing their personal or financial affairs. To protect these individuals, state laws provide for the court appointment of guardians, with the purpose of protecting the personal or financial welfare of an individual who has been deemed incapacitated; and

WHEREAS, The guardian of an incapacitated person may be a trusted family member or friend, but often times, it is a lawyer appointed by the court who is awarded fees that the incapacitated must pay; and

WHEREAS, Being appointed the guardian of an incapacitated individual comes with a substantial amount of power over that individual. A guardian can make decisions regarding the incapacitated person's finances or receive federal benefits on behalf of the individual; and

WHEREAS, While many guardians serve the best interests of the incapacitated people they are appointed to protect, others have taken advantage of these vulnerable individuals; and

WHEREAS, According to a report done by the Social Security Administration in 2014, approximately sixty percent of courts do not review the credit histories of potential guardians, and about forty percent do not conduct criminal background checks of potential guardians; and

WHEREAS, Another report, done by the U.S. Government Accountability Office in 2010, detailed the cases of 20 guardians who improperly stole or obtained \$5.4 million in assets from 158 incapacitated victims, many of whom were seniors; and

WHEREAS, According to past national studies reported in *The Court Manager*, Volume 23 Issue 4, trusted family or friends assigned as guardians are often provided little or no

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guidance on the boundaries of their authority, which can lead to unintentional violations of the guardianship, thereby giving cause for the court to remove that guardian and appoint another individual; and

WHEREAS, Court appointed guardians may demand expensive fees for their role, and although they have the duty to act in the best interest of the ward, could force actions with which close relatives and friends of the ward disagree and which may appear to further the guardian's own self interest; and

WHEREAS, Empirical studies indicate that courts do not take advantage of the limited guardianship option and rarely limit a guardian's authority, making most guardianship orders not time-limited, even though an individual's capacity can change over time; and

WHEREAS, Given these statistics, it is important to ensure that systems designed to protect seniors from abuse and neglect function properly and that the guardianship process in Philadelphia has adequate oversight to eliminate potential abuses and financial exploitation of our most vulnerable citizens; Now, therefore, be it

RESOLVED, BY THE COUNCIL OF THE CITY OF PHILADELPHIA, That it hereby authorizes City Council's Committee on Aging to hold hearings on the potential for abuse in the guardianship appointment process and the financial burdens that such abuse could have on individuals being placed into guardianships.

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*RESOLUTION NO. 190089 continued*

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*RESOLUTION NO. 190089 continued*

CERTIFICATION: This is a true and correct copy of the original Resolution, Adopted by the Council of the City of Philadelphia on the seventh day of February, 2019.

Darrell L. Clarke  
PRESIDENT OF THE COUNCIL

Michael A. Decker  
CHIEF CLERK OF THE COUNCIL

Introduced by: Councilmember Johnson for Jones

Sponsored by: Councilmembers Jones, Johnson, Blackwell, Parker, Domb,  
Greenlee, Taubenberger, Henon and Green