



CABINET FOR HEALTH
AND FAMILY SERVICES

State Guardianship and Adult Protective Services

Jessica Wayne, Director, Division of Guardianship
Cliff Bryant, Assistant Director, Division of Protection and Permanency

Kentucky guardianship is governed by:

KRS 387. 500-.800 Kentucky Adult Guardianship



KRS 210.290 Cabinet may act as fiduciary -- Duties – Powers



922 KAR 5:150 Referral Process for Adult Guardianship



922 KAR 5:160 Accounting Provisions for Adult Guardianship



922 KAR 5:170 Service provisions for adult guardianship

GUARDIANSHIP BY DEFINITION

A Guardian is a court appointed person or entity with the duty and power to make personal and/or property decisions for another (the individual under guardianship).

A state (public) guardian is usually appointed due to the absence of willing and suitable family members or friends, or the absence of resources to employ a private guardian.

In Kentucky, state guardianship results when the court appoints the Cabinet for Health and Family Services, Division of Guardianship to serve as legal guardian, instead of a private citizen or professional organization.

Guardianship is a legal relationship between a guardian and an adult individual.

TYPES OF GUARDIANSHIP

The court determines which civil rights an individual may retain and what power/duties are given to the guardian and/or conservator. These may include the following rights: vote, obtain a motor vehicle license, medical decisions, living arrangements, sale of property, and the right to sign legal documents such as checks, marriage licenses, or wills.

- **Full Guardian (Personal)**- Responsible for the personal affairs of the individual.
- **Full Conservator** –Responsible for the financial affairs of the individual.
- **Limited Guardian** – A limited guardian is appointed if the individual is declared partially disabled and can manage some personal affairs but may need assistance with others.
- **Limited Conservator** – A limited conservator is appointed if the individual is declared partially disabled over their financial affairs, only needing assistance with managing some financial or fiduciary affairs.
- **Emergency Guardian/Conservator**- appointed in emergency circumstances where there is a danger of serious impairment to the health or safety of the individual or damage or dissipation to his/her property.

922 KAR 5:150 State Guardianship Acceptance Criteria

The individual being referred for guardianship is an adult.

Is a legal resident of the Commonwealth, pursuant to KRS 210.290(2)(a).

Has no capable informal network of support.

Has exhausted all other least restrictive alternatives.

Has no other suitable person or entity available or able to be the individual's guardian.

Does not have a history of violent or sexual criminal behavior.

State Guardianship Individuals

Per KRS 387.510 Disabled is defined as a legal disability, not a medical disability and is measured by functional inability. Individuals 18 years or over with a cognitive impairment that prevents their ability to make informed decisions and where no appropriate individual has applied to be guardian. The client has been declared by the court to be either wholly or partially disabled, and unable to manage their personal affairs and/ or financial resources.

Examples of disabilities* may include:

- Developmental/Intellectual Disability
- Acquired/Traumatic Brain Injury
- Severe and Persistent Mental Illness
- Elderly-Alzheimer's/Dementia

* Not everyone with a disability is cognitively impaired and in need of a guardian.

What State Guardianship Does:

Regular visits with the individual under guardianship

Routine medical/end of life decisions

Approval of residential placement

Arrange transportation when funds are available

Establishing burial arrangements when funds are available

Contracting with providers for the individual under guardianship's services

Attending court hearings and meetings on the behalf of the individual under guardianship

Applying for benefits (Medicare, Medicaid, SSA, VA, food stamps, Medicaid waivers, etc.)

Setting up budgets/paying reoccurring bills

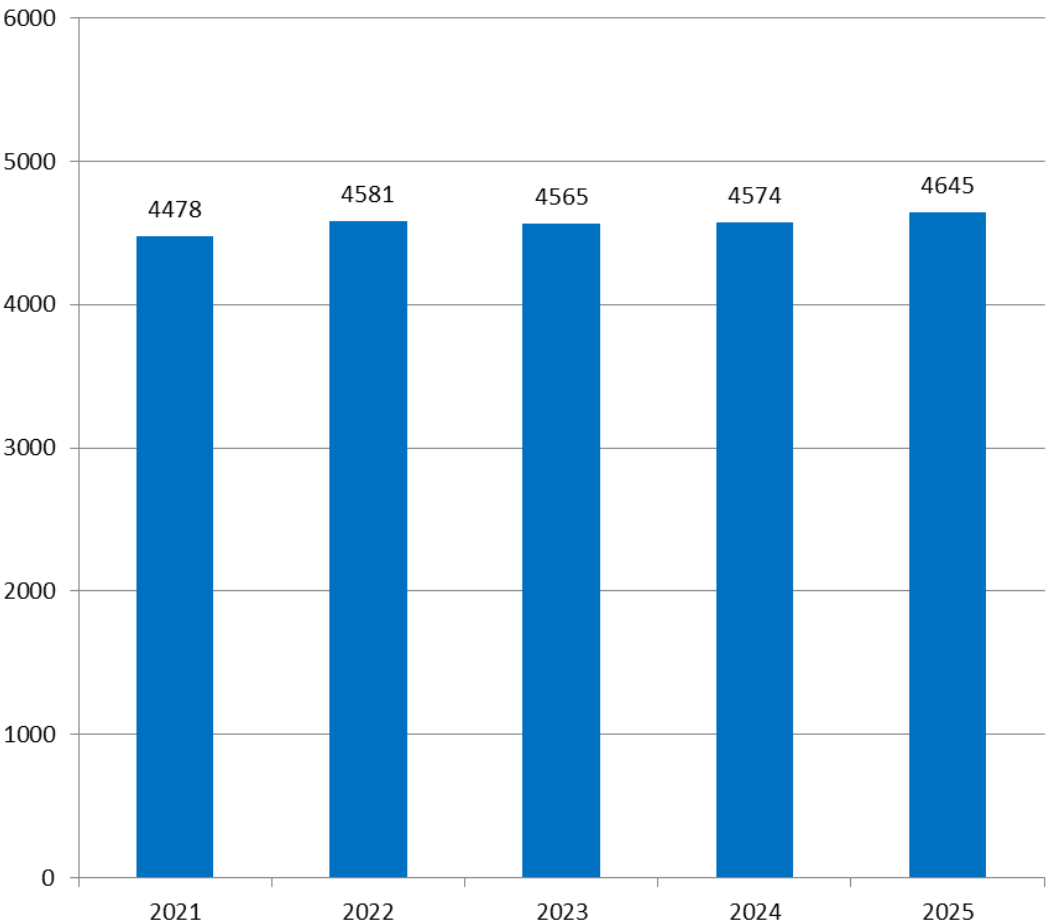
Managing and investing the individual under guardianship's funds

Filing state and federal taxes

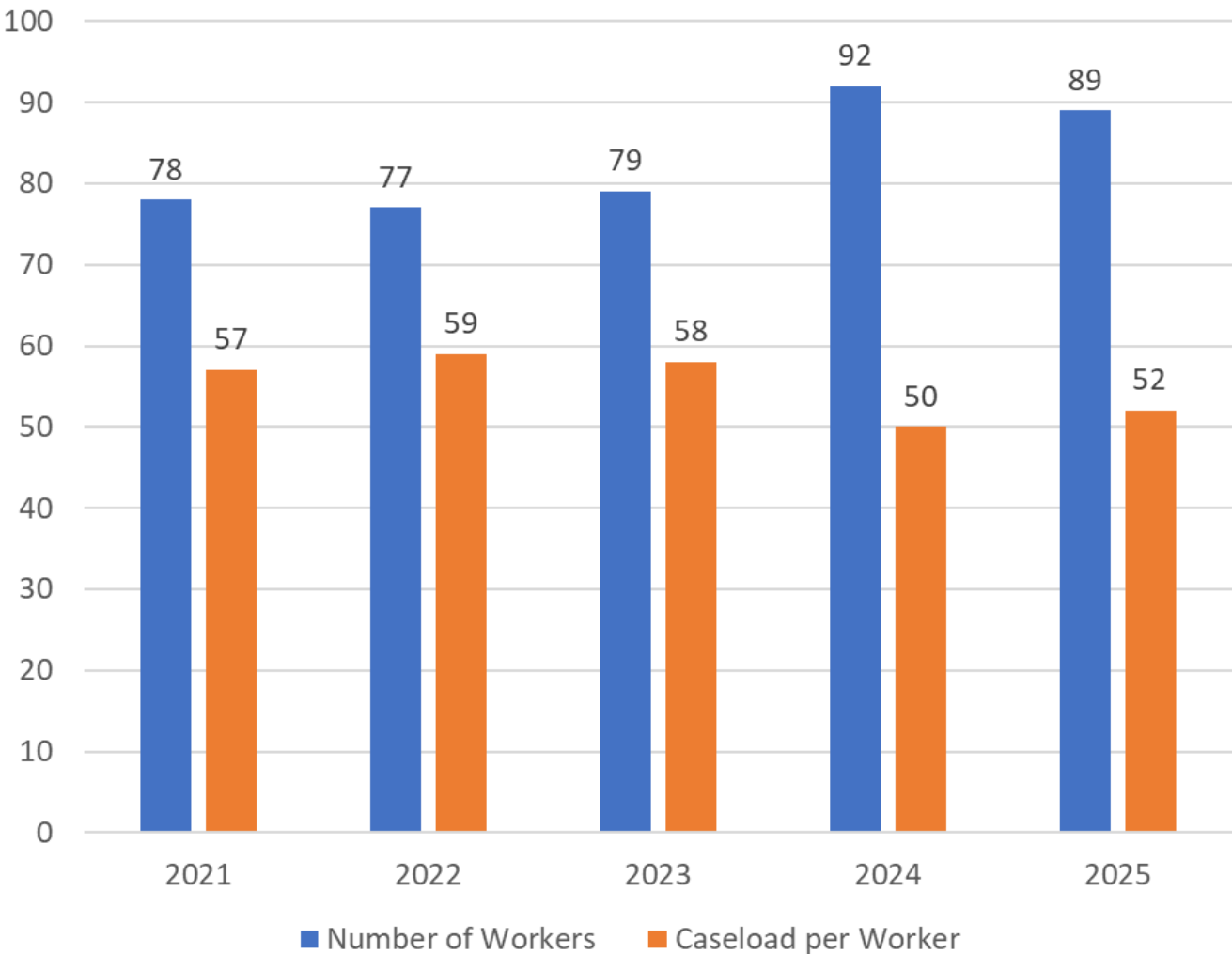
Securing and/or liquidating assets

Guardianship Caseload Average

Active Client Trend 2021-2025



Workers vs Ward Caseload per Year



New Appointments vs Expired/Resigned Clients 2020-2024



Guardianship Initiatives

Goal	Support	Promote
<p>To reach an average caseload of 45 per worker.</p> <ul style="list-style-type: none">• With recent hires and with another 10 positions in the hiring process, this goal can be achieved.	<p>Encourage and assist individuals under guardianship in obtaining skills to seek partial or full rights restoration.</p>	<p>Promote consistency with the referral process for state guardianship through education and statewide collaboration with community partners and the court.</p>

Adult Protective Services (APS)

- Conducts investigations of abuse, neglect, or exploitation.
- Provides social services aimed at preventing and remedying abuse, neglect, exploitation.
- Emergency protective services, through court action when an individual lacks decisional capacity, to protect health and welfare.

Adult Definition

- A person eighteen (18) years of age or older who,
- because of mental or physical dysfunction,
- is unable to
 - manage his/her own resources,
 - carry out the activity of daily living,
 - or protect himself/herself from neglect, exploitation, or a hazardous or abusive situation without assistance from others,
- and who may be in need of protective services.

Pathways to Services

- Referrals screened through hotline.
 - Concerns of adult abuse, neglect, or exploitation.
 - Adults seeking assistance in their daily functioning.
- APS workers investigate reports meeting acceptance criteria and determine a finding.
- Vulnerable adults can voluntarily receive ongoing support through General Adult Services.

General Adult Services

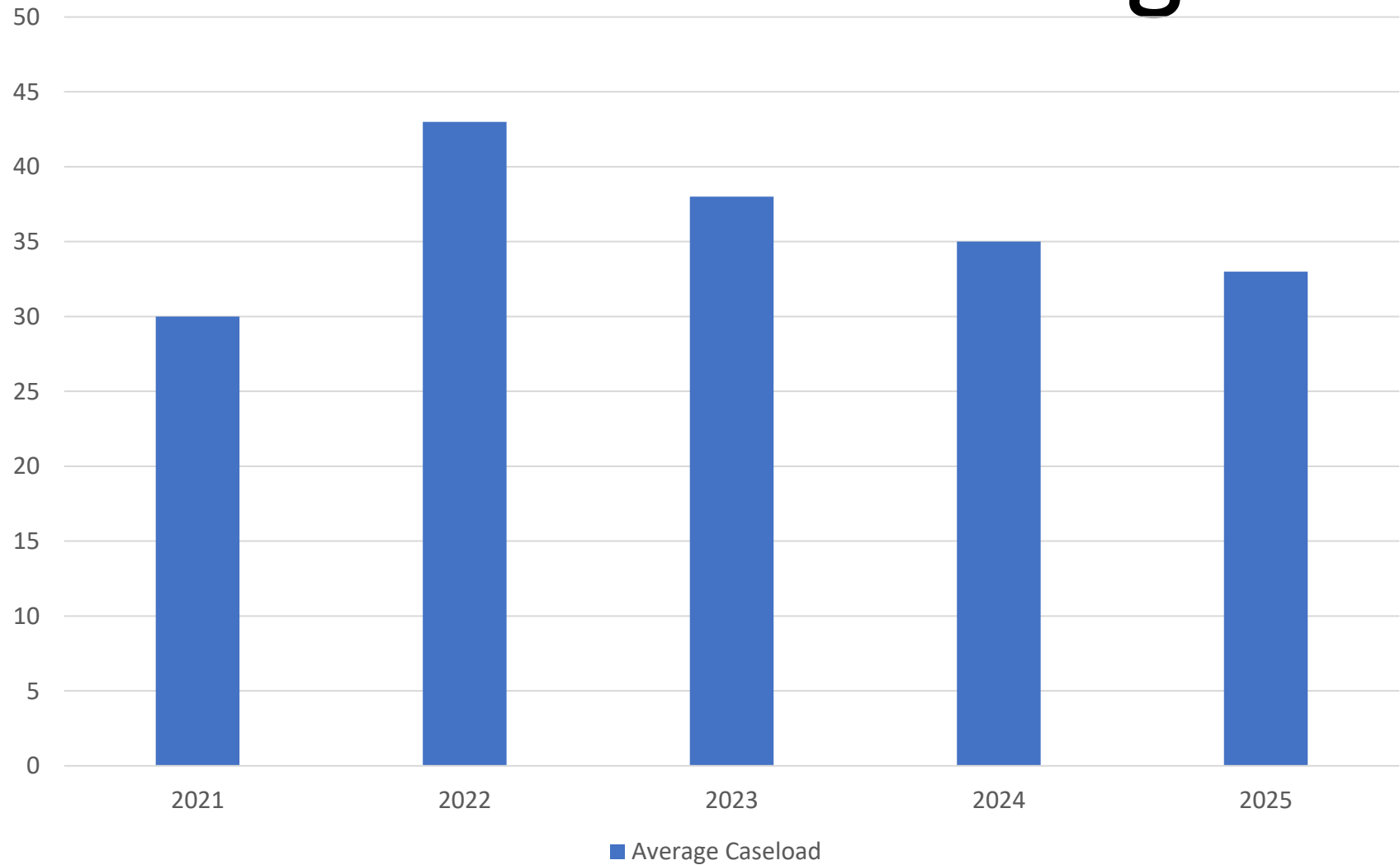
Individuals served:

- 65 years of age and older, who does not have a mental or physical dysfunction but is allegedly being abused, neglected or exploited by a family member, household member or caretaker.
- 18 years of age and older, who has a mental or physical dysfunction, is not being abused, neglect or exploited and is requesting services.
- 18 years of age and older, is an alleged victim of domestic violence, and is requesting services.
- 18 years of age and older, transitioning from out of home care within the past twelve months, and is requesting services for self sufficiency.

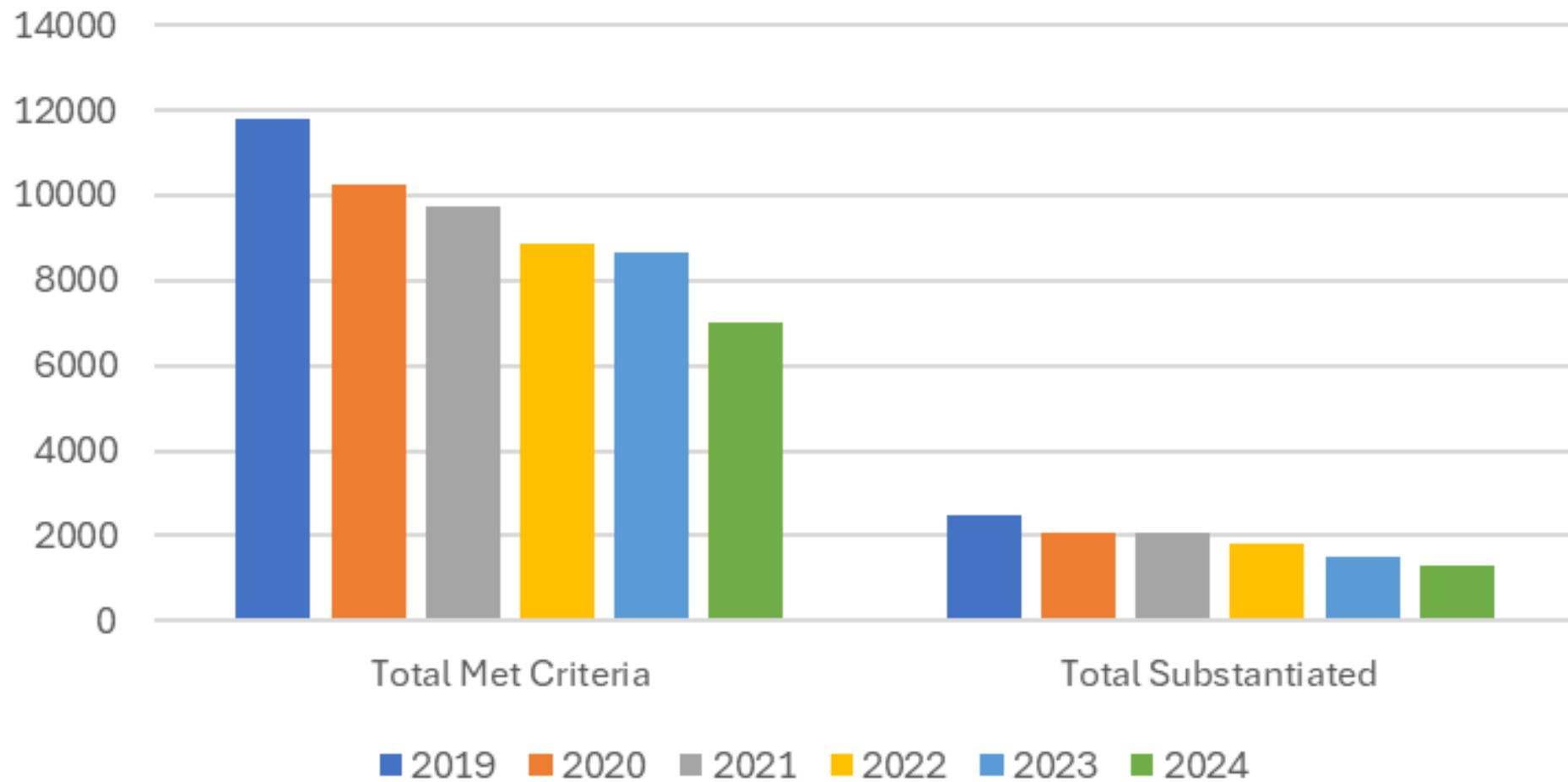
General Adult Services

- Voluntary preventative services aimed at:
 - assisting individuals attain and function at their highest level of self sufficiency and autonomy; and
 - maintaining in the community.

APS Caseload Average



APS Referrals



APS Initiatives

- Self Neglect Assessments – Connecting Adults With Services
- Communication Strategy
- Prevention - Upstream

Guardianship and APS

- Collaborative work between Guardianship and APS.
 - Referrals for identified needs.
 - Collaboration and planning between APS and Guardianship staff.
- Both programs work collaboratively with community partners to aid vulnerable adults in community living and restoration of rights.
- APS and Guardianship support the work of CPS to coordinate needs of youth with disabilities aging out of foster care.
- Increased opportunities for training between program areas to support professional development.



Cliff Bryant, Assistant Director
Division of Permanency and Protection
Department for Community Based Services
275 East Main Street 3 E-A
Frankfort, KY 40621
502-892-1373
cliff.bryant@ky.gov

[Kentucky Esteem \(Empowering Solutions to End Adult Maltreatment\)](#)

Jessica Wayne, Director
Division of Guardianship
Department for Community Based Services
275 East Main Street 3 E-F
Frankfort, KY 40621
502-229-5109
Fax: 502-564-5703
jessica.wayne@ky.gov

[Division of Adult Guardianship - Cabinet for Health and Family Services \(ky.gov\)](#)