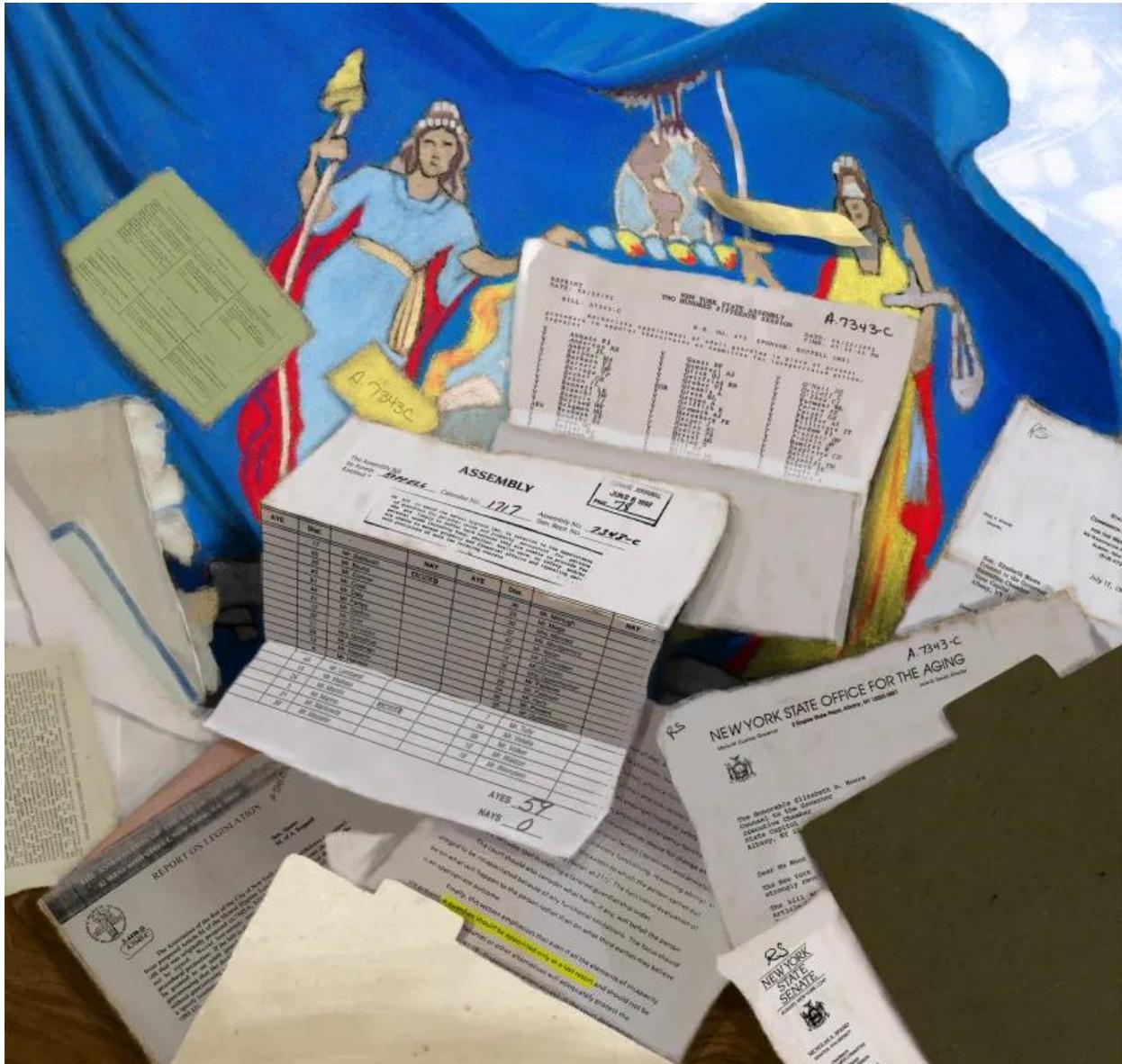


“A Real Overhaul Is Long Overdue”: Lawmaker Calls On State Leaders to Reform New York’s Beleaguered Guardianship System, [Jake Pearson](#), (Sept 18th, 2024)

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“A Real Overhaul Is Long Overdue”: Lawmaker Calls On State Leaders to Reform New York’s Beleaguered Guardianship System



The chair of the New York City Council’s Committee on Aging is calling on Gov. Kathy Hochul and legislative leaders to overhaul the state’s beleaguered guardianship system in response to a ProPublica investigation that found elderly and infirm New Yorkers living in dire conditions while under court-mandated oversight.

City Councilmember Crystal Hudson introduced a resolution last week intended to force Albany to take up the cause of those whom judges have deemed incapable of managing their own affairs — a constituency without powerful lobbyists or political influence whose needs [have long been ignored by state legislators](#).

“Too many people have been failed by this system, and a real overhaul is long overdue,” said Hudson, a Democrat. “We need a system that instills confidence — one that guarantees people in need of guardianships a dignified existence.”

More than 28,000 people statewide are currently under the care of court-appointed guardians, and nearly 60% of them live in New York City.

Hudson’s bill, which calls for an annual infusion of state funding to serve poor New Yorkers in the system, will be the subject of public hearings later this fall.

The proposal cites a series of stories this year by ProPublica that revealed how thousands of residents who have no family or friends to look after them are ill-served by many of the nonprofits and private attorneys that judges appoint to oversee their well-being. In the guardianship industry, this group of wards is known as [“the unbefriended.”](#)

The news organization found that there are too few guardians available to serve the people who need them and even fewer overseers, called examiners, to review the guardians’ work. A dearth of court staff and judges has compounded the problem. ProPublica found that annual assessments of guardians’ care can take years to complete, and even then the court oversight mostly focuses on financial paperwork, with officials rarely visiting wards in person.

The lack of scrutiny and long delays can result in unchecked neglect, as well as financial exploitation of New York’s most vulnerable people. A woman featured in ProPublica’s reporting [lived for years in a home that had no heat and was infested by bedbugs and rats](#) — conditions her legally appointed guardian did not rectify and her examiner did not question. Another man’s guardian spent more than half of her ward’s life savings for care provided by her own private business — [a flagrant conflict of interest that a judge permitted for years](#).

Hudson’s resolution would pressure state legislative leaders and the governor to bolster the system by allocating state money to pay for more guardians. The current system is largely unfunded. So judges often ask lawyers to take on cases pro bono or assign nonprofits, which take monthly fees directly from their wards’ accounts. For a small group of people in need, county social service departments pick up the tab, though judges say the groups they contract with to provide those services are overburdened and understaffed.

To fix the problem, the legislation suggests a plan developed by Guardianship Access New York, a coalition of nonprofit providers. It calls for a “significant and permanent statewide investment in nonprofit guardianship services” of \$15 million annually. That’s similar to what happens in Florida, which [publicly funds 16 nonprofits that serve thousands of eligible wards](#). In GANY’s proposal, the funding would go to vetted groups that would then serve 1,500 New Yorkers each year to “ensure access to an ethical, reliable, and effective guardian.”

Kimberly George, a leader of GANY who also runs Project Guardianship, a nonprofit group that serves as guardian to about 160 New York City wards, said in an interview that the proposal “wouldn’t fix the whole system, but it’s a big piece of it.”

“If judges have reliable good guardians to go to, maybe they won’t have to appoint ones that they know are questionable or aren’t sure about,” she said.

Judges, for example, have long relied on a guardianship company featured by ProPublica [even as it failed to meet the needs of more than a dozen wards](#). In one case, it collected monthly fees from an elderly man even after he left the country — and also after he died. The group, which serves hundreds of poor New Yorkers, continues to receive appointments. The company has declined to answer questions about specific clients but previously told ProPublica that it was accountable to the court and that its work was scrutinized by examiners, who are empowered to raise any issues.

The city resolution comes as the state court system crafts its own guardianship proposals in advance of next year’s legislative session, which begins in January.

According to an internal proposal obtained by ProPublica, an advisory committee of judges and lawyers has recommended that the state’s top judicial leaders and court administrators ask Albany to create a “fully funded statewide entity” to serve as a public guardian. Such a government entity, the committee estimates, would cost \$72 million to staff and would serve the “unbefriended” in each county — a population the proposal estimates represents about 20% of all wards statewide.

The committee also recommended that the courts seek to increase compensation for court examiners, as well as court evaluators, who assess the needs and capacities of people before a judge imposes guardianship. That money would come from funding that is now reserved for lawyers who represent the indigent in criminal cases, not from wards’ own funds.

A court spokesperson said the state’s top judicial leaders “have made clear to our partners in other branches of government that we support the creation of a statewide public guardianship program as a key component of an overhaul of the system.”

Spokesperson Al Baker added: “We are proud to be advocating for additional funding to cover the costs of guardianships, particularly to assist those who are the most economically constrained.”

State lawmakers last seriously addressed the court-appointed guardianship system 30 years ago, when they passed the state’s main guardianship statute, Article 81 of the Mental Hygiene Law. This year during budget negotiations, lawmakers secured just \$1 million to fund a statewide helpline, [despite a request to provide \\$5 million to combat some of the bigger problems detailed in ProPublica’s reporting](#). Spokespeople for the Senate majority leader, Andrea Stewart-Cousins, and Assembly speaker, Carl Heastie, didn’t respond to requests for comment on Hudson’s resolution.

Neither did the office of Hochul, whose support will be essential to any guardianship reform. The Democrat, who took office three years ago, has proposed [a plan to confront the needs of the state’s aging population](#), which mentions guardianship, among other measures, though it spells out few details.

Advocates hope Hochul will be receptive to an overhaul, given her record on a related issue. In July 2022, she signed into law a bill that provides an alternative to guardianship for people with intellectual and developmental disabilities, permitting them, not a guardian, to make decisions about their own lives.

At the bill signing, [according to a transcript](#), she acknowledged the power of government to better the circumstances of the vulnerable.

New York, she said, had “a well-intended Legislature and a governor who wanted to make sure if there’s any issue that comes to our attention where a wrong needs to be righted, we will take the pen and do just that. And that is what today is about.”