



**Department of Human Services  
Online Directives Information System**

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**POL5800  
03/17/2010  
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**SUBJECT:** Guardian of Last Resort for Adults and Public Guardianship Operations

**POLICY:** The Department of Human Services (DHS) serves as the guardian of last resort for adults as provided by law when duly appointed by a probate. DHS also administers specifically delineated operations of public guardianship.

**A. Authority**

[O.C.G.A. §§ 29-4-2; 29-4-3 \(b.1\)](#)

**B. References**

[O.C.G.A. § 29-1-1](#), Definitions;  
[O.C.G.A. §§ 29-4-1](#), *et seq.*, Guardians of Adults;  
[O.C.G.A. § 29-5-1](#), *et seq.*, Conservators of Adults  
[O.C.G.A. § 29-10-1](#), *et seq.*, Public Guardians

**C. Applicability**

The policy is applicable to the provision of guardianship case management services provided by DHS or any representative of DHS who has been assigned by DHS or the Division of Aging Services with guardianship case management services as guardian of last resort. DHS representatives include but are not limited to the Public Guardianship Office of DAS, volunteers or interns assigned guardianship tasks, providers under contract with DHS to provide guardianship services to adults, or any DAS staff as assigned specifically by the DAS Director. Although the Public Guardianship Office of DAS is the primary unit assigned guardianship case management duties, the Department or DAS may authorize any personnel of the Department to carry out DHS' guardianship duties.

This policy is also applicable to DHS governance of public guardianship operations, which includes setting standards for criminal and credit history checks on public guardians, maintaining a registry of public guardians, and administering any funds appropriated by the Georgia General Assembly for compensation of public guardians.

**D. Definitions**

**Conservator:** an individual appointed by the probate court to receive, collect, and make decisions regarding the property, assets, liabilities and income of a person under conservatorship. In Georgia law, "conservator" includes a "guardian of the property" appointed prior to July 1, 2005.

**DHS Guardian of Last Resort:** representatives of DHS who have been assigned guardianship case management duties and responsibilities for DHS when DHS has been appointed as guardian of an adult. DHS may be appointed when there is no eligible, willing

or appropriate family, friend, person, county guardian, or public guardian to serve as guardian. The primary unit assigned case management duties is the Public Guardianship Office of DAS.

**Guardian:** an individual or entity appointed by the probate court to make decisions regarding the support, care, education, health, and welfare of an individual adult who lacks sufficient capacity to make or communicate significant responsible decisions concerning his or her health and safety. Within Georgia law, “guardian” includes a “guardian of person” appointed prior to July 1, 2005.

**Public Guardianship:** an individual or private entity appointed as legal guardian of an adult who lacks sufficient capacity to make or communicate significant responsible decisions concerning his or her health and safety. A public guardian may be appointed when there is no eligible, willing or appropriate family, friend or other person to serve as guardian.

**Ward:** an adult who the probate court has determined lacks sufficient capacity to make or communicate significant responsible decisions concerning his or her health, safety, or property, and as such, has been appointed a guardian or conservator.

## E. Responsibilities

**Guardian of Last Resort:** DHS serves as guardian of last resort when appointed by a probate court. DHS is not authorized by law to serve as conservator of adults. DHS is not authorized to serve as temporary medical consent guardian. The Public Guardianship Office of DAS is primarily assigned oversight and delivery of guardianship case management services on behalf of DHS. Responsibility for activities related to case management shall be assigned to a responsible employee, contractor, or volunteer of DHS.

**Public Guardianship Operations:** DHS does not act as public guardians; when appointed as guardian of an adult, DHS acts as guardian of last resort. DHS is mandated to manage certain aspects of public guardianship operations, which include setting standards for criminal and credit history checks on public guardians, maintaining a registry of public guardians, and administering any funds appropriated by the Georgia General Assembly for compensation of public guardians.

## F. History

From 1974 and until July 1, 2005, various individuals, divisions, and offices of the Department of Human Resources (what is now the Department of Human Services) have performed guardian of last resort functions. Effective July 1, 2005, the Georgia General Assembly amended the law that named county Department of Family and Children Services directors as guardians of last resort and designated the Department of Human Services, as an entity, to serve in that capacity. The Division of Aging Services, Adult Protective Services Section was primarily responsible for case management. Effective January 1, 2011, the Public Guardianship Office was separated from Adult Protective Services and became primarily responsible for case management.

## **G. Evaluation**

Evaluation is conducted by the Public Guardianship Office and Program Integrity Section of DAS, using methods such as DAS database reporting, surveys, and case reviews.