

Kentucky State Guardianship

Department for Aging and Independent Living
Cabinet for Health and Family Services

Objectives

- Knowledge of State Guardianship Statutes and Regulations
- Types of Guardianship and process
- What state guardianship can and cannot do
- State guardianship data
- State guardianship region and how to contact
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Guardianship Mission Statement

To preserve individual dignity,
self respect and independence
of Kentucky's elders
and individuals with disabilities
through leadership, education
and delivery of programs and
services

CABINET FOR HEALTH AND FAMILY SERVICE
 Department for Aging and Independent Living
 Division of Guardianship

Vacant
 Commissioner

Lala Williams
 Deputy Commissioner
 502-564-6930

Division of Operations & Support

Division of Guardianship Field Services

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Branch Manager
 Vacant

Branch Manager
 Heather Holland
 270-889-6025 ext 388

Northern Branch

Eastern Branch

Western Branch

Southern Branch

North Central Region 502-564-9935	Jefferson Region 502-595-4052
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Northern Bluegrass Region 859-371-7182	North-Eastern Region 606-920-2050 Opt. 3	Eastern Mountain Region 606-889-1736
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Western Region 270-889-6025 Ext. 387	Midwestern Region 270-683-5387	South-Western Region 270-746-7438
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Southern Bluegrass Region 859-245-5748	Cumberland Region 606-677-4210
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Statutes & Regulations

- Kentucky Guardianship Law - Legislative Purpose KRS 387.500
- Kentucky Law – Definitions KRS 387.510
- Kentucky Law - Appointment -- Consideration of preference of respondent. KRS 387.600
- Kentucky Law - Powers and Duties of a Guardian KRS 387.660
- Kentucky Law - Cabinet may act as fiduciary -- Duties -- Powers. KRS 210.290
- Responsible parties authorized to make health care decisions. KRS 311.631
- Service provisions for adult guardianship- 910 KAR 2:040

GUARDIANSHIP BY DEFINITION

- **Guardianship** is a legal relationship between a guardian and an adult client.
- A Guardian is a court appointed person or entity with the duty and power to make personal and/or property decisions for another (the client).
- In Kentucky, public guardianship results when the courts appoint the Cabinet for Health and Family Services to serve as legal guardian, instead of a private citizen or professional organization.
- 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. State Guardianship is administered by the Department for Aging and Independent Living within the Cabinet for Health and Family Services.

TYPES OF GUARDIANSHIP

The court determines which civil rights the person can retain and which are given to the guardian. These may include the right to vote, the right to drive a car, the right to make medical decisions, the right to determine where to live, the right to sell property, and the right to sign legal documents such as checks, marriage licenses or wills.

- **Full Guardian/Full Conservator** –responsible for both the personal and financial affairs of the client.
- **Personal Guardian** -responsible for only personal affairs of the client.
- **Conservator** – A conservator may be appointed if the disabled person only needs help with managing financial or fiduciary affairs.
- **Limited Guardian** – A limited guardian may be appointed if the disabled person is declared partially disabled and can manage some personal needs but may need assistance with others.
- **Limited Conservator** – A limited conservator may be appointed if the disabled person only needs help with managing some financial or fiduciary affairs.

State Guardianship Clients

Individuals 18 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 state guardian.

WHAT STATE GUARDIANSHIP DOES:

- Regular visits with the client
- Routine medical/end of life decisions
- Approval of residential placement
- Arrange transportation when funds are available
- Establishing burial arrangements
- Contracting with providers for a client's services
- Keeping in contact with a client's family
- Attending court hearings and meetings on the behalf of the client

WHAT STATE GAURDIANSHIP DOES CONTINUED:

- Applying for benefits (Medicare, Medicaid, SSA, VA, food stamps, Medicaid waivers, etc.)
- Setting up budgets/paying reoccurring bills
- Managing and investing a client's funds
- Filing state and federal taxes
- Securing and/or liquidating assets

STATE GUARDIANSHIP

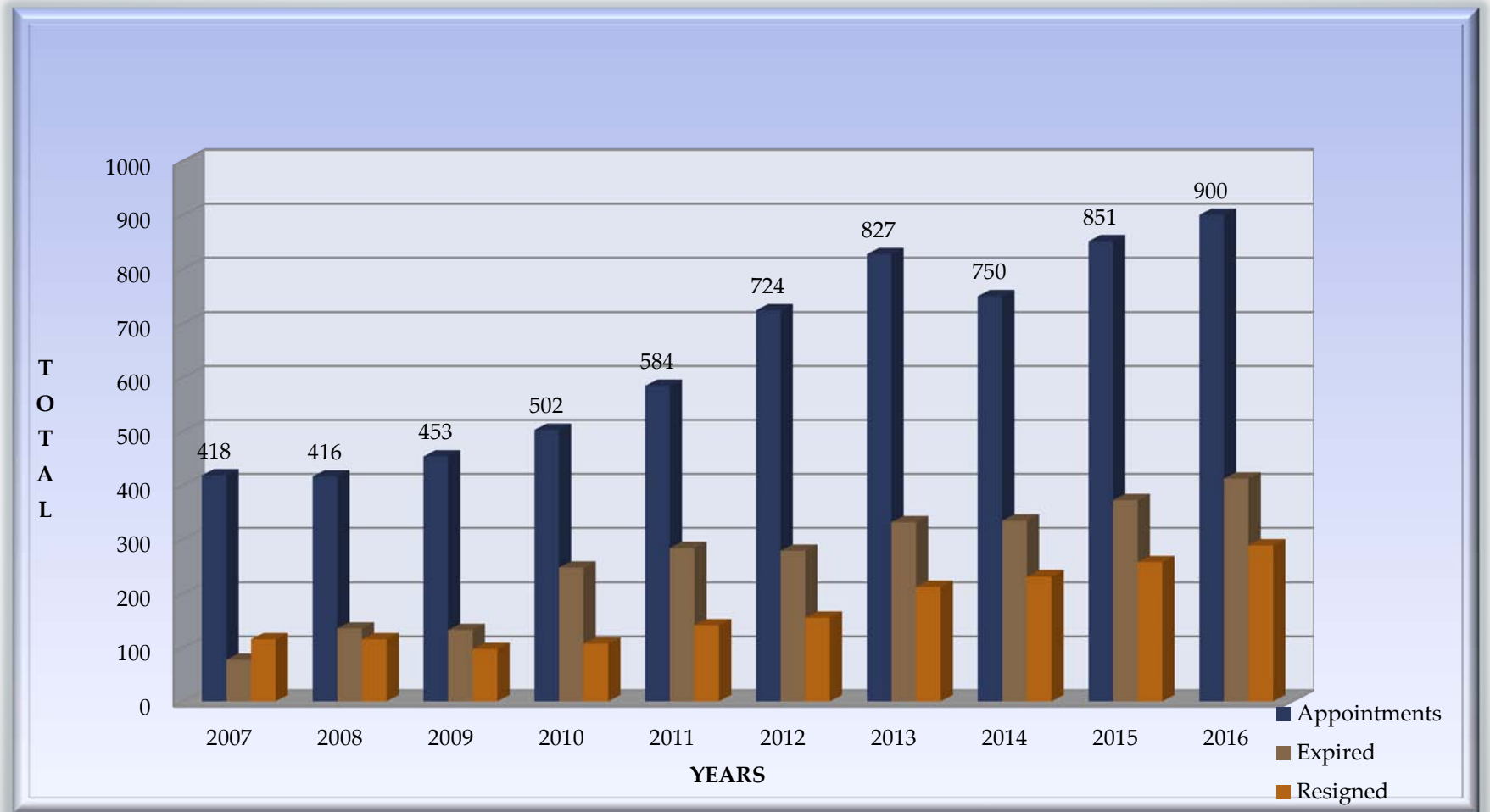
- Is not a placement agency
- Cannot force treatment, medications or control behaviors
- Cannot lock up or restrain individuals. There are NO secure settings in Kentucky for violent, drug seeking or behaviorally disruptive individuals. Guardianship is not a substitution for jail or a psychiatric hospital.
- Cannot keep a violent perpetrator from harming another person
- Cannot force providers to serve individuals
- Cannot create resources or benefits for illegal aliens
- Is not a funding agency or a funding assistance program and does not have funding to provide placements, living expenses or resources. A guardian manages whatever resources the client has personally, or is entitled to under public assistance programs for which they may qualify.

Limited Placement Options

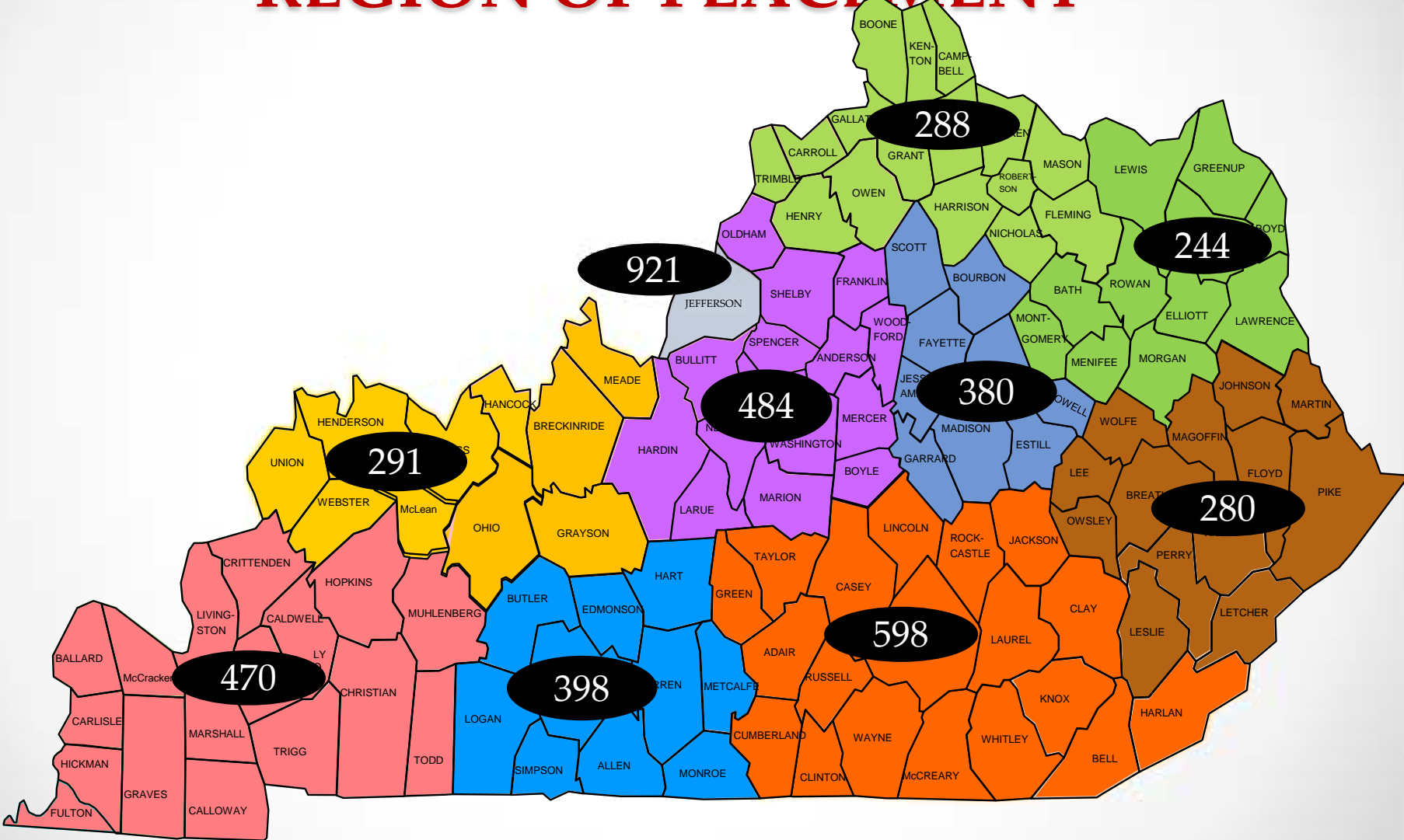
- Kentucky has limited community placement options for most disabled populations.
- If a client displays negative behaviors they are frequently discharged from placements including crisis units, often with little or no advance notice.
- There are limited funds for crisis services especially for the mentally ill.
- Hospitals, including state hospitals, refuse to admit clients even after major explosive behaviors if the patient is not deemed to meet clinical admission criteria.
- Providers often have unrealistic expectation of the state guardianship program.
- Most hospital discharge planners look to guardianship to find placements for the most difficult clients.



New Appointments 2010-2016



REGION OF PLACEMENT



Thank You

Any Questions:

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