

Testimony
of AARP in The Virgin Islands
for the Committee on Rules and Judiciary
of the
35th Legislature of the Virgin Islands
“Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act”
May 24, 2024,
Given by Troy de Chabert - Schuster, State Director

Honorable Senator Diane T. Capehart, Chair of the Committee on Rules and Judiciary, and Senators of the 35th Legislature. AARP in The Virgin Islands thank you for the opportunity to provide comments on a matter of increasing national concern: *guardianship of older adults and individuals with disabilities*. This issue exposes a very vulnerable population to potential risks such as abuse, neglect, and exploitation. As an organization dedicated to empowering individuals as they age, AARP Virgin Islands urges your committee to champion for enhanced oversight of guardianship by adopting the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (UGCOPAA) in the US Virgin Islands.

Guardianships and conservatorships are legal arrangements that allow one person, the guardian or conservator, to make decisions on behalf of another individual who is unable to make those decisions for themselves. These arrangements are put in place to protect and ensure the well-being of individuals who may be incapable of managing their own affairs due to age, physical or mental disability, or illness. Guardianship involves decisions related to personal matters such as healthcare, living arrangements, and education, while conservatorship focuses on the management of financial matters and assets. Through guardianship and conservatorship, individuals who are vulnerable and in need of support can receive the guidance and protection necessary to live a secure and fulfilling life. However, because the authority of the guardian or conservator is so powerful, these arrangements can easily be exploited. So, it is important that the legal mechanisms and the

procedures to implement guardianships and conservatorships safeguard the interests of those who are subject to them, ensuring their rights and dignity are respected.

As the largest nonprofit and nonpartisan organization in the nation, with a membership of 22,000 locally and thirty-eight million nationwide, AARP has a long and distinguished history of advocating for issues that impact older adults and their families. Presently, there are approximately 1.3 million active adult guardianship cases in the United States, amounting to an estimated \$50 billion in assets, including a significant number of cases specific to Virgin Islanders.

For the past seven years, AARP Virgin Islands has spearheaded the movement for guardianship system reform, recognizing the role it plays in safeguarding the rights and well-being of older or disabled Virgin Islanders. Our efforts have resulted in the establishment of standards and training for guardians, protection of the rights of those under guardianship, combatting abuse, and bolstering court oversight of guardians and conservators.

While we have achieved significant strides, there is still much work to be done. **Our aim for this bill is two-fold:** to establish both procedural and substantive safeguards that protect individual rights, and to protect incapacitated and vulnerable adults. These measures are essential in upholding the dignity and respect of those within the system.

Guardianships are inherently complicated. The current guardianship system has significant shortcomings, leading to more than 16 states enacting 37 new laws on adult guardianship in 2021. In the first nine months of 2023 alone, 24 states adopted 46 new laws aimed at mitigating the potential for abuse. Presently, there are approximately 1.3 million active adult guardianship cases in the United States, amounting to an estimated \$50 billion in assets, which include cases specific to Virgin Islanders.

The enactment of UGCOPAA signifies groundbreaking reform addressing these challenges with a balanced approach that prioritizes both protection and empowerment. This Act sets forth a framework for safeguarding individual rights while maintaining necessary legal oversight and accountability of those put in positions of authority. The proposed **Bill No. 35-0174** moves the Virgin Islands towards the meaningful reform

aligned with the principles of UGCOPAA by improving the right to the appointment of qualified counsel, establishing clear decision-making standards for guardians, and advocating for the expression of the client's own decisions by any supportive or substitute decision maker.

Beyond the need to reform the system, we must also consider less restrictive alternatives to full guardianship. Alternatives afford individuals the right to retain their decision-making powers concerning their overall well-being and livelihood. UGCOPAA places the rights of individuals at the forefront, ensuring that guardianship becomes the last resort rather than the only option, leading to better outcomes for all parties involved.

There have been instances both across the United States and in our territory, where older adults under the current system are at risk of future complications, including abuse. Elder abuse refers to actions or negligent that cause harm or risk an older adult. Unfortunately, it is often perpetrated by individuals entrusted with their care. These situations starkly illustrate the reality faced by many Virgin Islanders. In a 2022 survey, more than 48% of Virgin Islanders identified elder abuse as a major problem affecting older adults of our community, further underscoring the need to safeguard and protect their well-being.

Fundamentally, UGCOPAA seeks to protect individuals from abuse. For this reason, AARP Virgin Islands wholeheartedly supports this legislation, recognizing its potential to create a more efficient and fairer system for older Virgin Islanders. We urge you to continue making strides in safeguarding the interests of Virgin Islanders by advancing **Bill No. 35-0174**, the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act. This will bring us closer to honoring the civil rights of those we are entrusted to care for.

On behalf of AARP Virgin Islands and its 22,000 thousands members, I wish to thank Senate President Francis for his sponsorship of this bill and the invitation to testify to this body. AARP stands ready to work with you to strengthen the Virgin Islands' guardianship system.