115TH CONGRESS  
2D Session  
S. _____

To assist States in improving guardianship oversight and data collection.

IN THE SENATE OF THE UNITED STATES

Ms. COLLINS (for herself and Mr. CASEY) introduced the following bill; which was read twice and referred to the Committee on ____________________

A BILL

To assist States in improving guardianship oversight and data collection.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Guardianship Accountability Act of 2018”.

SEC. 2. PURPOSE.

The purposes of this Act are to help States improve guardianship oversight and data collection by—

(1) designating a National Online Resource Center on Guardianship;
(2) authorize grants for the purpose of developing State Guardianship Databases; and

(3) establishing procedures for sharing background check information related to appointed guardians with other jurisdictions.

SEC. 3. DEFINITIONS.

In this Act:


(2) GUARDIANSHIP.—The term “guardianship” means a legal relationship established by a court in which a person is given the legal authority over another person because the other person is unable to make safe and sound decisions regarding their person or property.

(3) INDIVIDUALS SUBJECT TO GUARDIANSHIP.—The term “individuals subject to guardianship” means any individual 18 years or older placed under a guardianship.

SEC. 4. NATIONAL ONLINE RESOURCE CENTER ON GUARDIANSHIP.

(a) DESIGNATION.—The Elder Justice Coordinating Council shall establish a National Online Resource Center
on Guardianship (referred to in this section as the “Center”).

(b) THE NATIONAL ONLINE RESOURCE CENTER ON GUARDIANSHIP.—The National Online Resource Center shall—

(1) collect and publish information for use by individuals subject to guardianship, guardians, courts, State and local governments, and community organizations;

(2) post model standards, best practices, and guidelines for the appointment and regulation of guardianship cases developed under section 505 of the Elder Abuse Prevention and Prosecution Act (34 U.S.C. 21752);

(3) promote the use of less restrictive alternatives to guardianship and the restoration of rights of individuals subject to guardianship;

(4) annually compile and publish, a summary of recently conducted research on guardianship systems, including information from agencies across the government;

(5) collect data from States regarding—

(A) the number of individuals subject to guardianship;

(B) the duration of guardianships;
(C) the extent of authority granted to guardians;

(D) the amount of financial assets under guardianship; and

(E) whether an appointed guardian is classified as a—

(i) family guardian;

(ii) private or institutional guardian;

or

(iii) public guardian;

(6) maintain a public, national database on State laws regarding guardianship and less restrictive alternatives to guardianship, including—

(A) requiring for the use of least restrictive alternative;

(B) reporting requirements for appointed guardians;

(C) oversight of appointed guardians; and

(D) requirements for the restoration of rights of individuals subject to guardianship;

(7) identify issues relating to guardianship and provide and publish annual recommendations to States and Congress to address identified problems;

(8) collect and analyze best practices relating to guardianship, and publish a report of such best
practices, including model guidelines and standards for—

(A) ensuring appropriate representation and protection of legal rights for individuals subject to guardianship and guardianship proceedings;

(B) conducting background check investigations on prospective and appointed guardians;

(C) promoting the use of less restrictive alternatives to guardianship;

(D) obtaining restoration of all or some rights;

(E) implementing oversight programs; and

(F) responding to abuse, neglect, and exploitation;

(9) compile and publish training materials for court appointed guardians related to duties and obligations, as well as ways in which to effectively support individuals subject to guardianship;

(10) facilitate State collection of guardianship information and the sharing of such information among States; and

(11) carry out other activities, as determined by the Elder Justice Coordinating Council.
Section 2042(c)(2) of the Social Security Act (42 U.S.C. 1397m–1(c)(2)) is amended—

(1) in subparagraph (E), by striking “or” at the end;

(2) in subparagraph (F), by striking the period at the end and inserting a semicolon;

(3) and by adding at the end the following:

“(G) methods to assess State guardianship statistics such as the creation of State databases to collect information about the number and characteristics of guardianship arrangements, guardians, and individuals subject to guardianship;

“(H) the use of trained court visitors to improve court administration of guardianship arrangements, including the appointment and oversight of guardians; or

“(I) methods for collecting, storing, and making available to the appropriate individuals, organizations, and entities information on prospective, current, and previously appointed guardians, which may include—

“(i) contact and identifying information;
“(ii) information relating to background check investigations;

“(iii) court decisions regarding petitions for appointment as a guardian, including the rationale for such decisions; and

“(iv) information relating to the cause for removal of the guardian or termination of the guardianship arrangement.”.