

# Guardianship & Conservatorship Assistance & Monitoring Pilot Project



*Josephine Gittler*  
*Wiley B. Rutledge Professor of Law*  
*Director, National Health Law and Policy (NHLP) Resource Center*  
*University of Iowa College of Law*

Health and Human Services Appropriations Subcommittee  
Iowa General Assembly  
Des Moines, Iowa  
February 6, 2014

# GUARDIANSHIPS AND CONSERVATORSHIPS: BACKGROUND



# Statutory Framework of Guardianships and Conservatorships

- Iowa Probate Code § 633.551-633.722
- Under the probate code, probate courts may appoint a guardian and/or conservator for adults who lack legal competency/capacity and minors.



# Guardianships & Conservatorships: Terminology

- A **guardian** is a person appointed by the court to have custody of the person of the ward and who makes decisions for him/her about matters such as living arrangements and healthcare
- A **conservator** is a person appointed by the court to have custody and control of a ward and makes decisions about his/her financial matters
- A **ward** is the person for whom a guardianship and/or conservatorship has been established



# Major Categories of Wards

- Adults
  - Older adult with Alzheimer's and other dementias
  - Adults of any age with intellectual disabilities
  - Adults of any age with mental illnesses
- Minors



# Guardianship and Conservatorship System and the Aging Population



# Aging Population: U.S.

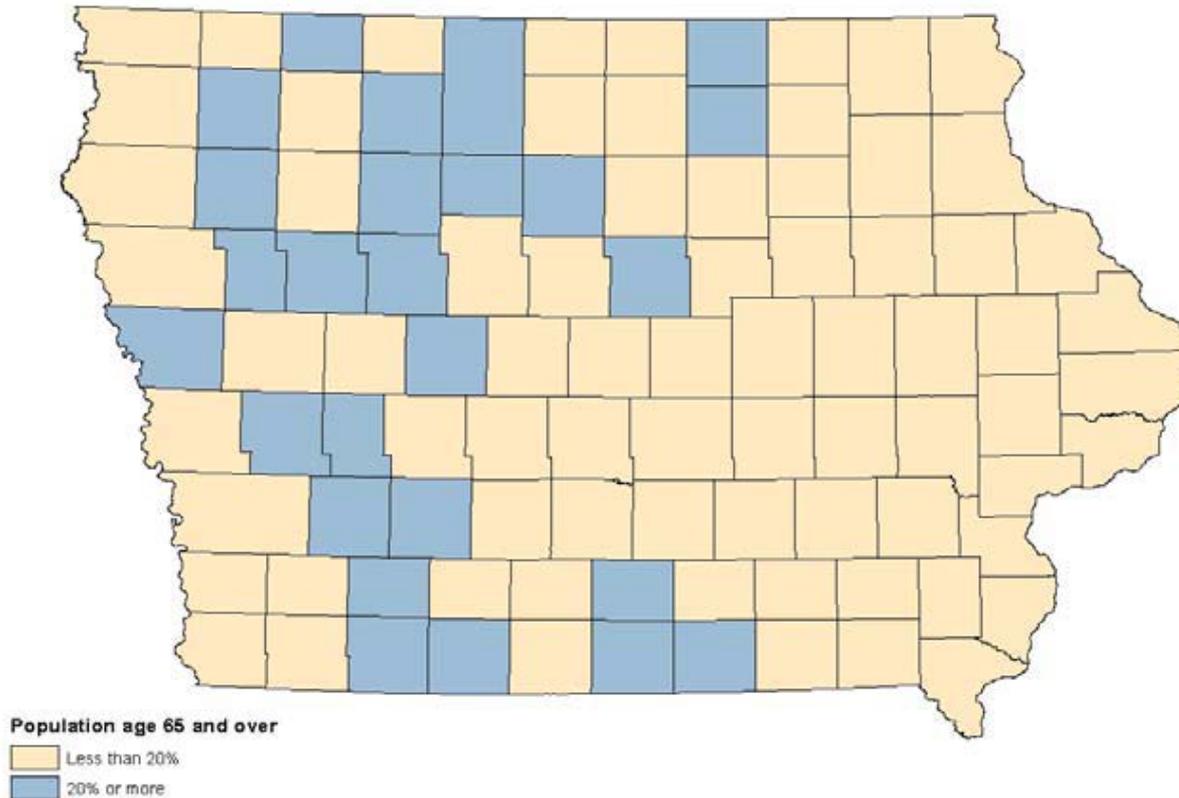
- Since 1900, the percentage of the U.S. population, aged sixty-five and older has more than tripled.
- It is projected that from 2010 to 2050, the number of Americans in this age group will more than double from 40.2 million or 13% of the total population, to 88.5 million, or 20.2% of the total population.

# Aging Population: Iowa

- According to the 2010 census, Iowa ranked 5<sup>th</sup> in the percentage of its population aged 65 and older.
- Iowa and two other states had the highest percentage of persons in the age group 85 years of age and older.

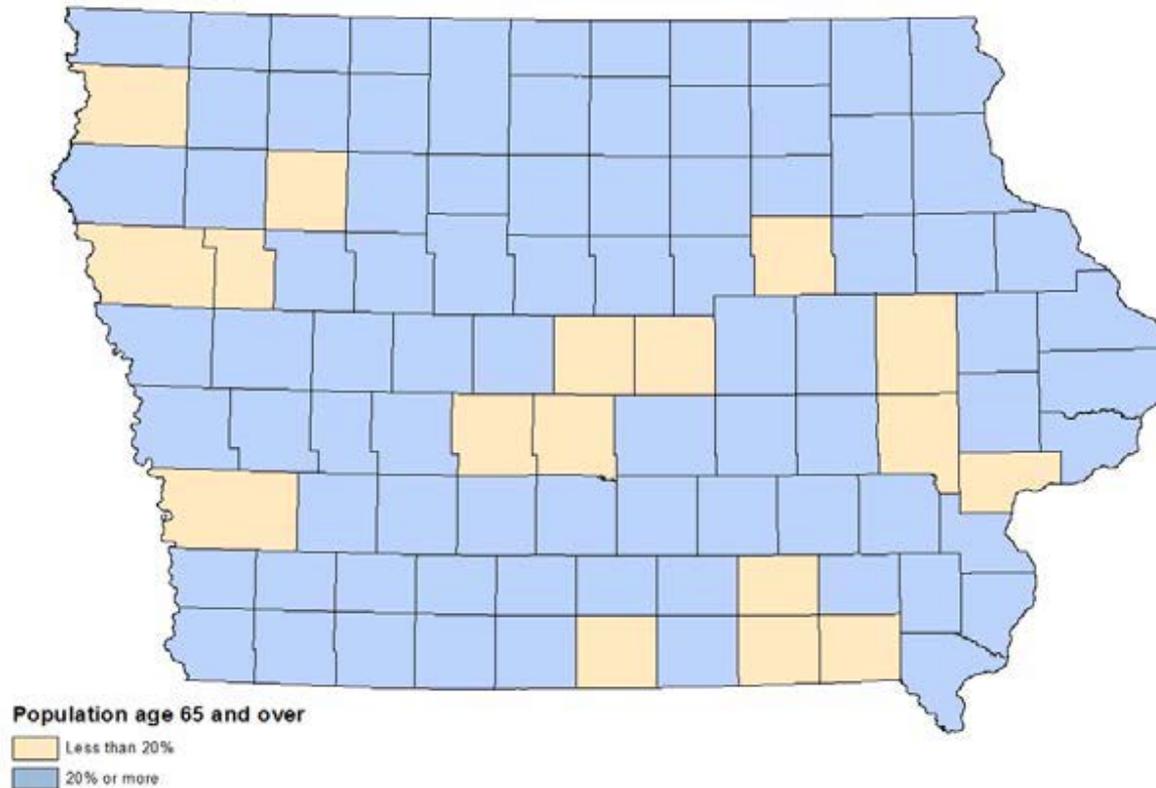
# Percentage of Population 65+

2010



# Percentage of Population 65+

2040



# COURT MONITORING OF GUARDIANSHIPS AND CONSERVATORSHIPS



# Probate Code Requirements

- Iowa Code § 633.669 requires guardians to file annual reports with the court regarding the status of the ward and the care he/she is receiving, and the court must review and approve these reports.
- Iowa Code § 633.67 requires conservators to file annual reports and accountings with the court regarding the ward's finances, and the court must review and approve these reports.



# Iowa Case Example #1

- A woman was appointed to act as a guardian and conservator for a man with intellectual disabilities. After acting in that capacity for several years, she was removed as guardian and conservator and was charged with dependent adult abuse and theft of more than fifty thousand dollars. She subsequently pled guilty to the theft charge.



# Iowa Case Example #2

- A certified public accountant with known financial problems was appointed by a court to act as a conservator for a woman 85 years of age and a man 79 years of age, who lacked the capacity to manage their finances. After his appointment, he misappropriated \$167,325 of the funds of these elderly persons for his personal gain by writing checks to himself and to his business.



# Iowa Case Example #3

- A lawyer was appointed as a conservator for a mentally ill veteran and served in that capacity for 34 years. The supreme court subsequently disciplined him for charging excessive fees for conservator services of more than \$175,000.



# PILOT PROJECT





# PILOT PROJECT: PURPOSE

To assure that incapacitated persons receive proper care and protection from abuse, neglect and financial exploitation

# Pilot Project Components

- To assist courts to carry out the ongoing monitoring of guardianships and conservatorships
- To assist guardians & conservators to fulfill their duties and responsibilities to wards

# Pilot Project Administration

- The pilot project is being conducted by the National Health Law and Policy (NHLP) Resource Center at the University of Iowa College of Law in collaboration with the Department of Aging and the 6<sup>th</sup> Judicial District.



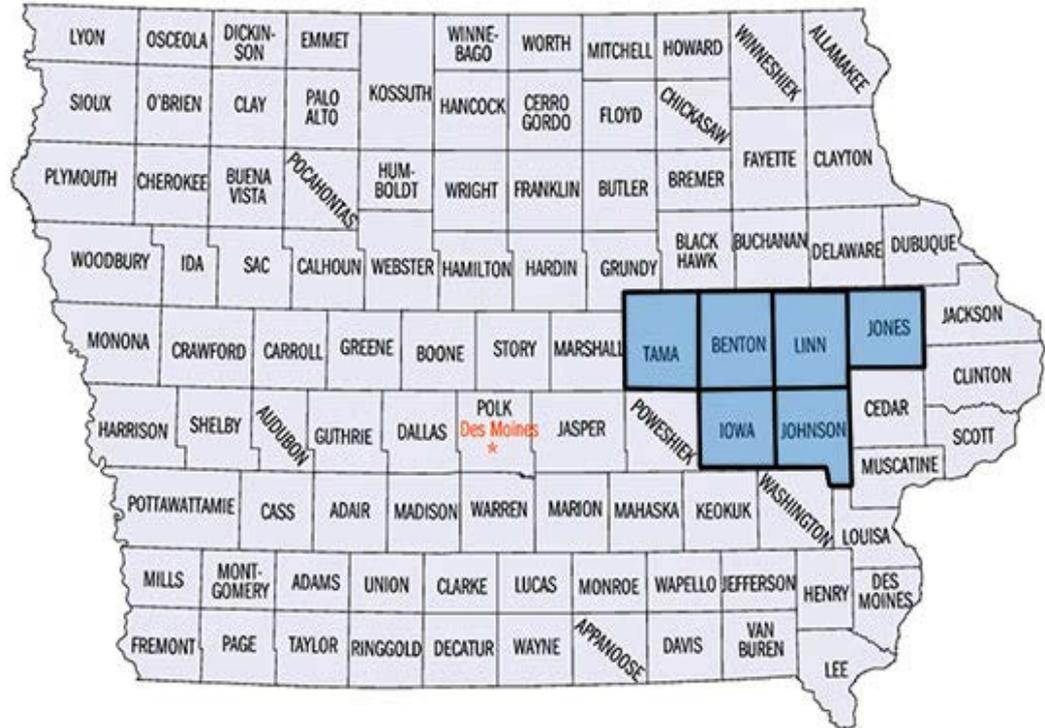
# Pilot Project Funding (year one)

- State Appropriation  
Senate File 446
- Other funding:
  - College of Law,  
University of Iowa
  - Office of the Provost,  
University of Iowa
  - NHLP resource center  
Donations



# Pilot Project Sites

- Iowa Sixth Judicial District
  - Linn County
  - Johnson County
  - Iowa County



# Pilot Project: Number of Guardianships and Conservatorships By County

## Linn County

- 633 guardianships
- 200 conservatorships
- 393 combined

## Johnson County

- 392 guardianships
- 74 conservatorships
- 218 combined

## Iowa County

- 70 guardianships and/or conservatorships

# Activities: Record Preparation and Data Collection & Analysis (year one)

- Updated court records
- Verification of contact information of guardians, conservators and wards
- Data collection and analysis re: guardians, conservators and wards



# Activities: Assistance Component

(years one through three)



need help?

- Survey of assistance needs of guardians and conservators
- Preparation and dissemination of materials
  - Statutory responsibilities & requirements
  - Fiduciary Duties
  - Guide(s) to community resources

# Activities: Monitoring Component

(years two and three)

- Review of reports submitted to court by guardian and conservators
- Review of accountings submitted to court by guardians and conservators
- Annual visits to wards





**Questions or comments?**

*Josephine Gittler*  
*Wiley B. Rutledge Professor of Law*  
*Director, National Health Law and Policy*  
*(NHLP) Resource Center*  
*University of Iowa College of Law*