



SeniorLAW Center

Protecting the Rights of Older Pennsylvanians

**26th Senate District Legislative Briefing on Senior Legal Issues in Delaware County in
Honor of World Elder Abuse Awareness Day**

June 7, 2019

Testimony of:

**Karen C. Buck, Esquire
Executive Director**

SeniorLAW Center
1500 JFK Blvd., Suite 1501 Philadelphia, PA 19102
20 South Olive Street Media, PA 19063
780 E. Market Street, Suite 260 West Chester, PA 19382
10 Canal Street, Suite 100 Bristol, PA 19007
401 DeKalb Pike Norristown, PA 19401

Pennsylvania SeniorLAW Helpline: 1-877-727-7529

www.seniorlawcenter.org

Good afternoon. My name is Karen Buck and I am the Executive Director of SeniorLAW Center. Thank you, Congresswoman Scanlon, Senator Kearney, Senator Killion and other distinguished members of the legislature and community, for this opportunity to address the growing concern over abuse and exploitation and other key legal issues facing older adults here in Delaware County and in Pennsylvania.

We know that you all join us in believing that our parents, grandparents, senior veterans of WWII, Korea and Vietnam, and all older Pennsylvanians who built our great Commonwealth deserve our attention, respect and enhanced responses and services. We come to you today to share some of the legal crises and challenges that older adults are facing and seek your help to do more to prevent abuse and exploitation, poverty, homelessness and loss of fundamental rights and ensure older Pennsylvania can live safe, healthy lives of independence and dignity

I am a proud public interest attorney and nonprofit leader who has advocated for older Americans for the past 22 years. As Executive Director, I oversee our extraordinary staff of 34 nonprofit attorneys, legal advocates and support staff who dedicate their professional lives to improving the lives of older Pennsylvanians, and who believe they deserve justice and dignity. I am a proud graduate of Penn State University and Villanova University School of Law, and hold statewide and national leadership roles in elder justice and access to justice, including as an appointed member of the Pennsylvania Supreme Court's Advisory Council on Elder Justice in the Courts and the American Bar Association's Commission on Law and Aging. I was proud to testify on many of these issues before the U.S. Senate Special Committee on Aging in Washington a few months ago. I was also the recipient of an Independence Foundation Public Interest Law Fellowship which enabled me to travel to Iceland, Japan, New Zealand and

Australia to meet and share best practices with leaders in law, aging and government on elder justice and elder rights. These are indeed issues of local, statewide, national and global concern and we are grateful to have the opportunity to be with you today.

SeniorLAW Center fights for justice for older Pennsylvanians and advocates for elder justice around the country with national colleagues. We are a nonprofit legal services organization of attorneys and advocates, celebrating our 40th year of providing *free* legal representation, education and advocacy on critical issues of law affecting older people, focusing on those in the greatest social and economic need. From devastating elder abuse and financial exploitation, to the complex issues of homelessness prevention, homeownership, and challenges of older tenants, to serving senior veterans, immigrants and grandparents raising grandchildren, and much more, SeniorLAW Center protects the rights of older individuals and their families, and advocates for systems which treat them with fairness, respect and compassion. Our mission is to seek justice for older people by using the power of the law, educating the community and advocating on local, state and national levels. We envision a world that values older people, hears their voices and guarantees their rights

SeniorLAW Center is unique. We are the only nonprofit organization in Pennsylvania dedicated wholly to providing legal protection to older people – and one of few in the nation. Our attorneys and advocates provide *free* critically-needed legal assistance to over 5,000 seniors each year, including an ever-growing number of older adult *victims* in the five county area. We also run the only statewide legal helpline serving older Pennsylvanians, the Pennsylvania SeniorLAW HelpLine, reaching all 67 counties on all civil legal issues affecting their lives,

including elder abuse and financial exploitation. We receive over 200 calls *per week* for assistance from some of the most vulnerable citizens in our Commonwealth.

SeniorLAW Center now has 5 offices in Pennsylvania and proudly opened its Media office in May 2017 to serve older adult victims of financial exploitation. Our Delaware County office is staffed by attorney Elizabeth Schneider and victim advocate Janet Baldo, who are both here today and joined by our Director, Victim Services Dana Goldberg. We are proud to serve victims of elder abuse, financial exploitation, physical and sexual abuse and to handle a wide variety of civil legal issues arising out of victimization, to seek to make older victims whole. In the past two years, our Delaware County office has handled wide-ranging cases of financial exploitation and abuse, including devastating home repair contractor fraud, agents under Powers of Attorney acting improperly and fraudulently, and older adults who turned over significant amounts of cash to purchase homes with or expand homes of other family members with false promises of life estates or ownership rights only to face ejection from their own home. We are now accepting cases involving devastating physical abuse, often at the hands of the older adult's child or other family members.

The 3 priority areas I'd like to focus my testimony on today are: **Elder Abuse, Guardianship, and Grandparents Raising Grandchildren.**

Elder abuse is a true legal and public health crisis in our communities here in the United States and throughout the globe, as more and more older adults in our nation, our Commonwealth and this county are victimized, emotionally, physically, sexually and financially.

Yet, knowledge about elder abuse lags as much as two decades behind the fields of child abuse and domestic violence, according to the National Center on Elder Abuse. Approximately one in 10 older Americans experiences abuse—*at the highest end of the global range*. Approximately 5 million older Americans are financially exploited each year. For every financial exploitation case referred to authorities, experts estimate an additional 10 to 44 cases go undetected. Elder abuse in Pennsylvania is on the rise. At recent hearings before the Aging Committee in Harrisburg, Secretary of Aging Robert Torres testified that “the Department experienced a 60% increase in the number of reports [of abuse, neglect and exploitation] received and a 61% increase in the number of reports substantiated [in just 3 years], from fiscal years 2014/15 to 2017/18.”

The numbers are startling but the impact of abuse on lives of everyday Americans—which will include all of us and our families, should we have the fortune to live long lives—is devastating. Financial exploitation of older Americans is estimated to cost seniors and their families at least *\$2.9 billion* each year. The direct medical costs associated with violent injuries to elders are estimated to add more than \$5.3 billion to the nation's annual health expenditure. Victims are 300% more likely to die prematurely. Elder abuse is a global crisis, a national crisis, a local crisis.

Seniors in Delaware County need your attention to help us do more to prevent and stop elder abuse together. Many of these senior victims facing abuse and exploitation are also facing the additional hardships of isolation, disabilities, mobility or transportation challenges, limited income or poverty, sometimes deep poverty. Many are homebound, bedbound and extremely frail and cannot access the legal or court system. As such, some solutions we seek to pursue with

you include ensuring access to the courts, especially for these most vulnerable seniors, ensuring buildings and systems are accessible, and creating systems such as video or telephonic access for these most vulnerable victims. Focus should be on removing perpetrators, not punishing seniors by forcing them out of their homes to facilities. Understanding obstacles when older adults access courts: long delays (especially when using oxygen or have other medical conditions which could make it a hardship), hearing and visual issues, transportation issues. Work with us to continue partnerships with the financial industry to help prevent financial exploitation and pursue creative interventions.

Further, a full “elder abuse” package of legislation has recently been introduced in Harrisburg, including HB 397, 398, 399 and 400, which would create a private civil cause of action for financial exploitation, a newly defined crime of financial exploitation, and other protections for those in institutional settings and in the community. This legislative package is a work in progress, but we are pleased to see this attention to the issues we address every day, and look forward to being a resource to all of you as the legislation moves forward.

We thank you for recognizing World Elder Abuse Awareness Day. The United Nations General Assembly, in its resolution 66/127, designated June 15 as World Elder Abuse Awareness Day, a time when leaders and advocates across the globe voice opposition to the abuse and suffering inflicted upon millions of our older generations. This year’s theme, as announced by the Administration for Community Living (ACL), is Lifting up Voices, a theme centered on unifying the shared values of elder justice and responding to violence against women to bring to the forefront the lived experiences of older people around the globe. Just yesterday,

as part of this awareness building, we held a day-long conference in Harrisburg, bringing together legal services attorneys and Area Agencies on Aging from around the Commonwealth as well as leaders, including the Pennsylvania Secretary of Aging, judges and colleagues from Washington, to share, learn, and brainstorm responses to elder abuse and financial exploitation. We know, however, that these issues devastating the lives of Pennsylvania families and others around the world deserve our attention and resources every day, not just on a particular day or month.

We also know that partnerships in this work are vital and we are grateful to be forging strong ones here in Delaware County with law enforcement, domestic violence and victim service colleagues, COSA, the Area Agency on Aging, and the broader aging network. We know that criminal and civil justice partnerships are essential important, as are partnerships with Older Adult Protective Services, and joining forces with diverse service providers to address the holistic needs of older victims and, indeed, seek to make them whole. We are eager to partner in this work with all of you and with all members of the community.

From my travels and the work we do at SeniorLAW Center, we have learned that no community, indeed no country—no matter how wealthy, family-focused, homogenous, or historically respectful of elders—is immune from elder abuse. Violence, exploitation, neglect, assault and abuse of elders occurs throughout the world and throughout our country. It is a crime. It is a disgrace. It is unacceptable. As lawyers, leaders, family members, as Americans, we must speak up and take action. We all have a role to play in ending this human crisis.

GUARDIANSHIP

Imagine a legal proceeding where all of your rights are taken from you and given to someone else. You may have never met that person who now controls your life decisions. You likely did not have an attorney representing you and you may not even have been present at the hearing. Suddenly you have no control over your money, your home or possessions, where you live, who you interact with, or what health care you receive. Sounds like incarceration, right? But it's not. You aren't being accused of a crime, and in Pennsylvania, if you can't afford an attorney, you have no right to have one appointed to represent you.

Unfortunately, this happens to Pennsylvanians all too often. It's called "guardianship," and few legal proceedings have more impact on an individual's fundamental rights and liberties. That is why Pennsylvania needs a right to counsel for people facing guardianship proceedings, as well as reforms to protect the health and safety of individuals deemed incapacitated.

Guardianship can be an important legal tool for very vulnerable, severely cognitively impaired individuals who need someone – usually a trusted family member – to step in to make financial, medical and other decisions, if they are unable to do so. **But guardianship should only be used when other less restrictive ways of supporting a person are not available. That's because it is ripe for abuse, neglect and exploitation in the wrong hands.** [Recent reporting by the Inquirer](#) revealed that a court-appointed guardian, who had control of hundreds of elderly peoples' lives and finances, had previously been convicted of financial fraud and forgery. She was removed from that role, and the courts found she had misappropriated the funds of people for whom she was caring. Last month, she was arrested on multiple felony charges stemming from those thefts.

There are approximately 1.3 million adult guardianships in the U.S., which control over \$50 billion in assets – \$1.1 billion in Pennsylvania alone -- and the guardianship abuse and exploitation exposed by the Inquirer is not unique. In Nevada, a professional guardian and her colleagues faced over 250 felony charges for exploiting over 150 vulnerable individuals under their watch. “She was not a guardian to me,” said one of her victims, “she did not protect me. As each day passed, I felt like I was in a grave, buried alive.” This guardian was arrested, pled guilty and was sentenced to 16-40 years in prison. At her sentencing, a Las Vegas courtroom was packed with victims and relatives of those who died under her watch and those too ill or weak to attend the proceeding as a result of her actions. Stories like these are emblematic of a cycle of guardianship abuse that has reached crisis levels nationwide.

Fixing this in Pennsylvania begins with ensuring individuals facing guardianship proceedings have a lawyer to advocate for their wishes and represent their interests. **Unlike the great majority of other states, in Pennsylvania there is no right to have an attorney appointed in a guardianship case.** As a result, people facing a guardianship proceeding are often unrepresented because they are unable to afford or find one or do not have the opportunity to do so. This results in people going to court *alone* to fight for their most fundamental rights of freedom and autonomy, with no legal support and having to face an opposing party that is represented by a seasoned attorney.

Legislation has been introduced in each session of the General Assembly for the past several years to improve Pennsylvania’s guardianship law. Because such fundamental rights are at stake, Pennsylvania must join the vast majority of states in requiring the appointment of an attorney in all guardianship cases. Beyond creating a right to counsel in these cases, the General

Assembly should ensure that unqualified individuals cannot be appointed guardians. Specifically, professional guardians who serve three or more individuals should be required to obtain certification, to pass a criminal background check, and to comply with professional and ethical standards. The time has come for Pennsylvania to make sure vulnerable adults have legal counsel in guardianship proceedings and safeguards are in place to ensure professional guardians fulfill their important responsibilities.

Nevada, where abusive guardians once reigned, is now the gold standard for guardianship law in the nation. In Nevada, *every individual* facing or in guardianship is now appointed a nonprofit legal aid attorney to protect her rights and ensure her voice is heard, throughout the duration of the guardianship. These attorneys do not bill the individual or their estate and have no economic conflict. Their only interest is the wellbeing of their client. Surely vulnerable Pennsylvanians deserve the same.

GRANDPARENTS RAISING GRANDCHILDREN

In Pennsylvania alone, over 100,000 grandchildren are being raised by over 80,000 grandparents, when birth parents cannot, due to addiction, death, incarceration and other causes, a situation that has been enormously exacerbated by the opioid crisis. These grandparents, often great-grandparents and the children they are raising are facing great challenges, including access to the courts and legal services, while they are taking on the daunting role of raising their children's children and keeping them out of foster care, and we must help support their needs at this time of crisis and trauma. SeniorLAW Center launched one of the country's first legal services programs for GRG in the 1990s during the crack epidemic. More than 20 years later, the opioid crisis has Senator Casey and the U.S. Senate Special Committee on Aging, Governor

Wolf, and many other leaders have made this a priority issue. It affects the lives of multiple generations of Pennsylvanians dramatically, and perhaps children the most fundamentally.

We are currently working closely with Secretary Torres, judges, law schools, pro bono and Bar Association leaders, and other legal services colleagues across PA to develop enhanced resources and strategies to provide access to the courts and legal help for these families. Our goal is to provide representation, ensure they know their rights, help them navigate the legal system, and seek safety and permanency for these thousands of PA kids in traumatic situations.

Currently, there are very few legal services for these grandparents, whom I believe are true heroes. Low-income grandparents simply cannot afford legal representation, and those who can are facing financial struggles due to mounting legal bills among all the other expenses of parenting as a grandparent. Imagine taking on the daunting task of parenting again in your 60s, 70s, or 80s, and the heartache of seeing your child abusing, abandoning or neglecting your grandchildren due to the demons of addiction. We ask you to join us in finding and providing new resources to support these grandfamilies, first with legal assistance, which has been repeatedly identified as a #1 need, then with financial, housing and other supports.

The opioid crisis does not discriminate: it affects families of **all** income levels, races, and communities. As does the Grandparents Raising Grandchildren crisis. Opioids also play a role in elder abuse. I spoke on a panel with Senator Casey last summer along with a number of Pennsylvania grandparents who shared their pain and anguish. One couple, middle-income suburban grandparents, had adopted their grandchild, to ensure that he would not be placed in foster care, as another grandchild had been and/or repeatedly traumatized by being returned to

their addict son, whose girlfriend, also addicted, was pregnant with yet another child. Grandfather had closed a successful business to parent his young grandson full-time. Days after that event, they called me to tell me their son had overdosed – and died. Their grandson will never know his father, but lives in a loving home with grandparents who are the only parents he has ever known. The sacrifices of these grandparents deserve our attention and enhanced resources.

These are just a few of the critical issues facing older Pennsylvanians that we are addressing, and there are many more, including veterans rights, homeownership, eviction, foreclosure, preventing senior homelessness, consumer protection, income supports and life planning. SeniorLAW Center is committed to pursuing justice for older people of all walks of life through our work and through vibrant and diverse partnerships. We are grateful for this opportunity to share about the legal challenges facing older Pennsylvania and look forward to working with each of you -- to pursue justice for those who came before us and upon whose shoulders we all stand.