AARP Report Shows How States Can Help Prevent Abuse Of Older Americans, Identifies Better Ways For Courts To Oversee Guardianships

December 13, 2007- A new report by AARP's Public Policy Institute (PPI) identifies effective practices for monitoring court-appointed adult guardians, reducing the chances for abuses that occur when oversight is lax.

Conducted with the American Bar Association (ABA) Commission on Law and Aging, the report follows a 2006 AARP survey showing that a large number of state courts around the country fail to assign a monitor to visit vulnerable individuals under guardianship, leaving many Americans open to physical neglect and financial abuse. The 2006 survey also found that, in many jurisdictions, no one verifies the information in guardianship reports.

The new AARP report examines innovative practices to improve guardianship oversight in jurisdictions around the country. Specifically, it highlights programs some states have adopted to audit guardianships, track case status, and resolve problems facing many wards, as well as apply sanctions when abuse is revealed.

Examples of more effective guardianship oversight cited in the report include:

* Harnessing technology: Ramsey County, MN uses an e-filing system so guardians can file their annual accountings online, and the system will have built-in red flags to identify irregularities that bear further investigation.
* Random audits: Broward County, FL randomly selects cases and requires additional financial documentation, which has a sentinel effect on all. Arizona's guardianship certification program performs intensive random audits of all professional guardians.
* Punishing malfeasance: Maricopa County, AZ issues fiduciary arrest warrants when necessary.
* A problem-solving approach: Suffolk County, NY developed a model guardianship court that includes mediation, a resource coordinator, volunteer advocates and the ability to integrate all pending cases involving the incapacitated person, including divorces, evictions and other matters.

The best practices outlined in the report include:

* Reports and plans: Key improvements would include: requiring early first reports to ensure the guardian is on track; providing clear and web-accessible forms, and requiring prospective plans for personal decisions and estate management.
* Court actions: Enforcement of reporting responsibilities should be rigorous, with electronic filing, instruction by judges and staff, automated reminder notices and scheduling compliance conferences.
* Practices to protect assets: Courts can require a financial management plan for the ward, require supporting documentation with accountings, and use bonding and restricted accounts.
* Court review of reports: Courts should review reports and accounts carefully and respond quickly to potential irregularities.
* Investigation and sanctions: The incapacitated person needs to be visited by a trained individual to ensure no malfeasance exists. Sanctions such as fines or removal should follow irregularities.
* Court links with community groups, government agencies: Work with agencies such as adult protective services and long-term care ombudsman can enhance volunteer monitoring and leverage training resources.