



March 24, 2026

The Honorable Mike Bost  
Chair  
House Veterans Affairs Committee  
364 Cannon House Office Building  
Washington, D.C. 20515

The Honorable Mark Takano  
Ranking Member  
House Veterans Affairs Committee  
364 Cannon House Office Building  
Washington, D.C. 20515

The Honorable Jen Kiggans  
Chair  
Subcommittee on Oversight and  
Investigations  
152 Cannon House Office Building  
Washington, D.C. 20515

The Honorable Delia Ramirez  
Ranking Member  
Subcommittee on Oversight  
and Investigations  
1523 Longworth House Office Bldg  
Washington, D.C. 20515

Dear Chair Bost, Ranking Member Takano, Chair Kiggans and Ranking Member Ramirez:

On behalf of the Iraq and Afghanistan Veterans of America (IAVA) and the American Civil Liberties Union (ACLU), we submit this statement for the hearing record to express our grave concerns about legislation and Department of Veterans Affairs (VA) efforts that would force veterans into guardianship.

IAVA is the first and largest nonprofit, nonpartisan organization dedicated to standing with the 2.5 million post-9/11 veterans. Founded in 2004 by an Iraq veteran, our mission is to improve the lives of post-9/11 veterans and their families. IAVA increases awareness in the media, among the American public, and in Washington to ensure that the voices of this generation of veterans are heard. The ACLU is a nonpartisan civil liberties organization with more than 4 million members and activists and 53 affiliates nationwide, dedicated to the principles of individual liberty and justice guaranteed in the U.S. Constitution. We have worked for decades, in courts and in Congress, to protect the rights of servicemembers and veterans.

The draft Veterans Care Protection Act (VCPA) and the VA's Safe Harbor Guardianship Project (Guardianship Project) pose a serious threat to the civil liberties and well-being of veterans nationwide. Guardianship strips a person of their civil rights and legal personhood, often permanently. Forcing veterans into guardianship will not solve the challenges that veterans face

in accessing housing, healthcare, and support in their communities. To the contrary, this program will have a significant deterrent effect on veterans in need of care, as veterans will reasonably conclude that engaging with the VA risks their legal autonomy. This program threatens to upend the relationship between veterans and the VA, creating a pathway for the VA to pursue adversarial legal action against the very veterans it serves.

For these reasons and as outlined further below, we oppose these efforts and strongly urge the Committee to reconsider and reject them.

### **The Safe Harbor Guardianship Project Is a Far-Reaching Initiative that Would Place Tens or Hundreds of Thousands of Veterans at Risk of Guardianship.**

The draft VCPA would give the VA authority to file petitions in state courts to place veterans in VA medical centers under guardianship.<sup>1</sup> The VA has described this bill and its underlying legislative request<sup>2</sup> as a narrow initiative designed to address the specific circumstances of approximately 700 veterans who are in hospitals and eligible for post-acute care but lack legal competency to consent to it.<sup>3</sup> For decades, the VA has relied on other actors such as public guardianship programs to file petitions in the rare circumstances where a guardianship is needed, and it has provided no explanation for why this longstanding system is suddenly inadequate.

Internal VA documents show that the VA is already working toward a more expansive goal through its Guardianship Project, which extends far beyond what is outlined in the VCPA and what the VA has publicly stated. As with the proposed legislation, the VA has publicly described the Guardianship Project as only addressing the needs of approximately 700 veterans awaiting post-acute care placements.<sup>4</sup> Yet according to its governing Project Charter, the Guardianship

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<sup>1</sup> *Veterans Care Protection Act*, H.R. \_\_\_\_, 119th Cong. (2d Sess. 2026) (discussion draft dated Jan. 16, 2026).

<sup>2</sup> U.S. Dep't of Veterans Affairs, *FY26 Legislative Proposal Package: Bill Text* (Dec. 2025) § 302 (submitted by VA to Congress).

<sup>3</sup> Kaanita Iyer & Brian Todd, *New VA-DOJ agreement on guardianship could put homeless veterans at risk, advocates warn*, CNN (Mar. 20, 2026) <https://www.cnn.com/2026/03/20/politics/veterans-affairs-doj-guardianship-agreement> (reporting on statement of VA Assistant Under Secretary for Clinical Services O'Toole at March 18 hearing of the House Veteran Affairs Committee); U.S. Dep't of Veterans Affairs, *FY 2026 Budget Submission Appendix Volume 1* (May 2025) at 12 (“VA lacks clear authority to petition state courts” ... “in cases where a legal decision maker is required for post-acute transitions of care of decisions about medical care not otherwise covered by 38 U.S.C. § 7331 [statute generally requiring informed consent].”).

<sup>4</sup> U.S. Dep't of Veterans Affairs, “VA, DOJ sign agreement to improve care for nation’s most vulnerable Veterans” (Mach 11, 2026), <https://news.va.gov/press-room/va-doj-sign-agreement-to-improve-care-for-nations-most-vulnerable-veterans/> (stating that the authority will be used “in cases where a legal decision-maker is required for post-acute transitions of care.”); *New VA-DOJ agreement on guardianship could put homeless veterans at risk, advocates warn*, supra n.3 (quoting VA spokesperson that the MOU “is aimed at roughly 700 Veterans across the country who are currently in VA facilities and are unable to make their own health care decisions and have no family or legal representation to help them.”).

Project extends to vast swaths of the tens of thousands of veterans who are experiencing or are at risk of homelessness across the country.

The Guardianship Project Charter<sup>5</sup> includes no reference to post-acute transitions or the 700 people VA has referred to publicly. Instead, the Charter reveals that the Guardianship Project’s “target population” is capacious: veterans experiencing sheltered or unsheltered homelessness who “lack capacity to make appropriate medical and social decisions for themselves,” as well as veterans *at risk* of homelessness and who have *declining* capacity.<sup>6</sup> The Guardianship Project targets veterans involved in any type of VA programming, as well as veterans who have no connection with the VA at all.<sup>7</sup> The Charter does not identify the limits of how imminent the risk of homelessness must be, or how rapid the decline of capacity, before the VA will pursue guardianship proceedings. Under the Guardianship Project, veterans may face guardianship proceedings following interactions with a wide range of providers, including emergency care providers, street outreach teams, Veterans Treatment Court staff, or outpatient mental health providers.<sup>8</sup>

If adopted nationwide, these criteria threaten the rights and autonomy of tens of thousands—perhaps hundreds of thousands—of veterans.

### **Guardianship is an Invasive Rights-Stripping Mechanism.**

The VA describes the Guardianship Project as a mechanism to “provide seamless, respectful, and safe care for this vulnerable Veteran population.”<sup>9</sup> This represents a foundational misunderstanding of guardianship.

Guardianship is an invasive, rights-stripping mechanism. It is not a tool for “provid[ing] ... care,” and it does nothing to address the challenges that veterans face in accessing community-based services, care, and housing.

Guardianship is a legal arrangement through which a court strips an individual of their civil rights, legal autonomy, and civil personhood, often permanently. Guardianship is sometimes described as a “civil death” because a person under guardianship typically loses the right to make

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<sup>5</sup> “Safe Harbor Guardianship Project Charter” approved September 24, 2025, at 10. Entered into the Congressional Record and available at <https://docs.house.gov/meetings/VR/VR00/20260318/119040/HHRG-119-VR00-20260318-SD010.pdf>.

<sup>6</sup> Project Charter § 2, “Veteran Impact and Target Population” (emphasis added).

<sup>7</sup> These are described as “Maturity Levels 3-5” in in the site’s program deployment timelines. VHA Safe Harbor Guardianship Pilot program Integrated Project Team Kick-Off (September 20, 2025) entered into Congressional Record and available at <https://docs.house.gov/meetings/VR/VR00/20260318/119040/HHRG-119-VR00-20260318-SD010.pdf>.

<sup>8</sup> Project Charter § 2, “Veteran Impact and Target Population.”

<sup>9</sup> Project Charter at 10.

virtually all choices about their life: where to live, work, how to spend their money, whether to marry. People under guardianship face increased risk of harm, including risk of institutionalization and abuse. Once subject to guardianship proceedings, it is extremely difficult to avoid guardianship or ever regain rights. The rights stripped through guardianship are extraordinary in scope and typically permanent.

Guardianship does not create opportunities or address the challenges that the VA identifies. When a guardian makes decisions about the disabled person's life, they do so within the confines of the programs and resources already available to the person. Guardianship does not unlock access to any services, opportunities, programs, or money that were not otherwise available. Put another way, veterans subjected to guardianship through the Safe Harbor Guardianship Project face the same lack of affordable housing, difficulty in finding and keeping employment, shortage of effective community-based treatment, and high cost of living that gave rise to high rates of veteran homelessness in the first place.<sup>10</sup> Over the past year, the VA has *exacerbated* these problems by cutting critical mental health services<sup>11</sup> and failing to provide veterans with the community services and housing they are entitled to.<sup>12</sup> Guardianship does not change any of these realities.

Not only does guardianship fail to “provide care” in the way the VA envisions, but guardianship may actually *create* risks of harm, including abuse, neglect, and exploitation. Because guardianships allow one person to have near-absolute power over another person, with virtually no safeguards or monitoring, guardianship as an institution is ripe for abuse.

High profile and well-documented cases have highlighted instances of abuse and neglect in guardianships – whether financial, sexual, physical, or emotional.<sup>13</sup> Guardianship, like institutionalization, inherently carries heightened risk of abuse and neglect: it creates a significant power differential between the guardian, who holds rights and power, and the person

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<sup>10</sup> Nat'l Veterans Homeless Support, *Top Challenges Facing Homeless Veterans in 2025* (Jan. 13, 2025), <https://nvhs.org/top-challenges-facing-homeless-veterans-in-2025/#:~:text=Why%20Affordable%20Housing%20is%20Out,for%20them%20to%20escape%20homelessness.>

<sup>11</sup> Lindsay Hersey, *Medical staff shortages impeding VA mental health care, advocates tell lawmakers*, Stars and Stripes (Mar. 25, 2025) <https://www.stripes.com/veterans/2025-03-25/veterans-medical-staff-shortages-mental-health-17259912.html>; Robin Respaut, *VA shake-up hits mental health services for US veterans*, Reuters (Mar. 20, 2025) <https://www.reuters.com/world/us/va-shake-up-disrupts-mental-health-services-some-us-veterans-2025-03-20/>; S. Comm. on Veterans Affairs, *Breaking the Pact* (Dem. Staff, Jan. 2026) (documenting average wait times for new mental health appointments as high as 60 days).

<sup>12</sup> *Powers v. McDonough*, 163 F.4th 1162, 1195 (9th Cir. 2025) (Holding that an order to the VA to construct 2,550 housing units in Los Angeles is reasonable, taking notice of the fact that the VA “failed to request any funding from Congress to construct supportive housing for veterans ... and ended Fiscal Year 2024 with unspent, carryover funds.”).

<sup>13</sup> See Rachel Aviv, *How the Elderly Lose Their Rights*, New Yorker (Oct. 2, 2017) <https://www.newyorker.com/magazine/2017/10/09/how-the-elderly-lose-their-rights>.

under guardianship, who has lost those rights. This power differential is often exercised behind closed doors, in private, with little oversight or transparency.<sup>14</sup>

Despite the extraordinary seriousness of guardianship, the foundational due process requirements that should accompany such a major deprivation of rights are typically absent in guardianship proceedings. Instead, guardianships are often imposed through essentially *pro forma* processes, in spite of the serious ramifications of the imposition. The Utah State Courts Ad Hoc Committee on Probate Law and Procedure memorably reported in 2009 that, “[t]he appointment of a guardian or conservator removes from a person a large part of what it means to be an adult: the ability to make decisions for oneself. . . . We terminate this fundamental and basic right with all the procedural rigor of processing a traffic ticket.”<sup>15</sup>

And once a person is in a guardianship, it can be nearly impossible to get out.<sup>16</sup> People under guardianship have often been stripped of their right to sign a contract, making it difficult or impossible to retain a lawyer or sign a dissolution petition.<sup>17</sup> In many states, there is no identified evidentiary standard for dissolving a guardianship.<sup>18</sup> In some states, the person under guardianship bears the burden of proving that they no longer need it. This is a heavy burden in any situation but here, too, the practical limitations of the guardianship can make this burden virtually insurmountable.

Once facing a guardianship petition, veterans face long odds of retaining their rights and avoiding the guardianship. This presumption towards guardianship will likely be exacerbated where the entity petitioning for the guardianship is the VA itself.

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<sup>14</sup> See, e.g., Heidi Blake & Katie J.M. Baker, *Beyond Britney: Abuse, Exploitation, and Death Inside America's Guardianship Industry* (Sept. 17, 2021) <https://www.buzzfeednews.com/article/heidiblake/conservatorship-investigation-free-britney-spears>; Heidi Blake & Katie J.M. Baker, *They Both Fought to Break Free From Guardianship. Only One Escaped* (Sept. 19, 2021) <https://www.buzzfeednews.com/article/heidiblake/guardianship-conservatorship-marriage-couples>; U.S. Gov't Accountability Office, *Elder Abuse: The Extent of Abuse by Guardians is Unknown, but Some Measures Exist to Help Protect Older Adults*, GAO-17-33 (Nov. 2016) <https://www.gao.gov/assets/gao-17-33.pdf>; U.S. Gov't Accountability Office, *Guardianships: Cases of Financial Exploitation, Neglect, and Abuse of Seniors*, GAO-101046 (Sept. 2010) <https://www.gao.gov/assets/gao-10-1046.pdf>; Kristin Booth Glen, *Supported Decision-Making and the Human Right of Legal Capacity*, 3 Inclusion 1, 3-4 (2015).

<sup>15</sup> Utah State Courts Ad Hoc Committee on Probate Law and Procedure, *Final Report to the Judicial Council*, preface (Feb. 23, 2009) <https://www.utcourts.gov/committees/adhocprobate/Guardian.Conservator.Report.pdf>.

<sup>16</sup> See Jenica Cassidy, *Restoration of Rights in the Termination of Adult Guardianship*, 23 Elder L. J. 84, 95 (2015).

<sup>17</sup> Nina A. Kohn, Catheryn Koss, *Lawyers for Legal Ghosts: The Legality and Ethics of Representing Persons Subject to Guardianship*, 91 Wash. L. Rev. 581 (2016).

<sup>18</sup> E. Wood, P. Teaster, J. Cassidy, *Restoration of Rights in Adult Guardianship: Research and Recommendations*, ABA Comm. on Law and Aging (2017)

[https://www.americanbar.org/content/dam/aba/administrative/law\\_aging/restoration-of-rights-in-adultguardianship.pdf](https://www.americanbar.org/content/dam/aba/administrative/law_aging/restoration-of-rights-in-adultguardianship.pdf).

## **The Safe Harbor Guardianship Project will discourage veterans from seeking essential health care and VA services.**

In order to avail themselves of the VA's services, veterans must be able to trust the VA.<sup>19</sup> They must feel confident that seeking help will not be used against them. This is especially critical for veterans with mental health disabilities, traumatic brain injuries, cognitive decline, and substance use disorders—the very populations this guardianship initiative targets. Turning VA staff into agents launching adversarial legal proceedings against veterans fundamentally undermines that trust by transforming the act of seeking care into a potential pathway to losing legal autonomy.

The deterrent effects are foreseeable. Veterans experiencing early cognitive decline, PTSD, or other conditions that might raise questions about decision-making capacity will reasonably conclude that avoiding the VA is safer than engaging with it. Those who do seek VA care will be less forthcoming with clinicians, undermining the therapeutic relationships on which effective treatment depends.

This chilling effect is especially significant for older veterans experiencing age-related cognitive changes, post-9/11 veterans managing complex polytrauma, and veterans navigating the difficult transition out of military service. These populations are particularly vulnerable to homelessness and poverty, putting them at heightened risk of facing guardianship proceedings from the VA when they need the VA's services the most.<sup>20</sup> At a time when veteran suicide prevention demands that every possible door remain open, the VA should not be building new reasons for veterans to avoid walking through them. Veterans who are most in need of VA services will be the ones most deterred.

Moreover, many VA homeless program social workers are embedded in communities, working in encampments and on the streets. If veterans come to believe that engaging with a VA social worker risks guardianship and institutionalization, those critical workers become a threat rather than a resource. At a time when experienced VA social workers are already leaving and recruitment is increasingly difficult, and when social worker positions have been abolished

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<sup>19</sup> See 38 C.F.R. § 0.602 “Core Characteristics (a) Trustworthy. VA earns the trust of those it serves, every day, through the actions of its employees. They provide care, benefits, and services with compassion, dependability, effectiveness, and transparency”; 38 C.F.R § 0.601 “Core Values (a) Integrity. VA employees will act with high moral principle, adhere to the highest professional standards, and maintain the trust and confidence of all with whom they engage.”

<sup>20</sup> U.S. Dep't of Veterans Affairs, *The Growing Crisis of Aging Homeless Veterans* (Mar. 2024) <https://www.va.gov/HOMELESS/featuredarticles/aging-homeless-veterans.asp>; Pugh et al., *Deployment, suicide, and overdose among comorbidity phenotypes following mild traumatic brain injury: A retrospective cohort study from the Chronic Effects of Neurotrauma Consortium*, PLoS One (Sept. 20, 2019); Montgomery et al., *Stressful Life Events and Risk of Homelessness After Active Duty: An Assessment of Risk and Resilience Among Servicemembers*, Pub. Health Rep. 138(6) (Nov. 2023).

across the system, the VA cannot afford to make its community presence adversarial. The programs those social workers hold together do not survive if veterans stop trusting the people staffing them.

The due process protections offered by state probate courts are not likely to ease veterans' fears. The weak protections that characterize guardianship proceedings will be further exaggerated here, where the VA initiates proceedings and supplies the attorneys to prosecute them, cloaked with the authority of a Special Assistant U.S. Attorney.

### **The VA should not engage in adversarial actions against veterans.**

A foundational premise of the VA is that it exists to support and serve veterans and does so in a non-adversarial way.<sup>21</sup> Even the VA's most frustrating administrative processes are nominally non-adversarial. The draft legislation and the Guardianship Project would change that. Through these proposals, the VA is instructed to initiate an invasive and often permanent legal action against vast numbers of veterans, seeking to strip veterans of their rights and autonomy, not only within the VA system but everywhere. Rarely, if ever, has the VA taken such nakedly adversarial positions against the veterans it is supposed to serve, nor should it do so here.

The VA is charged with supporting veterans through reintegration, recovery, and lifelong care.<sup>22</sup> Its clinicians, social workers, and outreach staff know that effective care depends on the trust and cooperation of the veteran. The VA must resist substituting its own judgment for the veterans' judgement of what they need.

### **The VA should not be allowed to circumvent Congress via a Memorandum of Understanding (MOU).**

The VA's Guardianship Project, supported by an MOU between the VA and Department of Justice, appears to be an inappropriate end-run around the need for statutory authority to litigate guardianship petitions. To our knowledge, the Justice Department has never litigated guardianship petitions before, nor are we aware of any source of authority for the Justice

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<sup>21</sup> *Walters v. Nat'l Assoc. of Radiation Survivors*, 473 U.S. 305, 323-24 (1985) ("Congress desired that the proceedings be as informal and nonadversarial as possible."); 38 C.F.R. § 3.103(a) "Proceedings before VA are ex parte in nature, and it is the obligation of VA to assist a claimant in developing the facts pertinent to the claim and to render a decision which grants every benefit that can be supported in law while protecting the interests of the Government."

<sup>22</sup> See e.g., U.S. Dep't of Veterans Affairs FY 2018 – 2024 Strategic Plan at 4 (2018) <https://www.calvet.ca.gov/Regulations/USDVA%20Strategic%20Plan%202018-2024.pdf> (stating that the creation of veteran hospitals "codified a social contract between the Nation and our Veterans that the Department of Veterans Affairs (VA) would always be there for them and their families, to help them heal and recover from the illnesses, injuries, or wounds sustained in service to America and to ease their successful reintegration into civilian life. This set of principles drives VA's mission to this day.").

Department to take action under state guardianship laws. The MOU supporting the Safe Harbor Guardianship Project appears to direct the VA to pursue a far broader guardianship agenda than it ever announced to this Committee or to the public.

For these reasons, we urge the Committee to engage in vigorous oversight of the VA's efforts to implement the harmful Safe Harbor Guardianship Program and to abandon support for the draft legislation. Should you have any questions please don't hesitate to contact Jessica Finucan ([jessf@iava.org](mailto:jessf@iava.org)), Lou Elliott- Cysewski ([lou@iava.org](mailto:lou@iava.org)), Zoe Brennan-Krohn ([zkrohn@aclu.org](mailto:zkrohn@aclu.org)), Vania Leveille ([vleveille@aclu.org](mailto:vleveille@aclu.org)), or Brad Adams ([DRP\\_Badams@aclu.org](mailto:DRP_Badams@aclu.org)).

Sincerely,



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