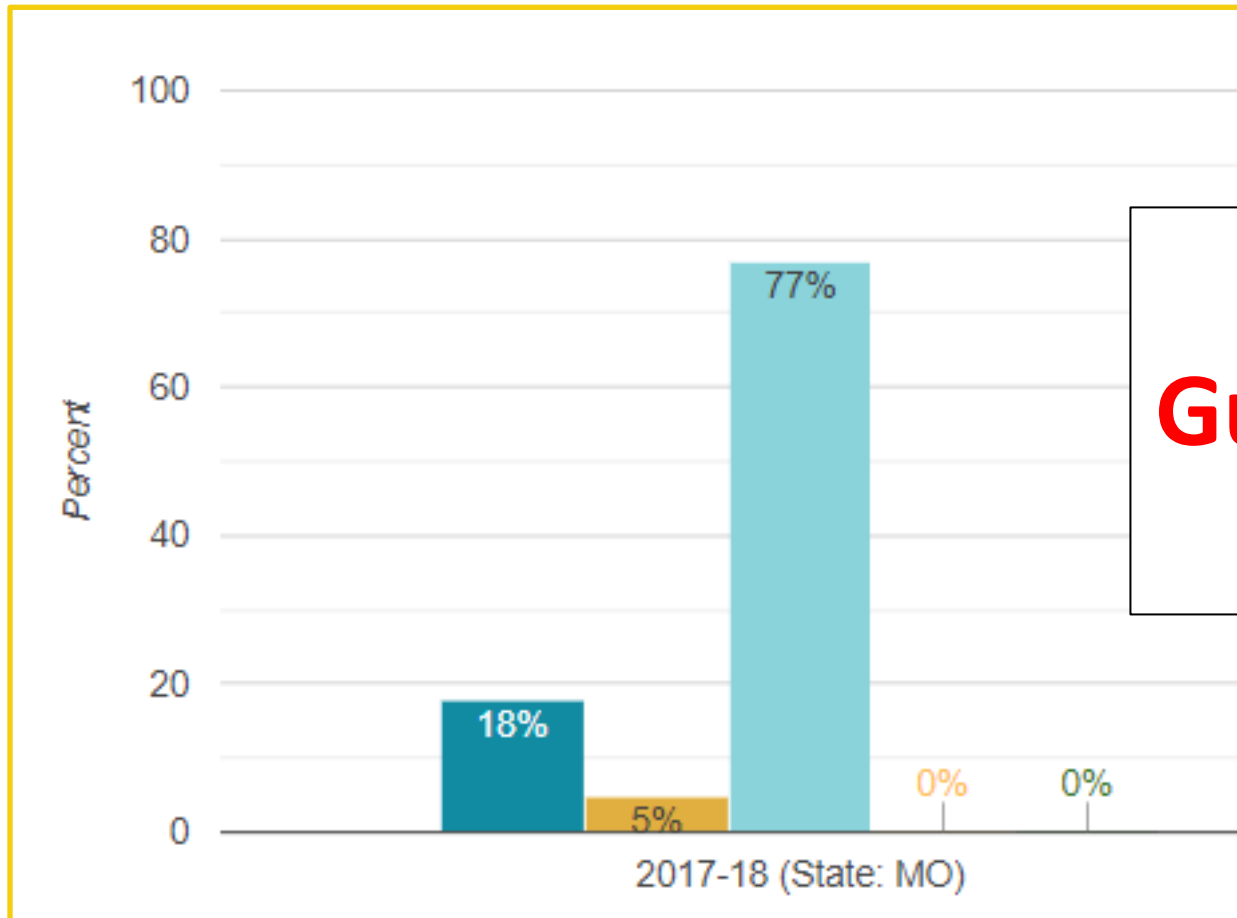




# Guardianship and Supported Decision Making in Missouri

# Guardianship in Missouri 2017-2018

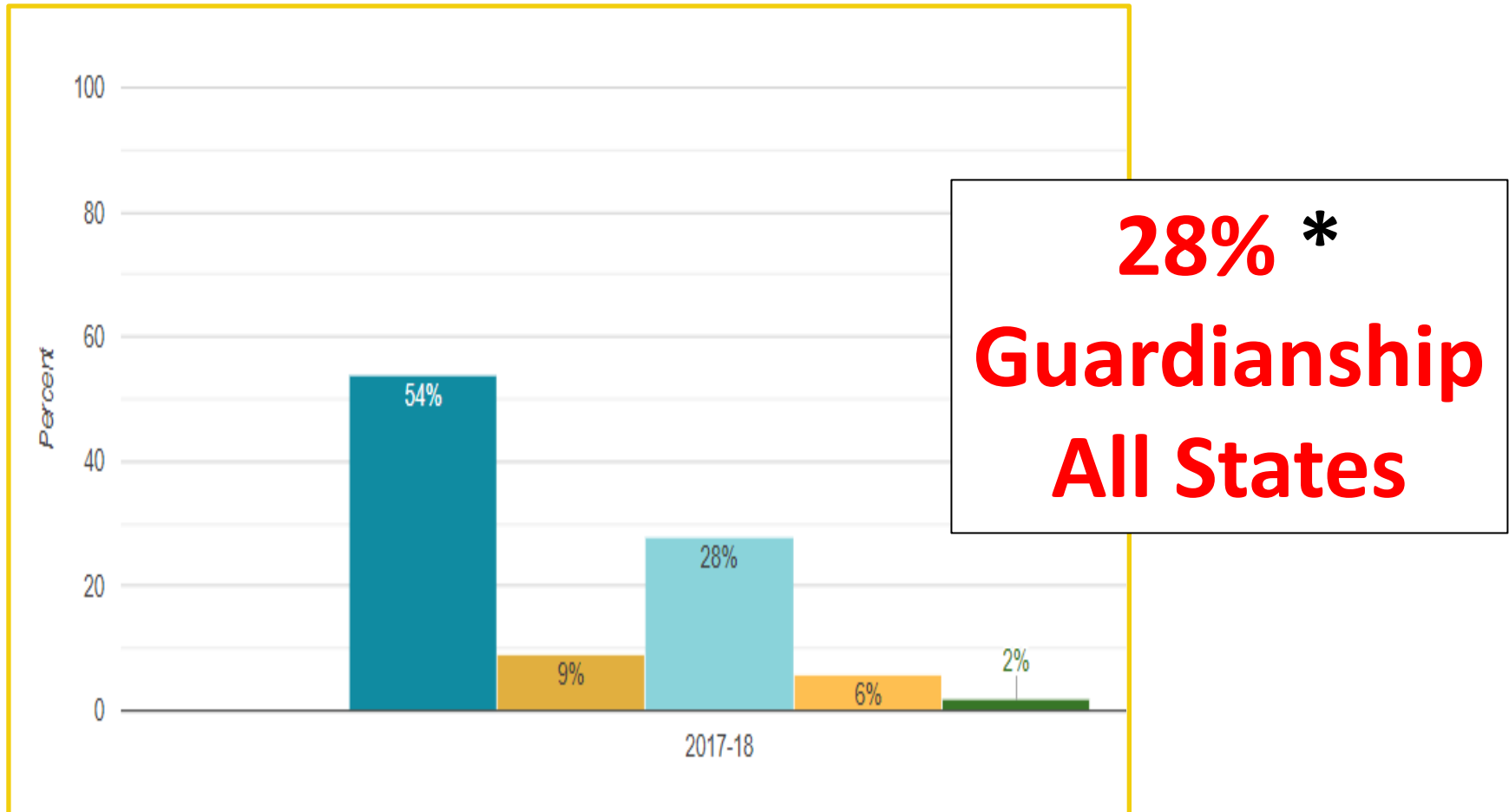


**77 % \***  
**Guardianship**  
**Missouri**

■ No, Person is Independent of Guardianship   ■ Yes, Limited Guardianship   ■ Yes, Full Guardianship   ■ Don't Know

\* [www.nationalcoreindicators.org](http://www.nationalcoreindicators.org)

# Guardianship in All States 2017-2018



■ No, Person is Independent of Guardianship   ■ Yes, Limited Guardianship   ■ Yes, Full Guardianship   ■ Don't Know



# Guardianship in All States 2017-2018

**Missouri has**

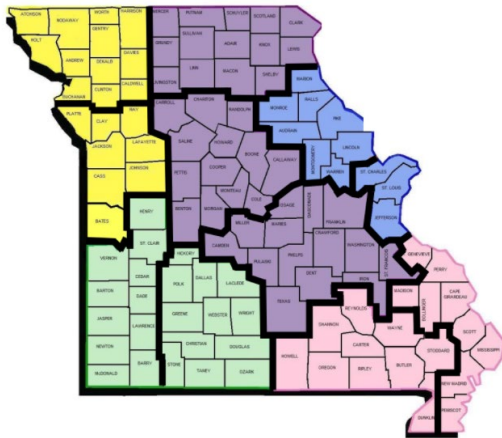
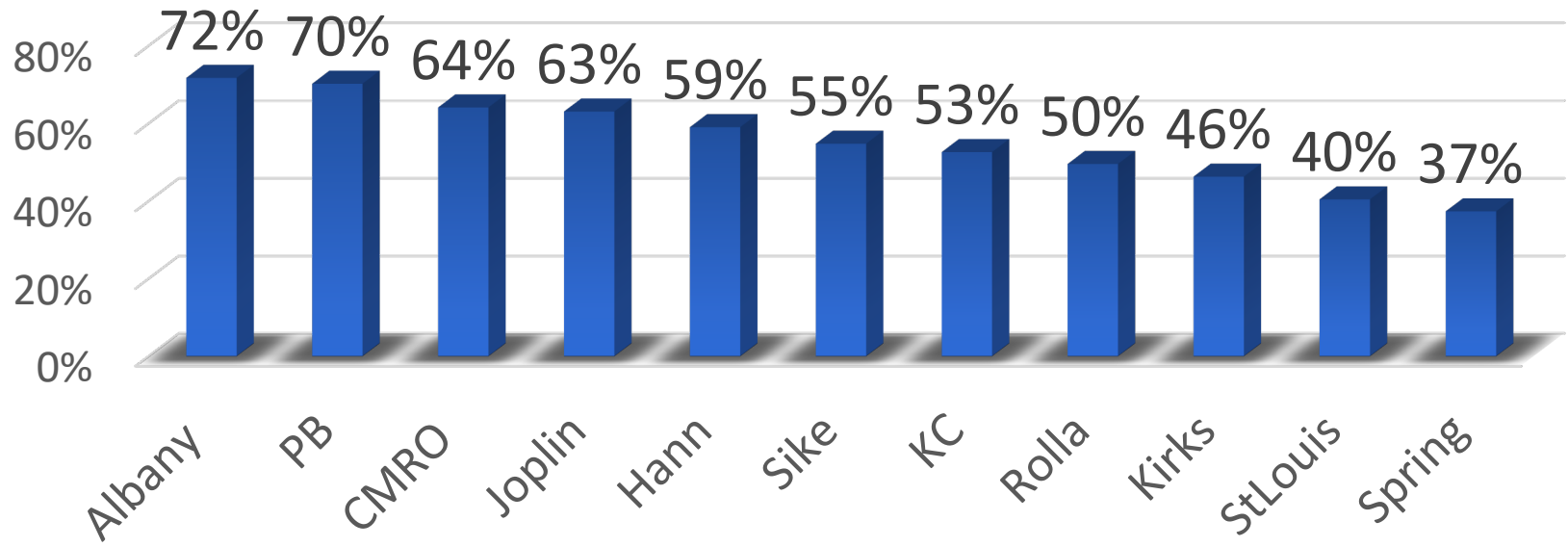
**49% \***

**Higher Guardianship  
Then then All States**

**Missouri has the highest % of  
Guardianship in the Nation**

\* [www.nationalcoreindicators.org](http://www.nationalcoreindicators.org)

# Guardianship in Missouri by Region 2019



**% of Guardianship also depends on where you live in Missouri**

# Guardianship Reform Bill: 806

This act, signed by Governor June 1, 2018 modified various provision regarding guardianship and conservator proceedings:

- *Least Restrictive Alternative to Guardianship*
- *Places the least possible restrictions*
- *Informed of Rights and consequences of appointment of a conservator*
- *Right to appeal a court decision & Ward informal letter to Court to start process to return rights*
- *Guardian Annual report to the court*
- *The court shall make and recite in its order detailed findings of fact stating whether the respondent retains the right to vote; drive a motor vehicle, the right to marry...*



# Guardianship Reform Bill: 806 Rights of Wards

**475.361. Wards, rights of.** — 1. The provisions of section 475.078 notwithstanding to the contrary, in every guardianship, the ward has the right to:

- (1) A guardian who acts in the best interests of the ward;
- (2) A guardian who is reasonably accessible to the ward;
- (3) Communicate freely and privately with family, friends, and other persons other than the guardian; except that, such right may be limited by the guardian for good cause but only as necessary to ensure the ward's condition, safety, habilitation, or sound therapeutic treatment;
- (4) Individually or through the ward's representative or legal counsel, bring an action relating to the guardianship, including the right to file a petition alleging that the ward is being unjustly denied a right or privilege granted by this chapter, including the right to bring an action to modify or terminate the guardianship under the provisions of section 475.083;
- (5) The least restrictive form of guardianship assistance, taking into consideration the ward's functional limitations, personal needs, and preferences;
- (6) Be restored to capacity at the earliest possible time;
- (7) Receive information from the court that describes the ward's rights, including rights the ward may seek by petitioning the court; and
- (8) Participate in any health care decision-making process.

2. An adult ward may petition the court to grant the ward the right to:

- (1) Contract to marry or to petition for dissolution of marriage;
- (2) Make, modify, or terminate other contracts or ratify contracts made by the ward;
- (3) Consent to medical treatment;
- (4) Establish a residence or dwelling place;
- (5) Change domicile;
- (6) Bring or defend any action at law or equity, except an action relating to the guardianship; or
- (7) Drive a motor vehicle if the ward can pass the required driving test.

3. The appointment of a guardian shall revoke the powers of an agent who was previously appointed by the ward to act as an agent under a durable power of attorney for health care, unless the court so orders.

4. The appointment of a guardian is not a determination that the ward lacks testamentary capacity.



# Supported Decision Making

*Supported Decision Making (SDM) is an emerging **alternative to guardianship** which allows a person with a disability to retain his or her legal right to make decisions with the assistance of designated supporter(s).*



**2013**





# Supported Decision Making

Everyone relies on help and guidance from family, friends, co-workers, and others in the community when making big decisions, such as which car to buy or where to live. Supported Decision Making is not something specific to those with disabilities.

Supported Decision Making is a concept that recognizes none of us exist in a vacuum!

We all need advice from time to time in order to make decisions.



# Missouri Protection and Advocacy and their Role in Protecting Rights

# Welcome

## Missouri Protection and Advocacy

- Lisa Sutherland
- Jelani Logan

HOME ISSUES PROGRAMS GET HELP CAREERS VOLUNTEER

### MISSOURI PROTECTION & ADVOCACY SERVICES

A NON-PROFIT PUBLIC INTEREST LAW FIRM SINCE 1977

OUR MISSION IS TO PROTECT THE LEGAL RIGHTS OF  
INDIVIDUALS WITH DISABILITIES BY PROVIDING ADVOCACY  
AND LEGAL SERVICES

[www.moadvocacy.org](http://www.moadvocacy.org)



# MO P&A's Role in Guardianship Cases

## **Mo P&A advocates for:**

- **Alternatives to guardianship**
- **Limited guardianship**
- **Guardianship as a last resort**
- **The person with a disability's self-empowerment, civil rights and quality of life**
- **Guardian accountability**

# MO P&A Provides Assistance with the Following Alternatives to Guardianship:

- **Family or other assistance**
- **Advance Directive for Health Care**
- **Declaration for Mental Health Treatment**
- **Power of Attorney**
- **Supported Decision Making Document**
- **SSA Representative Payee**

## Due Process: The proposed ward has a right to:

- **Notice of the guardianship petition**
- **The right to be present**
- **The right to an attorney**
- **The right to present evidence and to call witnesses**
- **The right to a hearing by a judge, or to a hearing by a judge with a jury**
- **The right to appeal**

# Types of Guardianship

- **Full/ Plenary guardianship**
- **Limited guardianship**
- **Emergency/ Temporary guardianship**

# Restoration Process

- **A petition may be filed with the court to remove, terminate, and/or decrease powers of the guardian or to return rights to the ward**
- **An attorney is not necessary**
- **Individuals with a guardian (the “Ward”), or someone on their behalf, can begin this process by writing a letter to the court**
- **Generally, a letter from a medical professional recommending restoration is necessary**



# How to Open a Case with Mo P&A

- Contact our Application Unit to request a case opening.

**Call: Toll-Free**     [1-800-392-8667](tel:1-800-392-8667) or

**for TDD Users**     [1-800-735-2966](tel:1-800-735-2966)

**Send an e-mail:**     [app.unit@mo-pa.org](mailto:app.unit@mo-pa.org)

**Send a letter:**     **Missouri Protection and Advocacy Services**  
**Attention: Application Unit**  
**925 S. Country Club Drive**  
**Jefferson City, MO 65109**

- The caller will have to leave his/her full name, telephone number, and a brief description of the guardianship-related issue.
- An Advocacy Specialist from the Application Unit will contact the caller and applicant (if separate individuals) to discuss the situation, and assist with applying for Mo P&A advocacy or legal services if necessary.
- In some instances, a letter from a medical professional recommending restoration may be necessary to open a case.