

Officials look to reduce 'perfect crime of 21st Century'

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Red Smith, holding his comfort dog Schubert, speaks Monday about his mother and potential elder abuse at the "listening tour" on the issue held at the Macomb Intermediate School District offices in Clinton Township. Listening are Michigan Attorney General Dana Nessel, from left, state Supreme Court Justice Megan Cavanagh, Justice Richard Bernstein, state Sen. Michael MacDonald, R-Macomb Township, and state Sen. Paul Wojno, D-Warren.

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Michigan Attorney General Dana Nessel following her "listening tour" Monday at the Clinton Township offices of the Macomb Intermediate School District.

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One speaker called it the “perfect crime of the 21st Century.”

Another speaker, Dawn Trotto, said, “It’s only going to get worse because of all the baby boomers retiring.”

They were referring to elder-adult abuse, which was the subject of a “listening tour” staged Monday by Michigan Attorney General Dana Nessel, accompanied by two state Supreme Court justices and two lawmakers.

Nessel is conducting the statewide tour to suggest new laws to address the increasing financial, physical and emotional abuse on older people from family members, duplicitous friends or the Probate Court system. The new laws would emanate from the Michigan Elder Abuse Task Force Nessel created in March, less than three months after taking office.

Nessel promised at the fifth tour stop that when the laws are passed, “We will have made more progress in this area than we have in the past 30 years.”

She pointed out a recent Macomb County case her office handled is “emblematic” of the problems within the guardianship/conservatorship system. The case involved the guardianship of a Utica couple that was given to a Clinton Township company over the family late last year. The family filed a lawsuit in circuit court and [regained control in June](#).

“I don’t mean to speak out of turn, but in my opinion that was everything that is wrong with the system and all the reasons why we need to work so hard to fix it,” Nessel said.

Nessel was joined by Supreme Court Justice Richard Bernstein, concurring that guardianships and conservatorships are granted too easily, out of proportion to their impact. Someone under a guardian and conservator has less rights than a criminal prisoner, losing their ability to make medical and financial decisions, they pointed out.

“There is no more substantial way that a person really loses their rights in this country than to have a full guardianship placed over them,” Nessel said. “In many ways it’s more restrictive than for a person who is convicted of a very serious crime and placed in the Department of Corrections.

“What we were seeing is cases where you would see more thought and deliberation put into deciding whether a person violated a speeding law or traffic-citation case than you were in a hearing involving a petition for guardianship.”

The Utica case [prompted Nessel’s office to investigate decisions by Macomb Probate Judge Kathryn George](#), and the case was transferred to another judge. Nessel after the event declined to comment on the probe into George.

During the two-hour event at the Clinton Township offices of the Macomb Intermediate School District, 22 people spoke in addition to remarks by Nessel, Bernstein and Justice Megan Cavanagh.

Speakers described various versions of abuse they either witnessed or have suffered.

Two people suggested there needs to be mediation or counseling for families who are fighting in court over issues to help prevent forcing a probate judge to award the guardianship/conservatorship to a company or lawyer over a family member.

“Why don’t the courts refer it to an objective third party for mediation between the two families?” a woman said.

Some said more regulation needs to be placed on caretakers who are hired by a guardian or guardianship company.

Multiple people talked about “isolation” and “retaliation” sometimes practiced by caretakers. When a caretaker learns about a complaint by their subject or subject's family, he or she sometimes will retaliate by limiting or eliminating contact, they said.

“The squeaky wheel gets hurt,” one woman said.

Two people suggested extending mandatory reporting for some professions from child abuse to elder abuse.

Bernstein questioned a nurse from Oakland County about how guardians charge clients for their services. She said in her frequent dealings with attorney guardians she rarely talks to the actual guardian but rather a secretary – and typically only for a couple of minutes. But the client gets charged as if the guardian was involved and the charge typically is listed as a 15-minute or 30-minute call.

Alison Hirschel, director of the Michigan Elder Justice Initiative, a nonprofit organization, said afterward the complaints are consistent with ones she has heard elsewhere.