

Opening Statement
Chairman Susan Collins
“Ensuring Trust: Strengthening State Efforts to Overhaul the Guardianship Process and
Protect Older Americans”
November 28, 2018

Good afternoon. Earlier this month, a former state legislator in Maine was convicted of carrying out, what officials say, is one of the worst cases of elder financial abuse in the state’s history. The man, who is also a securities agent, was found guilty of stealing more than \$3 million from two elderly widows. While these women viewed the man as the protector of their accounts, in reality, he actually preyed on their trust and vulnerability after their husbands died. Rather than protecting them, the man slowly drained their bank accounts over a period of seven years, according to the court.

Maine’s Office of Securities found that the man used his position as a trusted financial professional and close family friend to groom his victims in order to commit his crimes. He ingratiated himself with these families, assuming power of attorney, and becoming the trustee of their accounts. He used the funds under his control as his personal piggy bank, covering everything from travel and fine dining in the United States and Europe, to purchasing and renovating an expensive home in California wine country.

Maine plans to seek full financial restitution. The harm that this man has caused to these women and to their families, however, is irreparable. This abuse, by a trusted advisor, is a crime that no individual or family should have to face.

While appalling stories such as this remind us of the fraud that can be perpetrated against vulnerable individuals, there are also many stories of guardians and conservators who have protected seniors against such abuse, preserving both their dignity and their assets. When a pastor in Maine befriended an elderly woman under false pretenses at an assisted living facility earlier this year, it was her conservator who stepped in and protected her from precisely this type of exploitation. Before the pastor could steal her money and assets, the conservator notified the police and put a stop to the abuse. It is not difficult to imagine the harm that could have come without the intervention of this trusted guardian. We must do more to make success stories like this the norm.

Today, our Committee is releasing a bipartisan report to help change the tide, implement reforms and restore trust in guardianship. Titled, “Ensuring Trust: Strengthening State Efforts to Overhaul the Guardianship Process and Protect Older Americans,” the report is the culmination of this Committee’s year-long work investigating the guardianship system.

An estimated 1.3 million adults are under the care of guardians – family members or professionals – who control approximately \$50 billion of their assets. Guardianship is a legal relationship created by a court that is designed to protect those with diminished or lost capacity. We found, however, that in many cases, the system lacks basic protections leaving the most vulnerable Americans at risk of exploitation.

Throughout the course of the year, we heard harrowing tales from families around the country who are struggling with abusive guardians. We also spoke with families who had heartening stories to share – of dedicated and faithful guardians stepping up to protect the assets

of seniors with dementia and other conditions affecting capacity. A good guardian can provide years of support for a protected individual, ensuring a full life directed, wherever possible, by the person's own choices and preferences. Once a guardianship is imposed, however, the individual's rights are removed, and oversight to protect the individual from abuse, neglect, and exploitation becomes critical.

We have gathered information, analysis and recommendations from states, courts, and organizations representing older Americans and those with disabilities around the country, and received more than 100 comments pointing to gaps in the system and, most important, offering solutions. We found a pattern of barriers to proper oversight and a need for greater use of alternatives to guardianship. We identified persistent and widespread challenges that require a nationwide focus in order to ensure the guardianship system works on behalf of the individuals it is intended to protect. The Committee's report outlines policy recommendations at local, state, and federal levels that would improve outcomes for Americans subject to guardianship.

Many of these recommendations are reflected in legislation that Ranking Member Casey and I have authored, called the "Guardianship Accountability Act." This bill would promote information sharing among courts and local organizations as well as state and federal entities, encourage the use of background checks and less restrictive alternatives to guardianship, and expand the availability of federal grants targeted at improvements to the guardianship system.

Today, we will hear from states that are making progress at better protecting those placed in guardianship arrangements. The number of Americans aged 65 and older is projected to more than double from 46 million today to more than 98 million by 2060; therefore, the issue of ensuring strong guardian oversight will only become more urgent in coming years.

Protecting older Americans from financial fraud and exploitation has long been one of my top priorities as Chairman of this Committee. From our toll-free fraud hotline to new laws such as SeniorSafe that encourage financial institutions to flag suspicious activity, our efforts to combat fraud and crack down on criminals who are always seeking new ways to steal the hard-earned savings of our nation's seniors have produced results.

On guardianship, the Committee's report uncovers significant challenges that remain. In our hearing today, we will examine practical steps that can be taken to improve a system that is intended to help and safeguard those who need it most.