IN THE SUMMER of 2018, then-84-year-old Genyte Dirse was removed from her home — a motel she had owned and lived in for decades — and placed in an assisted living facility in St. Petersburg, Florida. This followed a relatively fast and bewildering legal fight between Dirse and a local real estate agent who argued that she wasn’t in her right mind to live independently. Ever since then, her closest living relative in the U.S., her great-nephew Gedi Pakalnis, had fought a losing legal battle to bring her back home. Pakalnis’s fight to bring Dirse home ramped up this spring, as the coronavirus pandemic ravaged the globe. In the United States, residents of nursing homes
and assisted living facilities have been particularly vulnerable, with more than 51,000 deaths reported nationally from those institutions so far. In Florida, like elsewhere in the country, the number of Covid-19 deaths at senior living facilities has grown at a much faster rate than the broader population and, by early May, accounted for more than a third of the state’s pandemic fatalities.

Advocates acknowledge the pandemic “will make it more difficult” for seniors to exercise the remaining rights they do have.

In late April, the virus struck Patrick Manor, where Dirse lived. For weeks prior, Pakalnis had been trying to reach his great-aunt’s legal guardian to get information about her health, raising concerns about the fast-spreading disease. After weeks of no news, Pakalnis finally learned that Dirse had been hospitalized with Covid-19 symptoms. Dirse’s guardian told Pakalnis that he could potentially visit her once the pandemic calmed down.

He never got the opportunity. On May 5, Dirse died of Covid-19, alone at St. Anthony’s Hospital. She was not the first Patrick Manor resident to be hospitalized with the coronavirus, and by mid-May, 11 Patrick Manor residents and two staff had tested positive with the disease.

The frequent deaths of elderly people in nursing homes and assisted living facilities has become a horrifying reality throughout the pandemic. But something was also different about Dirse’s death; according to her great-nephew and others who were involved in the guardianship process, she was confined against her will to Patrick Manor, where she faced a greater likelihood of getting sick — despite having family willing and able to take care of her.

Unable to Get Tested for the Coronavirus, Health Care Workers Fear They Are Infecting the Elderly
For decades, adult guardianship has been a legally thorny issue, with independent watchdogs and journalists repeatedly finding that senior citizens are stripped of their rights and often financially exploited — with little government oversight. The cases often involve complex family drama and disagreements among siblings, but sometimes, as in Dirse’s case, it’s an outsider who gets involved, over the objections of the elderly person’s relatives. A court’s decision to appoint a guardian is usually final, as appeals are costly and complex, and appellate courts are highly deferential to the lower court’s initial findings.

The issue has taken on new relevance amid the pandemic. In a Covid-19 resource compiled by the National Guardianship Association, the American Bar Association, and the National Center for State Courts, advocates acknowledge the pandemic “will make it more difficult” for seniors to exercise the remaining rights they do have.

“In this pandemic we’re going to see abusive guardianships started over Zoom, with the virus facilitating the racket that’s already in place,” warned Dr. Sam Sugar, founder of Americans Against Abusive Probate Guardianship, a national advocacy group. “The difference with Covid-19 is we’re going to see wards dying in nursing homes faster, in weeks, rather than months, and a further decrease of any monitoring.”

LIKE MANY LEGAL guardianship cases, the story of how Dirse ended up at Patrick Manor is fraught with allegations of ulterior motives and complex family dynamics. It all started after a local real estate agent accused Pakalnis of exploiting his great-aunt.

Pakalnis, who is 37, is the great-great grandson of Dirse’s maternal grandmother. In the early 1990s, Dirse visited her relatives in Lithuania, where Pakalnis was being raised by his dad. Dirse invited him to come live with her in the U.S. He took her up on the offer in 2003, living with Dirse throughout high school, college, and graduate school. “My aunt has always been like my mother,” he said. “We were a happy family for 15 years, lived together, and loved each other.”
For several decades, Dirse managed her small motel business, Dirse Apartments and Motel. In 2017, in front of witnesses and a notary, she sold one of her three properties to Pakalnis for $50,000. Diana Sames, a local real estate agent who visited Dirse annually to pass out calendars and broach selling her property, was aghast at the transaction, which was for well below market-value.

Sames petitioned a court to appoint a guardian for Dirse, citing the property sale as evidence that she was not in her right mind. Though Sames denied doing so out of self-interest, she did tell local reporters that she “would have no problem” taking a commission from the sale of Dirse’s property if it were listed on the market. As the guardianship case proceeded, tenants said in sworn affidavits they repeatedly heard Dirse tell Sames that she had no intention of listing and had long planned to sell one building to her family. One recalled Dirse mentioning that she was “well prepared for retirement” and would “have more than enough for herself,” even with one less property. Pakalnis meanwhile scrambled to hire attorneys to provide evidence to the court and file complaints with local institutions.

But a few months later, a judge and a panel of professionals declared Dirse “incapacitated” and appointed an adult legal guardian to take over her affairs. The guardian, Traci Samuel, had no prior relationship with Dirse and was proposed to the court by Sames, the petitioner.

Samuel quickly filed a lawsuit to reverse the sale of Dirse’s property and moved Dirse against her will to an assisted living facility, Inspired Living in St. Petersburg. At first, Pakalnis was able to visit her there. After a visit on November 10, 2018, he filed an affidavit with the court saying that his great-aunt looked weaker, less healthy, had complained of untreated leg pain, and told him she wanted to go home. The guardian then barred Pakalnis from seeing
Dirse again, claiming that Dirse didn’t want to hear from her great-nephew anymore.

Samuel, who later changed her name to Traci Hudson, was soon engulfed in scandal. In November 2019, she was charged with felony exploitation by the Pinellas County Sheriff’s Office and accused of stealing more than $500,000 from a 92-year-old man who she was also caring for. Investigators found that she had transferred nearly all his money to her bank accounts and used the funds to buy NFL tickets, new clothes and jewelry, and even a new house. She did not return requests for comment.

The court appointed a new legal guardian for Dirse in late November: Jean Farnan. In March, at the outset of the pandemic, Pakalnis contacted Farnan through a court filing, requesting information about his aunt’s well-being and said he was concerned “since nursing homes and assisted living facilities are vulnerable to fast-spreading Coronavirus.”

But he got no response. A month later, he learned via Farnan’s attorney, Hamden Baskin, that Dirse had been taken to the hospital. Farnan and Baskin declined to comment for this article.
“My aunt has educated family who never committed any crime and we have healthy environment and people who love her and can take care of her at any time at no cost.”

Pakalnis filed another court petition on April 29 asking for more information about Dirse’s whereabouts and lamented to Farnan that he could have been caring for his great-aunt at home. “My aunt has educated family who never committed any crime and we have healthy environment and people who love her and can take care of her at any time at no cost,” he wrote in a court filing. He begged for his great-aunt to at least receive video and phone calls, stressing that she needed the emotional support.

The next day, Farnan wrote back claiming that she hadn’t received his earlier court correspondence. Attaching a photo of Dirse from January, Farnan wrote that Dirse is a “very pleasant lady” and said, “I am sure she is not feeling that well, and being in the hospital is always stressful.” Farnan ended her email by saying when the Covid-19 situation is under control, she’d like to allow Dirse to see whoever she wants.

Pakalnis wrote back on May 1, urging again for the opportunity to talk with his great-aunt on the phone and reiterating that Dirse could stay with him. “[P]lease remember that she has her home near the beach in ecological environment with her family that misses her,” he wrote. “[Not] being able to hear and see her for many months is unhealthy for both of us.”

Four days later, Baskin filed a brief asking the court to deny Pakalnis’s emergency petitions and prohibit any further communication from him. Dirse died later that day. Diana Sames, the realtor who started this whole process, defended her decision to petition for guardianship for Dirse. “She’s in heaven now. Why is there so much drama around this poor lady?” she asked The Intercept. “I don’t need to make money; I own my car, own my home, I have my own conscience.”
Adult legal guardianship is a process that has existed in the United States since colonial times, imported from a 14th century English legal principle known as parens patriae. The idea entails giving full rights and obligations to the state if an adult is deemed too vulnerable or “incapacitated” to care for themselves. A judge can appoint a guardian — often it’s a family member, sometimes it’s a third-party professional like Traci Hudson or Jean Farnan — and they have full legal authority to manage the individual’s health care decisions, their financial assets, or both. Many people can petition a court for guardianship if they believe an elderly person needs it: relatives, hospitals, government agencies, and even acquaintances like the realtor Diana Sames. Adult legal guardianship varies by state, even sometimes county by county. However, in most places anyone 18 or older can nominate themselves to be a guardian, and few states require any sort of registration or licensing for the role. No good data even exists on how many seniors are currently living under guardianship. The National Center for State Courts estimated that based on the average of active pending cases in four states in 2008, there were 1.3 million cases nationwide, in control of roughly $50 billion in assets. This could be a low estimate, and as baby boomers get older, experts anticipate the numbers to rise considerably.

Though guardianship can at times be beneficial for the elderly, particularly if they really are at risk of being swindled or do need assistance, a growing movement over the last few decades has raised staggering examples of how mentally sound seniors lose their rights through this process, becoming totally isolated and forced to live in ways wholly contrary to how they want. In the worst cases, it’s the guardians themselves who exploit the senior, draining their assets, cutting off contact with friends and family, and confining them to expensive facilities when they just want to remain in their homes. Seniors have described the experience as living a “civil death” or being a “legal ghost.”
How widespread guardian abuse is remains unclear, but following a yearlong investigation, the U.S. Senate Special Committee on Aging said in a 2018 report that they “identified persistent and widespread challenges that require a nationwide focus” to ensure that guardianship “works on behalf of the individuals it is intended to protect.” The committee acknowledged that in some cases, “more rights than necessary” may be taken from an individual and that with such minimal oversight “once a guardianship is imposed, there are few safeguards in place to protect against individuals who choose to abuse the system.”

**Seniors have described the experience as living a “civil death” or being a “legal ghost.”**

Issues around guardianship have existed for decades, and efforts at reform really took off in 1987, following a six-part Associated Press exposé. The
investigative series prompted a flurry of new state legislation and the formation of the National Guardianship Association to establish new standards.

Yet despite modest improvements, lasting and widespread change remains elusive, and media reports detailing guardian abuse have continued to emerge. The U.S. Government Accountability Office looked at guardianship in 2004, 2010, 2011, and 2016, each time identifying major issues and a lack of clear information to guide policy. In its 2010 report, the GAO “identified hundreds of allegations of physical abuse, neglect and financial exploitation by guardians in 45 states and the District of Columbia” since 1990.

Rick Black — who co-founded the Center for Estate Administration Reform with his wife in 2018 after dealing with a guardian who stole $200,000 from his father-in-law — blames “predatory attorneys” and a startlingly low burden of proof required to strip seniors of their rights.

Pakalnis described his experience dealing with the legal system as massively stressful and time consuming. When it first began, he thought that once he provided the court his great-aunt’s medical records, the matter would quickly resolve. He said he wishes people understood how difficult it is “when a strange person is in charge of your loved one and is ignorant to the family.” He thinks the pandemic has “opened up the sores” of guardianship and revealed that some assisted living facilities just can’t guarantee safe environments for people living there.

TIM REID AND his sister Donna O’Neil have also been grappling with the guardianship system amid Covid-19. On March 18, after years of unsuccessful attempts to bring her home from an assisted living facility in Fort Lauderdale, Florida, their mom, Margaret Estelle Reid, died. “My attorneys and I tried everything legally and medically possible to show the court why my mother should have been allowed to live in her home,” O’Neil told The Intercept. “I presented the guardianship and court multiple plans to prove Mom would be better cared for at home, but no matter what we presented, it was always disregarded. She was moved almost an hour away into a lockdown facility with the very predictable result of her receiving much less visitation. She
never again saw her neighbors or old friends, and visitation with family was destroyed.”
Margaret Reid ended up in guardianship after a 2014 dispute among Reid’s children about their mother’s future and estate plan.

Dr. Gregory Marsella, a psychiatrist in Boca Raton in South Florida, recalled speaking with Reid about the dispute shortly after it happened. (He had seen Reid several times between 2009 and 2014. He has also treated Tim Reid, the son, for years.)

“She raised concern in our last meeting about how the siblings would work together in the event that she was incapacitated, and she talked about how she planned to make edits to her advance health directives,” Marsella said in an interview. “She told me she wanted to stay in her home no matter what, that she wanted to die in her home. She gave me a handwritten note saying this for my records, which I still have, and she said she was going to review her advance health directives with her attorney too to make sure they underscored this.”

But shortly thereafter, her other daughter, Margaret Fallon, successfully petitioned a court for legal guardianship. The idea that Margaret Reid was incapacitated was “risible, ludicrous, absurd,” said Marsella, who had seen her earlier that month. He described the whole experience as “eye-opening” in seeing the way that “hired gun” doctors work with courts and attorneys to strip the elderly of their rights.

“She told me she wanted to stay in her home no matter what, that she wanted to die in her home.”

As an expert witness in Reid’s guardianship hearing in a Florida state court, Marsella testified about the risks of moving her to an assisted living facility or nursing home. Among other things, he testified that mortality rates go up 200 to 300 percent for patients in such institutions, compared to those kept and cared for in their homes. Ten to 15 percent of patients with dementia die within six months of their placement into assisted living facilities, he also told the court.

The court was not convinced. Margaret Reid was taken from her home in 2017 and moved to the Meridian at Waterways.
Reid’s guardianship process quickly ate up her assets. After an internal audit raised red flags, a Palm Beach County Inspector General investigation found that in just one year, guardianship costs amounted to nearly 22 percent of Reid’s net worth, with legal fees averaging $539 per day. The report also found “billing practices, invoices, and time entries for numerous of the attorney fee petitions were unconventional, unreasonable or unsubstantiated.”

In part distressed about visitation restrictions, when Covid-19 began to spread, O’Neil filed an emergency court petition about the risk her mom faced amid the pandemic. “I saw her alive the day before she died; she didn’t look good at all, she seemed to exhibit a lot of the symptoms of coronavirus and was fading so fast from when I had seen her a week earlier,” recalled Tim Reid.

Tim said he asked both a Meridian medical attendant and Fallon, his sister, to get Margaret Reid tested for Covid-19, which never happened. (Fallon denies
ever hearing about a request for a Covid-19 test.) “It’s not uncommon for these institutions to avoid documenting things that could lead to charges of malpractice or negligence,” said Tim.

Do you have a coronavirus story you want to share? Email us at coronavirus@theintercept.com or use one of these secure methods to contact a reporter.

Randy Ramroth, executive director of the Meridian at Waterways, declined to comment on why Margaret Reid was not tested, to share how many positive coronavirus cases among residents there have been, and how, if at all, testing is handled. In an email, Ramroth cited the Health Insurance Portability and Accountability Act as to why he could not answer. Instead, he asked for some positive press for his facility. “I realize you are reporting a news story but if possible, please share some encouraging words regarding our staff members for their dedication and tireless work in keeping their residents and families safe,” he said.

“The tragedies of assisted living and nursing homes are not new at all. Well before Covid-19, you could talk to 80 percent of doctors in any specialty, and they would tell you these places are death sentences for Mom or Dad,” said Marsella. “They absolutely accelerate your demise.”

Fallon declined a phone interview but in an email told The Intercept that it had been “deemed medically necessary” to move her mother to an assisted living facility. She said all of her siblings’ legal claims related to her guardianship were “fully litigated” and that her siblings had “full opportunity” to call witnesses and present evidence to the court. (Tim Reid denies all of this.) Fallon’s attorney, Laura Burkhalter, told that The Intercept she believes Tim and Donna’s attempts to bring their mother home were rejected because they couldn’t show it was in their mom’s best interest. “I think she got high-quality care” where she was, said Burkhalter.

BLACK, THE ADVOCATE and founder of the Center for Estate Administration Reform, said he hopes that Covid-19 will help shine a light on
the abuses of adult legal guardianship. “The pandemic has illuminated our long-term care crisis in general,” he said. “Many of these facilities do not have adequate staffing, and they don’t want the public to realize how so many of them are just built around making money.” A recent New York Times investigation revealed that some nursing homes have been evicting Medicaid-funded residents in favor of Covid-19 patients who can bring in more funds.

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Marsella said he can’t imagine there won’t be some kind of public reckoning, given all the coronavirus-related deaths that have been reported recently in nursing homes. “We’re not so blind yet as a culture that something of this magnitude will be swept under the rug,” he said. “The first and best change to happen would be to sweep away this aspect of guardianship as it exists and is promulgated by attorneys and judges.”
Some advocates say the answer lies in less restrictive options. One such alternative, which grew out of the disability rights movement, is known as **supported decision-making**. Under this framework, an elderly person would keep their rights and work with trusted advisers to help them make decisions. Texas passed the country’s first law recognizing supported decision-making agreements in 2015, and since then eight more states have followed suit. Experts say it’s too early to know if this model is less prone to exploitation.

Nevada has also been leading the way on guardianship reform, following exposés that revealed massive guardianship corruption. (One notorious Nevada guardian, April Parks, was recently sentenced with up to 40 years for senior exploitation.) In 2017, following recommendations issued by a state commission, Nevada’s legislature passed a series of reforms, including granting all seniors facing guardianship the right to counsel, the creation of a new bill of rights, and the establishment of a State Guardianship Compliance Office that investigates fraud and abuse. Iowa also responded to a spate of guardianship scandals by passing new legislation in 2019 aimed at reducing elder abuse.

Not all recent reforms have led to real improvement, though. In 2016, after local media exposed widespread guardianship problems in Florida, lawmakers established a new Office of Public and Professional Guardians in the state’s Department of Elder Affairs. Black described this as “a strategic paper tiger by state leadership,” noting that the division lacks jurisdiction over local courts and has yet to involuntarily remove or successfully prosecute a single guardian. When the office’s top executive abruptly resigned last summer, the Orlando Sentinel reported that she had grown frustrated by her agency’s limited power to execute its mission.

Advocates say one reason that meaningful reform has inched along so slowly is because the federal government provides no real money or guidance to states that might otherwise improve their practices. In 2019 U.S. Sens. Susan Collins, R-Maine, and Bob Casey, D-Penn., introduced the **Guardianship Accountability Act**, which would expand federal demonstration grants to help states collect better data and improve their practices, yet its only other co-sponsor is Sen. Doug Jones of Alabama.

“I hope we can learn from this pandemic that we need to prioritize support and services for the elderly and people with disabilities,” said Dari Pogach, a senior staff attorney at American Bar Association Commission on Law and Aging. “And that must include funding for state adult guardianship reform.”