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To: House Human Services
From: Christopher Dodson - Co-Director
Date: March 10, 2025
Re: Senate Bill 2029 - Office of Guardianship and Conservatorship

The North Dakota Catholic Conference opposes Senate Bill 2029 in its current form.

Senate Bill 2029 touches upon many entities and persons, including courts, guardians, the Attorney General, the Bureau of Criminal Investigation, the proposed Office of Guardianship and Conservatorship, and a proposed Guardianship and Conservatorship Review Board. Faced with these many persons and entities, and all the complexities of the bill we can lose sight of what matters most.

Senate Bill 2029 should be about the people served by guardians. Guardianship services help ensure that the inherent dignity of every individual is respected and preserved. This is particularly true for guardianship for persons with intellectual disabilities and guardianship for vulnerable adults. These services have legal aspects, but they are ultimately human services. As such, they belong in the executive branch, not the judiciary.

For more than 37 years, the Department of Health and Human Services has provided guardianship services for persons with intellectual disabilities. It is an integral and connected part of the Department's services under the Developmentally Disabled Division. The Department determines who is eligible for the services, how many guardianships will be included in the contract, and all the contract requirements. Severing this program from its related programs and moving it to the judicial branch makes no sense from a policy perspective.

The Public Administrator Support Services (PASS) grants also fund human services. Catholic Charities, which is one of the recipients of the grants, serves as the guardian of last resort for individuals with dementia/Alzheimer's, persistent mental illness, traumatic brain injury, cognitive impairment, chemical dependency, homelessness, or other related vulnerabilities. This funding is currently included in the Office of Management and Budget. Although OMB may not be the best location for this appropriation, moving it to the judicial branch fails to respect that this is a human service, not a judicial function.

Not only does moving these programs to the judicial branch threaten the identity and mission of the programs, SB 2029 could disrupt the services currently provided to people in need. Senate Bill 2029 picks up, part and parcel, a program well-established in one branch of government and drops

it into an office that does not yet exist within another branch of government. In fact, SB 2029 requires the new Office of Guardianship and Conservatorship to take over the Developmentally Disabled and PASS programs on July 1, 2025, but the office cannot legally come into existence until August 1, 2025.

Moving the appropriation and operation of these services to the judicial branch raises other problems. The principle of the separation of powers states that the execution, that is, the operation, of government functions belongs in the executive branch, following review and appropriation by the legislative branch. Senate Bill 2029 moves executive functions to the judicial branch.

While it may be appropriate for the judiciary to have oversight over qualifications and appointments of guardians — it already does — it is not appropriate for the judiciary to oversee the funding and operations of guardianship services. By analogy, the judiciary sets the standards of admission and rules of ethics for attorneys, but it does not hire and oversee the lawyers for the Attorney General's office.

Finally, SB 2029 prevents the legislature from reviewing and approving any rules adopted pursuant to the bill, even if the rules pertain to service programs. The rules would not be subject to review by the Administrative Rules Committee.

For these reasons, the North Dakota Catholic Conference opposes Senate Bill 2029 and asks for a **Do Not Pass** recommendation.