

Testimony Prepared for the  
**Senate Appropriations Committee**  
January 4, 2023  
By Terry Traynor  
North Dakota Association of Counties



## **RE: Senate Bill 2035 – OMB Budget/Public Guardianship Funding**

Thank you, for the opportunity to communicate our Association's support for enhanced public guardianship funding, and to urge your consideration and approval of a total appropriation level much higher to fully fund the actual guardianship need.

Since 2013, the legislature has appropriated General Funds in the OMB budget for distribution to the private agencies and private individuals that serve as Public Guardians for indigent adults. (This does not include individuals served under the Developmental Disabilities program as their guardians are contracted and funded through DHS).

These wards are individuals that the District Court has determined are incapacitated and cannot adequately look after their own affairs due to age/dementia, physical disability, mental illness, addiction, etc. An advisory group (Courts, OMB, DHS, 1 Provider, & NDACo) directs the reimbursement of public guardians for (non-DD) wards whose resources total less than 100% of poverty and/or are receiving Medicaid-funded services.

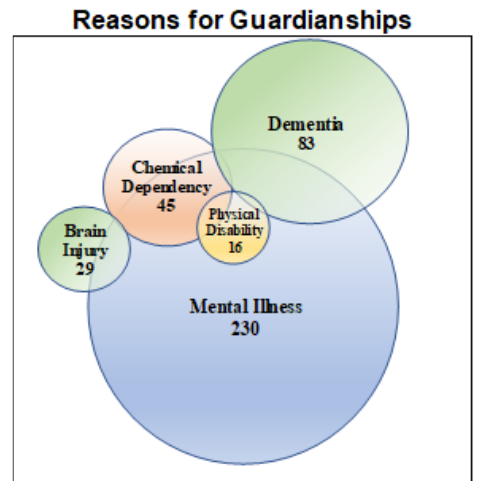
As the North Dakota's population of elderly and disabled individuals has grown, the number of those that lack resources has grown as well. This has steadily increased the need for public guardians.

- The current biennial funding supports a **\$10/day per ward stipend** to the persons and charitable entities that are ordered by the State Court to serve these vulnerable individuals. Their collective **caseload has grown from 314 to 443 over the first 18 months of this biennium**. Each month we see the termination of 2-3 cases and the addition of 7-8 cases statewide. With an average monthly net growth of 5, the **caseload is projected to reach 478 by the end of this biennium**, and we anticipate the current appropriation amount (\$2,450,000) will be insufficient to meet THIS biennium's need.
- The **Legislature's consultant, in 2012, recommended** a daily rate for professional guardians of **\$14/day**. Due to funding constraints and rapid caseload growth the appropriation has **limited rates to \$10/day**. It is requested that the 2023-25 appropriation reflect a significant rate increase.
- **The Executive Budget** for OMB, however, **recommends flat funding for 2021-25**, requiring that caseloads be immediately frozen, and the reimbursed cases dropped by 5 per month until the total was back down under 400 – **leaving a projected 200+ incapacitated adults without guardian support**. We expect the State Court will continue to seek guardians for a net increase of 5 wards per month for the upcoming biennium, **reaching close to 600 cases by June 2025**. To support this caseload and provide a rate increase, the appropriation will need to grow.

Public guardianships are a critical support for our most vulnerable citizens. Their ability to monitor and represent their wards not only benefits the wards, but serves the hospitals, clinics and nursing homes where critical medical decision-making cannot take place for an incapacitated person without a legally appointed guardian. Thank you, for your consideration of this request.

### FUNDING OF PUBLIC GUARDIANSHIPS - BACKGROUND

In response to a previous interim study of guardianship issues by the Legislature’s consultant, Dr. Winsor Schmidt, the 2013 Legislature began a process of reforming the Public Administrator “system.” The haphazard and unequally funded public guardianships throughout the State were set on a course for greater uniformity, better training, and limited, but consistent, funding. This initiative was supported by a broad cross-section of medical and social service entities, recognizing the personal and financial impact caused by the existing system’s deficits.



November 2022 Caseload	
Guardian & Protective Services	73
DKK, Inc.	74
Opportunity Inc.	18
Catholic Charities	71
Veronica Miller	5
LSS of MN	90
Guardian Angels	88
Lighthouse	13
Family Advocacy Services	11

The legislature provided financial support to guardians serving indigent individuals that are not served separately by the developmentally disabilities system for guardianships. As the bubble chart indicates, many of those served are incapacitated due to several issues. Currently, seven agencies and one individual provide public guardianship services supported by this funding.

## 2021-23 Biennium

### 5 cases/month growth - No Stipend Change

	Cases	\$ Expended
2021		
July:	314	94,200
August:	321	96,270
September:	320	95,900
October:	321	96,280
November:	324	97,340
December:	330	99,090
January:	328	98,440
February:	334	100,220
March:	342	102,510
April:	340	102,080
May:	374	112,240
June:	392	117,550
2022		
July:	429	128,580
August:	431	129,350
September:	436	130,850
October:	437	131,070
November:	443	132,910
December:	448	134,410
January:	453	135,910
February:	458	137,410
March:	463	138,910
April:	468	140,410
May:	473	141,910
June:	478	143,410
2023		
Estimated Funding Need		2,837,250
2019-21 Carry-In		103,336
2021-23 Approp		<b>2,450,000</b>

Projected Deficit (283,914)

## 2023-24 Biennium

### 5 cases/month growth - Various Stipend Levels

	Cases	\$10/day	\$14/day	\$20/day
2023				
July:	481	144,300	202,020	288,600
August:	486	145,800	204,120	291,600
September:	491	147,300	206,220	294,600
October:	496	148,800	208,320	297,600
November:	501	150,300	210,420	300,600
December:	506	151,800	212,520	303,600
January:	511	153,300	214,620	306,600
February:	516	154,800	216,720	309,600
March:	521	156,300	218,820	312,600
April:	526	157,800	220,920	315,600
May:	531	159,300	223,020	318,600
June:	536	160,800	225,120	321,600
2024				
July:	541	162,300	227,220	324,600
August:	546	163,800	229,320	327,600
September:	551	165,300	231,420	330,600
October:	556	166,800	233,520	333,600
November:	561	168,300	235,620	336,600
December:	566	169,800	237,720	339,600
January:	571	171,300	239,820	342,600
February:	576	172,800	241,920	345,600
March:	581	174,300	244,020	348,600
April:	586	175,800	246,120	351,600
May:	591	177,300	248,220	354,600
June:	596	178,800	250,320	357,600
2025				
23-25 Biennium Total		3,877,200	5,428,080	7,754,400
21-23 Biennium Deficit		(283,914)	(283,914)	(283,914)
Total Approp. Needed		<b>3,593,286</b>	<b>5,144,166</b>	<b>7,470,486</b>