

HB 1015
Appropriations – Government Operations Division
Testimony Presented by Scott Bernstein, NCG
Executive Director of Guardian and Protective Services
January 16, 2025

Chairman Monson, members of the Government Operations Division Committee. I am Scott Bernstein, Executive Director of Guardian and Protective Services and a board member of the Guardianship Association of North Dakota.

If you are unfamiliar with Guardianship Grants – or PASS funding, there is a short history at the end of this testimony, and I would also refer you to the testimony of Margo Haut who succinctly encapsulates the progression of funding.

Last biennium, we were at the point of a crisis. The need for guardians was only increasing but without a significant increase in PASS funding guardian providers would be closing.

We requested an appropriation of \$8.1 million to rescue PASS. The goal was to increase the daily reimbursement rate to \$20 a day. This would stabilize providers AND allow them to increase the number of guardians, allowing them to take on more clients.

On behalf of over 500 of North Dakota’s most vulnerable individuals – Thank You! The appropriation didn’t reach the goal line, but \$7.1 million saved guardianship funded through PASS.

We have NOT reached the stability point of \$20 a day. At present we are reimbursed \$17 a day. The rate of reimbursement needs to be consistent and stable. You can’t hire staff with an unpredictable funding stream. On the other hand, you can’t suddenly take on several new protected persons and burn through the appropriation resulting in a reduced reimbursement. I call this the burn-rate of the PASS funding. The money must last until the next appropriation kicks in. It is a balancing act.

Here are some statistics from Guardian and Protective Services (GaPS) that paint a picture.

Average number of PASS clients in 2022 was 69 and we were hanging by a thread.

Average number of PASS clients in 2024 was 97. A 40% increase over 2022.

Today we serve 117 individuals under guardianship. The increased appropriation has allowed us to hire more staff and take on more clients.

Just knowing the number of clients doesn't paint the whole picture. Every client represents a significant workload.

Last year GaPS reviewed and paid over 3,600 bills for clients. We are now on target to pay over 300 bills a month. If you like reviewing, confirming and tracking down information on everything from insurance premiums, medical claims, heating assistance, taxes, rent payments, SNAP Benefits, nursing homes, cell phones and purchases of underwear then I have a job for you.

In 2024 GaPS completed:

145 Court reports...AND racked up hours of court hearings.

100 Annual Reports

27 Beginning Inventories (often forensic audits looking for the resources)

18 Final Accountings

Case managers attended 193 medical appointments...well beyond the scope of a guardian's duties but vulnerable clients need advocates and voices to speak into the complex world of medical care.

Countless calls to medical providers, interested parties, Medicare, Medicaid, Social Security, the IRS, VA, Human Service Centers, Home Health Providers, etc. Unlike any of us, we have a standing call with Social Security every Wednesday to walk through all the wrinkles we encounter on a weekly basis.

Over 4,000 miles were driven to meet with clients or their service providers...the majority in the western half of the State.

In 2024 we were personally in front of or connected by phone with clients 1622 times.

In 2024 the GaPS staff of eight logged in 17,200 hours serving clients AND that doesn't take into consideration guardians are on call 24/7.

The purpose of this appropriation is simple...an increase simply means we can serve more vulnerable adults needing guardianship. To meet the need we are asking that the appropriation be increased to \$9.1 million.

However, I need to address some confusion. This summer the Interim Government Finance Committee met, and some of you served on that committee. The reason guardianship landed in the Interim committee was because last biennium a SHALL study was ordered. SB 2029 was introduced in answer to that study. SB 2029 has already been heard by the Senate Judiciary Committee. It was a long hearing. They have already had a subcommittee hearing. SB 2029 is a very complex bill that establishes the Office of Guardianship and Conservatorship or OGC.

The focus of the bill is on establishing a structure of accountability for guardians and the consolidation of all the various facets of funding that are linked to guardianship. Are there strengths in consolidating all facets of the EXISTING funding for the various aspects of guardianship. Absolutely. Each aspect of funding is essential but very different and it has been confusing. However, the consolidation of funding isn't the primary focus of SB 2029. By its very nature SB 2029 must focus on establishing the office AND appropriate the funds necessary to run everything in the office.

You may want to flip to what is listed as Appendix 4. Notice the requested appropriation for PASS funding (grants) in the SB 2029 bill is \$8,638,020. Fairly close to the \$9.1 we are requesting.

It should be noted that the cost of establishing this new office will appear in the appropriation for Judiciary. It is projected to be \$2.1 million. Then there are BCI costs. Keep in mind none of these costs were a part of operating guardianship in the past.

Obviously, we are an orphan in the OMB Budget. I think it's interesting that in a bill that often focuses on brick-and-mortar type issues there comes a very person centric bill. I would go so far as to say a spiritual bill.

Last night I was reminded that none of us will see God...but we see the image of God every day. We may be an easy image of God to look at. But the little man in a small room who would be in dire straits without a guardian is also the image of God. I wake up every morning and before I get out of bed, I thank God for another day to serve the most vulnerable. It's a privilege to, in some small way, improve their quality of life. I keep reminding myself that the way I treat the vulnerable is the way I treat God. Thank you for believing in us and giving us the opportunity to serve.

So, the orphan is back at your door seeking an increase to \$9.1 million.

Over the last biennium nonprofit providers have shown what can be accomplished when PASS is appropriately funded. (See Court Statistics).

I ask that you provide the \$9.1 million needed to serve the ever-increasing vulnerable population. Hands down, the public-private partnership continues to be the best return on your investment and, from your perspective, doesn't increase the size of government.

Thank you for listening and I am happy to answer any questions you may have.

PASS FUNDING HISTORY

HISTORY: House Bill 1015 contains an orphan called Guardian Grants. Guardian grants provide the funding for what is called PASS. Public Administrator Support Services. Some of you will recall, from 1991 to 1995 that when the Judiciary went through some reorganization and essentially the Public Administrator position was eliminated. That may not have been the intent of the restructuring, but it happened. Many of the Public Administrators' duties were absorbed by other positions. However, there was one task that created a dilemma. Public Administrators frequently served as Court appointed guardians for individuals that needed a decision maker because they had limited support, no family members or capable friends to assist them.

It was determined that nonprofit providers that specialized in guardianship would be a great solution. The provider would be appointed as the guardian of last resort. Upon appointment, they would be reimbursed a daily rate drawn from appropriated funds call PASS. The providers would essentially turn in their bill to the ND Association of Counties and the NDAoC would pay the providers out of the appropriation.

STATE COURT STATISTICS FROM GUARDIANSHIP MONITORING PROGRAM

Active Guardianship in ND at the end of 2023: 3,482

New cases in ND in 2024: 408

Terminations in ND in 2024: 211

Active Guardianships in ND at the end of 2024: 3,669

Currently there are 1,217 cases with Professional Guardians or 33%. The rest of the guardianships would fall in the family guardian category.

Public Administrator Support Services:

Looking at the biennium: Number of clients covered by PASS:

December 2022 - 403 clients

December 2024 - 500 clients – the appropriation initiated a 24% increase in clients over 2022

Appendix 4: Summary of Guardianship Funding

Office	Program	23-25 Funding	25-27 Funding Request	New Line Item in Bill
Bureau of Criminal Investigation (BCI)			960,000	Salaries and wage – agents
			322,000	Operating expenses – agents
Department of Health & Human Services (DHHS) Aging Services Division	Guardianship Establishment Fund	423,000	1,550,000	Establishment costs - indigents
DHHS Developmental Disabilities (DD) Services Division	DD Guardianship Establishment Fund	300,000	750,000	Establishment costs - developmentally disabled
DHHS DD Services Division	Corporate Guardianship Contract - Catholic Charities - Petitioning Costs	200,195	230,000	Establishment costs - developmentally disabled
DHHS North Dakota State Hospital (NDSH)	NDSH professional services/operating costs	193,596	288,000	Establishment costs - developmentally disabled
DHHS Life Skills and Transition Center (LSTC)	LSTC professional services/operating costs	23,388	28,400	Establishment costs - developmentally disabled
Office of Management and Budget (OMB)	Public Administrator Support Services (PASS)	7,100,000	8,638,020	Public guardian and conservator fees - indigents
DHHS DD Services Division	Corporate Guardianship Contract - Catholic Charities - Guardian Fees	4,288,349	6,835,136	Guardianship contracts - developmentally disabled
Supreme Court	Guardianship Monitoring Program*	624,008	2,202,543	Judicial Branch Budget
	OGC, Review Board, Investigative Counsel			Judicial Branch Budget
TOTAL			\$21,804,099	
*Includes current program manager and attorney hired under N.D.C.C. § 27-27-01				