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To: Senate Judiciary Committee
From: Donna Byzewski
Date: Jan 13, 2025
Re: Senate Bill 2029 - Office of Guardianship and Conservatorship

Chairman Larson and members of the Senate Judiciary Committee, my name is Donna Byzewski and I am the Program Director of the corporate guardianship program for individuals with intellectual disabilities at Catholic Charities North Dakota. I am respectfully offering input highlighting the positive aspects of SB 2029 as well as areas where further exploration and study may be a consideration.

For more than 37 years, the Developmental Disabilities (DD) Division has contracted with Catholic Charities ND to provide guardianship services on behalf of adults with intellectual disabilities. Our current contract includes funding to serve 529 individuals. As of today, we are serving as legal guardian for 522 individuals with intellectual disabilities. It is important to note that many adults with intellectual disabilities are their own decision maker. However, there are critical times when a person may need the services of a guardian, and if no one else is available or appropriate, corporate guardianship is a necessity. Corporate guardianship is the guardian of last resort. Our contract with the DD Division specifies that Catholic Charities ND can only accept referrals from Developmental Disabilities Program Managers from the regional human service centers in North Dakota. We have a waiting list of 142 people at this time.

SB 2029 has several positive aspects:

- It is a guardian's primary duty and responsibility to act in the best interest of the individuals under guardianship and to safeguard their health and safety. SB 2029 promotes the best interest of individuals

served by establishing policies, procedures and ethical standards of practice for guardians to follow.

- As guardians, we are very aware of the depth of our responsibilities as we are serving people who are vulnerable and at risk of harm. SB 2029 emphasizes guardian accountability as guardians, the court, family members and individuals under guardianship expect guardians to be well-trained, ethical and responsible. If a guardian or professional guardianship service provider abuses, neglects or exploits an individual(s) under guardianship or routinely neglects their duties, SB 2029 gives the court the tools to protect the individual and remove the guardian or professional guardianship service provider in a timely manner. In the past, it would often take months if not years to make this happen.

I respectfully offer three areas for further exploration:

- SB 2029 requires the creation of an Office of Guardianship and Conservatorship. The appropriation of \$18,319,556 pulls all legislative funding for guardianship related services into one pool. There is no funding for the Office of Guardianship and Conservatorship included in SB 2029. It is very worrisome to guardianship service providers that the expected cost of \$2.2 million for the Office of Guardianship and Conservatorship may inadvertently come out of the above appropriation of \$18,319,556 which would have an immediate and extremely negative impact on individuals served as well as guardianship service providers.
- I have been a professional corporate guardian for 35 years and the provision of quality, ethical and responsible guardianship services is of utmost importance to me. Having a mechanism or process to follow if a guardian or guardianship service provider is not fulfilling their duties is critical. That said, there are aspects of the review board that concern me. The review board appears to assume a guardian's guilt as evidenced by the need for subpoenas and depositions. To protect themselves, guardians and guardianship service providers will need to hire attorneys

to protect their staff during this process which will be expensive. There are only a handful of guardianship service providers in North Dakota and all are non-profits. The funding they receive goes toward the provision of direct guardianship services to individuals. The review board will have counsel as well as the Attorney General office to assist in carrying out its duties – guardians and guardianship service providers are outgunned and at a disadvantage from the get-go. It is my fear that the increased legal expenses for guardianship service providers could be devastating to their budgets which already operate on very thin margins.

- While I agree with the need for a review board for possible cases of neglect, abuse or exploitation by a guardian, I believe that there should be a focus on a vigorous education and training program for guardians and guardianship service providers. By giving them the opportunity to improve their services, if appropriate, rather than removing them from the guardianship would lead to positive outcomes such as guardians knowing the expectations and requirements and better meeting the needs of the individuals served; education may reduce the number of complaints towards guardians as they will be better trained; and if the focus is solely on disciplining guardians or is more punitive in nature, then good guardians may leave the profession when there already exists a shortage of people willing to take on the comprehensive and complex duties of a guardian.

Thank you for the opportunity to stand before you today and I would be happy to try to answer any questions you may have.