

DATE: January 28, 2025

RE: Request of Chairman Bob Paulson, Chairman of the Senate Judiciary Subcommittee, for suggested changes & input to SB 2029.

The request was made to Margo Haut, President of the Guardianship Association of North Dakota. (GAND)

Chairman Paulson and members of the Senate Judiciary Subcommittee:

On behalf of GAND, thank you for this opportunity to present input via our Proposal recently submitted to the Senate Subcommittee regarding SB 2029. Attached is the Proposal that offers an alternate approach to the Office of Guardianship and Conservatorship outlined in SB 2029. The materials provide a brief organizational overview & description outlining the Office of Guardianship and Conservatorship, the Review Board and the Ethics & Rules Committee. Unlike SB 2029, this Proposal rests on three philosophical pillars of training, monitoring & accountability.

This Proposal shouldn't come as a surprise to the Taskforce as ideas were requested but fell on deaf ears. To take it a step further, it's become very apparent over time of the disconnect that is occurring for GAND & members of the Taskforce with the reality, Guardians aren't Judges. While GAND stands in opposition of SB 2029, GAND also acknowledges there are items in SB 2029 that have merit. However, the structure and rules as proposed are presently biased against guardians. Modeling the OGC after the Judicial Conduct Commission is not the best place to start for an entity that will dramatically change the guardianship landscape for years to come.

Again, I come before you as the voice of GAND and its members, what's most concerning is the continued response of "it will be addressed in the future". I can tell you, the future is now. As President of GAND, I have the privilege of knowing our members who are the Professional Guardians serving throughout ND. Recently, I met with the Directors of Family Voices who offer support & training to Family Guardians; they currently have a mailing list of over 8,700 individuals associated with family guardianship. SB 2029, if passed with its current structure, will result in not only professional guardians walking away but families may seriously reconsider this commitment due to the reality of being drawn under the umbrella of the OGC with again, more questions than answers. Many are carefully watching this bill.

Also, I think it is fair to remind you that we're here today because last biennium the legislature ordered a "Shall Study." Part of the concern for legislators was over the dollars that appear under different titles. For example, Developmental Disabilities, Guardianship Establishment Funds, the PASS Program, etc. I grant you, if you don't work in this every day you may ask, "Why are all the guardianship dollars designated in so many areas?" Well, they serve various functions and populations. It only continues to become more confusing when you consider that some of the appropriations fall in DHHS and some in OMB.

Historically, there have been those that have viewed the dollars related to guardianship in DHHS as a conflict of interest. However, it's obvious that Catholic Charities North Dakota has operated under

a contract with the appropriation of funds per the DD Division of DHHS for 37 years without a single surfaced incident of 'conflict'.

For this reason, GAND does not believe that a sweeping reform is necessary. However, a consolidation of the funding source in an appropriate home could help fulfill some of the confusion that was a matter of concern in the last biennium.

In addition, per SB 2029, GAND believes the OGC is, in many regards, a regulatory board. This raises a difficult question. Where does the OGC belong? Courts traditionally have been responsible for guardianship oversight and because this will continue, it will open the door for the potential conflict of interest if the Supreme Court oversees the Office of Guardianship and Conservatorship. Should guardians be supervised by the Court? The job of the guardian is to manage the affairs of an incapacitated person. Other entities, such as a nursing home, manage the affairs of people not able to care for themselves. Banks house money for the incapacitated individuals, but neither are supervised by the court. This is why it is the request of GAND, the consideration that the Office of Guardianship & Conservatorship be served by the Executive Branch of the ND Government per the experience & expertise of its members.

Thank you for your time & consideration of this proposed option to SB 2029, GAND urges your support. I stand for any questions from the Senate Subcommittee Members.