

2023 SENATE HUMAN SERVICES

SB 2345

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

SB 2345
1/30/2023

Relating to the task force on guardianship monitoring to promote the accountability of all guardians; and to provide an appropriation.

10:57 AM **Madam Chair Lee** called the hearing to order. **Senators Lee, Cleary, Clemens, Weston, Hogan** were present. **Senator K. Roers** was absent.

Discussion Topics

- Accountability public guardians
- Patient advocates
- Alzheimer's Association partnership
- Appropriation
- Vulnerable individuals

10:58 AM **Senator Hogan** introduced SB 2345. #17742

10:59 AM **Senator Lee** verbal testimony in favor.

11:00 AM **Dr. Gabriela Balf, Psychiatrist, University of ND Psychiatry and Behavioral Science** testified in favor. #17724

11:03 AM **Sargianna Wutzke, Lead Operations Officer for Community Options,** testified in favor. #17537

11:05 AM **Scott Bernstein, Executive Director of Guardian and Protective Services,** testified in favor. #17622

11:18 AM **Aaron Birst Executive Director, Associated of Counties,** testified in favor. #17828

11:28 AM **Audrey Uhrich, Vice President of the Guardian Association of ND, with Guardian Angels** testified in favor. #17700

11:35 AM **Donna Byzewski, Program Director Corporate Guardianship Program of Individual with Disabilities, North Dakota Catholic Charites** testified in favor. #17559

11: 44 AM **Shelly Peterson, Long Term Association Care** verbally testified in favor.

11:45 AM **Sally Holewa, State Court Administrator** testified in favor. #17530

11:54 AM **Rachel Sinness, Legal Director North Dakota Protection and Advocacy Project** testified neutrally. #17486

Additional Written Testimony:

Tim Blasl, President, ND Hospital Association in favor #17655

11:58 AM **Madam Chair Lee** closed the hearing.

Patricia Lahr, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

SB 2345
1/30/2023

Relating to the task force on guardianship monitoring to promote the accountability of all guardians; and to provide an appropriation.
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3:04 PM **Madam Chair Lee** called the meeting to order. **Senators Lee, Cleary, Clemens, Weston, Hogan** were present. **Senator K. Roers** was absent.

Discussion Topics

- Patient advocates
- Amendment

Senator Lee calls for discussion.

Senator Hogan moves to adopt amendment, provided the handout #17944

Senator Cleary seconded.

Roll call vote.

Senators	Vote
Senator Judy Lee	Y
Senator Sean Cleary	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Kristin Roers	Y
Senator Kent Weston	Y

Motion passed 6-0-0.

3:12 AM **Madam Chair Lee** closed the meeting.

Patricia Lahr, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

SB 2345
1/31/2023

Relating to the task force on guardianship monitoring to promote the accountability of all guardians; and to provide an appropriation.
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2:34 PM **Madam Chair Lee** called the meeting to order. **Senators Lee, Cleary, Clemens, Weston, Hogan, K. Roers** are present.

Discussion Topics

- Accountability public guardians
- Task force
- Appropriations

Senator Hogan provided proposed Amendment. #18269

Senator K. Roers moved to further **AMEND**. LC 23.1086.02001

Senator Cleary seconded the motion.

Roll call vote.

Senators	Vote
Senator Judy Lee	Y
Senator Sean Cleary	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Kristin Roers	Y
Senator Kent Weston	Y

Motion passes 6-0-0.

Senator K. Roers moved **DO PASS** as **AMENDED** and **REREFER TO APPROPRIATIONS**.

Senator Hogan seconded the motion.

Roll call vote.

Senators	Vote
Senator Judy Lee	Y
Senator Sean Cleary	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Kristin Roers	Y
Senator Kent Weston	Y

Motion passes 6-0-0.

Senator Lee will carry SB 2345.

2:40 PM **Madam Chair Lee** closed the meeting.

Patricia Lahr, Committee Clerk

February 6, 2023

OR

(7)

2-6-2023

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2345

Page 1, line 3, remove "and"

Page 1, line 3, after "appropriation" insert "; and to declare an emergency"

Page 2, line 16, replace "\$200,000" with "\$290,000"

Page 2, line 22, replace "\$3,270,454" with "\$8,100,000"

Page 2, line 28, replace "\$577,579" with "\$4,490,000"

Page 3, after line 2, insert:

"SECTION 5. EMERGENCY. Section 3 of this Act is declared to be an emergency measure."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2345: Human Services Committee (Sen. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2345 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 11, after "program" insert ". the vulnerable adult protective services program."

Page 1, line 17, replace "the" with "a"

Page 2, line 4, after "Procedures" insert "to be followed by an investigator"

Page 2, line 5, remove "managed by a guardianship investigator"

Page 2, line 9, after "court" insert "and other appropriate agencies"

Page 2, line 14, replace "administering the guardianship monitoring program" with "assisting the task force in its duties"

Page 2, line 16, replace "to administer the guardianship monitoring program" with "to staff the task force"

Renumber accordingly

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

SB 2345
2/6/2023

Relating to the task force on guardianship monitoring to promote the accountability of all guardians; and to provide an appropriation.
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9:11 AM **Madam Chair Lee** called the meeting to order. **Senators Lee, Cleary, Clemens, Weston, Hogan** are present. **Senator K. Roers** was absent.

Discussion Topics

- Corporate guardianship
- Reimbursement
- Emergency clause

Senator Lee calls for discussion

Senator Hogan provides additional information #17742

9:19 AM **Aaron Birst, Executive Director, ND Association of Counties**, provided information verbal

9:36 AM **Madam Chair Lee** closed the meeting.

Patricia Lahr, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

SB 2345
2/6/2023

Relating to the task force on guardianship monitoring to promote the accountability of all guardians; and to provide an appropriation.
--

10:25 AM **Madam Chair Lee** called the committee to order. **Senators Lee, Cleary, Clemens, K. Roers, Weston, Hogan** are present.

Discussion Topics

- Cost saving
- Living through guardianship
- Care for most vulnerable
- Mental illness difference

10:26 AM **Aaron Birst**, provided handout #19278

10:27 AM **Scott Bernstein, Executive Director, Guardian and Protective Services**, provided more information verbal

Senator Hogan moves Amendment. LC 23.1086.02001

Senator K. Roers seconded.

Roll call vote.

Senators	Vote
Senator Judy Lee	Y
Senator Sean Cleary	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Kristin Roers	Y
Senator Kent Weston	Y

Motion Passes 6-0-0.

Senator K. Roers moves **DO PASS** as **AMENDED** and **REREFER** to **APPROPRATIONS**.

Senator Hogan seconded.

Roll call vote.

Senators	Vote
Senator Judy Lee	Y
Senator Sean Cleary	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Kristin Roers	Y
Senator Kent Weston	Y

Motion passed 6-0-0.

Senator Lee will carry SB 2345

11: 02 AM **Madam Chair Lee** closed the committee meeting.

Patricia Lahr, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

SB 2345
2/6/2023

Relating to the task force on guardianship monitoring to promote the accountability of all guardians; and to provide an appropriation.
--

2:51 PM **Madam Chair Lee** called the meeting to order. **Senators Lee, Cleary, Clemens, K. Roers, Weston, Hogan** are present.

Discussion Topics

- Cost saving
- Guardianship
- Care for most vulnerable

Lindsey Pouliot, Intern for Human Services Committee, provided information on amendments.

Senator K. Roers moves **DO PASS** as **AMENDED** and **REREFER** to **APPROPRATIONS**.

Senator Hogan seconded.

Roll call vote.

Senators	Vote
Senator Judy Lee	Y
Senator Sean Cleary	Y
Senator David A. Clemens	Y
Senator Kathy Hogan	Y
Senator Kristin Roers	Y
Senator Kent Weston	Y

Motion Passes 6-0-0.

Senator Lee will carry SB 2345

2:52 PM **Madam Chair Lee** closed the meeting.

Patricia Lahr, Committee Clerk

February 6, 2023

OR

(7)

2-6-2023

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2345

Page 1, line 3, remove "and"

Page 1, line 3, after "appropriation" insert "; and to declare an emergency"

Page 2, line 16, replace "\$200,000" with "\$290,000"

Page 2, line 22, replace "\$3,270,454" with "\$8,100,000"

Page 2, line 28, replace "\$577,579" with "\$4,490,000"

Page 3, after line 2, insert:

"SECTION 5. EMERGENCY. Section 3 of this Act is declared to be an emergency measure."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2345: Human Services Committee (Sen. Lee, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2345 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

<23.1086.01001a>

2023 SENATE APPROPRIATIONS

SB 2345

2023 SENATE STANDING COMMITTEE MINUTES

Appropriations

Rough Rider Room, State Capitol

SB 2345
2/16/2023

Relating to the task force on guardianship monitoring to promote the accountability of all guardians; and to provide an appropriation.

9:03 AM **Chairman Bekkedahl** called the meeting to order. **Senators** Bekkedahl, Burkhard, Davison, Dever, Dwyer, Erbele, Krebsbach, Kreun, Mathern, Meyer, Roers, Schaible, Sorvaag, Wanzek, Vedaa, Rust are present.

Discussion Topics:

- Guardianship accountability
- Protection
- Task force funds
- Least restrictive services

9:03 AM **Senator Hogan** introduced SB 2345 in favor verbal

Senator Dever moves to **ADOPT AMENDMENT** by removing sections 3, 4, and 5 and redirect them to other parts of the budget.

Senator Dwyer seconded.

Roll call vote.

Senators	Vote
Senator Brad Bekkedahl	Y
Senator Karen K. Krebsbach	Y
Senator Randy A. Burckhard	Y
Senator Kyle Davison	Y
Senator Dick Dever	Y
Senator Michael Dwyer	Y
Senator Robert Erbele	Y
Senator Curt Kreun	Y
Senator Tim Mathern	Y
Senator Scott Meyer	Y
Senator Jim P. Roers	Y
Senator David S. Rust	Y
Senator Donald Schaible	Y
Senator Ronald Sorvaag	Y
Senator Shawn Vedaa	AB
Senator Terry M. Wanzek	Y

Motion passed 15-0-1.

Senator Mathern moves **DO PASS** as **AMENDED**.

Senator Kreun seconded.

Senators	Vote
Senator Brad Bekkedahl	Y
Senator Karen K. Krebsbach	N
Senator Randy A. Burckhard	Y
Senator Kyle Davison	N
Senator Dick Dever	Y
Senator Michael Dwyer	N
Senator Robert Erbele	N
Senator Curt Kreun	Y
Senator Tim Mathern	Y
Senator Scott Meyer	N
Senator Jim P. Roers	Y
Senator David S. Rust	N
Senator Donald Schaible	N
Senator Ronald Sorvaag	Y
Senator Shawn Vedaa	AB
Senator Terry M. Wanzek	Y

Motion passed 9-6-1.

Senator Dever will carry the bill.

9:26 AM **Chairman Bekkedahl** closed the meeting.

Patricia Lahr on behalf of Carol Thompson, Committee Clerk

23.1086.03001
Title.04000

Prepared by the Legislative Council staff for
Senate Appropriations Committee
February 16, 2023

DR

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2345

2-16-23

Page 1, line 3, after the first semicolon insert "and"

Page 1, line 3, remove "; and to declare an emergency"

l 21

Page 2, remove lines 20 through 30

Page 3, remove lines 1 through 3

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2345, as engrossed: Appropriations Committee (Sen. Bekkedahl, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (8 YEAS, 7 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2345 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 3, after the first semicolon insert "and"

Page 1, line 3, remove "; and to declare an emergency"

Page 2, remove lines 20 through 30

Page 3, remove lines 1 through 3

Re-number accordingly

2023 HOUSE HUMAN SERVICES

SB 2345

2023 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

SB 2345
3/8/2023

Relating to the task force on guardianship monitoring to promote the accountability of all guardians.

Chairman Weisz called the meeting to order at 9:31 AM.

Chairman Robin Weisz, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Todd Porter, Brandon Prichard, Karen M. Rohr, Jayme Davis, and Gretchen Dobervich present. Vice Chairman Matthew Ruby not present.

Discussion Topics:

- Critical life decisions
- Certified guardians
- Necessary services
- Developmental disabilities
- Appropriate safeguards
- Ethical standards
- Disciplinary actions
- Exploitation

Sen. Hogan introduced SB 2345 with supportive testimony (#22373).

Sally Halov, State Court Systems Administrator, spoke in support.

Scott Bernstein, the Executive Director of Guardian and Protective Services, in Bismarck, North Dakota, supportive testimony (#26872).

Sen. Lee, spoke in support.

Audrey Uhrich, Professional Guardian with Guardian Angels, and the Vice President of the Guardianship Association of North Dakota (#22872).

Sargianna Wutzke, Lead Operations Officer for Community Options, supportive testimony (#21983).

Shelly Pederson, North Dakota Long Term Care Association, spoke in support.

Melanie Gaebe, Director of Public Policy of Alzheimer's Association, spoke in support.

Rachell Sinness, Legal Director of North Dakota Protection and Advocacy, supportive testimony (#22899).

Additional written testimony:

Donna Byzewski, Program Director of the corporate guardianship program for individuals with intellectual disabilities at Catholic Charities North Dakota, supportive testimony (#22722).

Chairman Weisz adjourned the meeting at 10:20 AM.

Phillip Jacobs, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

SB 2345
3/27/2023

Relating to the task force on guardianship monitoring to promote the accountability of all guardians.

Chairman Weisz called the meeting to order at 3:10 PM.

Chairman Robin Weisz, Vice Chairman Matthew Ruby, Reps. Karen A. Anderson, Mike Beltz, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Todd Porter, Brandon Prichard, Karen M. Rohr, Jayme Davis, and Gretchen Dobervich present. Rep. Clayton Fegley not present.

Discussion Topics:

- Committee work

Chairman Weisz called for a discussion on SB 2345.

Rep. Dobervich moved for a do pass and rereferral to the Appropriations Committee on SB 2345.

Seconded by Rep. Davis.

Roll Call Vote:

Representatives	Vote
Representative Robin Weisz	N
Representative Matthew Ruby	N
Representative Karen A. Anderson	N
Representative Mike Beltz	N
Representative Jayme Davis	Y
Representative Gretchen Dobervich	Y
Representative Clayton Fegley	AB
Representative Kathy Frelich	N
Representative Dawson Holle	N
Representative Dwight Kiefert	N
Representative Carrie McLeod	Y
Representative Todd Porter	Y
Representative Brandon Prichard	N
Representative Karen M. Rohr	N

Motion fails 4-9-1.

Rep. Porter moved a do not pass on SB 2345.

Seconded by Rep. Anderson.

Roll Call Vote:

Representatives	Vote
Representative Robin Weisz	N
Representative Matthew Ruby	Y
Representative Karen A. Anderson	Y
Representative Mike Beltz	N
Representative Jayme Davis	N
Representative Gretchen Dobervich	N
Representative Clayton Fegley	AB
Representative Kathy Frelich	Y
Representative Dawson Holle	Y
Representative Dwight Kiefert	Y
Representative Carrie McLeod	N
Representative Todd Porter	N
Representative Brandon Prichard	Y
Representative Karen M. Rohr	Y

Motion carries 7-6-1.

Carried by Rep. Prichard.

Chairman Weisz adjourned the meeting at 3:21 PM.

Phillip Jacobs, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2345, as reengrossed: Human Services Committee (Rep. Weisz, Chairman)
recommends **DO NOT PASS** (7 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING).
Reengrossed SB 2345 was placed on the Fourteenth order on the calendar.

2023 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

SB 2345
4/3/2023

Relating to the task force on guardianship monitoring to promote the accountability of all guardians.

Chairman Weisz called the meeting to order at 3:25 PM.

Chairman Robin Weisz, Vice Chairman Matthew Ruby, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Todd Porter, Brandon Prichard, Karen M. Rohr, Jayme Davis, and Gretchen Dobervich present. Rep. Carrie McLeod not present.

Discussion Topics:

- Committee work
- Reconsideration
- Amendments

Vice Chairman Ruby moved to reconsider the committee's previous actions on SB 2345.

Seconded by Rep. Prichard.

Motion carries by voice vote.

Chairman Weisz called for a discussion on SB 2345.

Vice Chairman Ruby moved to adopt amendment (#23.1086.04001) to SB 2345.

Seconded by Rep. Porter.

Motion carries by voice vote.

Rep. Prichard moved a do pass as amended on SB 2345.

Seconded by Vice Chairman Ruby.

Roll Call Vote:

Representatives	Vote
Representative Robin Weisz	Y
Representative Matthew Ruby	Y
Representative Karen A. Anderson	Y
Representative Mike Beltz	Y
Representative Jayme Davis	Y
Representative Gretchen Dobervich	Y

Representative Clayton Fegley	Y
Representative Kathy Frelich	Y
Representative Dawson Holle	Y
Representative Dwight Kiefert	Y
Representative Carrie McLeod	AB
Representative Todd Porter	Y
Representative Brandon Prichard	Y
Representative Karen M. Rohr	Y

Motion carries 13-0-1.

Carried by Rep. Prichard.

Chairman Weisz adjourned the meeting at 3:30 PM.

Phillip Jacobs, Committee Clerk

Reconsidered on 4/13/23.

23.1086.04001
Title.05000

Adopted by the House Human Services
Committee

April 3, 2023

H
4-3-23

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2345

Page 1, line 3, remove "; and to provide an appropriation"

Page 2, remove lines 14 through 19

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2345, as reengrossed: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Reengrossed SB 2345 was placed on the Sixth order on the calendar.

Page 1, line 3, remove "; and to provide an appropriation"

Page 2, remove lines 14 through 19

Renumber accordingly

2023 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee Pioneer Room, State Capitol

SB 2345
4/13/2023

Relating to the task force on guardianship monitoring to promote the accountability of all guardians.

Chairman Weisz called the meeting to order at 3:01 PM.

Chairman Robin Weisz, Vice Chairman Matthew Ruby, Reps. Karen A. Anderson, Mike Beltz, Clayton Fegley, Kathy Frelich, Dawson Holle, Dwight Kiefert, Carrie McLeod, Todd Porter, Brandon Prichard, Karen M. Rohr, Jayme Davis, and Gretchen Dobervich present. Reps. Clayton Fegley and Todd Porter not present.

Discussion Topics:

- Committee work
- Reconsideration
- Amendments

Vice Chairman Ruby moved to reconsider.

Seconded by Rep. Prichard.

Motion carries by voice vote.

Jennifer Clark, with the North Dakota Legislative Council, answered questions from the committee and proposed amendment (#23.1086.07002) to SB 2345 (#27794).

Vice Chairman Ruby moved to adopt amendment (#23.1086.07002) to SB 2345.

Seconded by Rep. Frelich.

Motion carries by voice vote.

Rep. Prichard moved a do pass as amended on SB 2345.

Seconded by Vice Chairman Ruby.

Roll Call Vote:

Representatives	Vote
Representative Robin Weisz	Y
Representative Matthew Ruby	Y
Representative Karen A. Anderson	Y
Representative Mike Beltz	Y
Representative Jayme Davis	Y

Representative Gretchen Dobervich	Y
Representative Clayton Fegley	AB
Representative Kathy Frelich	Y
Representative Dawson Holle	Y
Representative Dwight Kiefert	Y
Representative Carrie McLeod	Y
Representative Todd Porter	AB
Representative Brandon Prichard	Y
Representative Karen M. Rohr	Y

Motion carries 12-0-2. Representative Prichard carrier.

Chairman Weisz adjourned the meeting at 3:11 PM.

Phillip Jacobs, Committee Clerk

DR
1/21
4-13-23

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2345

In lieu of the amendments printed on page 1595 of the House Journal, Reengrossed Senate Bill No. 2345 is amended as follows:

Page 1, line 3, remove "; and to provide an appropriation"

Page 1, line 11, after "program" insert ", the vulnerable adult protective services program."

Page 1, line 17, replace "the" with "a"

Page 2, line 4, after "Procedures" insert "to be followed by an investigator"

Page 2, line 5, remove "managed by a guardianship investigator"

Page 2, line 9, after "court" insert "and other appropriate agencies"

Page 2, remove lines 11 through 16

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2345, as reengrossed: Human Services Committee (Rep. Weisz, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Reengrossed SB 2345 was placed on the Sixth order on the calendar.

In lieu of the amendments printed on page 1595 of the House Journal, Reengrossed Senate Bill No. 2345 is amended as follows:

Page 1, line 3, remove "; and to provide an appropriation"

Page 1, line 11, after "program" insert ", the vulnerable adult protective services program."

Page 1, line 17, replace "the" with "a"

Page 2, line 4, after "Procedures" insert "to be followed by an investigator"

Page 2, line 5, remove "managed by a guardianship investigator"

Page 2, line 9, after "court" insert "and other appropriate agencies"

Page 2, remove lines 11 through 16

Renumber accordingly

2023 CONFERENCE COMMITTEE

SB 2345

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

SB 2345
4/21/2023
Conference Committee

Relating to the task force on guardianship monitoring to promote the accountability of all guardians.

9:33 AM **Chair Lee** opened the conference committee meeting. **Senators Lee, Hogan, Dever and Representatives M. Ruby, Beltz, and Davis** were present.

Discussion Topics:

- Bill review
- Guardianship monitoring
- Monitoring follow-up
- Proposed amendment

Senator Lee reviewed bill, provided background, and called for discussion. No written testimony.

Committee discussion SB 2345.

9:39 AM **Sally Holewa, Supreme Court Administrator, ND Supreme Court**, provided information verbally.

9:51 AM **Scott Bernstein, Provider, Guardian and Protective Services** provided information verbally.

Senator Hogan provided a proposed amendment from Representative Dobervich. #27773

10:01 AM **Chair Lee** closed the conference committee meeting.

Patricia Lahr, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Lincoln Room, State Capitol

SB 2345
4/21/2023
Conference Committee

Relating to the task force on guardianship monitoring to promote the accountability of all guardians.

4:00 PM **Chair Lee** opened the conference committee meeting. **Senators Lee, Hogan, Dever and Representatives M. Ruby, Beltz, and Davis** are present.

Discussion Topics:

- Proposed amendment
- Conference committee decision

Senator Lee calls for discussion.

Representative M. Ruby moved House recedes from House and amendments and further amends by including the social work section for licensure and reference it in the title.
#27807

Representative Beltz seconded the motion.

Roll call vote – motion passed 6-0-0.

Representative Davis is the House bill carrier.

Senator Hogan is the Senate bill carrier.

4:09 PM **Chair Lee** closed the conference committee meeting.

Patricia Lahr, Committee Clerk

April 21, 2023

AG
4-21-23
(1-1)

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2345

That the House recede from its amendments as printed on page 1702 of the Senate Journal and page 1957 of the House Journal and that Reengrossed Senate Bill No. 2345 be amended as follows:

Page 1, line 3, after the semicolon insert "to amend and reenact subsection 4 of section 43-41-09 of the North Dakota Century Code, relating to the licensure of social workers;"

Page 2, after line 10, insert:

"SECTION 2. AMENDMENT. Subsection 4 of section 43-41-09 of the North Dakota Century Code is amended and reenacted as follows:

4. ~~Approve examinations for licensing~~License social workers. The board may:
 - a. Suspend the use of an examination for licensure.
 - b. Waive examination requirements and create a process under which an applicant may apply for a waiver to licensure examination requirements.
 - c. Create alternative requirements that do not require an examination to ascertain the qualifications and fitness of a candidate for a license to engage in the practice of social work."

Renumber accordingly

Date April 21, 2023

Roll Call vote #:1

**2023 SENATE CONFERENCE COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. SB 2345 as reengrossed

Senate Human Services Committee

- Action Taken**
- SENATE accede to House Amendments**
 - SENATE accede to House Amendments and further amend**
 - HOUSE recede from House amendments**
 - HOUSE recede from House amendments and amend as follows**
 - Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Representative M. Ruby Seconded by: Representative Beltz

Senators	4/21 PM		Yes	No	Representatives	4/21 PM		Yes	No
Lee, Chair	X		Y		M. Ruby, Chair	X		Y	
Hogan	X		Y		Beltz	X		Y	
Dever	X		Y		Davis	X		Y	
Total Senate Vote			3		Total Rep. Vote			3	

Vote Count Yes: 6 No: 0 Absent: 0

Senate Carrier Hogan House Carrier Davis

LC Number 23.1086 . 07003 of amendment

LC Number 23.1086 . 09000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Insert LC: 23.1086.07003
Senate Carrier: Hogan
House Carrier: Davis

REPORT OF CONFERENCE COMMITTEE

SB 2345, as reengrossed: Your conference committee (Sens. Lee, Hogan, Dever and Reps. M. Ruby, Beltz, Davis) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ page 1702, adopt amendments as follows, and place SB 2345 on the Seventh order:

That the House recede from its amendments as printed on page 1702 of the Senate Journal and page 1957 of the House Journal and that Reengrossed Senate Bill No. 2345 be amended as follows:

Page 1, line 3, after the semicolon insert "to amend and reenact subsection 4 of section 43-41-09 of the North Dakota Century Code, relating to the licensure of social workers;"

Page 2, after line 10, insert:

"SECTION 2. AMENDMENT. Subsection 4 of section 43-41-09 of the North Dakota Century Code is amended and reenacted as follows:

4. ~~Approve examinations for licensing~~License social workers. The board may:
 - a. Suspend the use of an examination for licensure.
 - b. Waive examination requirements and create a process under which an applicant may apply for a waiver to licensure examination requirements.
 - c. Create alternative requirements that do not require an examination to ascertain the qualifications and fitness of a candidate for a license to engage in the practice of social work.

Renumber accordingly

Reengrossed SB 2345 was placed on the Seventh order of business on the calendar.

TESTIMONY

SB 2345

Senate Human Services Committee
Senate Bill 2345 – January 30, 2023
Testimony of Rachel Sinness, P&A Legal Director

P&A protects the human, civil and legal rights of people with disabilities. The agency's programs and services seek to make positive changes for people with disabilities where we live, learn, work and play.

P&A provides neutral testimony regarding SB 2345 relating to the task force on guardianship monitoring to promote the accountability of all guardians. We understand the necessity of an improved system for people in need of guardianships, and we are aware of issues related to the shortage of qualified guardians for vulnerable individuals. Many of the issues we have encountered involve a guardian not acting in accordance with the least restrictive form of intervention standard. We have also seen guardians and caregivers engage in financial exploitation of persons subject to guardianship.

Section 1 of SB 2345 provides that the task force on guardianship monitoring must include representatives from the guardianship monitoring program and protection and advocacy project and individuals representing guardianship service providers, family guardians, district court judges, and attorneys. While we're in favor of ensuring appropriate and responsive care of vulnerable individuals, P&A is subject to federal rules and regulations prohibiting it from providing a duplication of services. P&A wants to ensure that the efforts proposed in SB 2345 are not duplicative of those efforts already being made by the Guardianship Monitoring Program, P&A, and other providers such as Vulnerable Adult Protective Services.

SB 2345
Senate Human Services Committee
January 30, 2023
Testimony of Sally Holewa

Chair Lee and members of the committee, for the record, my name is Sally Holewa. I am the state court administrator.

SB 2345 is a bill to create a task force under the Supreme Court to work on issues related to guardianship accountability and to provide funding for the PASS program for professional guardians and the guardianship program for the developmentally disabled.

Since 2013, the Supreme Court has had a Guardianship Standards Workgroup. This is an interdisciplinary group that is charged with making recommendations to improve the protections for persons under guardianship or conservatorship. Attachment A is a summary of the progress that has been made based upon the recommendations of that group. In 2018, the Supreme Court created the Guardianship Monitoring Program. This program employs one individual who may conduct financial reviews and may contract with court visitors to meet with protected persons if there are concerns about their well-being. The program manager cannot accept referrals from outside entities or private individuals.

Section 1 of the bill creates a task force specifically to study issues related to the accountability of guardians and the investigative authority of the guardianship monitoring program. I believe this is a large enough topic that it warrants a separate task force. As recent events have shown, there is an urgent need to clarify

who may investigate allegations of wrongdoing and the process for responding to both pending and proven allegations. Section 1(1) lists who must be included on the task force. It is my suggestion that this list be expanded to include a representative from the Vulnerable Adult Protective Services division of the North Dakota Department of Health and Human Services and a representative from law enforcement.

Section 1(2) appears to require the task force to recommend that the guardianship monitoring program be expanded to include an investigator. I believe that it is premature to require an investigator position housed within the court system prior to the task force study being complete. It is possible, for example, that the task force may conclude that a better alternative is to strengthen the authority of those entities already authorized and trained to do investigations or to allow them to directly file reports with the court or to recommend statutory changes to clarify a judge's authority to suspend or remove a guardian prior to a final determination of wrongdoing. In other words, I would be reluctant to tie the task force to one solution without giving them the opportunity to fully study the issues.

Section 1(2)(c), page 2, line 5 appears to have a wording error where it refers to "... guardianship service provider managed by a guardianship investigator." I am not sure what the drafter intended that to be.

Section 2 authorizes funding and one FTE for the Supreme Court to hire an administrator for the guardianship monitoring program. We currently employ a program manager who, in the absence of an assistant state court administrator, is being temporarily supervised by the Family Law Mediation Program Manager. I do not believe we need an administrator specifically for this program. A better

resource would be an additional staff attorney who holds the guardianship portfolio. A staff attorney would have the necessary research and analytical skills to understand the complex relationship between state and federal laws and be able to provide the task force with information and recommendations necessary to complete the requirements of Section 2 of the bill. To hire a staff attorney we would need to have an appropriation of \$288,988. This would include \$276,498 for salary and wages and an additional \$12,500 for furniture, equipment, IT costs, supplies, travel and professional development.

As a member of the PASS oversight committee, I have seen first-hand how thinly stretched that program and the DD program are and I strongly support the increased funding for both that is proposed under section 3 and section 4 of the bill.

With the suggested amendments, I urge a do pass on SB 2345.

ATTACHMENT A – Summary of Guardianship Standards Workgroup Initiatives

2013 – Guardianship Standards Workgroup formed

2015 Legislative Session

- Added additional information that must be provided in the petition for guardianship including information about the ward’s current physical and mental health.
- Clarified the role of the guardian ad litem and added a requirement for them to file a report.
- Included a provision requiring the court to consider reports from the guardian ad litem, visitor, and doctor and made the reports of the visitor and doctor confidential.
- Gave the guardian 90 days after appointment to file a beginning inventory.
- Put in place the 5 year review of guardianships to determine if any changes need to be made.
- Required additional information be contained in the annual report filed by the guardian.

2016

- Administrative Order 22 adopted to provide the process for the guardianship reviews.

2017 Legislative Session

- The big changes for guardianships were:
 - Requires petition for guardianship to state if the proposed guardian wants to restrict rights of the ward.
 - Adds some additional duties for the guardian ad litem and visitor to provide explanation to the ward and providing more information to the court.
 - Expanded the group of medical professionals who could provide a report regarding the incapacity of the ward.
- The big changes for conservatorships were:
 - Requiring more information in the petition.
 - Making the statutes more similar to the guardianship statutes so that the guardian ad litem and visitor provide more information to the court.
 - Requiring the conservator to file annual reports and requiring 5 year reviews of the conservatorship by the court.

2017

- Administrative Order 23 adopted to provide the process for the conservatorship reviews.

2018

- Administrative Order created the Guardianship Monitoring Program. Judges can refer cases to the program when they have concerns about the ward's finances or well-being. The program manager can also do random reviews. A report is filed with the court and the judge can take action as needed.
- Administrative Rule 59 requires completion of the online guardianship training program for each individual serving as a guardian. It also provides the qualifications required for nonprofessional and professional guardians.

2019 Legislative Session

- Guardianships of minors/juveniles overhauled. Only uncontested guardianships of minors appointed in a will remain in probate court. All others must begin in or be sent to juvenile court.
- The process in the juvenile code is much more detailed than what previously existed.
- Added 3 year reviews of guardianships of minors/juveniles. The court can do the reviews more often if needed.

2021

- Administrative Order 34 adopted the process for the review of minor guardianships.
- Administrative Rule 59 amended to require individuals working as guardians for a guardianship business to provide the same criminal background information as nonprofessional guardians have to provide. Added certain crimes that would prevent someone from being a guardian.

2021 Legislative Session

- Made it clear that a judge can require a guardian to get a bond to protect the ward's assets if the judge thinks it's needed.
- Added a section to the guardianship chapter allowing a guardian to prevent others from contacting the ward if it's in the ward's best interests. Also provides a procedure for the person prevented from contacting the ward to challenge the restrictions.
- Added a section to require a guardian to get the judge's approval before selling the ward's personal possessions (if value is over \$2500) or the ward's land (any amount).

Testimony

SB 2345- Human Services Committee

Senator Lee and Members of the Human Services Committee,

My name is Sargianna Wutzke and I am the Lead Operations Officer for Community Options, a state wide agency that provides services to individuals with developmental disabilities. I am testifying in support of SB 2345.

As a developmental disabilities' provider, we have many individuals who have guardians who oversee the financial, medical, residential, educational, vocational and legal areas of their lives. Over 80% of the individuals we support in our residential programs have guardians. These levels of guardianship range from limited to full in a variety of guardianship areas catered to each individual's needs. I think that a task force for monitoring is needed to ensure accountability for the role of a guardian and to ensure that the individual who receives guardianship is protected.

There is a thorough process in place to appoint a guardian however there is not a detailed process to review guardianship once it is in place. I do not believe that there is the same level of thoroughness in the process to ensure that guardian is still appropriate. Unfortunately, there have been situations that have occurred where guardians have exploited individuals with developmental disabilities. In particular, there has been an increase in cases of financial exploitation of individuals with developmental disabilities by their guardians. For one of our most vulnerable populations, I encourage you to pass SB 2345 assisting in another level of accountability for those making many decisions for those who struggle to make them for themselves.

Sargianna Wutzke

Senate Human Services Committee

Testimony on Senate Bill 2345

Senator Judy Lee – Chairman

January 30th, 2023

Chairman Lee and members of the Senate Human Services 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 have been a guardianship worker and/or director for more than 33 years at Catholic Charities North Dakota. I am respectfully asking your committee to approve funding as detailed in my testimony for corporate guardianship services for people with intellectual disabilities. The funding would have an immediate impact on reducing the waiting list for services and decrease the time that a person must wait for corporate guardianship services. The funding would also ensure that we would be able to provide quality services as this is at risk because of the significant deficit spending that corporate guardianship is experiencing.

For more than 35 years, the Developmental Disabilities (DD) Division has contracted with Catholic Charities ND to provide guardianship services on behalf of adults with intellectual disabilities. Since 1987, we have served as guardian for more than 1,000 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, a 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. Most referrals tend to fall into one of three categories: the person is at risk of harm or experiencing a medical crisis and has no family or friends to serve as guardian; families are not wanting to be guardian because the needs of their son, daughter, brother or sister have burned them out and are more than they can manage; or family may be the ones exploiting the person financially or abusing the individual physically or sexually. There are 112 people on the waiting list at this time.

On any particular day, a guardianship worker may be assisting an individual on their caseload in finding housing after they have been evicted for the 4th time in a year for allowing strangers to stay at their apartment; helping a person work through a diagnosis of a serious or life threatening medical condition which carries the responsibility of being the decision maker for these difficult medical decisions; spending countless hours working with credit card companies after a person has racked up huge credit card bills; accessing and maximizing the benefits that an individual receives – hours are spent on completing applications for housing, Social Security, food stamps, etc.; finding and accessing psychiatric services when a person is experiencing mental health struggles (more than 74% of the individuals on our caseload receive the services of a psychiatrist); monitoring and reporting any incidents of suspected abuse, neglect and/or exploitation; assisting an individual in obtaining restraining orders against abusive boyfriends or girlfriends or sexual predators. We are available 24 hours per day/365 days per year for emergencies or crises through our on-call system.

We are currently serving as guardian for 504 individuals who live throughout the state of North Dakota. We have 15 guardianship workers who carry an average caseload of 34 people. Our guardianship workers must have a four year degree and be either a licensed social worker or a Qualified Developmental Disabilities Professional (QDDP). They often travel 50 to 140 miles one way to visit each person on their caseload, attend team meetings, court hearings and attend medical appointments. Our guardianship workers' duties and responsibilities typically include the following: determining the individual's living arrangements; assuring that the person's medical needs are met and providing consent for all medical procedures, surgeries, treatments, medications, end of life decisions, etc.; arranging and authorizing educational and vocational opportunities; legal decision making; and making financial decisions as well as overseeing the individual's assets and social security benefits.

Our daily pay rate of \$8.56 per day/per individual works out to 36 cents per hour. Imagine making crucial decisions on chemotherapy options for a person for 36 cents per hour or receiving a call at 2am to provide consent for emergency brain surgery because a person fell and pressure on the brain needs to be relieved or helping the person make end of life decisions for 36 cents an hour or helping an individual find a new apartment after the 4th eviction or making funeral arrangements for a person for no cents per hour as we do not get paid for any services once the person passes away. The provision of guardianship services is complex, extremely challenging

and rewarding. We truly need an adjustment to our daily rate to be able to continue this very important work.

We are currently funded to serve 499 individuals at a daily rate of \$8.56 per person. We are significantly underfunded and we are deficit spending by thousands of dollars each month. This is not sustainable.

- From 7/1/21 to 6/30/22, corporate guardianship had a deficit of -\$63,882
- From 7/1/22 to 12/31/22, corporate guardianship has a deficit of -\$65,318
- Needed daily rate to cover the actual cost of services (before a cost of living increase) is \$10.30 per day
- Daily rate with 5% cost of living increase for the first year of the biennium would be \$10.82; daily rate with a 5% cost of living increase for the 2nd year would be \$11.36
- Requesting funding for 30 additional slots to reduce the waiting list of 112 people
- Requesting additional funding for petitioning costs for the 30 new cases - \$75,000 (currently funded for \$125,195 – this would bring the total to \$200,195)

Current appropriation for corporate guardianships services for 499 people with intellectual disabilities	\$3,239,704
Funding for corporate guardianship in Governor’s budget	\$3,679,797
Total funding needed for 529 people with intellectual disabilities (includes 30 new slots; \$200,195 petitioning costs – includes additional \$75,00 for petitioning costs for 30 new slots; daily rate of \$10.82 for 1 st year; daily rate of \$11.36 for 2 nd year)	\$4,488,544
Difference between Governor’s budget request for Corporate Guardianship and the true needs of Corporate Guardianship	\$808,747

We are respectfully asking your committee to increase the appropriation in SB 2012 for corporate guardianship services to \$808,747 (this is an \$808,747 increase from the amount allocated in the Governor’s budget).

SB 2345 also addresses the very critical need for increased guardian accountability. Many if not all guardianship service providers support the creation of a task force to develop the necessary steps to improve guardian accountability which would in turn offer improved protections for

vulnerable adults. Guardianship service providers also agree that enhancing the already existing Guardianship Monitoring Program within the North Dakota State Court is one route to improve guardian accountability. This bill would give the Guardianship Monitoring Program the needed tools to increase its capacity to investigate at a deeper level suspected guardian mismanagement or suspected guardian illegal behavior, upon receiving an order from the court. Increased capacity would be achieved by adding one full-time Guardian Monitor/Investigator who has a background related to guardianship services, financial management and training in the area of investigating allegations of neglect, abuse and exploitation of a vulnerable adult. The creation of the task force would bring the key partners in this endeavor to the table which will result in a clear plan of action to improve guardian accountability. In looking at SB 2345, I would respectfully request that Vulnerable Adult Protective Services be added as a member of the task force as their input will be essential in coming up with the best solutions possible.

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

Testimony Prepared for the Senate Human Services Committee

RE: Senate Bill 2345 – Guardianship Monitoring / Guardianship Funding

January 30, 2023

Testimony of Scott Bernstein, Executive Director of Guardian and Protective Services, Bismarck

Chair Lee and members of the committee, thank you for this opportunity to present pertinent information regarding Senate Bill 2345. I am Scott Bernstein, Executive Director at Guardian and Protective Services here in Bismarck. As an agency, we provide public guardian services to many clients in the western half of North Dakota. Most of our clients are below the poverty line so our services are supported through the PASS funding.

The information I am presenting here is essentially the Cliff Note version of a more detailed look at the guardian crisis, the necessary funding and the implications of the various possible decision options.

However, let's take a quick look at the Cliff Note Summary of SB 2345.

SECTION 1: A NEW CHAPTER TO TITLE 27...This is regarding the formation of a task force on guardianship monitoring.

Essentially, the focus of the new section is to authorize a study that will determine appropriate ways to implement balanced accountability. Where protected persons and public money are involved there should be accountability. As an agency we want to provide our service with the highest degree of integrity. What that accountability should look like in practice needs to be studied and developed so it in fact can provide workable accountability. Workable for those providing the service and workable for those that will be in the position of managing the accountability. So we welcome this study. I think it is fair to say that you will find nearly universal agreement from Guardian Providers.

SECTION 2. APPROPRIATION - JUDICIAL BRANCH - FULL-TIME EQUIVALENT POSITION.

This is beyond my scope because I am not in the position to do hiring for the State. However, it appears logical that if you are going to implement monitoring guardianship it will require someone to administer that monitoring. However, will it take one FTE? We don't know.

SECTION 3. APPROPRIATION - OFFICE OF MANAGEMENT AND BUDGET - GUARDIANSHIP SERVICES.

This is where the rubber meets the road. It is also the focus of my longer submitted testimony. Quite simply, if the appropriation we are requesting isn't approved, SECTION 1 and SECTION 2 are of little or no practical value, meaning or relevance.

Why am I here today? I have come to speak for those who find it difficult to speak coherently for themselves. When the Court makes the difficult decision to remove the rights from an individual and suddenly that individual becomes a PROTECTED PERSON – you need a guardian. There is no other option. It's like you went swimming lost your suit and the tide went out. Suddenly, you're naked and vulnerable. You need someone to come to your rescue – a guardian. What if there are no family members, relatives or friends who want to assume this huge guardianship responsibility. Then PUBLIC GUARDIANS, are the only option to serve the PROTECTED PERSON. Every day, my team and I triage the requests that come in. The only right answer is "YES, WE WILL BE THE GUARDIAN. But we can't always say "yes" ... sadly, we must say "no".

As Public Guardians we need just two things that will enable us to turn NO into YES!

1. As Public Guardians we need you to understand we have a passion to serve, to say "YES" and serve with integrity.
2. To turn NO into YES we need a boost in the PASS Funding that allows a reimbursement of \$20 a day.

Every day guardians are making decisions, some as simple as where to get eyes checked and others as significant as determining if this the time to discontinue treatment and transition a protected person into hospice. We make these decisions based on the best practices as outlined by the National Guardian Association. Guardianship has had some mud splattered on it this past year. It's criminal, embarrassing and for hardworking self-sacrificing guardians that are doing the right thing every day – absolutely disheartening. Guardians, on a good day wrestle with burnout. Clients are not always very appreciative...now imagine you can't hold your head up with a degree of dignity and claim you are a guardian. Many have silently worked hard for years with integrity. They need to know what they do matters.

And we need your support in raising the daily rate. We need to hire staff to meet the existing and growing need. I had a staff member this past week make this simple statement. "We can't continue working 60-70 hours a week. When will we be able to hire someone to help?"

The answer is simple. When we have money. We are a remarkable return on investment. That is in my detailed testimony. Dollars are saved in our healthcare system when the emergency room is no longer the walk-in clinic. Hospital beds are opened because a person is deemed safe for discharge. The comprehensive study of Guardianship in Florida clearly shows that money invested in guardians produces a multimillion dollar return on investment in both tangible and intangible ways. Details are in my comprehensive testimony.

The funding we receive will allow us to say "YES" more often because we can hire and expand our services.

This partnership is similar to the partnership the State has with the Alzheimer's Association. We partner with the State in fulfilling our role of restoring dignity to protected persons and strive to create a State that is safe, just and inclusive for all.

Thank you!

Guardianship SB 2345

Bill Introduced by Senators Hogan & Lee

Good morning Chair Lee and members of the committee. I am Scott Bernstein, the Executive Director of Guardian and Protective Services. We are located in Bismarck and considered to be the main provider of Public Guardian Services covering the western half of the State. As you might imagine, this requires driving many miles to meet with the clients we serve.

By way of reminder: Guardians are appointed by the Courts as provided for in the Century Code.

Presently, PASS (Public Administrators Support Services) provides a per diem rate of \$10.00 a day (max \$300 a month) to private individuals and agencies that serve as Public Guardians for indigent adults.

This money is reimbursed to an agency/private individual through the North Dakota Association of Counties. The NDACo does not receive any compensation for this service.

Since 2013, the legislature has appropriated General Funds in the OMB for distribution to private agencies and private individuals that serve as Public Guardians. (This does not include individuals served under the Developmental Disabilities (DD Waiver) as their guardians are contracted and funded through DHS and Catholic Charities North Dakota is the provider of these services.

- Current biennial funding supports a **\$10/day per protected person stipend** to persons and not-for-profit entities that are ordered by the State Court to serve these vulnerable individuals. **The caseload has grown from 314 to 443 over the first 18 months of this biennium. With an average net growth of 5 per month, the caseload is projected to reach 478 by the end of this biennium.** The current appropriate amount (\$2,450,000) will be insufficient to meet THIS biennium's need.
- **The Executive Budget for OMB recommends flat funding for 2021-25 resulting in:**
 - Caseloads being immediately frozen and reimbursed cases dropped by 5 per month until the total number of cases is under 400 **leaving 200+ incapacitated adults without guardian services.**
 - Present projections of 5 new wards per month for the upcoming biennium will increase the number of **cases by June of 2025 to 600.**

PASS funding request breakdown:

\$20 per day for 481 PASS clients plus 115 new slots at 5 new clients each month	\$7,754,400
21-23 biennium deficit	\$292,374
Total appropriation needed 7/1/23 to 6/30/25	\$8,046,774
Current appropriation	\$2,450,000
Total increase needed for PASS next biennium	\$5,596,774

Keep in mind...currently providers are running deficits. If it were not for Grants, Corporate Donations and individual donors. I would not be standing here talking to you today. All of these are unpredictable forms of revenue. The other day, we received a grant from the Otto Bremer Trust. I had applied for \$146,000 to help us increase our staffing to better serve rural North Dakota. We received \$65,000. We are immensely grateful for this grant and their commitment to North Dakota. This is the largest grant we have ever received from Bremer. It is also a rare grant because it can be applied toward operational expenses. Most grants are project specific and more and more of those 'projects' are following social trends focusing on issues of 'equity', 'the environment', etc. It is very challenging to match many grant specifications to court appointed guardianship.

REASONS FOR INCREASED NEED FOR GUARDIANSHIP

- | | | |
|--------------|---------------------|---------------------|
| Dementia | Chemical Dependency | Physical Disability |
| Brain Injury | Mental Illness | Abuse/Exploitation |

Public Guardianships are a critical support for our most vulnerable North Dakotans. A Guardian’s ability to monitor and represent their protected persons not only benefits protected persons, but serves the hospitals, clinics and nursing homes where critical medical decision-making cannot take place for a protected person without a legally appointed guardians.

NORTH DAKOTA SNAP SHOT

At the end of 2022 there were 3,362 active guardianships of adults.

In September of 2022 there were 2,299 cases with non-professional guardians and 1,052 cases with professional guardians.

DECISION IMPLICATIONS

1. Leave the rate where it is.
 - Present agencies will close due to insufficient funds OR
 - Present agencies will need to drastically reduce the number of clients served by cutting existing staff.

2. Determine working with a public/private partnership is **not** in the State's best interest, defund PASS and establish a State run agency, with State employees as guardians and financial workers. Referred to in some States as the Office of Public Guardianship. The operational budget, per protected person would far exceed the \$20 per diem per protected person rate we are requesting. IT FAR EXCEEDS THE \$10 per diem we are presently paid through PASS.
 - a. The State would need to hire, with benefits, a minimum 40 FTE Case Managers to visit clients (the recommended ration is 1:20). The State would need to hire 35 FTE Financial Workers to process Medicaid, SNAP, Medicare, Insurance, EBTs, check processing, to name just a few items.
 - b. The Guardian services would have to cover the State because travel would be involved with the likelihood of acquiring State owned vehicles or paying mileage and lodging reimbursements.
 - c. Remote access would have to be set up for all these employees to work from home and maintain HIPPA compliance.
 - d. Computers and appropriate software, along with other office equipment would need to be purchased.
 - e. These are just the obvious items expenses.

3. The last rate increase recommended in 2013 was \$14.00 a day. If that amount had been approved the calculated rate of inflation over the last 10 years would put the per diem rate at over \$20.00 a day. However, the legislature approved \$10 a day.

4. Increase the per diem rate to \$20 a day. This will allow agencies to compete in the marketplace for competent staff, increase case-loads to manage projected growth, and expand services. This by no means covers the total expenses of an agency. All agencies will still be dependent upon unpredictable funding streams like grants, fund raisers and donors.

The State of Florida commissioned a study of guardianship and the findings were submitted in 2019. Florida utilizes a similar approach – contracting with 17 agencies cross the State. “These agencies served a total of 3,846 ‘wards’. Thoroughly documented tangible and intangible cost savings by all programs showed substantial cost savings to the state – more than 3 ½ time the amount allocated – or **\$29,039,986.24** for ONE year. If the agencies were provided with stable (full funding to cover their actual expenses) they would still produce a cost savings to the State of Florida of **\$14,311,954.93.”**

Guardians save the State of North Dakota and healthcare, housing and other public services, money every day!

PASS IS ONLY THE TIP OF THE GUARDIANSHIP ICE BERG

- North Dakota Long Term Care indicates there are 81 people in SNF’s in need of guardians.
- Department of corrections reports there are older ‘inmates’ people who have been eligible for parole two years or longer but they cannot be paroled until there is a guardian in place.
- Hospitalized patients that have been deemed unsafe for discharge have been hospitalized for as long as NINE months for no medical reason because there was no guardian available.
- The Alzheimer’s Association statistics on the increase of all forms of dementia has increased the need for guardians. The projected number of North Dakotans with Alzheimer’s by 2025 is 16,000. If only 5% need a guardian Guardianship will be required to serve 800 more people in two years. We are now seeing ‘care-givers’ who need guardians because they are no longer cognitively competent to make good decisions regarding care.
- Homeless shelters are housing people who need or are waiting for guardians.
- Guardian agencies have waitlists and meet weekly with other agencies to determine how and who will take the most desperate cases.
- Judge Feland, working under directions from the State Supreme Court, formed a Guardianship Working Group. Part of the objective was to solve the guardian shortage because Courts are ordering guardianship with

no available guardians. Judge Feland was looking at a State funded Guardianship Commission that would try and manage placement of cases.

- Agency Guardians are managing at many at 40 – 50 protected persons while the National Guardian Association recommends a 1:20 ratio. Because North Dakota is rural many guardians are driving 100 to 300 miles round trip to visit a protected person.

Guardians are a remarkable example of how a small expenditure in a public/private collaboration can reap a huge return on investment. Not only are dollars saved, offsetting the investment, but the quality of life in communities across the State reaps a huge reward.



2023 SENATE BILL 2345
Senate Human Services Committee
Senator Judy Lee, Chairman
January 30, 2023

Chairman Lee and members of the Senate Human Services Committee, I am Tim Blasl, President, of the North Dakota Hospital Association (NDHA). I provide this testimony in support of Senate Bill 2345 and ask that you give this bill a **Do Pass** recommendation.

Hospitals support the funding of grants for indigent guardianship services and efforts to increase the reimbursement rate and number of corporate guardians. When a hospitalized patient is unable to make health care decisions for himself and does not have anyone qualified to make decisions for him, the patient can unfortunately be stuck in a hospital bed long after discharge should have happened. In a perfect world, the process of securing a guardian for a vulnerable individual would take a few days to a week. Currently, however, the process takes an average of 30-90 days. In some cases, it is much longer.

These situations present many challenges for the patient and the hospital. When the patient is ready for discharge, but is waiting for guardianship services, the bed is not available for another patient who needs it. While the patient remains in limbo, there is no one to instruct the hospital in care decisions. Hospitals cannot employ or choose guardians directly because the guardian could be viewed as lacking the necessary independence to make decisions, as required by law. They must rely on the patient’s family and friends or, if none are willing or able to serve, a corporate guardian, to initiate the process and serve.

By better funding indigent and corporate guardianship services, SB 2345 addresses these barriers and takes the right step toward more efficiently connecting vulnerable patients to the services they need.

Please give the bill a **Do Pass** recommendation. Thank you for your time.

Respectfully Submitted,
Tim Blasl, President
North Dakota Hospital Association

Testimony Prepared for the
Senate Human Services Committee

January 30, 2023

By Audrey Uhrich, Guardian Angels, vice president GAND

RE: Senate Bill 2345 – Guardianship Monitoring / Guardianship Funding

Chair Lee and members of the committee, thank you for this opportunity to present the facts concerning the crisis with guardianship in our state. I am Audrey Uhrich, vice president of the Guardian Association of ND and professional guardian on staff at Guardian Angels.

Public (professional) guardians are court appointed to be decision makers for vulnerable adults who:

- Have no family OR
- Family is not appropriate to serve due to their own health issues; the case is too complex for family members; or family members may have exploited the vulnerable person.

Once appointed a guardian can:

- Review an individual's finances, apply for appropriate benefits – SSDI, SNAP, M/A, etc.
- Address the care, medical, and housing needs of the individual. Monitor all services being received to ensure needs are being met and make changes as their condition changes.
- Attend medical appointments, care conferences, consult with medical providers, and make important medical decisions as needed (cancer treatments, surgical decisions, hospice, etc.).
- Be available 24/7 for all emergent needs.

Without public guardians, vulnerable adults without legal decision makers:

- May stay home in unsafe situations because they are unwilling to accept services.
- May use the Emergency Room, for health issues instead of following up with a provider.
- Are hospitalized longer as there is no legal decision maker to authorize a safe placement.
- May reside in nursing homes sooner because of inconsistent self-care, inadequate medical follow-up, or noncompliance with prescriptions.

Currently, there are not enough public/professional guardians due to insufficient funding. Vulnerable adults may

- be unsafe and being financially exploited.
- remain in terrible situations because they have no decision maker to advocate for them, stop exploitation, and find a safe setting for them.

Guardians are an essential piece in the continuum of care for vulnerable adults in our state. This work is difficult, challenging, exhausting, and rewarding. We want to continue but we need financial support.

We're asking for your support to increase funding in the OMB budget and DHHS and create a task force of guardianship monitoring to ensure quality guardianship services to vulnerable adults.

January 30th, 2023
From: Gabriela Balf, MD, MPH
Re: In Support of SB 2345

Madam Chair Lee, esteemed Committee Members,

My name is Gabriela Balf, I am a psychiatrist in Bismarck and ND Psychiatric Society member, and I testify on my behalf.

It was my honor to work on the Guardianship Task Force on the team lead by Judge Cynthia Feland and others and I am pleased to see that the efforts have led to the writing on these bills.

I have seen the most vulnerable members of our society protected by responsible people, who work alongside the medical team for the improvement of our patients. They are knowledgeable of the medical and psychiatric inpatient workflows, of the criteria for admission inpatient and at the State Hospital, they respond promptly when the emergency room and the inpatient team calls them with updates and, overall, caring for these patients who cannot make decisions on their own behalf due to the severe nature of their illness goes smoothly, no different from how it goes for patients with caring family members.

And, rarely, I have seen guardians who are not familiar with the processes described above, and sometimes not even with the patients themselves, who leave the hospital team hanging for days, unable to advance the care of the patient, subjecting the patient and the hospital to unnecessary stay and costs and, frankly, deprivation of the freedom of the patient. Besides frustration and costs, besides anguish for someone who already is disadvantaged, we physicians cannot do anything rapidly to advocate for our patient.

I salute this bill, the goal of which is to educate and monitor the guardianship system.

I urge you to give a **DO PASS** recommendation for the **SB 2345**.

Thank you for your time and I stand for questions.



Gabriela Balf

Clin Assoc Prof UND Psychiatry and Behavioral Science

TESTIMONY SB 2345
Senate Human Services
January 20, 2023
Senator Kathy Hogan

Madam Chair and Members of the Human Services Committee, for the record my name is Kathy Hogan and I represent District 21.

SB 2345 is a bill that was worked on during the interim regarding Guardianship Services particularly increasing both monitoring and funding for these essential services. Over the last 25 years, the need for a more formal Guardianship infrastructure has become increasingly evident. As more vulnerable individuals, general elderly or seriously disabled, need assistance in making critical life decisions (financial and medical) and help in accessing needed services, the demand for private guardianships is increasing as has the amount of time court appointed guardians are expected to serve.

Fifty years ago, this function was primarily assigned to a county court appointed official called a public administrator. At that point in time, they typically spent 1 or 2 hours/month helping people without family in basic times like taxes, paying bills or finding housing. The roles and standards for guardianships have significantly increased without having increased funding.

With the ARC lawsuit settlement, a critical corporate Guardianships structure was established to provide those individuals with intellectual disabilities with this service. Catholic Charities of ND has managed that system for almost 30 years, but has consistently had waitlists because funding has been inadequate. Other elderly and disabled individuals have used a range of local/private options. Four years ago, we established a funding structure for those individuals that is coordinated through the NDACO's at no cost, but it also has not been able to meet the demand for service and current reimbursement levels are not adequate to cover costs for the services provided.

Finally, over the last 20 years there has been discussion regarding the role of the court in monitoring Guardianships regardless of their payment status, private, corporate, or non-profit. This bill supports and funds the Supreme Court to build a formal monitoring structure for all Guardianships. Over the decades we have had numerous complaints about abusive or exploitation by guardians and often investigating and addressing these challenges have been very limited.

Last week, the Senate passed SB 2224 which revised the basic framework for guardianship. This bill addresses the framework for provision of that service. The Guardianship team has reviewed and revised their initial costs and would like us to amend this bill to increase those costs. Their worksheet and number changes are attached.

Thank you for considering this critical bill and I would be more than willing to answer any questions.

23.1086.01000

Sixty-eighth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2345

Introduced by

Senators Hogan, Lee

1 A BILL for an Act to create and enact a new chapter to title 27 of the North Dakota Century
2 Code, relating to the task force on guardianship monitoring to promote the accountability of all
3 guardians; and to provide an appropriation.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** A new chapter to title 27 of the North Dakota Century Code is created and
6 enacted as follows:

7 **Task force on guardianship monitoring.**

- 8 1. The North Dakota supreme court shall establish a task force on guardianship
9 monitoring to address matters of guardianship accountability and further protections of
10 individuals under guardianship. The task force on guardianship monitoring must
11 include representatives from the guardianship monitoring program and protection and
12 advocacy project and individuals representing guardianship service providers, family
13 guardians, district court judges, and attorneys.
- 14 2. The task force shall recommend the regulations necessary to enhance the
15 guardianship monitoring program to investigate suspected guardian mismanagement
16 or illegal behavior. The regulations must include:
- 17 a. Appropriate certification, training, and background requirements for the guardian
18 investigator position relating to specialized training in guardianship services,
19 financial management, investigations involving allegations of neglect, abuse, and
20 exploitation of vulnerable adults, and training with the national guardianship
21 association's guardianship and conservator auditor and monitor investigator
22 program;
- 23 b. Procedures for investigating referrals from a judicial officer, the division of the
24 department of health and human services that oversees vulnerable adult

1 services, protection and advocacy, social workers, the ombudsman program, the
2 Medicaid fraud control unit, and any entity that oversees or provides services for
3 vulnerable adults;

4 c. Procedures relating to the investigation of a single guardian or an entire
5 guardianship service provider managed by a guardianship investigator; and

6 d. Any findings, recommendations, or improvements issued to the district court for
7 review.

8 3. The task force on guardianship monitoring shall make the recommendations under
9 subsection 2 to the supreme court. Upon receiving the recommendations, the supreme
10 court may adopt rules implementing the recommendations.

11 **SECTION 2. APPROPRIATION - JUDICIAL BRANCH - FULL-TIME EQUIVALENT**

12 **POSITION.** There is appropriated out of any moneys in the general fund in the state treasury,
13 not otherwise appropriated, the sum of ~~\$200,000~~^{288,998}, or so much of the sum as may be necessary,
14 to the judicial branch for the purpose of administering the guardianship monitoring program, for
15 the biennium beginning July 1, 2023, and ending June 30, 2025. The judicial branch is
16 authorized a full-time equivalent position to administer the guardianship monitoring program.

17 **SECTION 3. APPROPRIATION - OFFICE OF MANAGEMENT AND BUDGET -**

18 **GUARDIANSHIP SERVICES.** There is appropriated out of any moneys in the general fund in
19 the state treasury, not otherwise appropriated, the sum of ~~\$3,270,454~~^{5,588,314}, or so much of the sum as
20 may be necessary, to the office of management and budget for the purpose of providing grants
21 for indigent guardianship services, for the biennium beginning July 1, 2023, and ending
22 June 30, 2025.

23 **SECTION 4. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES -**

24 **GUARDIANSHIP SERVICES.** There is appropriated out of any moneys in the general fund in
25 the state treasury, not otherwise appropriated, the sum of ~~\$577,579~~^{808,747}, or so much of the sum as
26 may be necessary, to the department of health and human services for the purpose of
27 increasing the reimbursement rate and the number of corporate guardianships for individuals
28 that receive developmental disability program management services, for the biennium
29 beginning July 1, 2023, and ending June 30, 2025.

PASS funding request breakdown:

\$20 per day for 481 PASS clients plus 115 new slots at 5 new clients each month	\$7,754,400
21-23 biennium deficit	\$283,914
Total appropriation needed 7/1/23 to 6/30/25	\$8,038,314
Current appropriation	\$2,450,000
Total increase needed for PASS next biennium	\$5,588,314

Corporate Guardianship for Individuals with Intellectual Disabilities funding request breakdown:

- From 7/1/21 to 6/30/22, corporate guardianship had a deficit of -\$63,882
- From 7/1/22 to 12/31/22, corporate guardianship has a deficit of -\$65,318
- Current daily rate of services for 499 individuals is \$8.56
- Needed daily rate to cover the actual cost of services (before a cost of living increase) is \$10.30 per day
- Daily rate with 5% cost of living increase for the first year of the biennium would be \$10.82; daily rate with a 5% cost of living increase for the 2nd year would be \$11.36
- Requesting funding for 30 additional slots to reduce our waiting list of 107 people
- Requesting additional funding for petitioning costs for the 30 new cases - \$75,000 (currently funded for \$125,195 – this would bring the total to \$200,195)

Current appropriation for corporate guardianships services for 499 people with intellectual disabilities	\$3,239,704
Funding for corporate guardianship in Governor's budget	\$3,679,797
Total funding needed for 529 people with intellectual disabilities (includes 30 new slots; \$200,195 petitioning costs – includes additional \$75,00 for petitioning costs for 30 new slots; daily rate of \$10.82 for 1 st year; daily rate of \$11.36 for 2 nd year)	\$4,488,544
Difference between Governor's budget request for Corporate Guardianship and the true needs of Corporate Guardianship	\$808,747

Funding appropriation needed for the guardian investigator: \$288,998

SB 2345 asks for an appropriation of \$200,000 for the guardian investigator. Below is the information that I received from Sally Howela, State Court Administrator, as to the amount that is actually needed which is \$288,998.

Sally's response: I wouldn't be comfortable having someone serve as an investigator with the anticipated scope of authority unless they had a law degree. That would bring the cost up to \$288,998, which would cover the salary & wages plus the furniture, equipment and IT needs required when adding a new employee

Testimony Prepared for the
Senate Human Services Committee
 January 30, 2023
 By the North Dakota Association of Counties



RE: Senate Bill 2345 –Guardianship Monitoring Structure & 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.

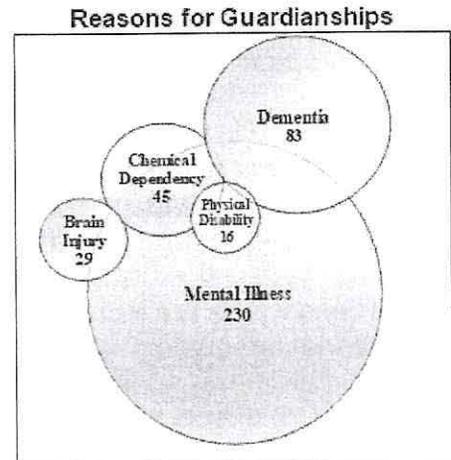
As the North Dakota's population of elderly and disabled individuals has grown, the number of those that lack resources has grown as well. This has steadily increased the need for public guardians.

- 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.

PASS Funds Projections

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
2022 June:	392	117,550
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
2023 June:	478	143,410
Estimated Funding Need		2,837,250
2019-21 Carry-In		103,336
2021-23 Approp		2,450,000
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
2024 June:	536	160,800	225,120	321,600
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
2025 June:	596	178,800	250,320	357,600
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		4,161,114	5,711,994	8,038,314

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PROPOSED AMENDMENT TO SENATE BILL NO. 2345

Page 1, line 11, after “program” insert “, the vulnerable adult protective services program”

Page 1, line 17, replace “the” with “a”

Page 2, line 4, after “Procedures” insert “to be followed by an investigator”

Page 2, line 5, remove “managed by a guardianship investigator”

Page 2, line 9, after “court” insert “and other appropriate agencies”

Page 2, line 14, replace “administering the guardianship monitoring program” with “assisting the task force in its duties”

Page 2, line 16, replace “to administer the guardianship monitoring program” with “to staff the task force”

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<<<<< ACTUAL | PROJECTED >>>>>

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December:	506	151,800	212,520	227,700	303,600
January:	511	153,300	214,620	229,950	306,600
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Total Approp. Needed		4,161,114	5,711,994	6,099,714	8,038,314

Testimony

SB 2345- Human Services Committee

Representative Weisz and Members of the Human Services Committee,

My name is Sargianna Wutzke and I am the Lead Operations Officer for Community Options, a state wide agency that provides services to individuals with developmental disabilities. I am testifying in support of SB 2345.

As a developmental disabilities' provider, we have many individuals who have guardians who oversee the financial, medical, residential, educational, vocational and legal areas of their lives. Over 80% of the individuals we support in our residential programs have guardians. These levels of guardianship range from limited to full in a variety of guardianship areas catered to each individual's needs. I think that a task force for monitoring is needed to ensure accountability for the role of a guardian and to ensure that the individual who receives guardianship is protected.

There is a thorough process in place to appoint a guardian however there is not a detailed process to review guardianship once it is in place. I do not believe that there is the same level of thoroughness in the process to ensure that guardian is still appropriate. Unfortunately, there have been situations that have occurred where guardians have exploited individuals with developmental disabilities. In particular, there has been an increase in cases of financial exploitation of individuals with developmental disabilities by their guardians. For one of our most vulnerable populations, I encourage you to pass SB 2345 assisting in another level of accountability for those making many decisions for those who struggle to make them for themselves.

Sargianna Wutzke

**TESTIMONY SB 2345
House Human Services
March 8, 2023
Senator Kathy Hogan**

Chairman Weisz and Members of the Human Services Committee, for the record my name is Kathy Hogan and I represent District 21.

SB 2345 is a bill that was worked on during the interim regarding Guardianship Services particularly increasing both monitoring and funding for these essential services. Over the last 25 years, the need for a more formal Guardianship infrastructure has become increasingly evident. As more vulnerable individuals, general elderly or seriously disabled, need assistance in making critical life decisions (financial and medical) and help in accessing needed services, the demand for private guardianships is increasing as has the amount of time court appointed guardians are expected to serve.

Fifty years ago, this function was primarily assigned to a county court appointed official called a public administrator. At that point in time, they typically spent 1 or 2 hours/month helping people without family in basic items like taxes, paying bills or finding housing. The roles and standards for guardianships have significantly increased without having increased funding.

With the ARC lawsuit settlement, a critical corporate Guardianships structure was established to provide those individuals with intellectual disabilities with this service. Catholic Charities of ND has managed that system for almost 30 years but has consistently had waitlists because funding has been inadequate. Other elderly and disabled individuals have used a range of local/private options. Four years ago, we established a funding structure for those individuals that is coordinated through the NDACO's at no cost, but it also has not been able to meet the demand for service and current reimbursement levels are not adequate to cover costs for the services provided.

Finally, over the last 20 years, there has been discussion regarding the role of the court in monitoring Guardianships regardless of their payment status, private, corporate, or non-profit. This bill supports and funds the Supreme Court to build a formal monitoring structure for all guardianships. Over the decades we have had numerous complaints about abusive or exploitation by guardians and often investigating and addressing these challenges have been very limited.

Originally this bill included funding for both corporate Guardianships and the PASS program. In the Senate, those costs were moved to the DHHS and OMB appropriations.

The Senate passed SB 2224 which revised the basic framework for the Guardianship Monitoring Program. This bill addresses the framework for provision of that service. Thank you for considering this critical bill and I would be more than willing to answer any questions.

House Human Services Committee

Testimony on Senate Bill 2345

Representative Robin Weisz – Chairman

March 8th, 2023

Chairman Weisz and members of the House Human Services 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 asking your committee to support SB 2345 as it relates to the creation of a task force on guardianship monitoring to promote the accountability of all guardians.

Among guardianship service providers, nothing is more devastating than a professional guardian, guardianship service provider or family guardian providing poor, unethical or criminal care of a person who is incapacitated.

Currently, there are some protections in place. In an effort to ensure that guardians are qualified to provide guardianship services on behalf of a person who is incapacitated, the North Dakota Supreme Court has implemented Administrative Rule 59. In part, Rule 59 requires that the proposed guardian submit a criminal background check and an affidavit to the court stating whether the proposed guardian has been investigated for offenses related to theft, fraud, or the abuse, neglect, or exploitation of an adult or child. Also, Rule 59 requires that all professional guardians either be certified guardians through the Center for Guardianship Certification (CGC) or their guardianship program must be accredited by the Council on Accreditation. In addition, the North Dakota State Court has the Guardianship Monitoring Program which investigates specific guardianship cases upon order of the court. Additional protections include existing programs such as Vulnerable Adult Services, Protection and Advocacy, North Dakota Social Work Examiners, the Ombudsman Program and the ND Medicaid Fraud Unit as possible options to investigate reports of neglect, abuse and exploitation.

While Rule 59, the Guardianship Monitoring Program, and investigative programs such as Vulnerable Adult Services and Protection and Advocacy, etc. have had a positive impact towards ensuring that only ethical, responsible and skilled guardians are appointed, a significant concern

has arisen because it may take months or years to remove a guardian who is providing inadequate care or has financially exploited a person who is incapacitated. The problem is further intensified because the guardian may provide guardianship services on behalf of many persons who are incapacitated and, again, it may take months or years to rectify the situation.

In order to close this gap in guardian accountability, the task force would utilize the expertise of its members to evaluate the current protections in place, identify gaps as well as solutions with the ultimate outcomes of further protecting the person under guardianship as well as setting a high bar that only qualified and ethical guardians are carrying out their duties and responsibilities.

Thank you for the opportunity to provide testimony and I would be happy to try to answer any questions you may have.

Testimony Prepared for the
House Human Services Committee

March 8, 2023

By Audrey Uhrich, Guardian Angels, vice president GAND

RE: Senate Bill 2345 – Relating to the Task Force on Guardianship Monitoring

Chairman Weisz and members of the House Human Services Committee. I'm Audrey Uhrich, a professional guardian on staff with Guardian Angels, Inc., and vice president of the Guardianship Association of ND. I too, respectfully ask for your committee's support of this bill.

The establishment of a task force on guardianship monitoring to promote the accountability of all guardians is needed to provide better protection of vulnerable individuals with guardians that may be providing poor quality services or committing criminal exploitation.

There are some current protections in place to address the need for high-quality, ethical services from professional and family guardians.

- Supreme Court Administrative Rule 59 has implemented requirements for background checks and an affidavit to the court regarding any previous investigation of offenses related to theft, fraud, or abuse, neglect, or exploitation on an adult or child by a proposed guardian, state court online training, and national certification of professional guardians or accreditation of guardianship programs.
- Programs such as Vulnerable Adult Protective Services, Protection and Advocacy, and others, can investigate reports of abuse, neglect, and exploitation of vulnerable adults, including actions or inaction by a guardian.
- The State Court Guardianship Monitoring Program can investigate specific guardianship cases upon order of the court.

These protections are valuable but there is a need for additional protection. This task force on guardianship monitoring can fill in the missing pieces and ultimately ensure that guardians in need of more education, training, or disciplinary action are addressed quickly. This will help to make certain that all guardians in our state provide ethical, high-quality services.

Thank you for your consideration. I can try to answer any questions you have.

**House Human Services Committee
Senate Bill 2345 – March 8, 2023
Testimony of Rachel Sinness, P&A Legal Director**

P&A protects the human, civil and legal rights of people with disabilities. The agency's programs and services seek to make positive changes for people with disabilities where we live, learn, work and play.

P&A provides testimony in support of SB 2345 relating to the task force on guardianship monitoring to promote the accountability of all guardians. We understand the necessity of an improved system for people in need of guardianships, and we are aware of issues related to the shortage of qualified guardians for individuals with disabilities. Many of the issues we have encountered involve a guardian not acting in accordance with the least restrictive form of intervention standard. We have also seen guardians and caregivers engage in financial exploitation of persons subject to guardianship. P&A has been involved in several transfers of guardianship from one guardian to another, in cases where the existing guardian inappropriately exercises guardianship authority.

Section 1 of SB 2345 provides that the task force on guardianship monitoring must include representatives from the guardianship monitoring program and protection and advocacy project and individuals representing guardianship service providers, family guardians, district court judges, and attorneys. We're in favor of ensuring appropriate and responsive care of individuals with disabilities and request a DO PASS recommendation for this bill.

House Human Services Committee
Testimony on Senate Bill 2345
Representative Robin Weisz – Chairman

March 8, 2023

Chair Weisz and members of the House Human Services Committee, I am Scott Bernstein, the Executive Director of Guardian and Protective Services here in Bismarck. I am asking this committee to support SB 2345 regarding establishing a task force on guardianship.

This task force differs from the Guardianship Standards Workgroup chaired by the Honorable Judge Feland. As this bill has been in motion there seems to have been some confusion between the Guardianship Standards Workgroup and the Task Force proposed in SB 2345.

The Guardianship Standards Workgroup has and does provide invaluable work regarding guardianship. The focus of the Workgroup is predominately based on Supreme Court Administrative Rule 59, and is generally granular in nature. In other words, it looks at the Century Code and rules and recommends changes in wording that bring greater clarification to the code or updates the code or a rule. For example – removing the word ‘ward’ and using the more inclusive term of ‘protected person’, Etc.

Recommendations are made on updating forms commonly used by the Court to reflect the Century Code and rules and bring consistency. However, the Guardianship Standards Workgroup **cannot** recommend any action be taken to investigate or remove a guardian that is providing inadequate care, exploiting or operating outside clearly defined ethical boundaries.

Guardian agencies, providing services within the prescribed limits of the law and ethical boundaries established by Center for Guardianship Certification (CGC) and the National Guardianship Association (NGA), are angered, embarrassed and humiliated when a ‘bad actor’ is not uncovered before there is an incident and quickly held accountable when discovered. The very persons we have been charged to serve become the victims.

The proposed task force on guardianship monitoring in SB 2345 would draw on the deep expertise of competent and certified guardians in North Dakota and nationally to evaluate and recommend appropriate safeguards. It would examine training, financial management, the means to investigate allegation and procedures of investigation. The recommendations fall under the North Dakota Supreme Court. Guardianship is very complex and links to the judicial branch. The goal is development safeguards that

benefit protected persons and ensure that those that provide guardianship provide the highest standard of service.

Professional Guardians across the State would ask you to support establishing the Task Force on Guardianship Monitoring.

Thank you for this opportunity to stand in support of SB 2345. If you have questions I will do my best to answer them.

SB 2345

SECTION ?. AMENDMENT. Subsection 2 of section 43-41-04 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as otherwise provided in this chapter, a person may not engage in social work practice in this state unless that person is a licensed baccalaureate social worker, a licensed master social worker, or a licensed clinical social worker.
2. To obtain a license to engage in the practice of social work, an applicant shall submit an application to the board in the form prescribed by the board and provide evidence satisfactory to the board the applicant:
 - a. Has attained the age of majority.
 - b. ~~Has~~ If required by the board, has passed the examination approved by the board for the license sought, has received a waiver for this examination requirement, or has completed examination alternative requirements set forth by the board.

23.1086.07002
Title.

Prepared by the Legislative Council staff for
the House Human Services Committee
April 7, 2023

PROPOSED AMENDMENTS TO REENGROSSED SENATE BILL NO. 2345

In lieu of the amendments printed on page 1595 of the House Journal, Reengrossed Senate Bill No. 2345 is amended as follows:

Page 1, line 3, remove "; and to provide an appropriation"

Page 1, line 11, after "program" insert ", the vulnerable adult protective services program,"

Page 1, line 17, replace "the" with "a"

Page 2, line 4, after "Procedures" insert "to be followed by an investigator"

Page 2, line 5, remove "managed by a guardianship investigator"

Page 2, line 9, after "court" insert "and other appropriate agencies"

Page 2, remove lines 11 through 16

Re-number accordingly

NDLA, Intern 02 - Pouliot, Lindsey

From: Lee, Judy E.
Sent: Friday, April 21, 2023 3:39 PM
To: NDLA, Intern 02 - Pouliot, Lindsey
Cc: Weisz, Robin L.; Stemen, Greg
Subject: RE: SB 2129

The total should be \$1 million, including \$600 MM in 2012 and \$400 MM in 2129. Rep. Weisz is here with me and we both agree that \$1 million TOTAL is more than adequate.

Senator Judy Lee
1822 Brentwood Court
West Fargo, ND 58078
Home phone: 701-282-6512
Email: jlee@ndlegis.gov

From: NDLA, Intern 02 - Pouliot, Lindsey <intern2@ndlegis.gov>
Sent: Friday, April 21, 2023 3:35 PM
To: Lee, Judy E. <jlee@ndlegis.gov>
Subject: RE: SB 2129

Representative Steven has alleged that you support the increase to \$1 million

From: Lee, Judy E. <jlee@ndlegis.gov>
Sent: Friday, April 21, 2023 3:35 PM
To: NDLA, Intern 02 - Pouliot, Lindsey <intern2@ndlegis.gov>
Subject: RE: SB 2129

\$400,000, because \$600,000 in TANF \$\$ is in 2012.

Senator Judy Lee
1822 Brentwood Court
West Fargo, ND 58078
Home phone: 701-282-6512
Email: jlee@ndlegis.gov

From: NDLA, Intern 02 - Pouliot, Lindsey <intern2@ndlegis.gov>
Sent: Friday, April 21, 2023 3:28 PM
To: Lee, Judy E. <jlee@ndlegis.gov>
Subject: SB 2129

Hello Senator Lee,

SB 2129 conference committee is discussing the alternatives to abortion bill. How much did you want in that bill?

Lindsey Jo Pouliot
Legislative Council Intern
Senate Human Services / Senate Workforce Development

