

Testimony to the: **HUMAN SERVICES COMMITTEE**
Prepared July 31, 2012 by the North Dakota Association of Counties
Aaron Birst, Legal Counsel

CONCERNING NORTH DAKOTA'S GUARDIAN AD LITEM AND PUBLIC ADMINISTRATOR SYSTEM

Chairman Wieland and members of the committee, the NDACo is here today to offer support to this committee's work on GAL/PA issues. Currently, North Dakota Counties are fiscally burdened with this responsibility and quite frankly have not been able to create an efficient and uniformed process.

What you can boil this whole issue down to is providing services to individuals who have diminished capacities but lack the family or financial resources to have private entities to provide the service. The current GAL/PA system in North Dakota is an ad hoc system which varies in funding and service providers from county to county. Many of the counties do not even understand the true costs to its citizen's as many of the GAL/PA costs are paid for out of differing county budgets.

During this process I had been asked to provide some numbers to the committee regarding the costs to the property tax system for this service. I have provided my best guestimate to legislative counsel but I will say such numbers were hard to ascertain because of the non-uniformity. (Attached is my email to legislative counsel explaining my rationale).

I have also been asked to assess the varying models proposed to meet this challenge. It is my assessment after reading Windsor Schmidt's report that a couple of model stand out as providing some efficiencies. First is the "State" model. In this situation, county property tax payers would be relieved of providing this necessary service. This could be accomplished by continuing to use private contractors but providing supervision and dollars in either a new State office or an existing one such as DHS or the Court system. This system has already proven effective in reviewing the Office of Criminal Indigent Defense. An alternative model would be providing "grant" funding to a county based agency which would in turn distribute the money to the private providers and oversee the work and expenditures.

Both of these approaches have pros and cons which I am happy to discuss but both would certainly be a great first step in a number of steps to improve the current system. This is indeed a very pressing issue (especially as North Dakota ages) and is one of the top policy issues to NDACo. Thank you for your time.

From: Aaron Birst
Sent: Friday, July 20, 2012 12:12 PM
To: Woeste, Roxanne K.
Cc: Terry O. Traynor
Subject: RE: Study of Guardianship Services

Hi Roxanne,

Let me try this again. I would say the "county model" box below is fairly accurate in terms of current practice. No county that I could find has a dedicated employee to be the PA/GAL. The counties do contract with private service providers. Many private service providers technically are the PA for the county but the county doesn't even realize it since the court is the one who assigns the PA and if there is no activity there is nothing to bring it to the counties attention. For example, GAPS provides PA/GAL services for 11 counties in the South Central Judicial District. However, only Burleigh and Morton pay a yearly fee. (\$29000) Additionally, all the counties may be required to pay as they become billed as the need arises. That is how I arrived at my estimate of \$180K a year Statewide by looking at some hard costs. (it is possible that number is a bit low as some of those costs are not directly reflected in county line items so it is possible counties are paying \$200K+ a year).

To answer your question, what would it take to provide PA/GAL services in all 53 counties? That is where my estimate of the equivalent of 15 FTE's comes from. Based on what appears to be around 300 cases a year if you wanted to be at a ratio of 1:20 you are left with the equivalent of 15 individuals to provide the services State-wide. There currently would be no need to have a separate individual in each county to perform the PA/GAL services. One person could provide services to numerous counties. (of course the larger counties may need a couple of individuals just for their county) Then based on speaking with current PA/GAL's an appropriate salary/contract would be \$40,000 for a PA/GAL that would provide the services to 20 or so individuals.

Therefore my "high" estimate would be $40K \times 15 = \$600K$ a year. (Windsor Schmidt suggested a similar cost but indicated that was for a 1:36-39 ratio so my estimate is technically lower than his)

So the current practice spends about 180K – 200K a year. This is for an underfunded system. An improved system would spend about \$500 - \$600K a year.

Regarding costs, although the "improved" system would appear to spend more, as Windsor Schmidt indicated, there is the potential for the improved system actually saving money that is currently being spent in other places.

Now that is just the costs aspects. In my opinion, the system suffers from more problems than just being underfunded. It is fair to say the current system is not really a system at all. Courts rely on private service providers who rely on funding from multiple sources like some State funds, counties and charities. The PA/GAL system works itself out normally when the person has assets or the family members are willing and able to provide the service. The times the system doesn't work the best is when the individual is indigent or there a family issues which leave the court having to appoint someone else which is where the current system comes in. The current system has no uniformity and little oversight. (that is not a shot at the persons working the in the system it is simply the current set up) Courts are left hoping the private sector will accept appointments and the person accepting the

appointment is hoping they can receive appropriate compensation. As you know, that is why other "systems" have been suggested.

So back to your questions on the different models. To me a true "county" model would be around 15 county employees who provide services to all 53 counties. (like I mentioned above there currently is not a need to have a separate person in each county although that is possible too) The court would then have the ability to use those folks as the need arises. Under Windsor Schmidt's report his county model is not like this "true" county model because he is simply suggesting using the same law (system) but making PA/GAL's state-funded. In other words, the State would simply distribute funds to pay for the current system. Hence my estimate of around 180K to 200K yearly for current hard costs but in actuality it should probably be around \$500 - \$600 K. I know you didn't ask for this opinion but to me it seems like if the State is picking up the costs for the PA/GAL and the judges are appointing the PA/GAL there is no longer a need for the county to be involved all together so it would be ironic this is referred to as a "county" model. (Also if the courts are appointing the PA/GAL's and the State is simply paying for it you still do not solve the oversight uniformity issues).

I am not really sure I understand the Alternative County model of independent offices. My understanding is this would be a County based agency/organization that would be overseeing the entire process and when the need arises the court/social services/law enforcement would have one number to call no matter where the person is located. In turn that county agency would begin producing paperwork and select someone from a predetermined list of providers to get the person the services they needed. This alternative "county" model could be created by counties joining together with a joint powers agreement and selecting an single administrator. That administrator could then accept funds from the State to provide the services. As my original email suggested, I would guess this model would be the same overall costs for the services but might include additional dollars for possibly some administrative staff to coordinate the effort. (I was thinking maybe one or two FTE's to run the program).

Does this help or only make it worse????
Let me know if you have any questions or concerns.

Aaron

From: Woeste, Roxanne K. [mailto:rwoeste@nd.gov]
Sent: Friday, July 20, 2012 8:47 AM
To: Aaron Birst
Cc: Terry O. Traynor
Subject: RE: Study of Guardianship Services

Aaron,

I having a difficult time following your response. Please review the following excerpt of information to be presented to the committee and let me know if I am close.

Recommendation	Estimated Cost
County model	Twenty-five of North Dakota's 53 counties do have a public administrator, and twenty-eight counties do not have a public

	administrator. Currently, counties are expending approximately \$180,000 per year on guardian ad litem costs and public administrator services. The estimated total amount of state funding needed to provide a public administrator in each of the 53 counties is \$500,000.
Alternative county model (Establish an independent office of public guardian within each county)	Estimate not available.

I'm not sure how the 15 FTE information fits in?

Roxanne

From: Aaron Birst [<mailto:aaron.birst@ndaco.org>]

Sent: Thursday, July 19, 2012 5:12 PM

To: Woeste, Roxanne K.

Cc: Traynor, Terry O.

Subject: Study of Guardianship Services

Roxanne,

Again this has become difficult trying to match up numbers as each county categorizes these expenses differently. Additionally, some of the costs seem to be built into social services budgets but I will try my best.

Based on speaking to a number of contracted public administrators it is my assessment that a caseload of 1:20 would require an equivalent of 15 FTE's to meet the current and projected need. In speaking with them it would also appear an average salary/contract would be in the range of \$40,000. (this would in theory provide services to all 53 counties). So I can only provide the estimate that the State would be looking at a funding stream of 1.2 million a biennium. That cost is consistent with Windsor Schmidt's estimate on page 18 of his report. However, that number assumes the 1:20 ratio which counties are not paying anywhere close to. My current best estimate of what counties are paying for these services would be around \$500,000 a biennium. I base this on the numbers I have seen led me to believe the 8 largest counties pay on average 25K a year. While the other 45 counties pay around \$50,000 on a variable basis.

So under the model we have now, \$500,000 a biennium would probably be sufficient to replace the counties share for PA's. (This would in theory put a public administrator in each county in answer to your question. However, it is more likely the PA would be serving a big region possibly tracking with the Human Service Centers).

So the bottom line is you would need the equivalent of 15 FTE's in the counties to do the work of a PA/Guardian Ad Litem for indigents. If you created an independent agency overseeing those individuals/contracts you would probably looking at a couple more administrative FTE's.

I am continuing to look at this and will hopefully have some more answers for you at the hearing.

AGB

From: Woeste, Roxanne K. [mailto:rwoeste@nd.gov]
Sent: Tuesday, July 17, 2012 2:05 PM
To: Aaron Birst
Cc: Terry O. Traynor
Subject: RE: Study of Guardianship Services

Aaron,

Thanks for the initial information. I would really appreciate estimates for the following by Thursday, July 19th as I am working on finalizing memorandums for the Human Services Committee meeting on July 31st:

- An estimate as to the total amount of state funding needed to provide a public administrator in each of the 53 counties? (See previous email below for more information)
- An estimate regarding the amount of funding necessary to establish an independent office of public guardian within each of North Dakota's counties? (See previous email below for more information)

Thanks again.

Roxanne

From: Aaron Birst [mailto:aaron.birst@ndaco.org]
Sent: Monday, July 16, 2012 12:02 PM
To: Woeste, Roxanne K.; Traynor, Terry O.
Subject: RE: Study of Guardianship Services

Roxanne,

I am sorry I haven't gotten back to you yet. I have collected some data but it is hard as many counties do not have a specific line item for these expenses (which is kind of the problem). There are really two separate expenses to counties this study topic entails. First and probably the most common expense that counties end up paying the bills of guardian ad litem that are basically pursuant to court order. Second, counties can get stuck with the bill for public administrators. In times past, many counties had employees that covered the PA responsibilities but most counties have simply contracted with outside folks to do the job now.

As an example Burleigh County pays for Guardianship services as they are billed. Burleigh has collected the following data:

2011 actual expenses for GAL was \$15,874.

For 2012 they budgeted \$15,000 and have already spent \$15,236.70.

Grand Forks has paid out the following for GAL services:

2012 - \$2,168.15 to date

2011 - \$9,704.03

2010 - \$10,425.53

2009 - \$4,299.46

2008 - \$13,057.01

2007 - \$22,682.48

2006 - \$8,996.64

2005 - \$12,925.90
2004 - \$5,771.85
2003 - \$15,034.55

From my previous asking around it looks as though on average each county spends 2K or so a year with many years not paying anything and then getting a big bill every so often. The bigger counties appear to be spending consistently around 10-15 K a year.

So as an educated guesstimate I would say counties are paying 180K a year. I will keep looking for information for you and will sit down with Terry and talk about your additional questions.

From: Woeste, Roxanne K. [<mailto:rwoeste@nd.gov>]
Sent: Monday, July 02, 2012 10:17 AM
To: Terry O. Traynor; Aaron Birst
Subject: Study of Guardianship Services

Mr. Traynor and Mr. Birst,

I am in process of preparing a memorandum for the Human Services Committee regarding the estimated costs of the four recommended models for the state's delivery model for guardianship services:

1. Independent state office model - A new state agency modeled after the North Dakota Commission Legal Counsel for Indigents to provide public guardianship services.
2. County model - Replacement of uneven county funding with state funding of a public administrator in each of North Dakota's 53 counties at a funding level that would reduce the guardianship caseload ratio from the reported 1:22-29 on a part-time basis to a 1:20 staff-to-client ratio on a full-time basis.
3. Alternative county model - An independent office of public guardian within each of North Dakota's counties.
4. Judicial model - An office of public guardianship within the administrative office of the court.

In regards to the "county model", could you please provide me information on what is currently being spent for public administrators in counties and an estimate as to the total amount of state funding needed to provide a public administrator in each of the 53 counties?

In regards to the "alternative county model", could you please provide me with an estimate regarding the amount of funding necessary to establish an independent office of public guardian within each of North Dakota's counties.

If I could receive the information by Friday, July 13th, I would appreciate it. Thank you for your assistance.

Roxanne Woeste

Assistant Budget Analyst and Auditor

North Dakota Legislative Council

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