

Testimony to: **Human Services Committee**

Representative Alon Wieland, Chairman

Testimony by: Judy Vetter, Administrator of Guardian and Protective Services, Inc.

October 4, 2012

Chairman Wieland and members of the Human Services Committee, I am Judy Vetter, Administrator of Guardian and Protective Services, Inc. I 'm here today to provide a brief synopsis of the meetings and discussions held about the proposed models for guardianship services and recommendations for procedural changes in the process of initiating and establishing a guardianship. I am also here to provide information on one of the proposed bill drafts that has been presented to your committee for consideration.

As all of you are aware, the study conducted by Mr. Winsor C. Schmidt identified the unmet needs of our State for the populations in need of guardianship services that are not Developmentally Disabled (DD). In addition, the report highlighted various areas in which the State should consider making improvements.

We have met with and had many discussions / contacts with representatives from the following: State Court, ND Association of Counties, Guardianship Agencies, current County Public Administrators throughout N.D., Cass County Adult Protective Services Unit, and AARP. Through these meetings and discussions, the following have been identified as the areas of most concern:

- Lack of stable funding for public administrators and private providers resulting in high guardian to client ratios, uneven availability of public administrators, and the instability of programs due to uncertain financial support from local governments and grant making agencies
- Lack of training and oversight of both private guardians and public administrators

By adopting a comprehensive multi-year approach, the State can make significant strides in eliminating most of the concerns raised in the report / study conducted by Mr. Winsor C. Schmidt.

Multi-Year Approach:

2013-2015

- 1.) Amend the emergency guardianship statutes – no cost
- 2.) Transfer of funding of Public Administrators from Counties to State through an appropriation to OMB with funds distributed through an annual grant process (based on process under 54-06-20) or - ALTERNATIVE- pass through funding directly to each county based on a pre-set formula (determined by the State)
 - Provide funding at \$11.00 per day per case for the current 164 guardianship cases and 25 new guardianship cases (unmet need) for the 1st year of the biennium (189 guardianships in the 1st year cost = \$758,835.00)

- Provide funding at \$11.50 per day per case, and add an additional 25 new cases (unmet need) for the 2nd year of the biennium (214 guardianships in the 2nd year cost = \$898,265.00)
(Total Biennium Costs for Guardianship Provider Services:
\$1,657,100.00)

3.) Appropriate funding to the Court to develop and deliver a tutorial for new guardians – estimated cost of \$70,000.00

2015-2017

- 1.) Require criminal background and credit history checks of all proposed guardians
- 2.) Require Court Visitor to meet the proposed guardian
- 3.) Fund a 4-year pilot project that allows for random checks of annual reports and personal visits with wards

2017-2019

- 1.) Implement changes in procedural process to require appointment of Counsel for proposed ward

In visiting with Mr. Winsor Schmidt on his study and the recommendations, it is our understanding from him that starting small would be a way to begin implementing the recommendations and build from them in addressing the State's needs identified.

When your committee chooses a delivery system for guardianship services, it is critical that the unique differences in the service needs of the Traumatic Brain Injured, Severely Mentally Ill and Elderly be considered.

It is still recommended that the current system of providing guardianship services to the Developmentally Disabled remain in place. This system works effectively and is set up to meet the specific needs of that population.

In respect to the recommendations for procedural changes in the process of initiating and establishing a guardianship, we believe that the State Court should be consulted and involved in any proposed legislation because of the potential impacts that it would have on the Court System.

Thank you for your time, I would be happy to answer any questions you may have.

54-06-17. Certain rental-purchase-type agreements authorized.

With the approval of the office of management and budget, any department, agency, or institution of the state currently leasing or renting office equipment under an agreement that is convertible to a rental-purchase or similar agreement, upon certification to the office of management and budget that conversion of such leasing or rental agreement to a rental-purchase or similar agreement is to the financial advantage of the state and does not commit the state to payments thereon beyond the biennium for which funds are available, may convert such rental or leasing agreement to such rental-purchase-type agreement.

54-06-18. Director to authorize postage meters.

A state agency, department, or institution, except the institutions under the control and management of the board of higher education, may not obtain or use a postage meter unless authorized to do so by the director of the office of management and budget. Each state agency, department, or institution which is authorized by the director to obtain or use a postage meter shall maintain such records as the director may require and shall allow the director to inspect such records upon request. The office of management and budget shall keep a record of the identification numbers of all postage meters authorized for usage.

54-06-19. Appointive boards, commissions, committees, and councils - Gender balance.

Appointments to boards, commissions, committees, and councils of the state established by this code, if not otherwise provided by law, should be gender balanced to the extent possible and to the extent that appointees are qualified to serve on those boards, commissions, committees, and councils. Any appointment in accordance with this section should be made in a manner that strives to seek gender balance based on the numbers of each gender belonging to the group from which appointments are made. Ex officio members are not to be included in determining gender balance under this section.

54-06-20. Indigent civil legal services fund - Distribution - Continuing appropriation - Records.

1. An advisory committee consisting of the lieutenant governor, the director of the office of management and budget or the director's designee, and the state court administrator shall distribute moneys deposited in the indigent civil legal services fund. Qualified legal service programs may apply for moneys in the fund. The moneys in the fund must be distributed to legal service programs operating in the state which provide, with funds appropriated by the federal legal services corporation, legal services to persons unable to afford private counsel. Allocation of funds among the programs must be based on the population served by each program, the range of legal services offered, alternative sources of funding, and other factors deemed relevant by the advisory committee. The moneys deposited in the indigent civil legal services fund in the state treasury are hereby appropriated to the advisory committee on a continuing basis for the purpose of implementing and administering a program to provide civil legal assistance to indigent individuals.
2. Recipients of funds distributed by the advisory committee shall comply with the federal Legal Services Corporation Act [42 U.S.C. 2996 et seq.].
3. Subject to the limitations in this section, funds distributed under subsection 1 may be used to provide legal services to persons unable to afford private counsel in the following types of cases:
 - a. Public benefits, including temporary assistance to needy families, unemployment compensation, general assistance, food stamps, supplemental security income, or social security disability income;
 - b. Medical assistance;
 - c. Family law matters;
 - d. Housing;
 - e. Consumer issues; and

- f. Elder law.
4. The advisory committee and each recipient of funds from the indigent civil legal services fund shall maintain records in accord with the generally accepted accounting principles. The records must account for the receipt and expenditure of all funds distributed and received and must be maintained for a period of five years from the close of the fiscal year in which the funds are distributed or received or until audited, whichever is sooner.

54-06-21. Public employee personnel records - Administration - Access.

The official personnel file on each employee is the file maintained under the supervision of the agency head or the agency head's designated representative.

1. No documents that address an employee's character or performance may be placed in the file unless the employee has had the opportunity to read the material. The employee must acknowledge that the employee has read the material by signing the actual copy to be filed or an attachment to the actual copy to be filed, with the understanding that the signature merely signifies that the employee has read the material to be filed and does not necessarily indicate agreement with its content. If the employee refuses to sign the copy to be filed, the agency head or the agency head's designated representative shall indicate on the copy that the employee was shown the material, was requested to sign the material to verify that the material had been read, and that the employee refused to sign the copy to be filed. In the presence of the employee and a witness, the agency head or the agency head's designated representative shall sign and date a statement verifying the refusal of the employee to sign the copy to be filed. The material must then be placed in the file.
2. The employee has the right to answer any material filed and any answer must be attached to the file copy. The employee's answer to material filed may not be used as the basis for any subsequent adverse personnel action. If any material is found to be without merit or unfounded through an established grievance procedure, it must be immediately removed from the file and may not be used in any subsequent actions or proceedings against the employee.
3. The employee or the employee's designated representative must be permitted to examine the employee's official personnel file by appointment during normal business hours.
4. No anonymous letters or materials may be placed in the employee's file.
5. The employee must be permitted to reproduce at the employee's expense any material in the employee's file.
6. An employee may file a grievance regarding nonevaluation material placed in the employee's personnel file. A grievance is limited to an internal agency grievance unless such material is merged into a disciplinary proceeding.
7. This section does not prohibit administrators from maintaining written notes or records of an employee's performance separate from the personnel file for the purpose of preparing evaluations or possible disciplinary action.
8. Administrators are encouraged to place in the employee's file information of a positive nature, including any such material received from outside competent and responsible sources, indicating special competencies, achievements, performances, or contributions of a professional or civic nature.

Except when the employing agency inserts only salary, insurance, medical, tax, workforce safety and insurance, pretax benefits, or deferred compensation information or employment forms, a record of access must be maintained by the employing agency and must be provided to the employee when the employee examines the employee's file. As used in this section, the term "public employee" means any person employed by the state and does not include persons employed by any political subdivision of the state.

54-06-22. Crime victims' account - Administration.

The agency designated by the governor to administer the victims' assistance grants under the federal Victims of Crime Act of 1984 [42 U.S.C. 10601 et seq.] shall administer a crime