

**2013 HOUSE HUMAN SERVICES**

**HB 1041**

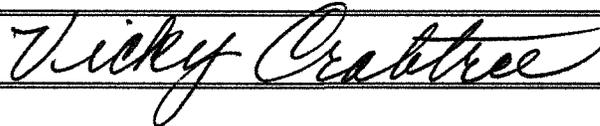
# 2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee  
Fort Union Room, State Capitol

HB 1041  
January 15, 2013  
Job #17245

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Provide appropriations to office OMB and Supreme Court for guardianship and public administrator services.

## Minutes:

Testimonies #1-6 Attached

**Chairman Weisz:** Opened the hearing on HB 1041.

Rep. Alon Weiland: Introduced and supported the bill. HB 1041 came out as a result of the study by Dr. Winsor Schmidt which was given to the Human Services Interim Committee. He had many recommendations of which some we accepted. We felt we needed to do something to give the counties some relief. The counties will testify why they need some relief. They will be in the form of grants and some funding to the Supreme Court for the purpose of developing and delivering guardianship training. There is a representative from the Supreme Court to testify.

2:05 Rep. Laning: These monies that are being requested strictly for guardianship or for daily operations?

Rep. Weiland: These are funds that will be given to the counties to help them. They are responsible for some of the guardianships and have little funding for it. There will be money used for people, but the counties can answer that question.

3:36 Rep. Kathy Hogan: From District 21, central Fargo, introduced and supported the bill. (See Testimony #1) The committee may want to provide some guidance to the OMB regarding who you want covered with public guardianship funds. I suggest you establish some kind of eligibility guidelines like 100-150% of poverty level. You may want to clarify that we use public guardianship funding only in situations where there is not a family member or a neighbor. We want to say this is for the elderly and disabled. So we aren't in conflict with the services currently are provided through the development disabilities side.

Rep. Fehr: Are you suggesting amendments?

Rep. Hogan: Yes.

Rep. Fehr: Are you thinking of using this language for them?

Rep. Hogan: We could use this language or work on additional language.

Rep. Laning: Would the guardian be a full-time in overseeing an elderly person like a live-in guardian? Are they are wages? Explain the guardianship program in more detail.

Rep. Hogan: A guardian assumes responsibility in making medical and health care decisions. On the developmental disabilities side, the contract that is issued is for a daily rate of \$8 a day. They coordinate the legal and health care issues. It is more decision making.

Rep. Mooney: This would model forward with contracted services opposed to having staff? How do you envision that consistency between service provider and another?

Rep. Hogan: That would be in the contracting language. One person would coordinate the contract statewide. We are not going to hire staff.

Rep. Fehr: If we pass this bill with or without the amendments, are their administrative rules that someone would have to write to interpret this or is in law already?

Rep. Hogan: My concern is the procedures for establishment of guardian are in law, but the actual administrative structure is not there.

Rep. Fehr: What department would that go to then?

Rep. Hogan: The contracting will be done by the Office of Management and Budget. They would define the scope of service of the contract and would award the contract.

Rep: Fehr: And they would write the rules needed?

Rep. Hogan: Yes.

11:24 Judy Vetter: Administrator of Guardian and Protective Services Inc. testified in support of the bill. (See Testimony #2)

15:32 Rep. Laning: With all of these individuals, what is being done right now?

Vetter: Twenty out of the fifty-three counties in ND have public administrators. The funding is not there for those fifty-three counties. I contacted all the county public administrators this past fall and got a variety of answers on how they are funded. Some get \$50 a month and Ward County is getting \$2,000. No consistency among counties. All county commissioners feel this is a state function and they should be funding it.

Chairman Weisz: Currently it is \$8 a day and now you want to go to \$11. How did you arrive at that number?

Vetter: The \$8 is for the DD system. The populations need wrap around services like the DD services do. When you are providing services for those three populations, they are not in group homes, many people are in the community and cost to cover them is higher.

Rep. Mooney: In the rural areas it is difficult finding providers. Do you see any solution that might help with this?

Vetter: I think you will see people and providers who will come through and provide this even in rural counties. Our agency alone is appointed by the South Central Judicial District Judge Hagerty and we cover 11 counties. I think there are providers out there and maybe some would choose to take on one or two guardianship cases.

Rep. Mooney: It helps to have incentives to gain staff.

Vetter: Yes.

Rep. Oversen: Is some here going to be speaking about the training program?

Vetter: Sally from the state court will address that.

Rep. Oversen: Do you have providers ready to take on those cases on or will training make up for that moving forward?

Vetter: I believe there are providers out there. Our agency, DKK guardianship out of the Jamestown area, guardian advocacy services out of the Fargo area and county public administrators.

Rodger Wetzel: Testified in support of the bill. (See Testimony #3)

25:23 Rep. Anderson: Can you explain what area the state has the most need outside of their rural areas?

Wetzel: There are a lot of counties in the central part. There are often very few resources out there. I think some retired nurses and social workers that would make excellent guardians with some compensation. There are more needs in the larger cities than the rural areas.

Rep. Kiefert: The power of attorney has the same powers and has almost nothing to do. Why does the guardianship cost \$2500 to establish?

Wetzel: I've done extensive training on powers of attorney for health care and we advocate to execute your power of attorney which address legal and financial issues as well as durable power of attorney for health care. If you have a family member that you can trust, you sit down with an attorney who have a standard form which may cost a few hundred dollars. With a guardianship case a person already is incapacitated and shouldn't ethically sign the forms. Laws in ND require two attorneys; one to petition and one guardian ad litem who represent the incapacitated person as well as the court visitor. We do the interviews and there is a court hearing. There is a two attorney costs and a court

visitor cost. If not a complicated case it might be around \$1500. My focus is on the ones who have no family member to help them.

Rep. Kiefert: These 150 sited here would have to go through this process?

Wetzel: If they don't have a current legal guardian. If they already have a guardian and the public administrator has been assigned to be their guardian, but no reimbursement; in those cases there would only be reimbursing the public administrator at reasonable fee.

Rep. Silbernagel: There are private sector guardianships out there?

Wetzel: Yes.

Rep. Silbernagel: There are private sector guardianships? Can you contract with those groups?

Wetzel: Yes to both questions.

Rep. Silbernagel: Is this a competitive rate being to what is being charged currently by those groups?

Wetzel: Yes.

Rep. Mooney: The OMB would make the language in that contract to ensure consistency. You wouldn't want a program where Finley, ND had a different type of service providing contract opposing to Fargo, ND.

Wetzel: The law does outline the scope of responsibility. A guardian makes decisions regarding living arrangements, medical care, nursing home placement, psychiatric decisions, and legal finances. There are good training materials in the state and nationally and it is not like they have to be developed.

Rep. Mooney: That continues to burial doesn't it?

Wetzel: Yes

33:18 Josh Askvig: Associate State Director of Advocacy for AARP ND testified in support of the bill. (See Testimony #4)

37:04 Bill Newman: I'm the Director of Bar Association of ND and the Bar Association strongly supports this bill. The need will continue to increase as we of a certain age get older.

Chairman Weisz: Have you looked at HB 1040?

Newman: Yes and the Bar Association takes no position, but has no problem with it.

38:58 Shelly Peterson: President of the ND Long Term Care Association testified in support of the bill. (See Testimony #5)

42:42 Rep. Oversen: If someone has family members that are involved and exploiting them, can somebody that is working at the center advocate for them to receive guardianship services for them without their consent of a family member?

Petersen: It is very difficult and you have some family members that want to be guardian, but no one is guardian. If we feel someone is being financially exploited we contact the ombudsman who is an independent and can assist and help. We talk to the public administrator or a local program and we seek out every available resource. As a last resort then the facility may initiate the court process to get a guardian.

44:38 Aaron Birst: ND Association of Counties testified in support of the bill. (See Testimony #6)

49:00 Rep. Fehr: This is to help people who are already incapacitated and have no family to help them. Is there something more we can do to prevent people from getting into this situation?

Birst: If everyone has a power of attorney that helps a lot. The county is helping those that are homeless. This will centralize the training and you can have oversight so you won't get into those messy situations.

Rep. Kiefert: The person who can't financially take care of themselves, ends up in the hospital, the judge declares them incompetent and ends up in the nursing home and under Medicaid. Does this apply for them?

Birst: Yes, this would apply to them. This bill is for those people who don't have anyone that can be a guardian.

Rep. Kiefert: I'm looking at a person in the nursing home, no finances, under the care of the physician; does that person need a guardian?

Birst: Yes, if he is incapable of making those decisions.

Rep. Muscha: How many people do we have under the guardianship program?

Birst: We calculated around 170. Generally the larger population areas have the bigger caseload.

Rep. Mooney: How do counties pay for this?

Birst: Some counties will build it into their budget where they pay gaps. Some counties have a private service provider that receives money from social services. Generally it comes from the general fund.

Sally Holewa: The State Court Administrator stated she was half in support of the bill and half neutral. This is not a state court bill and generally we only support bills that the court has introduced. This bill was not introduced by the court. The bill came about because the Chief Justice did as the legislature to look into this area. We support the part of the bill that is for the \$70,000 appropriation for educating guardians and public administrators. You can become a professional or certified guardian and there is training for those people, but not to those who want to be a guardian for a family member. We would have basic training for all guardians.

Chairman Weisz: How do plan to disseminate that training? Through district courts or counties?

Holewa: We are looking at two different models that are used in two different states. The State of Nebraska actually developed the training and is delivered through the Extension Offices throughout the state. The State of Utah developed a web based training that every guardian is expected to take and take a quiz. May be using a combination of the two models.

Chairman Weisz: Where did the \$70,000 come from?

Holewa: Came from the courts. Based off from other trainings we developed and it would cover obtaining the curriculum, hiring someone to adapt it to ND law, formatting it, and training the trainers.

Vice-Chair Hofstad: Would the court be involved in the process?

Holewa: I believe we would. There could be a conflict if the court took the money and disseminated it because the court appoints people and oversee their work product. The DHS doesn't want the money because they provide all the services that the guardians would recommend for the person. That's why we looked at OMB as a neutral place. Rep. Weiland and Rep. Hogan thought you could set up a subcommittee. He thought we might be able to write the formula into the bill itself working with OMB and the Association of Counties.

Vice-Chair Hofstad: If the court is involved, will you scrutinize the providers? Will there be a means test for them?

Holewa: To some degree that already exists. Public Administrators are contracting with the counties. The county's making a decision that is appropriate, but when it gets to court it is the court who looking at the petition and makes the decision if it ok or tells the county you need to find someone else and here is why. We were hoping for some standards for public administrators and guardians. It was part of Dr. Schmidt's study, but did not follow through with in this session.

Vice-Chair Hofstad: What would happen to the private individual who petitioned to be a guardian? What is the process there?

Holewa: You are hitting on some of the weaknesses of our system. Anyone can petition to be a guardian. A court visitor goes out and meets with the person who is going to have a guardian and asks them if they know this person or like them. They don't talk to the person petitioning which is one of the weaknesses. The court would ask them questions when they came to court. How do you know them and why are you interested in being a guardian?

Rep. Kiefert: On the 164 people sited and 25 new cases do we have a breakdown where they are living?

Holewa: Dr. Schmidt does break those down, but I don't have that with me. Some are in nursing homes, some in assisted living, and some on a waiting list for a guardian.

Rep. Kiefert: If someone is in the nursing home that have no finances and under the care of a physician, why do they need a guardian?

Holewa: They need a guardian because the physician can't make decisions for them.

Jack McDonald: I'm a Lobbyist for the State Bar Association of ND. I am a private attorney. There are more guardianships in ND than just the 150-170 we were just talking about. These only deal with public assistance in some way that the county has to pay for. There is confusion between power of attorney and guardianship. Power of attorney gives someone the authority to act for you when you can't act. Guardianship makes decisions for the other person.

Rep. Oversen: The training the courts would be providing is that free?

McDonald: The court would have to answer that.

Holewa: No cost to the guardians. The private for profit or non-profit are both in ND. Generally those people are already certified guardians and would use them as our trainers because they would be well educated already.

No more support or any opposition to the bill.

Hearing on HB1041 was closed.

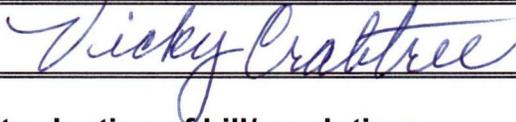
# 2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee  
Fort Union Room, State Capitol

HB 1041  
February 6, 2011  
Job #18413

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Provide appropriations to OMB and Supreme Court for guardianship and public administrator services.

## Minutes:

You may make reference to "attached testimony."

Chairman Weisz: Looking at HB 1041.

Rep. Hofstad: I move a Do Pass on HB 1041.

Rep. Mooney: Second.

Chairman Weisz: This is obviously going to Appropriations. I look at this as property tax relief. There is one county that refuses to appoint guardians because they say they don't have the money. Law makes it clear that if the court can't find anybody the county is supposed to.

Rep. Hofstad: This is a compelling issue. This is supported by the Chief Justice and the court system.

Rep. Mooney: It is a burden on the county level and they try as much as possible maintain property tax levels that will be equitable for all of the people, but can't have a position as this that is important and leave it to chance that will be the right individual for it. It is the right move in the right direction.

ROLL CALL VOTE: 12 y 0 n 1 absent

MOTION CARRIED - DO PASS

Bill Carrier: Rep. Anderson

Date: 2-6-13  
 Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1041

House Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Hofstad Seconded By Rep. Mooney

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ	✓		REP. MOONEY	✓	
VICE-CHAIRMAN HOFSTAD	✓		REP. MUSCHA	✓	
REP. ANDERSON	✓		REP. OVERSEN	✓	
REP. DAMSCHEN	✓				
REP. FEHR	A				
REP. KIEFERT	✓				
REP. LANING	✓				
REP. LOOYSEN	✓				
REP. PORTER	✓				
REP. SILBERNAGEL	✓				

Total (Yes) 12 No 0

Absent 1

Floor Assignment Rep. Anderson

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1041: Human Services Committee (Rep. Weisz, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1041 was rereferred to the Appropriations Committee.**

**2013 HOUSE APPROPRIATIONS**

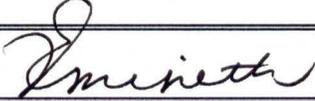
**HB 1041**

# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Committee Roughrider Room, State Capitol

HB 1041  
2/14/13  
18976

Conference Committee



To provide appropriations to the office of management and budget and the Supreme Court for guardianship and public administrator services.

### Minutes:

*1 Attachment*

Rep. Robin Weisz, District 14: This is the guardianship bill. (Attachment1) Someone has to be responsible in the end for some of these cases for guardianship because there may not be family members that are capable or able to serve as guardians. Funding is the second reason which would be a tax relief for the county because the county is mandated to take care of these cases. We have one county in N.D. that says we are not going to do it. Should the county have to spend the money to do this?

Chairman Delzer: Is the money from interim committee?

Rep. Weisz: Yes

Chairman Delzer: Did they ask for justification of how they came up with that number?

Rep. Weisz: They did have the numbers to justify it.

Chairman Delzer: I called upstairs and ask them how they would do this, can you go through that?

Joe Morrissette: We don't have a plan in place. We think it would be more effective with Human Services.

Chairman Delzer: Do you have any idea what you would set up as a grant process?

Joe Morrissette: No I don't.

Rep. Pollert: This bill 1041 and also one million dollars in the DHS budget in the governor's recommendation as well. Those cover very similar areas. This one is a little more comprehensive I think. There is also an DHS subsidized adoption guardianship for about \$300,000.

Chairman Delzer: The million dollars in 1012 is for guardianship through DHS. How would they distribute the money?

Rep. Pollert: Through Catholic Charities.

Rep. Weisz: That million isn't the same. That is dealing with their guardianship. This is dealing with the counties and their responsibility and I do have the numbers. It is \$11.00 per day per case.

Chairman Delzer: Can you make copies and give them to the clerk?

Rep. Weisz: It can be substantial, or it can be different.

Chairman Delzer: How much work does the guardian do? If the catholic church is different who are they doing there guardian ships for?

Rep. Weisz: The money in this bill is covering the county responsibility for guardianship cases. The million dollars that is in the budget and the DHS bill is for their responsibility. This is where the counties have the responsibility and are in charge.

Rep. Skarphol: You stated some counties are being responsible and some aren't, do you know the ratio?

Rep. Weisz: I'm aware of one of the larger counties that have refused to pay for guardianship in a case.

Chairman Delzer: If one's currently refusing and we put money out there, isn't every county going to say we're not going to do this?

Rep. Weisz: This would pay for the services a county administrator incurs.

Chairman Delzer: Is this all the counties?

Rep. Weisz: There are guardianship cases that the county is responsible for. In the majority there is a volunteer or family member that is able to fulfill that position. These are the cases where the court cannot find anybody to fulfill that duty then by law the counties are responsible to pay for a guardian. Currently there are 164 cases.

Chairman Delzer: Which court? Why would they keep looking if the state will pick it up? They would say we will pass on and not make an effort to find a guardian.

Rep. Weisz: I have more faith in our courts than that, the courts job is to look out for the best interests of the vulnerable adult. In a lot of cases it is the family member who comes in and petitions the court to be their guardian.

Chairman Delzer: Further questions? Thank you

# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Committee Roughrider Room, State Capitol

HB 1041  
2/22/13  
Job 19397

Conference Committee

*Jocelyn Gallagher*

### Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide appropriations to the office of management and budget and the supreme court for guardianship and public administrator services.

### Minutes:

**Rep. Wieland:** Distributed and moved amendment .02003, to HB 1041, seconded by Rep. Bellew.

**Chairman Delzer:** We have a motion to adopt 02003 to HB 1041 it's an engrossed bill but doesn't make any difference.

**Rep. Wieland:** (1:52) He explained the amendment.

**Chairman Delzer:** We had this discussion on 1012 to some degree, we took out a million there, this appropriation was a million 6, and the compromise for doing the new ones is 361. What is it, \$7 a day for the new ones?

**Rep. Wieland:** I believe its \$7/day, and possible 43 new wards the first year and the second year adding an additional 43 new wards.

**Chairman Delzer:** Did you ask where this sits in the OMB budget, is it protected so it can't be used for anything else? If it's not used during the biennium is it returned to the general fund?

**Rep. Wieland:** That would be my understanding.

**Chairman Delzer:** Voice vote, motion carries.

**Rep. Wieland:** I would move to do pass on HB 1041 as amended.

**Chairman Delzer:** I have a motion by Rep. Wieland, second by Rep. Kreidt **for a do pass as amended.** Discussion, clerk will call the roll. **20-1-1, motion carries,** Rep. Wieland will carry the bill.

V12  
2/25/13

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1041

Page 1, replace lines 4 through 9 with:

**"SECTION 1. APPROPRIATION - GUARDIANSHIPS.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$361,200, or so much of the sum as may be necessary, to the office of management and budget for the purpose of providing grants to counties for public or private guardianship services for new wards, for the biennium beginning July 1, 2013, and ending June 30, 2015. The department of human services shall establish eligibility criteria for the services, including setting income criteria at one hundred percent of the federal poverty level."

Renumber accordingly

Date: 2/22/13  
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1041**

House Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number .02003

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Wieland Seconded By Rep. Bellew

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer			Rep. Streyle		
Vice Chairman Kempenich			Rep. Thoreson		
Rep. Bellew			Rep. Wieland		
Rep. Brandenburg					
Rep. Dosch					
Rep. Grande			Rep. Boe		
Rep. Hawken			Rep. Glassheim		
Rep. Kreidt			Rep. Guggisberg		
Rep. Martinson			Rep. Holman		
Rep. Monson			Rep. Williams		
Rep. Nelson					
Rep. Pollert					
Rep. Sanford					
Rep. Skarphol					

Total Yes \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

*voice vote carries*

Date: 2/22/13  
 Roll Call Vote #: 2

**2013 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1041**

House Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Wieland Seconded By Bellew Kreidt

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer		X	Rep. Streyle	X	
Vice Chairman Kempenich	X		Rep. Thoreson	X	
Rep. Bellew	X		Rep. Wieland	X	
Rep. Brandenburg	X				
Rep. Dosch	X				
Rep. Grande	X		Rep. Boe	X	
Rep. Hawken	X		Rep. Glassheim	X	
Rep. Kreidt	X		Rep. Guggisberg	X	
Rep. Martinson			Rep. Holman	X	
Rep. Monson	X		Rep. Williams	X	
Rep. Nelson	X				
Rep. Pollert	X				
Rep. Sanford	X				
Rep. Skarphol	X				

Total Yes 20 No 1

Absent 1

Floor Assignment Rep. Wieland

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1041: Appropriations Committee (Rep. Delzer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (20 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). HB 1041 was placed on the Sixth order on the calendar.

Page 1, replace lines 4 through 9 with:

**"SECTION 1. APPROPRIATION - GUARDIANSHIPS.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$361,200, or so much of the sum as may be necessary, to the office of management and budget for the purpose of providing grants to counties for public or private guardianship services for new wards, for the biennium beginning July 1, 2013, and ending June 30, 2015. The department of human services shall establish eligibility criteria for the services, including setting income criteria at one hundred percent of the federal poverty level."

Renumber accordingly

**2013 SENATE HUMAN SERVICES**

**HB 1041**

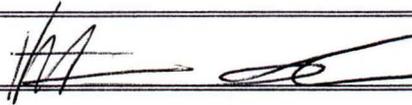
# 2013 SENATE STANDING COMMITTEE MINUTES

## Senate Human Services Committee Red River Room, State Capitol

HB 1041  
3/11/13  
19729

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

To provide appropriations to the office of management and budget and the Supreme Court guardianship and administrator services.

### Minutes:

You may make reference to "attached testimony."

**Chairwoman J lee** opens the public hearing on HB 1041:

**Rep. Wieland:** testifies in favor and introduced HB 1041 to the committee. There is explanation of the funding of the bill.

**Rep. Kathy Hohgan:** income level, not covering those that are being covered by another source is a concern. The current funding in the bill is low. She is in favor of 1041. There is a discussion of eligibility levels. Discussion about funding and state and at the county level.

**(0:09:15) Shelly Peterson** President of the North Dakota Long Term Care Association. Testified in support of HB 1041. See attached testimony #1.

**(0:13:45) Judy Vetter,** Administrator of Guardianship and Protective Services, proposed amendment to and supports HB 1041. See attachment #2

**(0:19:27) Rodger W. Wetzel, LSW** Court Visitor. Testifies in favor of HB 1041. See attachment #3. Senator Dever asked about awareness. There is a discussion about exploitation of the elderly and under reported.

**(0:31:50) Josh Askvig,** Associate State Director of Advocacy for AARP of North Dakota, testifies in support of the original HB 1041. See attachment #4.

**(0:35:41) Aaron Birst** Legal counsel North Dakota Association of Counties: testified in favor of HB 1041 amended to the original form. See attachment #5 Discussions about courts and public administrators. Senator Dever asks about the funding.

**(0:51:30) Kristen Hasberg** Director Richland County Social Services. Testified in support of HB 1041. See attachment #6

**(0:53:20) Bill Newman:** Executive Director of the State Bar Association supports HB 1041 fully funded. Unmet and growing need. **Senator Dever:** Asks about how someone can get into the process. There is a discussion about those that are being stolen from.

**(1:01:35) Larry Bernhardt** Catholic Charities North Dakota: I am disappointed that this is the 5<sup>th</sup> session that this is being studied. When session started we had 1 million in the budget for the Department of Human Services to provide guardianship services, 1.6 million. The 2.6 million that we started with is now \$361,000. The case loads for our DD is 35/37 wards a month with 414 people providing guardianships services. Our guardianship services are added on to the Development Disabled case management services, they also receive. Guardianship services for vulnerable adults, a bunch of them do not have case management. The study indicates 20 cases per worker; it is not human possible not at 7.50 a day. Senator Dever asked about the budget.

**(1:06:05) Sally Holewa State Court Administrator:** neutral on HB 1041 Section 2 \$70,000 for training for new guardians. 1.67 million Based on covering the current 164 guardianship, that are public administrator guardianships that are at the poverty level, it would allow additional 25 state wide part of 350 unmet needs. Eleven dollars a day and eleven fifty the second year, it is higher than other services these individuals don't have case managers so the guardian is doing all the work. There is a discussion on how the cases are managed and funded.

Close hearing on HB 1041

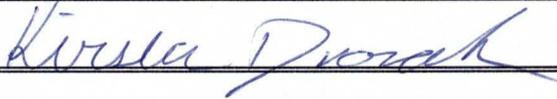
# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee  
Red River Room, State Capitol

1041  
3/19/13  
20147

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

To provide appropriations to the office of management and budget and the supreme court guardianship and administrator services.

## Minutes:

**Chairwoman J. Lee** opens discussion for HB 1041

**Chairwoman J. Lee:** discusses about the fiscal note and funding.

**Senator Dever:** wondered how they came up with \$361,000

**Senator Anderson:** questions \$1million in the governor's budget for this project?

**Senator Axness:** The \$1million was cut from the DHS budget on top of the \$1million cut from this bill.

There is discussion about the funding for vulnerable adults and guardianships.

**Chairwoman J. Lee** discusses about Conference Committee.

**Senator Dever:** talks about amendment.

**Chairwoman J. Lee:** discusses the per day rate. Discusses given testimony.

# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee  
Red River Room, State Capitol

1041  
3-19-13  
20192

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

To provide appropriations to the office of management and budget and the Supreme Court guardianship and administrator services.

**Minutes:**

J lee opens committee work for HB 1041

Maggie Anderson with DHS discusses with the committee about handouts #1 and #2.

# 2013 SENATE STANDING COMMITTEE MINUTES

## Senate Human Services Committee Red River Room, State Capitol

HB 1041  
3-25-13  
20401

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

To provide appropriations to the office of management and budget and the supreme court guardianship and administrator services.

### Minutes:

attachements

**Chairwoman J. Lee** talks about a meeting that was held by Stanford Health and the reasoning about HB 1041. **Chairwoman J. Lee** Discusses about the mistreatment of vulnerable adults.

**Senator Anderson:** asks about past testimony and proposed amendments on HB 1041

There is a discussion about an e-mail from Judy Vetter #7

**Chairwoman J. Lee** recognized **Jan Engan** for DHS to the podium.

There is a discussion about an e-mail from Judy Vetter. #7

**Jan Engan** goes over the chart that was provided to the committee. #8

**Chairwoman J lee** asks about funding.

**Senator Larson:** ask about the expanded wards.

There is a discussion about services for valuable adults are necessarily a guardian appointed to them.

**Senator Anderson:** clarification on language of the bill and funding.

**Senator Dever,** questions about wording that was changed in HB 1041. There is a discussion about guardianship programs public and private. **Chairwoman J. lee** asks about a sliding scale for the program. **Senator Dever** asks about assets test. **Chairwoman J. Lee** asks about if monies are recovered form an estate for services. **Chairwoman J. Lee** asks about proposed amendment.

There is discussion about removal of funding for HB 1041.

**Chairwoman J. Lee** asks Jan Engan about public administrators. There is a discussion about public administrators.

**Senator Anderson** talks about funding for HB 1041 and proposed amendment. There is a discussion about proposed amendment(s).

**Senator Larsen** discusses about who would be covered under HB 1041.

There is discussion about the budget and funding.

**Senator Larsen** talks about expansion of the program. There is discussion about who is and is and is not covered for under HB 1041 and the budget.

**Chairwoman J lee.** Talks about including what an incapacitated adult is however like how the house has left it so that DHS make that determination. **Senator Dever:** asks if it's the court that makes that determination.

There is a discussion about putting the funding back into the bill.

Discussion about proposing amendment, funding, and who would be eligible. .

**Senator Axness** motions to amend HB 1041 to return to the original language in the 02000 version.

Committee compares language of Original HB 1041 and Engrossed HB 1041.

**Senator Axness** withdrew the motion.

Committee talks about e-mail from Judy Vetter and proposed amendments for funding.

**Chairwoman J lee** asks about case load and paying for those already in the program.

**Chairwoman J lee** talks about the funding court processes.

There is discussion about restore full funding to the bill, and were the funding would go.

There is more discussion about wording of the amendment, eligibility.

**Senator Axness** motions to amend HB 1041 to restore the funding in HB 1041 to the original \$1,657,100 and delete on line 8 four new wards.

**Senator Dever** seconds.

**Senator Larsen** asks for clarification on funding.

**Amendment passes 5-0-0**

Senate Human Services Committee

HB 1041

3/25/13

Page 3

**Senator Axness** motions for a Do Pass as Amended and rerefer to Appropriations on HB 1041

**Senator Dever** Seconds

**DO PASS as Amended 5-0-0**

**Chairwoman J. Lee will carry**

# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee  
Red River Room, State Capitol

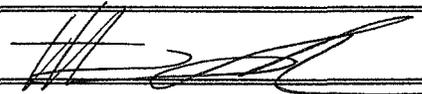
HB 1041

4/8/13

20947

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

To provide appropriations to the office of management and budget and the supreme court guardianship and administrator services.

## Minutes:

attachment

**Chairwoman J. Lee.** Opens the discussion on HB 1041

**Chairwoman J. Lee** discusses HB 1041.

**Chairwoman J. Lee** discusses attachment #1 from Maggie Anderson.

The committee discusses the amendment, and past committee action on HB 1041.

13.0210.03001  
Title.04000

Adopted by the Human Services Committee

March 25, 2013



3-25-13

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1041

Page 1, line 6, replace "\$361,200" with "\$1,657,100"

Page 1, line 8, remove "for new wards"

Renumber accordingly

Date: 3-25-13  
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1241

Senate Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By AXNESS Seconded By \_\_\_\_\_

Senators	Yes	No	Senator	Yes	No
Chairman Judy Lee			Senator Tyler Axness		
Vice Chairman Oley Larsen					
Senator Dick Dever					
Senator Howard Anderson, Jr.					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

TO RETURN Bill TO  
The original  
language IN  
02000 VERSION

Withdraw  
Motion

Date: 3-25-13  
 Roll Call Vote #: 2

2013 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1041

Senate Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment

Rerefer to Appropriations  Reconsider

Motion Made By AXNESS Seconded By DEVER

Senators	Yes	No	Senator	Yes	No
Chairman Judy Lee	✓		Senator Tyler Axness	✓	
Vice Chairman Oley Larsen	✓				
Senator Dick Dever	✓				
Senator Howard Anderson, Jr.	✓				

Total (Yes) 5 No 0

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Restore Funding D. Line 8  
4 new  
waived

Date: 3-25-13  
 Roll Call Vote #: 117

2013 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1041

Senate Human Services Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.0210.03001 Title 04000

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By AXNESS Seconded By Dever

Senators	Yes	No	Senator	Yes	No
Chairman Judy Lee	✓		Senator Tyler Axness	✓	
Vice Chairman Oley Larsen	✓				
Senator Dick Dever	✓				
Senator Howard Anderson, Jr.	✓				

Total (Yes) 5 No 0

Absent \_\_\_\_\_

Floor Assignment SEN. J. LEE

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**HB 1041, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1041 was placed on the Sixth order on the calendar.

Page 1, line 6, replace "\$361,200" with "\$1,657,100"

Page 1, line 8, remove "for new wards"

Renumber accordingly

**2013 SENATE APPROPRIATIONS**

**HB 1041**

# 2013 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

HB 1041  
04-01-13  
Job # 20702

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A BILL re: guardianship and public administrator services

### Minutes:

See attached testimony #1.

Chairman Holmberg called the committee to order on Monday, April 01, 2013 at 9:00 am in regards to HB 1041. All committee members were present.

Becky J. Keller- Legislative Council  
Lori Laschkewitsch - OMB

**Chairman Holmberg:** You should be looking at the engrossed bill with senate amendment. We will hear from folks from Human Services, the money should not go to OMB, because if we put the money into OMB, they will turn around and write a check to DHS. It would be a middle step that doesn't make a lot of sense.

**Representative Wieland, District 13, West Fargo:** Testified in support of the bill and to explain the bill. It is a bill that primarily deals with guardianship of non- developmentally disabled individual. It came out as a result of a study done by Dr. Windsor Schmidt, who did the project and did an excellent job. His report is available who would like to see it. The members of the Human Services interim committee have copies of that. HB 1040 was a result of that study, which is just changing the language, and HB 1041 actually deals with the guardianships.

**Senator Gary Lee:** Can you explain the differences in the amounts?

**Representative Wieland:** As a result of what the House did, they had removed that portion of the wards that were already covered by the counties. We were led to believe they were covering the cost of that, but we are finding out now that they are not. So that was put back in, and then some additional wards to cover more people than what was originally put in the House version.

**Chairman Holmberg:** Was that done in House appropriation?

**Representative Wieland:** It was primarily done in the Human Services committee itself.

**Chairman Holmberg:** I am getting head shaking the other way.

**Representative Wieland:** I will let them explain that to you then. I don't recall that we had any amendments in appropriations that addressed that but it is possible that it was. It was a recommendation.

**Chairman Holmberg:** So it was changed and then changed back, and we won't worry about who is at fault, blame, or credit, and we will move with what we have.

**Shelly Peterson, with ND long Term Care Association:** testified in support of HB 1041 and provided written testimony # 1 - stating that HB 1041 will help protect vulnerable adults, their assets and assure guardianship services are available if necessary. The \$1.6 million stayed in House Human Services and then when it went to House Appropriations is when the reduction was made. Vulnerable adults are being exploited in North Dakota. This bill before you gives you a coordinated united system of the provision of guardianship services throughout the state of North Dakota for vulnerable adults. We are aware of situations where vulnerable adults and long term care residents are being financially exploited. For the vast majority of families whose loved one needs a guardian, families step up to the plate and do a really good job, however, there are situations where that is not the case at all. Individual's resources are depleted and they are left destitute without income. New found wealth in western North Dakota is compounding the issue. 1 out of 6 residents in the facility have issues with their payment. Some of this is attributed to assets and income of older persons being used by other interested parties and not going through the cost of care and services. In these situations Medicaid is rightly denying coverage because records show assets exist and those assets are to be used for their care. In these situations the money has been spent by other parties and resources did not exist to pay. Long Term Care facilities have a right to discharge a resident for non-payment for not paying their bill. However, before we can discharge them we have to find a place for them to live and when they are not paying their bill, it becomes almost impossible. We would never put them out on the street. Many facilities are incurring large bills because of that. In these disparate situations where the assets are being used by another party, we feel the resident is in need of a guardian and we don't think that it is appropriate for the long term care facility to be the one petitioning the court seeking the guardian because we are providing the care. We need another party to do that. There are agencies in North Dakota set up to do this but the issue is that there is not money for them to do it for people who do not have the income and assets. So we need to pay the agencies so that they are able to do it. It will help protect vulnerable adults, their assets, and make sure guardianship services are available. (9:12)

**Vice Chairman Bowman:** What happens if we pass this, how much will there be in two more years if something else comes up that we forgot? This is the way everything works anymore around here. We just keep funding it more, and it just keeps growing and growing. We have had this problem since I can remember. So who's at fault? What are doing wrong that we can't address something like this if we know that the problem is there and we know the court system is supposed to intervene with this if there is a problem.

**Shelly Peterson:** I think you hit it right on when you said that we've been addressing the problem for a number of years. I think that is the fallacy. We haven't addressed the problem; we've been studying it for a number of years but there has never been a

comprehensive approach. I think in a number of biennium, the maximum amount of money set aside for this has been \$40,000 and that money has been used within to petition costs to help those very low income vulnerable adults that have been at greatest risk. There hasn't been funding and there hasn't been a united effort on how to best address the problem. That is what is in this. It has been determined that there are a number of people that are not getting the care and the services and the guardianship services. That \$40,000 has been woefully insufficient for a number of years. This is the first comprehensive approach to the issue.

**Senator Carlisle:** Was any part of this in the Governor's budget?

**Shelly Peterson:** The Governor set aside \$1 million. In his opening statement he said that it was for guardianship services. My understanding is that the Governor put that in HB 1012 and that has since been deleted. This interim committee bill came in at \$1.65 million, so together there was \$2.65 identified and what we are ending up with right now is \$361,000. So we are trying to get back at least to the \$1.6 million.

**Chairman Holmberg:** There was some support from the House for funding for guardianship services. At the end of the day it will encourage the conference committees to resolve those differences, assuming we pass what is here or what the House did. (12.56)

**Aaron Burst, Association of Counties:** In terms of overall policy, this is one of the Association of Counties number one policies. Quite frankly, the public administrator guardianship service portion is a bit on life support. It is handled differently in different counties. We are asking that this first appropriation starts creating unified source of money so that the counties can then start figuring out how they want to do a public administrator system. Guardianship is the general term when someone does not have a family member or someone willing to step in. They turn to the counties because by statute, counties are responsible for providing the public administrator to provide those services. Most counties have divested themselves from having a staff person do that work. They now contract with private service providers. The bill would be that component that would continue to pay those private service providers. In the study that Windsor Schmidt went through, there were multiple avenues of trying to figure out what was the best way to fund these programs. The bill you have in front of you would be more of the state-county partnership. Where the state would put in money and the counties would administrate the program and then push those monies out to the private service providers. It's not necessarily true that this money has to go to DHS. In fact that was a different version. If we put that money into DHS and let them run the program, or you could do this county hybrid model. We support the county hybrid model because we think DHS has their own issues to work through. I think this bill still works. The association is committed to making sure that this gets pushed out to the counties so that we can fund this. Counties are partially funding this already so in some ways this is putting money from the state funds and ideally we would like the counties to not have as much skin in the game because this would help us. The counties have been reluctant to fund this because; A. they don't know what it is, and B. when the courts unified, a lot of the counties thought that the guardianship is no longer their responsibility because the courts are appointing these individual and then they no longer had people on staff so

that should be more of a state responsibility. I am not suggesting it should be, but that is some of the disconnect.

**Senator Gary Lee:** Some of the outside discussions were indicating the reason the engrossed house bill was reduced was because they were looking to cover the new guardianships as they viewed it. So their money was for the 361 new ones; the other money was already being funneled to the counties some other way. I am just kind of trying to clarify that. The counties already have money to pay for these existing and this 361 was to pay for the new additions.

**Aaron Burst:** As of right now, the counties are not receiving dollars to pay for public administrators. Throughout the whole study, some of the information came from myself when I asked the county auditors how much they were currently paying. That is how we generated some of those monies. Now Dr. Schmidt just took the potential need and put a dollar figure at it and then came up with his dollars. Some of those dollars do vary. I want to assure the committees that this would be phase one where we still need to set up rules and figure out what the dollar amounts are and then push it out. It is not just a direct pass through. We want to create a better system where counties have some control over those local service providers. This was easier when the counties had employees, but since we don't have that any more, we would like to unify it.

**Senator Gary Lee:** The \$1 million that was taken out by the House - you are saying it is not duplicative dollars?

**Aaron Burst:** No. There is no other bill that funds this. \$1 million was in the Governor's budget but it was not defined. Generally, the thought process was that the \$1 million would go to DHS to provide adult protective service workers. The adult protective services workers are nothing more than investigators. When there is elder abuse occurring that did not necessarily translate into the private service providers. So the \$1million from the Governor's budget and the \$1.6 million from the interim study got blurred together and lost in translation. As of right now, I know of no bill that puts money into the public administrator system for the counties besides this bill.

**Chairman Holmberg:** I think there might be a discouraging word. Lori from OMB could you shed some light on that?

**Lori Laschkewitsch:** It may be better to have the DHS explain how the program would work in their department. From the million in the Governor's budget it was appropriated to the department for them to administrate the program and that is what Jan would be able to explain to you.

**Aaron Burst:** I would be happy to stand corrected. However, since I have been following this for the past two years, the bill in front of you was designed to be for the counties to provide for the guardianship services and it was not to manage the program or aps workers.

**(19.59) Judy Vetter, Administrator of Guardian & Protective Services Inc. (GAPS) and President of the Guardianship Association of North Dakota:** Testified in favor of HB

1041 and provided written Testimony attached # 2 in support of the bill and asked the committee to pass the bill with the proposed amendments.

**(23:19)Chairman Holmberg:** Is that amendment to bring it back up to the \$1.6? Or is this additional money that you are asking an amendment for?

**Judy Vetter:** Explained Attached Testimony #3. (Funding addendum options)

**Chairman Holmberg:** I am having a little trouble understanding something. This is the bill and it says \$1.657 million; in your amendments what would that number be?

**Judy Vetter:** Instead of the \$1.6 million, we are trying to tighten that up to the \$1.3 million.

**Senator Mathern:** What is your opinion on where that money should be given? Let's assume we fund this. Should we give it to the court, OMB, DHS, or where do you think is the best way to implement what Mr. Burst has indicated would be the model of using this money.

**Judy Vetter:** In my opinion, the way it sets is through OMB so that it can get out to the counties. The system exists and it is operating and it works outside of DHS. The only involvement that DHS has had up to this point in guardianship cases is to pay the petition costs for the attorneys. We initially wanted it to be with the court but Chief Justice Vanderwahl and many other judges came forward to share their information that they are appointing us. They believe in the system but they feel it is a conflict of interest for them to handle the money when they are appointing us to serve. When I look at DHS, and where the money needs to be for them, is in the aps workers. There is not enough in the counties or state positions to do that. Right now, county social services are the primary people that are providing that service and there are a few people in each of the human services. Again I see that as a conflict because they are doing the investigating and asking for a guardian to be appointed when they find a need. There are many other people outside the system to that are not involved with DHS. Really, OMB seems to be the most non-threatening state agency for it to go through, or for non-conflict. We do believe that aps needs to be funded.

**Chairman Holmberg:** I recall when the court had a conflict of interest over the indigent defense and this would be the other question. I will put this into Human services, because it's policy. If you are going to provide the service, the folks in the field don't care where the check comes from. That is something that the subcommittee will have to make a determination on.

**(27:30)Josh Askvig, AARP:** Testified in support of HB 1041. We have strong policy supporting the fact that those who may need assistance as they age should be provided that. Especially those who may lack the needs to pay for it on their own, which is what this bill addresses in the public guardianship side of it. There are several alternatives for authorizing another person or corporate entity to act on one's behalf and one of those is guardianship in which a court oversees a transfer of authority for property or personal decision making or both when an individual is deemed incapable of managing his or her own affairs. As our population grows older courts have found it more and more difficult to find family members or friends able or willing to serve in a guardianship capacity for our

loved one so the need has increased over the years for guardianship. Dr. Schmidt was seen as the premier expert when you hired him and brought him in to do this. When we asked our national office about him and they have worked with him on numerous occasions and you have a very good recommendation before you about how to move forward and improve our guardianship services. The other part I don't want you to miss in all of this is that there is \$70,000 in there for training of guardians. That is an important piece too. Making sure that people understand what their responsibilities are as a guardian is very important. That second section is a critical piece as well and I wanted to add some credence to that.

**(30.00) Bill Newman, Executive Director of State Bar Association of North Dakota:** I would like to address some confusion about what this money is actually to be spent on and who can actually do the work. This money is to hire the people who do the day in and day out work of being guardians for people who have no assets and who are not developmentally disabled. Some folks have suggested that the DHS can do that job. DHS and guardians are going to be opposed to one another more than half of the time. They are going to be arguing over whether or not this ward should be covered by services provided by DHS. Adult protective services can't provide guardianship services and they have the responsibility of investigating guardians who are not doing their job properly and who may be lining their own nest. This is not money that is duplicated someplace. The money isn't going to lawyers; somebody else already pays the person to bring the petitions. I don't know if I have made a mess or not but I can answer questions.

**(31:53)Chairman Holmberg:** You have stirred the caldron a little more.

**Senator Wardner:** Are there any commonalities of purpose between this and indigent defense?

**Bill Newman:** I think that is a totally different kind of work. This not work for lawyers, indigent defense is for lawyers. This work under this bill would be compensated at a much lower rate than indigent defense is. This is already compensated at a pretty low rate for lawyer services. It is interesting to try and find the right entity to do this job. It used to be done by an elected county official called the public administrator and it was in the early 90s when the law was changed. It was no longer an elected position. Also in 91, the legislature said that at a later effective date there will no longer be any county judges to be paid for by the counties out of county funds. I think there were a lot of counties that thought they could keep the revenues and spend it on something else. In 93, in Governor's budget, it was decided to take that money that was collected by the county courts and is now collected by the district courts and we are going to apply that to other purposes. Ever since then the counties have been reluctant about funding things that are ordered from the courts, because the courts are now thought of as being the states courts. Those district judges are the states judges - they are not our county judges anymore and they no longer generate revenues for our county coffers. This is one of the things that at one time used to be handled by a county elected official and most counties are not adequately funded anymore and it is a growing need.

**(35.15)Jan Eggan, Director of the Aging Services Division, Department of Human Services:** See Attached Testimony #4. (Gives comparison of Guardianship Bills)

**(43:20)Sally Hollewa, State Court Administrator:** Testified in a partially neutral/partially in support of the bill. I am in support of the \$70,000 in training money for guardianships. That is something that is specifically asked for by the courts. The neutral part of it has to do with the fact that this is a policy bill in and of itself. What it comes down to is a policy issue, and if this is something the state wants to take one. As far as that is concerned, the court is neutral on that. I can answer some questions about the committee and some of the questions about the charts on where it is duplicated and where it is complimentary. I really hate to see this set up as two competing bills. The reason why we looked at OMB as we went through this study; everybody said we need to do something but they did not want it in their agency because there is conflict of interest. The study itself acknowledged that. The only testimony that I am aware of that came from DHS was that they were not in favor of moving forward because of the aps need and that they did not think they had enough people. When you look at what is duplicated here: #1 it would be the study money and #2 it would be the new guardianship piece. The rest of it is complimentary toward each other.

**Senator Gary Lee:** So your understanding would be then that between HB 1012 and HB 1041 we add \$2.6 million and now we have \$1.6 million?

**Sally Hollewa:** That is correct.

**Chairman Holmberg:** Closed the hearing on HB 1041.

# 2013 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

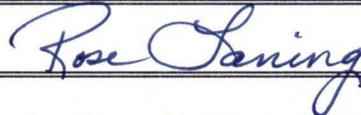
HB 1041 subcommittee

April 1, 2013

Job # 20745

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide appropriations to the office of management and budget and the Supreme Court for guardianship and public administrator services

### Minutes:

Testimony # 1

Legislative Council - Becky J. Keller  
OMB - Lori Laschkewitsch

**Senator Kilzer** opened the subcommittee hearing on HB 1041. Senators Lee, Erbele and Mathern were present.

**Senator Kilzer:** Said this was a concentrated bill and not sure he comprehends all the details and the trail of the bill. What other funding bills and organizations are out there, what position is this bill in comparison to others that have been put in the hopper for guardianship?

**Jan Engan, Director, Aging Services, DHS:** Funding bills that are out there that may or may not have funding attached to them but probably have a fiscal note, would be engrossed SB 2323, which deals with mandatory reporting. This is a flow chart of the vulnerable protective services and reporting, attached #1. (1:00-3:37)

**Senator Kilzer:** There must be some sort of funding.

**Jan Engan:** Not aware of any funding in 2345. In SB2323, we are looking at general fund dollars for the 13-15 biennium of \$431,116. We project for the 15-17 biennium \$422,468. There were some onetime costs in the first three years. That would support two FTE's for investigation and assessment. She continues going over the chart. (4:00-6:05)

**Senator Mathern:** What you are saying here is there are these greater opportunities for uncovering a need. Do you believe you can meet the need for guardianships with \$1.6M in 1041 or do you need that plus the million that is in 1012?

**Jan Engan:** We support the one million dollars that is in 1012 in the department's budget because that does address both the guardianship need and it addresses the petitioning

cost for low income individuals that do not have resources or family support to petition for guardianship. It also begins to address that issue of the investigation and assessment process. We have found when we look at those individuals that are coming through the current guardianship system in the department, 41 to 43 percent of the petitions have been initiated by the APS workers in our local communities.

**Senator Mathern:** We're looking at the entire need. Is there an entire need, considering all of this to have both the money in 1041 and 1012 or are you saying the million is plenty?

**Jan Engan:** I would refer back to Dr. Schmidt's study where he identified an unmet need. I believe it was 305 individuals. We begin to address in both bills that unmet need.

**Senator Gary Lee:** In both bills, there are duplicate dollars in there. There is the three hundred and sixty-one thousand that's duplicated and then there's the seventy to seventy-five thousand dollars in court training costs. Probably the \$2.3M is the number that is in the two bills that is unduplicated. Do you agree?

**Jan Engan:** If the math is correct, I'd agree. I would agree that there is some duplication between the two bills.

**Senator Gary Lee:** That would take care of the existing and the 86 new for the biennium that you're looking to have new guardianships for.

**Jan Engan:** That I couldn't speak to without really taking a closer look at it.

**Senator Gary Lee:** He commented to the amounts. (10:00-10:27)

**Senator Kilzer:** Going back to SB2323. Will that be the same level of funding for this activity that's in 2323? What I am asking for is the numbers you anticipate serving both new and ongoing clients.

**Jan Engan:** In SB2323 it really addresses the intakes in our system. She explains how they came up with the numbers. (11:20-12:55)

**Senator Kilzer:** 2323 is a free standing bill. Has this funding always been a free standing bill, why isn't it part of aging services in the Human Service budget?

**Jan Engan:** The chart addresses that. (13:10-14:06)

**Senator Kilzer:** Why wouldn't you put the aging service as part of your Human Services budget?

**Maggie Anderson, Interim Director of DHS:** Said it is tied to a policy decision. 2323 was introduced by Senator Murphy because he wanted a policy decision for mandatory reporting. The million dollars in HB1012 was to further the efforts related to guardianship without the context of what Senator Murphy was going to introduce.

**Senator Kilzer:** So 1041 is really a policy that requires a fiscal note with it?

**Maggie Anderson:** 1041 had an appropriation in it and that came as a result of the interim committee.

**Senator Mathern:** I have a question about the placement of the 1041 money. How would OMB allocate this money if we appropriated it there and if DHS thinks that would be a workable arrangement?

**Lori Laschkewitsch, OMB:** It would have to be appropriated based on direction from you. We would be working with the department of human services to find out how this money should be allocated out. We don't have a guardianship.

**Senator Mathern:** So you wouldn't go to counties or courts and ask them how they would suggest the money be sent out to the public administrators?

**Lori Laschkewitsch:** There would have to be some planning done on how this would be carried out because this is a new area for the OMB. So we'd start by working with the DHS to find out what the needs are.

**Senator Mathern:** In the department of human services does it matter to you if 1041 appropriation is given to you or to any other agency? Does it affect your programing?

**Maggie Anderson:** Based on the chart of what that money would be used for that is what we would intend. If the 1.657 was back, we'd allocate it based on that and if it was something less than that we would have to figure out between the counties whether we'd lower the per diem amount or pay for fewer existing guardianships or fewer newer ones. We'd have to know what your wishes are.

**Sally Holewa, Court Administrator of the North Dakota Supreme Court:** In the interim committee when we decided it should go to OMB it was based on what we do with civil legal defense funds. (18:08-18:48)

**Senator Kilzer:** Does that almost parallel the indigent defense?

**Sally Holewa:** Not the indigent defense but indigent civil, which is your legal services in North Dakota that happen, divorces, child custody, those sorts of things. (18:55-20:18)

**Senator Gary Lee:** There's other money in 1012, are you suggesting it go through OMB as well?

**Sally Holewa:** I'm not suggesting that at all because they are very different. Contracting out for vulnerable adults protective services is something DHS is already doing and paying for. These bills complement each other and don't compete. (20:30-21:08)

**Senator Mathern:** I wondering if we should ask legislative council to draft amendment that appropriates the money to OMB in 1041 but also includes the naming of the suggested committee, the supervisory committee. So there is a committee that attends to the details and that we further fund the department of human services in an amount that nears that

million but eliminates the duplication of funding. The actual interim committee saw a larger need. Those amendments could be drawn up and we'd consider them at the next meeting. (21:15-24:11)

**Jan Engan:** Certainly I would support the governor's budget, that's our department's position. We need to come together to protect the vulnerable people in our state. (24:16-24:49)

**Senator Mathern:** I would suggest that the department of human services and the court administrator's office agree on what are the duplicative things and take those out. (25:03-25:56)

**Senator Kilzer:** We don't need to prepare the amendment for 1012 to get the million back into it because that is a different bill. If we're going to have the 1.3 as the one amendment in 1041 to avoid the duplication, is that what you are talking about?

**Senator Mathern:** The 1.3 was really based on Judy Vetter's testimony this morning that indicated the 1.6 wasn't necessary.

**Judy Vetter, Guardian and Protective Services Interim Group, DHS:** An effort on our part to look at how we could tighten that funding up. We do see a need for funding for adult protective services, if the mandatory reporting is going to pass.

**Senator Mathern:** We are the same subcommittee for both bills. It would be nice to have both amendments done so we know if we're duplicating. (26:54-27:25)

**Senator Kilzer:** \$1.3 M amendment for 1041, but the rest in 1012.

**Becky J. Keller:** Do you want the committee as part of the amendment for 1041 and what kind of committee? Are you talking structure and member size?

**Sally Holewa:** The Civil Legal services fund mentions the committee members.

# 2013 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

HB 1041 Subcommittee  
04-09-2013  
Job # 21024

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A Subcommittee hearing Guardianship & public administrator services (DHS)

### Minutes:

You may make reference to "attached testimony."

**Chairman Kilzer** called the subcommittee hearing to order at 10:30 am on Tuesday, April 09, 2013 in the Harvest Room in regards to HB 1041. Let the record show that all conferees were present: Senators Kilzer, Lee, Ereble and Mathern.

Becky J. Keller- Legislative Council  
Lori Laschkewitsch-OMB

**Senator Kilzer:** We would like to finish this bill and present it to the whole Appropriations Committee here at 11:20 am today. We have called this meeting to look at the proposed amendment and adopt it and pass the bill out. We actually talked about the money regarding guardianships in previous meetings of the subcommittee and to refresh your mind the subcommittee has agreed to two things, to restore the \$1M in 1012 that the Governor had put in and the House had removed and in this bill, 1041, to put in the \$1.3M as the other portion of guardianships, so there is a total of \$2.3M. I would ask Senator Mathern to discuss the amendment.

**Senator Mathern** handing out the amendment # 13.0210.03002, Testimony attached # 1 That amendment addresses the issue of adding the additional money so this amendment would put that allocation to \$1.366M. It would clarify the eligibility for the ward must be defined as an incapacitated adult with the income of at or below the federal poverty level this would clarify that. The use of this money would not be for persons that are funded under our developmental disabilities grant, the corporate guardianship program, that Catholic Charities contracts for. There is one section that is not here that we had discussed as committee members. There was a question how the details would be worked out, between the courts, DHS and OMB. When we last met we had kind of an informal agreement that we might put this money to OMB unless they'd have a committee to work out the details between the agencies. The agencies have met and they believe putting this money to DHS does make sense, that in the rule making authority that the department has, these agencies will probably have the opportunity to work out the details. I checked that out with the courts to ascertain that that was correct, is this what you want, and Sally

Hollewa, State Court Administrator, said yes. This deals with the money and it puts back into the DHS the receiving of the money and how it is spent.

**Becky J. Keller:** The appropriation is still to the office of OMB.

**Senator Mathern:** Correct. the listing of the DHS, was regarding the exception for the developmental disabilities so this money does in fact goes to OMB but doesn't set up a committee that we thought we would be setting up and leaves that open to the rule making authority.

**Maggie Anderson, DHS:** That is correct and it's going to OMB .

**Senator Mathern** moved the amendment # 13.0210. 03002. 2<sup>nd</sup> by Senator Gary Lee .

**Senator Kilzer:** We have a motion to adopt amendment # .03002. any further discussion if not the secretary will call the roll.

**Senator Gary Lee - Aye**  
**Senator Mathern - Aye**  
**Senator Erbele- Aye**  
**Senator Kilzer - Aye.**

**Senator Kilzer:** Any further action by subcommittee members.

**Senator Mathern; I move approval of the bill as amended. 2<sup>nd</sup> by Senator Erbele.**

**Senator Kilzer:** We have a motion and a second to put a Do Pass as Amended on 1041. All those in favor signify by saying aye. It carried. The bill moves on to the full Appropriations Committee. The hearing on HB 1041 was closed.

Maggie Anderson, Interim Director DHS submitted Proposed Amendments to Engrossed House Bill No. 1041. Testimony attached # 2 at a different time, (not during a hearing).

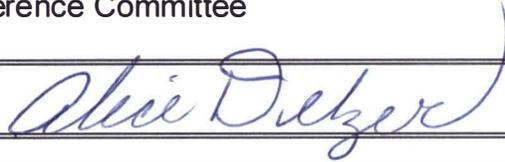
# 2013 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

HB 1041  
04-09-2013  
Job # 21027

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A BILL regarding Guardianship & public administrator services (Do Pass as Amended )

### Minutes:

You may make reference to "attached testimony."

**Chairman Holmberg** called the committee back to order on Tuesday, April 09, 2013 at 11:20 am.

Becky J. Keller- Legislative Council  
Lori Laschkewitsch- OMB

**Chairman Holmberg:** We should be looking for HB 1041. We have the 1041 people in the audience. Amendments are being passed out to the committee.

**Senator Mathern:** The issue of guardianship was studied and a bill came forward from the interim committee that was chaired by Representative Wieland. That bill recommended funding for the development of guardians around the state that would address vulnerable adults that are not in our DD system.

**Senator Mathern moved the amendment.# 13.0210.03002. 2<sup>nd</sup> by Senator O'Connell.**

This amendment places into this bill \$1,366,000 and clarifies that the persons eligible for this guardianship service would be incapacitated adults that are at or below 100% of the federal poverty level and they are not developmentally disabled adults that we generally provide guardianship for through corporate guardianship through a contract with Catholic charities. . Your subcommittee supported this widely comes from the work of the interim committee and a number of the people who would be providing this service are with us today so I would address any questions you might have. (3.35)

**Vice Chairman Bowman:** Asked why is there such a difference with the two figures you are adding, what was the figure that the interim committee came up with?

**Senator Mathern** the actual interim committee considered a proposal of developing a guardianship mega agency of over \$17M. That was reduced down by the interim committee to just assist this one group, we were closer to \$1.6M and the House left the \$361 in there and this is restoring most of that money. It is going back to what the interim

committee did and if the House disagrees this will go to conference committee. So it's not far from the interim committee report.

**Chairman Holmberg** Any other discussion on the amendment? All in favor of the amendment say Aye. Motion carried.

**Senator Mathern Moved Do Pass as Amended on 1041. 2<sup>nd</sup> by Senator Robinson .**

**Senator Mathern:** The other issue here that was discussed and you might hear from constituents, is who will receive this money? This money would go to OMB. There was discussion about the conflict of interest between Human Services or the courts, because they interact with these wards. So this money will go to OMB and they will develop some rules with these different entities to make sure this money gets to the right place at the right time for these services. Everybody came to that agreement so I would hope that we could pass the bill. .

**Senator Kilzer:** This bill does dovetail with Human Service, 1012 there was \$1M for guardianship that the House had removed, and we are putting it back in. Both of these two appropriations will fit the total need of \$2.3M outside of the corporate guardianship.

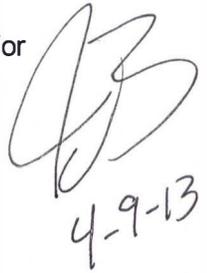
**Chairman Holmberg:** We have a motion and a second for a Do Pass. Call the roll on a Do Pass as Amended on HB 1041.

**A Roll Call vote was taken. Yea: 13; Nay: 0; Absent: 0.**

**Senator Mathern will carry the amendments and he will check with Human Services if they want to carry the bill.**

The hearing was closed on HB 1041.

April 5, 2013



Handwritten signature and date: 4-9-13

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1041

In lieu of the amendments adopted by the Senate as printed on page 880 of the Senate Journal, Engrossed House Bill No. 1041 is amended as follows:

Page 1, line 6, replace "\$361,200" with "\$1,366,000"

Page 1, line 8, remove "for new wards"

Page 1, line 8, remove "The"

Page 1, replace lines 9 and 10 with "To be eligible for funding under this section, a ward must be found to be an incapacitated adult as defined by section 30.1-26-01 and have income at or below one hundred percent of the federal poverty level. A ward with developmental disabilities who is receiving case management services through the department of human services is not eligible for funding under this section."

Renumber accordingly

Date: 4-9-14

Roll Call Vote # 1

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES

BILL/RESOLUTION NO. 1041 Subcommittee

Senate Appropriations Subcommittee Committee

Check here for Conference Committee

Legislative Council Amendment Number 13-0210 03002

Action Taken  Adopt Amendment  Do Pass  
 Do Pass as Amended  Do Not Pass

Motion Made By Mather Seconded By Lee

Senators	Yes	No	Senator	Yes	No
Chairman Ray Holmberg			Senator Tim Mather	✓	
Co-Vice Chairman Bill Bowman			Senator David O'Connell		
Co-Vice Chair Tony Grindberg			Senator Larry Robinson		
Senator Ralph Kilzer	✓		Senator John Warner		
Senator Karen Krebsbach					
Senator Robert Erbele	✓				
Senator Terry Wanzek					
Senator Ron Carlisle					
Senator Gary Lee	✓				

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: \_\_\_\_\_

Roll Call Vote # 2

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES

BILL/RESOLUTION NO. 1041

Senate Appropriations Subcommittee Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken  Adopt Amendment  Do Pass  
 Do Pass as Amended  Do Not Pass

Motion Made By Mather Seconded By Erbele

Senators	Yes	No	Senator	Yes	No
Chairman Ray Holmberg			Senator Tim Mather	<input checked="" type="checkbox"/>	
Co-Vice Chairman Bill Bowman			Senator David O'Connell		
Co-Vice Chair Tony Grindberg			Senator Larry Robinson		
Senator Ralph Kilzer	<input checked="" type="checkbox"/>		Senator John Warner		
Senator Karen Krebsbach					
Senator Robert Erbele	<input checked="" type="checkbox"/>				
Senator Terry Wanzek					
Senator Ron Carlisle					
Senator Gary Lee	<input checked="" type="checkbox"/>				

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 4-9-13

Roll Call Vote # 1

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES

BILL/RESOLUTION NO. 1041

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number 13. 0210. 03002

Action Taken  Adopt Amendment  Do Pass  
 Do Pass as Amended  Do Not Pass

Motion Made By Matherne Seconded By O'Connell

Senators	Yes	No	Senator	Yes	No
Chairman Ray Holmberg			Senator Tim Matherne		
Co-Vice Chairman Bill Bowman			Senator David O'Connell		
Co-Vice Chair Tony Grindberg			Senator Larry Robinson		
Senator Ralph Kilzer			Senator John Warner		
Senator Karen Krebsbach					
Senator Robert Erbele					
Senator Terry Wanzek					
Senator Ron Carlisle					
Senator Gary Lee					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

*Voice Vote  
Passed*

Date: 4-9-13

Roll Call Vote # 2

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES

BILL/RESOLUTION NO. 1041

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken  Adopt Amendment  Do Pass  
 Do Pass as Amended  Do Not Pass

Motion Made By Mathern Seconded By Robinson

Senators	Yes	No	Senator	Yes	No
Chairman Ray Holmberg	✓		Senator Tim Mathern	✓	
Co-Vice Chairman Bill Bowman	✓		Senator David O'Connell	✓	
Co-Vice Chair Tony Grindberg	✓		Senator Larry Robinson	✓	
Senator Ralph Kilzer	✓		Senator John Warner	✓	
Senator Karen Krebsbach	✓				
Senator Robert Erbele	✓				
Senator Terry Wanzek	✓				
Senator Ron Carlisle	✓				
Senator Gary Lee	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Human Services

If the vote is on an amendment, briefly indicate intent: Mathern - talk to HS

**REPORT OF STANDING COMMITTEE**

**HB 1041, as engrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1041, as amended, was placed on the Sixth order on the calendar.**

In lieu of the amendments adopted by the Senate as printed on page 880 of the Senate Journal, Engrossed House Bill No. 1041 is amended as follows:

Page 1, line 6, replace "\$361,200" with "\$1,366,000"

Page 1, line 8, remove "for new wards"

Page 1, line 8, remove "The"

Page 1, replace lines 9 and 10 with "To be eligible for funding under this section, a ward must be found to be an incapacitated adult as defined by section 30.1-26-01 and have income at or below one hundred percent of the federal poverty level. A ward with developmental disabilities who is receiving case management services through the department of human services is not eligible for funding under this section."

Renumber accordingly

**2013 CONFERENCE COMMITTEE**

**HB 1041**

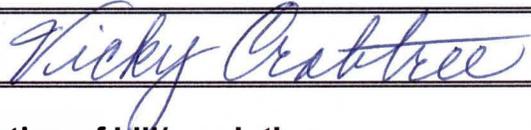
# 2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee  
Fort Union Room, State Capitol

HB 1041  
April 18, 2013  
Job #21256

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Proved appropriations to OMB and Supreme Court for guardianship and public administrator services.

## Minutes:

See Handout #1

Chairman Weisz called the conference committee meeting to order on HB 1041.

Sen. J. Lee: I'll have Sen. Mathern explain the last amendments that were added by Senate Appropriations.

Sen. Mathern: When the bill came to the Senate there was confusion on the proper funding for adult protective services and guardianship services and how it related to other bills. The appropriations committee looked at all the bills and needs that were expressed by the policy committees of the House and Senate and tried to do the numbers correctly. (Went through the marked up version 03002 of the bill.) 3:24 Changes made were correct the funding amount to the levels that were needed to make sure there was an eligibility piece and that we weren't double funding the Developmental Disabilities Corp. Guardianship Program.

Sen. Lee: The original bill was the \$1.6 and I was told the \$1,366,000 is adequate to cover what is going on.

Chairman Weisz: They went down from \$7.50 per day from the \$11.50 per day. The original proposal for the \$1.6 million was for \$11.50 per day. Our difference amounts to whether we are going to fund the current ones or the new ones going forward.

Sen. Lee: The Senate thought it was important to include both the current and new one and that is where that amendment came from.

Rep. Wieland: Something was mentioned by Sen. Mathern about adult protective services. There is nothing in this bill about adult protective services, but there is something that has been talked about on the Senate side in regards to that. Could Sen. Mathern give us a clarification?

Sen. Mathern: Adult protective services are the general manner in which someone might find someone in need and for a public administrator to get involved or a guardian to be appointed. There are other bills that deal with adult protection services. This only implements only one option if it is found that someone is being abused. These aren't adult protection services bills, but they are the way you provide a service.

Sen. Lee: The Dept. of Human Services has provided a chart (See Handout #1) and on the bottom section it describes that the vulnerable adult protective services is in HB 1012 and not in HB 1041.

Rep. Wieland: This is going to be run through OMB?

Sen. Mathern: We thought it should go to OMB because there was a conflict of interest with the department and the courts.

Chairman Weisz: The House perspective was the services for the 164 are being currently taken care of. As we went forward as those cases dropped out and then the new cases end up with the state funding.

Rep. Wieland: What you stated is the reasons why we did what we did. I understand some of the counties are not being very generous with their funding for the people doing the work. And we have to take that into consideration.

Sen. Lee: We have inconsistent provision of guardianship services because it is different from county to county. I don't want a two tiered system of wards and guardianship services.

Chairman Weisz: Was the drop of payment per month done in your committee or Appropriations?

Sen. Lee: The one Sen. Mathern talked about with 100% of poverty and those not being with developmental disabilities were added by Appropriations. The policy committee restored the dollars which is in version 03001 and they added the language about the qualification.

Chairman Weisz: We will meet again sometime tomorrow.

Sen. H. Anderson: I think this is a needed service to the people and to help the counties in providing these services is a step in the right direction.

Chairman Weisz: The services are needed. We are adjourned.

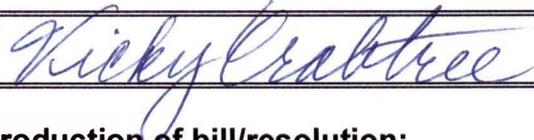
# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Human Services Committee Fort Union Room, State Capitol

HB 1041  
April 19, 2013  
Job #21310

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

To provide appropriations to OMB and the Supreme Court for guardianship and public administrator fees.

### Minutes:

Chairman Weisz called to order the conference committee on HB 1041.

Rep. Wieland: In talking with our leadership they look at taking off a dollar here and there. We have no problem with looking at the total cost of \$1.296 million and the new 43 wards being handled by state. In regards to the existing 164 guardianship cases; I'm looking into a proposal and haven't visited with the counties yet. The state would pick up 50% of that cost and the counties would pick up 50%. Currently the counties should be paying 100% of those costs and finding out that is not happening. We have to some kind of an agreement when and if we make that proposal. That amount would be \$467 apiece. As time goes by that would be reduced. I discussed it briefly with the department and they are gathering some information for me. I will talk to the counties about this and if it something that would work out I would come back with a motion.

Chairman Weisz: The counties are supposed to be providing the guardianship and they don't in all cases. So this would be a requirement that they had to match those dollars.

Rep. Wieland: It would be a one to one match and be required to do it.

Sen. Mathern: My concern is if someone is in need and there is a private entity that is called on to respond to the need, they would respond, but might not get reimbursed if a county says they are not going to do the match. I'm afraid of the impact being elsewhere even though we would pass such a law.

Rep. Wieland: These are only for those 164 people that exist. Anybody new would be covered by the state.

Sen. J. Lee: I'm interested in exploring this. You mentioned the \$467 each.

Chairman Weisz: I think he meant \$467,000 state share and \$467,000 county share.

Sen. J. Lee: Go through the numbers again.

Rep. Wieland: It is \$1.296 because the \$70,000 is already in. Adding up the three numbers the \$934,800 plus the \$3612 plus the \$70,000 you come to \$1.296. The \$1.366 that had been talked about before had \$70,000 in there twice.

Sen. J. Lee: At this point you are suggesting a 50/50 share of the existing and hope that every county is going to do it.

Rep. Wieland: That is a concern and that is why I want to talk to the counties. I feel the counties are being treated very well in this session. This is a small amount in comparison. With the increase in the state aid distribution I think it is about \$40 million. There is \$20 million dollars on the table for social services and possibly \$100 million.

Sen. J. Lee: We will here HB 1233 today on the Senate floor. The amendments moving forward have \$20 million in them. There won't be the full \$100 million.

Chairman Weisz: You are looking at 50% at current and new at 100% and it will shift eventually to 100%. The 164 will eventually decrease to zero.

Sen. Mathern: I would ask you to consider putting an ending date in the amendment.

Rep. Wieland: There is a date in there already. On line 8, the biennium beginning July 1, 2013 and ending June 30, 2015.

Sen. J. Lee: You would leave the two year sunset date or would you consider like 2017?

Rep. Wieland: We can consider 2017.

Rep. J. Lee: Is the funding in 1012 still safe?

Rep. Wieland: It is at the current time.

Chairman Weisz: How much time will you need?

Rep. Wieland: I would like until Monday.

Chairman Weisz adjourned the meeting.

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee  
Fort Union Room, State Capitol

HB 1041  
April 22, 2013  
Job #21381

Conference Committee

Committee Clerk Signature

*Vicky Crabtree*

## Explanation or reason for introduction of bill/resolution:

Provide an appropriation to OMB and the Supreme Court for guardianship and public administrator services.

## Minutes:

See Handout #1

Chairman Weisz opened the conference committee on HB 1041.

Rep. Wieland: (Handout #1) Went through the amendment. Splits cost 50/50 between the state and the county. We would have the time frame from July 1, 2013 through June 30, 2017. The state would then take over all of the funding. We would have to put in on Page 1, line 11, "Medicaid eligible".

Chairman Weisz: You are replacing the language of 100% of federal poverty with Medicaid eligible, correct?

Rep. Wieland: It can be done in that form.

Sen. J. Lee: I thought we needed both.

Sen. Mathern: His amendment would keep both in.

Rep. Wieland: I believe that is the way I proposed it.

Sen. Mathern: I thought we were only going to split with the county for one year instead of four years. What is the rationale for that? What do we do when the county disagrees with this?

Rep. Wieland: They are honorable people working with the county and I think they will agree to this.

Sen. J. Lee: They are honorable, but I would like to visit with more county people.

Sen. Mathern: I support the amendment regarding the Medicaid. I would like to lower from four years to one year.

Sen. J. Lee: I'm not opposed to the concept I just want to talk to more people.

Chairman Weisz: It is in law that they are responsible for the guardianship. We will let you have those discussions. We will adjourn until tomorrow.

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee  
Fort Union Room, State Capitol

HB 1041  
April 23, 2013  
Job #21443

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Provide an appropriation to OMB and the Supreme Court for guardianship.

## Minutes:

Rep. Weisz called the conference committee meeting to order on HB 1041. Rep. Wieland do you want to explain this?

Rep. Wieland: Yesterday we discussed how we could get together with the counties; they would pay 50% for the 164 wards. The cost would have been for the two years at \$467,000. The counties have said they would support this if we put it at the limit of 1/10 of 1 mill for each county. The total of the 53 counties would come to \$242,846 per year. Doubling that would be \$485,000 which more than covers the \$467,000. Instead of a four year cap we would go with a 2 year cap. If everybody would be in agreement I think we could agree.

Rep. Weisz: I want to make sure the math comes out. I'm not getting the same numbers.

(Discussion back and forth on the figures and figuring out what the total amount really was.)

7:55

Rep. Weisz: There would be a total of \$1.366 million. Of that \$70,000 is going to the guardianship training. That will reduce it to \$1.296 million. \$361,200 is to handle the new cases going forward. That leaves us rounded out at \$935,000 of which 50% of that will be the counties' responsibility for the next two years or \$467,000 all adds up to be. The state is going to pick up an additional \$467,000 plus the \$361,200 plus the \$70,000.

Sen. J. Lee: We were going to include in the amendment the "or Medicaid eligible" phrase.

Rep. Weisz: Correct. It is going to be \$898,000 that is the state's portion in this bill.

Sen. Mathern: I not sure how the amendment would affect the implementation of this program and the funding mechanism by the counties. Are you suggesting some appropriation or are you suggesting all of the counties now have agreed that they will provide the service?

Rep. Weisz: The counties are required.

Rep. Wieland: There will be an appropriation in here of \$898,000.

Sen. Mathern: The county share you refer to from the mill levy, are you using the mill levy?

Rep. Wieland: No. It is the way they will be addressing it.

Rep. Weisz: Up to 1/10 of a mill for each county.

Rep. Wieland: I got this from the counties and that is how they are looking at it.

Sen. Mathern: You believe from that they can start to fund this program?

Rep. Wieland: I believe they will.

Rep. Weisz: I'm comfortable with this.

Rep. Wieland: They did have a conference and talked about this and I was informed that Cass was one of the counties there and they agreed to this. They can budget it for it with this.

Rep. Weisz: When this comes out of conference there will be \$898,000 out of the general fund. In two years the funding for the current then be 100%.

Sen. Mathern: Will the amendment include the discussion of the counties doing their portion and the end date of two years?

Rep. Weisz: The amendment will just include the current amendment that says they will be responsible for 50% of the established rate and would have the end date for that 50%.

Sen. J. Lee: I would like to see the completed amendments before we sign off.

Rep. Weisz: I'll give everyone a copy. If not comfortable then we will meet again.

Sen. Mathern: The Senate would recede from its amendments.

Rep. Weisz: The Senate would recede and amend as follows. Is there a motion?

Rep. Wieland: I motion.

Sen. J. Lee: Second.

Rep. Weisz: The language will include Medicaid or Medicaid eligible; will include paying for 50% of the current for two years and the counties paying 50%. \$70,000 for the training, and \$361,200 for going forward. You would have an \$898,000 appropriation.

House Human Services Committee

HB 1041

April 23, 2013

Page 3

ROLL CALL VOTE: 6 y 0 n 0 absent

April 23, 2013

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1041

That the Senate recede from its amendments as printed on pages 1396 and 1397 of the House Journal and page 1262 of the Senate Journal and that Engrossed House Bill No.1041 be amended as follows:

Page 1, line 6, replace "\$361,200" with "\$828,600"

Page 1, line 8, remove "for new wards"

Page 1, line 8, remove "The"

Page 1, replace lines 9 and 10 with "To be eligible for funding under this section, a ward must be found to be an incapacitated adult as defined by section 30.1-26-01 and have income at or below one hundred percent of the federal poverty level or be medicaid-eligible. A ward with developmental disabilities who is receiving case management services through the department of human services is not eligible for funding under this section. A grant to a county for a ward under a guardianship before July 1, 2013, must be based on fifty percent of the established monthly rate for that guardianship. The county receiving a grant for a ward under a guardianship before July 1, 2013, shall pay fifty percent of the monthly rate for the guardianship out of grant funds, but also shall pay the other fifty percent of the monthly rate for the guardianship, limited to a maximum of one-tenth of one mill of that county's property tax, through June 30, 2015."

Renumber accordingly

# 2013 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: House Human Services

Bill/Resolution No. 1041 as (re) engrossed

Date: 4-23-13

Roll Call Vote #: 1

- Action Taken**
- HOUSE accede to Senate amendments
  - HOUSE accede to Senate amendments and further amend
  - SENATE recede from Senate amendments
  - SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) 1396 -- 1397

- Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) 1041 was placed on the Seventh order of business on the calendar

Motion Made by: Rep. Wieland Seconded by: Sen. J. Lee

Representatives			Yes	No				Yes	No
<u>Weisz</u>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<u>J. Lee</u>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
<u>Wieland</u>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<u>ANDERSON</u>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
<u>Holman</u>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		<u>MATHERN</u>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier Rep. Weisz Senate Carrier Sen. J. Lee

LC Number 13.0210 . 03003 of amendment

LC Number \_\_\_\_\_ . \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment  
state will pay 100% of funding in 2 years

**REPORT OF CONFERENCE COMMITTEE**

**HB 1041, as engrossed:** Your conference committee (Sens. J. Lee, Anderson, Mathern and Reps. Weisz, Wieland, Holman) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1396-1397, adopt amendments as follows, and place HB 1041 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1396 and 1397 of the House Journal and page 1262 of the Senate Journal and that Engrossed House Bill No.1041 be amended as follows:

Page 1, line 6, replace "\$361,200" with "\$828,600"

Page 1, line 8, remove "for new wards"

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Renumber accordingly

Engrossed HB 1041 was placed on the Seventh order of business on the calendar.

**2013 TESTIMONY**

**HB 1041**

#1

**Testimony  
Regarding 1041  
Human Service Committee  
January 15, 2013  
By Kathy Hogan**

Chairman Weisz and members of the Committee, My name is Kathy Hogan, District 21 which is central Fargo. I urge your support of HB 1041.

Guardianship is an issue the ND Legislature has considered for several sessions, HB 1041 is a recommendation of the Interim Committee on Human Services and is an excellent starting point for the provision of this critically needed service. The private contracting model of provision of guardianship services been very effective for individuals with developmental disabilities and could work for other vulnerable groups of individuals in need of publicly funded guardianships.

In order to assure the most effective use of public funds, the committee may want to provide some guidance to the Office of Management and Budget regarding individuals that would be eligible for public guardianship funding. I would suggest that you may want to add income eligibility guidelines. You may want to clarification that public funding is to be used as a last resort in situations when no other natural supports such as family/friends are available. Finally you may want to clarify that eligibility for public funding is for elderly/disabled individuals.

Thank you and I am willing to answer any questions.

#2

Testimony to: **House Human Services Committee**

Representative Robin Weisz, Chairman

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

January 15, 2013

Chairman Weisz and members of the House Human Services Committee, I am Judy Vetter, Administrator of Guardian and Protective Services, Inc. I'm here today asking this committee to support and pass HB 1041. This Bill was passed with strong support by the Interim Human Services Committee Members as a result of the recommendations that came from the Guardianship Study conducted by Dr. Winsor C. Schmidt. We want to take this time to acknowledge the leadership role of Representative, Alon Wieland and the hard work of the Interim Human Services Committee Members.

This study by Dr. Schmidt identified the unmet guardianship need for individuals in our State that are not Developmentally Disabled (DD) – specifically the Elderly, Traumatic Brain Injured and Severely Mentally Ill populations. In addition, the report highlighted various areas in relation to guardianship services and the respective laws in which our State should consider making improvements.

HB 1041 addresses two priority issues from the Study.

- 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

It is important for this committee to know and understand that there are Public Administrators and Private Guardianship Agencies that are providing guardianship services for the Elderly, Traumatic Brain Injured and Severely Mentally Ill populations. These providers are severely under- funded or un-funded for 164 individuals that were identified during the Interim Human Services Committee Meetings this past fall.

HB 1041 addresses the funding needed to cover these 164 guardianship cases and provide additional funding for 25 new cases (unmet need) during the first year of the biennium and an additional 25 new cases (unmet need) in the 2<sup>nd</sup> year of the biennium. The breakdown is as follows:

- 1.) 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 1<sup>st</sup> year of the biennium (189 guardianships in the 1<sup>st</sup> 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 2<sup>nd</sup> year of the biennium (214 guardianships in the 2<sup>nd</sup> year cost = \$898,265.00)

(Total Biennium Costs for Guardianship Provider Services:  
\$1,657,100.00)

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

We understand that HB 1041 does not address all of the study recommendations. However, it does address two critical issues: funding and training for guardian providers. By adopting a comprehensive multi-year approach, the State can make significant strides in addressing all the recommendations identified by Dr.

Schmidt.

This funding and training is critical for Public Administrators and Private Guardian Agencies if they are going to be able to continue providing guardianship services for low-income, vulnerable adults.

I whole heartedly support a multi-year approach and we need to start now, by passing HB 1041.

Testimony to: **House Human Services Committee - HB 1041**

Representative Robin Weisz, Chairman

Testimony by: Rodger W. Wetzel, LSW, Court Visitor

January 15, 2013

Chairman Weisz and members of the House Human Services Committee, I am Rodger Wetzel. For the past 28 years I have provided court visitor services for guardianship and conservatorship cases. I am asking your committee to support HB 1041.

I have provided court visitor services for approximately 370 cases in the last 28 years. The court visitor usually is an experienced social worker who is nominated by the petitioning attorney in a guardianship case, and then is officially appointed by the judge. The primary role of the court visitor is to interview involved parties, and write a report for the judge, making recommendations as to the guardianship, or identifying possible alternatives to the guardianship.

Initially I provided court visitor services during my 24 years as Eldercare Director at St. Alexius. I continue to provide this service part time in my retirement at the request of several attorneys. Prior to my Eldercare work at St. Alexius, I was the Assistant Director of the Aging Services Division of the NDDHS. I have worked in the field of aging for 42 years here in ND.

I have been contacted many times asking about guardianship options when the potentially incapacitated person has no responsible family member, and has few financial resources. In these cases, the answer too often has been that there may be no options in ND at this time.

During my 24 years as Eldercare Director at St. Alexius, I also facilitated Alzheimer's and Dementia Family Support Groups. In my Alzheimer's and dementia support work, I sometimes heard stories about financial exploitation of persons with dementias, often by family members; or about individuals with dementias giving away their money to people who asked. If the demented person had limited finances, this created problems with basic living, such as paying for food, rent, or medicines. Or perhaps the home environment was very unsanitary or unhealthy. A guardian is a much-needed service for many of these individuals.

I also served as a resource to the St. Alexius social workers, who often worked with patients who had chronic mental functioning problems, such as with Alzheimer's or other dementias; or patients with chronic and serious mental illnesses, such as schizophrenia. In addition, they worked with patients who acquired acute mental functioning problems, such as strokes or closed head injuries. Again, if the patient had no responsible family member and limited financial resources, there may be no guardianship options.

These patients often were more costly to the hospitals and other healthcare services if they had no guardians, as they might stay in the hospital longer while alternatives were explored. Or

they might be readmitted, or needed more costly care, due to the fact that, being at some level of incapacity, they might refuse needed services, or told service providers they were no longer needed, or did not take their medications, or had very poor personal hygiene resulting in infections, sometimes requiring hospitalization.

I applaud the legislature for your support for our good continuum of home-and-community-based services in ND. During my last years in the Aging Services Division of the NDDHS, I helped develop those first services.

I see guardianship services as a necessary component of our home-and-community-based services continuum. It does no good to have these services available if an incapacitated adult won't apply for them, doesn't believe they need them, or tells service providers they are not needed after a visit or two.

Guardians for a low-income persons, who have no responsible family members available to them, can apply for services on their behalf, make sure they receive needed services, monitor the service delivery and living conditions, and make needed changes fairly quickly. This often enables them to remain at home longer as well.

Incapacitated low-income adults, who have no responsible family members, need and deserve guardianship services.

Again, I urge your support for HB 1041. Thank you!



HB1041- SUPPORT  
Tuesday January 15, 2013  
House Human Services Committee  
Josh Askvig- AARP-ND  
[jaskvig@aarp.org](mailto:jaskvig@aarp.org) or 701-989-0129

Chairman Weisz, members of the House Human Services Committee, I am Josh Askvig, Associate State Director of Advocacy for AARP North Dakota. We stand in support of HB1041.

Dr. Ethel Percy Andrus, a retired educator and AARP's founder, became an activist in the 1940's when she found a retired teacher living in a chicken coop because she could afford nothing else. Dr. Andrus couldn't ignore the need for health and financial security in America and set the wheels in motion for what would become AARP. We are a nonprofit, nonpartisan membership organization with nearly 88,000 members in North Dakota and 37 million nationwide. We understand the priorities and dreams of people 50+ and are committed to helping them live life to the fullest, including here in North Dakota.

AARP supports HB1041. The bill addresses the funding required for guardianship service providers and Private Guardianship Agencies that provide guardianship services for low-income people of all ages, including the elderly.

With people living longer and increased age often accompanied by diminished decision making ability, all people should engage in advance planning in the event one becomes incapable of managing his or her personal decisions or property.

There are several alternatives for authorizing another person or corporate entity to act on one's behalf. One option is guardianship, in which a court oversees the transfer of authority for property or personal decision making, or both, when an individual is deemed incapable of managing his or her own affairs.

As our population grows older and people live longer, courts have found it more difficult to find family members or friends able or willing to serve in a guardianship capacity for a loved one, so the need for adult guardianship has increased over the years.

AARP believes states should adequately fund public guardianship programs to provide free or nominal-cost services for adults with limited resources who lack qualified relatives or others to serve as a guardian. The increased funding provided for in HB1041 will enhance the state's current guardianship program.

We also support the provision in the bill that provides funding to develop and deliver guardianship training for guardians and public administrators. AARP policy says states should mandate guardian certification programs that include training, testing and accountability requirements. Once a guardian has been appointed, courts are responsible for ensuring that the individual is protected and that the guardian is adequately performing his or her duties.

Thank you for the opportunity to present our views to ensure access to guardianship services for North Dakotans in need of such services.

# 5

**Testimony on HB 1041**  
**House Human Services Committee**  
**January 15, 2013**

Good Morning Chairman Weisz and members of the House Human Services Committee. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. We represent assisted living facilities, basic care facilities and nursing facilities in North Dakota. Thank you for the opportunity to testify on HB 1041. I am here to ask for your support of HB 1041.

North Dakota's Chief Justice said it correctly, elderly vulnerable adults are being exploited in North Dakota and we need to stop it. This bill helps to address the problem. We have vulnerable adults being financially exploited in long term care facilities. We need a coordinated and united system for the provision of guardianship services to vulnerable adults.

The Human Services Interim Committee, under the leadership of Representative Wieland, studied this issue and their recommendation is reflected in HB 1041.

We are aware of situations where vulnerable long-term care residents are being financially exploited. Their resources are depleted and they are left destitute without income/assets to pay for their care. Sometimes this is occurring by children and sometimes by strangers. With new found wealth in mineral rights, the problem in some areas of the state is becoming more acute.

On average, one out of every six residents in a nursing facility has a payment issue associated with their account. Some of this is attributed to assets and income of the older person be used by other interested parties and not going to cover the cost of care and services. In these cases, Medicaid is rightly denying coverage because records show assets exist and these assets are to be used for their care. In some of these situations, the money has been spent by other parties and resources do not exist to pay for their care.

Long term care facilities have a right to discharge a resident for non-payment of their bill. However, before a facility can discharge a resident, they must find another place for them to live and receive care. Generally another facility is not willing to take them if they know they are not going to get paid. We can't simply put them on the street, what are we to do?

In these desperate situations, if we feel the resident is vulnerable and is being exploited we will seek guardianship. We don't feel it is appropriate for a nursing facility to seek guardianship for a resident under their care. There are agencies willing to step up and help, but they need to get paid for their services. HB 1041 will help protect vulnerable adults, their assets and assure guardianship services are available if necessary.

Thank you for your consideration of HB 1041. I would be happy to address questions.

Shelly Peterson, President  
North Dakota Long Term Care Association  
1900 North 11<sup>th</sup> Street • Bismarck, ND 58501 • (701) 222-0660  
Cell (701) 220-1992 • [www.ndltca.org](http://www.ndltca.org) • E-mail: [shelly@ndltca.org](mailto:shelly@ndltca.org)

#6

Testimony to the: **HOUSE HUMAN SERVICES COMMITTEE**  
Prepared January 15, 2013 by the North Dakota Association of Counties  
Aaron Birst, Legal Counsel

**CONCERNING NORTH DAKOTA'S GUARDIAN AND PUBLIC ADMINISTRATOR SYSTEM**

Chairman Weisz and members of the committee, NDACo strongly supports efforts to address the State's Guardianship System. Many committees during previous sessions and interim periods have worked on this issue and we thank them all for their efforts. However, after significant study it is clear the State's Guardianship system is still in need of improvement.

Currently, North Dakota Counties are fiscally burdened with this responsibility and quite frankly have not been able to create an efficient and uniformed process. From the counties point of view, you can boil this issue down to counties are required to provide services to individuals who have diminished capacities but lack the family or financial resources to have private entities help them with life.

The current GA/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 GA/PA costs are paid for out of differing county budgets.

A couple of issues NDACo has identified as priorities for improving the GA/PA system.

- 1) Those private service providers need a consistent source of funding.
- 2) Those that seek appointment or are appointed need some training/assistance.
- 3) There needs to be oversight over guardians for both fiscal and ethical reasons.
- 4) Any significant change to the procedures without first implementing some structural change would make the situation more complicated.

We understand the Governor has also proposed funding to DHS to help address the guardianship process. Since at this time it is unclear the exact nature of how that program would work we ask that this bill can remain alive to ensure a significant step forward can occur in the area of guardianships.

Thank you,

↓

Testimony to: **House Human Services Committee**

Representative Robin Weisz, Chairman

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

January 15, 2013

Chairman Weisz and members of the House Human Services Committee, I am Judy Vetter, Administrator of Guardian and Protective Services, Inc. I 'm here today asking this committee to support and pass HB 1041. This Bill was passed with strong support by the Interim Human Services Committee Members as a result of the recommendations that came from the Guardianship Study conducted by Dr. Winsor C. Schmidt. We want to take this time to acknowledge the leadership role of Representative, Alon Wieland and the hard work of the Interim Human Services Committee Members.

This study by Dr. Schmidt identified the unmet guardianship need for individuals in our State that are not Developmentally Disabled (DD) – specifically the Elderly, Traumatic Brain Injured and Severely Mentally Ill populations. In addition, the report highlighted various areas in relation to guardianship services and the respective laws in which our State should consider making improvements.

HB 1041 addresses two priority issues from the Study.

- 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

It is important for this committee to know and understand that there are Public Administrators and Private Guardianship Agencies that are providing guardianship services for the Elderly, Traumatic Brain Injured and Severely Mentally Ill populations. These providers are severely under- funded or un-funded for 164 individuals that were identified during the Interim Human Services Committee Meetings this past fall.

HB 1041 addresses the funding needed to cover these 164 guardianship cases and provide additional funding for 25 new cases (unmet need) during the first year of the biennium and an additional 25 new cases (unmet need) in the 2<sup>nd</sup> year of the biennium. The breakdown is as follows:

- 1.) 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 1<sup>st</sup> year of the biennium (189 guardianships in the 1<sup>st</sup> 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 2<sup>nd</sup> year of the biennium (214 guardianships in the 2<sup>nd</sup> year cost = \$898,265.00)  
(Total Biennium Costs for Guardianship Provider Services:  
\$1,657,100.00)

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

We understand that HB 1041 does not address all of the study recommendations. However, it does address two critical issues: funding and training for guardian providers. By adopting a comprehensive multi-year approach, the State can make significant strides in addressing all the recommendations identified by Dr. Schmidt.

This funding and training is critical for Public Administrators and Private Guardian Agencies if they are going to be able to continue providing guardianship services for low-income, vulnerable adults.

I whole heartedly support a multi-year approach and we need to start now, by passing HB 1041.



**DLA, S HMS - Dvorak, Kirsten**

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**From:** Lee, Judy E.  
**Sent:** Friday, March 08, 2013 9:08 PM  
**To:** NDLA, S HMS - Dvorak, Kirsten; NDLA, Intern 02 - Myles, Bethany  
**Subject:** FW: AN IMPORTANT MESSAGE FROM SANFORD HEALTH (Guardianship HB 1401)

Copies for books, please.

Senator Judy Lee  
1822 Brentwood Court  
West Fargo, ND 58078  
home phone: 701-282-6512  
e-mail: [jlee@nd.gov](mailto:jlee@nd.gov)

---

**From:** Leonard, Pat [<mailto:Pat.Leonard@sanfordhealth.org>]  
**Sent:** Friday, March 08, 2013 4:45 PM  
**To:** Lee, Judy E.; Larsen, Oley L.; Anderson, Jr., Howard C.; Dever, Dick D.; Axness, Tyler  
**Subject:** AN IMPORTANT MESSAGE FROM SANFORD HEALTH (Guardianship HB 1401)

Dear Chair Senator Lee, Vice-Chair Senator Larsen, Senator Anderson, Senator Dever and Senator Axness,

HB 1041 Support a statewide guardianship program

Guardianship is a critical issue requiring immediate resolution to help our most vulnerable patients and save the state of ND funds.

It can take up to several months to locate a guardian as often we have patients with no family or any substitute decision maker.

If we are fortunate enough to secure a guardian, then we have to actually wait for the county to secure funds (which are very restricted and limited) to actually petition the court. There are waiting lists for both guardianship and funds to petition the court.

Increased funding for guardians is really our only hope for these patients without support systems.

It would be cost effective for the state of ND to provide guardians because we have these uninsured or medical assistance pending patients in the highest cost and level of care in acute hospital beds awaiting a guardian.

Sanford Health cannot discharge or transfer to another lower level of care as no receiving facility will accept our patients without a payment source and a health care and financial decision maker.

We also have patients that are in need of palliative care however until a guardian is in place they often receive costly, ongoing treatment with no improvement in the person's quality of life.

In the past several months we have had several very significant cases of neglected and vulnerable, elderly patients. In each of these cases they had had extreme conditions that varied from severe medical neglect to financial exploitation often resulting in lack of food, medical care, social isolation and overall deprivation. Their quality of life was devastating; laying in bed bugs, open wounds down to the bone, paddle-locked refrigerator, vegetative state in restraints and tube fed, etc. In all of these extreme cases there was no one to step up and be guardian and often family members are part of the abuse and neglect and the county had no guardians and also claim no funding or authority. Sanford Hospital in Fargo is often at maximum occupancy most days; therefore, holding patients awaiting guardianship. This also reduces available acute beds to all the local and regional communities we serve.

As the Director of Case Management, Social Service and a 35 year experienced medical social worker at Sanford Health, I am writing to you to request your full support and increase the funding for a state wide guardianship program. This issue is not only critical to Sanford Health it has a negative, rippling effect throughout all health and human service agencies in the state.

Being proactive by funding guardianship services to our most vulnerable will result in lower health costs for the state, shorter stays for the patient and a more appropriate level of care.

Please be the voice for those that have none.

Sincerely,

Pat

Pat Leonard, MSW, LCSW

Director Case Management, Social Service & Interpreter Service

PO Box 2010

Fargo, ND 58122-0222

Ph: (701) 234-6967

Fx: (701) 234-7184

Email: [pat.leonard@sanfordhealth.org](mailto:pat.leonard@sanfordhealth.org)



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**Testimony on HB 1041**  
**Senate Human Services Committee**  
**March 11, 2013**

Good afternoon Chairman Lee and members of the Senate Human Services Committee. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. We represent assisted living facilities, basic care facilities and nursing facilities in North Dakota. Thank you for the opportunity to testify on HB 1041. I am here to ask for your support of HB 1041.

North Dakota's Chief Justice said it correctly, elderly vulnerable adults are being exploited in North Dakota and we need to stop it. This bill helps to address the problem. We have vulnerable adults being financially exploited in North Dakota. We need a coordinated and united system for the provision of guardianship services to vulnerable adults.

The Human Services Interim Committee studied this issue and their recommendation is reflected in HB 1041. HB 1041 was greatly reduced in the House and we request funding be restored.

We are aware of situations where vulnerable long-term care residents are being financially exploited. Their resources are depleted and they are left destitute without income/assets to pay for their care. Sometimes this is occurring by children and sometimes by strangers. With new found wealth in mineral rights, the problem in some areas of the state is becoming more acute.

On average, one out of every six residents in a nursing facility has a payment issue associated with their account. Some of this is attributed to assets and income of the older person being used by other interested parties and not going to cover the cost of care and services. In these cases, Medicaid is rightly denying coverage because records show assets exist and these assets are to be used for their care. In some of these situations, the money has been spent by other parties and resources do not exist to pay for their care.

Long term care facilities have a right to discharge a resident for non-payment of their bill. However, before a facility can discharge a resident, they must find another place for them to live and receive care. Generally another facility is not willing to take them if they know they are not going to get paid. We will not and could not put them on the street, what are we to do?

In these desperate situations, if we feel the resident is vulnerable and is being exploited we will seek guardianship. We don't feel it is appropriate for a nursing facility to seek guardianship for a resident under their care. There are agencies willing to step up and help, but they need to get paid for their services. HB 1041 will help protect vulnerable adults, their assets and assure guardianship services are available if necessary.

Thank you for your consideration of HB 1041. I would be happy to address questions.

Shelly Peterson, President  
North Dakota Long Term Care Association  
1900 North 11<sup>th</sup> Street • Bismarck, ND 58501 • (701) 222-0660  
Cell (701) 220-1992 • [www.ndltca.org](http://www.ndltca.org) • E-mail: [shelly@ndltca.org](mailto:shelly@ndltca.org)



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Testimony to: **Senate Human Services Committee**

Senator Judy Lee, Chairman

Testimony by: Judy Vetter, Administrator of Guardian and Protective Services, Inc.  
March 11, 2013

Chairman Lee and Members of the Senate Human Services Committee, I am Judy Vetter, Administrator of Guardian and Protective Services, Inc. (GaPS) and the President of the Guardianship Association of North Dakota. I am speaking today on behalf of the Association and in my capacity as Administrator. Guardian and Protective Services currently serves as the County Public Administrator for 11 counties in the South Central Judicial District.

I am asking this committee to consider a proposed amendment to HB 1041 in Section 1 to clarify the eligibility criteria that is referenced. I believe this bill can be strengthened by writing the eligibility criteria for the funding into the legislation. That is why I'm proposing that the bill be amended to say **"To meet the eligibility criteria for services and funding under this section, a ward must be found to be an "incapacitated adult" as defined by N.D.C.C. 30.1-26-01 and have income and asset levels at or below one hundred percent of the federal poverty line as determined by the U.S. Department of Health and Human Services".** **Services for a ward that is developmentally disabled and has been found by the North Dakota Department of Human Services to qualify as eligible for Corporate Guardianship are not eligible for additional funding under this section.** The inclusion of this language in HB 1041 provides readily available guidance to the Office of Management and Budget, the Counties, and to anyone reading the statutes to determine who might be covered by the funding.

I also ask this committee to consider reinstating the funding necessary to compensate guardians for the present cases that already meet these criteria.

This past fall, the Interim Human Services Committee Members, as a result of the recommendations that came from the Statewide Guardianship Study conducted by Dr. Winsor C. Schmidt, chose the service delivery model that is reflected in HB 1041 to be moved forward through this Legislative Session. HB 1041 was passed with strong support through the House of Representatives. We want to take this time to acknowledge the leadership roles of Representative, Alon Wieland, the Interim Human Services Committee Members and the House of Representatives for their hard work, support and time expended on addressing the critical issues of guardianship.

The process of guardianship and the terminology involved can be confusing to those who do not work in or are not familiar with this area of expertise. I want to simplify some of this with the hope of clarifying a few important issues related to this crucial Statewide need.

The Public Administrator, which is a function of the State Court (Century Code: Chapter 11-21, 0-14), is not a new program or system. The Public Administrator has been around since our Statehood. There are numerous guardianships for vulnerable adults that are processed through the District Courts, in which Public Administrators and Private Guardianship Providers are appointed Guardian by the District Court Judges, when there is no appropriate family member available to serve. This system of guardianship works for all vulnerable adults and operates

and functions outside of the Department of Human Services. The missing piece from this system is a payment source for these guardians.

### **HB 1041 Does Three (3) Things:**

1. It transfers funding for a service currently provided and paid for by some Counties at a level that is severely under-funded. This will provide relief to Counties and address the instability and uneven funding in the Counties.
2. It covers funding for 43 new cases in each year of the biennium for individuals in need of a guardian provider (86 cases total).
3. It provides funding to the Court for training of Guardians.

### **What HB 1041 Does Not Do:**

1. It does not require the creation of a new Statewide Guardianship Program.
2. It does not require Administrative Screenings for eligibility or determine the need for petitioning of guardianships. Both of these are legal functions involved in the guardianship process and proceedings through the Court's system.
3. It does not transfer the responsibility of the hiring of Public Administrator's to the State; that responsibility would remain with the County. The Public Administrator is appointed by the Presiding District Court Judge in each Judicial District.

There have been numerous studies conducted over the past 30 years documenting this need. Please know that your support for HB 1041 and the impact it carries is critical in making a positive step towards addressing some of the recommendations and needs identified by Dr. Winsor Schmidt's 2012 Statewide Study: a stable funding source for Public Administrators and Private

Guardianship Providers so they can serve as Guardian for our State's indigent vulnerable adults and training for Guardians through the Court.

HB 1041 was formulated due to the leadership of Honorable, Chief Justice Gerald VandeWalle addressing the pressing needs of our State's elderly population and as a result of the following entities addressing our State's unmet guardianship needs: the State Court, the State Bar Association, ND Long Term Care Association, the ND Association of Counties, AARP, Guardian Providers and Public Administrators.

Please support and pass HB 1041 with the Proposed Amendments.

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

**Proposed Amendment for HB 1041:**

Delete: at Line 9 and Line 10 “department of human services shall establish eligibility criteria for the services, including setting income criteria at one hundred percent of the federal poverty level.

Insert: at Line 9 and Line 10 “To meet the eligibility criteria for services and funding under this section, a ward must be found to be an “incapacitated adult” as defined by N.D.C.C. 30.1-26-01 and have income and asset levels at or below one hundred percent of the federal poverty line as determined by the U.S. Department of Health and Human Services”. Services for a ward that is developmentally disabled and has been found by the North Dakota Department of Human Services to qualify as eligible for Corporate Guardianship are not eligible for additional funding under this section.

Testimony to: **Senate Human Services Committee - HB 1041**

Senator Judy Lee, Chair

Testimony by: Rodger W. Wetzel, LSW, Court Visitor

March 11, 2013

Madame Chair Lee, and members of the Senate Human Services Committee, I am Rodger Wetzel. For the past 28 years I have provided court visitor services for guardianship and conservatorship cases. I have provided court visitor services for approximately 370 cases in the last 28 years I am asking your committee to support HB 1041.

The court visitor usually is an experienced social worker who is nominated by the petitioning attorney in a guardianship case, and then is officially appointed by the judge. The primary role of the court visitor is to interview involved parties, including potential guardians, and write a report for the judge, making recommendations as to the guardianship, or identifying possible alternatives to the guardianship. Most of my clients have been private pay, with financial resources, but I also have volunteered to serve as visitor in several indigent cases. But it serves no purpose to complete a visitor assessment, or have a guardianship hearing, if there is no family member available to serve as guardian and no funds to pay for guardianship services.

Initially I provided court visitor services during my 24 years as Eldercare Director at St. Alexius. I continue to provide this service part time in my retirement at the request of several attorneys. Prior to my Eldercare work at St. Alexius, I was the Assistant Director of the Aging Services Division of the NDDHS. I have worked in the field of aging for 42 years here in ND. I have appeared before your committee on many occasions during the past 30 years.

I have been contacted many times asking me about guardianship options when the potentially incapacitated person has no responsible family member, and has limited financial resources. In these cases, the answer too often has been that there may be no options at this time.

During my 24 years as Eldercare Director at St. Alexius, I also facilitated Alzheimer's and Dementia Support Groups. In my Alzheimer's and dementia work, I often heard stories about older persons with dementias no longer being able to manage their own finances and daily living. Perhaps the home environment was very unsanitary or unhealthy. Or they weren't taking needed medications or bathing. Or they refused needed home and community-based services, or refused moving into a living facility. But without a guardian, even though probably incapacitated, they legally refuse can needed health and social services. A guardian is a much-needed service for many of these individuals. But, generally, no funds+no family=no guardian.

I also served as a resource to the St. Alexius social workers, who often worked with patients who had Alzheimer's or other dementias; or with patients who had chronic and serious mental illnesses, such as schizophrenia. In addition, they worked with patients who acquired sudden and acute mental functioning problems, such as serious strokes or closed head injuries. Again, if the patient had no responsible family member and limited financial resources, there may be no guardianship options, which may be an immediate need, especially when discharged.

(OVER)

These patients often were more costly to the hospitals and other healthcare services if they had no guardians, as they might stay in the hospital longer while alternatives were explored. Or they might be readmitted, and then needed more costly care, due to the fact that, being at some level of incapacity, they might refuse needed services, or told service providers they were no longer needed after a visit, or did not take their medications, or had very poor personal hygiene resulting in infections, sometimes requiring hospitalization.

In some cases these individuals might benefit from Adult Protective Services (APS) provided by the NDDHS. But not in cases when there is no adult abuse or neglect involved. Common examples would be adults who have just experienced a stroke, or a severe head injury, or can't manage their affairs due to a dementia. Even in APS cases, a guardian might be needed, but there may be no resources to provide one. APS is needed service for some cases, but it is a separate service from legally appointed guardianship services, and has a different role.

I applaud the legislature for your support for our good continuum of home-and-community-based services in ND. During my last years in the Aging Services Division of the NDDHS, I helped develop those first services. Both my parents benefited from receiving these services. I see guardianship services as a necessary component of our home-and-community-based services continuum. It does no good to have these services available if incapacitated adults won't apply for them, or don't believe they need the services, or tell service providers they are not needed after a visit or two and not to return.

Paid guardians for a low-income persons, who have no responsible family members available to help them, can apply for services on their behalf, make sure they receive needed services, monitor the service delivery and living conditions, and make needed changes fairly quickly. This often enables them to remain at home longer, out of hospitals, and delay nursing home placement.

I commend the legislature for supporting the excellent study of guardianship services and needs conducted by Dr. Winsor Schmidt during the last interim. He is well-respected nationally for his expertise and accuracy of his studies. I strongly agree with his conclusion that the need for guardianship funding is at the \$1,657,100 level supported by Mr. Schmidt.

I also commend the Governor for recognizing the need for additional funding for guardianship services by including \$1 million in his budget for enhanced guardianship services. Attached is a chart summarizing different scenarios and resources available. I will review that now.

Incapacitated low-income adults, who have no responsible family members, need and deserve guardianship services as a most basic and critical human service.

Again, I urge your support for HB 1041. I would be happy to answer any questions, either now or after you hear from other resource people here today. Thank you!

CLIENT HAS FINANCIAL RESOURCES	CLIENT HAS RESPONSIBLE FAMILY MEMBERS/S WILLING TO SERVE	RESOURCES FOR PAYING PETITIONING AND COURT COSTS	RESOURCES FOR PAYING FOR CONSERVATOR AND/OR GUARDIAN SERVICES	WHO MAY SERVE AS CONSERVATOR AND/OR GUARDIAN SERVICES
Yes	Yes	Client	NA (No fee to family member/s)	Family member/s
Yes	No	Client	Client	-Public Administrators -Non-profit providers
No	Yes	-Aging Services Division of NDDHS (\$40,000 in HB 1012) or -Volunteer attorneys (2) & volunteer visitor	NA (No fee to family member/s)	Family member/s
<b>No</b>	<b>No</b>	-Aging Services Division of NDDHS (\$40,000 in HB 1012) or -Volunteer attorneys (2) & volunteer visitor	-Public Administrators (limited funds**) -Non-profit providers (limited funds**) <b>(**HB 1041)</b>	-Public Administrators (limited funds**) -Non-profit providers (limited funds**) <b>(**HB 1041)</b>



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HB1041- SUPPORT

March 11, 2013

Senate Human Services Committee

Josh Askvig- AARP North Dakota

[jaskvig@aarp.org](mailto:jaskvig@aarp.org) or 701-989-0129

Chairman Lee, members of the Senate Human Services Committee, I am Josh Askvig, Associate State Director of Advocacy for AARP North Dakota. We stand in support of HB1041.

Dr. Ethel Percy Andrus, a retired educator and AARP's founder, became an activist in the 1940s when she found a retired teacher living in a chicken coop because she could afford nothing else. Dr. Andrus couldn't ignore the need for health and financial security in America and set the wheels in motion for what would become AARP. We are a nonprofit, nonpartisan membership organization with nearly 88,000 members in North Dakota and 37 million nationwide. We understand the priorities and dreams of people 50+ and are committed to helping them live life to the fullest, including here in North Dakota.

AARP supports HB1041. The bill addresses the funding required for guardianship service providers and Private Guardianship Agencies that provide guardianship services for low-income people of all ages, including the elderly. As you may know, this bill is the first step in addressing some of the recommendations made by Dr. Windsor Schmidt during the 2011-12 legislative interim study by the Interim Human Services Committee.

With people living longer and increased age often accompanied by diminished decision making ability, all people should engage in advance planning in the event one becomes incapable of managing his or her personal decisions or property.

There are several alternatives for authorizing another person or corporate entity to act on one's behalf. One option is guardianship, in which a court oversees the transfer of authority for property or personal decision making, or both, when an individual is deemed incapable of managing his or her own affairs.

As our population grows older and people live longer, courts have found it more difficult to find family members or friends able or willing to serve in a guardianship capacity for a loved one, so the need for adult guardianship has increased over the years. This is why in his study Dr. Schmidt identified approximately 350 individuals in North Dakota that are in need of guardianship services that are not being served because of underfunding or an unclear and inconsistent public guardianship process in North Dakota.

AARP believes states should adequately fund public guardianship programs to provide free or nominal-cost services for adults with limited resources who lack qualified relatives or others to serve as a guardian. **We ask that you restore the cuts made by the House and put the funding back at the \$1.657 million level that was recommended by the Interim Human Services Committee.** This would be an important first step in ensuring that an individual's ability to access needed guardianship services is not dictated by where they live or who they know.

We also support the provision in the bill that provides funding to develop and deliver guardianship training for guardians and public administrators. AARP policy says states should mandate guardian certification programs that include training, testing and accountability requirements. Once a guardian has been appointed, courts are responsible for ensuring that the individual is protected and that the guardian is adequately performing his or her duties.

Thank you for the opportunity to present our views to ensure access to guardianship services for North Dakotans in need of such services. We strongly encourage you to restore the funding in HB1041 to the original level and give this bill a DO PASS recommendation.

Testimony to the: SENATE HUMAN SERVICES COMMITTEE

Prepared March 11, 2013 by the North Dakota Association of Counties

Aaron Birst, Legal Counsel

CONCERNING NORTH DAKOTA'S GUARDIAN AND PUBLIC ADMINISTRATOR SYSTEM

Chair Lee and members of the committee, NDACo strongly supports efforts to address the State's Guardianship System. Many committees during previous sessions and interim periods have worked on this issue and we thank them all for their efforts. However, after significant study it is clear the State's Guardianship system is still in need of improvement.

Currently, North Dakota Counties are fiscally burdened with this responsibility and quite frankly have not been able to create an efficient and uniformed process. From the counties point of view, you can boil this issue down to counties are required to provide services to individuals who have diminished capacities but lack the family or financial resources to have private entities help them with life.

The current GA/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 GA/PA costs are paid for out of differing county budgets.

A couple of issues NDACo has identified as priorities for improving the GA/PA system.

- 1) Those private service providers need a consistent source of funding.
- 2) Those that seek appointment or are appointed need some training/assistance.
- 3) There needs to be better oversight over guardians for both fiscal and ethical reasons.
- 4) Any significant change to the procedures without first implementing some structural change would make the situation more complicated.

It is NDACo's position that HB 1041 be amended back to the original version that was created by the human service interim committee. If that is not possible, then we ask you continue to support this current version as a first step in a series of many that will be necessary to improve our current system.

Thank you,

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**Senate Human Services Committee**  
**March 11, 2013**  
**House Bill 1041**  
**Kristen Hasbargen, Director – Richland County Social Services**

Chairman Lee and members of the Senate Human Services Committee, my name is Kristen Hasbargen. I am the Director of Richland County Social Services located in Wahpeton, North Dakota. I am also a member of the North Dakota County Social Service Director Association. I speak in support of House Bill 1041 and urge the committee to add back the additional funds as this bill was originally written.

Having personally worked with the elderly and adults with disabilities as a Home and Community Based Services case manager, I can remember the frustrations and challenges when attempting to secure a guardian. There are few agencies to meet this need and those agencies rarely have slots for those unable to pay for guardianship services.

The state of North Dakota invested in the extensive study Mr. Winsor Schmidt completed regarding this issue during the interim. This pointed out both the strengths of the current system, as well as the several challenges our state faces in terms of serving and protecting our vulnerable citizens. Mr. Schmidt estimated about 300 North Dakotans are in need of guardianship services. He also stated “ a person who is incapacitated enough to need a guardian, but lacks willing and responsible family members or friends to serve as guardian, or resources to employ a professional guardian, is almost unimaginably helpless.” With adequate funding provided to OMB, grants for guardians and public administrators will provide this necessary service to our state’s most vulnerable.

I urge the committee to consider the initial funding proposed and give House Bill 1041 a “Do PASS” recommendation. Thank you for your consideration. I would be happy to answer any questions.

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**Department of Human Services  
Comparison of Guardianship Bills**

Bill	HB 1040	ENGROSSED HB 1041	DHS Appropriation- ENGROSSED HB 1012	Original Bills	
				HB 1041	DHS Appropriation- HB 1012 Executive Budget
APPROPRIATIONS	\$0	Section 1: \$361,200 Section 2: \$70,000	\$1,000,000 REMOVED FROM THE BILL	Section 1: \$1,657,100 Section 2: \$70,000	\$1,000,000
RESPONSIBLE DEPARTMENT	Court System	OMB	DHS	OMB	DHS
SCOPE	Increases and strengthens processes tied to the rights of potential wards.	State funds grants to counties for guardianship and public administrator services.	\$40,000 for establishment of guardianship remains in the DHS - Aging Services budget	State funds grants to counties for guardianship and public administrator services.	This funding would be added to the historical \$40,000 for guardianship.
WHO IS ELIGIBLE	All proposed wards	Eligibility criteria for services is established by the Department of Human Services to include setting incomes criteria at 100% of the federal poverty level.	Persons with Traumatic Brain Injury, Mental Health or 60 years of age or older who are not DD eligible	SMI, TBI, Person 60+, but not DD eligible.	All incapacitated, but not DD eligible. (NDCC 30.1-26-01)
WHAT IT PURCHASES/BUYS		Appropriates a sum of \$361,200 to provide grants to counties for public or private guardianship services for new wards.	Funding to establish petitioning costs for 16 wards. COST = \$40,000 (no more than \$2,500 each)	Pays guardianship and public administrators \$11.00 per day for existing 164 guardianship cases and 25 new cases in Year 1 of biennium COST = <b>\$758,835</b>	Expands eligibility to match the incapacitated adult definition in NDCC 30.1-26-01.
				Pays \$11.50 per day for the 189 cases paid in year 1 and adds 25 new cases in year 2. Total Cost in 2nd year for 214 cases. COST = <b>\$898,265</b>	Establishes income criteria at 100% FPL.
		Funding to Court to develop and deliver tutorial for new guardians. COST = <b>\$70,000</b>	Requires ward to receive case management.	Funding to Court to develop and deliver tutorial for new guardians. COST = <b>\$70,000</b>	Requires ward to receive case management.
DIFFERENCES/ISSUES		Does not contain funding for petitioning costs.		Does not contain funding for petitioning costs.	Funding to establish petitioning costs for 86 wards. COST = <b>\$215,000</b> (no more than \$2,500 each)
					Funds both public or private guardianship services for new wards. The 1st year of the biennium would fund 43 new wards at \$225/month = \$116,100. The rate would increase to \$250/month in year 2 of biennium, funding 43 existing wards at \$250/month = \$129,000, and adding 43 additional wards at \$225/month = \$116,100. Total Cost = <b>\$361,200</b> . (Monthly rate is based on 2080 hours/annually)
					Contract with Court system to develop training and tutorial for new guardians. COST = <b>\$75,000</b>
					Monitor newly established guardians of existing DHS staff. These operating costs include travel, per diem, etc. COST = <b>\$5,800</b>
					Contract for three Vulnerable Adult Protective Services in 3 geographic areas @ \$88,000/annually. The \$383,000 general fund would be added to existing federal funds of \$145,000 for a total of \$528,000. COST in Bill = <b>\$383,000</b>

2

SB 2323  
Mandatory Reports

SB 2345  
Exploitation Penalty

SB 2323  
Mandatory Reports

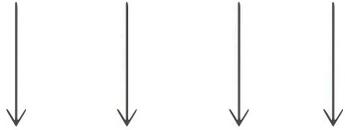
HB 1040  
Guardianship  
Protections

HB 1041  
Guardianship  
Appropriations

HB 1012  
Petitioning Costs



Public – Agency - Family



Suspicion or  
evidence of  
abuse, neglect,  
self-neglect, or  
exploitation



Vulnerable  
Adult  
Protective  
Services



Assess &  
Evaluate  
Reported  
Concerns



Is  
guardianship  
needed and  
appropriate?

yes



Guardianship  
Decision-  
Making  
Authority

No



Other  
Service  
Referral

**Lee, Judy E.**

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**From:** Judy Vetter <JVetter@gapsinc.org>  
**Sent:** Wednesday, March 13, 2013 9:00 AM  
Lee, Judy E.  
Holewa, Sally; Peterson, Shelly; Bill Neumann; Rodger Wetzal; Aaron Birst; Askvig, Joshua J.; Audrey Urich; Dannielle Smith  
**Subject:** HB 1041

Good Morning Senator Lee,

After the testimony was presented on HB 1041 there seemed to be some confusion as to how the money was arrived at in its current format.

HB 1041 originally had \$1,657,100.00 which would have covered the current cases of guardianship (164) that are not being funded or inadequately funded and would have added 25 new cases in each year of the biennium. The daily rate was \$11.00 per day, per case in the first year and then increase to \$11.50 per day, per case in the second year of the biennium.

During the House Appropriations Committee Meetings, the Department of Human Services brought their plan forward as part of their proposed budget using the \$1,000,000.00 that the Governor set aside for guardianship enhancement services. Their (DHS) plan had \$361,200.00 for guardianship providers for 43 new cases in the first year of the biennium at \$225.00 per month per case, with an increase to \$250.00 per month in the second year of the biennium, and an addition of 43 new cases the second year of the biennium at the rate of \$225.00 per month, per case. Their plan did not provide any funding for the 164 current guardianship cases that are not being funded or inadequately funded. They included \$75,000.00 for training of guardians.

met with Representative Alon Wieland after the committee meetings and were told that because DHS's plan (HB1012) served more cases for less money, HB 1041 would likely not be approved. So, to keep HB 1041 alive, we amended HB 1041 to match what was proposed by DHS for guardianship providers.

As a united group we have all testified before your Committee to ask for consideration to restore the funding for HB 1041 back to the \$1,657,100.00.

In an effort to tighten up the funding differences and serve as many cases as possible we are asking that you consider the following:

- Add the 164 current cases that are being served but not funded or inadequately funded at the same rate of \$225.00 per case, per month in the first year, and \$250.00 per case, per month in the second year totaling \$934,800.00.
- This amount added to the \$431,200.00 (43 new cases each year of the biennium and \$70,000.00 for guardian training through the Courts) in the current bill totals \$1,366,000.00.

We fully support and believe that the service model reflected in HB 1041 is the most efficient use of State funding for paying guardianship providers.

We are available for any questions you may have.

Thank you for your time and consideration.

Sincerely,

Judy Vetter, Nationally Certified Guardian  
GaPS Inc. Administrator  
Public Administrator  
316 North 5th Street, Suite 112  
Bismarck, ND 58501  
(701) 222-8678



**Department of Human Services  
Comparison of Guardianship Bills**

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**Department of Human Services  
Bills with a Fiscal Impact  
2013-2015 Biennium**

Thru Floor Action on April 5, 2013

Bill Number	Description of Bill	Appropriation			Bills with No Appropriations Expenditures and FTE as Included in Fiscal Notes				Status
		FTE	General	Other	FTE	General	Other	Total	
1038	Provides an appropriation to DHS for autism-related programs	1.00	900,000	-	-	2,219,854	-	2,219,854	Passed House Amended In Senate HS/In Approp.
1170	Provides nursing and basic care facilities with an expedited ratesetting process to cover costs associated with Patient Protection and ACA as it relates to health insurance policies to the facilities' employees	-	-	-	-	830,922	830,922	1,661,844	Passed House Going to full Senate
1172	Allows nursing homes or basic care service providers the first preferred claim against a decedent's estate for outstanding recipient liability owed to the facility	-	-	-	-	49,810	50,190	100,000	Passed House Passed Senate
1176	Allows individuals convicted of a drug felony to be eligible to participate in SNAP and TANF programs if at least seven years has elapsed since their most recent conviction	-	-	-	-	11,136	489,168	500,304	Passed House Passed Senate
1209	Restricts DHS from limiting compensation for top management personnel of a basic care facility with some exceptions	-	-	-	-	435,481	-	435,481	Passed House Passed Senate
1233	Provides for additional state financial support for county social service programs provided at the direction of the state	-	-	-	-	20,542,038	(19,947,758)	594,280	Passed House In Senate Approp.
1274	Requires ND Medicaid to accept electronic prior authorizations submitted by prescribers through their e-prescribing software	-	-	-	1.00	74,831	224,493	299,324	Passed House Passed Senate
1302	Provides for an underage drinking prevention program	-	360,000	-	-	-	-	-	House Passed Amended by Senate Approp
1362	Provides an appropriation to DHS any amount of federal funds relating to implementing the provisions for the expansion of the medical assistance program for the Patient Protection and ACA	-	-	-	3.00	248,789	157,742,548	157,991,337	Passed House Going to full Senate
1422	Provides an appropriation to DHS for a child care stabilization Initiative.	-	2,600,000	-	-	-	-	-	Passed House Amended by Senate HS/Going to full Senate
2193	Provides an appropriation to DHS for autism-related programs	1.00	900,000	-	-	507,364	1,407,364	1,914,728	Passed Senate Amended in House HS/In House Approp.
2205	Provides an appropriation to DHS for the purpose of providing a grant to an organization for administering statewide 2-1-1 services.	-	125,000	-	-	-	-	-	Passed Senate Going to Full House
2271	Provides for DHS to provide administrative services to the Committee of Employment of People with Disabilities	-	-	-	-	27,954	12,000	39,954	Signed by Governor
2356	Provides an appropriation to DHS for the purpose of providing grants to children's advocacy centers.	-	300,000	-	-	-	-	-	Passed Senate Going to Full House
<b>Totals</b>		<b>2.00</b>	<b>5,185,000</b>	<b>-</b>	<b>4.00</b>	<b>24,948,179</b>	<b>140,808,927</b>	<b>165,757,106</b>	
1360	Authorizes the Department to provide funding for the expansion of the Programs for All-Inclusive Care for the Elderly (PACE)	-	-	-	-	855,582	855,582	1,711,164	Passed House Amended in Senate HS/Passed Senate House concurred

Testimony on HB 1041  
Senate Appropriations Committee  
April 1, 2013

# 1  
HB 1041  
4-1-13

Good morning Chairman Holmberg and members of the Senate Appropriations Committee. My name is Shelly Peterson, President of the North Dakota Long Term Care Association. We represent assisted living facilities, basic care facilities and nursing facilities in North Dakota. Thank you for the opportunity to testify on HB 1041. I am here to ask for your support of HB 1041.

North Dakota's Chief Justice said it correctly, elderly vulnerable adults are being exploited in North Dakota and we need to stop it. This bill helps to address the problem. We have vulnerable adults being financially exploited in North Dakota. We need a coordinated and united system for the provision of guardianship services to vulnerable adults.

The Human Services Interim Committee studied this issue and their recommendation is reflected in HB 1041. HB 1041 was greatly reduced in the House and we request funding be restored.

We are aware of situations where vulnerable long-term care residents are being financially exploited. Their resources are depleted and they are left destitute without income/assets to pay for their care. Sometimes this is occurring by children and sometimes by strangers. With new found wealth in mineral rights, the problem in some areas of the state is becoming more acute.

On average, one out of every six residents in a nursing facility has a payment issue associated with their account. Some of this is attributed to assets and income of the older person being used by other interested parties and not going to cover the cost of care and services. In these cases, Medicaid is rightly denying coverage because records show assets exist and these assets are to be used for their care. In some of these situations, the money has been spent by other parties and resources do not exist to pay for their care.

Long term care facilities have a right to discharge a resident for non-payment of their bill. However, before a facility can discharge a resident, they must find another place for them to live and receive care. Generally another facility is not willing to take them if they know they are not going to get paid. We will not and could not put them on the street, what are we to do?

In these desperate situations, if we feel the resident is vulnerable and is being exploited we will seek guardianship. We don't feel it is appropriate for a nursing facility to seek guardianship for a resident under their care. There are agencies willing to step up and help, but they need to get paid for their services. HB 1041 will help protect vulnerable adults, their assets and assure guardianship services are available if necessary.

Thank you for your consideration of HB 1041. I would be happy to address questions.

Shelly Peterson, President  
North Dakota Long Term Care Association  
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HB 1041  
4-1-13 2

Testimony to: **Senate Appropriations Committee**  
Senator Ray Holmberg, Chairman

Testimony by: Judy Vetter, Administrator of Guardian and Protective Services, Inc.  
April 1, 2013

Chairman Holmberg and Members of the Senate Appropriations Committee, I am Judy Vetter, Administrator of Guardian and Protective Services, Inc. (GaPS) and the President of the Guardianship Association of North Dakota. I am speaking today on behalf of the Association and in my capacity as Administrator. Guardian and Protective Services currently serves as the County Public Administrator for 11 counties in the South Central Judicial District.

This past fall, the Interim Human Services Committee Members, as a result of the recommendations that came from the Statewide Guardianship Study conducted by Dr. Winsor C. Schmidt, chose the service delivery model that is reflected in HB 1041 to be moved forward through this Legislative Session.

HB 1041 was passed with strong support through the House of Representatives. We want to acknowledge their hard work, support and time expended on addressing the critical issues of guardianship.



## HB 1041 Provides:

- Relief to the Counties to address the instability and uneven funding amongst the Counties.
- Funding for new indigent individuals, in need of a guardian provider, that do not have an appropriate family member to serve.
- Funding for the current guardianship cases served that are not funded or inadequately funded (164 current cases).
- Funding to the Court for training of Guardians.

HB 1041 utilizes the current Court System that addresses the guardianship needs. This saves State Tax Dollars by not creating or duplicating a new State Program.



HB 1041 was formulated due to the leadership of Honorable, Chief Justice Gerald VandeWalle addressing the pressing needs of our State's elderly population and as a result of the following entities addressing our State's unmet guardianship needs: the State Court, the State Bar Association, ND Long Term Care Association, the ND Association of Counties, AARP, Guardian Providers and Public Administrators.

Please support and pass HB 1041 with the Proposed Amendments.

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



HB 1041 *From Judy Vetter*

4-1-13 #3  
HB1041

FUNDING ADDENDUM OPTIONS:

As a united group, we all testified before Senator Judy Lee's Committee and asked for consideration to restore the funding for HB 1041 back to the \$1,657,100.00.

In an effort to tighten up the funding differences and serve as many cases as possible we ask that consideration be given to the following:

- Add the 164 current cases that are being served but not funded or inadequately funded at the same rate of \$225.00 per case, per month in the first year, and \$250.00 per case, per month in the second year totaling \$934,800.00.
- This amount added to the \$431,200.00 (43 new cases each year of the biennium and \$70,000.00 for guardian training through the Courts) in the current bill totals \$1,366,000.00.

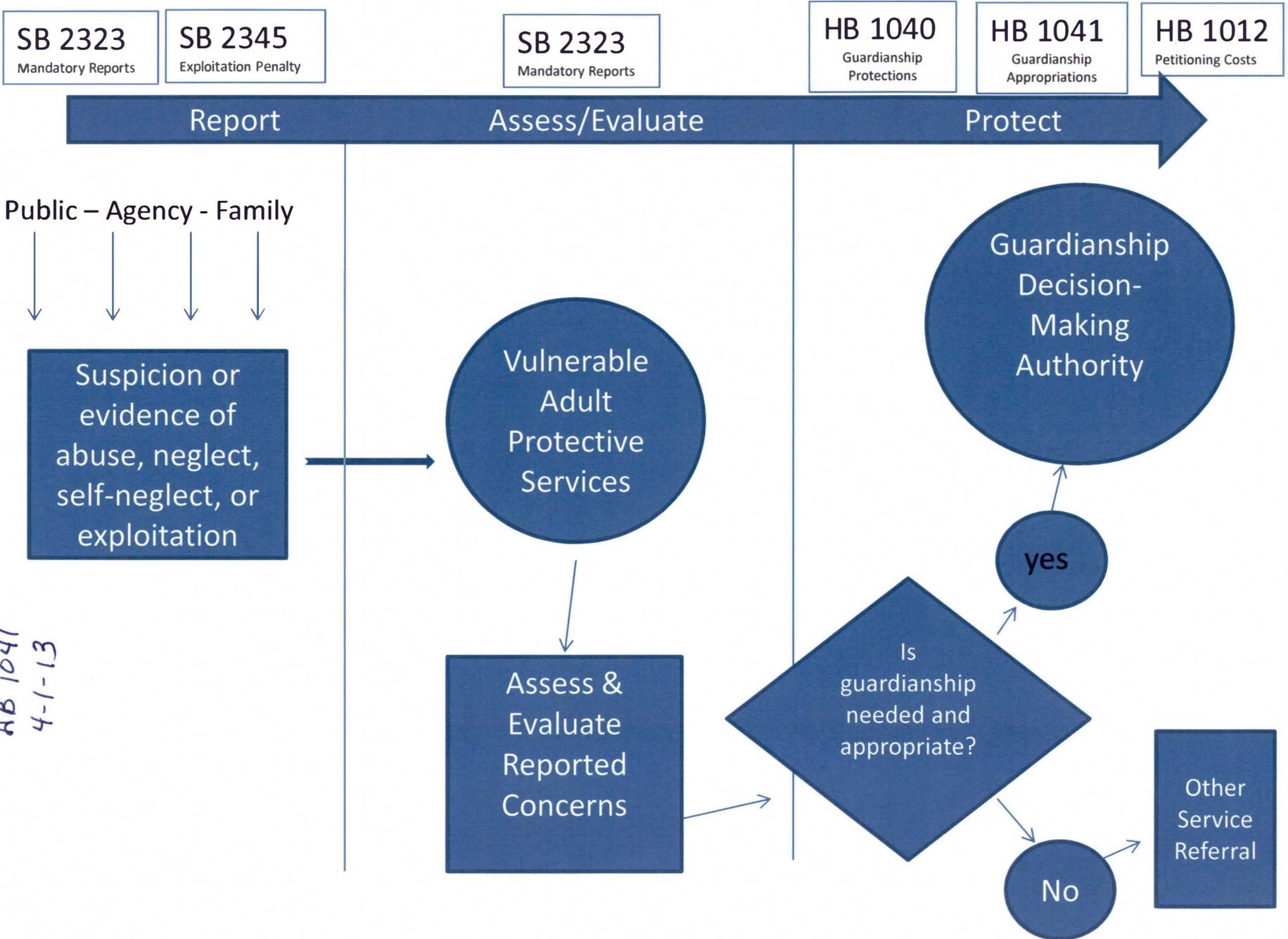
We fully support and believe that the service model reflected in HB 1041 is the most efficient use of State Funding for paying guardianship providers and training for guardians.

Department of Human Services

Comparison of Guardianship Funding in HB 1041 and HB 1012

Bill	First Engrossment with Senate Amendments - Engrossed HB 1041	First Engrossment with Senate Amendments - Engrossed HB 1012 (DHS Appropriation)
APPROPRIATIONS	Section 1: \$1,366,000 Section 2: \$70,000	\$1,040,000
RESPONSIBLE DEPARTMENT	OMB	DHS
SCOPE	State funds grants to counties for guardianship and public administrator services.	Funding to establish petitioning costs and to provide adult protective services
WHO IS ELIGIBLE	All incapacitated, but not DD eligible. (NDCC 30.1-26-01)	All incapacitated, but not DD eligible. (NDCC 30.1-26-01)
WHAT IT PURCHASES/BUYS	Pays guardianship for existing 164 guardianship cases \$225 per case, per month for the first year and \$250 per case, per month for the second year. Total Cost = <b>\$934,800</b>	
	Funds both public or private guardianship services for new wards. The 1st year of the biennium would fund 43 new wards at \$225/month = \$116,100. The rate would increase to \$250/month in year 2 of biennium, funding 43 existing wards at \$250/month = \$129,000, and adding 43 additional wards at \$225/month = \$116,100. Total Cost = <b>\$361,200.</b>	
	Funding to Court to develop and deliver tutorial for new guardians. Total Cost = <b>\$70,000</b>	
DIFFERENCES	Does not contain funding for petitioning costs.	Funding to establish petitioning costs for 86 wards. Total Cost = <b>\$215,000</b> (no more than \$2,500 each)
	Section 1: Contains an additional <b>\$70,000.</b> <b>(\$934,800 + \$361,200 - \$1,296,000)</b>	#4 HB 1041 4-1-13
	Does not contain funding for Vulnerable Adult Protective Services.	Contract for four Vulnerable Adult Protective Service staff and related operating costs who will be located throughout the state to address unmet needs. Total Cost = <b>\$825,000</b>

#1



Jan Engan  
HB 1041  
4-1-13

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Title.

Prepared by the Legislative Council staff for  
Senator Mathern

April 5, 2013

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Subcomm  
4-9-13  
HB 104

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1041

In lieu of the amendments adopted by the Senate as printed on page 880 of the Senate Journal, Engrossed House Bill No. 1041 is amended as follows:

Page 1, line 6, replace "\$361,200" with "\$1,366,000"

Page 1, line 8, remove "for new wards"

Page 1, line 8, remove "The"

Page 1, replace lines 9 and 10 with "To be eligible for funding under this section, a ward must be found to be an incapacitated adult as defined by section 30.1-26-01 and have income at or below one hundred percent of the federal poverty level. A ward with developmental disabilities who is receiving case management services through the department of human services is not eligible for funding under this section."

Re-number accordingly

Maggie  
Anderson, DHS #2

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1041

HB1041

In lieu of the amendments adopted by the Senate as printed on page 880 of the Senate Journal, Engrossed House Bill No. 1041 is amended as follows:

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4-9-13

Page 1, line 6, replace "\$361,200" with "\$1,366,000"

Page 1, line 8, remove "for new wards"

Page 1, line 8, remove "The department"

Page 1, replace lines 9 through 10 with "To be eligible for funding under this section, a ward must be found to be an incapacitated adult as defined by N.D.C.C. 30.1-26-01 and have income at or below one hundred percent of the federal poverty level. A ward with developmental disabilities who is receiving case management services through the developmental disabilities program administered by the department of human services is not eligible for funding under this section."

Renumber accordingly

**Department of Human Services**

**Comparison of Guardianship Funding in HB 1041 and HB 1012**

<b>Bill</b>	<b>First Engrossment with Senate Amendments - Engrossed HB 1041</b>	<b>First Engrossment with Senate Amendments - Engrossed HB 1012 (DHS Appropriation)</b>
APPROPRIATIONS	Section 1: \$1,366,000 Section 2: \$70,000	\$1,040,000
RESPONSIBLE DEPARTMENT	OMB	DHS
SCOPE	State funds grants to counties for guardianship and public administrator services.	Funding to establish petitioning costs and to provide adult protective services
WHO IS ELIGIBLE	All incapacitated, but not DD eligible. (NDCC 30.1-26-01)	All incapacitated, but not DD eligible. (NDCC 30.1-26-01)
WHAT IT PURCHASES/BUYS	Pays guardianship for existing 164 guardianship cases \$225 per case, per month for the first year and \$250 per case, per month for the second year. Total Cost = <b>\$934,800</b>	
	Funds both public or private guardianship services for new wards. The 1st year of the biennium would fund 43 new wards at \$225/month = \$116,100. The rate would increase to \$250/month in year 2 of biennium, funding 43 existing wards at \$250/month = \$129,000, and adding 43 additional wards at \$225/month = \$116,100. Total Cost = <b>\$361,200.</b>	
	Funding to Court to develop and deliver tutorial for new guardians. Total Cost = <b>\$70,000</b>	
DIFFERENCES	Does not contain funding for petitioning costs.	Funding to establish petitioning costs for 86 wards. Total Cost = <b>\$215,000</b> (no more than \$2,500 each)
	Section 1: Contains an additional <b>\$70,000. (\$934,800 + \$361,200 - \$1,296,000)</b>	
	Does not contain funding for Vulnerable Adult Protective Services.	Contract for four Vulnerable Adult Protective Service staff and related operating costs who will be located throughout the state to address unmet needs. Total Cost = <b>\$825,000</b>

#1

## PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1041

That the Senate recede from its amendments as printed on pages 1396-1397 of the House Journal and page 1262 of the Senate Journal and that Engrossed House Bill No. 1041 be amended as follows:

Page 1, line 6, replace "\$361,200" with "\$826,000"

Page 1, line 8, remove "for new wards"

Page 1, line 8, remove "The"

Page 1, replace lines 9 and 10 with "To be eligible for funding under this section, a ward must be found to be an incapacitated adult as defined by section 30.1-26-01 and have income at or below one hundred percent of the federal poverty level. A ward with developmental disabilities who is receiving case management services through the department of human services is not eligible for funding under this section. A grant to a county for a ward under a guardianship prior to July 1, 2013, will be based on fifty percent of the established monthly rate for that guardianship. The county receiving a grant for a ward under a guardianship prior to July 1, 2013, shall pay fifty percent of the monthly rate for the guardianship out of grant funds, but also shall pay the other fifty percent of the monthly rate for the guardianship and may not use grant funds to do so."

Re-number accordingly