

1999 HOUSE HUMAN SERVICES

HB 1299

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1299

House Human Services Committee

Conference Committee

Hearing Date January 20, 1999

Tape Number	Side A	Side B	Meter #
1	X		0.0 - End
1		X	0.0 - End
2	X		0.0 - 8.0 16.8 - 19.1
Committee Clerk Signature <i>Susann Lindteigen</i>			

Minutes:

Chairman Rep. CLARA SUE PRICE called the committee to order at 10:00 AM.

Present were Reps. Clara Sue Price, Robin Weisz, William Devlin, Pat Galvin, Dale Henegar, Roxanne Jensen, Amy Kliniske, Chet Pollert, Todd Porter, Blair Thoreson, Bruce Eckre, Ralph Metcalf, Carol Niemeier, Wanda Rose, and Sally Sandvig.

Rep. SCOT KELSH, District 11, introduced the bill on behalf of the ND Guardianship Association which has 81 members statewide.

PAUL GRIFFIN, Guardianship Division of Catholic Family Services, testified (Testimony and brochures attached).

Rep. CLARA SUE PRICE asked why HB 1299, 1301, and 1302 didn't come in as one bill?

PAUL GRIFFIN stated they were new at this and the sponsors didn't suggest it. Also, it's possible that one or two may be approved.

Rep. WILLIAM DEVLIN asked about the fiscal note if it will pay the cost or will property tax increase to pay costs? PAUL GRIFFIN said HB 1299 allows for access to guardianship by indigent people. HB 1301 covers additional costs to establish guardianship that would not be borne by the county. Rep. WILLIAM DEVLIN said that county social services are paid with property taxes. PAUL GRIFFIN stated there is some precedence for asking that states attorneys assume some responsibility on this. During the divestiture process at the State Development Center during the ARC lawsuit, states attorneys were asked to assume some responsibilities of handling guardianship cases.

Rep. ROBIN WEISZ asked how is it currently handled? PAUL GRIFFIN stated (1) we don't have a way for people to receive or pay for services and (2) if we can locate services, there isn't a way to pay for the process. Many agencies or attorneys are doing it pro bono.

MELVIN WEBSTER, Attorney, testified (Testimony attached). This bill places an additional burden on states attorneys office. Court, nurse, or a visitor can file a report. The problem is getting someone to petition or to serve as guardian enlighten, and someone to serve as a visitor. BRIAN GROSINGER, Morton County Assistant States Attorney, letter introduced into testimony (attached).

Rep. CLARA SUE PRICE asked how many counties are there that refuse to do this? PAUL GRIFFIN said Burleigh County asserts that its a civil matter and therefore its not their responsibility. In Morton County they have assumed responsibility because they recognize the need. I think in Cass County the states attorney assumed responsibility. But I'm not aware of any other counties.

STEVE SKAUGE, HIT Inc., Mandan, testified (Testimony attached).

BETTY KEEGAN, Director, Rolette County Social Services, testified with reservation concerning the fiscal note. (Testimony attached).

Rep. CLARA SUE PRICE asked do you have problems with the states attorney in your county?

BETTY KEEGAN stated not all states attorneys are full-time. There are about 2-3 cases per year in Rolette County.

Rep. TODD PORTER asked are any cases re-referred to Legal Aid or Legal Assistance?

BETTY KEEGAN stated that legal guardianship is not part of their cases because they need to limit the type of services they provide.

CHRISTOPHER DODSON, Executive Director, ND Catholic Conference, testified (Testimony attached).

OPPOSITION

LONNIE OLSON, Ramsey County States Attorney, testified. His concerns are:

(1) County auditor pays for administrator or legal fees of indigent individual for guardianship which is currently in statute; (2) removes discretion from states attorney; (3) who decides indigence and who does the investigation; and (4) no funding for reimbursement to county for states attorney services. It appears to be an unfunded mandate to the county. Functions, provisions, and the laws are already in place.

Rep. WANDA ROSE asked does Ramsey county have pro bono cases? LONNIE OLSON stated the pro bono program can be used. The bills range from \$250 - \$400.

Rep. TODD PORTER asked how many cases are in Ramsey County? LONNIE OLSON said 10 or less with a population of about 13,000.

Rep. BLAIR THORESON asked how many people use the County Mental Health Fund?

LONNIE OLSON said its counsel fees, etc.

Rep. CLARA SUE PRICE asked for an explanation if a family member handles the situation.

LONNIE OLSON said we prefer that family member help but they are reluctant to get involved.

Then we refer it to the county administrator. Rep. CLARA SUE PRICE asked if this bill could cause problems for them. LONNIE OLSON said it could abrogate the process.

Rep. CAROL NIEMEIER discussed the alleged incapacitated individual's investigation and whether it includes social services. LONNIE OLSON stated he doesn't do the investigation due to conflict of interest with case presentation to the court. Usually law enforcement does the investigation.

Rep. WANDA ROSE asked what is the criteria for a visitor and how is it paid for? LONNIE OLSON stated its the same funding source as the public administrator. The visitor is a part-time employee and is also contracted with the Veteran's Service Officer but I don't know the budget amount.

Rep. RALPH METCALF asked for a word that is more compatible instead of using the word "shall". LONNIE OLSON stated "may" would be more discretionary as opposed to "shall."

Rep. WANDA ROSE asked where would you go to get information to determine if an indigent needs guardianship? LONNIE OLSON stated family members, social services, or social security administration. Rep. WANDA ROSE asked if the regional human services would be a logical place to check? LONNIE OLSON stated maybe.

WAYNE JONES, Ransom County States Attorney, testified I am a part-time states attorney for the last 30 years. Every session there is more work added to the states attorney. Two reasons for

testifying: (1) the bill is not needed. If there are no dollars available, the District Court doesn't appoint a public administrator. It's given to the private attorneys and they are paid about \$250 - \$400. (2) have an objection to the word "shall."

CYNTHIA FELAND, representing Burleigh County States Attorneys Office, testified on these concerns: (1) terminology of "shall" mandates and doesn't provide prosecutorial discretion, (2) states attorneys job is to protect, serve, and deal with criminal issues, (3) cost issue, (4) heavy workload in larger counties, and (5) Legal Services of ND has limited funds and prioritizes allocation of funds. We question the mechanisms this bill seeks to remedy. The States Attorneys Offices is not that mechanism. There other entities with the expertise where the money should be appropriated.

Rep. TODD PORTER asked what is the case load in the Burleigh County public administrators office. CYNTHIA FELAND didn't know. Rep. TODD PORTER asked how are referrals handled in Burleigh County? CYNTHIA FELAND stated its a twofold process where they are given the number for volunteer project of State Bar Association, Legal Assistance number, and told about the Public Administrator's Office.

Rep. ROXANNE JENSEN testified as cosponsor of the bill and asked that these remarks be considered germane with HB 1299 and 1301. I have served with the Catholic Family Services Partners in Guardianship Program. I can assure you from my experience there is a statewide need for work in the guardianship area. I also served as the Executive Director for the Prairie Harvest Foundation, a private provider for daily support services for individuals who are experiencing serious mental illness. A very high incidence in the clientele of the Prairie Harvest Foundation of a need for guardianship. Many are without family. The illness has driven a

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House Human Services Committee

Bill/Resolution Number HB 1299

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wedge between them and their families and support system which causes estrangement. This is wide spread. It has not been possible in many cases to find guardians for these individuals who severely need them. There are no programs available for people with mental illness or are very limited and there is no appropriation. The DDS has a very active program. But people with mental illness who need a guardianship program are not eligible for that program. I would encourage you to do whatever you can by giving these two bills a favorable recommendation.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1299

House Human Services Committee

Conference Committee

Hearing Date January 25, 1999

Tape Number	Side A	Side B	Meter #
s		X	34.6 - End
Committee Clerk Signature <i>Susann Lindteigen</i>			

Minutes:

Committee Discussion.

Rep. CLARA SUE PRICE asked if there is any study on different levels of guardianship.

Rep. ROBIN WEISZ discussed the problem the states attorney had with the word "shall." And continued by stating if we change it to "may" then there is no point to modify the bill.

Rep. WANDA ROSE expressed concern on the word "shall" because if they don't do it through the states attorney then they will do it privately, pro bono. Its not easy to get someone to have the court appoint a guardian. This would make someone accountable for the indigent.

Rep. ROXANNE JENSEN stated sensitivity to the states attorneys arguments and asked for time to contact other attorneys.

Rep. BRUCE ECKRE wanted to check with home concerns.

Rep. CLARA SUE PRICE allowed time to get answers.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1299

House Human Services Committee

Conference Committee

Hearing Date January 27, 1999

Tape Number	Side A	Side B	Meter #
1	X		26.1 - 36.1
Committee Clerk Signature <i>Susan Lindteigen</i>			

Minutes: Committee Discussion.

Rep. CAROL NIEMEIER stated the states attorneys offered an amendment to change the word "shall" to "may."

Rep. TODD PORTER expressed concern of conflict of interest on the part of the states attorneys.

Rep. TODD PORTER moved DO NOT PASS.

Rep. RALPH METCALF second the motion.

Further Committee Discussion.

Rep. ROXANNE JENSEN stated that this is a serious problem and something needs to be done before it becomes a lawsuit.

Rep. WANDA ROSE stated we have studied this problem for many interims.

ROLL CALL VOTE #1: 11 yeas, 3 nays, 1 absent.

CARRIER: Rep. TODD PORTER

FISCAL NOTE STATEMENT

House Bill or Resolution No. 1299

This bill or resolution appears to affect revenues, expenditures, or fiscal liability of counties, cities, or school districts. However, no state agency has primary responsibility for compiling and maintaining the information necessary for the proper preparation of a fiscal note regarding this bill or resolution. Pursuant to Joint Rule 502, this statement meets the fiscal note requirement.

Signature



John Walstad
Code Revisor

Date: 1-27-99
 Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1299

House Human Services Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Todd Porter Seconded By Ralph Metcalf

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairwoman	X		Bruce A. Eckre		
Robin Weisz - Vice Chairman	X		Ralph Metcalf	X	
William R. Devlin	X		Carol A. Niemeier		X
Pat Galvin	X		Wanda Rose		X
Dale L. Henegar	X		Sally M. Sandvig	X	
Roxanne Jensen		X			
Amy N. Kliniske	X				
Chet Pollert	X				
Todd Porter	X				
Blair Thoreson	X				

Total Yes 11 No 3
 Absent 1

Floor Assignment Porter

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

REPORT OF STANDING COMMITTEE (410)
January 27, 1999 12:02 p.m.

Module No: HR-17-1273
Carrier: Porter
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1299: Human Services Committee (Rep. Price, Chairman) recommends **DO NOT PASS** (11 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1299 was placed on the Eleventh order on the calendar.

1999 TESTIMONY

HB 1299

House Human Services Committee

Testimony on: HB 1299, HB 1301 and HB 1302

Provided by: Paul Griffin, President
Guardianship Association of North Dakota
January 20, 1999

Madame Chair, Committee Members:

Good morning! My name is Paul Griffin, I supervise the Guardianship Division of Catholic Family Service, a position I have held for the past twelve years. I am also the current president of the Guardianship Association of North Dakota. It is in my capacity as the president of the Guardianship Association that I would like to take this opportunity to address your committee regarding HB 1299, HB 1301 and HB 1302. With your permission, I would like to deal with the overall prospectus of the three bills, provide some historical background and leave testimony to the specific bills to those who will speak after me.

As you may or may not know, North Dakota is facing a growing crisis.....it is the crisis of the unmet guardianship needs of the most vulnerable of our citizens.

These unmet needs are well documented. Past surveys and studies including the most recent study (**A Comprehensive Study of Guardianship Services in North Dakota** prepared for the North Dakota Guardianship Coalition by *Kari Conrad & Associates* submitted July 1, 1996) have clearly and objectively identified the scope of the current problem and a pattern of circumstances and demographics that establish guardianship as an increasing concern now and for the foreseeable future. The ever increasing elderly population of our state, the economic factors and job pressures forcing families off the farms and out of the rural areas and communities and other circumstances have dramatically depleted the traditional "guardian pool." There are fewer and fewer family members

available and willing to assume the protective responsibilities of their parents, sibling and grandparents.

Advances in medical care and other innovations have extended life expectancy. The expansion of the services available to people with handicaps and disabilities have placed them in the mainstream of our society. These successes have created new concerns and problems that expose the very people whom they benefit to less positive possibilities....abuse, neglect, exploitation and the danger that they may not received needed medical and other services.

Requests for guardianship assistance are widespread and diverse....from nursing homes to county social service agencies, hospitals to group homes, states attorneys to Protection & Advocacy, Legal Assistance to pastors and ministers.

A nursing home administrator seeks a guardian to serve an elderly individuals who must have a critical decision made regarding code level and end of life questions.

A hospital social worker needs a guardian for a patient who requires major surgery but is not able to provide informed consent.

A county social service worker is trying to access needed services to maintain an at-risk individual in her own home but is not able to understand all the information she is being provided.

An advocate has serious concerns about a situation where an elderly person is being financially exploited by his relatives.

A county social service director has identified a case where a long time county resident can no longer care for herself and must be placed in a protective situation.

A mental health worker needs a guardian for a client with manic depression to provide structure and secure appropriate treatment.

These call for guardianship service are made on an almost daily basis, but the sad truth is that the guardianship services currently available to members of the adult population are limited, under funded, suspect in terms of quality or simply non-existent. Efforts of public administrators, private guardianship services and corporate guardians cannot adequately fill the void.... and increasing numbers of elderly, mentally ill and developmentally disabled individuals are more frequently exposed to abuse, neglect and other dangers.

Over the past 12 years uncounted attempts have been made to focus attention to this problem and to mobilize an effective long-term response. There have been guardianship study groups, guardianship focus groups, guardianship task forces and individuals who have worked diligently to alert the public and elected officials to the problem.

These efforts have included the Department of Human Services, the current and previous state administrations, the legislature through specific committees and individuals members, county social service boards and directors, district court judges, states attorneys and others. There have been studies, surveys, meetings and media attention.

Funding has been pursued through numerous grant applications, solicitation of donations, expanded requests to community United Way campaigns, fund raising projects, constant emphasis on responsible fiscal management, exploration of alternative governmental support (Title XIX), review

and research of options for funding utilized by other similar programs on a national basis, the use of subsidies and contributions from churches and religious organizations and many other approaches.

The “bottom line” is that every one agrees that there is a tremendous need.....there is an increasing number of vulnerable people in our state who need the protection of a guardian, but there are fewer and fewer options and alternative available to meet the need.

The Guardianship Association of North Dakota has grown-up and out of these efforts. It is a coalition of concerned citizens, human service agencies, service providers, private corporations and others who have jointed together to positively impact this area of service in our state. Many of our members are veterans of the efforts of the past 12+ years to try to bring services to the ‘neediest of the needy.’ GAND has worked cooperatively and positively with any and all entities to make quality guardianship services available to those who need them, especially those who currently cannot access or pay for them. The bills before you today represent the evolution of our activities

Attached to my testimony is a copy of a letter addressed to the directors of the three divisions of the Department of Human Services, Mental Health, Disability Services and Aging, which describes the work of a task force identified by GAND’s executive committee to respond to the joint concerns of our organization and the department (as you can clearly see, these bills mirror the recommendations of that task force).

It was the task force’s belief that the three recommendations should be considered as a “package” because with the absence of any one would weaken and impeded the others. It is GAND’s belief that

these bills be considered in the same way.

We believe that the bills establish the service, share the responsibilities and encourage volunteer participation. They suggest the use of an established and proven system of service delivery and collectively support the alternatives that are currently available while providing services to those who cannot access or secure them.

In closing I would like to express my appreciation to the members of this committee and the bill sponsors. In your role as legislators you have assumed some major responsibilities. Our Association's efforts are intended to draw your attention to the problem and seek your assistance in its solution. Be assured that this is a coalition effort and we are ready to work with you to address this very serious and growing need.

Respectfully Submitted:

A handwritten signature in black ink, appearing to read "Paul T. Griffin". The signature is written in a cursive style with a large initial "P" and "G".

Paul T. Griffin, President, Guardianship Association of North Dakota

G.A.N.D.

The Guardianship Association of North Dakota

2557 South University Drive, Fargo, ND 58105-5756
Phone: (701) 255-4457

March 17, 1998

Karen Romig Larson, Director
Mental Health Division/ND-DHS
600 - 2nd Street South
Bismarck, ND 58504-5729

Gene Hysjulien, Director
Disability Services Division/ND-DHS
600 - 2nd Street South
Bismarck, ND 58504-5729

Linda Wright, Director
Aging Services Division/ND-DHS
600 - 2nd Street South
Bismarck, ND 58504-5729

*Re: Guardianship Association of North Dakota
Executive Committee Task Force Goals*

Dear Karen, Gene and Linda,

As a result of ever increasing concerns about the unmet guardianship needs in North Dakota and communication and discussions with you at our February 12th meeting, the Guardianship Association of North Dakota (GAND) was asked to develop and present a summary of goals/solutions which the Department could review and consider for possible implementation to address the needs. In response to this request the GAND Executive Committee identified a group of ten (10) individuals who have a broad-base of knowledge and expertise in guardianship and represent the diverse populations involved (a list of the membership is attached). This group met in Bismarck on March 13th, 1998 and the enclosed document is the consensus product of their efforts.

By utilizing the input we received at the February meeting and Karen's follow-up memo containing the meeting minutes, the Task Force was directed to focus its' efforts on:

-those individuals who need guardianship, but cannot access it
-all populations and/or sub-groups
-use of existing, successful structures or models
-recommendations that will provide the most immediate results

The Task Force discussed at length the heavily documented evidence which clearly identifies an increasing need for guardianship throughout the various populations (developmentally disabled, mentally ill, substance abuse, physically disabled, elderly and traumatic brain injured) and the obvious lack of available and appropriate services to meet those needs. It was noted that the only exception to this was within the developmentally disabled (DD) system which has a process that is active, responsive and successfully serving large numbers of individuals. It was concluded that any further studies, surveys or demonstration projects were unnecessary and most probably a "waste of limited time and resources."

In all but the Partners area, the Task Force declined to address costs estimates and financial issues believing that these would be more appropriately and better addressed by you and your staff. However, the group did attempt to identify the minimum number of case units of service needed to adequately respond to the current crisis for each of your divisions.

The Task Force had hoped to incorporate a copy of the process that DD currently uses to identify, establish and fund guardianships into this document, however, contacts with representatives of the DSD indicate that this process has not been established in writing. It is apparently an accumulation of formal and informal directives and memos. The Task Force was confident that division staff would be able to provide a useful outline of their system and process at a future date.

The Task Force believes that these goals should be integrated into the Department's plans and budgeting for the next biennium and that, if utilized, they will have a dramatic, positive and timely effect upon the guardianship crisis that is threatening so many vulnerable individuals in our state.

The Task Force and the Guardianship Association offer their support and assistance in the implementation of these goals and are available individually or as a group for this purpose. We also wish to express our appreciation for the opportunity to participate in this very important task.

Sincerely,



Paul T. Griffin, Board President
Guardianship Association of North Dakota

C: Honorable Edward T. Schafer
Carol K. Olson
Brian Lunski
Alex Schweitzer
Roger Schwinghammer
Task Force Members
GAND Board Members

Guardianship Association of North Dakota
Executive Committee Task Force Regarding
Immediate Responses to Current Guardianship Needs
March 17, 1998

The following recommendations were developed by the Executive Committee Task Force of the Guardianship Association of North Dakota at the request of members of the Department of Human Services. They represent "Goals" that focus on:

- individuals who need guardianship but cannot access it
 -all populations and/or sub-groups
 -use of existing successful structures or models
 -recommendations that will provide the most immediate results
-

Recommendation #1:

Each of the involved divisions of the Department of Human Services should budget for the establishment or maintenance of guardianship services to the constituency they serve:

- A. *Disability Services Division: serving the developmentally disabled*
Minimum Need: 350 individuals
- B. *Aging Services Division: serving the elderly, physically disabled and traumatic brain injured*
Minimum Need: 300 individuals
- C. *Mental Health Division: serving the mentally ill and substance addicted*
Minimum Need: 300 individuals

Recommendation #2:

The process for providing/delivering these services should be directly modeled after the system currently utilized by DSD in providing services to the developmentally disabled. This would include integration of the contracting process that establishes a base unit funding level, provider standards as they related to policies and procedures, staff competency and required accreditation, and the use of an Emergency Services funding procedure to cover the costs of establishing needed guardianships.

Recommendation #3:

Funding should also be provided through DHS to established and support the Partners in Guardianship program. It is believe that this program would, over the long-term, provide services that would not only secure appropriate, well-trained volunteer guardians, but would provide a networking system of support, education and training to anyone involved in guardianship across the state. The estimated cost of this would be \$57,000 annually.

Guardianship Association of North Dakota

*Executive Committee Task Force Regarding Immediate
Responses to Guardianship Needs Membership Roster*

Bill Chaussee
Public Administrator
221 - 5th Street North
Bismarck, ND 58501
222-6600 F: 222-6666

Kari Conrad
Kari Conrad & Associates
125-1/2 East 6th
Minot, ND 58701
852-9392H 852-2697W

Shelly Peterson
ND Long Term Care Association
120 West Thayer Avenue
Bismarck, ND 58501
222-0660 F: 233-0977

Martha Tollefson
Protection & Advocacy Project
1330 Page Drive - Suite 103
Fargo, ND 58103
239-7222 F: 239-7224

Kathy Hogan
Cass County Social Services
1010 - 2nd Avenue South
Fargo, ND 58103
239-6700 F: 239-6820

Roger Wetzel
St. Alexius Mental Health & Elder Care
900 East Boradway Avenue
Bismarck, ND 58501
224-7889 F: 221-8267

Mel Webster
Webster & Engle Law Firm
418 East Rosser Avenue
Bismarck, ND 58501
255-3523 F: 255-4567

Paul Griffin
Catholic Family Service
2537 South University
Fargo, ND 58103
235-4457 F: 239-8266

Rose Stoller
ND Mental Health Association
200 West Bowen Avenue
Bismarck, ND 58504
255-3692 F: 255-2411

Pam Cook
Silver Haired Education Association
221 - 5th Street North
Bismarck, ND 58501
223-5155W 673-3336H

BECOMING A MEMBER

Membership is available on an Individual, Family, or Agency basis. Membership entitles you to one vote, no additional votes will be granted under the Agency or Family memberships. Dues will be effective on an annual basis*. Membership applications and dues should be directed to Paul Griffin at the Catholic Family Service office in Fargo.

COST OF MEMBERSHIPS:

Individual: \$20

Family: \$25 includes 2 Designees

Agency: \$30 includes 1 Designee

For each additional Family or Agency Designee, an additional \$10 is required.

**Memberships will expire annually on August 31st.*

Guardianship Association of North Dakota
c/o Catholic Family Service
2537 South University
Fargo, ND 58103

GUARDIANSHIP ASSOCIATION OF NORTH DAKOTA

A non-profit organization of professionals, families and concerned individuals committed to supporting guardians and other surrogate decision makers in enhancing the lives of persons who require assistance.



MISSION STATEMENT

The purpose of the Guardianship Association of North Dakota is:

● To develop resources, services and educational programs to meet the needs of surrogate decision makers assisting people who are unable to make decisions for themselves. ● To educate the public and professionals on matters related to surrogate decision making, including but not limited to guardianship and alternative advocacy services. ● To develop a network for the exchange of information and referral so that individuals in need of assistance are provided appropriate services ● To encourage the development of appropriate legislation designed to improve services. ● To communicate and collaborate with other organizations to promote surrogate decision-making alternatives and the purposes of this Association. ● To establish, promote and maintain high ethics and standards for a comprehensive system of alternative services for persons in need of assistance.

MEMBERSHIP BENEFITS

The benefits of membership are:

● Education and training forums, conferences and materials on surrogate decision-making alternatives, court evaluation, future planning, and legislative updates. ● Opportunities to participate in leadership roles and to serve on Association committees. ● A newsletter which provides information on legislation, state and regional activities, issues dealing with guardianship and provides discussions about current issues. ● A membership directory which enables members to communicate and network with each other.

To join the Guardianship Association of North Dakota, return this portion with your check for the appropriate membership fee to: Guardianship Association of North Dakota, c/o Catholic Family Service
2537 South University, Fargo, North Dakota, 58103

NAME: _____ TITLE: _____

ORGANIZATION: _____

ADDRESS: _____ CITY/STATE: _____ ZIP CODE: _____

WORK PHONE: () _____ FAX: () _____

Do you want your name published on the Membership Roster: ___ Yes ___ No

Enclosed: \$20 Individual \$25 Family \$30 Agency \$10 Each Additional Designee

Names of Additional Designees: _____

WHAT TO EXPECT:

If you chose to become involved in the Partners Program you would be interviewed and screened. A background study or search would be completed to ensure that only appropriate and trustworthy individuals are accepted into the program.

Once this screening process is completed you will be given the training and information that you will need to perform your duties as a guardian. You will be involved in classes, groups, one-to-one, or home-study sessions that will answer your questions and help you develop your skills and resources.

You will have meetings and interviews with Partners' staff who will help you decide if you are ready and able to make the commitment necessary to become a guardian.

Then you will be "matched" with a person who needs a guardian and you will have opportunities to meet and visit with him or her before the necessary steps are taken to assign the guardianship responsibilities to you through the court.

After you are appointed by the court, there will be on-going training and informational sessions that will help you develop additional skills and provide support as you perform your duties as a guardian. A 24-hour crisis/assistance line, staffed by guardianship professionals, is available if a need arises at any time.

WHAT WILL I DO AS A GUARDIAN:

Your primary responsibility as a guardian will be to develop a one-to-one relationship with your ward. You will make or help the ward make decisions about his or her life, the programs and services that he or she is involved in and other situations. You will visit your ward, go on outings with him or her and do many things that will be interesting and enriching for both of you. You will need to attend meetings periodically to see how he or she is doing and talk with the caregivers to be sure that the appropriate services are available and provided. The level of your involvement will depend upon the needs of your ward. You will be required by the court to file a report once a year describing how your ward is doing.

WHAT WON'T I DO AS A GUARDIAN:

You will not be required to have your ward come and live with you or to assume financial responsibility for him or her. There are certain decisions that are very serious that the court will have to make if they arise. The court orders that you receive will tell you what areas you have authority and responsibility in and what areas you do not. Assistance will be available to you through the Guardianship Division or the courts.

If you are interested in becoming a "Partner" or know someone who is, contact:

Catholic Family Service
Partners in Guardianship
2537 South University
Fargo, ND 58103
(701) 235-4457

Partners in Guardianship

A program that recruits, screens and trains individuals who are qualified and interested in serving as guardians.

"Their life is better because I've been involved."



ACCREDITED
COUNCIL ON ACCREDITATION
OF SERVICES FOR FAMILIES
AND CHILDREN, INC.



Catholic
Family
Service

WHAT IF I TOLD YOU THAT:

- * There are people in North Dakota who because of circumstance or disability cannot make decisions for themselves.
- * There are people who do not have family members or anyone to help them make decisions that will have major effects upon their lives.
- * There are people who are not receiving needed services or are being taken advantage of because there is no one there for them.

WHAT IF YOU KNEW THAT:

- * You can get to know one of these people and you can help him or her make decisions.
- * You can help him or her get needed services and provide protection from abuse or neglect.
- * You can be there in a way that no one else can.
- * You can make a difference.

THE CURRENT SITUATION:

There are developmentally disabled, mentally ill and elderly people across North Dakota who, because of their situation or disability, cannot gather and evaluate all the information necessary to make good decisions for themselves. They may not be able to do this in all areas of their lives or just in certain areas such as medical, legal or financial.

Because they cannot manage these tasks they are at risk of being taken advantage of, abused, neglected or they may not receive needed medical or other services.

When a situation like this is brought to the attention of the court, a guardianship may be established to protect the person. A guardianship is a court appointed relationship between a competent adult (guardianship) and a person who is not able to handle his or her affairs (ward). It is a legal procedure that establishes that the person is not capable of managing responsibilities or making certain decisions. The court then appoints an appropriate person or organization to make decisions with and for him or her.

In most cases, a family member or relative is available and willing to serve as the guardian. Increasingly, however, there are more and more individuals who need guardianship and have no family member available, willing or appropriate to serve. If there are no other options, the person may simply go without a guardian....

Some guardianship services are available through public administrators, private non-profit organizations and the courts. However, these services are limited in availability or to people who can pay for them

The end result is that there are many vulnerable people who have little or no protection.

PARTNERS IN GUARDIANSHIP

Partners in Guardianship is a program that recruits, screens and trains individuals who are qualified and interested in serving as guardians. The primary responsibility of a "partner" is to promote the best interests and protect the well-being of the ward on a long term basis.

After training, the "partner" can be matched with a person who is in need of guardianship services and the court can assign guardianship responsibilities directly to the "partner."

Partners training is also available to anyone who is currently serving as a guardian and needs further training or support or to anyone who is thinking about becoming a guardian in the future. The training program also can be accessed or required through the courts.

Technical assistance and on-going training and support are provided through the Guardianship Division of Catholic Family Service.

Partners in Guardianship.

Information Summary

-Guardianship is a court-appointed relationship between a guardian and a ward whereby some of the rights and responsibilities of the ward are assigned to the guardian.

☞ The purpose of guardianship is to protect persons who, because of health, age, injury or development, are vulnerable to abuse, neglect, or exploitation.

This may include people who are elderly, who are developmentally disabled, who have traumatic brain injury, who are mentally ill, who are temporarily incapacitated due to illness or injury, and those who are unable to care for themselves in one or more areas of their lives for some other reason.

Guardianship is somewhat like parenting: The guardian looks after the wellbeing of the ward, making decisions, advising and teaching the ward in ways that serve the ward's best interests.

☞ A guardianship may be full or limited, long-term or temporary:

◆ The domains of life in which a guardian may be assigned responsibility and rights for a ward include financial, legal, medical, residential, vocational, and educational. The idea is to help the ward live in the least restrictive environment and in the most culturally normative way possible.

◆ The amount of responsibility assigned to the guardian depends on the court's perception of the situation, circumstances and condition of the ward, and the ward's competence and capabilities, or the extent of his or her incapacities.

◆ The court makes this decision based on information and recommendation from attorneys, court appointed visitors (usually a social worker), physicians and psychologists.

Partners in Guardianship recruits, screens and trains volunteers who will then be appointed by the court as guardians. The trainees may be relatives or friends of potential wards, or they may just be caring citizens who are willing to take on a relationship of support to a vulnerable person

Who may be a guardian?

Any competent caring adult who passes screening. That includes most people. Screening ensures that guardians have no history of abuse, felonies, crimes of a sexual nature, or reckless behavior, and that they are responsible citizens with the potential to provide good care for a vulnerable person. Other systems and service providers work with guardians to ensure the protection of a ward's best interests and meet the ward's needs.

Partners in Guardianship often serve the most vulnerable of all, people without family or friends who can be guardians or resources to pay for attorney guardians, agency or corporate guardians. They may be motivated by compassion, a willingness to extend themselves to others, gratitude for their own good life, a concern for social justice. For them, guardianship is a special trust and a relationship, and a chance to help people who can't help themselves to have a better life.

TESTIMONY OF MELVIN L. WEBSTER
BEFORE THE HUMAN SERVICES COMMITTEE
OF THE NORTH DAKOTA HOUSE OF REPRESENTATIVES
IN SUPPORT OF HOUSE BILL 1299

Madam Chairperson, Committee Members:

My name is Melvin Webster. I am an attorney in private practice in Bismarck, North Dakota. I am also a member of the Guardianship Association of North Dakota. My practice includes guardianship and probate matters. I have served as petitioning attorney and guardian ad litem in a number of guardianship cases. I urge your support of House Bill 1299.

To initiate a guardianship, a petition must be filed with the district court. Once the petition is filed the court appoints a guardian ad litem, who is an attorney, to represent the proposed ward; a visitor, who is a licensed social worker or a nurse, to make a report to the court regarding the need for a guardianship, the authority to be granted to the guardian, and a recommendation regarding who should serve as guardian. A physician files a report. A hearing is held and the court determines whether or not a guardian should be appointed and what authority the guardian should have.

As noted, the initial step requires the filing of a petition. This bill provides that if the alleged incapacitated person is identified by either the regional human service center or county social service agency as an indigent person in need of a guardian the state's attorney of the county where the person resides shall, upon request, prepare and file the petition for appointment of a guardian.

Some counties provide this service. I have been involved in cases in Morton County in which the state's attorney's office served as the petitioner's

attorney. The proposed ward was usually a person identified by county social services as a person in need of a guardian. A designated person from Morton County Social Services petitioned the court for the appointment of a guardian. The cases varied. One case involved an elderly lady who was blind, who lived in a house that could be only described as filthy. She, however, had no relatives living close by and was estranged from her only children. Another case involved an elderly lady who was being exploited by her son and deprived of adequate care, medicine, and the basic necessities. Another case involved a young woman who was chronically mentally ill

In most of these cases guardianship services would not have been provided if the state's attorney's office had not been willing to serve as petitioning attorney. When the person was indigent the county paid my fees. If sufficient funds were available the county was able to recoup its expenses.

As you may recall, this same process was used when many of the guardianships for developmentally disabled persons were established in the 1980s. I believe the process was efficient and cost effective. If no one initiates the petition, necessary services will not be provided. A guardian is required to access services for vulnerable adults who do not have sufficient funds or relatives who are able to initiate the guardianship process.

I urge you to support this legislation.

MORTON COUNTY STATE'S ATTORNEY'S OFFICE

January 19, 1999

**RE: House Bill 1299, an amendment to
Section 30.1-28-03 of the North Dakota
Century Code**

Human Services Committee
North Dakota House of Representatives

To the Honorable Chair and Members of the Committee:

Please consider this correspondence as my support in favor of the proposed amendment to House Bill 1299.

I am an Assistant Morton County State's Attorney and have served in that capacity for almost eleven years. Several years ago my local social services agency came to me with a problem of an elderly lady living in one of our rural communities. This lady was without relatives to assist her, and was no longer able to care for herself. She was also resistant to the idea of outside help, and outside services. Nevertheless, she had reached the time in life when the assistance of a guardian was necessary to guarantee a quality of life at a level that she was deserving for the conduct of her life. It was only after determining that she met the definition of a vulnerable adult under that statute, that there was authority for my office to intervene, and initiate proceedings to protect this lady with a guardian.

Since then, this office has averaged a couple of similar cases a year brought to us by social services. The people in need are generally elderly that have outlived the rest of their family, handicapped without relatives to assist, or in some other way vulnerable to exploitation. The cases are always tragic. Oftentimes the cases are called to our attention by concerned neighbors and friends in hopes that "someone will do something about this." If the case was severe to the point that the individual met the definition of "vulnerable adult" we have been able to assist. If not, there is no legal authority to assist. The proposed amendment would bridge the gap that exists at present for the protection of our seniors and handicapped. It would also serve to clarify the requirements expected of State's attorney's on these issues.

If I were on the committee, I would be concerned about the potential for State's Attorney's butting into the private affairs of individuals. I would like to address that potential concern. The policy of this office has always been that the families of the infirm are the first priority and best

Morton County Courthouse
210 Second Avenue NW
Mandan, ND 58554
701-667-3350
Fax: 701-667-3474

Human Services Committee

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January 19, 1999

RE: House Bill 1299, an amendment to Section 30.1-28-03 of the North Dakota Century Code

suited to address the concerns. It has only been in cases where the individual was without family care, or being exploited that we have acted. The proposed amendment would not change our office policy of remaining the last resort in any fashion. We would continue to intervene only out of necessity. I am quite certain that other persecutor's offices, already with full caseloads like ours, would approach the statute in an equally conservative fashion.

I am not available for the hearing on January 20. I am available at the numbers indicated and would be happy to address any questions about our office practice or any other part of the amendment.

Sincerely yours,



Brian D. Grosinger
Assistant State's Attorney

bdg

Morton County Courthouse
210 Second Avenue NW
Mandan, ND 58554
701-667-3350
Fax: 701-667-3474

TESTIMONY BEFORE THE HOUSE HUMAN SERVICES COMMITTEE

HOUSE BILLS 1299,1301,1302

PRESENTED BY: STEVE SKAUGE, ON BEHALF OF THE NORTH DAKOTA
ASSOCIATION OF COMMUNITY FACILITIES (N.D.A.C.F.)

CHAIRMAN PRICE AND HONORABLE COMMITTEE MEMBERS;

My name is Steve Skauge, and I am the Executive Director of H.I.T., Inc. in Mandan. I am also the Co-chair of NDACF's Legislative Committee, and I am speaking on their behalf today. NDACF represents 26 providers of services to persons with developmental disabilities from around the State. Together, we serve over 2,000 individuals, many of whom have a guardian.

We would ask for your support in regard to these three Bills. As we see each day how important the role of a guardian is in the lives of those that we serve, we recognize the challenging responsibility that comes with providing guardianship services. We also see that there are a variety of other persons in the State who are in need of these services, such as those with mental illnesses or Traumatic Brain Injuries, but that no means of providing services are available. We are fortunate to have the availability of the Corporate Guardianship Program operated by Catholic Family Services to serve persons

with Developmental Disabilities, but we know that the program struggles financially to meet the needs and stay within its budget, and that the demand for services exceeds the available dollars.

Each of these Bills will play a role toward finding a means to provide guardianship services for the other types of persons who need this support. This will allow them to have the same type of quality guardianship services that persons with Developmental Disabilities now receive. Again, we know that these people are out there, and are in need of the services. We would appreciate the Committee's support of these Bills to help better meet the needs of these citizens.

TESTIMONY ON H.B. 1299, 1301 & 1302

BEFORE THE HOUSE

HUMAN SERVICES COMMITTEE

JANUARY 20, 1999

Chairperson Price and members of the House Human Services Committee, for the record, my name is Betty Keegan, Director of Rolette County Social Services. Today I am providing information to you on behalf of the North Dakota County Social Services Directors' Association.

The need addressed by the three bills you have before you today has been a long time need across our state. Within those situation where fiscal resources of the individual are not a problem, usually the process of securing the appointment of a legal guardian for that adult move along without a problem through the civil court process with the retained attorney representing the person.

However, in the case of the indigent adult who has a modest or low income, funds are not available to assist in retaining legal services or representation and, therefore, appointment of a legal guardian for that adult does not and will not take place.

We encounter these situations fairly regularly in our daily work especially on behalf of adults who use the Medical Assistance Program and/or Home and Community Based Services.

The conditions necessitating guardianship may arise from many possibilities, i.e. Alzheimer's disease, severmental illness, chronic alcoholism, or mental infirmities associated with the aging process, and the list goes on.

Our association lends its full support to the passage of the three House bills coming

before you this morning.

Madam Chair, this concludes the formal portion of my testimony. If there are any questions from the committee members, I will try to answer those at this time. Thank you.



*Representing the Diocese of Fargo
and the Diocese of Bismarck*

Christopher T. Dodson
Executive Director

To: Members of the House Human Services Committee
From: Christopher T. Dodson, Executive Director
Subject: House Bills 1299, 1302, and 1301
Date: January 20, 1999

Chairman Price, members of the committee, I am Christopher Dodson, the executive director of the North Dakota Catholic Conference. The North Dakota Catholic Conference supports these bills. The details of why these bills are needed are addressed by others with more hands-on experience with guardianship programs. The North Dakota Catholic Conference's contribution today is to call attention to some underlying reasons to support these bills.

The Fourth Commandment states: "Honor your father and your mother, that your days may be long in the land which the Lord your God gives you." This commandment is a call to honor the family, and it has become a basis upon which our society is built.

The commandment, however, is not limited to our fathers and mothers. It illuminates other relationships in society. In our brothers and sisters, we see the children of our parents; in our cousins, the descendants of our ancestors; in our fellow citizens, the children of our country. In this way, our relationships with our neighbors are recognized as personal in character. The neighbor is not a "unit" in the human collective; he or she is "someone" who deserves particular attention and respect.

This is why the Old Testament prophets considered the test of society whether it cared for the orphan, the widow, and the immigrant. These persons, who in that time were the ones without family and community support, were to be cared for like family. Guardianship programs continue that call today. They serve the ones often without family like family, providing needed assistance and protection.

There is a growing need to care for the vulnerable persons among us in a manner that respects their dignity and acknowledges their inclusion in the human family. These bills address that need. When we adequately provide such services, we are all enriched. Perhaps this is why the Fourth Commandment is the only one of the Ten Commandments that contains a promise to those who keep it: "that your days may be long in the land which the Lord your God gives you."

We urge a **Do Pass** recommendation on these bills.

227 W. Broadway, Suite 2
Bismarck, ND 58501
(701) 223-2519
Fax # (701) 223-6075