

1999 HOUSE HUMAN SERVICES

HB 1302

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1302

House Human Services Committee

Conference Committee

Hearing Date January 20, 1999

Tape Number	Side A	Side B	Meter #
2	X		8.0 - 19.9
Committee Clerk Signature <i>Susann Lindteigen</i>			

Minutes:

KATHY HOGAN, Guardianship Association of ND Legislation/Standards Committee, testified (Testimony attached). We think there are three pieces of the stool: (1) need a public guardianship, (2) need to establish guardianship, and (3) need a volunteer training program.

Rep. SALLY SANDVIG asked what is the current situation with the public administrator in Fargo? KATHY HOGAN stated the public administrator has been criminally charged with theft of property from wards that she had legal custody of. The reason Cass County and the Court opted to discontinue funding was because of concerns regarding the vulnerability of people she had care of - about 15. Because there are standards for guardians and there are accountability procedures, its a trust issue. We strongly believe that we need a public guardianship structure that has standards.

Rep. CHET POLLERT asked how will state do a better job handling this out of Bismarck than a county office can do? KATHY HOGAN stated because we have the experience in the DD system. We have a model that works coming out of the ARC lawsuit. Department of Human Services has a system of accountability.

Rep. SALLY SANDVIG asked how does Cass County feel about the states attorney taking care of the indigent? KATHY HOGAN stated our commission and states attorney made a commitment to provide that service and we are currently doing that. The first year we did 10-12 and last year it was 16 in Cass County.

Rep. ROXANNE JENSEN, District 17, testified as cosponsor of the bill and asked that these remarks be considered germane with HB 1299. 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 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.

STEVE SKAUGE, Executive Director, HIT, Inc., testified (Testimony attached).

Page 3

House Human Services Committee

Bill/Resolution Number 1302

Hearing Date January 20, 1999

BETTY KEEGAN, Director, Rolette County Social Services, testified (Testimony attached).

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

PAUL GRIFFIN, Guardianship Division of Catholic Family Service, testified (Testimony attached).

OPPOSITION - None

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1302

House Human Services Committee

Conference Committee

Hearing Date January 27, 1999

Tape Number	Side A	Side B	Meter #
1		X	9.5 - 11.1
Committee Clerk Signature <i>Susann Lindteigen</i>			

Minutes:

Committee Discussion.

Rep. CHET POLLERT moved DO PASS and REREFER TO APPROPRIATIONS

Rep. ROXANNE JENSEN second the motion.

Further Committee Discussion.

ROLL CALL VOTE #3: 12 yeas, 3 nays, 0 absent.

CARRIER: Rep. TODD PORTER

Date: 1-27-99
Roll Call Vote #: 3

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1302

House Human Services Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass and Refer to Appn

Motion Made By Chet Pollert Seconded By Roxanne Jensen

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairwoman	X		Bruce A. Eckre	X	
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 12 No 3
Absent 0

Floor Assignment Porter

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

REPORT OF STANDING COMMITTEE (410)
January 28, 1999 10:34 a.m.

Module No: HR-18-1366
Carrier: Porter
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1302: Human Services Committee (Rep. Price, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (12 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1302 was rereferred to the Appropriations Committee.

1999 HOUSE APPROPRIATIONS

HB 1302


1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1302

House Appropriations Committee

Conference Committee

Hearing Date 1/2/99

Tape Number	Side A	Side B	Meter #
1	x		0
Committee Clerk Signature 			

Minutes:

SUMMARY OF THE BILL: A BILL for an Act providing an appropriation for the support of guardianship services programs by the department of human services.

Chairman Dalrymple called the hearing on HB 1302 into order in the Roughrider Room. All members were present: Chairman Dalrymple, Representatives Aarsvold, Bernstein, Boehm, Byerly, Carlson, Carlisle, Delzer, Gulleon, Hoffner, Huether, Kerzman, Lloyd, Monson, Nichols, Poolman, Svedjan, Timm, Tollefson, and Wentz.

(0.7) Rep. Scot Kelsh, District 11, of South Central Fargo testified in support of HB 1302.

(1.4) Paul Griffin, Supervisor of the Guardianship Program testified in support of HB 1302. (see attached testimony)

(12.6) Rep. Delzer asked Mr. Griffin what funding levels for the program would be.

(12.8) Mr. Griffin responded that his program was looking at a deficit. He also commented that the program was spending around \$54,000.

(37.4) Don Jorgenson, a district judge, testified in support of HB 1302.

(41.0) Bonnie Hugren told a tale of her encounters with a guardianship program in Florida and supported the program in ND and the bill, HB 1302.

(45.3) Mel Webster an attorney, representing himself testified in support of HB 1302.

The hearing on HB 1302 was closed without the committee taking action on this day.

General Discussion

- Committee on Committees
- Rules Committee
- Confirmation Hearings
- Delayed Bills Committee
- House Appropriations
- Senate Appropriations
- Other

Date February 11, 1999			
Tape Number	Side A	B Side	Meter #
1	x		38.0-41.2
Committee Clerk Signature <i>Paulette Gussias</i>			

Minutes:

A Bill for an Act providing an appropriation for the support of guardianship services programs by the department of human services.

38.8 Chairman Dalrymple opened committee work HB 1302.

40.0 Rep. Lloyd moves for a do not pass on HB 1302, 2nd by Rep. Delzer. The vote was 14 yes, 6 no, 0 absent. Rep. Carlson carries the bill to the floor.

Date: 2/11/99
 Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1302

House Appropriations Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Lloyd Seconded By Delzer

Representatives	Yes	No	Representatives	Yes	No
Chairman Dalrymple	X		Nichols		X
Vice-Chairman Byerly	X		Poolman	X	
Aarsvold		X	Svedjan	X	
Bernstein	X		Timm	X	
Boehm	X		Tollefson	X	
Carlson	X		Wentz	X	
Carlisle	X				
Delzer	X				
Gulleson		X			
Hoffner		X			
Huether		X			
Kerzman		X			
Lloyd	X				
Monson	X				

Total (Yes) 14 No 6

Absent 0

Floor Assignment Carlson

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

REPORT OF STANDING COMMITTEE (410)
February 12, 1999 9:06 a.m.

Module No: HR-28-2663
Carrier: Carlson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1302: Appropriations Committee (Rep. Dalrymple, Chairman) recommends DO NOT PASS (14 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING). HB 1302 was placed on the Eleventh order on the calendar.

1999 TESTIMONY

HB 1302

Testimony HB1302

January 20, 1999

Kathy Hogan

Chairman Price and members of the Committee. My name is Kathy Hogan. I chair the Guardianship Association of North Dakota's Legislation/Standards Committee and I am the Director of Cass County Social Services.

Guardianship issues have been a major concern for the Cass County Social Service Board and Commission for over ten years. In the late 1980's, the Cass County Court included funding for the public administrator to provide guardianship services for indigent individuals. This funding was provided until the county court merged with district court in 1995. At that time, both the state courts and the county opted to discontinue funding the public administrator in Cass County.

Since then there have been a series of local crises and efforts to increase guardianship services for indigent individuals, particularly to expand the range of options to meet the various needs of different individuals. The Cass County Social Service Board was strongly committed to the development of a volunteer guardianship program and has contributed financially to this program for the past two years. Cass County staff have actively recruited volunteers and family members to provide guardianship services and have participated in the training programing. We believe that many guardianships can be provided by family members or volunteers if a strong coordinated recruitment, training and support system is in place for them. Many family members or volunteers are very hesitant to assume the many critical decisions and responsibilities of guardianship without a support system.

Catholic Family Services has provided strong leadership in the development of the Partners in Guardianship program for the past five years. This program is one of the major pieces of a comprehensive Guardianship system of care. This program is cost effective and builds on the North Dakota values of family and community responsibility for our most vulnerable citizens. Attached is a brochure regarding the current Partners in Guardianship program

Based on our experience in the last five years, we have also identified a number of individuals in need of guardianship services who do not have family available or who are so difficult that a volunteer could not be expected to meet the complex needs of the individual. Therefore, a volunteer program without a publically funded indigent program (HB 1302) cannot meet the needs of the most difficult and challenging individuals. We strongly urge you to consider all of the Guardianship related bills.

Thank you for your consideration of these bills. I am willing to answer any questions you may have regarding this bill or guardianship issues in general.

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.

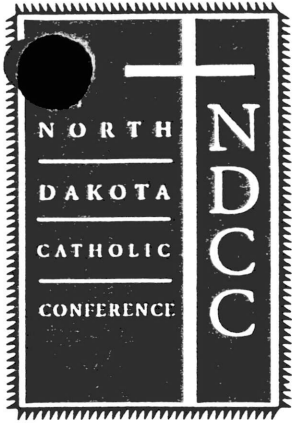
We encounter these situations fairly regularly in our daily work especially on behalf of adults who use the Medical Assistance Program and/or Home and Community Based Services.

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.

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

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, sweeping initial "P".

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
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Shelly Peterson
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Martha Tollefson
Protection & Advocacy Project
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Kathy Hogan
Cass County Social Services
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Roger Wetzel
St. Alexius Mental Health & Elder Care
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Mel Webster
Webster & Engle Law Firm
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Paul Griffin
Catholic Family Service
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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

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.

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.

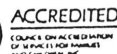
If you are interested in becoming a "Partner" or know someone who is, contact:

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."



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 v ave 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.

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: _____

GUARDIANSHIP IN NORTH DAKOTA

The Problem:

An ever increasing gap is developing between the number of vulnerable individuals who need guardianship services and those individuals and entities available and appropriate to serve them. This critical imbalance is caused by a variety of reasons including the number of people leaving our state, the break-up of families, changes in traditional roles and values, improved health care, the emphasis on community based options and other demographics. These "at-risk individuals" are not restricted to any one segment of our population, but come from all population groups (elderly, DD, TBI, SMI). The most recent and comprehensive study of guardianship (completed in July 1996) provides a picture of the crisis and the unmet needs.

Needed Now:

The tremendous fiscal demands of any effort to meet these needs makes it unrealistic to expect that any one governmental entity can or will shoulder the responsibility. Additionally, it is not appropriate to single out one group and serve them while leaving the others unserved. Therefore, it is imperative that a broad, comprehensive and cooperative approach be undertaken that utilizes the skills, expertise and resources of all of the various shareholders to assess the problem and develop a unified and effective solution.

A Possible Solution:

A multi-faceted, three-pronged approach may offer the best opportunity to meet the expanding needs by building upon the successful components of already proven services and using available resources. *This approach supports a sound guardianship philosophy and minimizes the financial impact.*

1. The currently available, traditional guardianship options meet a variety of needs and should NOT be abandoned. These options include family members, friends and public administrators. However, a system to train and support these providers must be developed to improve the overall quality of their service. This would include the development of guardianship standards.
2. Corporate guardianship should be expanded to ensure the availability of competent professional services to all cases where guardianship is deemed necessary by the courts. A corporate guardian would be the "guardian of last resort" and would serve only when other options are not available or appropriate. This would provide a "safety net" without building a massive corporate or public guardianship caseload.
3. A statewide Partners in Guardianship (PiG) program should be developed utilizing its' proven approach to recruit, screen and train volunteers to serve as guardians. These individuals would continue to require and receive on going training, technical assistance and support as they perform their duties. PiG could also provide a training alternative available to all the courts as a requirement for anyone appointed as a guardian.

The corporate guardianship entity would be responsible for system coordination, development and provision of the Partners program as well as the support and technical assistance services needed by the other existing components.

Prepared by: Paul T. Griffin, Supervisor - Guardianship Services Division
Catholic Family Service
February 9, 1998

**Catholic Family Service
Guardianship Services Division
May 1, 1998**

1. Program History and Needs:

The guardianship division of Catholic Family Service began in August of 1986 as a result of the divestiture of the superintendent of the Grafton State School (Developmental Center) of his questionable role as guardian for over 1,000 developmentally disabled individuals who resided there and received services. This relationship was clearly a conflict of interest and deprived these individuals of their due process rights. At the time, a group of 200 to 250 individuals needed guardianship and had no one available, willing or appropriate to serve them. Since that time CFS has provided guardianship services to over 500 developmentally disabled individuals in over 60 communities across the state. These services to this population group are funded by a contract with the DD Division of the ND Department of Human Service. However, this contract has never been funded at more than 80% and there has been a "CAP" on the number of people that we can serve. This has resulted in a constant financial crisis and a growing waiting list. Additionally, from the very beginning CFS has been overwhelmed with calls and contacts requesting guardianship services for individuals outside of the DD group. These calls have come from social service agencies, county social service directors, nursing home social workers and administrators, hospital social service workers, private attorneys, states attorneys, district judges, private individuals and family members, advocacy workers and many others. As a result, CFS has worked steadily to develop ways to stretch and expand our guardianship services to meet the needs of these people. The agency has been actively involved in collaborating with other groups, agencies and individuals to assess the scope of the problem and has advocated for the necessary changes and support needed to deal with an ever increasing gap between the vulnerable people of our state who need guardianship and the limited resources available to meet their needs. The studies, surveys and anecdotal information demonstrate that the changing economic and demographic factors spreading across our state are the major causal factors and without a reasonable and coordinated approach this problem will continue to grow.

2. Program Efficiency:

Catholic Family Service has nearly 12 year of experience in providing guardianship services at all levels. The agency has participated in over 500 guardianships and has established a widely accepted and supported set of policies and procedures that provide ethical and consistent services to our wards. The program is fully accredited by the Council on Accreditation of Services to Families and Children. Each guardianship is monitored by the appointing court and we have an extensive quality assurance process which includes public forums, case audits, a grievance procedure and state oversight. Fiscal necessitate requires that we be both efficient in the use of funds and aggressive in seeing supplements. The current cost of guardianship is \$3.74 /day with only \$3.20 of that covered by the contract with DHS. Private pay wards are charged at the same rate (in the history of the program we have only had 5 of this type of case). Those individuals that we accept on our caseload who do not qualify for payment under the contract and are able to cover the costs on a private pay basis receive our services at no charge which increases our deficits.

3. Program/Funding Needs:

Supplemental funding is being sought to meet the obvious needs of the current caseload and to provide a base for the extension of services beyond the DD population to the elderly, chronically mentally ill, substance abuse and traumatic brain injured populations.

4. Summary:

Catholic Family Service has been providing quality guardianship services across the state of North Dakota for the past 12 years. Although the primary population group served has been the developmentally disabled we have and continue to work hard to extend services to an ever growing group of vulnerable individuals. Even in the best situation, where a funded contract to provide services exists, funding is insufficient. United Way support is needed to meet the current caseload needs and to help make guardianship available to other populations.

President's Message

BY MARK STANTON SMITH



** Names have been changed to protect the identity of the authors clients.*

It was late. I had just completed a mind-numbing, 14-hour day that began before the sun rose and counted myself very lucky to get home before my children's bedtime. It was dark as I drove into my driveway. I hit the garage door opener and eased the car into the garage. As I was gathering my briefcase, the door to the house burst open and through the shaft of light of the open doorway, out tumbled my two little boys. As usual, they came running to Daddy for their hug. I was relieved to see that they were both in their pajamas and ready for bed.

There is nothing like a hug from your children to make a long, hard day seem all the worthwhile. We had faced serious medical problems with my youngest but he had survived several critical operations against long odds and

is well on his way to full recovery. The experience with him had brought home to me the fact that your carefully prepared world can be shattered in an instant with the twist of fate.

As my 3-year-old was trying to cut off my air flow and circulation with his tight squeeze around my neck, I noticed my 8-year-

old's expression suddenly changed. His eyes widened and a look of fear crossed his face. The garage had darkened as the light from the garage door opener had clicked off and the door to the house had partially closed. I turned to see what my son was looking at and I saw a long-haired, unshaven man dressed in dark clothes striding up my driveway. I whispered to the boys to run into the house immediately. Perhaps it was the sound of my voice or perhaps it was the darkness but they obeyed the first time and went tearing into the house. I turned to face the intruder. My heart began to pound and the adrenaline began to flow.

He walked straight into the dim light of the garage. Suddenly, he stuck out his hand and began walking forward for a hand shake. As he came closer, I recognized him—he was a boyfriend of one of my wards. He was partially retarded, as was my ward. They had been living together for several years in a small apartment and between the two of them, they were able to do pretty well, each seeming to compensate for the other's difficulties. But for the fact their disability income would be cut, they would probably have married.

As I began to relax, "Charles*" said, "Mr. Smith, I need to talk to you." "Why didn't you call me at the office, Charles?" "There wasn't time Mr. Smith, it was important," he replied. From a bit

of disorientated conversation, I realized that he was standing in my garage because his girlfriend, my ward, was upset. As we talked, I came to understand that she was sitting in the car just down the street. They had been waiting for hours for me to return to my home.

I walked outside of the garage and as I passed the front window I could see my wife peeking through the blinds. Two pairs of little eyes were immediately below her. She had the telephone in her hand and I knew that she was thinking of

calling the police. I motioned to her that everything was okay. I walked down the street with Charles and found "Monica*" sitting in the front seat of their car. She was in tears.

Monica had been the victim of financial exploitation by her prior guardian. I had been appointed to try to pick up the pieces and to solve the problems that had been left. During the litigation that had ensued, it was difficult for Monica to understand what was happening but she seemed to have trust in me. Obviously, her trust had been shaken to its very core. As I talked to Monica, it became apparent what the problem was. The person who had exploited her had contacted her behind my back and had informed her that her relationship with Charles would be severed, that she would lose her apartment and that she would be institutionalized. With the mind of a 12-year-old, Monica did not understand it all but what she had heard was enough to terrify her. After spending a few minutes with her, Monica and Charles felt well enough to leave knowing that their futures were protected and secured and that I would do everything I could to provide for them in the fullest manner possible.

As they drove off in the car, I stood in the cold and wiped a tear or two from my own eyes. I thought of how fate had handicapped Monica and

I turned to see what my son was looking at and I saw a long-haired, unshaven man dressed in dark clothes striding up my driveway.

subjected her to further abuse. I thought of all of my wards. The woman who was gang-raped and lost her ability to cope with the simplest of life's affairs as a result. The Vietnam Vets who, faced with the pressures of combat, had snapped. My ward who had survived Pearl Harbor but later developed mental problems and was treated with the best

that medical science had to offer at the time: a lobotomy. The traffic-accident victims. The ones injured by gunshots and the ones ravaged by disease and illness. All of them looked to me for their protection; some understood my role - some didn't. All of them were as

dependent upon me as were my children. And, but for the twist of fate, any one of us could be in their shoes. As a professional, I tried to meet all of their needs with compassion and care.

both my boys started asking who that strange man was. My reassurances were insufficient. More was clearly needed. I got down on my knees and gave them each a big tight hug. Their arms tightened around me and I held them both for a long, long time.

Their mother and I have provided them with everything we can. We have given them money, education, a nice home, and as much love as we can both provide. But I realized that

there is no guarantee that I will always be there to hug them when the world turns scary. If the twist of fate should befall upon them some of the horrors that my wards had faced, I hope there will be a guardian to step in and protect them.

A professional guardian.

All of them were as dependent upon me as were my children. And, but for the twist of fate, any one of us could be in their shoes. As a professional, I tried to meet all of their needs with compassion and care.

After a few minutes, I turned and walked into my house. I kissed my wife and reassured her that everything was okay. My 8-year-old's eyes were still nervous. I tousled his hair, patted him on the back and told him not to worry. My 3-year-old held on to my knee and