

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
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ROLL NUMBER

DESCRIPTION

1388

2001 HOUSE HUMAN SERVICES

HB 1388

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1388

House Human Services Committee

Conference Committee

Hearing Date January 29, 2001

Tape Number	Side A	Side B	Meter #
Tape 2	X		700 to 4675
Committee Clerk Signature <i>Cornie Easton</i>			

Minutes:

Chairman Price, Vice Chairman Devlin, Rep. Dosch, Rep. Galvin, Rep. Klein, Rep. Pollert, Rep. Porter, Rep. Tieman, Rep. Weiler, Rep. Weisz, Rep. Cleary, Rep. Metcalf, Rep. Niemeier, Rep. Sandvig.

Vice Chairman Devlin: Open hearing on HB 1388.

Rep. Scott Kelsh: Presented Bill. This bill will ensure that those who provide guardianship services meet the minimum national standards to guaranty standards of care to those most vulnerable in our society. I ask for a DO PASS on HB 1388.

Rep. Porter: With the standards of practice that are in place, I don't see anything that has to do with penalties if someone does not follow standards of practice.

Rep. Kelsh: I understand the Attorney General's office is administering this.

Rep. Porter: Would it be a civil or criminal penalty not to follow what you are proposing here?

Rep. Kelsh: I'm going to defer that question to members of the Guardianship Association.

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House Human Services Committee

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Rep. Cleary: Are there training sessions in North Dakota for guardians?

Rep. Kelsh: Again, I will defer that question to a member of the Guardianship Association.

Paul Griffin: Executive Director of Catholic Family Services. (See support of HB 1388 in written testimony.) We do believe there is an established need for guardianship in North Dakota, a need that is not being met through the traditional means. The Guardianship Association has focused its efforts in terms of trying to develop alternatives. We do have some legislation pending in the Senate regarding the expansion of services to other populations. We also are making funding available for the continuation of Partners Training Program.

Rep. Porter: In looking at the standards of practice it talks about a whole array of levels of certification. What levels would you see coming into play for the State of North Dakota. What category is a Master Guardian?

Paul Griffin: We do have a wide range of people that serve guardians. We have family members, volunteers, then we move up to professionals. We would anticipate through the course of working through and refining standards, there would be some ability for us to differentiate between what the standards of expectations are for a family guardian as opposed to someone on a professional level.

Rep. Porter: What about those people who are doing a good job, and then being out of work because of their failure to have the education involved with this? Legislation says nothing about grandfathering these people in.

Paul Griffin: We are going to have to work this out in conjunction with the Attorney General's Office, the Department of Human Services, and others involved. Those things definitely can be sorted through. The intent is not to exclude people from serving as guardians, but to improve the quality of service.

Rep. Porter: What happens if someone doesn't follow the standards the Attorney General would adopt?

Paul Griffin: The courts are responsible for monitoring the performance of the guardian.

Rep. Porter: Where would money come from in the Attorney General's budget if Moines aren't appropriated in the bill?

Paul Griffin: At this point I would be at a loss to tell you where the Moines would come from.

Rep. Galvin: An Executor or Power of Attorney, would they be in conflict with a guardian in any way?

Paul Griffin: Many of the people who would serve as guardians, also serve in those capacities.

Rep. Cleary: A judge appoints a guardian; how do they know about the training?

Paul Griffin: We are hoping that as we work toward establishing the standards as we work with the judiciary, that what will happen automatically is that courts will require that person show proof they have gone through training. At this time there is no requirement for them to be trained.

Senator T. Mathern: I am a cosponsor of this will. The attempt here was to put a process in place. Your committee could add to this to make it a stronger bill. I encourage your support of this bill.

Vice Chairman Devlin: Ms. Taber, do you have an estimate what the fiscal note might be?

Sandy Taber: Deputy Attorney General. We were thinking about \$50,000. You obviously need some funding to provide staffing. More importantly, there is going to be some training. We want and need the support of the Human Services Department to help us do this.

Vice Chairman Devlin: We will ask the Legislative Council for a fiscal note.

Melvin Webster: Lawyer, Bismarck Practice. (See support of HB 1388 in written testimony.)

The Century Code says very little about what a guardian must do or should do. There is very little direction given to a guardian. I see these standards providing that guidance. Most of the guardians are looking for guidance.

Senator T. Fischer: I am here to support this bill. There have been serious violations in the guardianship program.

Carol Watrel: Volunteer Guardian, Catholic Family Services. I hope you will support this bill.

It is an overwhelming job. I don't know how I would have begun to do this without help.

Norm Stuhmiller: Representative of Silver Haired Assembly. We are looking for guidelines. I am in support of this bill.

Cathy Hogan: Director of Cass County Social Services. There have been complaints of guardianship and quality of service. Particularly of financial exploitation. We need to establish standards. This bill is really about protecting the most vulnerable people in our society. I strongly urge you to DO PASS this bill.

Rep. Niemeier: Aren't court appointed guardians paid a stipend?

Cathy Hogan: The law allows for a guardian to either take a percentage of the income or to bill an hourly rate.

Rep. Niemeier: Would these standards address these situations too?

Cathy Hogan: Yes, one of the things we want standards on.

Vice Chairman Devlin: Close hearing on HB 1388.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1388 A

House Human Services Committee

Conference Committee

Hearing Date February 6, 2001

Tape Number	Side A	Side B	Meter #
Tape 2	X		2470 to 3690
Committee Clerk Signature <i>Corinne Easton</i>			

Minutes:

COMMITTEE WORK:

Chairman Price: The guardianship Bill 1388. Fiscal note is \$50,000. Discussion.

Rep. Cleary: I think that guardianship is a really important issue. It is really difficult to find guardians and then they need adequate training.

Rep. Weisz: Is there a reason the Attorney General should adopt?

Chairman Devlin: During the committee testimony we talked about adding the words in conjunction with the Department of Human Service after the Attorney General on line 3.

Rep. Porter: No matter how much training you offer the individuals doing the guardianship work, you're still not going to prevent situations that have happened such as in Fargo and other places where people have misused their power and authority. Is there currently a bonding requirement for people who decide to be guardians, even if they are doing it on a voluntary basis?

Chairman Price: Part of it is that by adopting some standards, then the court can have some guidelines when they feel there is an improper use of their power. Makes it a little bit easier to prosecute.

Rep. Doseh: It is my understanding of the bill that the main thrust is to adopt some sort of standards - that we don't have any right now. I think that is good, but I'm not so sure that we need a fiscal note - that we need to spend that money. I don't think we need to go any further than that.

Chairman Price: If we did pass the bill with a fiscal note, it would have to go to Appropriations. They could decide if the Attorney General got the extra money or did it within the budget.

Rep. Pollert: The Guardianship Association is basically following those guidelines anyway, so aren't they going to adhere by that anyway? Aren't we really accomplishing anything?

Chairman Price: No one came in from the Attorney General's Office at all on this, did they?

Chairman Devlin: There was no testimony from Sandy.

Rep. Metcalf: They are developing tapes that would be at the Clerk of Court throughout the state so lay people could check out these training tapes.

Rep. Niemeier: I have been told they are using some Ivan training.

Chairman Price: If we believe this is a good idea, Appropriations will be taking a look at whether to give the Attorney General additional funds. What are your wishes?

Rep. Niemeier: I would move a DO PASS and rerefer to Appropriations.

Chairman Price: (Amendment Discussion.)

Chairman Devlin: Moved to accept amendments.

Rep. Metcalf: Second.

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House Human Services Committee
Bill/Resolution Number HB 1388
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Chairman Price: All in favor of amendment signify by saying Aye (voice vote passes.) We have an amended bill in front of us.

Rep. Niemeler: I would move amended Bill 1388.

Rep. Cleary: Second.

Chairman Price: We have a motion for a DO PASS as amended and rerefer to Appropriations. Discussion? The clerk will take the roll on a DO PASS.

9 YES 5 NO 0 ABSENT CARRIED BY REP. CLEARY

FISCAL NOTE
 Requested by Legislative Council
 01/29/2001

Bill/Resolution No.: HB 1388

Amendment to:

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$60,000			
Appropriations			\$50,000			

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill requires the Attorney General to develop and implement standards of practice for guardianship services. A committee would develop the standards and the Office of Attorney General would implement the standards. A significant portion of the \$50,000 relates to training to be provided during the implementation phase.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathy Roll	Agency:	Office of Attorney General
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Phone Number:

328-3622

Date Prepared: 02/01/2001

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Title.0200

Adopted by the Human Services Committee
February 6, 2001

VR
2/6/01

HOUSE AMENDMENTS TO HB 1388

HOUSE HS

2-7-01

Page 1, line 3, after "general" insert ", In cooperation with the department of human services,"

Renumber accordingly

