

**Testimony
Human Services Committee
Department of Human Services
Representative Alon Wieland, Chairman
July 31, 2012**

Chairman Wieland and members of the Human Services Committee, I am JoAnne Hoesel, Cabinet Lead, Program and Policy, for the Department of Human Services (DHS). I am here today to provide comments regarding the recommendations included in the final report for the study of guardianship services.

The study did a good job in analyzing what is currently in place, looked at different guardianship service options that are used across the country, and made prioritized recommendations.

There is an assumption that all current DHS contracted guardianship services would be moved to the new model to avoid having different service models operating within the state. We thank you for asking for our comments.

There is a tendency to lean towards the recommendation for an independent state office (Commission on Public Guardianship) as a viable choice. This option creates and charges a state office to establish a consistent guardianship system across the state. This option provides for consistent funding, consistent service delivery, and consistent oversight.

Guardianship is managed through two divisions in DHS:

1. Aging Services Division: Guardianships for individuals who are vulnerable but do not have a developmental disability, and
2. Developmental Disabilities Division: Guardianships for those with a developmental disability

In several sections of the final report, there are recommendations for the adoption of statutory language for public guardianship such as:

- a framework to require education and certification of guardians;
- continuing education within the appointment process to ensure all guardians meet core competencies;
- mandatory reporting;
- adoption of explicit statutory scheme for public guardianships;
- provision for similar treatment for all eligible incapacitated persons;
- prohibition against public guardians from petitioning for appointment of self;
- qualifications of proposed guardians to include results of fingerprint, criminal history and credit background checks before appointment.

Please note that there are no recommendations for statutory language relating to the ratio of 1:20 to address the unmet need and the need to comply with the current ward visitation standard of visiting the ward monthly. Other statutory recommendations not addressed are mandatory reporting, right to counsel, legal counsel for indigents, and emergency guardianship.

DHS would like to make you aware of a possible impact regarding the recommended change from voluntary reporting to mandatory reporting. There is a possibility of overburdening the Vulnerable Adult Protective Services (VAPS) program, which is currently minimally staffed. The VAPS program is often the gatekeeper to guardianship. If mandatory reporting is approved, it is necessary to review and address the impact to the VAPS program so that reports of exploitation and other concerns can be reviewed and assessed in an effective and timely manner.

Guardianship services differ based on the individual under guardianship. There are very different needs for individuals with developmental disabilities, traumatic brain injury, or who are elderly, or those with a serious mental illness. These differences impact guardianship costs and affect the number of individuals to which a guardian can appropriately serve. Individuals who are more independent tend to have less

interaction from a non-guardian service provider. Therefore the guardian often spends more time with these people who live more independently in the community to assist them with day-to-day tasks. In contrast, individuals with developmental disabilities already have a robust service delivery system with other providers that handle most of the day-to-day tasks without guardian involvement. Therefore, the guardianship costs for people without developmental disabilities are likely to be higher than what is currently paid for the people in the developmental disabilities system of care.

There are questions on how those currently under guardianship would be affected by a change in the guardianship program. If they are transferred to another guardian, it is possible that court involvement would be required in order to petition for guardianship for the new guardian, and this would add costs.

DHS was not aware that the Developmental Disabilities (DD) guardianship system was included in the study. Historically, the DD guardianship system has worked well, and while there is currently a waiting list, it has been adequately funded. There is concern that with the inclusion of all disability groups into one contract, the DD funding would be dispersed to other disability groups and possibly deluded.

Currently, requests for guardianship are required to come through the human service center DD program managers or case management system for those with a serious mental illness. This is an important referral protocol. To allow referrals from anyone without the involvement of the program manager is concerning as it may lead to duplication of effort, inappropriate referrals, and decrease the efficiency of the current process.

I am happy to answer any questions.