



Oregon

John A. Kitzhaber, M.D., Governor

Department of Human Services

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TO: The Honorable Carolyn Tomei, Chair
House Human Services and Housing Committee

FROM: Fred Steele, MPH, JD, Older Americans Act Legal Services Developer
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Oregon Department of Human Services
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SUBJECT: House Bill 2671

Chair Tomei and members of the committee; my name is Fred Steele and I am Oregon's Legal Services Developer under the Older Americans Act at the Department of Human Services (DHS). Please accept this testimony regarding HB 2671 and the proposed statewide Public Guardian and Conservator program.

As the Older Americans Act Legal Services Developer in Oregon, one of my primary charges is to identify and promote opportunities to ensure and enhance the rights, independence, and safety of Older Oregonians. The proposed statewide Public Guardian and Conservator program is such an opportunity.

General Need for Program

A Public Guardian and Conservator program would protect some of the most vulnerable adults in Oregon. Individuals without a single family member, relative, friend, or neighbor to serve in a guardian or conservator capacity are, under our current system, either left to fend for themselves – despite whatever capacity challenges they might be experiencing – or are left to an entire spectrum of involvement from those that might enter or exit their lives. If such an individual cannot pay for a private guardian, the lack of a public guardianship program leaves that person highly susceptible to a number of negative outcomes: abuse, neglect, financial exploitation, isolation, unnecessarily comprehensive levels of facility care, or even homelessness.

At a minimum, a person in need of a guardian/conservator who does not have access to one does not have their full rights and best interests under consideration.

"Assisting People to Become Independent, Healthy and Safe"

Supports Home & Community Based Care, Services, & Supports

From a DHS perspective, despite the nature of guardianships/conservatorships on an individual's full rights, an appropriately placed guardian/conservator can actually enhance the independence of certain individuals. With an ability to keep a person in a lower level of care because of a guardian/conservator – for example, in a home or community based care setting – an individual's independence is arguably enhanced. A public guardian/conservator program would in fact provide necessary support for a growing number of persons who can otherwise remain in their own homes with the complementary appropriate level of long term care services and supports. Ultimately, an individual's values and beliefs – as represented by a guardian – can ideally be incorporated into the decision for an appropriate level of care.

For decades, Oregon has been a leader in home and community based care. As we continue to enhance our care and support services systems away from more comprehensive care settings where it is unnecessary, it is natural to simultaneously develop the support systems – which a public guardian/conservator would be – that allow for this continued transition in our long term care services.

Abuse/Self-Neglect Prevention and Protective Service

As previously indicated in this testimony, a Public Guardian/Conservator program would undoubtedly position individuals to be significantly less susceptible to abuse, financial exploitation, or neglect, including self-neglect. In particular, in non-facility settings (i.e., in one's own home), persons with challenged capacity have the potential to be extraordinarily vulnerable to abuses without an appropriate 3rd party looking out for the best interests of that individual. A facility setting has the potential to leave an individual susceptible as well without a legally appointed person judicially bound to represent the rights and values of the resident.

When abusive situations do occur, a guardianship is often not only the best protective service, but the only protective service to help keep an individual safe. Without a public guardianship program, as is the case in most Oregon counties, Adult Protective Services Specialists are too often left with no remedy to a victim's abuse or self-neglect situation. Oregon's APS Specialists are diligent in trying to identify substitute remedies, but sometimes there just isn't an alternative. In some cases, the potential exists for an abuser to continue being a presence in the victim's life. With a public guardian program, a vital protective service would become available and some of our most vulnerable Oregon adult abuse victims would finally have a legally appointed person to represent their best interests.

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DHS is available to discuss the role a Public Guardian/Conservator program would play with its related programs. The Department is neutral on this bill, as the funding associated with this initiative was not included in the Governor's Recommended Budget.

Thank you for the opportunity to speak to you about HB 2671. Please let me know if you have any questions.