OREGON JUDICIAL DEPARTMENT
Office of the State Court Administrator

May 12, 2021
(SENT BY EMAIL)

House Committee on Judiciary, Civil Law Subcommittee
900 Court St NE
Salem, Oregon, 97301

Re: Response to a Chair Inquiry –Vulnerable Youth Guardianships, SB 572

Chair Power, Vice Chair Wallan, and Members of the Committee:

I write to respond to some proposed changes to SB 572 that were brought to our attention by Chair Power. Chair Power asked the Oregon Judicial Department to describe some of the fiscal and operational impacts of these contemplated changes brought forth by Disability Rights Oregon (DRO). I hope what follows provides helpful information and context, but I remain available to answer any additional questions.

Vulnerable Youth Guardianships are unusual in that the protected person is not likely to be incapacitated. Instead, they are meant for youths between 18 and 21 years of age who face abuse or neglect should they be deported to their country of last residence. In other words, it provides prospective protection rather than addressing an existing specific issue or issues.

We understand that DRO has asked that three specific items be added to SB 572 to ensure the safety of the protected persons. First, we understand that they are requesting an amendment requiring the court to take testimony from the youth to serve as a second check so that that there is no undue coercion by the would-be guardian. OJD would not oppose such an amendment. Assessing the credibility of a party or witness is a critical part of adjudicating any case. That said, it is important to note that SB 572, as written, already requires clear and convincing evidence that the youth qualifies and requires *written consent* of the youth (18-21 years old). Additionally, the court may require appearances, either in person or remote, if there are concerns in a particular case.

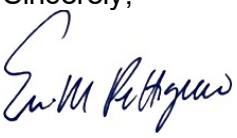
Second, DRO asks that terminating the guardianship be made much easier for youth, reasoning that if the youth can consent to the guardianship, the youth should be able to withdraw that consent with ease. OJD does not oppose this idea and would suggest development of a mechanism for its implementation that allows for notice of the termination going out to the same parties that were notified of the petition. Unlike traditional guardianships, these guardianships are put in place based on the consent of the vulnerable youth, not because that youth is incapacitated, and the vulnerable youth would most often be unlikely to desire termination. That said, OJD is not opposed to a more flexible model.

Third, DRO asks that the court's appointment of a Court Visitor be mandatory in these vulnerable youth cases. Court Visitors are individuals who are vetted by the court and appointed to assess the level of incapacity of adult respondents, and the appropriateness of the proposed guardian. They are people who have experience and training in medicine or social work that qualifies them to make these often-technical assessments. They are not court employees and are not paid by the court. Rather, they are paid from the funds of the protected person. ORS 125.170. If the protected person does not have funds, a very small number of Court Visitors volunteer to do this work *pro bono*. In these vulnerable youth cases, the qualifications and the funding source should be considered, which could include the cost of language services.

It is also important to note that the protections offered by SB 572 are entirely different from all other guardianship types. Court Visitors are not trained to evaluate whether consent of the youth was given freely, and they may not possess the cultural and linguistic competency to assist courts in these cases.

As noted, I remain available to answer any additional questions.

Sincerely,



Erin Pettigrew