

Submitter: Timothy M. McNeil
Committee: Senate Committee On Judiciary
Measure: SB528

As an elder law attorney for more than twenty years, I am particularly concerned about the impact of SB 528 on guardians.

This bill would require guardianships to be reviewed and re-considered every five years so that the guardian could prove the ongoing need for guardianship. Often, guardianship protects a person suffering from mental illness. The guardian may be a spouse or a parent or a child of the mentally ill person to be protected. An uncontested guardianship will cost the guardian \$2500-\$3500 of the guardian's own funds. A contested guardianship may cost the guardian \$5000-\$10000.

The hearing required when someone objects to the appointment of a guardian is devastating. The proposed guardian is forced to describe the often graphic reasons for guardianship in the presence of the person to be protected. The person to be protected often shares horrible delusions regarding the proposed guardian. Most often, a judge resolves the objection by appointing the guardian, but this decision does not heal the wounds that the hearing has caused.

SB528 could cause this conflict to recur every five years. The justification for it would be the protection of the civil rights of the protected person. ORS 125 is rife with such protections. The court has many tools at its disposal to protect these rights, from the appointment of an attorney for the protected person to the appointment of a special advocate or court visitor. These rights are important to protect, as are the rights of the guardian, and the willingness of the guardian to continue doing a thankless and costly job.

The cost of guardianship already is a deterrent to many family members as they consider becoming guardians. The possibility that they could face this cost every five years would deter even more.

In my practice, I represent protected persons often, and I represent guardians. Over the years, I have come to respect and admire my guardian clients who support protected persons despite great injury to their own health and finances. We need to support these people. Please reject SB528.

Thank you.

Tim McNeil