



Oregon

Tina Kotek, Governor

Residential Facilities Ombudsman Program

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To: Senator Prozanski, Chair, Senate Committee on Judiciary
From: Toni Larson, Residential Facilities Ombudsman for
Developmental Disabilities and Mental Health
RE: Support for Senate Bill 528

The Residential Facilities Ombudsman program serves individuals residing in more than 2,600 adult and child foster homes, 24-hour group homes, Residential Treatment Homes and Residential Treatment Facilities licensed or certified for Intellectual and Developmental Disabilities or Mental Health. We support residents' quality of life, care and rights through complaint investigation and resolution, education, advocacy as well as identification and recommendation regarding system-wide issues affecting residents. Our work with individuals as protected persons in this context has been significant as many residents live under guardianship.

While we support all elements of SB 528 as presented, from our experience in working with protected persons in residential settings, we believe the following elements of SB 528 are particularly critical:

SB 528 requires guardianship decision be revisited at the five-year anniversary

Removal of the authority for an individual to make their own decisions is devastating. Individuals we work with have often come under a guardianship upon turning 18 and continue decades later without review. While some may assert that the current system provides for any individual to approach the court at any time, the reality is that individuals are presented with significant barriers to overcome in doing so and little to no supports surrounding them to make the contact. An individual's fear and experience of retaliation in simply inquiring about removal of a guardian is very real. The current system places the burden on the vulnerable individual without the resources to have it reviewed – extending an often unnecessary situation for the individual. SB 528 institutes a formal process to review the current status and an opportunity to restore decision-making. Five years is a very reasonable time to provide such an important safeguard.

SB 528 Outlines Notification and involvement of the individual in the annual report

Individuals we work with are not involved in, nor do they know about the annual report requirements regarding their own status and ability to communicate with the court. The result has been inaccurate reporting and a loss of opportunity for the individual to reveal or

demonstrate progress in different areas of decision-making. The report is one-sided and often appears to provide the minimal amount of information required to complete the reporting requirement. Individuals want to be involved and are being prevented from doing so under current practice. All too frequently annual reports have included one sentence responses regarding continued need for the guardianship, including “Individual still has a developmental disability” or “Still lives in a group home”. SB 528 provides much improved requirements that speak to these issues for individuals.

SB 528 Limits the authority of the guardian to the specific decision-making categories

Significant issues exist for individuals as it relates to lack of specificity in categories of decision-making as well as restrictions related to daily issues that are unnecessary and harmful to the individual. These restrictions have often included how/what/when an individual will eat, removing access to clothing or specifying use of clothing; directing removal of preferred activities if the person does not comply with a specific directive; limiting favored outings. SB 528 helps to reinforce a standard that the guardianship and decision-making should only be related to what is absolutely necessary. In doing so this preserves the individual’s ability to continue with supported decision-making resources to control their own lives.

SB 528 Involvement regarding move decisions

Individuals experience significant trauma related to move decisions instigated by the guardian rather than the individual. Far too many have not been related to an improved support or care issues, but rather the guardian’s issue with the residential provider or frustrated efforts to control day-to-day supports involving independence. These result in rash move notices, not advising the individual they are moving, not taking individuals to see or review potential or appropriate placements. Individuals very often have lived in the particular setting for years – making a forced move even more traumatic. Some instances of involuntary move-out notices issued from providers have resulted not from the inability or wish to support the individual, but the guardian’s interactions with the provider and supports. SB 528 offers great improvements in speaking to these issues for individuals.

SB 528 speaks directly to the issues that are a reality in the everyday lives of too many of the protected persons we serve in residential settings for developmental disabilities and mental health. RFO strongly supports and encourages the passage of SB 528