

Adult Guardianship & Decisional Support Act
Executive Summary

Unlike many states, Massachusetts does not have a public guardianship program for the most isolated and indigent of those in need. Several small studies in other states suggest that such programs can provide substantial savings to society by improving quality of life, as well as reducing financial costs in areas such as medicine, long-term care, social services and housing, as well as other costs that may be incurred when no one is available to consent to treatment or assist with other crucial decisions for individuals with diminished capacity.

A proposed statute, the Adult Guardianship & Decisional Support Act, was filed in the current Legislative session on January 19, 2017 (S. 1177, sponsored by Sen. Creem, and in the House by Rep. Brodeur). This statute proposes a public/private partnership in which a small state agency (The Executive Office of Adult Guardianship and Decisional Support Services) will oversee a privately-funded non-profit, which will be deemed the Public Guardian. The statute also proposes less-intrusive measures for those who have limited needs for decisional help. Autonomy, self-determination and dignity will be the primary values of the Office of Public Guardian. The following outlines specifics of the Act.

1. Placement of Office of Adult Guardianship & Decision Support Services

The state office will be located in EOHHs, run by an Executive Director who reports directly to the Secretary. It is projected to have just five employees, including the Director and staff to support, supervise, audit and report on the operations of a self-funded non-profit agency that is providing all direct services.

2. Public Guardian as Independent Agency

The services provider will be selected by the state office and designated as the “Public Guardian,” but *no state funds will be provided*. The Public Guardian will be a community-based, self-funded non-profit organization that is responsible for all of its own funding, much of which already has been committed. In addition to keeping public costs low, this structure will ensure that the agency is operated by a Board of Directors with ties to the community of disabled and incapacitated persons that the Public Guardian will serve. The goal is to provide constant feedback about the quality of services and whether the guardianship needs of the indigent are being met.

3. Criteria to qualify for PG services

The Public Guardian will assess each referral to determine, first, whether it agrees that guardianship is the least-restrictive way to help that individual, and second, whether there are any family or friends who could provide the service. If not, the Public Guardian can agree to serve.

* A COLLABORATION OF:

GUARDIAN COMMUNITY TRUST
ONE ELM SQUARE, STE. 2D
ANDOVER, MA 01810
(978) 775-3500

GREATER BOSTON LEGAL SERVICES
197 FRIEND STREET
BOSTON, MA 02114
(617) 371-1234

NORTHEAST JUSTICE CENTER
181 UNION STREET, #201B
LYNN, MA 01901
(781) 599-7730

4. Funding

The Public Guardian already has more than \$500K of its \$830K budget committed for the first five years of its operations. This is private money, not a state contract. The intent is to keep the agency free of the pressures of public funding, and to ensure a stable, long-term financial structure to provide for the vulnerable population that it serves. A portion of the funds may come from fees in certain cases, where the incapacitated individual is found to have some resources, to the extent allowed by the courts.

5. Use of volunteers

The Public Guardian will have a professional staff, but it also will recruit and engage volunteers to handle many of the relationship-building tasks that are essential to providing high-quality guardianship services. Volunteers will be trained, supported and supervised. Communications will be centralized through a mail and dispatch function to be provided by the Public Guardian, in order to ensure quality of services. The Public Guardian will remain 100% responsible for the outcomes of services provided with the help of volunteers.

6. Commission

The current form of the bill includes a Guardianship Commission that is appointed by the Governor, which has *ex officio* participants from each of the social service agencies that presently have a stake in guardianship services, as well as appointees from social organizations whose members – such as the Alzheimer’s Association – struggle with medical or developmental issues that sometimes require a guardian.

7. Education

In addition to providing guardians, the Public Guardian will disseminate information about ways to avoid guardianship, through Health Care Proxies, Durable Powers of Attorney and Medical Orders on Life Sustaining Treatment (“MOLST” forms).