

HOUSE STATE GOVERNMENT, ELECTIONS AND INDIAN AFFAIRS  
COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 234

**55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO GUARDIANSHIP; STRENGTHENING OFFICE OF GUARDIANSHIP  
LEGAL AND PROFESSIONAL SERVICES FOR INCOME-ELIGIBLE ADULTS;  
ESTABLISHING A WORKING INTERDISCIPLINARY NETWORK OF  
GUARDIANSHIP STAKEHOLDERS; REQUIRING THE OFFICE OF GUARDIANSHIP  
TO PUBLISH AN ANNUAL REPORT; ESTABLISHING THE OFFICE OF  
GUARDIANSHIP VOLUNTEER COURT VISITOR PROGRAM; REQUIRING  
CONSIDERATION OF LESS RESTRICTIVE ALTERNATIVES TO GUARDIANSHIP;

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←Sf12ESTABLISHING THE COURT VISITOR PILOT PROGRAM Hf12→;  
~~MAKING AN APPROPRIATION~~←Hf11 .

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Office of Guardianship Act is enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in the Office of Guardianship Act:

A. "professional guardian" means an individual or entity appointed by a court that serves as a guardian for more than two individuals who are not related to the guardian by marriage, adoption or third degree of blood or affinity; and

B. "protected person" means a person eighteen years of age or older for whom a guardian or conservator has been appointed or other protective order has been made."

SECTION 2. Section 28-16B-2 NMSA 1978 (being Laws 2003, Chapter 280, Section 2) is amended to read:

"28-16B-2. OFFICE OF GUARDIANSHIP--CREATED--STAFF.--

A. The "office of guardianship" is created in the developmental disabilities planning council.

B. The executive director of the developmental disabilities planning council shall employ a head of the office who shall be an attorney licensed in New Mexico who is hired on the basis of ability, experience and knowledge of guardianship issues under the Uniform Probate Code. The position shall be

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classified pursuant to the Personnel Act.

C. Subject to appropriations, the executive director may hire such other professional and clerical staff as necessary to carry out the purposes of the office."

**SECTION 3.** Section 28-16B-3 NMSA 1978 (being Laws 2003, Chapter 280, Section 3, as amended) is amended to read:

"28-16B-3. OFFICE--POWERS AND DUTIES.--

A. The office of guardianship may:

(1) promulgate rules in accordance with the State Rules Act to carry out the provisions of the Office of Guardianship Act; and

(2) enter into agreements with other state or federal agencies to provide guardianship services and to provide or receive payment for such services.

B. The office of guardianship shall:

(1) ~~[contract for the provision of probate]~~ provide for adult guardianship services to income-eligible incapacitated persons, including temporary guardianship as provided in Section 45-5-310 NMSA 1978;

(2) provide for the recruitment and training of persons interested and willing to serve as mental health treatment guardians;

(3) provide training and information to interested persons on the duties and responsibilities of guardians, including alternatives to guardianship and mental

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health treatment guardianship;

(4) establish procedures for the investigation and resolution of complaints against ~~contractors~~ guardianship and legal services providers that have entered into service agreements with the office;

(5) ~~contract for attorneys~~ provide legal services, including petitioning attorney, guardian ad litem and court visitor services, to petition the district court for guardianship of persons believed to be incapacitated or to seek amendment or termination of existing guardianship orders if the needs or situation of protected persons have changed; provided that the selection of persons ~~[to be served under such contracts]~~ to receive guardianship and legal services shall be made by the office based on selection criteria established by rule; ~~and]~~

(6) prior to providing legal services to petition for guardianship, identify and provide information on least restrictive options, including alternatives to guardianship, to the alleged incapacitated person and to individuals applying for guardianship services;

(7) publish an annual report regarding the guardianship and legal services provided by the office of guardianship, including the:

(a) number and ages of protected persons assigned to a professional guardian, the judicial district

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where the guardianship case is assigned and the reason for appointment of a guardian;

(b) number of guardianship petitions filed by the office and the status of the petitions;

(c) number of income-eligible alleged incapacitated persons or protected persons on the wait list;

(d) number of applicants requesting family guardians and the number requesting professional guardians;

(e) number of cases dismissed or terminated and the reasons for the dismissal or termination;

(f) number of complaints the office received against guardianship and legal services providers, and the status of the complaints;

(g) disciplinary or legal actions taken by the office against guardianship and legal services providers; Hf11→and←Hf11

(h) number of complaints filed against the office and the status of the complaints; Hf11→and←Hf11

Hf11→(i) number of cases in which a professional guardian was removed, and the reason for the removal;←Hf11

(8) establish and manage a volunteer court visitor program to provide post-adjudication court visitor services for adult guardianship cases when requested by the

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district court; and

[~~(6)~~] (9) serve as an interested person as defined in Subsection I of Section 45-5-101 NMSA 1978."

SECTION 4. Section 28-16B-4 NMSA 1978 (being Laws 2003, Chapter 280, Section 4, as amended) is amended to read:

"28-16B-4. [~~CONTRACT~~] SERVICE AGREEMENT MONITORING AND ENFORCEMENT.--

A. The office of guardianship shall monitor [~~and enforce all guardianship contracts~~] professional guardians providing services to income-eligible protected persons and enforce agreements the office has executed with guardianship and legal services providers. In carrying out this duty, the office may:

(1) have access to case records, copies of court filings and reports, financial records and other records maintained by [~~contractors related to contract services provided~~] guardianship and legal services providers related to the services provided to income-eligible protected persons, unless specifically sequestered by the court;

(2) petition the court of jurisdiction for access to records that have been sequestered;

[~~(3) arrange visits with protected persons who are served by contract guardians~~]

(3) conduct annual comprehensive service reviews to ensure service providers comply with service

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agreements and statutory duties;

(4) visit protected persons to evaluate the adequacy of guardianship services provided and determine if the guardianship should be amended or terminated; and

~~[(4)]~~ (5) pursue legal and other remedies against [contractors for noncompliance with contract provisions] service providers for noncompliance with service agreements and statutory duties.

B. The office shall protect and maintain the confidentiality of all client-specific information and records obtained to the same extent as required for the ~~[contractor]~~ service providers and to any extent otherwise required by state or federal law."

SECTION 5. Section 28-16B-5 NMSA 1978 (being Laws 2003, Chapter 280, Section 5, as amended) is amended to read:

"28-16B-5. ~~[CONTRACTS]~~ GUARDIANSHIP SERVICE AGREEMENTS.--

A ~~[contract]~~ service agreement for guardianship services shall include:

~~[A. a requirement that contractors and their staff meet nationally recognized standards for guardianship services;]~~

A. a requirement that service providers be certified and in good standing with a national or state organization recognized by the supreme court that provides professional certification for guardians;

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B. a requirement for adoption and compliance with a code of ethics for guardians;

C. the maximum caseload for guardians;

D. the fee schedule for services provided;

E. assurance that the civil rights of protected persons served by the ~~[contractor]~~ service provider shall be met, including the right to be served in the most integrated setting appropriate to the needs of the protected person;

F. provisions for access by the office of guardianship to records, protected persons and ~~[contractor]~~ service provider staff as needed to monitor and enforce contract compliance and for quality assurance purposes; and

G. minimum financial accounting and reporting requirements."

SECTION 6. Section 45-5-303.1 NMSA 1978 (being Laws 1989, Chapter 252, Section 6, as amended) is amended to read:

"45-5-303.1. DUTIES OF GUARDIAN AD LITEM.--

A. The guardian ad litem shall:

(1) interview in person the alleged incapacitated person prior to the hearing;

(2) present the alleged incapacitated person's declared position to the court;

(3) identify and present all available less restrictive alternatives to guardianship;

~~(3)~~ (4) interview the qualified health care

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professional, the visitor and the proposed guardian;

~~[(4)]~~ (5) review both the medical report submitted by the qualified health care professional and the report by the visitor;

~~[(5)]~~ (6) obtain independent medical or psychological assessments, or both, if necessary; and

~~[(6)]~~ (7) file a written report with the court prior to the hearing on the petition for appointment.

B. Unless otherwise ordered by the court, the duties of the guardian ad litem terminate and the guardian ad litem is discharged from duties upon entry of the order appointing the guardian and acceptance of the appointment by the guardian."

SECTION 7. Section 45-5-307 NMSA 1978 (being Laws 1975, Chapter 257, Section 5-307, as amended) is amended to read:

"45-5-307. DEATH, SUBSTITUTION, REVIEW AND TERMINATION OF GUARDIANSHIP.--

A. On the petition of the incapacitated person or any person interested in the incapacitated person's welfare and upon notice and hearing, the court may remove a guardian and appoint a successor if it is in the best interest of the incapacitated person or if the guardian fails to comply with the guardian's duties as required by Section 45-5-312 NMSA 1978.

B. Upon death, removal or resignation of a

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guardian, the court may appoint another guardian or make any other order that may be appropriate. If a successor guardian is appointed, the successor guardian succeeds to the title and powers of the successor guardian's predecessor.

C. The incapacitated person or any person interested in the incapacitated person's welfare may petition for an order that the incapacitated person is no longer incapacitated and for removal or resignation of the guardian. A request for this order may be made by informal letter to the court or judge. Any person who knowingly interferes with transmission of this kind of request to the court may be adjudged guilty of contempt of court.

D. Unless waived by the court upon the filing of a petition to terminate a guardianship for reasons other than the death of the incapacitated person, the court shall follow the same procedures to safeguard the rights of the incapacitated person as those that apply to a petition for appointment of a guardian as set forth in Section 45-5-303 NMSA 1978.

E. In a proceeding that increases the guardian's authority or reduces the autonomy of the protected person, the court shall follow the same procedures to safeguard the rights of the incapacitated person as those that apply to a petition for appointment of a guardian, as set forth in Section 45-5-303 NMSA 1978.

F. Following receipt of a request for review, the

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court shall hold a status hearing, which may be informal, to determine the appropriate order to be entered. If the court finds the incapacitated person is capable of more autonomy than at the time of the original order, the court may enter an order removing the guardian, terminating the guardianship or reducing the powers previously granted to the guardian. The court has the option to follow all or part of the procedures that apply for the appointment of a guardian as set forth in Section 45-5-303 NMSA 1978.

G. At any time following the appointment of a guardian, but not later than ten years after the initial appointment of a guardian for a protected person and every ten years thereafter, the court shall:

(1) hold a status hearing, after notice to the guardian, the protected person and appropriate interested persons, to review the status of the protected person's capacity and the continued need for a guardian; or

(2) appoint a court investigator to assess the protected person's capacity. The court investigator shall prepare a detailed report to the court regarding the status of the protected person's capacity and the continued need for a guardian. Any report shall be made available to the guardian, the protected person and interested persons identified by the court.

H. If the court is unable to contact either the

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guardian or the protected person and neither appears for the status hearing held pursuant to Paragraph (1) of Subsection G of this section, the court shall appoint a guardian ad litem or court investigator to investigate and report to the court as to the status of the protected person and the guardian. Any report shall be made available to the guardian, the protected person and appropriate interested persons, if known to the court.

I. Following the status hearing or the court's report from the court investigator or guardian ad litem on the status of the protected person and the guardian as provided in Subsection H of this section, the court may enter an appropriate order; provided that, in entering an order that increases the guardian's authority or reduces the autonomy of the protected person, the court shall follow the same procedures to safeguard the rights of the incapacitated person as those that apply to a petition for appointment of a guardian, as set forth in Section 45-5-303 NMSA 1978."

**SECTION 8.** Section 45-5-312 NMSA 1978 (being Laws 1975, Chapter 257, Section 5-312, as amended) is amended to read:

"45-5-312. GENERAL POWERS AND DUTIES OF THE LIMITED GUARDIAN AND GUARDIAN.--

A. If the court enters judgment pursuant to Subsection C of Section 45-5-304 NMSA 1978, it shall appoint a limited guardian if it determines that the protected person is

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able to manage some but not all aspects of personal care. The court shall specify those powers that the limited guardian shall have and may further restrict each power so as to permit the protected person to care for the protected person's own self commensurate with the protected person's ability to do so. A person for whom a limited guardian has been appointed retains all legal and civil rights except those that have been specifically granted to the limited guardian by the court. The limited guardian shall exercise supervisory powers over the protected person in a manner that is the least restrictive form of intervention consistent with the order of the court.

B. A guardian is not legally obligated to provide from the guardian's own funds for the protected person and is not liable to third persons for acts of the protected person solely by reason of the guardianship. In particular and without qualifying the foregoing, a guardian or the guardian's replacement has the following powers and duties, except as modified by order of the court:

(1) to the extent that it is consistent with the terms of any order by a court of competent jurisdiction relating to detention or commitment of the protected person, a guardian is entitled to custody of the protected person and may establish the protected person's place of abode within or without New Mexico;

(2) if entitled to custody of the protected

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person, a guardian shall make provision for the care, comfort and maintenance of the protected person and, whenever appropriate, arrange for training and education. The guardian shall take reasonable care of the protected person's clothing, furniture, vehicles and other personal effects and commence conservatorship proceedings if other property of the protected person is in need of protection;

(3) if no agent is entitled to make health care decisions for the protected person under the provisions of the Uniform Health-Care Decisions Act, then the guardian shall make health care decisions for the protected person in accordance with the provisions of that act. In exercising health care powers, a guardian may consent or withhold consent that may be necessary to enable the protected person to receive or refuse medical or other professional care, counsel, treatment or service. That decision shall be made in accordance with the values of the protected person, if known, or the best interests of the protected person if the values are not known;

(4) if no conservator for the estate of the protected person has been appointed, if the court has determined that a conservatorship is not appropriate and if a guardian appointed by the court has been granted authority to make financial decisions on behalf of the protected person in the order of appointment and in the letters of guardianship

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pursuant to Subsection C of Section 45-5-308 NMSA 1978, the guardian has the following powers and duties, including the power:

(a) to institute proceedings to compel any person under a duty to support the protected person or to pay sums for the welfare of the protected person to perform that duty;

(b) to receive money and tangible property deliverable to the protected person and apply the money and property for support, care and education of the protected person, but the guardian shall not use funds from the protected person's estate for room and board that the guardian or the guardian's spouse, parent or child has furnished the protected person, unless a charge for the service is approved by order of the court made upon notice to at least one of the next of kin of the protected person, if notice is possible;

(c) to serve as advocate and decision maker for the protected person in any disputes with persons or organizations, including financial institutions, regarding the protected person's finances;

(d) to obtain information regarding the protected person's assets and income from persons or organizations handling the protected person's finances;

(e) to file an initial inventory of all property belonging to the protected person within ninety days

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after appointment; and

(f) to exercise care to conserve any excess for the protected person's needs and include in the guardian's ninety-day and annual reports a description of decisions made regarding the protected person's finances and property; and

(5) the guardian shall exercise the guardian's supervisory powers over the protected person in a manner that is least restrictive of the protected person's personal freedom and consistent with the need for supervision Hf11→, ~~including compliance with~~←Hf11 Hf11→. **Professional guardians shall follow**←Hf11 the following standards in the national guardianship association standards of practice:

- (a) informed consent;
- (b) standards for decision making;
- (c) least restrictive alternatives;
- (d) self-determination of the person;

and

(e) the guardian's duties regarding diversity and personal preferences of the person.

C. A guardian of a protected person for whom a conservator also has been appointed shall control the care and custody of the protected person and is entitled to receive reasonable sums for services and for room and board furnished to the protected person. The guardian may request the

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conservator to expend the protected person's estate by payment to third persons or institutions for the protected person's care and maintenance.

D. Unless authorized by the court by specific order, a guardian for an adult shall not revoke or amend a power of attorney for health care or power of attorney for finances signed by the adult. If a power of attorney for health care is in effect, unless there is a court order to the contrary, a health care decision of an agent takes precedence over that of the guardian, and the guardian shall cooperate with the agent to the extent feasible. If a power of attorney for finances is in effect, unless there is a court order to the contrary, a decision by the agent that the agent is authorized to make under the power of attorney for finances takes precedence over that of the guardian, and the guardian shall cooperate with the agent to the extent feasible.

E. A guardian for an adult shall not initiate the commitment of the adult to a mental health treatment facility except in accordance with the state's procedure for involuntary civil commitment.

F. A guardian for a protected person shall not restrict the ability of the protected person to communicate, visit or interact with others, including receiving visitors and making or receiving telephone calls, personal mail or electronic communications, including through social media or

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participating in social activities, unless:

- (1) authorized by the court by specific order;
- (2) a less restrictive alternative is in

effect that limits contact between the protected person and a person; or

(3) the guardian has good cause to believe restriction is necessary because interaction with a specified person poses a risk of significant physical, psychological or financial harm to the protected person and the restriction is:

(a) for a period of not more than seven business days if the person has a family or preexisting social relationship with the protected person; or

(b) for a period of not more than sixty days if the person does not have a family or preexisting social relationship with the protected person.

G. A guardian for Hf11→~~an adult~~←Hf11 Hf11→a protected person←Hf11 shall seek and support the least restrictive option Hf11→~~for the protected person~~←Hf11 , consistent with the court's guardianship order of appointment, including developing adequate supports Hf11→~~for the protected person~~←Hf11 and requesting guardianship termination if less restrictive alternatives Hf11→~~are appropriate for the protected person~~←Hf11 Hf11→to guardianship are appropriate←Hf11 ."

SECTION 9. Section 45-5-314 NMSA 1978 (being Laws 1989, Chapter 252, Section 14, as amended) is amended to read:

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"45-5-314. ANNUAL REPORT--AUDITS.--

A. The guardian of an incapacitated person shall file an initial report with the appointing court within ninety days of the guardian's appointment. Thereafter, the guardian shall file an annual report within thirty days of the anniversary date of the guardian's appointment. A copy of the report shall also be submitted to the district judge who appointed the guardian or the judge's successor, to the incapacitated person and to the incapacitated person's conservator, if any. [~~The court shall review this report.~~]

~~Hf11→All reports shall be directed to the guardianship annual report review division at the administrative office of the courts for a compliance and audit review.~~←Hf11 Hf11→The

guardianship annual report review division at the administrative office of the courts shall review all reports upon their filing.←Hf11 The results of the review shall be

delivered to the district judge presiding over the guardianship case. The report shall include information concerning the progress and condition of the incapacitated person, including the incapacitated person's health, medical and dental care, residence, education, employment and habitation; a report on the manner in which the guardian carried out the guardian's powers and fulfilled the guardian's duties; and the guardian's opinion regarding the continued need for guardianship. If the guardian has been provided power pursuant to Paragraph (4) of

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Subsection B of Section 45-5-312 NMSA 1978, the report shall contain information on financial decisions made by the guardian. Only reports that substantially comply with forms approved by the supreme court shall be accepted by the court as fulfilling the requirements of this section.

B. Any guardian may rely on a qualified health care professional's current written report to provide descriptions of the physical and mental conditions required in the report provided for in Subsection A of this section.

C. The guardian may be fined twenty-five dollars (\$25.00) per day for an overdue interim or annual report. The fine shall be paid to the current school fund.

D. The court shall not waive the requirement of an annual report under any circumstance but may grant an extension of time not to exceed sixty days. The court may require the filing of more than one report annually.

E. A guardian of a protected person shall fully comply with the requirements of any audit of an account, inventory, report or property of a protected person."

**SECTION 10.** Section 45-5-409 NMSA 1978 (being Laws 1989, Chapter 252, Section 22, as amended) is amended to read:

"45-5-409. ANNUAL REPORT AND ACCOUNT--AUDITS.--

A. Every conservator shall file an annual report and account with the appointing court within thirty days of the anniversary date of the conservator's appointment, upon the

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conservator's resignation or removal or upon termination of the conservatorship. A copy of the annual report and account shall also be ~~[mailed]~~ submitted to the district judge who appointed the conservator or the conservator's successor, to the incapacitated person and to the incapacitated person's guardian, if any. The report shall include information concerning the progress and condition of the person under conservatorship, a report on the manner in which the conservator carried out the conservator's powers and fulfilled the conservator's duties and the conservator's opinion regarding the continued need for conservatorship. Only reports that substantially comply with forms approved by the supreme court shall be accepted by the court as fulfilling the requirements of this section.

B. Any conservator may rely on a qualified health care professional's current written report to provide descriptions of the physical and mental conditions required in the report provided for in Subsection A of this section.

C. The court shall not waive the requirement of an annual report and account under any circumstance, but may grant an extension of time. The court may require the filing of more than one report and account annually.

D. The conservator may be fined twenty-five dollars (\$25.00) per day for an overdue interim or annual report and account. The fine shall be paid to the current school fund.

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E. In connection with an account, the court may require a conservator to submit to a physical check of the property in the conservator's control, to be made in any manner the court may order.

F. In any case in which property consists in whole or in part of benefits paid by the United States department of veterans affairs to the conservator or the conservator's predecessor for the benefit of the protected person, the department office that has jurisdiction over the area is entitled to a copy of any report and account filed under Chapter 45, Article 5 NMSA 1978.

G. A conservator shall fully comply with the requirements of any audit of an account, inventory, report or property of a protected person.

H. The court shall forward all reports submitted under Section 45-5-409 NMSA 1978 to the office of the state auditor for review within five business days of receipt of the report. The office of the state auditor shall review the report filed by the conservator and decide whether a full audit  
~~Sfll~~ ~~SIRC~~ ~~of the contents of the conservator's report~~ ~~SIRC~~ ~~Sfll~~ is necessary. The office of the state auditor shall submit, within fifteen business days of receiving a report from the court, either a letter of review declining to conduct a full audit or a letter of acceptance to conduct an audit. If the office of the state auditor decides to conduct

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an audit of the contents in the report, Sfl1→SIRC→an audit report←SIRC SIRC→the results of the audit, including any reasons why a full audit of the contents of the conservator's report could not be completed,←SIRC←Sfl1 Sfl1→an audit report←Sfl1 shall be filed with the court within ninety calendar days Hfl1→of the receipt of the report from the court. The state auditor may←Hfl1 Hfl1→of filing an acceptance for an audit. The state auditor shall have the authority to←Hfl1 subpoena any documents, records or statements from any individual, company, entity or financial institution necessary to conduct an audit of the contents of a conservator's report. Sfl1→SIRC→No documents, records or statements in connection with any audit of the contents of a conservator's report shall be considered public records of the office of the state auditor for purposes of the Inspection of Public Records Act.←SIRC←Sfl1 The office of the state auditor shall be available to testify at any court hearing concerning the results of the audit Sfl1→SIRC→of the contents of the conservator's←SIRC←Sfl1 report."

SECTION 11. A new section of Chapter 34, Article 2 NMSA 1978 is enacted to read:

"[NEW MATERIAL] WORKING INTERDISCIPLINARY NETWORK OF GUARDIANSHIP STAKEHOLDERS--CREATED.--

A. The supreme court shall establish the "working interdisciplinary network of guardianship stakeholders" to

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provide ongoing evaluation of New Mexico laws, services and practices related to adult guardianship and conservatorship.

B. The network shall consist of the following members appointed by the chief justice of the supreme court in a manner that reflects a geographic balance:

- (1) one or more members of the judiciary;
- (2) the secretary of aging and long-term services or the secretary's designee;
- (3) the executive director of the developmental disabilities planning council or the executive director's designee;
- (4) the chief executive officer of the interagency behavioral health purchasing collaborative or the chief executive officer's designee;
- (5) the state auditor or the state auditor's designee;
- (6) the attorney general or the attorney general's designee;
- (7) one or more members of the legislature;
- (8) the chief executive officer of disability rights New Mexico or the chief executive officer's designee;
- (9) a professional guardian;
- (10) a professional conservator;
- (11) a family guardian;
- (12) a family member, who is not a guardian or

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conservator, of a protected person;

(13) an attorney;

(14) a health care provider with experience in working with patients in need of guardianship;

(15) one or more members of an Indian nation, tribe or pueblo located wholly or partly in New Mexico;

(16) two protected persons;

(17) a representative of the administrative office of the courts;

(18) a representative of the American association of retired persons; and

(19) any other stakeholder the chief justice deems appropriate.

C. The chief justice shall appoint the network chair and an executive committee from the network membership.

D. After the initial appointments, members shall serve staggered four-year terms and may be reappointed. Initial appointments shall be for terms of at least two years.

E. The network shall meet at least four times each year. Members may be reimbursed for travel expenses in accordance with the Per Diem and Mileage Act. The network shall provide Hfll→appropriate←Hfll reasonable accommodations to make the meetings accessible to its members."

SECTION 12. A new section of Chapter 34, Article 2 NMSA 1978 is enacted to read:

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"[NEW MATERIAL] WORKING INTERDISCIPLINARY NETWORK OF GUARDIANSHIP STAKEHOLDERS--DUTIES.--The working interdisciplinary network of guardianship stakeholders shall:

- A. identify strengths and weaknesses in New Mexico's system of adult guardianship and conservatorship;
- B. identify the least restrictive decision-making options for alleged incapacitated persons and protected persons under guardianship and conservatorship;
- C. review national standards on guardianship and conservatorship practices and recommend standards for implementation in New Mexico;
- D. propose methods of training guardians and conservators in best practices or adopted standards;
- E. recommend outreach, education and training as needed; and
- F. serve as an ongoing problem-solving mechanism to enhance the quality of care and quality of life for adults who are or may soon be in the guardianship or conservatorship system."

SECTION 13. [NEW MATERIAL] COURT VISITOR PILOT PROGRAM.--

- A. The supreme court shall designate three judicial districts to participate in a court visitor pilot program. The administrative office of the courts shall randomly select cases from each judicial district designated to participate in the pilot program, and in each selected case, the court shall

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appoint a volunteer court visitor post-adjudication, who shall be provided by the office of guardianship.

B. The visitor shall review any reports filed by the guardian, visit the protected person where the person resides, fulfill all responsibilities outlined in the volunteer court visitor agreement executed with the office of guardianship and submit a written report to the court. The report to the court shall include:

(1) any changes to the information provided in the guardian's last report;

(2) any changes in the protected person's needs since the filing of the guardian's last report;

(3) whether any grievances, as defined in Section 45-5-110 NMSA 1978, have been made, and resolutions of the grievances, if any;

(4) whether the guardian adequately meets the protected person's needs, including ~~the~~ **to** ~~the~~ protected person's living arrangements, medical and health care needs, and, if not, the reasons why the needs are not adequately met;

(5) a recommendation regarding the appropriateness of the guardianship, including whether the guardianship should be limited, increased or terminated; and

(6) any other information the court deems appropriate.

C. The court visitor pilot program shall be

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implemented no later than July 1, 2022.

Hf11 → ~~SECTION 14. APPROPRIATIONS.~~

~~A. One hundred eighty-five thousand dollars~~

~~(\$185,000) is appropriated from the general fund to the office of guardianship fund for expenditure in fiscal year 2022 and subsequent fiscal years to support the guardianship monitoring and volunteer court visitor program activities established in the Office of Guardianship Act, including the addition of two full-time-equivalent positions. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.~~

~~B. Three hundred twenty-five thousand dollars~~

~~(\$325,000) is appropriated from the general fund to the supreme court for expenditure in fiscal year 2022 to:~~

~~(1) support the activities of the working~~

~~interdisciplinary network of guardianship stakeholders established in Section 11 of this act, including the addition of one full-time-equivalent position; and~~

~~(2) review the guardianship and~~

~~conservatorship annual reports and audits established in the Uniform Probate Code, including the addition of three full-time-equivalent positions.~~

~~G. Any unexpended or unencumbered balance remaining~~

~~at the end of fiscal year 2022 from the appropriation in Subsection B of this section shall revert to the general~~

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~~fund.~~ ←Hf11

SECTION Hf11 →15. ←Hf11 Hf11 →14. ←Hf11 EFFECTIVE

DATE.--The effective date of the provisions of this act is July  
1, 2021.

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