

Subcommittee on Disabilities
Hearing of November 9, 2012

Comments by:

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The following are the points to be raised and discussed during public comment period:

- Sequestration should be eliminated. N.M.S.A. 45-5-303.I and .K.
- Reports of the Qualified Health Care Professional and Visitor must be submitted to the Court and all interested parties and all attorneys of record no less than 30 days prior to any hearing in which the question of a temporary or permanent guardianship will be heard. N.M.S.A. 45-5-303.D and .E.
- Appointed Qualified Health Care Professional and Visitor shall be made available for deposition by interested parties or their attorneys no less than 10 days prior to any hearing in which the question of a temporary or permanent guardianship will be heard. N.M.S.A. 45-5-303.D and .E.
- Qualified Health Care Professionals and Visitor should be blindly appointed by the clerk upon filing of petition. Currently, the party moving for the guardianship should nominates these professionals in the petition and the court adopts them. This is wrong. Each judicial district conference shall establish these lists and update them from time to time as needed.
- If a Guardian Ad Litem is appointed, they must produce a written report at least 30 days prior to any hearing in which the question of a temporary or permanent guardianship will be heard. There is no current requirement for a written report. See, N.M.S.A. 45-5-303.C and 45-5-303.1.
- A Guardian Ad Litem shall be made available for deposition by interested parties or their attorneys no less than 10 days prior to any hearing in which the question of a temporary or permanent guardianship will be heard.
- No person or entity with statutory priority can be passed over to appoint another with a lower priority without proof by clear and convincing evidence of an inability to carry out the duties of the office individually or with help of others. N.M.S.A. 45-5-311.C. Currently, a judge can subjectively claim "good cause" and pass over a higher priority person.