

## Improving Montana's Adult Guardianship System

### Support HB 70 Requested by the Children and Families Interim Committee

#### What will the bill do?

If a person becomes incapacitated (due to dementia or other conditions) and has not previously delegated decision making authority to someone through a "power of attorney", a court can follow a legal process to appoint a guardian and/ or conservator if someone is willing and able to serve. This bill creates a permanent oversight committee to work on training, standards and accountability for our guardianship and conservatorship systems which is long overdue. In addition, it funds local guardianship programs for indigent individuals. More specifically the bill does the following:

- Creates a WINGS group, a Working Interdisciplinary Network of Guardianship Stakeholders, to establish practice standards and training for guardians and conservators; identify weaknesses in the state's system of guardianship and conservatorship and work on ways to improve the system. The WINGS groups will make recommendations to the Supreme Court Administrator on grants to be awarded to local guardianship programs.
- Provides for grants to fund local guardianship programs for indigent individuals who do not have someone who is willing or able to serve as their guardian. The grants will support training and technical assistance for family members and volunteers to serve as guardians.

#### Why is this bill needed and why is it important?

##### **Adult guardians lack training opportunities, practice standards, and accountability.**

Montana has a process through district courts for appointing guardians and conservators but we do very little to support them and ensure that they do a good job on behalf of the people they are responsible for. The significant greying of Montana's population presents the challenge of a growing need for guardians and conservators who make significant decisions for their "wards".

Adults who are incapacitated and lack the ability to understand and communicate decisions about their welfare and finances can be more susceptible to abuse, neglect and exploitation. Currently, Montana lacks a guardianship and conservatorship system that could work on preventing situations like this:

*In 2014 Bill Wise, owner of a Bozeman-based financial consulting firm, was sentenced to embezzlement of nearly \$370,000 from almost three dozen disabled and elderly clients. Mr. Wise served as guardian and/or conservator for many of these people.*

##### **Adult Guardians for people without resources can't be found.**

Courts often turn to Adult Protective Services (APS) to be guardians for indigent people with no family or friends willing or qualified to serve. APS is now overwhelmed with guardianships, handling the affairs of 173 Montanans by 36 APS specialists. That doesn't leave much time to follow up on their abuse and neglect cases. In addition, for an APS worker there's a conflict of interest to both handle the affairs of a person and be responsible for investigating abuse and neglect. Local guardianship programs supported by grants in this bill could fill the need for guardians for indigent people and allow APS to do their work.

#### How did this bill come about?

A resolution of the 2015 legislature directed a study of the adult guardianship system. After 14 months of work and testimony from national experts and stakeholders from across Montana, the Children and Families Health and Human Services Interim Committee unanimously voted to forward this bill to the 2017 session. Rep. Karjala is the sponsor.

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