



Oregon

Kate Brown, Governor

Residential Facilities Ombudsman Program

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To: Chair Power, Vice-Chair Wallen & members of the House
Committee On Judiciary House Subcommittee on Civil Law

From: Toni Larson, Residential Facilities Ombudsman

Date: May 5, 2021

Re: Testimony in support of SB 578 A

Thank you for the opportunity to offer testimony today in support of SB 578 A.

The RFO program serves approximately 10,000 people with mental health concerns and children and adults experiencing intellectual or developmental disabilities in 2,600 licensed and certified settings throughout the state.

In offering independent, resident-directed complaint investigation/resolution, rights education and advocacy with and on behalf of individuals, RFO is frequently contacted by individuals - or concerned supporters on their behalf - for assistance related to guardianship issues. Including, but not limited to;

- Application(s) for guardianship filed solely because the person is turning 18
- Application(s) for guardianship initiated for an adult as a result of feuding relatives
- Application(s) for guardianship filed to control interactions with third parties
- Notice(s) of application for guardianship not served or received by the individual in order to respond in a timely manner
- Continual application(s)/efforts for guardianship of an individual in which there was documented suspected/substantiated financial, verbal, physical abuse or neglect of care
- Guardian forcing the individual to move to a new residence against the individual's wishes due to:
 - disagreement between the guardian and residential team – not due to care
 - Frustration of guardian that another system would be 'easier' to work with
- Guardian attempting to control day-to-day movements, preferred activities, diet, meal schedule and weekly personal spending of the individual in the residential setting
- Guardian seeking to control friendships, dating and voting of an adult resident
- Guardian removal of internal doors between living quarters, removal of clothing unless individual maintains apartment to guardian's standards

- Guardian preventing individual from taking a Community College course to prevent individual from being around smokers
- Individual(s) under guardianship wishing to remove guardian or change guardian due to:
 - Lack of participation, response or interest of the guardian
 - Guardian not assisting individual in their own decision making in favor of the guardian's values and choices
 - Individual has progressed in decision-making and is ready to remove guardianship. Guardian annual reports do not reflect this and continue to regurgitate the same phrases in order to maintain guardianship

In our experience, individuals in residential facilities have been some of the most vulnerable to civil rights infringements. While Oregon guardianship laws, state that a Guardian shall maximize independence and self-reliance of the protected person as well as that a protected person “retains all civil rights”—oftentimes this does not happen.

Lack of access to legal representation in a guardianship proceeding ensures they will not receive an equal opportunity to present their perspective when it comes to even everyday decisions. Often, individuals:

- Do not have the finances – after room and board payments many only having access to \$30-\$100 personal spending funds
- Do not have access to finances – if they do have the finances, they do not have access to the funds or assistance in locating an attorney
- There are no other resources available for representation

The RFO strongly supports SB 578 A as it provides individuals with legal representation necessary for due process protecting their right of independence, decision-making and dignity.