

Submitter: Theresa Hollis

On Behalf of:

Committee: Senate Committee on Judiciary

Measure: SB528

I am a past Chair and current member of the Oregon State Bar Elder Law Section. I am a past President and current Board Member of Guardian Partners. I am a current member of WINGS (the Working Interdisciplinary Network of Guardian Stakeholders). I am a member of the Guardian Conservator Association of Oregon. However, today I am testifying in opposition to SB528, not in any of these representative capacities but as an Oregon resident, an elder law attorney of 25 years and the parent of a disabled adult child.

I have represented many petitioners in protective proceedings in the last two and a half decades. I have also represented many respondents and protected persons. During my career I strive to not only be the one who points out the problems but also the one who works collaboratively to come up with the solutions. While it is true the Oregon's guardianship laws are by no means perfect, SB528 would create far more problems and solve almost nothing.

While there are multiple aspects of this bill that concern me, I am focusing my testimony today on the two that I believe are the most immediately serious:

1. Implementation of SB528 will create a crisis for Oregon's probate courts. This bill requires Guardians to re-petition every five years including requiring appointment of a Court Visitor. This bill has a serious fiscal impact for our already over-worked judiciary. If it passes this bill will need to include a substantial increase in budgetary spending for all of Oregon's probate courts to handle the additional pleadings that will be required. New probate Judges and probate court staff will need to be hired. The courts will also be required to locate and train additional Court Visitors. In 2022 Washington County handled approx. 1520 protected proceedings (guardianships and conservatorships). Washington County currently has only two Court Visitors for a population of 605,000. A colleague of mine stated that, "The new provisions of SB 528 would take an already overstressed court staff and bench and push them to failure." I strongly agree with this.

2. SB528 will create a serious hardship for Oregon's hard-working guardians, protected persons, and their families. The requirement to re-plead for what is essentially a new guardianship every five years is unjust and an unduly expensive burden on guardians and protected persons who most often foot the bill. It is already difficult to locate a friend, family member or professional fiduciary willing to act as guardian for a

person experiencing incapacity. Creating a guardianship is expensive and includes the payment of attorney fees, filing fees, personal service and Court Visitor fees. Legal Aid does not handle these cases and there are no self-help forms. In my experience families are usually able scrape together just enough to get the guardianship in place (sometimes even putting part of the expenses on credit cards). However, if this bill passes I will need to inform the potential guardian that they must go through this entire process *every five years*. I can tell you that many people will refuse to act as guardians and many vulnerable Oregonians will go without protection. If the goal is to review existing guardianships on a regular basis Guardian Partners already offers that service for free. Re-pleading every five years is unnecessary and will end up “protecting” protected persons out of the resources they need to pay for their ongoing care.

There are many other concerns I have with this bill including requiring courts to appoint attorneys for respondents when no such pool of attorneys exists and the new restriction to life sustaining medicine, but these are the two most urgent in my opinion. Therefore, I respectfully oppose SB528.

Thank you.

Theressa Hollis