



TO: Senate Judiciary Committee
FROM: Disability Rights Oregon
DATE: March 29th, 2023
RE: SB 528-1 [Implementation of Guardianship Respondent Representation Program]

During the 2021 Legislative Session Disability Rights Oregon worked closely with Sen. Dembrow and many other advocacy groups to pass SB 578, which addressed a serious long-standing concern regarding the due process rights of respondents in guardianship proceedings. SB 578 established a process for indigent respondents to access legal representation during their guardianship proceedings. The program was placed with The Office of Public Defense Services.

As the Pilot Projects started to roll out OPDS reached out to DRO requesting assistance. With the Statewide expansion of this program set to start in January 2024, in the beginning of November 2022 OPDS approached DRO to see if we would be willing to administer the program. Between then and now OPDS and DRO have had several conversations discussing how best to make this transfer.

Senate Bill 528–1, makes statutory changes necessary to implement this transfer begin to provide statewide access to legal representation for respondents of protective proceedings. This amendment also addresses some issues that we identified during the pilot projects. Specifically, SB 528-1 will:

1. Making sure that respondents know about the right to legal representation.
2. Providing the legal framework for the Office of the Public Defender to delegate this work to DRO.
3. Making sure that judges and attorneys are aware of respondent's right to legal representation is needed.

The amendment addresses these issues in the following way: First, in regard to notice- this bill requires notice to respondents when they are served and also when the court visitor evaluates the case. Second, allow the Office of the Public Defender to delegate this work to Oregon's designated Advocacy and protection organization which is codified in state in federal law. Third the bill allows at least three attorneys through Disability Rights Oregon to provide this service to respondents. And lastly, public education on the rights of people with disabilities, which is core to the mission of Oregon's designated advocacy organization. Educating the legal community on the right to respondents' right to legal representation is within the scope of what Disability Rights Oregon, so we are well positioned to provide the information to those in the legal system who do this work.

The importance of making sure that our most vulnerable residents of our state have access to

legal representation is well known. The right to due process is guaranteed in our Constitution. No Oregonian should have such a profound restriction of their liberties ordered by the courts without the aid and advocacy of an experienced attorney in protective proceedings. SB 528-1 is needed to help implement this important program and DRO is ready to work in collaboration with OPDS to provide this service.

About Disability Rights Oregon

Since 1977 Disability Rights Oregon has been the State's Protection and Advocacy System.¹ We are authorized by Congress to protect, advocate, and enforce the rights of people with disabilities under the U.S. Constitution and Federal and State laws, investigate abuse and neglect of people with disabilities, and "pursue administrative, legal, and other appropriate remedies".² We are also mandated to "educate policymakers" on matters related to people with disabilities.³

If you have any questions regarding DRO's position on this legislation, please call Meghan Moyer at 503-432-5777 or email her at mmoyer@droregon.org.

¹ See ORS 192.517.

² See 42 U.S.C. § 15041 et seq; 42 U.S.C. § 10801 et seq.

³ See 42 U.S. Code § 15043(a)(2)(L).