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Date: March 31, 2023
To: Chairman Prozanski & Members of the Senate Committee on Judiciary
Submitter: Alana Hawkins, Attorney
Kueny Law, LLC
Re: SB528

I am a local elder law attorney at a small elder law office that practices in Portland, Salem, and their surrounding communities. My office represents and regularly works with Guardians, Conservators, Professional Fiduciaries, as well as Protected Persons and Respondents. Prior to my work as an elder law attorney, I spent ten years working for nonprofit organizations that advocated for youth in the juvenile justice system, access to health care, public benefits, and Social Security disability. Advocacy for underserved and underrepresented communities is important to me and informs and shapes what I do today.

I submit this written testimony in my individual capacity and as an attorney at Kueny Law, LLC. I previously submitted testimony opposing SB 528 as originally proposed. I support the intentions of DRO with regard to SB 528, however, it remains overbroad, unclear, and fails to consider its impact on the court system and its stakeholders.

- The additional, somewhat unknown, requirements for professional fiduciaries will discourage professional fiduciaries from serving as guardians.
 - When individuals don't have family members willing to serve as guardians, we hope that professional fiduciaries may be willing to serve. This bill will impact those most in need of assistance. Many professional fiduciaries understand that if they represent an individual as guardian, they may be doing so for the remainder of that protected person's life, whether they are able to be compensated for their services or not.
- No known funding source to make the adjustments and provide the services outlined in this bill.
 - Current mandates to appoint counsel to respondents and protected persons are struggling to be implemented for lack of funding and lack of attorneys that are

experienced in representing individuals with no capacity or diminished capacity. SB 528 will further exacerbate these already known and existing challenges.

- Increased costs to obtain and maintain guardianship.
 - Client costs, and costs passed on to the protected person, their spouse, and family members will increase. Such increased costs may result in guardianship not being sought in situations when they are indeed necessary.
 - Increased costs result from not only increased court costs but increased medical costs – if the appointment of a guardian is delayed it often delays transfers out of hospitals into skilled nursing and/or other care placements. It may also delay access to government benefits.
 - If time becomes an issue, we will see more temporary guardianships which will increase the costs and increase the courts' caseloads.
 - Access to justice and to the court system is already a challenge for many families and many of my clients. This bill will further restrict access to the court system for families that are already financially struggling.

If Oregon wishes to best support the rights and interests of respondents and protected persons, I believe that creating a workgroup/committee that is made up of all of our stakeholders (protected persons, family members, guardians, attorneys, social workers, and care providers) would result in a better bill, and one that took into consideration the challenges that we all currently face.

Sincerely,



Alana J. Hawkins, Attorney