Submitter:	Nancy Doty
On Behalf Of:	my professional peers
Committee:	Senate Committee On Judiciary
Measure, Appointment or Topic:	SB1123

Nancy Doty
4510 NE Alameda St
Portland, Oregon 97213

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To Whom It May Concern:
I am writing about SB 1123 , designed to protect Court Visitors (CV) in the work that they do.

Please take a moment to consider a perspective gleaned from 30+ years as a professional fiduciary.

First and foremost, Court Visitors (CVs) are not State/Court/County employees. Their professional role is one of a private practitioner.
As such, they should carry their own professional liability insurance.

The bill also fails to consider other important elements:
A. There must be more consistent/ standardized preparation and understanding of the CV role.
For example, are they to take on an advocacy role for the protected person -- or the petitioner or a family member?
Do they help fill out the objection forms if the Proposed Protected Person is too impaired to do so themselves?
(One could argue that the CV should not take up a position of judgment or advocacy before the Court weighs in with the full complement of documents and details regarding the alleged incapacity.)
Are CVs mandated to actually speak with interested parties and the protected person -- or can they rely on medical records and other documentation?
How many individuals are to be interviewed in a complex case? Should every interested party have a chance to state their opinion of the veracity of the proceeding?
Or, where there are allegations of family malfeasance, neglect or abuse, can the CV skip particular individuals based on the hearsay of others?

As you can see, there are myriad permutations on the theme!

B. Until there is more uniformity in training BOTH the Court Visitors and the Court, it is not realistic to offer immunity.

If there is a rural county in which the duties are not often required, the well-meaning but poorly prepared CV may lack relevant training leading to poor judgment.
Likewise, in a county where a judge has little experience in protective proceedings, the expectation of the CV may stem from a lack of understanding of the role and poor instruction from the Bench.

Until there is uniformity in how the CV is selected or assigned, the attorney, Court, or others with input on the appointment should , perhaps, be equally liable for any professional lapses.
In those counties where the selection of a CV may be influenced or selected by the petitioning party, family members, the supporting attorney, etc., then perhaps the responsibility should be shared.

Until there is uniformity in CV preparation and training, there may be unprofessional, unethical, blatantly ill-prepared CVs who will bear no professional responsibility.
There are also CVs who are unintentionally remiss.
And SB 1123-evoked immunity will allow their poor conduct to continue.

SB1123 is an ill-conceived piece of legislation that may cause further harm to Proposed Protected Persons.
Those who are incapacitated by age-related frailty, dementia or other neurocognitive deterioration, developmental and intellectual deficiencies, and brain injuries deserve better when faced with a life-changing, Court-imposed fiduciary representative.

Please do not put this cart before the horse.
The role of Court Visitor is crucial to fair and balanced, unbiased, professional reports back to the Court.
Court Visitors must have clearly, uniformly defined job description, with standardized enforcement of the expectations.

The Court, for its part, owes the Proposed Protected Person fair analysis of the situation with the help of a professionally prepared report completed and presented in a uniform manner by a person with education, preparation and verifiable experience.

Training before immunity, please!
It is not unreasonable that the Court (State of Oregon Circuit Court) should ask for proof of professional credentials and insurance before assigning any Court Visitor to evaluate a very vulnerable individual.

Thank you very much.

Respectfully,

Nancy Doty, Re