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Testimony before the Senate Committee on Human Services, Children and Families

Senator André Jacque

February 22, 2021

Committee Members,

Senate Bill 92 will provide greater assistance to those seeking to become adult guardians and those they will protect. I am happy to note that this legislation enjoys exceptional bi-partisan co-sponsorship and passed the State Assembly last session with a unanimous 99-0 vote.

On the spectrum of delegation of decision-making by an adult, guardianship is the most restrictive and complete in comparison to the alternatives, such as power of attorney. Many family members and volunteers who become a guardian do not fully understand what a guardian's role, responsibilities, and administrative duties are under Wisconsin law prior to being appointed. Frequently guardians feel overwhelmed, unprepared, isolated, and unsupported.

Wisconsin's Guardianship Support Center (GSC) hears from guardians across the state who are struggling and looking for assistance. Annually, they field approximately 1,800 phone calls and e-mail requests and conduct about 35 in-person trainings across the state. People in every Wisconsin county are contacting the GSC for help.

Twenty-one states require training for all guardians. Wisconsin does not have training requirements or a formalized training program for family or volunteer guardians. Unfortunately, lack of training can result in guardians making decisions that are contrary to the spirit of Wisconsin's limited guardianship system, and in some cases making decisions for their ward that go beyond what the courts have authorized.

Senate Bill 92 would ensure that individuals petitioning for guardianship have basic training about the roles and responsibilities of guardians under state statute and best practice strategies to ensure the wishes and preferences of the ward are understood and honored in the decision-making process before they are appointed.

This important legislation will require the development of free online training for current and prospective guardians that can be accessed at any time, and increase capacity to provide technical assistance, in-person training, and support to prospective guardians, guardians, and families.

This legislation is supported by the Survival Coalition, Wisconsin Aging Advocacy Network (WAAN), Greater Wisconsin Agency on Aging Resources (GWAAR), Board for People with Developmental Disabilities (BPDD), Disability Rights Wisconsin (DRW), AARP, the Wisconsin Coalition of Independent Living Centers, and The Arc Wisconsin. I am very appreciative of the of the stakeholders who helped develop this legislation that are here to testify today.

Thank you for your consideration of Senate Bill 92.



SHANNON ZIMMERMAN

STATE REPRESENTATIVE • 30th ASSEMBLY DISTRICT

Senate Bill 92

Senate Committee on Human Services, Children and Families

February 22, 2021

Thank you Chairman Jacque and committee members for hearing testimony on Senate Bill 92 today. I want to also thank my constituents George Zaske and Peg Scott for educating me and advocating for this much-needed legislation.

Guardianship is a serious step where an individual's right to make their own life decisions is (either partially or fully) taken away and given to someone else through our court system. When this happens with adults, the decision is often permanent, and reversal is very difficult.

It is a humbling amount of responsibility to be someone's guardian. However, through discussions with my constituents, and the Board for People with Developmental Disabilities (BPDD), I learned how often people become guardians for family members without fully understanding the law or resources available. An unfortunate result of this is they can feel overwhelmed and isolated.

Senate Bill 92 addresses this problem. The bill establishes and funds the creation of mandatory training requirements for all guardians. A free online training module will be established that contains information on various topics such as, limits on guardian decision making, rights of the ward, future planning, and resources and support available to guardians. The Department of Health Services will award a grant to develop and administer the training guide program.

The Guardianship Support Center would also receive funding through the bill. The Center fielded 1,800 calls in 2019 from individuals seeking information on guardianship law. This again shows how vital it is to make this important information accessible for families and guardians. Wisconsin would align with 21 other states that already require guardian training.

This training is not designed to be overly onerous but will help provide the resources needed for guardians to be successful. Ultimately, this bill is designed for two groups of people, guardians and the people they care for. SB 92 not only empowers guardians with the knowledge and resources to feel less isolated but protects some of our most vulnerable citizens by ensuring the success of the people caring for them. Thank you again for your consideration of this legislation.



Date: February 22, 2021

To: Chairman Jacque, Vice-Chairwoman Ballweg, and Members of the Senate Committee on Human Services, Children and Families

From: Janet L. Zander, Advocacy & Public Policy Coordinator

Re: **Support for SB 92** – relating to: Guardian training requirements

The Greater Wisconsin Agency on Aging Resources, Inc. (GWAAR) is a nonprofit agency committed to supporting the successful delivery of aging programs and services in our service area consisting of 70 counties (all but Dane and Milwaukee) and 11 tribes in Wisconsin. We are one of three Area Agencies on Aging in Wisconsin. We provide lead aging agencies in our service area with training, technical assistance, and advocacy to ensure the availability and quality of programs and services to meet the changing needs of older people in Wisconsin. Our mission is to deliver innovative support to lead aging agencies as we work together to promote, protect, and enhance the well-being of older people in Wisconsin.

Thank you for this opportunity to share testimony on SB 92. In addition to providing training and technical assistance to county and tribal aging units/aging and disability resource centers (ADRCs) regarding Older Americans Act and other aging service programs, GWAAR operates a number of other programs, including the Wisconsin Guardianship Support Center (GSC) - <https://gwaar.org/guardianship-resources>. The GSC serves as a statewide resource for information and assistance on issues related to adult guardianship, protective placement, advance directives, and supported decision-making. In 2020, through a toll-free helpline or by e-mail, the GSC received nearly 2500 contacts on over 1,400 unique issues. Nearly half of the contacts were made by family, friends, and private guardians (47%) and approximately one-third of the contacts came from professional callers (corporate guardians, attorneys, aging and disability resource center center/elder benefit specialist, adult protective service workers, facilities, social workers, etc.). Nearly 1 in 10 contacts were made by people under guardianship. Common questions received by the GSC relate to alternatives to guardianship, resources for prospective guardians, questions about guardian duties and ward rights, concerns about guardians exceeding their role and legal authority, and inquiries about how to maintain financial records and file annual accountings. Though contacts to the one full-time attorney serving the GSC came from people in 96% of Wisconsin counties, we know there are many more people across the state who would avail themselves of the resources available if they knew about them.

Adult guardianship is a serious intervention that transfers fundamental rights away from a person (the ward) to a court appointed guardian. A guardian of the person is responsible for decision-

making related to major life decisions such as where to live, medical care, service options, and other choices related to meeting daily wants and needs. A guardian of the estate manages a ward's property and financial affairs. As of 2015, over \$500 million was overseen/managed by guardians (family, volunteer and corporate) in Wisconsin (WINGS, 2015). Guardians are responsible for making decisions in such a way as to place the least restrictions on the ward's personal liberty and exercise of his/her constitutional and statutory rights, promote the highest level of integration into the community, and honor the ward's individual wishes and preferences (Wis. Stats. Ch. 54.20 & 54.25). Depending on the circumstances, a court may name one person both guardian of the person and guardian of the estate, or name one person the guardian of the person and another the guardian of the estate. Though guardians (who are often family members, close friends, or community volunteers) are responsible for carrying out these roles and responsibilities in accordance with the Wisconsin Guardianship statutes, there is little support currently available for prospective guardians. **To ensure guardians are fully aware of their role and responsibilities and to improve the well-being of people under guardianship, SB 92 proposes training *before* someone becomes a guardian.**

Presently, the Department of Health Services (DHS) requires Corporate Guardians – a private nonprofit corporation or an unincorporated association appointed by a court to serve as guardian of the person, or of the estate, or both, of an individual who is found by a court to need a guardian - DHS 85.03(2) – to complete continuing education requirements - 85.10(2). Wisconsin does not, however, have any training requirements or formalized training program for family or volunteer guardians. Most family guardians are every day, upstanding people trying to do the right thing to help a family member. Volunteer guardians are community members who reach out to help fellow community members who do not have family or close friends to serve in this role. Family and volunteer guardians are often caught off guard by the complexities of the guardianship system and their associated responsibilities. When problems arise, they are often the result of not knowing or misunderstanding the rules and not malicious intent. SB 92 proposes training for potential guardians on topics specific to the guardian of the person and guardian of the estate statutes. We believe training people before they are appointed as a guardian will help ensure all decision-making options have been explored, those agreeing to be appointed as a guardian will do so after making a better-informed decision, and appointed guardians will have improved understanding of how to carry out their roles and responsibilities while respecting their ward's rights and the limitations of their own power. Additionally, this training will ensure going forward that guardians will be informed about where to go for information and resources should there be a need in the future.

We are pleased the Governor included a guardianship training proposal in his budget and that he agrees with the legislature that guardian training is an important issue. The Governor's budget includes funding to support this training proposal in the amount of funding (\$125,000) per year included in the legislature's original guardian training bill last session. Funding is essential to ensure there is capacity to develop the training materials (both online and paper copy), implement the training, expand outreach, and increase capacity to provide needed information and support services.

We appreciate the interest in and efforts of policy makers to address growing concerns related to the impact of guardianships on older adults and people with disabilities. We look forward to

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continuing to work with you on policies that improve the quality of life of older people in Wisconsin.

Thank you for your consideration of these comments supporting SB 92.

Additional Information:

Guardianship Support Center:

Email: guardian@gwaar.org

Hotline: (855) 409-9410

Webpage: <https://gwaar.org/guardianship-resources>

Contact:

Janet Zander

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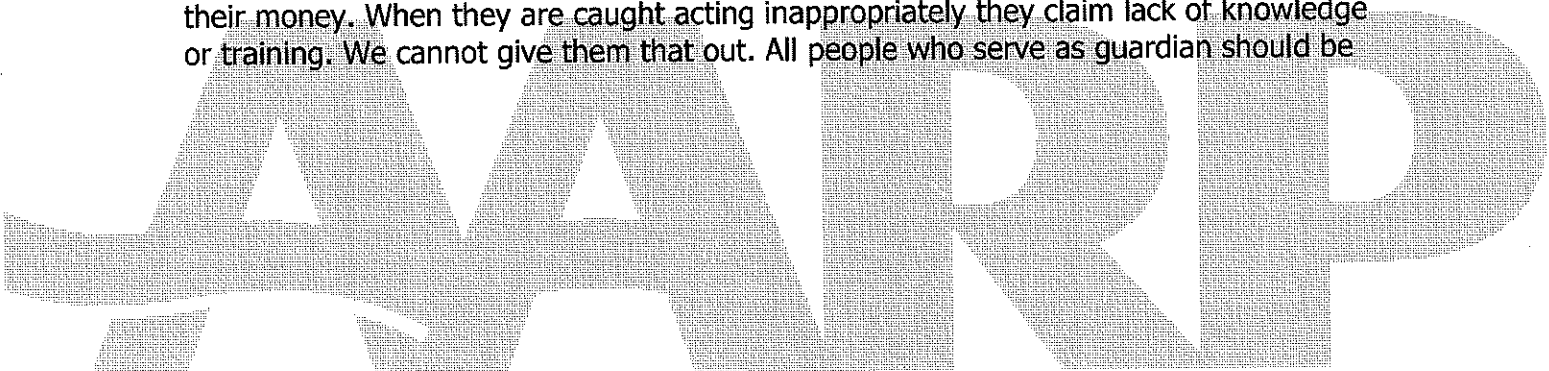
**Senate Committee on Human Services,
Children and Families
February 22, 2021
Madison WI
Helen Marks Dicks**

I am Helen Marks Dicks, State Issues Advocacy Director for AARP Wisconsin, which has over 840,000 members here in Wisconsin. We advocate on behalf of Wisconsin's 50 and older population. Many of our members serve as guardians. Many of our members are also under guardianship or have used the alternatives to guardianship such as Powers of Attorney. We are interested in helping guardians do a good job meeting their legal obligations. And we are interested in protecting the rights and the finances of those under guardianship or its legal alternatives. We support SB 92 because we believe it does both.

Older people often become guardians for their spouses or siblings under very trying circumstances. There has been an accident or a medical emergency which renders a person unable to make their own decisions and no preplanning was done. Often the petition for guardianship is filed by the hospital or county to facilitate a protective placement need to discharge someone to rehabilitation or a nursing home for a temporary or permanent stay. The person becoming the guardian is under stress due to the medical crisis and is overwhelmed by new information. And then they go through a very routine unimpressive court procedure which makes them guardian. No training, no preplanning, and no real idea what it means to be a guardian.

People try to do what they think is right, but often spouses do not think about no longer co-mingling their money or about restrictions on how monies should be spent and accounted for. Many receive written documentation which goes in with all the paperwork they got from the hospital and other health providers. So they do the best they can. Well intended but ill informed.

Those are the good ones. Sometime people seek guardianship to control a person and their money. When they are caught acting inappropriately they claim lack of knowledge or training. We cannot give them that out. All people who serve as guardian should be



trained and should follow the law. They can only do so if they know the law and are trained in the procedures they are expected to follow.

This bill would establish a training standard and if the Department of Health Services funded an organization not unlike the Wisconsin Guardianship Support Center to develop the training materials, conduct the training and have information available to the public we could achieve several goals. We could have well trained guardians who acted in the best interest of the ward and who meet their legal obligations. We could reduce family feuds by letting all family members know what the guardian could and could not do with the Ward's money. We could cut down on abuse of people under guardianship. And we could educate the public to the value of preplanning and alternatives to guardianship.

If you have any questions feel free to contact me. I would have preferred an option which would have allowed me to address you in real time and answer questions. Please consider a virtual option in the future.

AARP Wisconsin strongly encourages the committee to vote in favor of SB 92. It is good for the guardians and good for those under guardianship Thank you for your time and attention. As always I would be glad to answer any questions.

I can be reached at hmdicks@aarp.org or by phone at 608-332-9542. Thank you.





February 22, 2021

Senator Jacque
Chair, Senate Committee on Human Services, Children and Families
Wisconsin State Capitol, Rm 75
Madison, WI 53707

Dear Senator Jacque and Committee members:

The Wisconsin Board for People with Developmental Disabilities (BPDD) supports SB 92, which would provide free online training to family and volunteer guardians about the role, responsibilities, and other important features of Wisconsin's guardianship law before they are appointed.

Nationally, there is growing interest among advocates and attorneys practicing in elder and disability law to improve adult guardianship practices, especially in light of new options that provide less restrictive alternatives to guardianship, the civil rights advancements of individuals with disabilities that have occurred over the past several decades, concern over how and to what degree guardianships are imposed and rights are restored,¹ and recognition of the profound consequences appointment of a guardian may have for an individual². Guardian training is consistently identified and included as a policy recommendation by both aging and disability advocates.

Guardian training is critically needed to provide standardized information and a continually available reference to help ensure both the letter and spirit of Wisconsin's law are followed. Given the gravity that a judicial declaration of legal incompetency has for the individual, and the seriousness of the responsibility a guardian assumes, providing free training is a worthwhile investment to support the volunteers and family members willing to serve their ward³.

Family and volunteer guardians are not the only people who benefit from standardized, plain language training. Accurate information about guardianship and alternatives to guardianship benefits teachers, medical staff, aging and disability resource centers, direct service providers, attorneys who have expertise in different areas of Wisconsin law, and other professionals who may interact with guardians or their wards. Standardized training

¹ *Turning Rights into Reality: How guardianship and alternatives impact the autonomy of people with Intellectual and Developmental Disabilities*. June 2019 (https://ncd.gov/sites/default/files/NCD_Turning-Rights-into-Reality_508_0.pdf) *Beyond Guardianship: Toward Alternatives That Promote Greater Self-Determination for People with Disabilities*. National Council on Disability. March 2018.

(https://ncd.gov/sites/default/files/NCD_Guardianship_Report_Accessible.pdf). *Research and Recommendations on Restoration of Rights in Adult Guardianship*. American Bar Association. 2017.

(https://www.americanbar.org/content/dam/aba/administrative/law_aging/restoration%20report.authcheckdam.pdf)

² *What Do NCI Data Reveal About the Guardianship Status of People With IDD?* (April 2019) (https://www.nationalcoreindicators.org/upload/core-indicators/NCI_GuardianshipBrief_April2019_Final.pdf)

³ Basic data on guardianships in Wisconsin is limited. There is no statewide data collection on guardianships, each county courthouse keeps its own records. From an August 2015 analysis of data reported to Wisconsin's Consolidated Court Automation Programs (CCAP), there are almost 34,000 people under guardianship in Wisconsin³, and more than \$690,000,000 in assets under the supervision of a guardian³. Wisconsin State Court data does track the number of guardianship petitions filed each year³, almost 6000 guardianship petitions were filed in 2016; the median age at disposition was 40. The low average ages of the wards indicate that many people placed under guardianship are not older adults.

helps everyone better recognize guardians who are supporting their wards appropriately or identify situations that warrant further questions.

For many people with disabilities⁴, the court appointed guardian is often a family member, frequently a parent. Most family members who become a guardian of a person or estate under Wis. Stats. Ch 54 do not fully understand a guardian's role, responsibilities, and administrative duties under Wisconsin law. Common misperceptions we routinely hear from people with I/DD, families, and service providers include:

- Assumption that the guardian can make all decisions connected to the ward,
- Belief that the guardian is allowed restrict their ward's activities or prevent "bad" choices
- Lack of understanding of long-term implications and consequences of guardianship⁵.
- Misperception by family guardians that the role of a guardian/ward is not distinct and different than role of parent/child.
- Acting in contradiction to the spirit of Wisconsin's limited guardianship system⁶.
- Uncertainty by health care, professionals, and service agencies on whether they can confirm and verify who the guardian is and what decision-making authority has been granted.
- Uncertainty from service providers about whether a guardian is overstepping their authority and what actions they can/should take if they believe this is the case.

As the population ages, people with disabilities live longer, and families have become smaller and more geographically dispersed, it becomes more likely that someone will assume a guardian role unexpectedly or without preparation. Many families have not done future planning or find their plans have not sufficiently evolved over years (or decades) to reflect their current circumstances. Basic Guardian training that is always available can help families plan and help prospective guardians who find themselves stepping into a new role sooner than anticipated.

We are pleased that the Governor and legislature agree that guardian training is an important issue. The Governor's budget includes the guardian training proposal with the amount of funding (\$125,000) per year included in the original bill from last session. The bill from last session included funding to increase the grant—currently awarded to the Guardianship Support Center (GSC)—in order for the GSC to serve guardians, professionals, persons under guardianship, family members and others with questions about guardianship through statewide technical assistance, in-person trainings, and a responsive helpline. We believe this level of funding is warranted.

⁴ People with Intellectual and Developmental Disabilities (I/DD) are disproportionately affected by guardianship. Frequently, guardianships are imposed upon people with I/DD at a young age (17 years, 9 months) and are rarely revisited. Many people spend many decades—their entire lifespan—under guardianship.

⁵ Examples: families not understanding the Courts role as decider once a guardianship is in place, 2) not understanding what rights have been taken away or preserved 3) assumption on who is willing/able to take on the role of a guardian, families may not plan or revisit their plan as the support network and individual's lives change or end 4) assessment changing willingness or capability of performing as guardian, etc.

⁶ Including lack of understanding of what statutory rights wards retain and , and the statutory requirements for the guardian of the person place the least possible restriction on the ward's personal liberty and exercise of constitutional and statutory rights, and promote the greatest possible integration of the ward into his or her community, and responsibility to make diligent efforts to identify and honor the ward's preferences.

In 2020, the GSC nearly 2,500 (2,487) contacts on over 1,400 (1,424) unique issues from people in 96% of Wisconsin counties. We anticipate more prospective and current guardians will engage with the GSC as more people become aware of their expertise.

BPDD is charged under the federal Developmental Disabilities Assistance and Bill of Rights Act with advocacy, capacity building, and systems change to improve self-determination, independence, productivity, and integration and inclusion in all facets of community life for people with developmental disabilities⁷.

Thank you for your consideration,

A handwritten signature in black ink that reads "Beth Swedeen". The signature is written in a cursive style and is positioned above a dotted horizontal line.

Beth Swedeen, Executive Director, Wisconsin Board for People with Developmental Disabilities

⁷ More about BPDD https://wi-bpdd.org/wp-content/uploads/2018/08/Legislative_Overview_BPDD.pdf .

Disability Rights Wisconsin Testimony to Senate Committee on
Human Services, Children and Families

SB 92: Creating a Guardian Training Requirement

Attorney Mitchell Hagopian

February 22, 2021

Disability Rights Wisconsin is pleased to strongly support SB 92. However, DRW regards the Committee's refusal to permit remote oral testimony or electronic submission of written testimony during a pandemic to be a violation of the Americans with Disabilities Act. The Committee's practice limits the options for many members of the public who are most impacted by this issue—people with disabilities under guardianship—to safely share their perspective on why this legislation is so important. We object to the Committee's practice.

SB 92 would create a requirement that volunteer and noncorporate guardians receive basic training in the areas in which they will be expected to exercise decision-making prior to accepting appointment. Based on experiences encountered in our practice, there is a critical need for training of guardians prior to them assuming their responsibilities. As the Protection and Advocacy agency for people with disabilities in Wisconsin, we are frequently contacted about conflicts between wards and guardians. Some of these contacts are initiated by wards. But many are initiated by service providers who are concerned and uncomfortable with the way a guardian is exercising authority.

This proposal has the potential to positively impact the lives of people with intellectual disabilities or mental illness who are considered for guardianship by: 1) avoiding the need for guardianship altogether; 2) limiting the guardianship if one is justified; and 3) avoiding conflicts between guardians and their wards after the guardianship is imposed.

Because the training will also cover less restrictive alternatives to guardianship, the training may also reveal to potential guardians (often times parents who are already deeply involved in their adult child's life) that there may be less restrictive ways to achieve the same—or higher—level of protection from abuse, neglect or exploitation than what guardianship affords. It also may help the proposed guardian tell the Judge how the guardianship could be limited.

An added benefit to this proposal is that the materials created pursuant to it would be generally available as training and orientation materials for people long before they are involved in an actual guardianship court proceeding. A parent of a 16 or 17-year-old might be directed to these materials by school personnel during the transition planning process and realize that there are less restrictive alternatives to guardianship—like supported decision-making, powers of attorney,

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etc.—that they can try out before seeking guardianship, potentially resulting in a limited guardianship or preventing the need for any type of guardianship at all.

From our perspective, a critical area where guardians need training and orientation relates to the requirement to consider the wishes of and involve the ward in, decisions made by the guardian.

Section 54.25 of the Wisconsin guardianship statute imposes the following obligation on guardians regardless of the level of incompetency of the ward:

(d)3. In exercising powers and duties delegated to the guardian of the person under this paragraph, the guardian of the person shall, consistent with meeting the individual's essential requirements for health and safety and protecting the individual from abuse, exploitation, and neglect, do all of the following:

a. Place the least possible restriction on the individual's personal liberty and exercise of constitutional and statutory rights, and promote the greatest possible integration of the individual into his or her community.

b. Make diligent efforts to identify and honor the individual's preferences with respect to choice of place of living, personal liberty and mobility, choice of associates, communication with others, personal privacy, and choices related to sexual expression and procreation. In making a decision to act contrary to the individual's expressed wishes, the guardian shall take into account the individual's understanding of the nature and consequences of the decision, the level of risk involved, the value of the opportunity for the individual to develop decision-making skills, and the need of the individual for wider experience.

In our experience, guardians are usually unaware of these requirements and are surprised to learn of them. For younger people with intellectual disabilities, failure by the guardian to follow the statutory direction often leads to friction between the guardian and the ward, particularly when the guardian is a parent or other close relative.

Being unaware of the statutory requirement, the parent-guardian often assumes that becoming guardian simply extends the parental role beyond age 18. And extends it indefinitely. Much of our work involves providing individual education and training to guardians who are making decisions for their ward without consultation or consideration. For them, particularly if they have been guardians for some extended period of time, it is difficult to reorient their perspective. Some cannot.

Here are some examples of cases in which Disability Rights Wisconsin has represented people under guardianship that illustrate the need for guardian training:

- DRW represented a 50 year-old woman with a mild intellectual disability because her father who was also her guardian was prohibiting her from having any type of personal relationships (personal interactions, telephone communications etc.) with people of the opposite sex. Because the ward's residential provider agency was balking at his unreasonable and inhumane restrictions, his plan was to remove her from their care, terminate her employment situation, relocate her to the other side of the state, and place her with a new provider who had assured him they would implement any limitation he

sought to impose. When DRW's attempt to educate the guardian about his duties and limitations of his authority failed, we represented the ward in a court action to review the conduct of the guardian and seek his removal (which the court did). Unfortunately, the experience destroyed the father/daughter relationship—something that might have been avoided had the guardian been aware of limitations on his authority when he first became guardian.

- DRW recently mediated a dispute between a 30 year old woman and her guardian—who is also her adoptive parent. The guardian was dictating the type of clothing and what hairstyles her ward can wear and is restricting spending money and the development of financial management skills. The ward clearly has the capacity to control more money than what the guardian allowed. She also, obviously, has the right to personal choices in clothing and hairstyle. After education and mediation, the guardian now understands the limitation on her authority and is willing to engage with her ward on issues of personal preference and the need for the ward to gain experience in basic life activities.
- DRW has investigated several cases of medical neglect of wards by guardians. These are typically death investigations. These cases arise because guardians of people with significant intellectual impairment are unaware of limits on their authority to withhold or withdraw life-sustaining medical treatment from their wards. Because of a lack of training, guardians often make “quality of life” judgments about their wards that, under Wisconsin Supreme Court precedent, are impermissible. These cases have included the withholding of antibiotics with the expectation that the ward/patient's condition will worsen and lead to their death, based on the subjective belief that the person has “no quality of life” because they have a significant intellectual disability.
- DRW has also been involved in cases where guardians have declined to provide routine medical screenings to their wards because the exams themselves will be hard for caregivers and medical personnel to manage. One such case involved a guardian who initially declined to authorize a screening colonoscopy for her 50 year-old ward who had a strong family history of colorectal cancer. The reason for the failure to authorize was the guardian's belief that it would be difficult for the ward to tolerate the pre-procedure preparation. Once informed about her responsibilities and confronted with what was likely to happen to the ward if she developed untreated colorectal cancer, the guardian agreed to have her ward screened, despite the inconvenience of the prep.

One problem with this bill is that it lacks funding to support it. The Governor's budget proposal to create a guardian training requirement includes a modest appropriation to support creation of the training curriculum and support its maintenance. A similar appropriation should be added to this bill.

DRW appreciates the opportunity to provide this information to the Committee and urges passage of the bill, with the suggested amendment.



The Arc Wisconsin
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Lisa Pugh, State Director
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February 22, 2021

To: Senator Jacque, Chair
Members, Senate Committee on Human Services, Children and Families

From: Lisa Pugh, Executive Director - The Arc Wisconsin

Re: Support for SB 92 - Guardian Training

Thank you for the opportunity to share testimony today on Senate Bill 92 - a bill to implement guardian training requirements.

The Arc Wisconsin is a statewide organization that advocates for people with intellectual and developmental disabilities (I/DD) and their families. We have 14 Wisconsin chapters and are connected to a network of more than 600 chapters across the country. The Arc is the oldest and largest disability rights advocacy organization in the nation.

I work directly with many people with disabilities and families in my role with The Arc Wisconsin. Unfortunately, I have seen many serious issues with guardians who do not respect the life choices that their ward is entitled under the law to keep. They end up controlling far too many aspects of the person's daily life. This is not only against the spirit of the state's guardianship law, but it can also result in difficulties and unnecessary costs within the service system.

In addition, after a parent dies, other family members are often thrown into a guardian role and feel ill-equipped. Many states have free, easy-to access training for this purpose. I am the parent of a young adult with disabilities and we chose a less restrictive option to guardianship called supported decision-making. This new guardian training would be delivered before a guardian was appointed and would help people think more clearly about other options of decision-making that they may not be aware of, and to determine the best possible, individualized decision-making supports that someone needs or could grow into in the future.

My chapters also report gaps in the current guardianship system. Chapters that offer services within the Family Care and IRIS long-term care programs indicate that they regularly see families struggle with guardianship when a family member dies. When a new family member is willing to take on the guardian role the person does not know where to begin the process, or what being a guardian actually looks like. When a guardian doesn't understand their roles and responsibilities it can result in people making restrictive demands. Chapters tell me that free training could help streamline and improve guardianship in Wisconsin to benefit everyone.

Other family or volunteer guardians within The Arc Wisconsin network tell me they continue to find guardianship confusing and wish the training was available to them now. One father told me, "I obtained guardianship for my son almost 17 years ago. The judge declares that you have guardianship, someone hands you a booklet, you forget you have it and that's all the guidance you

receive. I know you have to do certain reports each year, so I am not surprised when I receive them. I know more than the average person, but I know I need a refresher and need to know about any changes. Most of all what I have learned in my business (as a financial planner) is that one spouse or the other typically takes care of the finances and guardianship. My wife would benefit from an understanding of guardianship and it would be good for me also.”

This story is a good illustration of how guardianship training will be increasingly important for the future of our state as our population of people with I/DD and their parents age. As you know, Wisconsin is getting older rapidly. About 2/3 of the more than 50,000 people with intellectual and developmental disabilities in Wisconsin live with their families. In many of these families (25%), the main caregivers are over age 60. Research tells us about a quarter of these families have no plan in place for the future and this includes a concrete plan for who takes over guardianship and what is expected of him/her.

A lot of the elderly parents I meet have been their son or daughter’s guardian for decades. Their future plan consists of expecting a grown sibling to assume the guardianship. This plan does not come without its risks and often does not result in what is best for the individual or is what Mom or Dad truly wanted.

While elderly parents have a lifetime of experience supporting and guiding the daily routines and choices of their loved one in addition to navigating systems, a sibling typically has to start from scratch learning the complications of social security and other federal and state programs, working with care managers and most importantly, deciding where their brother or sister will now live.

Many family members who become a guardian do not fully understand a guardian’s required role, responsibilities, and administrative duties. Frequently guardians feel overwhelmed, unprepared, isolated, and unsupported.

As Wisconsin families plan for the future and consider successor guardians, this guardianship training will provide a check on whether guardianship remains the right option for a person, and if guardianship remains the right choice, the information will help determine who is the best person to be successor guardian, and will clarify the responsibilities and expectations of guardians under law.

We were pleased to see that the Governor included a guardianship training proposal in his budget and that he agrees with the legislature that guardian training is an important issue. The Governor’s budget also includes funding to support this training proposal and the amount of funding (\$125,000) per year was included in the original guardian training bill from last session. We think it would be important for members of this committee to also support the same level of funding to ensure that the guardian training has the capacity to meet the anticipated demand.

Thank you again for the opportunity to testify.



2/19/2021

Dear Senators,

Thank you for allowing me to submit a testimonial for Bill 92 which will require training for guardians.

My name is Katie Brietzman. I am from NewBridge Madison, a non-profit organization serving people 60 and older. For 18 years I have been the coordinator of a volunteer guardian program for people living in Dane County who are 60 and older. This program has served over 500 people in that time. One aspect of my job is to train each volunteer the responsibilities of being a volunteer guardian. This includes informing them of their statutory duties, and other authorities pertaining to their ward. Without this training, volunteer guardians are not adequately prepared to meet the expectations being bestowed upon them when appointed by the state of Wisconsin.

As the trainer for a Guardian program, I know the importance of the information provided. Guardians decisions based on the best interest of the "ward" and include the "ward" when possible. Guardians are expected to understand what their statutory duties are which include decisions about psychiatric medications or end of life instructions. Without proper training, a guardian may not know that they do not have the authority to make their ward take psychotropic medications if the ward refuses. The guardian may not understand they cannot order the withholding or withdrawal of life sustaining measures if the ward had not verbalized or written out these wishes prior to the determination of incompetency. These are not inconsequential decisions. A guardian's lack of understanding of their duties, powers and authority has the potential for unintended negative, life altering consequences for another human being.

The requirement of training will ensure that a guardian will correctly fulfill the responsibility entrusted to them and provide them with the ongoing support they need. The impact the guardian has on their ward is powerful. The vulnerable person they are advocating for needs to be assured they will have a qualified, educated guardian, making decisions based on their best interests. I ask that you pass Bill 92.

Respectfully,

Katie Brietzman, BSW, CSW

Volunteer Guardian Coordinator

Dear Legislatures

Please support passage of sb92

Time and time again. Family members don't know what it means to be a guardian. Often parents see it as a continuation of being a parent and control their adult child.

Sb92 will help provide better tools for familys

thank you for your time

David Pinno

My name is Tricia Thompson and I live in Menomonie. I am writing in support of SB92 (Guardianship Training Bill).

In 2003, my husband and I adopted my younger brother and sister. My brother was diagnosed with a developmental disability around the age of four. As it happens, the years passed and we didn't give much thought to what, if any, support he would need as an adult. Not long before he turned 18, we were asked by his school case manager what we were going to "do" about guardianship for him. Not only did we not know what we would do, we also didn't understand the options. Due to the sensitive nature of the topic, no one through the school system felt comfortable providing information. So, we chose the path of least resistance and did nothing. To this day I think doing nothing wasn't the right decision but it's impossible to make a decision when we didn't know what the options were.

Nathan is now 27. In retrospect, I know we did the best we could with the information we had. However, we would have been much more prepared and helpful to my brother had we known about the information and resources of the Guardianship Resource Center. It was several years later, while employed as a long term care consultant, I discovered this valuable resource.

I have an innumerable amount of examples of guardians who meant well by the people they were cared for, but didn't understand their role. The decisions they made were often too restrictive due to incorrect assumptions about their responsibilities. One brief example I can share is a young man I worked with who had parents appointed as his guardian when he turned 18. Essentially, they believed guardianship was an extension of their role when he was a child. While completely capable of making decisions about when he went to bed, what he ate and what he wore for clothing; the guardians treated him as if he was a young child. This individual was interested and able to work a full-time job in the community and live in an apartment with limited long-term assistance. Instead, he lived with his parents and was not allowed the opportunity to obtain a driving license or work more than 10 hours a week. His parents had dreams for their son. Unfortunately, they struggled to understand the long term negative impact of filtering his goals and dreams through their priorities.

The decision to serve as someone's guardian is a personal decision that should be made only after considering the responsibility of the role. Several years ago I signed up to serve as a volunteer backup guardian for a young man. The decision was made after hearing his mom explain her deep fear she would one day leave this world and her son would be placed in an institution. I felt as prepared to serve as the backup guardian. Yet, several months ago when I received a call from a nurse notifying me his mom hospitalized, I felt paralyzed for a moment by the extent of my new found responsibility. I was lucky because I knew who to call in order to determine how to proceed and receive information and support. Several weeks later after the crisis was resolved, I couldn't help but wonder what people, who didn't have the information and connections I do, would have done. It's another reason I believe it's important to pass SB92. Training about rights and responsibilities should be required before someone becomes a guardian. Information and resources need to be available throughout so that it's available when someone needs it the most.

Thank you for your time and service,

Tricia Thompson


Menomonie, 54751

My name is George Zaske

I am from River Falls.

I am a parent of an adult son with a cognitive disability.

I am an attorney licensed in Wisconsin and Minnesota. My practice includes working with families with a loved one with a disability and the elderly. I have been involved in guardianship matters in Wisconsin and Minnesota.

I am the former board chair of Bridge for Community Life, Inc., a service provider in Hudson, Wisconsin.

I was a member of the working group that helped create the Supported Decision Making law enacted just a couple of years ago here in Wisconsin.

I was also a member of the working that created the bill before you today.

I am here in support of the bill that would require mandatory training for guardians before they are appointed.

My son's story

Most parents of a child with an intellectual disability come to the guardianship question ill prepared and woefully uninformed. Many don't really address it until near their child's 18th birthday. It is one of many tasks they are "encouraged" to complete as their child becomes an adult. As the 18th birthday approaches parents are told, usually by a well-meaning teacher they need guardianship so they can participate in the IEP, the Individualized Education Plan. They are told to apply for public benefits, sign up with DVR to assist with looking for a job, apply for SSI, and look into whether or not their adult child should be living in a group home.

The pressure to get a guardianship is tremendous. I considered myself well informed and knowledgeable about guardianship, so when my son approached age 18 I thought I was well positioned. I was wrong. As his birthday drew nearer the concern and fears about vulnerability and exploitation grew and grew. It got to the point where we decided we would proceed with a guardianship, but apply in his life with a light touch. So I filled out the paperwork and made an appointment with my son's long time physician. It did not go as planned. Here is what happened.

We decided not to go with a guardianship. I am so glad we did not. The growth and maturity my son has achieved from that day to now is so striking.

My friend's voting rights story

A couple of years ago I was approached by a friend of mine asking for assistance with their guardianship. It so happened when they obtained guardianship for their son, John (not his real name), they checked the box to remove his right to vote. When John found out he lost his right to vote he was distraught. Social studies was his favorite subject. He knew all of the state's elected officials. He enjoyed discussing politics with his teacher. His parents did not use an attorney to file for guardianship. They did it themselves. My friend Mary was so disappointed with herself. She felt so bad for having John's right to vote taken away. She asked for my help to restore his right to vote.

John's evidentiary hearing.

His right to vote was restored from the bench.

My friend's Nancy's story

My friend Nancy shared with me and Tami Jackson her story of guardianship recently. She was asked to serve as a guardian for an adult friend. Nancy has a background in social work. She was happy to fulfill that role. A short time after she was appointed her ward was diagnosed with a terminal illness. Nancy felt overwhelmed and unprepared to handle the type of medical decisions she was asked to make. She did not know where to turn for support and guidance.

This bill will let people know that the Guardianship Support Center is there to help.

My northern county Wisconsin story

Over the years I have given numerous presentations on guardianship across northwestern Wisconsin. I show people how easy it is to take away a person's rights through a guardianship. I suggest they consider creating a limited guardianship if that is what is most appropriate. A couple of months after one such presentation I received a call from someone who attended from one of the counties north of me. They relayed how when they inquired about filing a limited guardianship that they were told we don't do those.

More knowledge about guardianship is needed throughout the whole system

My Bridge story

Through my affiliation with Bridge for Community Life I've heard numerous times from staff some variation of Jenny could do so much more if only her guardian would let her.

In a recent training on Supported Decision Making I mentioned that observation to the group of over a 300 teachers and social service staff if they had a story like that. Scores of hands went up.

Staff needs to know what the limitations of a guardianship are and be able to know when they can respectfully suggest alternatives to a guardian.

Elder Law perspective

In the area of elder law I believe more and more sons and daughters are going to be asked to become guardians of their aging and declining parents. They need to have some training and understand about what the role of a guardian, the responsibilities, and limitations.

Adult children need to know what they are getting into and it might be that is not something they want to take on.

This bill is needed. People need to understand what is being required of them. Parents need to know that this is not a continuation of their parenting responsibilities into their child's adulthood. People need to know there are resources out there to assist them. It is my hope that parents of middle age school parents will take the training years in advance of having to make that decision. Then they can take that knowledge and that time to reflect and prepare for crafting the best guardianship for their child if one is even needed at all.

Thank you for your time.

George Jarboe

2/19/2021

Testimony for Public Hearing - Guardianship Bill (LRB 143/1)

Name: Michele Ertl-Rosner

Address: 990 Woodview Court, Slinger WI 53086

My testimony is in support of LRB 143/1.

I am the parent of Julia, a medically complex child who has significant development delays. Julia turned 18 last year, and I am her guardian. I support the Guardianship Bill (LRB 143/1).

This bill addresses two important components for parents and other caregivers who are considering guardianship.

First, it helps ensure parents receive information about alternatives to guardianship. Choosing to become a guardian is an extremely important decision because it takes away the rights of the ward. In our situation, guardianship was the right choice. Our daughter is non-verbal, non-mobile and requires support 24/7. However, options such as supported decision-making and power of attorney are options that provide more autonomy than guardianship. It's important that those who are considering guardianship know about and understand the alternatives so they can make an informed decision.

Second, the bill provides for guardians and potential guardians to receive training to fully understand the role and responsibilities of guardianship. Again, guardianship is an extremely important decision and those who intend to be a guardian should have a clear understanding of the commitment they are making.

One final thing that I would like to share about our guardianship experience. We live in Washington County, and someone from the Human Services Department helped guide us through the guardianship process. She helped us file the paperwork, coordinated the assignment of a guardian ad litem to represent Julia's interests (who represented Julia pro bono), and came to our court hearing. In many cases, parents need to hire an attorney to help them with this process. We are very grateful that our county provided comprehensive services and resources so that we did not have to incur the costs of hiring an attorney. I would recommend using them as a model for supporting parents/families in other counties in Wisconsin.

Thank you for the opportunity to share our experiences and insights.

Michele Ertl-Rosner

My name is: Krista Blomberg and I am registering in Support of SB 92 - the Guardian Training Bill.

My address is: [REDACTED], Ogdema, WI 54459

My testimony: I am the mother and current legal guardian of one of my sons who is now 25 years old. The guardianship process was a challenging one for our family. We are from a rural Northern Wisconsin area where resources and information are not very to find. Our son has a long term care disability and I knew when he was a teen that he would need both close supervision as an adult as well as someone to oversee his medical decisions and daily needs. I am fortunate to have found help in our guardianship process because of an internship I happened to have with the ADRC at the right time. Before that internship I had not even know the ADRC existed. However I had to do alot of self-educating and it wasn't always easy to know where to find the information I needed. We did make it through the process successfully, but my concern now is how to help whoever will take over that guardianship after I am no longer able to do so. I heard about SB92 and was so happy to learn that efforts were being made to help people considering the task of becoming a guardian to understand what is involved and where to find information. I think this is extremely important in the success of the guardian/ ward relationship. I would definitely use this resource to prepare anyone we were considering becoming my son's future guardian. Thank you for considering this issue and my testimony.

Sincerely,

Krista Blomberg, Wisconsin parent and guardian



In the past few years we had a Resident in one of our Adult Family Homes, lose both of their parents/guardians in the same year. At the time the family had not thought about successor guardianship, and it was a long wait until one of the siblings could be declared guardian.

I believe prior training would have been a great resource for this family. When the sibling became guardian they immediately went about demanding changes for the Resident that they saw as unfit. They went through the person's wardrobe, throwing away clothing they had chosen and loved to wear, because they didn't believe it was appropriate; just to name one example. Often when these types of things happen we have to involve our local ADRC to explain Resident Rights, and what guardianship really looks like.

Training could help reduce all of these problems, and assist those we serve with maintaining their personal rights and choices."

Jessica Kimball
Director of Programs
The Arc Fond du Lac
500 N Park Ave.
Fond du Lac, WI 54935

When my daughter, Savanna Heltemes, turned 18 in 2017 I had to apply for guardianship of her. Savanna has Down syndrome. There was not a lot of information available at the time as to how to undertake the process of application.

I went down to City Hall to the register (probate) office and asked for the forms for guardianship. I was lucky that day because the person working at the counter was the person who processes the applications. She pointed out to me in the guardianship application the things that I did not need to complete and the things that I needed to complete. She also recommended to me a service provided by the Marquette University Law school on one day a week to meet with a law instructor and a student to go over our forms once we had them mostly completed.

She emphasize to me the need for Savanna's physician to complete the form for her medical needs and limitations. Luckily, Savanna's physician was well-versed in filling out this form and went through it with Savanna and I line by line as to what her limitations are.

Mind you, every step of the way I felt like I was not doing anything right. It was a very disconcerting to feel I was flying by my seat of my pants the whole way.

After completing what I thought were all the forms, I did meet with the Marquette Law School advisers to review and notarize my application. They were very helpful!

Please note here that this advisory time was for a few hours one day a week at City Hall. I had sought help from the ADRC, but they were little to no help in Milwaukee at that time.

So, I crossed my fingers brought all the completed forms and documents back to City Hall (Register in Probate) and submitted them along with the fee and got the copies of the forms and waited to hear from the guardian ad litem, and for our hearing date.

The guardian ad litem met with us in short order at our home and all was well.

We had to serve some final affidavit of service papers to the court at least 10 days prior to the hearing date. This part made no sense to me and was very confusing.

Finally at our hearing date in front of the administrative law judge, we were told that we had not submitted those final papers within 10 business days. (That was not clear to us apparently.) The judge stated we would have to reschedule her hearing and could do it by telephone the next time!

Savanna was with me. She could tell that I was distressed by this news. She said quite verbally that the judge was "being mean". The judge heard her. The guardian ad litem spoke up and said that there was no one contesting this guardianship I did not feel there was a need to delay. Thank goodness!

The judge reconsidered and we went forward with the rest of the process going through the items that Savanna could and could not do. We made sure that Savanna was allowed to vote but could not own firearms. Savanna stated very clearly to the judge that she wanted her mother and father to be her guardian. She also thanked the judge and shook her hand. Whew!

I am sorry this is so long. I just wanted to give you all the details of how confusing this process is. There are too many steps where things can go wrong.

I firmly believe that no one should feel they need to pay a lawyer to do this process for them. I did it completely on my own with the resources that I could find. I did not do it perfectly.

I support this bill wholeheartedly!

Nancy Heltemes

[REDACTED]

Milwaukee, WI 53222

Hello,

We became guardians of our son in the last year. He was making bad decisions and when got help from the county this is where we ended up.

There's not much assistance on what this really means so anything put in place would be very helpful.

Thank you,

Penny Hansen

[REDACTED]

Beaver Dam, WI 53916-9722

920-885-4484

Dear Legislatures

Please support passage of sb92

Time and time again. Family members don't know what it means to be a guardian. Often parents see it as a continuation of being a parent and control their adult child.

Sb92 will help provide better tools for familys

thank you for your time

David Pinno

[REDACTED]

New London, WI 54961

Dear Committee Members and Supporters,

My name is Ramsey Lee and I am from Hudson, WI. Thank you for all your hard work and for hosting this hearing today. I wish I could be there in person, however, due to the pandemic I don't think it's safe to travel at this time. I am writing to you today in support of the SB 92 which is the Guardian Training bill. Representative Zimmerman was one of the leads on this bill and I just wanted to thank him for his work. This additional training is needed because, as you know, the current Wisconsin guardianship systems are very complex and many family members who become a guardian may not fully understand their roles and duties. This unfortunately, causes many guardians feel overwhelmed, unprepared, isolated, and unsupported under the current system. I do not want any Wisconsinite to feel this way and personally I want guardians and potential guardians throughout Wisconsin to feel comfortable and supported. I'm lucky enough to be my own guardian, but I know the system is very complex. This bill would provide families and volunteer guardians free online training including information about the role, their responsibilities, and other important features of Wisconsin's guardianship law, before they are appointed. The bill training also discusses potential alternatives to guardianships such as supportive decision making and provides free accessible web-based training without increasing work for the courts or counties. According to the literature provided, plain language training would be accessible to everyone- including teachers, medical staff, aging and disability resource centers, direct service providers, people with disabilities or older adults looking to learn more, and family members seeking standardized and accurate information about guardianship and alternatives to guardianship. This bill has enjoyed bipartisan support in the past, but because of Covid it had to be reintroduced. I look forward to this bill moving swiftly through the legislature and to the Governor's desk as soon as humanly possible. Thanks again for all your hard work and consideration. If you have any questions, give me a call on my cell phone at 715-410-0974.

Sincerely,

Ramsey Lee

Hudson, WI