

Thank you Madame Chair and Members of the Committee,

I am Hanni Raley, Executive Director of the Arc of Aurora here to speak today in support of Senate Bill 136 aiming to update and improve guardianship standards in Colorado.

The Arc of Aurora supports people with Intellectual and Developmental Disabilities and their families to access the services and systems built for them, but often developed and designed in isolation, without them.

People with IDD do not need a guardian or conservator, solely because of their disabilities. Being born with OR acquiring an IDD does not implicitly imply a lack of decision-making skills. However, for some individuals, compounding factors interfere with the capacity to offer consent and thus another protective arrangement must be sought. At the Arc of Aurora, we work with hundreds of Guardians who are in the lives of people with IDD because they care, they want to support quality community living, and wish to reduce barriers to independence- how ever it may look for the individual. Let me be clear, there are many best-case scenario guardians all across Colorado. People who are doing an incredible service.

SB-136 and the reforms and protections offered, allow the community of people with IDD the support they may need to live the life we all wish to enjoy. It helps to address overly restrictive guardianships, establishes appropriate noticing and protocols, and ultimately honors the rights and dignity of the very people this Act seeks to protect.

Unfortunately, The Arc of Aurora also works with people with IDD who have guardians in place who seek primarily, power and control. Guardians who work to force sterilization, who refuse access to relationships and friendships, who restrict food options purely for vanity's sake. Guardians who prohibit a person from voting, who restrict even the choice in the color a person wants to paint their room, and ultimately undermine the progress or goals of a person with IDD. Left unchecked, unmonitored, and unverified- one of Colorado's most vulnerable populations will continue to be overlooked and unprotected.

136 makes it clear that people with IDD are valued. That their basic rights will be upheld and reinforced even in systems that seek to remove decision making. People with IDD should not be harmed by the systemic pace and handwringing over changes to forms, adjustment of processes, and general fear of oversight. Without innovation, it is our systems that reflect how we wish for people to be treated.

Ensuring that people with disabilities have the protections they need, is not only a matter of legal right but essential for promoting inclusivity, representation, and empowerment within society. Values all Coloradoans can get behind. Again, we urge your support and are happy to answer any questions.

Uniform Guardianship & Conservatorship Act

SB 24-136



COLORADO LAW NEEDS TO ENSURE LESS-RESTRICTIVE ALTERNATIVES, STRONGER PROTECTIONS, GREATER INDEPENDENCE, AND UPHOLD THE RIGHTS OF INDIVIDUALS SUBJECT TO GUARDIANSHIP.

Who Supports SB24-136:

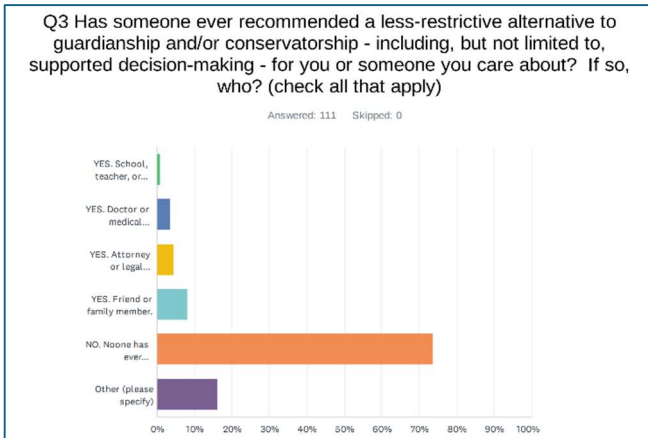
Advocacy Denver
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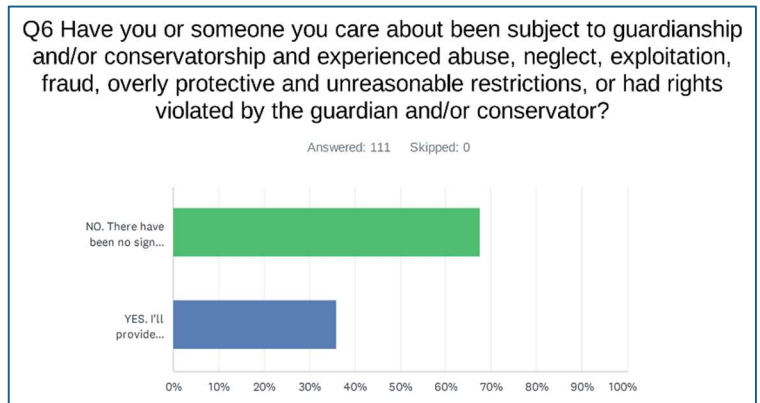


The Arc of Colorado recently surveyed 113 Colorado stakeholders:

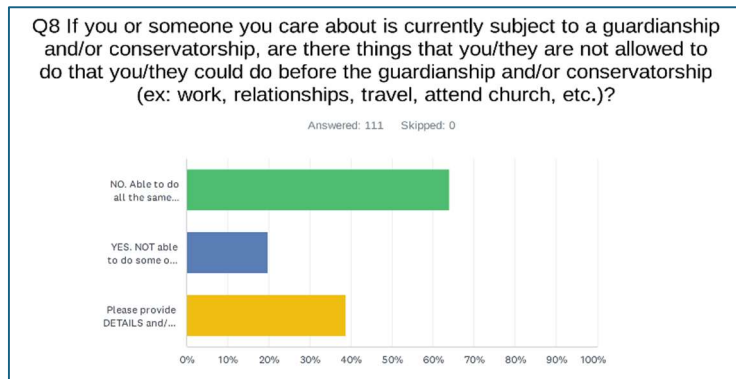
Respondent counties included: Adams, Alamosa, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, Jefferson, Larimer, Logan, Mesa, Pueblo, Rio Grande, Teller, and Weld



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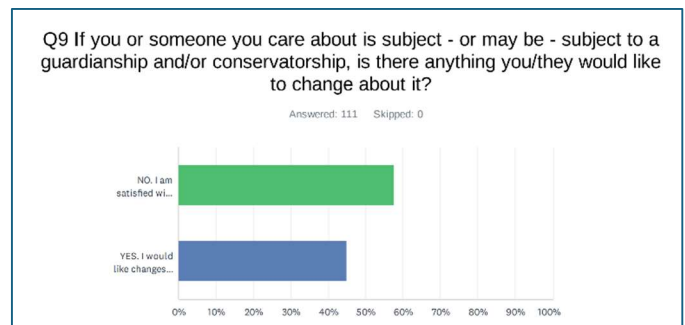


➔ **Nearly 40% of Coloradans surveyed indicated they have observed or experienced abuse, neglect, fraud, exploitation, overly protective & unreasonable restrictions, or had rights violated by a guardian and/or conservator.**



← **Nearly 20% of Coloradans surveyed indicated they are not allowed to do things that they could do before the guardianship or conservatorship.**

➔ **Nearly 1/2 of Coloradans surveyed indicated they'd like to make changes to their guardianship and/or conservatorship**



In May 2021, seventy-five (75) delegates representing the **National Guardianship Network (NGN)** voted on the 4th National Guardianship Summit's 22 final Recommendations, including **Recommendation 3.1:**

“States should adopt and implement the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act, including the provisions mandating representation by a lawyer of all adult respondents.”

The **NGN** is made up of the following groups that advocate for **quality guardianship procedures and practices:**

- AARP Public Policy Institute
- Alzheimer's Association
- ABA Commission on Law & Aging (COLA)
- ABA Section of Real Property, Trust & Estate Law
- The American College of Trust & Estate Counsel (ACTEC)
- Center for Guardianship Certification
- National Academy of Elder Law Attorneys (NAELA)

- National Adult Protective Services Association
- National Center on Elder Abuse
- National Center for State Courts (NCSC)
- National College of Probate Judges (NCPJ)
- National Disability Rights Network (NDRN)
- National Guardianship Association (NGASTS)



ADDITIONAL STAKEHOLDER ENGAGEMENT INFORMATION

(as of 4/5/2024)

Amendments to date represent consensus reached in stakeholder discussions including, but not limited to, representatives from the following:

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SUMMARY OF STAKEHOLDER ENGAGEMENT:

- August 2024: Disability Rights Advocacy Coalition, Colorado Bar Association
- September 2023: AARP of Colorado
- October 2023: Colorado Bar Association - Elder Law Section, Colorado Arc Network, Alzheimer's Association of Colorado
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Adult Protective Services	Arc of Weld County
AdvocacyDenver	Arc of West Central Mountains
Alliance Colorado	Association for Community Living
Alzheimer's Association	Atlantis Community, Inc
American Bar Association- Law & Aging	Autism Society of Colorado
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Arc of Pikes Peak Region	



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- April 3, 2024: Review of Proposed Amendments with representatives from the following:
 - The Colorado Bar Association
 - AARP
 - The Arc of Colorado
 - The Uniform Law Commission



MEMO

TO: Senator Kyle Mullica, Chair Senate Finance Committee, kyle.mullica.senate@coleg.gov
Senator Chris Kolker, Vice Chair Senate Finance Committee chris.kolker.senate@coleg.gov
Senator Janet Buckner, janet.buckner.senate@coleg.gov
Senator Chris Hansen, chris.hansen.senate@coleg.gov
Senator Cleve Simpson, cleave.simpson.senate@coleg.gov
Senator Jim Smallwood, SenatorSmallwood@gmail.com
Senator Kevin Van Winkle, kevin.vanwinkle.senate@coleg.gov

FROM: Elizabeth A. Moran, Executive Director, The Arc of Colorado

RE: **FISCAL NOTE | KEY PROVISIONS | STAKEHOLDER ENGAGEMENT**
SB24-136 Uniform Guardianship and Conservatorship Act

DATE: April 8, 2024

It has been over 23 years since Colorado has done a comprehensive update of its guardianship and conservatorship law. Colorado law is outdated, not aligned with national best practice, and we must make an investment in updating it and our professional and judicial practices and procedures to ensure less-restrictive alternatives, stronger protections, greater independence and uphold the rights of individuals subject to guardianship and/or conservatorship. As Congressman Claude Pepper stated more than 34 years ago, reporting to a U.S. House Select Committee on Aging:

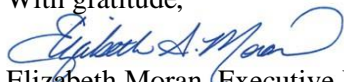
The typical [person subject to guardianship] has fewer rights than the typical convicted felon ... By appointing a guardian, the court entrusts to someone else the power to choose where they will live, what medical treatment they will get and, in rare cases, when they will die. It is, in one short sentence, the most punitive civil penalty that can be levied against an American citizen, with the exception, of course, of the death penalty.¹

Legislation that impacts the civil rights of Coloradans is about *all* of us. To better understand the impact and investment in disability related legislation, in 2021 the CDC estimates there were over 864,000 Coloradans with a disability. That's 20% of our total population. If you consider that each individual has an average household of size of 3 people, the minimum number of individuals impacted increases instantly to nearly 2.6 million Coloradans. That's nearly ½ our population. We must update our current law to better align and honor the human and civil rights of Coloradans. We are working with stakeholders from every corner of the state, organization, and agency to ensure this is the best bill possible.

The current fiscal note reflects the introduced bill. On information and belief, the increase in state expenditures reflected therein does *not* reflect subsequent clarification of misinterpretations that may have resulted in an increased amount of time courts will be required to spend on future guardianship and conservatorship cases. It also does it reflect known and ongoing amendments in our work with impacted stakeholders or take into consideration potential ACL Elder Justice Innovation (EJI) grants, which if applied for and awarded to our highest court, would offset costs by as much as \$500,000. *See* list of stakeholder engagement and ACL EJI grant history below.

For the above stated reasons, on behalf of The Arc of Colorado and the stakeholders listed in support below, I'm writing to ask for your support of SB24-136 so that it may continue to make its way through the legislative and amendment process, seek opportunities to further address the fiscal note, and continue to be shaped into be best bill possible for Coloradans with disabilities, their families, and supports across the state.

With gratitude,



Elizabeth Moran, Executive Director
The Arc of Colorado

¹ U.S. Congress, 1987, *Abuses in Guardianship of the Elderly and Infirm: A National Disgrace: Hearings Before the Subcommittee on Health and Long-Term Care of the Select Committee on Aging*, 100th cong., 1st sess., 5-10, 8 (statement of Claude Pepper), <http://files.eric.ed.gov/fulltext/ED297241.pdf>.

SB24-136 SUPPORTED BY:

- Advocacy Denver
- Alliance
- The Alzheimer’s Association
- The Arc of Arapahoe, Douglas, & Elbert Counties
- The Arc of Aurora
- The Arc of Colorado (state chapter)
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KEY PROVISIONS*:

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 - Updates provisions concerning minors and **provides for involvement of a minor in decisions** that involve the minor
 - **Provides guidance for property management and decision-making**
 - **Contains model forms** for petitioners and respondents to use when filing
- *See Fact Sheet

About the Administration for Community Living (ACL) Elder Justice Innovation Grants:

In FY2016, ACL established the Elder Justice Innovation Grants program to support work to create credible benchmarks for adult maltreatment prevention, and for program development and evaluation. The Elder Justice Innovation Grants program supports the development and advancement of knowledge and approaches about new and emerging issues related to elder justice. Eligibility is limited to the highest courts of state per Title XX of the Social Security Act, Subtitle B, the Elder Justice Act of 2009, Section 2042(c)(2)-(3), with awards between \$300,000 to \$500,000. It is anticipated a new round of ACL EJI grants will become available to state courts in June/July 2024.

Since the inception of the Elder Justice Innovations Grants program in FY2016, ACL has made 38 awards to address various topics of relevance that have contributed to the improvement of the field of adult maltreatment prevention and intervention at large and contributed to the evidence-base of knowledge.

Selected summaries of all Elder Justice Innovation grant projects are below. A complete list can be found [HERE: https://acl.gov/programs/elder-justice/elder-justice-innovation-grants](https://acl.gov/programs/elder-justice/elder-justice-innovation-grants)

Improving Guardianship:

- **The Administrative Office of Pennsylvania Courts’** goals are to (1) assure due process for the alleged incapacitated person (AIP); (2) improve guardianship monitoring capabilities to prevent abuse and exploitation; and (3) promote alternatives to guardianship. Their objectives are to: (1) assess guardianship in Pennsylvania;

(2) improve due process, effective monitoring of guardians, and consideration of alternatives; and (3) measure and educate about improvements. Their proposed interventions will include promoting appointment of counsel for the AIP; promoting alternatives to guardianship; and improving the data collected through Pennsylvania's Guardianship Tracking System (GTS) to monitor guardians more effectively. Expected outcomes include (1) improved guardianship monitoring and data; (2) increased knowledge of individuals, families, guardians, attorneys and courts; (3) reduction in plenary guardianships granted; (4) increased appointment of counsel for the AIP; and (5) improved due process by piloting legal advocacy through representation of alleged incapacitated persons and incapacitated persons, and through assuring interpretation and translation, including through assistive listening technology, advanced communication technology and interpreters (including American Sign Language (ASL) interpreters).

- **The District of Columbia (DC) Courts** goals are to assess the fairness, safety, and integrity of the adult guardianship process from petition to court proceeding, to appointment, monitoring, and termination. The project seeks to enhance the Court's ability to monitor guardianships by focusing on the evaluation tools used to report the updated status of capacity and the need for continued guardianship. Their objectives are to: (1) conduct a comprehensive review and assessment of DC's adult guardianship assessment and monitoring process; (2) revise capacity assessment forms; (3) provide training and capacity building, and (4) recruit additional examiners and social workers for the Probate Fiduciary Panel. Anticipated outcomes include: (1) a revised and updated capacity evaluation form to assess guardianship needs; (2) approved forms that are easy to use and readily available for all stakeholders; (3) the ability of examiners and social workers to adequately use the revised assessment tools and forms; (4) the ability for guardians, guardianship advocates, and other stakeholders to demonstrate understanding of the new assessment tool and monitoring process; and 5) additional members on Probate Fiduciary Panel.
- **The Supreme Court of Virginia** goals are to improve guardianship monitoring, policy, practice, and reporting to advance the protection of vulnerable individuals subject to guardianship. Their objectives are to: (1) improve data collection and implement data standards; (2) enhance monitoring practices; (3) improve access to justice; (4) support alternatives to guardianship; (5) strengthen case management processes; (6) facilitate data and information sharing; and (7) implement updates to the process and systems statewide. Anticipated outcomes include: (1) increased access to justice through the ability to electronically file with the court; (2) improved case data and case-flow management through data collection; (3) support for less restrictive options by capturing information which will ultimately result in individuals losing fewer rights and the ability to exercise greater self-determination; (4) clear definitions and data standards that would bring consistency throughout the state; (5) enhanced monitoring; (6) electronic data/information exchange; and (7) statewide implementation and standardization that will provide a common platform of statewide data for 119 of Virginia's 120 circuit courts.
- **The Alaska State Courts** are working with key stakeholders to increase competence and consistency in all state courts handling guardianship, improve the proficiency of the court and all participants in the guardianship process, improve monitoring of financial issues and identify less restrictive options, and provide equitable customer assistance statewide.
- **The Massachusetts Administrative Office of Trial Court** is creating an Office of Adult Guardianship and Conservatorship Oversight within the Administrative Office of the Probate and Family Court to increase court oversight of guardians/conservators and guardian/conservator arrangements to protect older adults (aged 60+) and adults with disabilities from abuse, financial exploitation, and neglect.
- **The Maryland Court of Appeals** is conducting a comprehensive statewide assessment of the existing guardianship process and system to identify current strengths, weaknesses, concerns, and needs. The court will develop a response to that assessment with interventions to address identified weaknesses, concerns, and needs; produce an evaluation aimed at measuring the quality of the assessment and the effectiveness and replicability of the interventions; and disseminate findings.
- **The New York Unified Court System** is implementing a uniform, modern data tracking system. The system would give court officials, particularly judges and court examiners, a continuous and complete overview of the services being provided to the alleged incapacitated person needing court assistance. The system will provide court administrators, legislatures, stakeholders, and the public with access to information about court system processes and efficiencies so that resources can be redistributed and/or enhanced as needed. The system will be designed to track more family and friends to serve as guardians.

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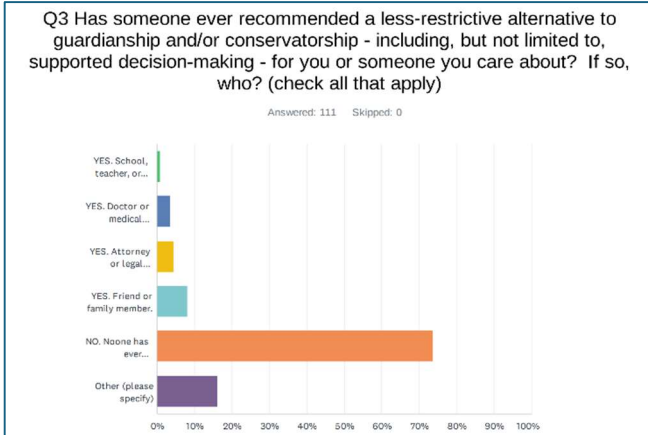
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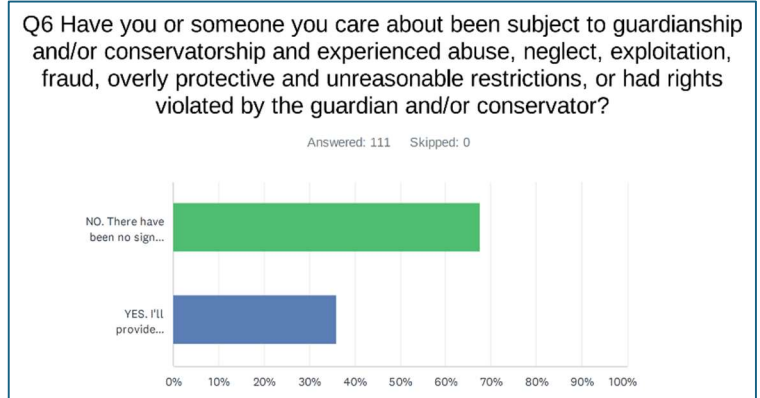


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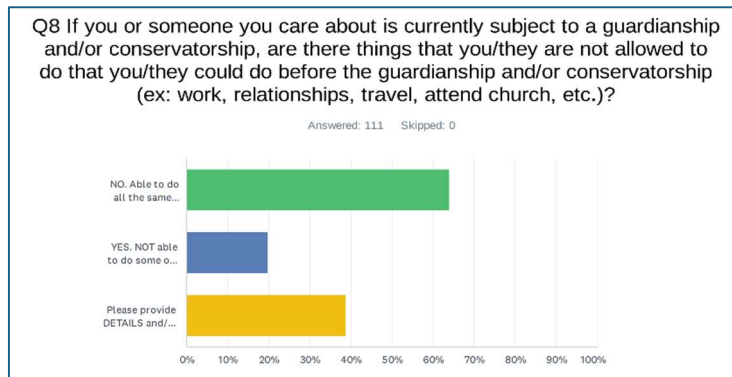
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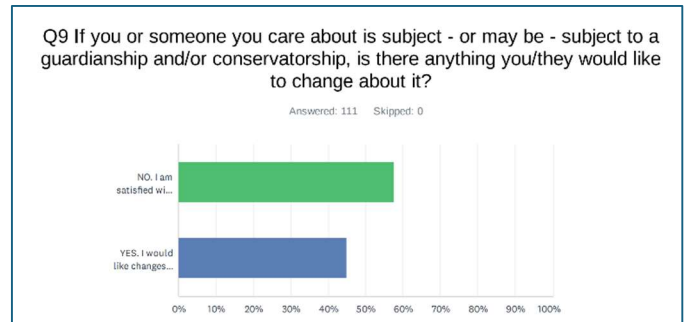


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ADDITIONAL STAKEHOLDER ENGAGEMENT INFORMATION

(as of 4/5/2024)

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SUMMARY OF STAKEHOLDER ENGAGEMENT:

- August 2024: Disability Rights Advocacy Coalition, Colorado Bar Association
- September 2023: AARP of Colorado
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AdvocacyDenver	Arc of West Central Mountains
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Arc of Mesa County	Colorado Bar Association- Elder Law Section
Arc of Pikes Peak Region	



Colorado Center on Law and Policy
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 Colorado Cross-Disability Coalition
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- April 3, 2024: Review of Proposed Amendments with representatives from the following:

The Colorado Bar Association
 AARP
 The Arc of Colorado
 The Uniform Law Commission



Elizabeth Moran

From: Lori Ropa <Lori@arcjc.org>
Sent: Monday, April 8, 2024 12:51 PM
To: matthew.becker@coleg.gov
Cc: Elizabeth Moran; Meredith Henry
Subject: Testimony in support of SB24-136 - Please Share with the Committee
Attachments: SB24-136 FACT SHEET_rev4-5-2024_eam.pdf

Good afternoon, members of the Senate Finance Committee,

My name is Lori Ropa, and I have the privilege of serving as the Executive Director of The Arc – Jefferson, Clear Creek & Gilpin Counties. I'm writing to ask you to support SB24-136, the Uniform Guardianship and Conservatorship Act in Committee tomorrow.

As advocates with and for people with intellectual and developmental disabilities (IDD), we have seen the traumatic effects of restrictive, isolating and manipulative guardianships – anything from people being denied their right to see family and friends to people being manipulated in their decision-making around voting. When things are at their worst they can become abusive, and can result in physical and emotional harm the individual from their guardian or self-harm in order to try to escape their situation.

I'd like to share with you the story of a young woman named Faith. Faith has invisible disabilities, disabilities that are not obvious when you see her.

At age 18, Faith's mom became her legal guardian. Although she had had restrictions previously the reins tightened significantly. Faith wasn't allowed to go to doctor appointments by herself, she was told that she had to take certain medications, she couldn't see or communicate with her friends, and wasn't allowed to carry her own ID. Faith was denied the chance to go to therapy, although she asked repeatedly and knew she needed help.

In her words, "People started telling me that I didn't have any rights and I was really scared and confused. I thought everybody had rights. My mom described it as protecting. I was told people would take advantage of me because of my disabilities and mental illness. I was terrified to talk to anybody. Any time someone would ask me what was wrong, I would just say "nothing".

Ladies and gentlemen, everybody does have rights, and it's our duty to ensure those rights are protected. This bill updates and strengthens protections for persons under guardianship, and even before then, asserts that less restrictive alternatives be used whenever possible. It prevents guardians like Faith's mom from cutting her off from her own medical care, psychological care, and even her friends. It prevents exploitation and ensures due process.

Faith shared this, "When I was told that I finally had my rights back...I just can't explain it. It feels really good to have friends, and a job. I have money and pay my own bills. I have a savings account and a debit card. I can choose what medication I take. I really hope that one day I can live in my own apartment. I feel like I have my freedom now."

This bill is needed to address the rights and protections afforded to people with IDD. Current law is outdated and although it provides some protections, they are not nearly enough. This bill expands people's rights to live the lives they choose. A fact sheet has been attached for more detailed information, though in summary, the bill does the following:

- Promotes independence by encouraging the use of less restrictive arrangements like Supported Decision Making and/or Medical or Financial Power of Attorney rather than full guardianship;
- Provides for expanded monitoring of guardians to prevent exploitation;
- Protects visitation and communication rights of people who need guardians so that they cannot arbitrarily be cut off from friends and family; and
- Expands procedural rights to ensure that people have due process.

Senators, please consider this testimony and vote in favor of this bill. Every citizen in our community, regardless of their ability/disability, has the right to live a life of their own choosing as independently as possible. Your thoughtful consideration is very much appreciated. Please feel free to reach out to me if you have any questions or concerns at all or simply wish to discuss the issue.

With gratitude for your service,

Lori



Lori Ropa

Executive Director
lori@arcjc.org

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F 303 232-9370
www.arcjc.org

MEMO

TO: Senator Kyle Mullica, Chair Senate Finance Committee, kyle.mullica.senate@coleg.gov
Senator Chris Kolker, Vice Chair Senate Finance Committee chris.kolker.senate@coleg.gov
Senator Janet Buckner, janet.buckner.senate@coleg.gov
Senator Chris Hansen, chris.hansen.senate@coleg.gov
Senator Cleve Simpson, cleave.simpson.senate@coleg.gov
Senator Jim Smallwood, SenatorSmallwood@gmail.com
Senator Kevin Van Winkle, kevin.vanwinkle.senate@coleg.gov

FROM: Elizabeth A. Moran, Executive Director, The Arc of Colorado

RE: **FISCAL NOTE | KEY PROVISIONS | STAKEHOLDER ENGAGEMENT**
SB24-136 Uniform Guardianship and Conservatorship Act

DATE: April 8, 2024

It has been over 23 years since Colorado has done a comprehensive update of its guardianship and conservatorship law. Colorado law is outdated, not aligned with national best practice, and we must make an investment in updating it and our professional and judicial practices and procedures to ensure less-restrictive alternatives, stronger protections, greater independence and uphold the rights of individuals subject to guardianship and/or conservatorship. As Congressman Claude Pepper stated more than 34 years ago, reporting to a U.S. House Select Committee on Aging:

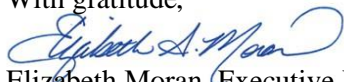
The typical [person subject to guardianship] has fewer rights than the typical convicted felon ... By appointing a guardian, the court entrusts to someone else the power to choose where they will live, what medical treatment they will get and, in rare cases, when they will die. It is, in one short sentence, the most punitive civil penalty that can be levied against an American citizen, with the exception, of course, of the death penalty.¹

Legislation that impacts the civil rights of Coloradans is about *all* of us. To better understand the impact and investment in disability related legislation, in 2021 the CDC estimates there were over 864,000 Coloradans with a disability. That's 20% of our total population. If you consider that each individual has an average household of size of 3 people, the minimum number of individuals impacted increases instantly to nearly 2.6 million Coloradans. That's nearly ½ our population. We must update our current law to better align and honor the human and civil rights of Coloradans. We are working with stakeholders from every corner of the state, organization, and agency to ensure this is the best bill possible.

The current fiscal note reflects the introduced bill. On information and belief, the increase in state expenditures reflected therein does *not* reflect subsequent clarification of misinterpretations that may have resulted in an increased amount of time courts will be required to spend on future guardianship and conservatorship cases. It also does it reflect known and ongoing amendments in our work with impacted stakeholders or take into consideration potential ACL Elder Justice Innovation (EJI) grants, which if applied for and awarded to our highest court, would offset costs by as much as \$500,000. *See* list of stakeholder engagement and ACL EJI grant history below.

For the above stated reasons, on behalf of The Arc of Colorado and the stakeholders listed in support below, I'm writing to ask for your support of SB24-136 so that it may continue to make its way through the legislative and amendment process, seek opportunities to further address the fiscal note, and continue to be shaped into be best bill possible for Coloradans with disabilities, their families, and supports across the state.

With gratitude,



Elizabeth Moran, Executive Director
The Arc of Colorado

¹ U.S. Congress, 1987, *Abuses in Guardianship of the Elderly and Infirm: A National Disgrace: Hearings Before the Subcommittee on Health and Long-Term Care of the Select Committee on Aging*, 100th cong., 1st sess., 5-10, 8 (statement of Claude Pepper), <http://files.eric.ed.gov/fulltext/ED297241.pdf>.

SB24-136 SUPPORTED BY:

- Advocacy Denver
- Alliance
- The Alzheimer’s Association
- The Arc of Arapahoe, Douglas, & Elbert Counties
- The Arc of Aurora
- The Arc of Colorado (state chapter)
- The Arc of Jefferson, Clear Creek & Gilpin Counties
- The Arc of Weld County
- Colorado Bankers Association
- Colorado Cross-Disability Coalition
- Colorado Developmental Disabilities Council
- Disability Law Colorado
- Mental Health Colorado

KEY PROVISIONS*:

- **Replaces Colorado’s outdated guardianship law** with the "Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act" (UGCOPAA)
 - **Promotes independence** by encouraging the use of **protective arrangements** and **less restrictive alternatives**
 - **Removes stigmatizing language** of “ward” and “incapacitated”
 - **Expands the procedural rights** ensuring due process for individual’s alleged to need a guardian
 - **Provides for expanded monitoring** of guardians and conservators to ensure compliance & prevent exploitation of the vulnerable
 - **Protects visitation and communication rights** for individuals subject to guardianship/conservatorship
 - **Ensures a guardian cannot arbitrarily prevent communication**, visitation, or interactions between a person subject to guardianship and a third party
 - **Prevents exploitation of vulnerable individuals** by allowing the court to restrict access to the respondent or the respondent's property by a specified person without imposing guardianship/conservatorship
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 - Requires a petitioner seeking full guardianship or conservatorship to **justify the need**
 - **Requires petitioners to state whether less restrictive alternatives have been tried** and justify any failure to do so
 - Updates provisions concerning minors and **provides for involvement of a minor in decisions** that involve the minor
 - **Provides guidance for property management and decision-making**
 - **Contains model forms** for petitioners and respondents to use when filing
- *See Fact Sheet

About the Administration for Community Living (ACL) Elder Justice Innovation Grants:

In FY2016, ACL established the Elder Justice Innovation Grants program to support work to create credible benchmarks for adult maltreatment prevention, and for program development and evaluation. The Elder Justice Innovation Grants program supports the development and advancement of knowledge and approaches about new and emerging issues related to elder justice. Eligibility is limited to the highest courts of state per Title XX of the Social Security Act, Subtitle B, the Elder Justice Act of 2009, Section 2042(c)(2)-(3), with awards between \$300,000 to \$500,000. It is anticipated a new round of ACL EJI grants will become available to state courts in June/July 2024.

Since the inception of the Elder Justice Innovations Grants program in FY2016, ACL has made 38 awards to address various topics of relevance that have contributed to the improvement of the field of adult maltreatment prevention and intervention at large and contributed to the evidence-base of knowledge.

Selected summaries of all Elder Justice Innovation grant projects are below. A complete list can be found [HERE: https://acl.gov/programs/elder-justice/elder-justice-innovation-grants](https://acl.gov/programs/elder-justice/elder-justice-innovation-grants)

Improving Guardianship:

- **The Administrative Office of Pennsylvania Courts’** goals are to (1) assure due process for the alleged incapacitated person (AIP); (2) improve guardianship monitoring capabilities to prevent abuse and exploitation; and (3) promote alternatives to guardianship. Their objectives are to: (1) assess guardianship in Pennsylvania;

(2) improve due process, effective monitoring of guardians, and consideration of alternatives; and (3) measure and educate about improvements. Their proposed interventions will include promoting appointment of counsel for the AIP; promoting alternatives to guardianship; and improving the data collected through Pennsylvania's Guardianship Tracking System (GTS) to monitor guardians more effectively. Expected outcomes include (1) improved guardianship monitoring and data; (2) increased knowledge of individuals, families, guardians, attorneys and courts; (3) reduction in plenary guardianships granted; (4) increased appointment of counsel for the AIP; and (5) improved due process by piloting legal advocacy through representation of alleged incapacitated persons and incapacitated persons, and through assuring interpretation and translation, including through assistive listening technology, advanced communication technology and interpreters (including American Sign Language (ASL) interpreters).

- **The District of Columbia (DC) Courts** goals are to assess the fairness, safety, and integrity of the adult guardianship process from petition to court proceeding, to appointment, monitoring, and termination. The project seeks to enhance the Court's ability to monitor guardianships by focusing on the evaluation tools used to report the updated status of capacity and the need for continued guardianship. Their objectives are to: (1) conduct a comprehensive review and assessment of DC's adult guardianship assessment and monitoring process; (2) revise capacity assessment forms; (3) provide training and capacity building, and (4) recruit additional examiners and social workers for the Probate Fiduciary Panel. Anticipated outcomes include: (1) a revised and updated capacity evaluation form to assess guardianship needs; (2) approved forms that are easy to use and readily available for all stakeholders; (3) the ability of examiners and social workers to adequately use the revised assessment tools and forms; (4) the ability for guardians, guardianship advocates, and other stakeholders to demonstrate understanding of the new assessment tool and monitoring process; and 5) additional members on Probate Fiduciary Panel.
- **The Supreme Court of Virginia** goals are to improve guardianship monitoring, policy, practice, and reporting to advance the protection of vulnerable individuals subject to guardianship. Their objectives are to: (1) improve data collection and implement data standards; (2) enhance monitoring practices; (3) improve access to justice; (4) support alternatives to guardianship; (5) strengthen case management processes; (6) facilitate data and information sharing; and (7) implement updates to the process and systems statewide. Anticipated outcomes include: (1) increased access to justice through the ability to electronically file with the court; (2) improved case data and case-flow management through data collection; (3) support for less restrictive options by capturing information which will ultimately result in individuals losing fewer rights and the ability to exercise greater self-determination; (4) clear definitions and data standards that would bring consistency throughout the state; (5) enhanced monitoring; (6) electronic data/information exchange; and (7) statewide implementation and standardization that will provide a common platform of statewide data for 119 of Virginia's 120 circuit courts.
- **The Alaska State Courts** are working with key stakeholders to increase competence and consistency in all state courts handling guardianship, improve the proficiency of the court and all participants in the guardianship process, improve monitoring of financial issues and identify less restrictive options, and provide equitable customer assistance statewide.
- **The Massachusetts Administrative Office of Trial Court** is creating an Office of Adult Guardianship and Conservatorship Oversight within the Administrative Office of the Probate and Family Court to increase court oversight of guardians/conservators and guardian/conservator arrangements to protect older adults (aged 60+) and adults with disabilities from abuse, financial exploitation, and neglect.
- **The Maryland Court of Appeals** is conducting a comprehensive statewide assessment of the existing guardianship process and system to identify current strengths, weaknesses, concerns, and needs. The court will develop a response to that assessment with interventions to address identified weaknesses, concerns, and needs; produce an evaluation aimed at measuring the quality of the assessment and the effectiveness and replicability of the interventions; and disseminate findings.
- **The New York Unified Court System** is implementing a uniform, modern data tracking system. The system would give court officials, particularly judges and court examiners, a continuous and complete overview of the services being provided to the alleged incapacitated person needing court assistance. The system will provide court administrators, legislatures, stakeholders, and the public with access to information about court system processes and efficiencies so that resources can be redistributed and/or enhanced as needed. The system will be designed to track more family and friends to serve as guardians.

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Uniform Guardianship & Conservatorship Act

SB 24-136



COLORADO LAW NEEDS TO ENSURE LESS-RESTRICTIVE ALTERNATIVES, STRONGER PROTECTIONS, GREATER INDEPENDENCE, AND UPHOLD THE RIGHTS OF INDIVIDUALS SUBJECT TO GUARDIANSHIP.

Who Supports SB24-136:

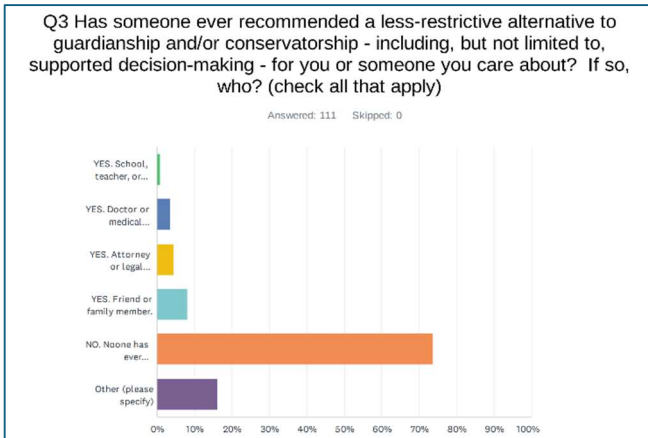
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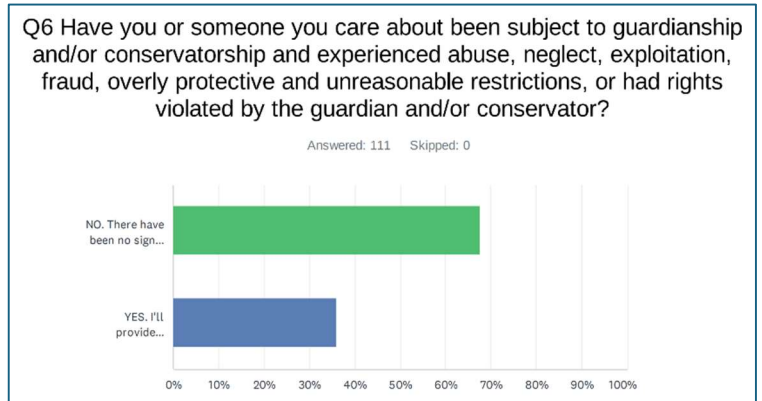


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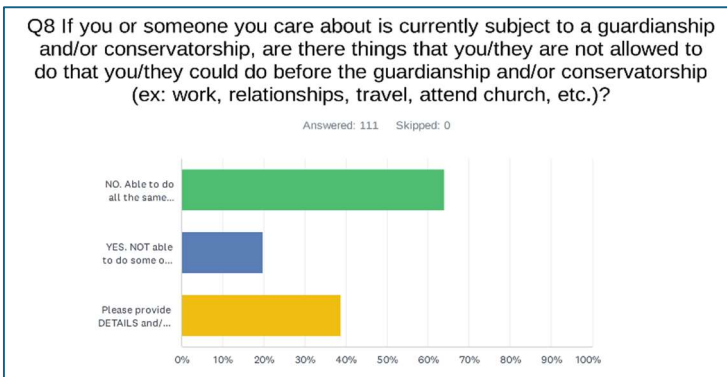
Respondent counties included: Adams, Alamosa, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, Jefferson, Larimer, Logan, Mesa, Pueblo, Rio Grande, Teller, and Weld



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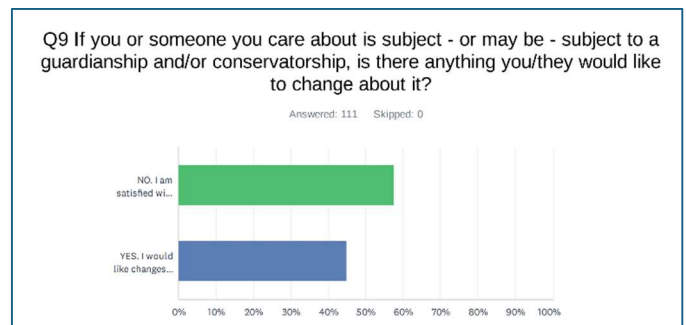


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- Jefferson County Attorney's Office
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- CDHS, Office of Adult Aging and Disability Services

SUMMARY OF STAKEHOLDER ENGAGEMENT:

- August 2024: Disability Rights Advocacy Coalition, Colorado Bar Association
- September 2023: AARP of Colorado
- October 2023: Colorado Bar Association - Elder Law Section, Colorado Arc Network, Alzheimer's Association of Colorado
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The Colorado Bar Association
 AARP
 The Arc of Colorado
 The Uniform Law Commission



Maureen Welch
Englewood CO 80113
mpwelchco@gmail.com

Maureen Welch
720-436-4121
maureen@NavigatingDisabilityCo.com

April 8, 2024

Dear Senate Finance Committee Members,

Please support SB24-136. SB24-136 is a lot. But there is no way to measure the value of the human dignity that this bill affords. It is time, since 2019 been attempting small changes.

SB19-072 Bill of Rights for Protected Persons under Guardianship. It was nixed by the Colorado Bar Association as “doing too much”. Senator Holbert gracefully withdrew the bill and said we would try again!

SB20-129
Protection Of Individuals Subject To A Fiduciary
Concerning the protection of individuals subject to a fiduciary. Small change

SB21-075 Supported Decision-making Agreement Small change

I have attached important evidence that shows the probate courts are going unchecked, to the detriment of at risk adults in Colorado.

Thanks,

Maureen Welch

Additional information

I am a disability activist and volunteer. I have a son with intellectual disabilities, who in just over a year will be 18 and under current statute an “at risk adult”.

We need change. Colorado is known to be a good place for disability rights. Except for at risk adults, who by statute, have a target on their back for extra scrutiny by county protective services and subject to emergency guardianship appointment in as little as 24 hours, with no notice required to family members and no appearance of my son in court.

I participated in the stakeholder process for this bill. I support this bill. It is wonderful to see this bill here today. Thank you to the bill sponsors and Elizabeth Moran from Arc Colorado for leadership.

Since 2017, I have been engaged with Probate Court specifically around guardianship and conservatorship.

Why? I was getting calls from our disability community where their loved ones were wrongfully removed from their families and denied communication and visitation.

In 2019, I started to peaceably observe in courtrooms around Colorado to learn about the Probate court process. It is the only way to know what happens in Probate courts, since all records are suppressed. I was able to find docket cases and then show up to observe.

Denver Probate Court under Judge Leith was especially concerning, as the court room had a sign that said "Closed Hearing Attendance at the hearing is restricted to the parties and their counsel."

This was counter to statute. I complained to Denver Chief Judge Martinez who said he had no authority over Judge Leith as Denver's home rule status.

Once she took the sign down, I attempted to peaceably observe under the Supreme Court of the United States Waller decision. Yet Judge Leith asked me to leave at the start of each hearing.

So on June 19, 2019, I invited my state Rep Meg Froelich to join me, and she and I were also told to leave of several hearings with me!!!

In my packet to you (as a recovering teacher I always have it), I also have a letter I wrote to Chief Judge Martinez who we heard.

He couldn't help as he had no authority over Judge Leith in home rule Denver.

3 smaller changes have happened in last few years

I worked with The good Senator and former President Holbert on **SB19-072 Bill of Rights for Protected Persons under Guardianship.**

SB20-129 Protection Of Individuals Subject To A Fiduciary. Small step

SB21-075 Supported Decision-making Agreement Small step

Which I hope to use with my son!!!

There was confidentiality comment from APS and Counties and I disagree. Judicial branch has the trust of the people because of transparency. Hiding court proceedings such as now, builds DISTRUST of courts.

I also disagree with Colorado Bar Association, it is past time for reform. Change is hard but it is inevitable, progress means change.

Go big and let's improve Colorado's Probate process.

This bill make Colorado a better, safer place for my son.

I urge a yes vote on this bill!

Proof of antics in court rooms going unchecked and need to protect our most vulnerable.

June 19, 2019 NOTES

Peaceable observation Denver Probate, Judge Leith Presiding

I was told to leave the court for 2 cases: 2:30 PM 1H AKES, JANET Cons Guardianship Hearing D682019PR30477 and 3:30 WILLIAMS, BRIAN Hearing on Guardianship D682018PR31121. David Bernhart is a Denver City Attorney who represents Denver Human Services and he also works for Adult Protective services, and serves different roles for different cases such as court visitor, APS investigator, guardian, attorney, and possibly more. He has been very abrasive and condescending in his interactions with me. In open court, during the Williams case he stated "We don't allow the public in these hearings" then he went on later to cite statutes 15-14-308 and 408 and mention "good cause" an "confidential nature of the case".

I invited my State Representative HD3 Meg Froelich to come witness this travesty on June 19, 2019 for the afternoon. She and I were told to leave at the 2:30 Akes hearing, and again at the 3:30 Williams hearing. As we stood up to leave, Representative Froelich asked the court to please put her on the record. She introduced herself and stated that she had voted in the affirmative for HB19-1045 to fund the Office of Public Guardianship this past session, which is solely for funding Denver Probate caseload. Yet, her experience today was that it is the only Colorado court doing probate, and perpetually closing hearings and it is very concerning. Judge Leith replied "Well, that is your opinion". David Bernhart is a Denver City Attorney who represents DHS and has many other roles, which to me are conflicts of interest. He has been very abrasive and condescending in his interactions with me. In open court, during the **June 19** Williams case, he stated "We don't allow the public in these hearings" then he went on later to expand,

cited statutes 15-14-308 and 408 and mention “good cause” an “confidential nature of the case”.

I noticed in March 2019 that Denver was the only court district in Colorado which had no posted guardianship or conservatorship hearings posted on the public facing State Judicial Docket online.

I visited the court clerk who informed me that under Supreme Court Directive 05-01 that the proceedings were closed and not posted.

I shared to the clerk that every other court in Colorado did post these protected proceedings online, and that the SJD 05-01 applied to access to records and not the actual proceedings.

I noted that a member of the public would have to come to the courts in person and check the posted paper dockets daily to know if there was a hearing or not. She nodded. I mentioned that the names of the petitioner and attorneys were not on the posted paper court docket as they are in other courts. She said those too were protected. Every other county court I observed have complete case information posted on paper outside the court room, except for Denver Probate.

I proceeded to room 224 court room to be met by a sign at the door saying the proceedings were closed.

Go big and let's improve Colorado's Probate process.

This bill make Colorado a better, safer place for my son.

I urge a yes vote on this bill!

Good afternoon, Chairman Mullica and members of the Senate Finance Committee. My name is Marcella Schieffelin, and I am testifying in support of SB 24-136 Uniform Guardianship and Conservatorship Act. I am speaking on my behalf.

I am a mother of an adopted daughter from China who has a rare disease that includes multiple developmental disability diagnoses.

I am also a CU Anschutz graduate and a fellow in the department of pediatric developmental disabilities. I have a published paper on the CU AnschutzJFK Partners website entitled "Supported Decision Making: What Parents Need to Know." You can access the document [here](#)

I was a Guardian Ad Litem in the State of Florida. I am currently a member of the Colorado Developmental Disabilities Council and an Interfaith Leader who volunteers with the Interfaith Alliance of Colorado. Again, I want to be clear that I am here speaking on my behalf.

When my daughter was approaching age 18, I was consistently told by educators, medical personnel, and case managers that I needed to apply to become my daughter's Legal Guardian, particularly to "protect her." Because of my research with the Fellow program at Anschutz, I learned that legal Guardianship is overused and not necessary; in fact, it's a violation of human and civil rights when it is not needed as Guardianship is to be used as a last resort when other least restrictive measures are not adequate.

My daughter says, "Thank you, Mom, for valuing my voice and what I want in my life." I don't entirely agree with her choices, but I value her as an individual and a person I want to support, not control. How many parents have a fear of letting their children make mistakes, yet when a person with a disability makes a mistake, it is seen as a reason to strip them of their human and civil rights in the name of keeping them safe? This is counterintuitive as studies have shown there is learned helplessness and lack of motivation for a person to self-advocate for their needs and wants. This, in turn, places a person in increased danger of abuse. My daughter uses supported Decision-making with a team of trusted support people, and she dictates who is on her team. She doesn't need Legal Guardianship. Why should she be treated differently than others just because she needs support? We have used Power of Attorney and Medical Durable Power of Attorney.

I've heard assumptions made regarding this Bill, particularly from parents who have never tried using Supportive Decision Making and have fears about their adult child.

Others have a stake in losing business (such as lawyers & paid Guardians), or Judges view this as unnecessary because there are legal mechanisms in place. Would you want a Judge to decide the fate that impacts every domain of your life based on a mere 10-20 minutes of court review? Sadly, this is the norm. Unbelievably, there are courts who never even put eyes on a protected person, yet make a decision that has an apparent and heavily weighted impact on social determinants of the health of a protected individual. I know that individuals have [rights under guardianship](#), yet there is a lack of transparency, accountability, or compliance. Nearly 40% of Coloradans surveyed indicated they have observed or experienced abuse, neglect, fraud, exploitation, overly protective & unreasonable restrictions, or had rights violated by a guardian and conservator. This is unacceptable and in violation of human and civil rights.

I have worked as a skills trainer with young adults in the transition age in educational settings of ages 18-21 with Intellectual and Developmental Disabilities. I have seen firsthand how a parent, intentionally or not, uses their power of Guardianship to control their adult child's life. This was not the intended use of Guardianship. There is no reason for this young adult to have Guardianship. In this case, Guardianship is used as a weapon to control the adult child.

I know of another young adult whose parent disagrees with their child's value of wanting to have a romantic relationship because they have a Developmental Disability. How many parents have children whose values may not align with theirs? Does that give the parent the right to stifle or dismiss their child's aspirations to live their chosen life? Whatever happened to valuing self-determination and supporting a person to live their best life the way they see fit for themselves with support, not control?

I also know of parents who are divorcing and intend to use guardianship as a means to use their child as a pawn in an attempt to retaliate against the divorcing parent. This Bill would assist in alleviating this devious practice. This Bill allows for a significant paradigm shift for people with I/DD that is way overdue.

Since your focus is on State finances, I urge you to look at the bigger picture and commit to passing this Bill with good faith regardless of how the financial impact may seem. Not all "hows" have to be figured out in advance. Commit to saying "yes," and the details can be addressed shortly. I'm asking you to consider "doing what is right" and having faith that making the right choice will all fall into place despite being uncomfortable and not knowing what it will look like.

Remember that Colorado law has stayed the same over 20 years and needs to be aligned with best practices. Shifting our judicial practices and procedures by providing the least restrictive measures and more robust protections places a higher value on greater independence and inclusion. This, in turn, will produce happier, healthier individuals living with a disability who can contribute positively and live a meaningful life.

The finances will shift to a system that has the potential to produce happier professionals who are less stressed and family members who will breathe a sigh of relief, all while supporting the human and civil rights afforded to ALL of us, not just people without a disability.

I urge you to PASS SB 24-136.

Statistics found [here](#)



To: Members of the Senate Finance Committee
From: Ellen Jensby, Alliance
Date: April 4, 2024

Re: Support SB 24-136, Uniform Guardianship & Conservatorship Act

Dear Members of the Senate Finance Committee,

Thank you for your consideration of SB 24-136, the Uniform Guardianship & Conservatorship Act. I write today to request your support for this bill.

Alliance is a statewide, non-profit association of Providers and Case Management Agencies serving Coloradans with Intellectual and Developmental Disabilities (IDD). Our members work with many individuals and families who have guardianships/conservatorships in place or may in the future.

People with IDD can and do make decisions about their own lives with appropriate supports. An update to Colorado's guardianship law to maximize their ability to do so is long overdue. This important bill will update Colorado's outdated guardianship law with a new Act that will help to promote the independence of people with IDD by ensuring that these arrangements are as limited as possible and encouraging less restrictive alternatives, among many other protections.

While these protective legal arrangements are necessary and helpful in many circumstances, our members have also experienced scenarios where the decision-making authority of the guardian was overly broad and limited the person's ability to live their life the way they wanted to. We support this positive change that will promote the ability of people with IDD to dictate as much of their life as possible and protect them against exploitation.

We urge your support of SB 24-136.

Sincerely,

A handwritten signature in black ink that reads "Ellen M. Jensby". The signature is written in a cursive, flowing style.

Ellen Jensby
Senior Director of Public Policy & Operations
Alliance

Uniform Guardianship & Conservatorship Act

SB 24-136



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Who Supports SB24-136:

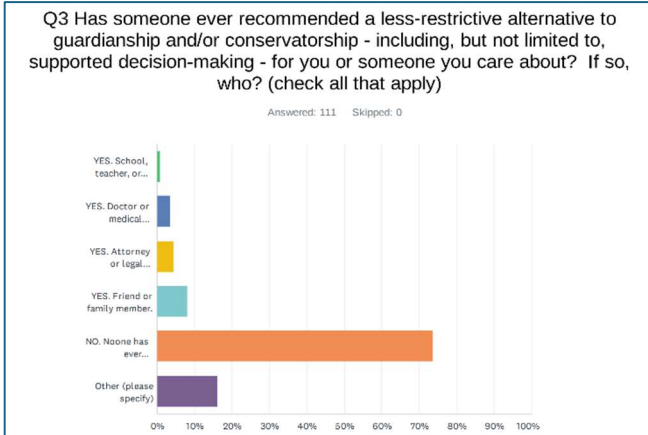
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- ✓ Replaces Colorado's outdated guardianship law with the "Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act" (UGCOPAA)
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- ✓ Requires a petitioner seeking full guardianship or conservatorship to justify the need
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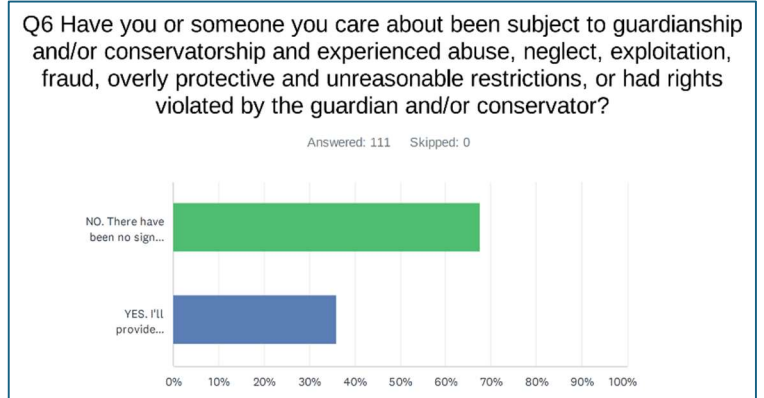


The Arc of Colorado recently surveyed 113 Colorado stakeholders:

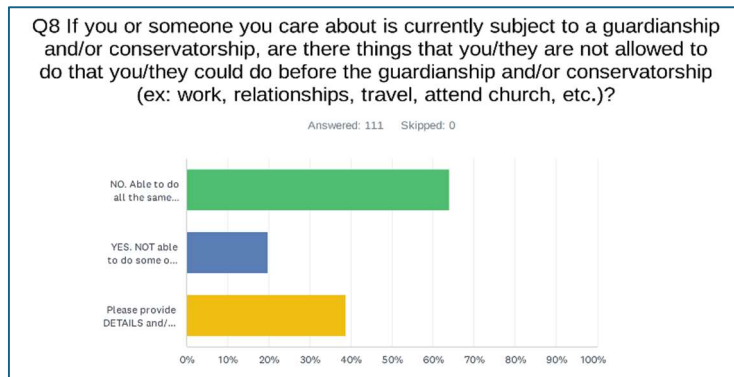
Respondent counties included: Adams, Alamosa, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, Jefferson, Larimer, Logan, Mesa, Pueblo, Rio Grande, Teller, and Weld



← **Nearly 80% of Coloradans surveyed indicated no one had ever suggested a less-restrictive alternative to guardianship to them.**

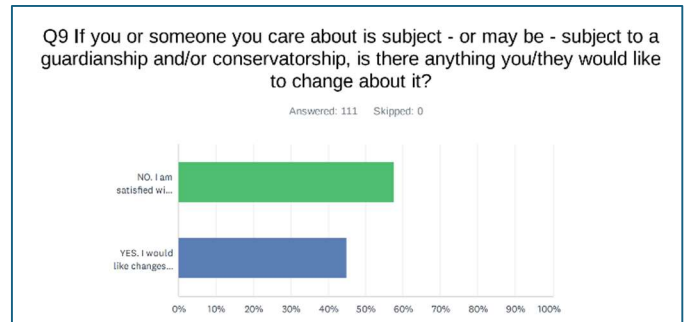


➔ **Nearly 40% of Coloradans surveyed indicated they have observed or experienced abuse, neglect, fraud, exploitation, overly protective & unreasonable restrictions, or had rights violated by a guardian and/or conservator.**



← **Nearly 20% of Coloradans surveyed indicated they are not allowed to do things that they could do before the guardianship or conservatorship.**

➔ **Nearly ½ of Coloradans surveyed indicated they'd like to make changes to their guardianship and/or conservatorship**



In May 2021, seventy-five (75) delegates representing the **National Guardianship Network (NGN)** voted on the 4th National Guardianship Summit's 22 final Recommendations, including **Recommendation 3.1:**

“States should adopt and implement the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act, including the provisions mandating representation by a lawyer of all adult respondents.”

The **NGN** is made up of the following groups that advocate for **quality guardianship procedures and practices:**

- AARP Public Policy Institute
- Alzheimer's Association
- ABA Commission on Law & Aging (COLA)
- ABA Section of Real Property, Trust & Estate Law
- The American College of Trust & Estate Counsel (ACTEC)
- Center for Guardianship Certification
- National Academy of Elder Law Attorneys (NAELA)

- National Adult Protective Services Association
- National Center on Elder Abuse
- National Center for State Courts (NCSC)
- National College of Probate Judges (NCPJ)
- National Disability Rights Network (NDRN)
- National Guardianship Association (NGASTS)



ADDITIONAL STAKEHOLDER ENGAGEMENT INFORMATION

(as of 4/5/2024)

Amendments to date represent consensus reached in stakeholder discussions including, but not limited to, representatives from the following:

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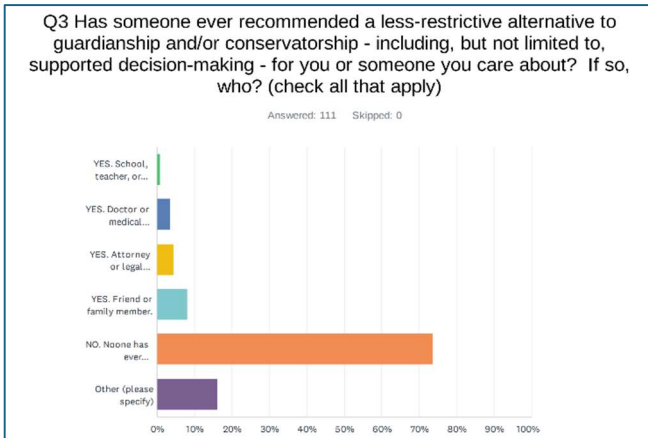
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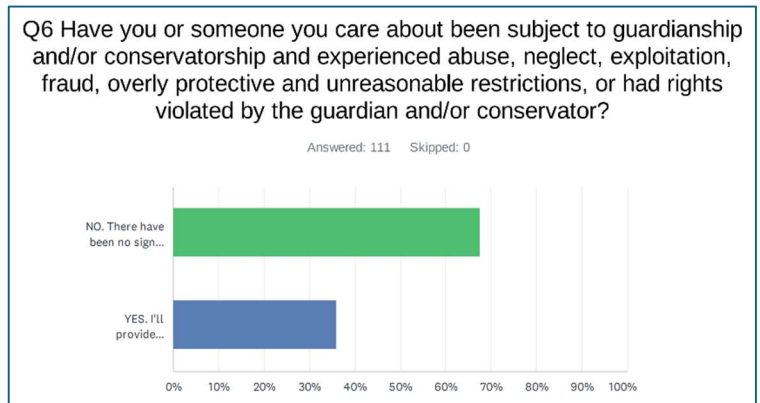


The Arc of Colorado recently surveyed 113 Colorado stakeholders:

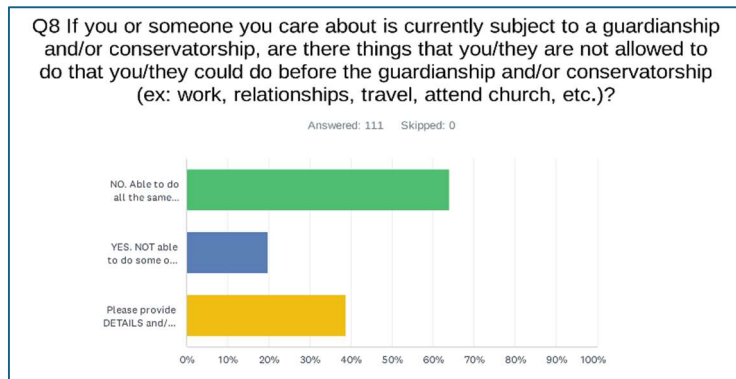
Respondent counties included: Adams, Alamosa, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, Jefferson, Larimer, Logan, Mesa, Pueblo, Rio Grande, Teller, and Weld



← **Nearly 80% of Coloradans surveyed indicated no one had ever suggested a less-restrictive alternative to guardianship to them.**

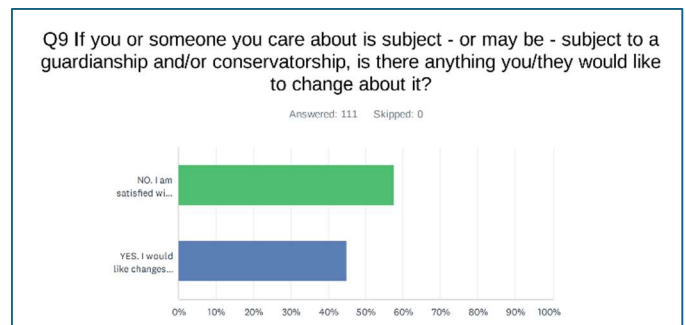


➔ **Nearly 40% of Coloradans surveyed indicated they have observed or experienced abuse, neglect, fraud, exploitation, overly protective & unreasonable restrictions, or had rights violated by a guardian and/or conservator.**



← **Nearly 20% of Coloradans surveyed indicated they are not allowed to do things that they could do before the guardianship or conservatorship.**

➔ **Nearly 1/2 of Coloradans surveyed indicated they'd like to make changes to their guardianship and/or conservatorship**



In May 2021, seventy-five (75) delegates representing the **National Guardianship Network (NGN)** voted on the 4th National Guardianship Summit's 22 final Recommendations, including **Recommendation 3.1:**

“States should adopt and implement the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act, including the provisions mandating representation by a lawyer of all adult respondents.”

The **NGN** is made up of the following groups that advocate for **quality guardianship procedures and practices:**

- AARP Public Policy Institute
- Alzheimer's Association
- ABA Commission on Law & Aging (COLA)
- ABA Section of Real Property, Trust & Estate Law
- The American College of Trust & Estate Counsel (ACTEC)
- Center for Guardianship Certification
- National Academy of Elder Law Attorneys (NAELA)

- National Adult Protective Services Association
- National Center on Elder Abuse
- National Center for State Courts (NCSC)
- National College of Probate Judges (NCPJ)
- National Disability Rights Network (NDRN)
- National Guardianship Association (NGASTS)



ADDITIONAL STAKEHOLDER ENGAGEMENT INFORMATION

(as of 4/5/2024)

Amendments to date represent consensus reached in stakeholder discussions including, but not limited to, representatives from the following:

- The Arc of Colorado
- The Uniform Law Commission
- CO Courts & Probation (Judiciary)
- Denver Human Services
- Office of Public Guardianship
- Boulder County Attorney's Office
- Larimer County Human Services
- CDHS Aging & Adult Services Division
- City Attorney's Office - City and County of Denver
- Attorney for APS
- State APS Program
- Colorado Counties Inc.
- Office of Children Youth and Families and CDHS
- ACA with Larimer County
- Jefferson County Attorney's Office
- Douglas County Attorney's Office
- CDHS, Office of Adult Aging and Disability Services

SUMMARY OF STAKEHOLDER ENGAGEMENT:

- August 2024: Disability Rights Advocacy Coalition, Colorado Bar Association
- September 2023: AARP of Colorado
- October 2023: Colorado Bar Association - Elder Law Section, Colorado Arc Network, Alzheimer's Association of Colorado
- November 2023-February 2024: 2-hr *Weekly* Technical Review w/Colorado Bar Association Elder Law Section+
- January 11, 2024: Online UGCOPAA Overview & Stakeholder Q&A Session #1: 53 Participants
- January 22, 2024: Online UGCOPAA Overview & Stakeholder Q&A Session #2: 55 Participants
- February 20, 2024: Online UGCOPAA Overview & Stakeholder Q&A Session #3: 40+ Participants

NOTE: Invitations to the above listed stakeholder engagement sessions included, but were not limited to, representatives of the following organizations:

AARP	Arc of Pueblo
ACLU Colorado	Arc of Southwest Colorado
Adult Protective Services	Arc of Weld County
AdvocacyDenver	Arc of West Central Mountains
Alliance Colorado	Association for Community Living
Alzheimer's Association	Atlantis Community, Inc
American Bar Association- Law & Aging	Autism Society of Colorado
Arapahoe County	Blattner Law Firm, LLC
Arc of Adams	BOK Financial
Arc of Arapahoe, Douglas, and Elbert Counties	Boulder County Attorney's Office
Arc of Aurora	Brain Injury Alliance of Colorado
Arc of Central Mountains	Center for People with Disabilities
Arc of Colorado	Chayet & Danzo, LLC
Arc- Jefferson, Clear Creek, & Gilpin Counties	Chanda Center for Health
Arc of Larimer County	City and County of Denver- Division of Disability Rights
Arc of Mesa County	Colorado Bar Association- Elder Law Section
Arc of Pikes Peak Region	



Colorado Center on Law and Policy
 Colorado Courts and Probation
 Colorado Cross-Disability Coalition
 Colorado Department of Human Services
 Colorado Developmental Disabilities Council
 Colorado Guardianship Association
 Colorado Judicial Branch
 Colorado Office of Public Guardianship
 Colorado State Court Administrator's Office
 Connections for Independent Living
 Conover Law, LLC
 Custom Dispute Solutions
 Denver Adult Protective Services
 Denver Human Services
 Denver Probate Court
 Developmental Pathways
 Dietze and Davis, P.C.
 Disability Law Colorado
 El Grupo Vida
 Evans Case, LLP

Germany Law Firm P.C.
 Glatstein & O'Brien LLP
 Kirtland & Seal, LLC
 Mental Health Colorado
 Mental Health Law Firm
 National Alliance on Mental Illness (NAMI)
 National Disability Rights Network
 National Federation of the Blind
 One Colorado
 PEAK Parent Center
 Pearson Fiduciary Services
 Rocky Mountain Down Syndrome Association
 Schwartz, McMinimee & Andrew, LLC
 Sigler and Nelson LLC
 Speaking for Ourselves- Colorado
 Strickler Brennan Catlin LLC
 Thrive Center
 Uniform Law Commission
 Wade Ash LLC

- January 26-March 11, 2024: Guardianship/Conservatorship Survey: 113 Respondents
- March 13, 2024: Follow-up/Amendments: CO Courts & Probation (Judiciary)
- March 18 & 21, 2024: Follow-up Review Proposed Amendments Session with representatives from the following:

Denver Human Services (DHS)
 Office of Public Guardianship (OPG)
 Boulder County Attorney's Office
 Larimer County Human Services
 CDHS Aging & Adult Services Division
 City Attorney's Office - City and County of Denver
 Adult Protective Services (APS)

Colorado Counties Inc.
 Office of Children Youth and Families and CDHS
 ACA with Larimer County
 Jefferson County Attorney's Office
 Douglas County Attorney's Office
 Colorado Department of Human Services (DHS)
 Office of Adult Aging and Disability Services

- April 3, 2024: Review of Proposed Amendments with representatives from the following:

The Colorado Bar Association
 AARP
 The Arc of Colorado
 The Uniform Law Commission



Dear Chair and members of the committee. Thank you for the opportunity to present to you today. My name is Linda Caudillo and I am here to ask you for your support of Senate Bill 24-136. Colorado Law needs to be updated to ensure that stronger protections and greater independence are in place to uphold the rights of individuals subjected to Guardianship. Colorado law is outdated, not aligned with national best practice, and **we must make an investment in updating it** and our professional and judicial practices and procedures to ensure less-restrictive alternatives, stronger protections, greater independence and uphold the rights of individuals subject to guardianship and/or conservatorship.

My sister-in-law, Berna, died in 2023 after being isolated from her ENTIRE family for approximately the last 7 months of her life. All people under guardianship deserve their basic rights to include visitation, communication and interactions with their loved ones including in-person visits. Berna's guardian who was appointed to her through Pueblo County Court after her mother died, unjustly restricted all visitation by family members, after her two brothers voiced concerns of issues regarding her host home.

This law is needed to protect visitation and communication rights for individuals subject to guardianship. Our entire family could NOT visit Berna and all requests to visit were ignored. There was NEVER any evidence of mistreatment of her by ANY Family member. This law would have helped my family, as it ensures that a guardian cannot arbitrarily prevent communication, visitation, or interactions between a person subject to guardianship and a third party.

Berna was unjustly subjected to isolation from her entire family by the guardian. This bill is needed to provide expanded monitoring of guardians to ensure compliance and prevent exploitation of the vulnerable.

If this law were in place last year, I believe we would NOT be visiting Berna's grave, but we would still be visiting her, taking her out to eat and on family outings. Berna died alone, not knowing why her family stopped visiting her. She loved her family and looked forward to attending family events and celebrations.

I ask that you support this bill so that no other family and no other person under guardianship will ever endure the pain and heartache that we have been going through.

Thank you for your time and consideration.

My name is Patrick Caudillo, I am here today to ask you for your support to pass the Guardianship Reform bill SB24-136, because all people who have guardians should have their basic rights to include in-person visitation and all forms of communication.

Unfortunately, it is too late for my sister, Bernadette, who passed away on December 21, 2023 after she was isolated from her ENTIRE family who she knew and loved. Her guardians in Pueblo abused their power just to make their life easier. **This isolation lasted approximately seven months** until the day I received a phone call from Bernadette's guardian stating she had pneumonia, was in the hospital ICU and that I could go see her now. We learned, she in fact, had a massive stroke. Bernadette was unresponsive and on a ventilator for five days until she was removed from life support. Bernadette was **54 years young**. **She died not knowing why no one in the family came to get her for her usual weekend outings and family gatherings which she looked forward to and enjoyed her entire life.** We feel this intentional isolation caused significant stress, feelings of abandonment and we fear that this may have contributed to Bernadette's premature death.

Bernadette lived a normal life with her family at home in Pueblo Colorado, until the passing of our mother in 2013, at which point a guardian was appointed to her. She was placed in a host home in Aurora Colorado in 2018 which lasted until her death. Only after my brother and I raised concerns of issues going on with the host home, the guardian and her supervisor placed an unachievable visitation restriction on my brother and I and her extended family members as well. When asked for a reason why every family member was not allowed to visit or see my sister, there was **no answer given and all requests ignored**. There was **never** any evidence by the family of mistreatment, abuse, neglect, or exploitation of my sister. The guardian's executive director said, **"If you don't like it, I suggest you pony up, get a lawyer and I'll see you in court"**.

My family simply wanted to see my sister to show her she was important and loved. Our visits were to make sure Bernadette was OK and taken care of as we promised my mother before she died.

I ask that you pass this law so that no other family or person who is under guardianship will suffer like we did and still do. No other family will have to bear the heartache and sleepless nights not knowing if their loved one is OK. That their loved one isn't wondering why their family isn't coming to visit them. If this law was in place while Bernadette was still alive, I feel we would have had a course of action to override the guardian's restriction of visitation and would not have been in the situation we are in today.

Colorado law is outdated, not aligned with national best practice, and we must make an investment in updating it and our professional and judicial practices and procedures to ensure less-restrictive alternatives, stronger protections, greater independence and uphold the rights of individuals subject to guardianship and/or conservatorship.

Thank you for your time and consideration.

Senate Finance

04/09/2024 02:00 PM

SB24-136 Uniform Guardianship & Conservatorship Act

Typed Text of Testimony Submitted

Name, Position, Representing	Typed Text of Testimony
David Pump For themselves	<p>It is imperative for SB24-136 Uniform Guardianship & Conservation Act to move forward. So often, I have found that the dignity and inalienable rights of people with Intellectual and Developmental Disabilities have been taken away because Colorado law allows for it to happen. In our small town alone, I have seen professional Guardianship organizations take control of a person's life with an iron fist and under the guise of support, specifically when it is unwarranted. The current Colorado law is outdated and does not follow national best practices and must be changed.</p> <p>The measure of a nation (or state) is how we treat those in the most need. This is one of those times to make the most impact.</p> <p>Thank you.</p>
Meredith Henry For The Arc of Colorado	<p>To the Members of the Senate Finance Committee,</p> <p>My name is Meredith Henry, I am the Senior Policy and Advocacy Associate with the Arc of Colorado. However, today I am providing testimony on behalf of a Colorado family in support of SB 136, that did not feel safe to provide testimony or share their story in writing. This is not an isolated circumstance, 113 respondents to the Arc of Colorado's recent guardianship and conservatorship survey informed us that there are many families across Colorado that live in less urban areas, where the guardian is related or friends with the court appointed attorneys, judges, GAL, providers, or others is the professional system. The fear of speaking openly about unethical practices is very real and risks retaliation, and difficulties for that family and their loved one subject to guardianship or conservatorship.</p>

	<p>This family asked me to share that the fear of speaking out is real because of the history of this agency in their community, they unilaterally make immediate and severe decisions for all the “wards” in their care, if the agency is challenged. In the family’s community, they shared that the guardianship agency will go after guardianship whenever there is an opportunity to increase the number of “wards” in their care, with no regard to the individual’s needs.</p> <p>The family was directly impacted when their loved one with IDD who needed limited guardianship and was able to make some decisions about their own life, was cut off from a family member being the guardian and the court gave emergency guardianship to the guardianship agency. This was supposed to be temporary, but the guardianship agency has not acted in the best interest of the individual and has been intimidating the family, saying they will block the family from ever re-gaining guardianship.</p> <p>This is just one family’s story, but we know with certainty that it represents a civil and human rights violation that impacts many, many more. I urge you to pass SB 136, to protect vulnerable individuals from exploitation by unscrupulous guardians in Colorado. All individuals living across the State of Colorado, even the most vulnerable citizens of our state, have civil rights and deserve to live as independently as possible. Your thoughtful consideration is very much appreciated.</p> <p>With gratitude, Meredith Henry</p>
<p>Lee Ray For The Arc Arapahoe, Douglas & Elbert Counties</p>	<p>Hello, my name is Lee Ray. I am writing to you today to ask for your support in passing Senate Bill 24-136, the Uniform Guardianship and Conservatorship Act, through the Senate Finance committee.</p> <p>I have been an advocate with The Arc Arapahoe, Douglas and Elbert counties for 27 years. For the last several years I have been the Director of Advocacy, and I am currently the Interim Executive Director. Over those years I have represented The Arc ADE as guardian for about two dozen people, I have assisted dozens of families through the process of applying for guardianship of a loved one, and presented classes about guardianship and alternatives. The overwhelming majority of families I have spoken with about guardianship have never been told about alternatives. In the vast majority of situations if the individual has an intellectual or developmental disability and a family member was applying to</p>

	<p>become guardian it was granted with little consideration of the actual need for guardianship.</p> <p>SB 24-136 represents a vast improvement over our current law in many ways. Most of these are covered in the attached fact sheet but it would help ensure that the individuals I advocate for could receive appropriate support and decision making and only that level of support that they need. Over the years I have known many wonderful guardians, unfortunately I have also known several who fell far short of acting in the individual's best interests. In some instances, this was largely a matter of lack of knowledge about supported decision making, doing what they think is best for the individual without considering the individual's wants and desires. In other instances, it has been actual exploitation, manipulation, neglect and even abuse.</p> <p>SB 24-136 would enable the courts to better monitor and make rulings based on best practice in these situations. There is a rather large fiscal note attached to the bill but there are numerous strategies to reduce that cost for Colorado. Legal guardianship takes away an individual's right to make their own decisions. Colorado law needs to ensure that this is only used appropriately. SB 24-136 would make that much more likely.</p> <p>Thank you for your time and consideration of this essential legislation,</p> <p>Lee Alan Ray Director of Advocacy/Interim Executive Director The Arc Arapahoe, Douglas & Elbert Counties</p>
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