



To: Members of the Senate Judiciary Committee  
From: Ellen Jensby, Alliance  
Date: March 27, 2024

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

Dear Members of the Senate Judiciary 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 This important bill will update Colorado's outdated guardianship law with a new Act that will help to promote the independence of people with IDD by ensuring that these arrangements are as limited as possible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



March 14, 2024

**RE: AMENDED Testimony in Support (Subject to Amendment) of SB 136, Relating To The Uniform Guardianship, Conservatorship, And Other Protective Arrangements Act.**

To members of the Senate Judiciary Committee:

The National Coalition for a Civil Right to Counsel (NCCRC) respectfully suggests two amendments to SB 136 to conform to some of the provisions in the Uniform Guardianship, Conservatorship, and Other Protective Arrangements (UGCOPA) that work to protect vulnerable individuals in these highly impactful proceedings. This testimony replaces prior testimony we submitted in February.

Founded in 2003, the NCCRC is a coalition of over 600 participants and partners from 45 states, including Colorado. We seek to advance the recognition of a right to counsel in civil cases involving fundamental interests and basic human needs. Much of our work has been around right to counsel in matters involving child custody, and we have supported UCGOPA enactment in a number of other states as well as assisted litigation on the right to counsel in child guardianship cases in Massachusetts and California.

Child guardianship proceedings are a significant deprivation of custody, one that is extremely difficult to undo once put in place. In these proceedings, the stakes for children and parents are high. In recognizing a right to counsel for parents in such cases, the Supreme Judicial Court of Massachusetts in *Guardianship of V.V.*, 24 N.E.3d 1022 (Mass. 2015), observed that parental rights at stake in a guardianship proceeding are “no less compelling” than in a termination case because the guardian’s rights completely displaces those of the parent, and no less compelling when the state is absent. It added, “Even if the guardianship lasts for only a brief period of time, the displacement impacts the parent’s liberty interests ... While it is true that the parent's underlying parental rights are not forever terminated as a result of the guardianship, they are severely circumscribed, becoming subsidiary to those of the guardian, for as long as the guardianship remains in effect.” However, SB 136 only mentions the parents’ right to retain private counsel (curiously, SB 136 does grant parents a right to appointed counsel in child conservatorships, where the interests at stake are purely financial). Conversely, Section 204 of the UCGOPA contains provisions outlining the parents’ right to appointed counsel in child guardianship proceedings. Given the seriousness of the interests at stake and the extreme difficulty faced by pro se parents, we urge the Committee to amend SB 136 to include the language from Section 204 of the UCGOPA.

Additionally, for adult guardianships, SB 136 does not alter Colorado’s current law requiring appointment of counsel for the protected person only where requested by the

respondent or visitor, or where the court determines it is appropriate. However, protected persons with cognitive or intellectual disabilities may not be in a position to understand why they might want or need an attorney (such as if they do not understand the nature or severity of the proceedings). Section 305 of the UCGOPA contains alternative language requiring appointment for the protected person regardless of the ability to pay unless the protected person is already represented, and we respectfully recommend that SB 136 be amended to adopt this alternative language.

Subject to these amendments, the NCCRC supports the right to counsel provisions of SB 136. Thank you and please let us know if there is any additional information we could provide.

Sincerely,



John Pollock  
Coordinator, NCCRC



February 19, 2024

**RE: Testimony in Support of SB 136, Relating To The Uniform Guardianship, Conservatorship, And Other Protective Arrangements Act.**

To members of the Senate Judiciary Committee:

The National Coalition for a Civil Right to Counsel (NCCRC) supports SB 136's enactment of the Uniform Guardianship, Conservatorship, and Other Protective Arrangements (UGCOPA) Act with respect to the right counsel provisions contained therein. Founded in 2003, the NCCRC is a coalition of over 600 participants and partners from 45 states, including Montana. We seek to advance the recognition of a right to counsel in civil cases involving fundamental interests and basic human needs. Much of our work has been around right to counsel in matters involving child custody, and we have supported UGCOPA enactment in a number of other states as well as assisted litigation on the right to counsel in child guardianship cases in Massachusetts and California.

Child guardianship proceedings are a significant deprivation of custody, one that is extremely difficult to undo once put in place. In these proceedings, the stakes for children and parents are high. In recognizing a right to counsel for parents in such cases, the Supreme Judicial Court of Massachusetts in *Guardianship of V.V.*, 24 N.E.3d 1022 (Mass. 2015), observed that parental rights at stake in a guardianship proceeding are “no less compelling” than in a termination case because the guardian’s rights completely displaces those of the parent, and no less compelling when the state is absent. It added, “Even if the guardianship lasts for only a brief period of time, the displacement impacts the parent’s liberty interests ... While it is true that the parent's underlying parental rights are not forever terminated as a result of the guardianship, they are severely circumscribed, becoming subsidiary to those of the guardian, for as long as the guardianship remains in effect.” Such is true for children as well, whose liberty interest in the existing parental relationship is jeopardized. And these proceedings are highly complex, requiring counsel for both parents and children to ensure accurate outcomes.

For these reasons, the NCCRC strongly supports the passage of SB 136. Thank you and please let us know if there is any additional information we could provide.

Sincerely,

John Pollock  
Coordinator, NCCRC