The National Coalition for a Civil Right to Counsel (NCCRC), a project of the Public Justice Center (PJC), files this testimony in support of CO HB 1100 with respect to the right to counsel in guardianship proceedings, although we urge one additional amendment. HB 1100 as currently amended significantly improves upon existing Colorado law by a) automatically appointing counsel rather than requiring the respondent to request it; and b) making it clear that the appointed counsel advocates for the respondent's wishes to the degree reasonably ascertainable. However, we urge the Committee to remove the provisions specifying that appointment of counsel is only at state expense if the respondent is indigent, given the severity of the proceedings at stake and the limitations of indigency determinations.

The PJC pursues systemic change to build a just society and uses legal advocacy tools to pursue social justice, economic and race equity, and fundamental human rights for people who are struggling to provide for their basic needs. The NCCRC, a PJC project, seeks to ensure people have a right to effective counsel when facing the loss of their basic human needs in the civil legal system thus advancing collective power in pursuit of systemic change. The NCCRC is a coalition of over 1,000 participants and partners from 47 states.

By requiring appointment of counsel regardless of a request, HB 1100 as amended eliminates the risk of situations where counsel is not appointed for vulnerable adults who stand to lose virtually all of their fundamental human rights due to the respondent not requesting it. There are many reasons to support this change.

First, a primary reason to appoint legal counsel is to help the respondent determine whether to object to or contest the petition in some way by providing a confidential attorney-client relationship with a lawyer who can explain the full legal ramifications of the proceedings. Without access to legal counsel and that confidential relationship, there is a risk that respondents will either (a) not understand matters sufficiently to know to object to or contest the petition so as raise their need to request appointment of counsel; or (b) fear to disclose their reasons for objecting to someone with whom they do not enjoy attorney-client privilege.

Second, given that guardianships often involve family members, there is a risk the protected person will not request appointment of counsel due to believing they are not at that great a risk from their family.

Third, the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (UGCOPA) comments that even in jurisdictions opting for appointment only where requested or recommended,

> courts should err on the side of protecting the respondent's rights by finding, absent a compelling reason otherwise, that the respondent needs representation. A guardianship proceeding can involve complex legal issues and can strip the adult of many of the most basic rights. It should be the rare case in which the court does not find that an unrepresented respondent is in need of representation ... In light of these concerns and in the interest of providing full due process to respondents, states may wish instead to adopt Alternative B, which provides for mandatory appointment of counsel. Mandatory appointment has been strongly urged by the A.B.A. Commission on Law and Aging (formerly known as the A.B.A. Commission on Legal Problems of the Elderly) and helps ensure that the respondent's rights are fully represented and protected in the proceeding.

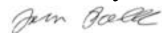
Finally, states are moving towards the automatic approach. California recently required courts to appoint counsel in any conservatorship where the proposed conservatee has not retained or plans to retain counsel "whether or not that person lacks or appears to lack legal capacity." Nevada similarly altered its law in 2017.

We also support HB 1100's language requiring the appointed attorney to advocate for the respondent's wishes, which directly tracks the language of the UGCOPA. Given the severity of the rights that respondents stand to lose, it is critical that they have an advocate to argue for their stated interests.

The one change we would urge is to eliminate the provisions specifying counsel is only at state expense if the respondent is indigent. This language does not appear either in the UGCOPA or in Colorado's current law, and for good reason: a great many people are unable to afford counsel even if they are not "indigent", and to deny respondents the ability to protect their fundamental rights due to being, for example, slightly over the indigence threshold is an untenable outcome. For this reason, of the 42 states that provide a right to counsel for guardianships, only one state that we know of requires proof of indigence, and California and Washington State recently eliminated the indigency requirement in their guardianship laws.

The NCCRC hopes that the Committee will support the amended version of HB 1100 so as protect the rights of protected. Thank you, and please let us know if there is any additional information we could provide.

Sincerely,



John Pollock
Coordinator, NCCRC
Staff Attorney, PJC

Dear Members of the House Finance Committee,

I am writing to respectfully request that HB26-1100 not be passed in its current form.

I share this perspective both as a parent of 34-year old adult son living with severe mental illness and as a member of Colorado Mad Moms, a community of parents advocating for policies that reflect the lived realities of families navigating serious psychiatric conditions.

While I appreciate the intent behind HB26-1100 to protect the rights and dignity of individuals under guardianship, I am concerned that the bill does not fully account for the realities faced by families like mine.

I have personally had to pursue emergency guardianship during a time of crisis. In our case, this was not about control—it was about safety. During periods of acute instability and lack of insight, my son was unable to recognize risk or make decisions in his own best interest. The ability to act quickly and decisively was critical to protecting his well-being.

My concern is that the expanded emphasis on autonomy, limitations on guardian authority, and additional procedural hurdles in HB26-1100 may unintentionally make it more difficult for families to intervene in these time-sensitive situations. Severe mental illness is not static—it fluctuates, sometimes rapidly. A framework that assumes consistent capacity may leave families without the tools they need when capacity is temporarily but profoundly impaired.

Additionally, provisions that limit a guardian's ability to restrict harmful relationships or communications raise serious concerns for those of us caring for loved ones who are particularly vulnerable to exploitation or unsafe influences during periods of instability.

I respectfully urge you to reconsider this bill or amend it to better reflect the realities of severe mental illness, including:

- The need for timely and effective emergency intervention
- The reality of fluctuating capacity
- The importance of allowing guardians reasonable authority to protect against clear and present harm

Families like mine are not seeking to limit our loved ones' independence—we are working to preserve their safety and stability so that independence is possible in the long term.

Thank you for your time and consideration.

Sincerely,

Debbie Mathews, 303-522-4917

Member, CO MAD Moms

House Finance

04/23/2026

HB26-1100 Guardianship for Incapacitated Adults

Typed Text of Testimony Submitted

Name, Position, Representing	**Typed Text of Testimony**
Victoria Robinson For themself	I am writing to testify in favor of HB26-1100, Guardianship for Incapacitated Adults. This program, if implemented, provides an incredible benefit to adults who are unable to meet essential requirements for their health, safety, or welfare without assistance. While the passing of this bill will provide a multitude of benefits, one piece of this law is particularly vital: the Guardianship Bill of Rights. This bill resonates with me because of a close cousin who was diagnosed at five years old with a developmental condition requiring lifelong care. Fortunately, her mother and father served as guardians who ensured she lived a safe and healthy life while still empowering her to maintain independence in her hobbies and occupation. Her parents naturally adhered to the principles now outlined in the proposed Guardianship Bill of Rights, such as the right to be treated with dignity and respect, the right to remain as independent as possible, and the right to participate in all decisions affecting her care. They did this out of devotion, but not every adult in Colorado is so fortunate There are many adults requiring caregivers who either need only a limited guardianship or who have not been treated with the same dignity as my cousin. This bill is essential because it holds guardians accountable as fiduciaries who must promote the self-determination of the adult and involve them in decision-making whenever reasonably feasible. It ensures that the court will not establish a full guardianship if a limited guardianship or less restrictive alternative can meet the individual's needs. In conclusion, I urge you to pass HB26-1100. It is imperative that the liberties and dignity my cousin enjoyed are not just a matter of luck but a guaranteed legal right for all disabled adults in need of a guardian. By establishing these parameters and adding the Guardianship Bill of Rights, Colorado can ensure that every adult subject to guardianship is treated with the autonomy and respect they deserve.

	Thank you for your time and consideration.

HB26-1100 DRAFT LETTER TO HOUSE FINANCE COMMITTEE 4.23.26

Dear House Finance Committee Members:

I am writing to ask you to not pass HB26-1100 at this time. Although this bill does have some good aspects, it still needs more input from stakeholders who have lived experience, particularly guardians or potential guardians of people living with severe mental/brain illnesses.

I am the Lead of CO Mad Moms, a coalition of 500 caregiver/advocate members, and the mother of a thirty-three-year-old man who lives with schizophrenia. Although he is experiencing meaningful recovery currently, psychosis spectrum disorders (schizophrenia, schizoaffective disorder, bipolar disorder, and major depression with psychosis) are chronic disabilities, and stability can change for many reasons at any time. There is no cure, but they are treatable with the right healthcare and a stable environment. Many live normal lives, but not all.

Guardianship is often necessary for our loved ones to get the care they need. Most experience a condition called “anosognosia”, which means they are unaware they are ill and do not want to take medications or want help from those who love them and want to help. There is a part of their brains in the prefrontal cortex that is not working. Without our support they too often live hopeless lives in the churn through homelessness, SUD (the use of drugs to self-medicate), poverty, jail, hospitalization (if they are fortunate), and repeat these states again. THAT is a very costly process paid for by taxpayer funds.

When granted guardianship, parents, siblings, and extended family members can often help them find safe housing and medical care to meet their needs. But it is a difficult and expensive process for them to pay for and navigate. THIS BILL WILL MAKE IT MORE DIFFICULT AND MORE EXPENSIVE.

Our coalition has sought legal advice from multiple public defenders, a judge, and disability community advocates. Although well-meaning, we are being advised that this bill will impact our rights as guardians and our ability to help our gravely disabled loved ones in a negative way. This can be fixed through amendments, but that will take more time.

Some parts of the bill that need to be addressed further are:

1. A guardian should be able to make health care decisions that are against the will of the ward. There are times when a guardian must plan for treating a comorbid illness or emergency and the person who is in psychosis refuses.

2. We were also struck by the increased filings, reporting, and decision making required of judges overseeing these cases. In fact, the overhaul of the guardianship process accounts for most of the large fiscal note (currently about $3 million over two years) to pay to restructure how guardianships are processed and some of these costs will

be ongoing because it increases staffing requirements. This bill does not support guardians who bear the major costs of applying for guardianship, being guardians, and maintaining their role as guardians for their disabled wards. Without guardianship, the expense of state guardianship fall on taxpayers alone. THIS BILL WILL ONLY COVERS JUDICIAL COSTS AND THAT WILL REQUIRE MORE FUNDING IN THE FUTURE.

3. There are already sufficient checks and balances in place through the review of mandated annual guardianship/conservatorship reports and the State's random audits of these reports. This bill would require reports to be filed every six months instead of twelve months and place an undue burden on guardians.

4. Currently, every respondent has the right to a re-evaluation of the necessity of guardianship, but this bill allows the respondent to ask for an evaluation repeatedly but does not require the respondent to take part in the review process. This could result in a more efficient process for the court, but it could also place an undue burden on the guardian, particularly when the respondent is delusional or psychotic and experiencing paranoia.

   6. This bill will make it more difficult to obtain and maintain guardianship for people with SPMI (Severe and Persistent Mental Illness) who are gravely disabled and whose stability varies greatly over time. The burden this bill places on guardians will cause more harm to respondents who do not have the ability to take part in their own care or to make decisions if they are experiencing anosognosia or the lack of awareness of their illness.

Thank you for your consideration of our input on how this bill will impact those of us who are trying to care for our family members—regardless of age or disability. Please do not allow this bill to make it more difficult for us to do that, especially for people who do not have the capacity to care for themselves.

Respectfully,

Kate Rawlinson
CO Mad Moms
970-270-7863
comadmoms@gmail.com

WRITTEN TESTIMONY IN SUPPORT OF HB 26-1100

Guardianship for Incapacitated Adults

Submitted by Marcella Schieffelin
Founder, Justice Care
Graduate LEND Fellow Alumna, CU Anschutz / JFK Partners UCEDD
Published Author, Federally Supported Supported Decision Making Tip Sheet

Summary of Position

I write in strong support of HB 26-1100 and urge the committee to pass the bill as drafted. If narrowing becomes necessary, I ask the committee to preserve three provisions that function together as a minimum framework: the Bill of Rights (Section 15-14-103), communication restriction limits (Section 15-14-315(3)), and termination procedures (Section 15-14-319). I further ask the committee to consider adding a remedies-and-enforcement provision to transform the Bill of Rights from aspirational language into an enforceable framework.

Expertise and Background

I am a Graduate LEND Fellow Alumna through the Leadership Education in Neurodevelopmental and Related Disabilities program at CU Anschutz and JFK Partners UCEDD. I am the published author of a federally supported Supported Decision Making tip sheet, work that has positioned me as an expert in alternatives to guardianship. I am also a former Co-Chair of the Colorado Developmental Disabilities Council Planning and Grants Committee, a family caregiver expert in a federal grant program through the Colorado Family Caregiver Collaborative, and the founder of Justice Care, a civil and human rights policy advocacy platform operating under the throughline that rights without enforcement are just promises.

The Financial Case for This Bill

The fiscal note estimates HB 26-1100 will cost $1.5 million in FY 2027-28, rising to $1.6 million at full implementation.[1] **What the fiscal note does not account for is what Colorado saves by getting the guardianship framework right before the caseload surges.**

Current Caseload and Projected Growth

Colorado currently files **1,086 new guardianship cases annually**.[1] That number will grow substantially over the next several years due to converging pressures:

Every year, **more than 1,500 transition-age youth with developmental disabilities turn 18** in Colorado, and their families face the guardianship question because parents believe they have no other option.[4]

Colorado's **population aged 65 and older will rise nearly 30% over the next decade**,[2] increasing demand for guardianship as dementia and capacity loss grow.

Approximately 60% of unpaid caregivers for adults also work, and these concurrent roles are associated with reduced work hours and earlier retirement.[3] Aging caregivers who have supported disabled family members for decades are reaching the point where they themselves need assistance, creating new guardianship needs.

Federal immigration enforcement is separating family caregivers from households, leaving adults who previously received informal decision-making support without it. **Veterans returning from current conflicts** will need guardianship support. **Gun violence** continues to produce traumatic brain injuries and disabilities that require guardianship.

Under current Colorado law, nearly all of that pressure defaults to **full guardianship**. The statute does not require courts to consider less restrictive alternatives before imposing guardianship. It does not require specific findings to support full guardianship over limited guardianship. And it does not codify supported decision-making as a real option. **Probate courts already face significant backlogs**, and this surge in caseloads will compound the problem.

The Cost of Full Guardianship Over Time

Every full guardianship carries ongoing costs:

Annual court oversight: Guardians must file annual reports under Section 15-14-317, which magistrates must review

Guardian fees: Drawn from the adult's estate or, when the estate is insufficient, from public funds

Modification and termination proceedings: When guardianships are broader than necessary, modification petitions follow, creating additional court workload

Attorney costs: The fiscal note projects $229,800 annually in attorney reimbursement for 200 cases requiring appointed counsel, an average of $1,149 per case[1]

Enforcement costs: When rights violations occur, removal proceedings under Section 15-14-318 carry their own procedural costs

The fiscal note projects that the bill will generate **240 additional cases annually** due to new hearing requirements, protective arrangement proceedings, and termination petitions.[1] What it does not calculate is **how many of those 240 additional cases represent workload shifted out of ongoing full guardianship oversight and into one-time interventions or less restrictive alternatives**.

What HB 26-1100 Changes

The bill creates two new pathways that did not exist under the current law:

1. Limited guardianship with specific findings required (Section 15-14-310): Courts must explain why full guardianship is necessary and cannot impose it if a limited would suffice. This shifts cases from the most restrictive, highest-oversight category into narrower categories of appointment.

2. Protective arrangements instead of guardianship (new Part 9): Courts can issue targeted orders (authorizing a specific medical treatment, ordering a move to a specific dwelling, restricting access by a specific person) without appointing a guardian at all. These are **one-time interventions**, not ongoing appointments requiring annual reports and court oversight.

The fiscal note accounts for the upfront cost of magistrate time to make those determinations. It does not account for the **ongoing savings** from every case that shifts from full guardianship to limited guardianship or a protective arrangement.

Documented Savings Estimate

Based on the fiscal note's own data, if 15% of Colorado's annual guardianship caseload (approximately 163 cases per year) shifts from full guardianship to limited guardianship or protective arrangements under the new framework, the state will save approximately **$265,000 annually** in avoided court costs.[1]

This estimate uses:

Attorney costs averaging $1,149 per case (calculated from the fiscal note's projected attorney reimbursement of $229,800 for 200 cases requiring appointed counsel)[1]

Reduced magistrate oversight costs estimated conservatively at $480 per case (calculated from the fiscal note's magistrate staffing allocation of $1,094,528 for 240 additional proceedings, approximately $4,560 per proceeding, with an estimated 10% reduction in ongoing oversight costs for shifted cases)[1]

This estimate is conservative. It does not account for:

- Ongoing annual report review costs for full guardianships (required by Section 15-14-317)
- Modification and termination proceeding costs when guardianships are broader than necessary
- Guardian fees drawn from estates or public funds
- The compounding effect as shifted cases accumulate over multiple years

What Other States Have Found

Four states have enacted the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (UGCOPAA): Kansas, Idaho, Maine, and Washington. Kansas, Idaho, and Maine passed UGCOPAA without additional appropriations, suggesting that the procedural changes did not impose net new costs after accounting for savings. Washington appropriated $3.6 million in year one but has not reported whether those costs persisted or whether caseload shifts produced offsetting savings.

Colorado has an opportunity to implement UGCOPAA with better data than those early-adopter states had.

The Three-Part Floor

If fiscal concerns require this bill to be narrowed, I ask the committee to preserve three provisions that work together:

1. The Bill of Rights (Section 15-14-103): Establishes what adults subject to guardianship are entitled to

2. Communication restriction limits (Section 15-14-315(3)): Gives one of those rights concrete enforcement mechanics, with time limits (7 business days for family/pre-existing relationships, 60 days otherwise) and required court findings

3. Termination procedures (Section 15-14-319): Provides a workable pathway out, with prima facie evidence for termination shifting the burden to prove a basis for guardianship still exists

Any one of these alone is weakened by the absence of the other two. Together, they create a foundation that future legislation can build on.

The Remedies Gap

The Bill of Rights establishes rights without establishing a pathway to enforce them. An adult whose communication is improperly restricted, whose privacy is violated, or whose stated preferences are ignored has no remedy short of removing the guardian or terminating the guardianship entirely. Most violations do not rise to that level, and most adults under guardianship cannot navigate those pathways without help.

A remedies and enforcement provision would include:

Broad standing: The adult, a member of their supportive community, or any person interested in their welfare, can file

Relief short of removal: Specific performance, modification of the guardian's plan, restoration of specific rights, appointment of a visitor or attorney

Protection against retaliation: Explicit prohibition on retaliation by the guardian, with the violation itself being grounds for removal

Expedited hearings: For violations of communication, visitation, or dwelling rights, where harm compounds daily

This provision would transform the Bill of Rights from a list of rights into an enforceable framework.

Phase One, Not Finished Product

Whatever passes this session should be framed as phase one of Colorado's guardianship reform, not as the final word. The remedies gap, the full protective arrangement pathway in Part 9, and the least restrictive alternative findings requirements all belong in Colorado statute. Getting the foundation right now makes the next phase possible.

I urge the committee to pass HB 26-1100 as drafted, and I thank you for your consideration.

Citations

[1] Fiscal Note for HB 26-1100, First Revised (April 21, 2026), Legislative Council Staff, pages 1-6.

[2] *Colorado Fiscal Institute,* The Cost of Aging in Colorado (August 2025). Available at: https://coloradofiscal.org/cost-of-aging-report/

[3] *Bell Policy Center,* What Do Colorado's Changing Demographics Mean For You? (December 2024). Available at: https://www.bellpolicy.org/aging-roadmap/

[4] Based on data from the Colorado Department of Education and the Guardianship Alliance of Colorado. The 1,500 figure represents families navigating guardianship transition annually for transition-age youth with developmental disabilities and is projected to increase significantly in the coming years.

To: House Judiciary Committee

From: Victoria E. Robinson

Date: April 20, 2026

RE: Support for HB26-1100 – Concerning Updates to Guardianship for Incapacitated Adults

I am writing to testify in favor of HB26-1100, Guardianship for Incapacitated Adults. This program, if implemented, provides an incredible benefit to adults who are unable to meet essential requirements for their health, safety, or welfare without assistance. While the passing of this bill will provide a multitude of benefits, one piece of this law is particularly vital: the Guardianship Bill of Rights.

This bill resonates with me because of a close cousin who was diagnosed at five years old with a developmental condition requiring lifelong care. Fortunately, her mother and father served as guardians who ensured she lived a safe and healthy life while still empowering her to maintain independence in her hobbies and occupation. Her parents naturally adhered to the principles now outlined in the proposed Guardianship Bill of Rights, such as the right to be treated with dignity and respect, the right to remain as independent as possible, and the right to participate in all decisions affecting her care. They did this out of devotion, but not every adult in Colorado is so fortunate

There are many adults requiring caregivers who either need only a limited guardianship or who have not been treated with the same dignity as my cousin. This bill is essential because it holds guardians accountable as fiduciaries who must promote the self-determination of the adult and involve them in decision-making whenever reasonably feasible. It ensures that the court will not establish a full guardianship if a limited guardianship or less restrictive alternative can meet the individual's needs.

In conclusion, I urge you to pass HB26-1100. It is imperative that the liberties and dignity my cousin enjoyed are not just a matter of luck, but a guaranteed legal right for all disabled adults in need of a guardian. By establishing these parameters and adding the Guardianship Bill of Rights, Colorado can ensure that every adult subject to guardianship is treated with the autonomy and respect they deserve.

Thank you for your time and consideration.