



Robert G. Montgomery, Judge
Franklin County Probate Court
373 SOUTH HIGH STREET, 22ND FLOOR, COLUMBUS, OHIO 43215-6311
probate.franklincountyohio.gov
Phone: (614) 525-3894
Fax: (614) 525-7422

HOUSE CIVIL JUSTICE COMMITTEE

JUDGE ROBERT G. MONTGOMERY

PROPONENT TESTIMONY ON HOUSE BILL 595

Chair Butler, Vice Chair Lanese, Ranking Member Boggs and Members of the House Civil Justice Committee, I thank you for this opportunity to submit proponent testimony for House Bill 595, I am Judge Robert G. Montgomery presiding over the Franklin County Probate Court.

H.B. 595 and R.C. 2101.026 answers the two most important questions concerning guardianships in Ohio. First, how do we find suitable guardians and second, how do we pay for these guardians. Ohio is a volunteer state when it comes to guardianships for indigent people. There are no funding sources dedicated to payment for guardian services.

Ohio historically has relied on volunteers to perform guardianship services to indigent people. Franklin County has roughly 7,000 active guardianship cases. Prior to my arrival on the bench in January 1, 2011, Franklin County had relied on attorneys to serve as guardians for indigent people. The indigent guardian fund was originally established to pay attorneys for legal work performed during legal proceedings involving guardianships. However, about 20 years ago, the Probate Court started appointing attorneys to not only represent indigent wards in guardianship proceedings but to also appoint the attorneys as their guardian. This was because there were no other family members or friends who were willing or suitable to serve as guardian. This resulted in two attorneys in Franklin County having over 1,000 wards that these two attorneys served as their guardian. After having been judge for two days back in January 2011, I was informed of this guardianship problem and knew that a solution would need to be found sooner rather than later. With an aging baby boomer population coupled with a very mobile society where children move away from parents for education and work, I knew this problem would only get worse. I thought a legislative solution would be needed. I analyzed the 7,000 plus guardianship cases in Franklin County and found that roughly 80 percent of everyone under guardianship in Franklin County had some form of mental illness, drug addiction or developmental disability. I met with the Executive Directors of the Alcohol, Drug Addiction and Mental Health Board of Franklin County (ADAMH) and the Franklin County Board of Developmental Disabilities (Board of DD) and we all agreed that a guardianship is a

necessary part of any treatment plan. Without someone to consent to the services these respective boards provide, it would be difficult for their boards to perform their services. My goal was to transition the guardianship model from an attorney-based model to a social services-based model. Licensed social workers have special training and education that uniquely qualifies them to serve as guardians much more so than attorneys.

Social workers run to problems most people run from. I knew that a voluntary collaboration would be needed to fix this guardianship problem in Franklin County. I wanted the collaboration to be with those professionals who provide the treatment and care for most of the people under guardianship. This is what led me to David Royer, Executive Director of the Franklin County ADAMH Board and Jed Morison, Executive Director of the Franklin County Board of DD. With their support and belief that a guardianship was an important and necessary part of any treatment plan, the groundwork was laid to start our pilot program which this legislature was kind enough to pass this enabling legislation contained in R.C. 2101.026.

I would like to give a special thanks to Representative Cupp who took the time to meet with me and helped amend the legislation to how it currently reads today. After drafting the original statute, Representative Cupp helped clean up some language that made R. C. 2101.026 more beneficial and applicable to the needs of Franklin County.

The Franklin County Guardianship Board has four major partners which I refer to as our public/public collaborative partners. They are: 1) the ADAMH Board of Franklin County, 2) the Franklin County Board of DD, 3) the Franklin County Board of Commissioners, and 4) the Franklin County Jobs and Family Services.

The Guardianship Service Board is currently located on the 11th Floor of the Franklin County Courthouse and employs a Director, along with a small administrative staff and seven licensed social workers. I knew that transitioning from an attorney-based system to a social services-based system would be an improvement. However, the results we are seeing has even exceeded my expectations. The level of care these people are seeing from our licensed social workers is far superior to what they were getting prior to the guardianship board's existence. I see it every day in our Court where people who truly are societies' most vulnerable people now have not only a safety net but have someone who I would want helping me if the need arises. I can't thank this legislature enough for their support of R.C. 2101.026. If this legislature approves the bill currently before them it will allow other counties to achieve the same transformation we have seen in Franklin County.

I would note that this solution does not raise any new taxes but rather reallocates levy monies already in existence or money from other sources within current budgets.

This legislation also allows for probate courts to establish public/private collaborative partners to help address this growing guardianship problem. In fact, the Franklin County

Guardianship Service Board has already partnered with The Ohio State University Wexner Medical Center to provide guardianship services for patients within OSU Medical Center who are in need of a guardian. Hospitals are having much difficulty finding guardians who can provide consent to medical procedures which are badly needed but not necessarily life-threatening. The Guardianship Service Board has just entered into its second contract with OSU Medical Center to provide this guardianship service. Prior to this, some patients could have been required to stay in the hospital for much longer than necessary.

This legislation is permissive and flexible so each county can decide if this is a solution that would work for them. Guardianships are not a one size fits all concept. It is very easy to serve as guardian for some people while serving as guardian for other people can be extremely difficult and time consuming. This enabling legislation will give those entities who deal with the two most important guardianship issues a way to meet this need where one currently does not exist.

This legislation is flexible to address the unique needs that arise within guardianship cases. This legislation is permissive so it doesn't force anyone to do anything. Even if a county chooses to create a guardianship board under this legislation by agreement of two or more collaborative funding partners such as the ADAMH Board and the Board of DD, if those respective boards decide they do not wish to provide any resources or funding to the Guardianship Board then the Guardianship Board would be dissolved due to the lack of funding. This requires the collaborative partners to work together on a voluntary basis.

This legislation has been the foundation of a remarkable transformation from an attorney-based to a social services-based system which has resulted in far better care for societies' most vulnerable people without any new taxes. The attorneys are not upset about this transformation as they can now focus on doing legal work instead of social work.

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