



Serving critical needs, one person at a time

HB 488 Interested Party Testimony
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Ohio House Civil Justice Committee
Chairman Brett Hillyer
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Chairman Hillyer, Vice Chair Grendell, Ranking Member Galonski and members of the House Civil Justice Committee, my name is Kristen Henry, and I am the Executive Director of Advocacy & Protective Services, Inc. (APSI). I am here today to provide interested party testimony on HB 488 sponsored by Representative Grendell and Representative Galonski. APSI is a not-for-profit organization which **provides guardianship, advocacy and protective services according to Ohio law and by the authority of Ohio Probate Courts for eligible** adults 18 years of age and older who have a developmental disability. **APSI specializes in serving individuals with the highest level of needs in the least restrictive manner possible.**

HB 488 was introduced late last year to make updates to guardianship law, and we appreciate these efforts to modernize Ohio's statutes. However, following introduction of the bill, APSI had several concerns on some of the guardianship provisions within the bill. We appreciate Rep. Grendell and Rep. Galonski in hearing our concerns as they coordinated our discussions with the Ohio Judicial Conference and Ohio Association of Probate Judges to find common ground. The amendments before you are the result of those efforts which we believe make many improvements to the legislation, and we are grateful to the Judicial Conference and Probate Judges for the good faith discussions to arrive at these important updates to HB 488. However, there remain a few items where we believe more improvements can be made. Our testimony today will speak to both the many improvements as well as our few lingering concerns in the bill.

The amendment AM2798-1 language seeks to provide clarity and flexibility on provisions related to the completion of initial and annual statements of expert evaluation, the timing of interim guardianships, the duties of a guardian of the person, the process of appointing successor guardians, and the disposition of funds for individuals who do not have or need a guardian of the estate. APSI believes this will reduce administrative hurdles to maintaining guardianships for individuals who need them, while also protecting their rights.

Additionally, the amendment AM2799-1 clarifies the process for a court to review the continued necessity of a guardianship when the person under guardianship alleges that they are competent. APSI supports clients in being restored to competency, with nearly 70 former clients having their guardianships terminated in the past six years. Yet we share the interest of the probate judges in ensuring that the legal standard for evidence of restoration is clear. This amendment allows the most recent statement of expert evaluation to be used as evidence of the continuing need for a guardianship when the person under guardianship does not present other persuasive evidence that they should be restored to competency. We do believe that some additional small changes to this provision could ensure an appropriate balance between the rights of the person under guardianship and the need for clear standards for courts and

guardians. We look forward to continuing our dialogue with the sponsors and other interested parties as the bill continues to move forward in the legislative process.

Lastly, I would like to address a provision in the bill in which APSI has serious concerns. In rare cases, a court is notified of concerns about an individual who is not currently under guardianship but likely needs a guardian, yet that person refuses to engage in an evaluation that would allow the required statement of expert evaluation to be completed. The as-introduced version of the bill would allow the court in these situations to order the person to be transported by law enforcement for an evaluation. APSI strongly urges this provision to be removed because it poses significant dangers to everyone involved—to the person who can essentially be arrested, handcuffed and placed in a law enforcement vehicle for declining to be evaluated, to the law enforcement officers will be entering the person’s home and removing them against their will, and to other people who may be present, such as family members. Although there is amendment language to provide an additional option for emergency medical technicians to perform this function, it is also likely to be counter-productive for a person to be evaluated after such a disruptive and traumatic experience even if this transportation were accomplished by EMT’s instead of law enforcement. In addition, Ohio law already provides numerous opportunities for a person in need of services to receive those services on a court-ordered emergency basis, including through adult protective services, protective services through the county board of developmental disabilities, and emergency hospitalization or involuntary treatment of individuals with mental illness. In the rare situations addressed by this provision, if other protective services are not available, APSI believes that courts could instead accept alternate forms of evidence in order to establish a guardianship. Therefore, we urge the committee to remove this provision in Sec. 2111.031 from the bill.

Chairman Hillyer and members of the committee, thank you for allowing me to testify as an interested party on HB 488. I will be happy to answer any questions at this time.