

STATE OF NEW YORK

8654

IN SENATE

January 7, 2026

Introduced by Sen. CLEARE -- read twice and ordered printed, and when printed to be committed to the Committee on Aging

AN ACT to amend the elder law and the state finance law, in relation to establishing the statewide initiative of not-for-profit guardians

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "New York state good guardianship act".

3 § 2. Legislative intent and findings. The Legislature finds that arti-
4 cle 81 of the New York state mental hygiene law mandates assignment of a
5 guardian when an individual is deemed to be incapacitated and unable to
6 manage their own affairs. At present, this mandate is not adequately
7 funded by New York state. This has led to a dearth of reputable guardi-
8 anship resources, leaving judges constrained when attempting to fulfill
9 their legal mandate, risking harm for individuals in dire need of care,
10 and increasing the cost burden on our social safety net.

11 Guardianship involves essential management of financial resources,
12 coordination of health care, and ensuring basic daily needs such as
13 cooking, cleaning and shopping are met. When an individual has signif-
14 icant financial resources, identifying a paid guardian is a viable
15 option. However, the reality is that most people assigned a guardian
16 cannot afford to pay for this high-level of care. This is where communi-
17 ty-based not-for-profit organizations step in to serve. Reputable not-
18 for-profit organizations take a multidisciplinary approach to care and
19 tailor a plan to an individual's needs, at no charge or for minimal
20 fees.

21 Due to the high level of need and lack of an adequate funding stream,
22 not-for-profit groups are unable to take on more cases without sacrific-
23 ing quality of care. Some districts lack a not-for-profit guardianship
24 services provider altogether. These factors put a strain on municipal
25 and county budgets when local departments of social services must step
26 in as the guardian of last resort, as they too do not have adequate
27 resources to keep pace with demand. Moreover, the lack of appropriate
28 assignments of guardians has led to a significant cost burden on our

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 social safety net, particularly avoidable hospitalizations and care
2 through Medicaid and shelter stays. This gap in quality guardians has
3 also allowed a third rail of actors to enter the market: unscrupulous
4 and unchecked for-profit entities who collect fees while neglecting
5 those in their care.

6 To address this issue, the Legislature proposes to establish a state-
7 wide initiative of not-for-profit guardians program that leverages the
8 expertise and capacity of existing, reputable not-for-profit organiza-
9 tions to provide comprehensive, multidisciplinary guardianship services.
10 This initiative will help grow well-established guardianship programs,
11 create new programs, and promote alternatives to guardianships where
12 appropriate to ensure that the entire state has access to these
13 services. Understanding the magnitude of serving as a guardian, this
14 legislation will ensure proper oversight, accountability, and service
15 delivery while addressing the needs of individuals who cannot care for
16 themselves due to age, disability, or other conditions. Taking these
17 steps will also help eliminate bad actors from the guardianship market
18 while providing significant Medicaid and social welfare savings to the
19 state. Lastly, the enactment of this legislation is consistent with the
20 recommendations of the adopted New York State Master Plan on Aging,
21 which supports a fifteen-million-dollar investment in guardianship
22 services.

23 § 3. The elder law is amended by adding a new section 226 to read as
24 follows:

25 § 226. Statewide initiative of not-for-profit guardians. 1. There
26 shall hereby be established within the office a program to be referred
27 to as the "statewide initiative of not-for-profit guardians". Such
28 initiative shall exist to:

29 (a) serve, within available resources and capacity, as guardian for
30 individuals over the age of eighteen eligible under article eighty-one
31 of the mental hygiene law for whom an appointing judge is unable to find
32 a guardian, whether a suitable family member or friend or an attorney
33 from part thirty-six of the rules of the chief judge, to serve;

34 (b) operate a free public helpline to provide guidance, resources, and
35 referrals for any individual or entity navigating guardianship pursuant
36 to article eighty-one of the mental hygiene law and/or seeking alterna-
37 tive services;

38 (c) build statewide capacity and training opportunities to establish
39 new programs within existing not-for-profit agencies; and

40 (d) collect, analyze, and report on data related to guardianship cases
41 referred to them.

42 2. (a) To participate in the initiative established pursuant to this
43 section and be eligible for funding, an entity shall:

44 (i) be organized as a tax-exempt entity pursuant to section 501(c)(3)
45 of the Internal Revenue Code or recognized as a not-for-profit entity in
46 good standing with the charities bureau of the office of the attorney
47 general; and

48 (ii) have experience in providing guardianship services or demonstrate
49 sufficient capacity to provide guardianship services as determined by
50 the office.

51 (b) Entities participating in the initiative shall fulfill guardian-
52 ship duties as provided for in sections 81.20, 81.21, and 81.22 of the
53 mental hygiene law.

54 3. (a) The director shall select a lead agency among the not-for-pro-
55 fit entities as described herein for the purpose of administering the
56 statewide initiative of not-for-profit guardians. The entity chosen to

1 administer such initiative shall enter into a contract with the state
2 for a term of five years, which may be renewed subject to the approval
3 of the director.

4 (b) The administrative entity chosen by the director shall review
5 plans submitted for approval and funding of guardianship services and
6 award grants for such services. In awarding grants, the entity shall use
7 best efforts to provide statewide distribution of funding.

8 (c) Funding for the statewide initiative of not-for-profit guardians
9 shall be from the statewide initiative of not-for-profit guardians fund
10 established pursuant to section ninety-nine-uu of the state finance law.

11 4. (a) Participating not-for-profit organizations shall collect and
12 report to the administrative entity chosen by the director anonymized
13 data on guardianship cases, including demographic information, types of
14 services provided, duration of guardianship, and client outcomes.

15 (b) The administrative entity chosen by the director shall compile the
16 data outlined in paragraph (a) of this subdivision and produce an annual
17 report summarizing the performance and effectiveness of the statewide
18 initiative of not-for-profit guardians. Such report shall be submitted
19 annually on or before January first, two thousand twenty-seven, and each
20 year thereafter, to the governor, speaker of the assembly, and temporary
21 president of the senate.

22 § 4. The state finance law is amended by adding a new section 99-uu to
23 read as follows:

24 § 99-uu. Statewide initiative of not-for-profit guardians fund. 1.
25 There is hereby established in the joint custody of the comptroller, the
26 commissioner of taxation and finance, and the commissioner of health, a
27 fund, to be known as the "statewide initiative of not-for-profit guardi-
28 ans fund".

29 2. Such fund shall consist of all moneys appropriated thereto from any
30 other fund or source pursuant to law. Nothing contained in this section
31 shall prevent the state from receiving grants, gifts or bequests for the
32 purposes of the fund as defined in this section and depositing them into
33 the fund according to law.

34 3. Moneys of the fund shall be made available to the administrative
35 entity chosen by the director of the office for the aging pursuant to
36 section two hundred twenty-six of the elder law to fund the statewide
37 initiative of not-for-profit guardians established by such section.

38 § 5. Severability. If any clause, sentence, paragraph, section or part
39 of this act shall be adjudged by any court of competent jurisdiction to
40 be invalid and after exhaustion of all further judicial review, the
41 judgment shall not affect, impair or invalidate the remainder thereof,
42 but shall be confined in its operation to the clause, sentence, para-
43 graph, section or part of this act directly involved in the controversy
44 in which the judgment shall have been rendered.

45 § 6. This act shall take effect immediately.