

STATE OF NEW YORK

9295--B

2025-2026 Regular Sessions

IN ASSEMBLY

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Introduced by M. of A. LAVINE, HEVESI, SEAWRIGHT, CLARK, McMAHON, ROSENTHAL, SIMONE, SIMON -- read once and referred to the Committee on Aging -- recommitted to the Committee on Aging in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the elder law, the mental hygiene 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

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

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1 tailor a plan to an individual's needs, at no charge or for minimal
2 fees.

3 Due to the high level of need and lack of an adequate funding stream,
4 not-for-profit groups are unable to take on more cases without sacrific-
5 ing quality of care. Some districts lack a not-for-profit guardianship
6 services provider altogether. These factors put a strain on municipal
7 and county budgets when local departments of social services must step
8 in as the guardian of last resort, as they too do not have adequate
9 resources to keep pace with demand. Moreover, the lack of appropriate
10 assignments of guardians has led to a significant cost burden on our
11 social safety net, particularly avoidable hospitalizations and care
12 through Medicaid and shelter stays. This gap in quality guardians has
13 also allowed a third rail of actors to enter the market: unscrupulous
14 and unchecked for-profit entities who collect fees while neglecting
15 those in their care.

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

33 § 3. The elder law is amended by adding a new section 227 to read as
34 follows:

35 § 227. Statewide initiative of not-for-profit guardians. 1. There
36 shall hereby be established within the office for the aging a program to
37 be referred to as the "statewide initiative of not-for-profit guardi-
38 ans". Such initiative shall exist to:

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

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

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

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

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

54 (i) be organized as a tax-exempt entity pursuant to section 501(c)(3)
55 of the Internal Revenue Code or other charitable non-profit organiza-
56 tion;

(ii) be registered with the charities bureau of the office of the attorney general and in compliance with all applicable registration and reporting requirements under section 8-1.4 of the estates, powers and trusts law and sections one hundred seventy-two and one hundred seventy-two-b of the executive law; and

(iii) have experience in providing guardianship services or demonstrate sufficient capacity to provide guardianship services as determined by the office considering such factors as the entity's organizational structure, fiscal health, and operations.

(b) A non-profit organization shall not be eligible to serve as a guardian under article eighty-one of the mental hygiene law unless it satisfies the criteria outlined in paragraph (a) of this subdivision.

(c) Entities participating in the initiative shall fulfill guardianship duties as provided for in sections 81.20, 81.21, and 81.22 of the mental hygiene law.

3. (a) The office shall administer the initiative established within this section, including reviewing plans submitted for approval and funding of guardianship services and awarding grants for such services. In awarding grants, the department shall use best efforts to provide statewide distribution of funding.

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

4. (a) Participating not-for-profit organizations shall collect and report to the office anonymized data on guardianship cases, including demographic information, types of services provided, duration of guardianship, and client outcomes.

(b) The office shall compile the data outlined in paragraph (a) of this subdivision and produce an annual report summarizing the performance and effectiveness of the statewide initiative of not-for-profit guardians. Such report shall be submitted annually on or before January first, two thousand twenty-seven, and each year thereafter, to the governor, speaker of the assembly, the temporary president of the senate, the minority leader of the assembly, and the minority leader of the senate.

§ 4. Paragraph 2 of subdivision (a) of section 81.19 of the mental hygiene law, as added by chapter 698 of the laws of 1992, is amended to read as follows:

2. A not-for-profit corporation organized to act in such capacity, a social services official, or public agency authorized to act in such capacity which has a concern for the incapacitated person, and any community guardian program operating pursuant to the provisions of title three of article nine-B of the social services law which is found by the court to be suitable to perform the duties necessary to assist the incapacitated person may be appointed as guardian, provided that a community guardian program shall be appointed as guardian only where a special proceeding for the appointment of a guardian under this article has been commenced by a social services official with whom such program was contracted. A non-profit corporation shall not be eligible to serve as a guardian pursuant to this article unless it satisfies the criteria outlined in paragraph (a) of subdivision two of section two hundred twenty-seven of the elder law.

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

§ 99-uu. Statewide initiative of not-for-profit guardians fund. 1. There is hereby established in the joint custody of the comptroller, the

1 commissioner of taxation and finance, and the commissioner of health, a
2 fund, to be known as the "statewide initiative of not-for-profit guardi-
3 ans fund".

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

9 3. Moneys of the fund shall be made available to the administrative
10 entity chosen by the director of the office for the aging pursuant to
11 section two hundred twenty-seven of the elder law to fund the statewide
12 initiative of not-for-profit guardians established by such section.

13 § 6. Severability. If any clause, sentence, paragraph, section or part
14 of this act shall be adjudged by any court of competent jurisdiction to
15 be invalid and after exhaustion of all further judicial review, the
16 judgment shall not affect, impair or invalidate the remainder thereof,
17 but shall be confined in its operation to the clause, sentence, para-
18 graph, section or part of this act directly involved in the controversy
19 in which the judgment shall have been rendered.

20 § 7. This act shall take effect immediately.