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:

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

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

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

Due to the high level of need and lack of an adequate funding stream, not-for-profit groups are unable to take on more cases without sacrificing quality of care. Some districts lack a not-for-profit guardianship services provider altogether. These factors put a strain on municipal and county budgets when local departments of social services must step in as the guardian of last resort, as they too do not have adequate resources to keep pace with demand. Moreover, the lack of appropriate 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.

LBD13789-02-5

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) 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 administrative entity chosen by the director anonymized data on guardianship cases, including demographic information, types of services provided, duration of guardianship, and client outcomes.

(b) The administrative entity chosen by the director 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, and temporary president of the senate.

§ 4. 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 commissioner of taxation and finance, and the commissioner of health, a fund, to be known as the "statewide initiative of not-for-profit guardians fund".

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

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

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

§ 6. This act shall take effect immediately.