§ 473-d. Community guardianship. 1. Definitions. When used in this section unless otherwise expressly stated or unless the context or subject matter requires a different interpretation:

(a) "Community guardian program" means a not-for-profit corporation incorporated under the laws of the state of New York or a local governmental agency which has contracted with or has an agreement with a local social services official to provide conservatorship or committeeship services to eligible persons as provided in this title.

(b) "Hospital" means a hospital as defined in subdivision one of section two thousand eight hundred one of the public health law, or a hospital as defined in subdivision ten of section 1.03 of the mental hygiene law.

(c) "Residential facility" means a facility licensed pursuant to article twenty-eight of the public health law, article nineteen, twenty-three, thirty-one or thirty-two of the mental hygiene law, or article seven of this chapter.

2. A social services official may contract with a community guardian program for the provision of conservatorship or committeeship services. A social services official may bring a petition to appoint a community guardian program as conservator or committee for a person only if the person is:

(a) eligible for and in receipt of adult protective services, as defined in section four hundred seventy-three of this chapter, at the time of the petition; and

(b) without a capable friend or relative or responsible agency willing and able to serve as conservator or committee; and

(c) living outside of a hospital or residential facility, or living in a hospital or residential facility and appointment of the community guardian program is part of a plan to return such person to the community.

3. A contract or agreement between a local social services official and a community guardian program shall require that:

(a) the community guardian program shall make its best efforts to maintain each person for whom the community guardian program is appointed as conservator or committee in a place other than a hospital

or residential facility;

(b) the community guardian program shall petition the court to relinquish its duties as conservator or committee if a person for whom the community guardian program is appointed as conservator or committee regains capacity or competence, or a capable friend or relative becomes available to serve as conservator or committee, or the person must enter a hospital or residential facility on a long-term basis;

(c) the community guardian program shall act on behalf of each person for whom the community guardian program is appointed as conservator or committee to obtain such medical, social, mental health, legal and other services as are available and to which the person is entitled and as are required for the person's safety and well-being and shall advocate for all entitlements, public benefits, and services for which the person qualifies and which the person requires;

(d) all remuneration awarded to the community guardian program by the court from the estate of a person for whom the community guardian program is appointed as conservator or committee shall be based upon the cost of the community guardian program incurred in serving such person or the fee that would otherwise be awarded by the court, whichever is the lesser, and paid over to the social services district;

(e) the files and records of the community guardian program shall be open to inspection to the local social services officials and the department;

(f) no director, officer or employee of the community guardian program shall have a substantial interest in any corporation, organization or entity that provides services to any person for whom the community guardian program is conservator or committee;

(g) the community guardian program shall obtain annually a statement prepared by a physician, psychologist, nurse clinician, or social worker, or other person evaluating the condition and functional level of a person for whom the community guardian program serves as guardian pursuant to paragraph five of subdivision (b) of section 81.31 of the mental hygiene law and the appointing court shall be informed of the results of such evaluation or examination and may discharge or modify the powers of the guardian pursuant to section 81.36 of the mental hygiene law. The person conducting the evaluation pursuant to this paragraph shall not be affiliated with a community guardian program and

shall be acting within their lawful scope of practice as established under the education law;

(h) persons hired by the community guardian program to provide services to a person for whom the community guardian program has been named conservator or committee shall have expertise in one or more of the areas of mental health services, protective services, social services or home care services or appropriate experience.

4. A local social services official shall not be relieved of any duty to provide services to a person by reason of the operation of a community guardian program in the locality or by cessation of such program in the locality.

5. The department may promulgate rules and regulations necessary to implement this title.

6. Expenditures made by a social services district, directly or through purchase of services, in petitioning for or acting as a conservator or committee, or made pursuant to contract for community guardianship services in accordance with the provisions of this title, shall be subject to reimbursement by the state, in accordance with regulations of the department, in the amount of fifty per centum of such expenditures, after first deducting therefrom any federal funds properly received or to be received on account thereof and any amounts received pursuant to paragraph (d) of subdivision three of this section.

7. Nothing in this title shall lessen or eliminate the responsibilities and powers required by law of any agency, department, or any subdivision thereof.

8. On or before December thirty-first, nineteen hundred eighty-seven, the commissioner shall submit an interim report to the governor, the temporary president of the senate and the speaker of the assembly detailing progress and evaluating results of this program. On or before December thirty-first, nineteen hundred eighty-eight, the commissioner shall submit a final report to the governor, the temporary president of the senate and the speaker of the assembly on the effectiveness of this

act.