

FACT SHEET: A PUBLIC GUARDIAN FOR MASSACHUSETTS

Sponsors: Sen. Creem (S. 1177) and Rep. Brodeur (H. 3027)

Summary: This bill would establish a Public Guardian to protect incapacitated adults in Massachusetts who have no other resources, due to poverty, isolation, mental illness and/or other factors. These are people who *do not* qualify for help from existing agency-based guardianship programs. Costs of the proposed Public Guardian are minimized through (1) engagement of trained and supervised volunteers, (2) substantial contributions from NGO sources, and (3) promotion of guardianship alternatives. Existing agency-based programs are not affected, as the Public Guardian will serve only persons that the agencies cannot serve under their respective statutory mandates.

Why is this Bill Necessary?

Massachusetts provides *no guardian of last resort* for the poorest and most isolated persons with incapacity. This is a growing problem, as our population ages. Studies in four states show that a Public Guardian saves public expenditures on marginalized populations by reducing incarceration rates, hospitalization stays, homelessness, emergency room visits and many related social support costs. Aside from the financial benefits, increased preventive medical care leads to a better quality of life, not just for those who gain decisional help, but for those who live around them.

What are the Costs of Not Having a Public Guardian?

- Private hospitals spend an estimated \$10M each year on unnecessary care for incapacitated persons who lack a guardian to plan discharge and sign them out legally.
- Public hospitals incur the same kinds of charges, at an unknown cost to the state.
- Extended time in hospitals may cause incapacitated persons to catch hospital-borne illnesses, causing added costs, unnecessary suffering and even avoidable deaths.
- Courts are overwhelmed with cases that need guardians, where no individual is able (or suitable) to serve, and the person does not qualify as a client of Elder Affairs, DMH or DDS.

How Widespread is the Need?

Research completed in March, 2016¹ estimates that there are *at least 2,800-3,800* people in Massachusetts who need a Public Guardian. Many believe that the number of is much higher. *Massachusetts is in the bottom 10% of states in addressing these guardianship needs.*

Public-Private Partnership

- The bill proposes a small state office to oversee an NGO service provider that is entirely self-funded.
- The plan commits nearly \$2 of private funding for every \$1 of public funding.
- Private non-profits and health care associations are deeply concerned about the lack of a Public Guardian in Massachusetts.

Other states, such as Florida, have used a Public-Private model successfully for many years.

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A Collaboration of:



¹ Moye, J., et al., "Ethical Concerns and Procedural Pathways for Patients Who are Incapacitated and Alone: Implications from a Qualitative Study for Advancing Ethical Practice," HealthCare Ethics Committee (HED) Forum, 2017 Jun.29(2):171:189.