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AN ACT
RELATING TO GUARDIANSHIP; STRENGTHENING OFFICE OF
GUARDIANSHIP LEGAL AND PROFESSIONAL SERVICES FOR INCOME-
ELIGIBLE ADULTS; ESTABLISHING A WORKING INTERDISCIPLINARY
NETWORK OF GUARDIANSHIP STAKEHOLDERS; REQUIRING THE OFFICE OF
GUARDIANSHIP TO PUBLISH AN ANNUAL REPORT; ESTABLISHING THE
OFFICE OF GUARDIANSHIP VOLUNTEER COURT VISITOR PROGRAM;
REQUIRING CONSIDERATION OF LESS RESTRICTIVE ALTERNATIVES TO
GUARDIANSHIP; ESTABLISHING THE COURT VISITOR PILOT PROGRAM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Office of Guardianship
Act is enacted to read:

"DEFINITIONS.--As used in the Office of Guardianship
Act:

A. "professional guardian" means an individual or
entity appointed by a court that serves as a guardian for
more than two individuals who are not related to the guardian
by marriage, adoption or third degree of blood or affinity;
and

B. "protected person" means a person eighteen
years of age or older for whom a guardian or conservator has
been appointed or other protective order has been made."

SECTION 2. Section 28-16B-2 NMSA 1978 (being Laws 2003,
Chapter 280, Section 2) is amended to read:

1 "28-16B-2. OFFICE OF GUARDIANSHIP--CREATED--STAFF.--

2 A. The "office of guardianship" is created in the
3 developmental disabilities planning council.

4 B. The executive director of the developmental
5 disabilities planning council shall employ a head of the
6 office who shall be an attorney licensed in New Mexico who is
7 hired on the basis of ability, experience and knowledge of
8 guardianship issues under the Uniform Probate Code. The
9 position shall be classified pursuant to the Personnel Act.

10 C. Subject to appropriations, the executive
11 director may hire such other professional and clerical staff
12 as necessary to carry out the purposes of the office."

13 SECTION 3. Section 28-16B-3 NMSA 1978 (being Laws 2003,
14 Chapter 280, Section 3, as amended) is amended to read:

15 "28-16B-3. OFFICE--POWERS AND DUTIES.--

16 A. The office of guardianship may:

17 (1) promulgate rules in accordance with the
18 State Rules Act to carry out the provisions of the Office of
19 Guardianship Act; and

20 (2) enter into agreements with other state
21 or federal agencies to provide guardianship services and to
22 provide or receive payment for such services.

23 B. The office of guardianship shall:

24 (1) provide for adult guardianship services
25 to income-eligible incapacitated persons, including temporary

1 guardianship as provided in Section 45-5-310 NMSA 1978;

2 (2) provide for the recruitment and training
3 of persons interested and willing to serve as mental health
4 treatment guardians;

5 (3) provide training and information to
6 interested persons on the duties and responsibilities of
7 guardians, including alternatives to guardianship and mental
8 health treatment guardianship;

9 (4) establish procedures for the
10 investigation and resolution of complaints against
11 guardianship and legal services providers that have entered
12 into service agreements with the office;

13 (5) provide legal services, including
14 petitioning attorney, guardian ad litem and court visitor
15 services, to petition the district court for guardianship of
16 persons believed to be incapacitated or to seek amendment or
17 termination of existing guardianship orders if the needs or
18 situation of protected persons have changed; provided that
19 the selection of persons to receive guardianship and legal
20 services shall be made by the office based on selection
21 criteria established by rule;

22 (6) prior to providing legal services to
23 petition for guardianship, identify and provide information
24 on least restrictive options, including alternatives to
25 guardianship, to the alleged incapacitated person and to

1 individuals applying for guardianship services;

2 (7) publish an annual report regarding the
3 guardianship and legal services provided by the office of
4 guardianship, including the:

5 (a) number and ages of protected
6 persons assigned to a professional guardian, the judicial
7 district where the guardianship case is assigned and the
8 reason for appointment of a guardian;

9 (b) number of guardianship petitions
10 filed by the office and the status of the petitions;

11 (c) number of income-eligible alleged
12 incapacitated persons or protected persons on the wait list;

13 (d) number of applicants requesting
14 family guardians and the number requesting professional
15 guardians;

16 (e) number of cases dismissed or
17 terminated and the reasons for the dismissal or termination;

18 (f) number of complaints the office
19 received against guardianship and legal services providers,
20 and the status of the complaints;

21 (g) disciplinary or legal actions taken
22 by the office against guardianship and legal services
23 providers;

24 (h) number of complaints filed against
25 the office and the status of the complaints; and

1 (i) number of cases in which a
2 professional guardian was removed, and the reason for the
3 removal;

4 (8) establish and manage a volunteer court
5 visitor program to provide post-adjudication court visitor
6 services for adult guardianship cases when requested by the
7 district court; and

8 (9) serve as an interested person as defined
9 in Subsection I of Section 45-5-101 NMSA 1978."

10 SECTION 4. Section 28-16B-4 NMSA 1978 (being Laws 2003,
11 Chapter 280, Section 4, as amended) is amended to read:

12 "28-16B-4. SERVICE AGREEMENT MONITORING AND
13 ENFORCEMENT.--

14 A. The office of guardianship shall monitor
15 professional guardians providing services to income-eligible
16 protected persons and enforce agreements the office has
17 executed with guardianship and legal services providers. In
18 carrying out this duty, the office may:

19 (1) have access to case records, copies of
20 court filings and reports, financial records and other
21 records maintained by guardianship and legal services
22 providers related to the services provided to income-eligible
23 protected persons, unless specifically sequestered by the
24 court;

25 (2) petition the court of jurisdiction for

1 access to records that have been sequestered;

2 (3) conduct annual comprehensive service
3 reviews to ensure service providers comply with service
4 agreements and statutory duties;

5 (4) visit protected persons to evaluate the
6 adequacy of guardianship services provided and determine if
7 the guardianship should be amended or terminated; and

8 (5) pursue legal and other remedies against
9 service providers for noncompliance with service agreements
10 and statutory duties.

11 B. The office shall protect and maintain the
12 confidentiality of all client-specific information and
13 records obtained to the same extent as required for the
14 service providers and to any extent otherwise required by
15 state or federal law."

16 **SECTION 5.** Section 28-16B-5 NMSA 1978 (being Laws 2003,
17 Chapter 280, Section 5, as amended) is amended to read:

18 "28-16B-5. GUARDIANSHIP SERVICE AGREEMENTS.--A service
19 agreement for guardianship services shall include:

20 A. a requirement that service providers be
21 certified and in good standing with a national or state
22 organization recognized by the supreme court that provides
23 professional certification for guardians;

24 B. a requirement for adoption and compliance with
25 a code of ethics for guardians;

- 1 C. the maximum caseload for guardians;
- 2 D. the fee schedule for services provided;
- 3 E. assurance that the civil rights of protected
- 4 persons served by the service provider shall be met,
- 5 including the right to be served in the most integrated
- 6 setting appropriate to the needs of the protected person;
- 7 F. provisions for access by the office of
- 8 guardianship to records, protected persons and service
- 9 provider staff as needed to monitor and enforce contract
- 10 compliance and for quality assurance purposes; and
- 11 G. minimum financial accounting and reporting
- 12 requirements."

13 SECTION 6. Section 45-5-303.1 NMSA 1978 (being Laws

14 1989, Chapter 252, Section 6, as amended) is amended to read:

15 "45-5-303.1. DUTIES OF GUARDIAN AD LITEM.--

16 A. The guardian ad litem shall:

- 17 (1) interview in person the alleged
- 18 incapacitated person prior to the hearing;
- 19 (2) present the alleged incapacitated
- 20 person's declared position to the court;
- 21 (3) identify and present all available less
- 22 restrictive alternatives to guardianship;
- 23 (4) interview the qualified health care
- 24 professional, the visitor and the proposed guardian;
- 25 (5) review both the medical report submitted

1 by the qualified health care professional and the report by
2 the visitor;

3 (6) obtain independent medical or
4 psychological assessments, or both, if necessary; and

5 (7) file a written report with the court
6 prior to the hearing on the petition for appointment.

7 B. Unless otherwise ordered by the court, the
8 duties of the guardian ad litem terminate and the guardian ad
9 litem is discharged from duties upon entry of the order
10 appointing the guardian and acceptance of the appointment by
11 the guardian."

12 SECTION 7. Section 45-5-307 NMSA 1978 (being Laws 1975,
13 Chapter 257, Section 5-307, as amended) is amended to read:

14 "45-5-307. DEATH, SUBSTITUTION, REVIEW AND TERMINATION
15 OF GUARDIANSHIP.--

16 A. On the petition of the incapacitated person or
17 any person interested in the incapacitated person's welfare
18 and upon notice and hearing, the court may remove a guardian
19 and appoint a successor if it is in the best interest of the
20 incapacitated person or if the guardian fails to comply with
21 the guardian's duties as required by Section 45-5-312 NMSA
22 1978.

23 B. Upon death, removal or resignation of a
24 guardian, the court may appoint another guardian or make any
25 other order that may be appropriate. If a successor guardian

1 is appointed, the successor guardian succeeds to the title
2 and powers of the successor guardian's predecessor.

3 C. The incapacitated person or any person
4 interested in the incapacitated person's welfare may petition
5 for an order that the incapacitated person is no longer
6 incapacitated and for removal or resignation of the guardian.
7 A request for this order may be made by informal letter to
8 the court or judge. Any person who knowingly interferes with
9 transmission of this kind of request to the court may be
10 adjudged guilty of contempt of court.

11 D. Unless waived by the court upon the filing of a
12 petition to terminate a guardianship for reasons other than
13 the death of the incapacitated person, the court shall follow
14 the same procedures to safeguard the rights of the
15 incapacitated person as those that apply to a petition for
16 appointment of a guardian as set forth in Section 45-5-303
17 NMSA 1978.

18 E. In a proceeding that increases the guardian's
19 authority or reduces the autonomy of the protected person,
20 the court shall follow the same procedures to safeguard the
21 rights of the incapacitated person as those that apply to a
22 petition for appointment of a guardian, as set forth in
23 Section 45-5-303 NMSA 1978.

24 F. Following receipt of a request for review, the
25 court shall hold a status hearing, which may be informal, to

1 determine the appropriate order to be entered. If the court
2 finds the incapacitated person is capable of more autonomy
3 than at the time of the original order, the court may enter
4 an order removing the guardian, terminating the guardianship
5 or reducing the powers previously granted to the guardian.
6 The court has the option to follow all or part of the
7 procedures that apply for the appointment of a guardian as
8 set forth in Section 45-5-303 NMSA 1978.

9 G. At any time following the appointment of a
10 guardian, but not later than ten years after the initial
11 appointment of a guardian for a protected person and every
12 ten years thereafter, the court shall:

13 (1) hold a status hearing, after notice to
14 the guardian, the protected person and appropriate interested
15 persons, to review the status of the protected person's
16 capacity and the continued need for a guardian; or

17 (2) appoint a court investigator to assess
18 the protected person's capacity. The court investigator
19 shall prepare a detailed report to the court regarding the
20 status of the protected person's capacity and the continued
21 need for a guardian. Any report shall be made available to
22 the guardian, the protected person and interested persons
23 identified by the court.

24 H. If the court is unable to contact either the
25 guardian or the protected person and neither appears for the

1 status hearing held pursuant to Paragraph (1) of Subsection G
2 of this section, the court shall appoint a guardian ad litem
3 or court investigator to investigate and report to the court
4 as to the status of the protected person and the guardian.
5 Any report shall be made available to the guardian, the
6 protected person and appropriate interested persons, if known
7 to the court.

8 I. Following the status hearing or the court's
9 report from the court investigator or guardian ad litem on
10 the status of the protected person and the guardian as
11 provided in Subsection H of this section, the court may enter
12 an appropriate order; provided that, in entering an order
13 that increases the guardian's authority or reduces the
14 autonomy of the protected person, the court shall follow the
15 same procedures to safeguard the rights of the incapacitated
16 person as those that apply to a petition for appointment of a
17 guardian, as set forth in Section 45-5-303 NMSA 1978."

18 **SECTION 8.** Section 45-5-312 NMSA 1978 (being Laws 1975,
19 Chapter 257, Section 5-312, as amended) is amended to read:

20 "45-5-312. GENERAL POWERS AND DUTIES OF THE LIMITED
21 GUARDIAN AND GUARDIAN.--

22 A. If the court enters judgment pursuant to
23 Subsection C of Section 45-5-304 NMSA 1978, it shall appoint
24 a limited guardian if it determines that the protected person
25 is able to manage some but not all aspects of personal care.

1 The court shall specify those powers that the limited
2 guardian shall have and may further restrict each power so as
3 to permit the protected person to care for the protected
4 person's own self commensurate with the protected person's
5 ability to do so. A person for whom a limited guardian has
6 been appointed retains all legal and civil rights except
7 those that have been specifically granted to the limited
8 guardian by the court. The limited guardian shall exercise
9 supervisory powers over the protected person in a manner that
10 is the least restrictive form of intervention consistent with
11 the order of the court.

12 B. A guardian is not legally obligated to provide
13 from the guardian's own funds for the protected person and is
14 not liable to third persons for acts of the protected person
15 solely by reason of the guardianship. In particular and
16 without qualifying the foregoing, a guardian or the
17 guardian's replacement has the following powers and duties,
18 except as modified by order of the court:

19 (1) to the extent that it is consistent with
20 the terms of any order by a court of competent jurisdiction
21 relating to detention or commitment of the protected person,
22 a guardian is entitled to custody of the protected person and
23 may establish the protected person's place of abode within or
24 without New Mexico;

25 (2) if entitled to custody of the protected

1 person, a guardian shall make provision for the care, comfort
2 and maintenance of the protected person and, whenever
3 appropriate, arrange for training and education. The
4 guardian shall take reasonable care of the protected person's
5 clothing, furniture, vehicles and other personal effects and
6 commence conservatorship proceedings if other property of the
7 protected person is in need of protection;

8 (3) if no agent is entitled to make health
9 care decisions for the protected person under the provisions
10 of the Uniform Health-Care Decisions Act, then the guardian
11 shall make health care decisions for the protected person in
12 accordance with the provisions of that act. In exercising
13 health care powers, a guardian may consent or withhold
14 consent that may be necessary to enable the protected person
15 to receive or refuse medical or other professional care,
16 counsel, treatment or service. That decision shall be made
17 in accordance with the values of the protected person, if
18 known, or the best interests of the protected person if the
19 values are not known;

20 (4) if no conservator for the estate of the
21 protected person has been appointed, if the court has
22 determined that a conservatorship is not appropriate and if a
23 guardian appointed by the court has been granted authority to
24 make financial decisions on behalf of the protected person in
25 the order of appointment and in the letters of guardianship

1 pursuant to Subsection C of Section 45-5-308 NMSA 1978, the
2 guardian has the following powers and duties, including the
3 power:

4 (a) to institute proceedings to compel
5 any person under a duty to support the protected person or to
6 pay sums for the welfare of the protected person to perform
7 that duty;

8 (b) to receive money and tangible
9 property deliverable to the protected person and apply the
10 money and property for support, care and education of the
11 protected person, but the guardian shall not use funds from
12 the protected person's estate for room and board that the
13 guardian or the guardian's spouse, parent or child has
14 furnished the protected person, unless a charge for the
15 service is approved by order of the court made upon notice to
16 at least one of the next of kin of the protected person, if
17 notice is possible;

18 (c) to serve as advocate and decision
19 maker for the protected person in any disputes with persons
20 or organizations, including financial institutions, regarding
21 the protected person's finances;

22 (d) to obtain information regarding the
23 protected person's assets and income from persons or
24 organizations handling the protected person's finances;

25 (e) to file an initial inventory of all

1 property belonging to the protected person within ninety days
2 after appointment; and

3 (f) to exercise care to conserve any
4 excess for the protected person's needs and include in the
5 guardian's ninety-day and annual reports a description of
6 decisions made regarding the protected person's finances and
7 property; and

8 (5) the guardian shall exercise the
9 guardian's supervisory powers over the protected person in a
10 manner that is least restrictive of the protected person's
11 personal freedom and consistent with the need for
12 supervision. Professional guardians shall follow the
13 following standards in the national guardianship association
14 standards of practice:

- 15 (a) informed consent;
- 16 (b) standards for decision making;
- 17 (c) least restrictive alternatives;
- 18 (d) self-determination of the person;

19 and

20 (e) the guardian's duties regarding
21 diversity and personal preferences of the person.

22 C. A guardian of a protected person for whom a
23 conservator also has been appointed shall control the care
24 and custody of the protected person and is entitled to
25 receive reasonable sums for services and for room and board

1 furnished to the protected person. The guardian may request
2 the conservator to expend the protected person's estate by
3 payment to third persons or institutions for the protected
4 person's care and maintenance.

5 D. Unless authorized by the court by specific
6 order, a guardian for an adult shall not revoke or amend a
7 power of attorney for health care or power of attorney for
8 finances signed by the adult. If a power of attorney for
9 health care is in effect, unless there is a court order to
10 the contrary, a health care decision of an agent takes
11 precedence over that of the guardian, and the guardian shall
12 cooperate with the agent to the extent feasible. If a power
13 of attorney for finances is in effect, unless there is a
14 court order to the contrary, a decision by the agent that the
15 agent is authorized to make under the power of attorney for
16 finances takes precedence over that of the guardian, and the
17 guardian shall cooperate with the agent to the extent
18 feasible.

19 E. A guardian for an adult shall not initiate the
20 commitment of the adult to a mental health treatment facility
21 except in accordance with the state's procedure for
22 involuntary civil commitment.

23 F. A guardian for a protected person shall not
24 restrict the ability of the protected person to communicate,
25 visit or interact with others, including receiving visitors

1 and making or receiving telephone calls, personal mail or
2 electronic communications, including through social media or
3 participating in social activities, unless:

4 (1) authorized by the court by specific
5 order;

6 (2) a less restrictive alternative is in
7 effect that limits contact between the protected person and a
8 person; or

9 (3) the guardian has good cause to believe
10 restriction is necessary because interaction with a specified
11 person poses a risk of significant physical, psychological or
12 financial harm to the protected person and the restriction
13 is:

14 (a) for a period of not more than seven
15 business days if the person has a family or preexisting
16 social relationship with the protected person; or

17 (b) for a period of not more than sixty
18 days if the person does not have a family or preexisting
19 social relationship with the protected person.

20 G. A guardian for a protected person shall seek
21 and support the least restrictive option, consistent with the
22 court's guardianship order of appointment, including
23 developing adequate supports and requesting guardianship
24 termination if less restrictive alternatives to guardianship
25 are appropriate."

1 SECTION 9. Section 45-5-314 NMSA 1978 (being Laws 1989,
2 Chapter 252, Section 14, as amended) is amended to read:

3 "45-5-314. ANNUAL REPORT--AUDITS.--

4 A. The guardian of an incapacitated person shall
5 file an initial report with the appointing court within
6 ninety days of the guardian's appointment. Thereafter, the
7 guardian shall file an annual report within thirty days of
8 the anniversary date of the guardian's appointment. A copy
9 of the report shall also be submitted to the district judge
10 who appointed the guardian or the judge's successor, to the
11 incapacitated person and to the incapacitated person's
12 conservator, if any. The guardianship annual report review
13 division at the administrative office of the courts shall
14 review all reports upon their filing. The results of the
15 review shall be delivered to the district judge presiding
16 over the guardianship case. The report shall include
17 information concerning the progress and condition of the
18 incapacitated person, including the incapacitated person's
19 health, medical and dental care, residence, education,
20 employment and habitation; a report on the manner in which
21 the guardian carried out the guardian's powers and fulfilled
22 the guardian's duties; and the guardian's opinion regarding
23 the continued need for guardianship. If the guardian has
24 been provided power pursuant to Paragraph (4) of Subsection B
25 of Section 45-5-312 NMSA 1978, the report shall contain

1 information on financial decisions made by the guardian.
2 Only reports that substantially comply with forms approved by
3 the supreme court shall be accepted by the court as
4 fulfilling the requirements of this section.

5 B. Any guardian may rely on a qualified health
6 care professional's current written report to provide
7 descriptions of the physical and mental conditions required
8 in the report provided for in Subsection A of this section.

9 C. The guardian may be fined twenty-five dollars
10 (\$25.00) per day for an overdue interim or annual report.
11 The fine shall be paid to the current school fund.

12 D. The court shall not waive the requirement of an
13 annual report under any circumstance but may grant an
14 extension of time not to exceed sixty days. The court may
15 require the filing of more than one report annually.

16 E. A guardian of a protected person shall fully
17 comply with the requirements of any audit of an account,
18 inventory, report or property of a protected person."

19 **SECTION 10.** Section 45-5-409 NMSA 1978 (being Laws
20 1989, Chapter 252, Section 22, as amended) is amended to
21 read:

22 "45-5-409. ANNUAL REPORT AND ACCOUNT--AUDITS.--

23 A. Every conservator shall file an annual report
24 and account with the appointing court within thirty days of
25 the anniversary date of the conservator's appointment, upon

1 the conservator's resignation or removal or upon termination
2 of the conservatorship. A copy of the annual report and
3 account shall also be submitted to the district judge who
4 appointed the conservator or the conservator's successor, to
5 the incapacitated person and to the incapacitated person's
6 guardian, if any. The report shall include information
7 concerning the progress and condition of the person under
8 conservatorship, a report on the manner in which the
9 conservator carried out the conservator's powers and
10 fulfilled the conservator's duties and the conservator's
11 opinion regarding the continued need for conservatorship.
12 Only reports that substantially comply with forms approved by
13 the supreme court shall be accepted by the court as
14 fulfilling the requirements of this section.

15 B. Any conservator may rely on a qualified health
16 care professional's current written report to provide
17 descriptions of the physical and mental conditions required
18 in the report provided for in Subsection A of this section.

19 C. The court shall not waive the requirement of an
20 annual report and account under any circumstance, but may
21 grant an extension of time. The court may require the filing
22 of more than one report and account annually.

23 D. The conservator may be fined twenty-five
24 dollars (\$25.00) per day for an overdue interim or annual
25 report and account. The fine shall be paid to the current

1 school fund.

2 E. In connection with an account, the court may
3 require a conservator to submit to a physical check of the
4 property in the conservator's control, to be made in any
5 manner the court may order.

6 F. In any case in which property consists in whole
7 or in part of benefits paid by the United States department
8 of veterans affairs to the conservator or the conservator's
9 predecessor for the benefit of the protected person, the
10 department office that has jurisdiction over the area is
11 entitled to a copy of any report and account filed under
12 Chapter 45, Article 5 NMSA 1978.

13 G. A conservator shall fully comply with the
14 requirements of any audit of an account, inventory, report or
15 property of a protected person.

16 H. The court shall forward all reports submitted
17 under Section 45-5-409 NMSA 1978 to the office of the state
18 auditor for review within five business days of receipt of
19 the report. The office of the state auditor shall review the
20 report filed by the conservator and decide whether a full
21 audit is necessary. The office of the state auditor shall
22 submit, within fifteen business days of receiving a report
23 from the court, either a letter of review declining to
24 conduct a full audit or a letter of acceptance to conduct an
25 audit. If the office of the state auditor decides to conduct

1 an audit of the contents in the report, an audit report shall
2 be filed with the court within ninety calendar days of filing
3 an acceptance for an audit. The state auditor shall have the
4 authority to subpoena any documents, records or statements
5 from any individual, company, entity or financial institution
6 necessary to conduct an audit of the contents of a
7 conservator's report. The office of the state auditor shall
8 be available to testify at any court hearing concerning the
9 results of the audit report."

10 SECTION 11. A new section of Chapter 34, Article 2 NMSA
11 1978 is enacted to read:

12 "WORKING INTERDISCIPLINARY NETWORK OF GUARDIANSHIP
13 STAKEHOLDERS--CREATED.--

14 A. The supreme court shall establish the "working
15 interdisciplinary network of guardianship stakeholders" to
16 provide ongoing evaluation of New Mexico laws, services and
17 practices related to adult guardianship and conservatorship.

18 B. The network shall consist of the following
19 members appointed by the chief justice of the supreme court
20 in a manner that reflects a geographic balance:

21 (1) one or more members of the judiciary;

22 (2) the secretary of aging and long-term
23 services or the secretary's designee;

24 (3) the executive director of the
25 developmental disabilities planning council or the executive

1 director's designee;

2 (4) the chief executive officer of the
3 interagency behavioral health purchasing collaborative or the
4 chief executive officer's designee;

5 (5) the state auditor or the state auditor's
6 designee;

7 (6) the attorney general or the attorney
8 general's designee;

9 (7) one or more members of the legislature;

10 (8) the chief executive officer of
11 disability rights New Mexico or the chief executive officer's
12 designee;

13 (9) a professional guardian;

14 (10) a professional conservator;

15 (11) a family guardian;

16 (12) a family member, who is not a guardian
17 or conservator, of a protected person;

18 (13) an attorney;

19 (14) a health care provider with experience
20 in working with patients in need of guardianship;

21 (15) one or more members of an Indian
22 nation, tribe or pueblo located wholly or partly in New
23 Mexico;

24 (16) two protected persons;

25 (17) a representative of the administrative

1 office of the courts;

2 (18) a representative of the American
3 association of retired persons; and

4 (19) any other stakeholder the chief justice
5 deems appropriate.

6 C. The chief justice shall appoint the network
7 chair and an executive committee from the network membership.

8 D. After the initial appointments, members shall
9 serve staggered four-year terms and may be reappointed.
10 Initial appointments shall be for terms of at least two
11 years.

12 E. The network shall meet at least four times each
13 year. Members may be reimbursed for travel expenses in
14 accordance with the Per Diem and Mileage Act. The network
15 shall provide reasonable accommodations to make the meetings
16 accessible to its members."

17 **SECTION 12.** A new section of Chapter 34, Article 2 NMSA
18 1978 is enacted to read:

19 "WORKING INTERDISCIPLINARY NETWORK OF GUARDIANSHIP
20 STAKEHOLDERS--DUTIES.--The working interdisciplinary network
21 of guardianship stakeholders shall:

22 A. identify strengths and weaknesses in New
23 Mexico's system of adult guardianship and conservatorship;

24 B. identify the least restrictive decision-making
25 options for alleged incapacitated persons and protected

1 persons under guardianship and conservatorship;

2 C. review national standards on guardianship and
3 conservatorship practices and recommend standards for
4 implementation in New Mexico;

5 D. propose methods of training guardians and
6 conservators in best practices or adopted standards;

7 E. recommend outreach, education and training as
8 needed; and

9 F. serve as an ongoing problem-solving mechanism
10 to enhance the quality of care and quality of life for adults
11 who are or may soon be in the guardianship or conservatorship
12 system."

13 SECTION 13. COURT VISITOR PILOT PROGRAM.--

14 A. The supreme court shall designate three
15 judicial districts to participate in a court visitor pilot
16 program. The administrative office of the courts shall
17 randomly select cases from each judicial district designated
18 to participate in the pilot program, and in each selected
19 case, the court shall appoint a volunteer court visitor post-
20 adjudication, who shall be provided by the office of
21 guardianship.

22 B. The visitor shall review any reports filed by
23 the guardian, visit the protected person where the person
24 resides, fulfill all responsibilities outlined in the
25 volunteer court visitor agreement executed with the office of

1 guardianship and submit a written report to the court. The
2 report to the court shall include:

3 (1) any changes to the information provided
4 in the guardian's last report;

5 (2) any changes in the protected person's
6 needs since the filing of the guardian's last report;

7 (3) whether any grievances, as defined in
8 Section 45-5-110 NMSA 1978, have been made, and resolutions
9 of the grievances, if any;

10 (4) whether the guardian adequately meets
11 the protected person's needs, including the protected
12 person's living arrangements, medical and health care needs,
13 and, if not, the reasons why the needs are not adequately
14 met;

15 (5) a recommendation regarding the
16 appropriateness of the guardianship, including whether the
17 guardianship should be limited, increased or terminated; and

18 (6) any other information the court deems
19 appropriate.

20 C. The court visitor pilot program shall be
21 implemented no later than July 1, 2022.

22 SECTION 14. EFFECTIVE DATE.--The effective date of the
23 provisions of this act is July 1, 2021. _____