

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL DRS45153-NBz-27

Short Title: Rethinking Guardianship.

(Public)

Sponsors: Senators Krawiec and Van Duyn (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH A RETHINKING GUARDIANSHIP WORKGROUP TO STUDY
3 AND RECOMMEND CHANGES TO CHAPTER 35A OF THE GENERAL STATUTES.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.(a)** The "Rethinking Guardianship Workgroup" is established. The
6 Department of Health and Human Services shall convene the Workgroup to study the laws
7 governing guardianship in this State, including proposed legislative changes and reforms to
8 Chapter 35A of the General Statutes. The Workgroup shall be comprised of 24 members who
9 shall be appointed as follows:

- 10 (1) Four members of the North Carolina House of Representatives, appointed by
11 the Speaker of the House of Representatives.
- 12 (2) Four members of the North Carolina Senate, appointed by the President Pro
13 Tempore of the Senate.
- 14 (3) Two members of the North Carolina Conference of Clerks of Superior Court,
15 appointed by the President of the North Carolina Conference of Clerks of
16 Superior Court.
- 17 (4) An employee of the North Carolina Administrative Office of the Courts,
18 appointed by the Director of the Administrative Office of the Courts.
- 19 (5) The Secretary of the Department of Health and Human Services shall appoint
20 the following members:
- 21 a. Two employees of the North Carolina Division of Aging and Adult
22 Services of the Department of Health and Human Services.
- 23 b. An employee of the North Carolina Division of Mental Health,
24 Developmental Disabilities, and Substance Abuse Services of the
25 Department of Health and Human Services.
- 26 c. A faculty member of the University of North Carolina School of
27 Government.
- 28 d. A member of the North Carolina Guardianship Association.
- 29 e. A member of Disability Rights North Carolina.
- 30 f. A member of the North Carolina Council on Developmental
31 Disabilities.
- 32 g. A member of the North Carolina American Association of Retired
33 Persons.
- 34 h. An individual who is a certified and active Guardian ad Litem.
- 35 i. An employee of a corporate guardianship organization located in this
36 State.



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- 1 j. An employee of a county department of social services in this State.
2 k. An individual with a disability or who has been under a guardianship
3 in this State.
4 l. A faculty member of the University of North Carolina School of Social
5 Work.

6 **SECTION 1.(b)** The Secretary of Health and Human Services shall designate one
7 member as chair, and the Secretary shall convene the first meeting of the Workgroup. Each
8 subsequent meeting shall be convened by the call of the chair. A quorum of the Workgroup shall
9 be a majority of members.

10 **SECTION 2.** The Workgroup shall study all of the following:

- 11 (1) A mandate to consider alternatives to guardianships.
12 (2) A strategy to improve the quality, consistency, and availability of
13 Multi-Disciplinary Evaluations (MDEs).
14 (3) A reformation and simplification of requirements for spousal guardianships.
15 (4) The review process and schedule for ongoing guardianships.
16 (5) The presumption of permanence after guardianship is implemented.
17 (6) The use of limited guardianships and restorations.
18 (7) The rights for those under a temporary, permanent, or limited guardianship.
19 (8) The addition of an appointed legal counsel in addition to a Guardian ad Litem.
20 (9) The terminology used and involved in guardianship.

21 **SECTION 3.(a)** Vacancies. – Vacancies occurring after the establishment of the
22 Workgroup and before January 1, 2020, shall be filled by the original officer who made the
23 appointment. Appointments to replace vacancies shall be made within 30 days of the date the
24 vacancy occurred. If the member of the Workgroup holds an elected position, the member's
25 resignation, removal, or any other event causing that member to no longer hold the elected
26 position shall terminate the elected official's position on this Workgroup.

27 **SECTION 3.(b)** Compensation. – Members of the Workgroup shall receive
28 subsistence and travel allowances at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as
29 appropriate.

30 **SECTION 3.(c)** Administration. – The Department of Health and Human Services
31 shall provide administrative support and shall assign clerical staff to assist the Workgroup. The
32 North Carolina School of Government shall assign professional staff to assist the Workgroup.

33 **SECTION 4.** Report. – The Workgroup shall provide findings and
34 recommendations, including any legislative proposals, to the Joint Legislative Oversight
35 Committee on Health and Human Services by January 1, 2020, on all identified items in this act.

36 **SECTION 5.** The Workgroup shall terminate on January 1, 2020, or upon submitting
37 its report to the Joint Legislative Oversight Committee on Health and Human Services,
38 whichever occurs first.

39 **SECTION 6.** This act is effective when it becomes law.