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March 22, 2016

Governor Gary R. Herbert
Utah State Capitol Complex
350 North State Street, Suite 200
PO Box 142220
Salt Lake City, Utah 84114-2220
Fax: 801-538-1528

Re: H.B. 101 Disabled Adult Guardianship Amendments

Dear Governor Herbert:

We strongly urge you to veto House Bill 101, "Disabled Adult Guardianship Amendments." This bill takes away a potential ward's entitlement to counsel during guardianship proceedings under certain circumstances, including when the parents are seeking guardianship and the person's estate is relatively modest. While we were unable to actively oppose this bill during the legislative session, we have heard from individuals and groups concerned about its deleterious impact on the protection of civil rights for potential wards. For the reasons below, we share these concerns and write to further explain them to you.

First, as a general matter, because most guardianships deprive wards of all of their civil liberties, they should be avoided whenever possible. Alternative, less draconian options are always preferable to a guardianship. Moreover, any guardianship process should be rigorous to ensure that an individual is not deprived of his or her rights unnecessarily. Because removing an advocate for the individual with a disability makes the guardianship process less rigorous, H.B. 101 is a step in the wrong direction.

Studies show that the greater agency an individual has, the less likely it is that person will be subject to abuse or exploitation. Decision-making and control over one's own life is the essence of agency. So, while guardianships are intended to provide protection, by taking away agency, the effect may in fact be the opposite – leaving an individual more vulnerable to abuse and exploitation.

Young people are still in the process of development – their capacities, especially their capacity to learn how to make decisions, with support - are important to nurture and grow. Guardianships take that away. Instead of learning how to make decisions – usually with the advice and support of parents and other trusted advisors – young people are shut out of developing that skill.

Once in place, guardianships are almost impossible to remove. A guardianship condemns an individual to a perpetual childhood – with first their parents, and then, when their parents become incapacitated or pass away, a stranger or organization – controlling their lives. In this sense, guardianship often injects the State into a family's life forever.

Some young people with disabilities have limited communication skills. It is critical that they not only have an advocate, but an advocate who knows how to communicate with them, to explain what a guardianship would do, the long-term consequences of having a guardianship, and the many other ways that they could get support to navigate their needs and life-decisions.

For all these reasons, we urge you to veto H.B. 101.

Sincere Regards,



Karen McCreary
Executive Director



Marina Lowe
Legislative & Policy Counsel



John Mejia
Legal Director

cc: Jacey Skinner, Esq.