

HOUSE No. 1898

The Commonwealth of Massachusetts

PRESENTED BY:

Paul F. Tucker

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to guardianship.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Paul F. Tucker</i>	<i>7th Essex</i>	<i>2/19/2021</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>2/23/2021</i>
<i>Patricia A. Duffy</i>	<i>5th Hampden</i>	<i>2/24/2021</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>2/24/2021</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/25/2021</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>2/25/2021</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>2/26/2021</i>
<i>Kate Lipper-Garabedian</i>	<i>32nd Middlesex</i>	<i>2/26/2021</i>
<i>David Henry Argosky LeBoeuf</i>	<i>17th Worcester</i>	<i>2/26/2021</i>

HOUSE No. 1898

By Mr. Tucker of Salem, a petition (accompanied by bill, House, No. 1898) of Paul F. Tucker and others relative to guardianship. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to guardianship.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The General Laws are hereby amended by inserting after section 9B of
2 chapter 211B the following section:

3 (1) There is hereby established an office of adult decisional support services (the
4 “office”) within the executive office of the trial court, whose purpose is to implement legal and
5 ethical standards for adult decisional support services in the Commonwealth, including the
6 services of guardians and conservators appointed under Article V of Chapter 190B of the
7 General Laws of the Commonwealth (hereinafter, “Article V”), and voluntary services provided
8 through alternatives to judicial appointment. The goals of the office are to promulgate practice
9 standards for all such services that are based on recognized best-practices; to ascertain and report
10 on the adequacy of public and private resources for decisional support in Massachusetts,
11 particularly for the indigent; and to develop oversight and accountability procedures to prevent
12 potential errors or abuses by decisional fiduciaries.

13 (2) The office shall be directed by a judicial administrator of decisional support (the
14 “judicial administrator”), who shall be appointed by the chief justice of the trial court. The
15 judicial administrator shall have significant experience with the laws and clinical practices of
16 decisional surrogacy within Massachusetts, and shall not be a sitting judge or magistrate of any
17 court in any jurisdiction. The judicial administrator shall report to the chief justice of the trial
18 court, and shall have such powers and perform such duties as said chief justice may from time to
19 time prescribe. The judicial administrator may be removed by the chief justice of the trial court.

20 (3) The judicial administrator shall be an officer of the court and shall be authorized to
21 communicate with judges and court personnel in all departments of the trial court, to have access
22 to files and records in all cases involving protective proceedings for adults, and to establish and
23 maintain a database of all judicial appointments for adults under Article V. Any limitations on
24 public disclosure imposed in any case so accessed shall apply to the judicial administrator,
25 except to the extent that data may be de-identified in accordance with procedures established and
26 directed by the chief justice of the trial court.

27 (4) The judicial administrator shall, in his or her discretion, and subject to the direction of
28 the chief justice of the trial court: review cases; develop databases; communicate with court
29 personnel and decisional fiduciaries; submit reports; create media, materials and programs for
30 the public; review relevant technology and communicate with judicial and administrative offices
31 in jurisdictions outside of Massachusetts; propose administrative or judicial procedures or rules;
32 develop, identify and/or designate training programs for guardians, conservators and other
33 decisional fiduciaries; investigate and make recommendations as to the advisability of, and/or the
34 means for, certifying decisional fiduciaries; and perform such other duties as the chief justice of
35 the trial court shall direct. The judicial administrator may, subject to appropriation, appoint or

36 contract with such other personnel as he or she deems necessary for the efficient management of
37 the office and the diligent performance of the duties described herein.

38 (5) In the event that the judicial administrator discovers, pursuant to the normal discharge
39 of the duties of the office, evidence of abuse, neglect, theft, breach of fiduciary duty or other
40 wrongdoing to the person or property of someone who is decisionally-impaired and receiving
41 decisional support, the decisional support administrator, may —

42 (i) petition to modify, discharge or terminate any appointment of a guardian, conservator
43 or other judicially-appointed fiduciary;

44 (ii) file a complaint with an appropriate professional association, or with a state law
45 enforcement or other investigative authority, seeking discipline of, or other remedy against, the
46 decisional fiduciary, whether appointed judicially or through a voluntary instrument.

47 (6) The judicial administrator shall establish an informal help and information process for
48 decisional fiduciaries and those affected by such an appointment.