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1ST SESSION

S. 1148

To establish rights for people being considered for and in protective arrangements, including guardianships and conservatorships, or other arrangements, to provide decision supports.

IN THE SENATE OF THE UNITED STATES

MARCH 30, 2023

Mr. CASEY (for himself, Mr. FETTERMAN, Ms. WARREN, and Mr. SANDERS) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To establish rights for people being considered for and in protective arrangements, including guardianships and conservatorships, or other arrangements, to provide decision supports.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Guardianship Bill of
5 Rights Act”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds the following:

1 (1) At least 1,300,000 people in the United
2 States are in some type of guardianship or other
3 protective arrangement.

4 (2) A majority of guardianships are plenary and
5 strip almost all rights from individuals, with the res-
6 toration of rights being very rare.

7 (3) Guardianship can have grave implications
8 limiting the liberty of people in such an arrange-
9 ment.

10 (4) Overbroad, restrictive, and unnecessary
11 guardianships, conservatorships, and other protective
12 arrangements can dramatically curtail the rights of
13 older adults and persons with disabilities.

14 (5) A person who is being considered for a pro-
15 tective arrangement, or is in a protective arrange-
16 ment, including an individual in a guardianship or
17 conservatorship, has a set of fundamental rights in-
18 cluding—

19 (A) a right, prior to the imposition of a
20 protective arrangement, to exhaust less restric-
21 tive alternative arrangements for supports;

22 (B)(i) a right to an alternative arrange-
23 ment, for anyone who needs decision supports
24 but does not need a guardianship or con-
25 servatorship; and

1 (ii) a right to a supported decisionmaking
2 arrangement for anyone who needs decision
3 supports, whether being considered for or in a
4 protective arrangement;

5 (C) a right to an independent, qualified
6 lawyer who—

7 (i) speaks solely for the person who is
8 being considered for a guardianship or
9 other protective arrangement, or who is in
10 a protective arrangement;

11 (ii) is free of a conflict of interest with
12 the person's family members, and the cor-
13 responding governmental entities, social
14 service agencies, and courts;

15 (iii) represents the expressed wishes of
16 the person who is being considered for or
17 who is in a protective arrangement;

18 (iv) is compensated at a reasonable
19 fee through the use of public funds, if the
20 person is not able to pay; and

21 (v) is appointed by the court involved,
22 if the person does not prefer to have a law-
23 yer of the person's own choosing;

24 (D) the right to significant input and full
25 participation into decisions about their life, in-

1 including their health, education, finances, em-
2 ployment, housing, relationships, parenthood,
3 politics, religious activities, and social activities,
4 and other basic decisions affecting their life;

5 (E) if in a protective arrangement, the
6 right to a reasonable, timely method and infor-
7 mation for reviewing, modifying, and dis-
8 continuing the protective arrangement;

9 (F) if in a protective arrangement, the
10 right to, at a minimum, an annual meaningful
11 review of their protective arrangement that in-
12 cludes representation by a lawyer described in
13 subparagraph (C); and

14 (G) a right to the least restrictive arrange-
15 ment to provide support to a covered individual
16 needing decision supports.

17 (b) PURPOSE.—The purpose of this Act is to create
18 a process to establish a bill of rights for covered individ-
19 uals who are being considered for or who are in a guard-
20 ianship, conservatorship, supported decisionmaking ar-
21 rangement, or other alternative arrangement, regarding
22 the decisions of the individuals to ensure the civil rights
23 of each such individual are protected and the individual
24 has significant input into arrangements of the types de-
25 scribed in this subsection.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) ALTERNATIVE ARRANGEMENT.—The term
4 “alternative arrangement” means an arrangement
5 with key support personnel who may include family
6 members, friends, and professionals, with an ap-
7 proach to meeting the needs of an individual to
8 make decisions that restricts fewer rights of the in-
9 dividual than would the appointment of a guardian
10 or conservator.

11 (2) ASSISTIVE TECHNOLOGY DEVICE.—The
12 term “assistive technology device” has the meaning
13 given the term in section 3 of the Assistive Tech-
14 nology Act of 1998 (29 U.S.C. 3002).

15 (3) COVERED INDIVIDUAL.—The term “covered
16 individual” means—

17 (A) an older adult; and

18 (B) a person with a disability.

19 (4) DEVELOPMENTAL DISABILITY.—The term
20 “developmental disability” has the meaning given
21 the term in section 102 of the Developmental Dis-
22 abilities Assistance and Bill of Rights Act of 2000
23 (42 U.S.C. 15002).

24 (5) DISABILITY.—The term “disability” means
25 a disability as defined in section 3 of the Americans
26 with Disabilities Act of 1990 (42 U.S.C. 12102).

1 (6) GUARDIANSHIP.—The term “guardianship”
2 means a legal relationship established by a court if
3 an individual is determined to lack the ability to
4 meet essential requirements for physical health, safe-
5 ty, or self-care because the person is unable to re-
6 ceive and evaluate information, or make or commu-
7 nicate decisions, about their person or property, even
8 with appropriate supportive services, assistive tech-
9 nology devices, supported decisionmaking, or other
10 less restrictive alternative arrangements.

11 (7) INDIAN TRIBE.—The term “Indian Tribe”
12 means an entity that—

13 (A) is eligible for funding as an Indian
14 tribe under subpart 1 of part E of title I of the
15 Omnibus Crime Control and Safe Streets Act of
16 1968 (34 U.S.C. 10151 et seq.); and

17 (B) is—

18 (i) eligible for funding as an Indian
19 tribe under title I of the Rehabilitation Act
20 of 1973 (29 U.S.C. 720 et seq.); or

21 (ii) eligible for funding through an
22 American Indian consortium under subtitle
23 C of title I of the Developmental Disabil-
24 ities Assistance and Bill of Rights Act of
25 2000 (42 U.S.C. 15041 et seq.).

1 (8) LIMITED GUARDIANSHIP.—The term “lim-
2 ited guardianship” means a guardianship in which a
3 court-appointed fiduciary has the power to make de-
4 cisions for an individual, with that power defined by
5 the court and for the duration determined by the
6 court.

7 (9) LOCAL EDUCATIONAL AGENCY; STATE EDU-
8 CATIONAL AGENCY.—The terms “local educational
9 agency” and “State educational agency” have the
10 meanings given the terms in section 8101 of the Ele-
11 mentary and Secondary Education Act of 1965 (20
12 U.S.C. 7801).

13 (10) OLDER ADULT.—The term “older adult”
14 means an individual who is 60 years of age or older.

15 (11) PERSON WITH A DISABILITY.—The term
16 “person with a disability” means any person who
17 has a disability (including a sensory disability).

18 (12) PLENARY GUARDIANSHIP.—The term “ple-
19 nary guardianship” means a guardianship in which
20 a court-appointed fiduciary has the power to make
21 all decisions allowed by State law for an individual,
22 often due to a finding that the individual is incapaci-
23 tated.

24 (13) PROTECTION AND ADVOCACY SYSTEM.—
25 The term “protection and advocacy system” means

1 a protection and advocacy system established in ac-
2 cordance with section 143 of the Developmental Dis-
3 abilities Assistance and Bill of Rights Act of 2000
4 (42 U.S.C. 15043).

5 (14) PROTECTIVE ARRANGEMENT.—The term
6 “protective arrangement” means—

7 (A) an arrangement in which a person,
8 acting under a limited court order authorizing
9 support for an individual who the court has de-
10 termined is in need of decision supports, has
11 the power, for a duration specified in the order,
12 to make such decisions for the individual, with-
13 out a finding of incapacity or the appointment
14 of a guardian or conservator; or

15 (B) a guardianship or conservatorship.

16 (15) SECRETARY.—The term “Secretary” re-
17 fers to the Secretary of Health and Human Services
18 or the designee of that Secretary.

19 (16) STANDARD.—The term “standard” means
20 a requirement.

21 (17) STATE.—The term “State” means any of
22 the several States, the District of Columbia, the
23 Commonwealth of Puerto Rico, the United States
24 Virgin Islands, Guam, the Commonwealth of the

1 Northern Mariana Islands, American Samoa, and
2 any Indian Tribe.

3 (18) SUPPORTED DECISIONMAKING ARRANGE-
4 MENT.—The term “supported decisionmaking ar-
5 rangement” means an agreement or other arrange-
6 ment, resulting from a series of relationships, prac-
7 tices, and shorter arrangements, of greater or lesser
8 formality and intensity, designed to assist an indi-
9 vidual in understanding, making, and commu-
10 nicating the individual’s own decisions in a way that
11 does not impede the individual’s self-determination,
12 including deciding—

13 (A) who provides the individual with sup-
14 ports for the decisions;

15 (B) in which areas of life the individual re-
16 ceives supports, including decisions about
17 health, services received, finances, property, liv-
18 ing arrangements, and work; and

19 (C) with whom to associate through the
20 support of people, technology, and other deci-
21 sionmaking aids.

1 **SEC. 4. GUARDIANSHIP AND OTHER PROTECTIVE AR-**
2 **RANGEMENTS AND SUPPORTED DECISION-**
3 **MAKING COUNCIL.**

4 (a) ESTABLISHMENT OF A GUARDIANSHIP AND
5 OTHER PROTECTIVE ARRANGEMENTS AND SUPPORTED
6 DECISIONMAKING COUNCIL.—

7 (1) ESTABLISHMENT.—Not later than 180 days
8 after the date of enactment of this Act, the Sec-
9 retary shall establish in the Department of Health
10 and Human Services a Guardianship and Other Pro-
11 tective Arrangements and Supported Decision-
12 making Council (referred to in this Act as “the
13 Council”). The Council shall advise the Secretary
14 and the Attorney General on the development of
15 standards under sections 5 and 6 related to
16 guardianships, conservatorships, supported decision-
17 making arrangements, and other alternative ar-
18 rangements.

19 (2) MEMBERSHIP.—

20 (A) BACKGROUND.—The Secretary shall
21 appoint members to the Council. The Council
22 shall be composed of 30 members that in-
23 clude—

24 (i) five covered individuals currently
25 (as of the date of appointment) using a
26 supported decisionmaking arrangement;

1 (ii) four covered individuals currently
2 (as of the date of appointment) in a pro-
3 tective arrangement;

4 (iii) three family members of covered
5 individuals who are at risk of being in, or
6 are in, protective arrangements;

7 (iv) two lawyers, including at least 1
8 of whom—

9 (I) is a lawyer who has served a
10 protection and advocacy system or
11 legal services organization;

12 (II) has experience in representa-
13 tion of covered individuals in con-
14 testing or limiting guardianships; and

15 (III) has experience in supported
16 decisionmaking arrangements, other
17 alternative arrangements, and protec-
18 tive arrangements;

19 (v) two judges with experience man-
20 aging contested and uncontested
21 guardianships;

22 (vi) two teachers or special education
23 personnel from an elementary school or
24 secondary school;

- 1 (vii) two behavioral health care profes-
2 sionals;
- 3 (viii) one independent living specialist;
- 4 (ix) two other professionals with ex-
5 tensive knowledge of supported decision-
6 making arrangements;
- 7 (x) two representatives of disability-
8 led organizations, meaning organizations
9 for which at least 50 percent of the staff
10 have a disability, or 50 percent of the
11 members of the governing body have a dis-
12 ability;
- 13 (xi) two representatives of organiza-
14 tions representing older adults;
- 15 (xii) one guardian, who shall be a cer-
16 tified guardian if the State involved pro-
17 vides for such certifications;
- 18 (xiii) one guardianship investigator;
- 19 and
- 20 (xiv) one representative of a State de-
21 velopmental disability agency, State agency
22 on aging, or State adult protective services
23 agency.
- 24 (B) DIVERSITY.—Members of the Council
25 shall represent diverse racial, ethnic, religious,

1 gender, geographic, socioeconomic, religious,
2 age, and disability categories.

3 (C) PERIOD OF APPOINTMENT; VACAN-
4 CIES.—

5 (i) TERM.—Members shall be ap-
6 pointed for a 3-year term and may be re-
7 appointed for one additional term.

8 (ii) VACANCIES.—Any vacancy in the
9 Council shall not affect its powers, but
10 shall be expeditiously filled by the Sec-
11 retary.

12 (D) CHAIR; VICE CHAIR.—At the first
13 meeting of the Council, the Council shall select
14 a Chair and Vice Chair from among its mem-
15 bers. The Council shall select a member with
16 the characteristics described in clause (i) or (ii)
17 of subparagraph (A) to fill at least one of those
18 positions.

19 (3) DUTIES OF THE COUNCIL.—The Council
20 shall advise the Secretary and the Attorney General
21 on the development of standards under sections 5
22 and 6.

23 (4) COUNCIL REPORTS.—

24 (A) INITIAL REPORT.—The Council shall
25 prepare a report in which it makes its initial

1 recommendations on the standards described in
2 paragraph (3), not later than 2 years after the
3 date of its establishment.

4 (B) SUBSEQUENT REPORTS.—For the 10-
5 year period beginning on that date of establish-
6 ment, not later than 4 years after that date and
7 not later than every 2 years thereafter, the
8 Council will review the standards described in
9 paragraph (3) and prepare a report in which it
10 makes its subsequent recommendations on the
11 standards.

12 (C) SUBMISSION.—The Council shall sub-
13 mit the reports described in this paragraph
14 to—

15 (i) the Secretary;

16 (ii) the Committee on Health, Edu-
17 cation, Labor, and Pensions of the Senate;

18 (iii) the Special Committee on Aging
19 of the Senate;

20 (iv) the Committee on Education and
21 the Workforce of the House of Representa-
22 tives; and

23 (v) the Committee on Energy and
24 Commerce of the House of Representa-
25 tives.

1 (5) PERSONNEL MATTERS.—

2 (A) NO ADDITIONAL COMPENSATION.—

3 Members of the Council who are officers or em-
4 ployees of the United States shall serve without
5 compensation in addition to that received for
6 their services as officers or employees of the
7 United States. Other members of the Council
8 shall serve without compensation for the per-
9 formance of services for the Council. Notwith-
10 standing section 1342 of title 31, United States
11 Code, the Secretary may accept the voluntary
12 and uncompensated services of members of the
13 Council.

14 (B) TRAVEL EXPENSES.—The members of
15 the Council shall be allowed travel expenses, in-
16 cluding per diem in lieu of subsistence, at rates
17 authorized for employees of agencies in sub-
18 chapter I of chapter 57 of title 5, United States
19 Code, while away from their homes or regular
20 places of business in the performance of serv-
21 ices for the Council.

22 (C) DETAIL OF GOVERNMENT EMPLOY-
23 EES.—Any Federal Government employee may
24 be detailed to the Council without reimburse-

1 ment, and such detail shall be without interrup-
2 tion or loss of civil service status or privilege.

3 (6) TERMINATION.—The Council shall termi-
4 nate 10 years after the date of the establishment of
5 the Council.

6 **SEC. 5. ENSURING THE CIVIL RIGHTS OF INDIVIDUALS IN**
7 **GUARDIANSHIPS, CONSERVATORSHIPS, AND**
8 **OTHER PROTECTIVE ARRANGEMENTS.**

9 (a) INHERENT CIVIL RIGHTS TO PROTECT DURING
10 THE PROCESSES FOR GUARDIANSHIP, CONSERVATOR-
11 SHIP, AND OTHER PROTECTIVE ARRANGEMENTS.—The
12 Attorney General and the Assistant Attorney General for
13 Civil Rights of the Department of Justice, with significant
14 input from the Council and a stakeholder group process,
15 shall establish standards for the inherent civil rights of
16 a covered individual in a guardianship, a conservatorship,
17 or another protective arrangement, including standards
18 related to—

19 (1) which inherent civil rights cannot be re-
20 stricted, which can be restricted but not delegated,
21 and which can be restricted but only with further
22 due process protections;

23 (2) due process protections for the inherent civil
24 rights;

- 1 (3) the fundamental rights described in section
2 2(a)(5);
- 3 (4) rights related to—
- 4 (A) voting access and decisionmaking;
- 5 (B) decisionmaking concerning marriage
6 and other relationships, including romantic,
7 friendship, and family relationships;
- 8 (C) reproductive decisionmaking;
- 9 (D) financial decisionmaking on matters
10 that do not jeopardize long-term security;
- 11 (E) educational decisionmaking;
- 12 (F) health and medical decisionmaking, in-
13 cluding the right to private communication be-
14 tween an individual and the individual’s health
15 care provider;
- 16 (G) decisionmaking for religious observa-
17 tion and activities;
- 18 (H) decisionmaking concerning a place of
19 residency;
- 20 (I) decisionmaking for visitation and asso-
21 ciation;
- 22 (J) decisionmaking for travel;
- 23 (K) communication; and
- 24 (L) decisionmaking for daily decisions; and

1 (5) maintenance of a covered individual’s inher-
2 ent civil rights in their decisionmaking; and

3 (b) AVAILABILITY OF STANDARDS.—The Attorney
4 General shall make the standards described in subsection
5 (a) available and accessible to covered individuals, family
6 members and guardians of covered individuals, judges and
7 court personnel, school personnel, especially special edu-
8 cation teachers and administrators, minority language
9 communities, and additional appropriate entities and indi-
10 viduals.

11 (c) REDUCTION IN BYRNE GRANTS.—

12 (1) DEFINITIONS.—In this subsection—

13 (A) the term “Byrne grant” means a grant
14 under the Edward Byrne Memorial Justice As-
15 sistance Grant Program established under sub-
16 part 1 of part E of title I of the Omnibus
17 Crime Control and Safe Streets Act of 1968
18 (34 U.S.C. 10151 et seq.);

19 (B) the term “State” does not include an
20 Indian Tribe;

21 (C) the term “State or Indian Tribe vio-
22 lates the standards to protect inherent civil
23 rights” means a State or Indian Tribe failed to
24 protect the inherent civil rights of 1 or more
25 covered individuals residing in the State or the

1 area under the jurisdiction of the Indian Tribe,
2 respectively, who is in a guardianship, a con-
3 servatorship, or another protective arrange-
4 ment, in accordance with the standards estab-
5 lished under subsection (a).

6 (2) ESTABLISHING AMOUNT OF REDUCTIONS.—

7 The Attorney General and the Assistant Attorney
8 General for Civil Rights, with significant consulta-
9 tion with the Council, shall establish reductions in
10 the amount of the Byrne grants that will be made
11 available to a State or Indian Tribe if the State or
12 Indian Tribe violates the standards to protect inher-
13 ent civil rights.

14 (3) REVIEW AND REDUCTION OF GRANTS.—The
15 Attorney General—

16 (A) shall accept allegations that a State or
17 Indian Tribe violated the standards to protect
18 inherent civil rights;

19 (B) may, based on an allegation described
20 in subparagraph (A), or on the Attorney Gen-
21 eral's own initiative, review and determine
22 whether a State or Indian Tribe violated the
23 standards to protect inherent civil rights; and

24 (C) if the Attorney General determines a
25 State or Indian Tribe violated the standards to

1 protect inherent civil rights, may reduce the
 2 amount of Byrne grants to the State or Indian
 3 Tribe, respectively, in accordance with the re-
 4 ductions established under paragraph (2).

5 (d) RELATION TO OTHER LAW.—A State that seeks
 6 funding under subpart 1 of part E of title I of the Omni-
 7 bus Crime Control and Safe Streets Act of 1968 (34
 8 U.S.C. 10151 et seq.) shall include, in the application sub-
 9 mitted under section 502 of that Act (34 U.S.C. 10153),
 10 an assurance that the State is implementing and enforcing
 11 the standards issued under this section and section 6(c).

12 **SEC. 6. STANDARDS FOR GUARDIANSHIPS,**
 13 **CONSERVATORSHIPS, AND ALTERNATIVE AR-**
 14 **RANGEMENTS.**

15 (a) STANDARDS FOR ESTABLISHING, REVIEWING,
 16 MODIFYING, AND DISCONTINUING GUARDIANSHIPS,
 17 CONSERVATORSHIPS, OR OTHER PROTECTIVE ARRANGE-
 18 MENTS.—The Secretary, through the Administrator of the
 19 Administration for Community Living, with significant
 20 input from the Council, shall develop standards for estab-
 21 lishing, reviewing, modifying, and discontinuing any pro-
 22 tective arrangement for a covered individual, including
 23 guardianships and conservatorships, including standards
 24 for each of the following:

25 (1) Establishing protective arrangements.

1 (2) Establishing frequencies, of not more than
2 1 year, for regular review of protective arrangements
3 by the court of jurisdiction.

4 (3) Guaranteed procedures for modification or
5 discontinuation of protective arrangements.

6 (4) Guaranteed representation by an inde-
7 pendent, qualified, and compensated lawyer de-
8 scribed in section 2(a)(5)(C) for the covered indi-
9 vidual being considered for a protective arrangement
10 or in a protective arrangement.

11 (5) Access to due process while the individual
12 is being considered for a protective arrangement and
13 while in a protective arrangement.

14 (6) Options for full restoration of rights for a
15 covered individual in a protective arrangement.

16 (7) Ordering limited protective arrangements
17 when less restrictive arrangements, such as sup-
18 ported decisionmaking arrangements, are not appro-
19 priate.

20 (8)(A) Collecting detailed data at the national
21 and State levels on the use of guardianships and
22 other protective arrangements, supported decision-
23 making arrangements, and other alternative ar-
24 rangements.

1 (B) Reporting that data, taken as a whole and
2 disaggregated by gender identity, race, ethnicity,
3 sexual orientation, income level, living situation, age,
4 disability type, and reason for guardianship or other
5 protective arrangement.

6 (b) STANDARDS FOR ESTABLISHING SUPPORTED DE-
7 CISIONMAKING AND OTHER ALTERNATIVE ARRANGE-
8 MENTS.—The Secretary, through the Administrator of the
9 Administration for Community Living, with significant
10 input from the Council, shall develop system standards
11 and other standards for establishing supported decision-
12 making arrangements and other alternative arrangements
13 as the default decision support options for covered individ-
14 uals to avert the use of guardianship or a more restrictive
15 protective arrangement, including—

16 (1) system standards that promote supported
17 decisionmaking arrangements and other alternative
18 arrangements for decisionmaking arrangements, in-
19 cluding decisionmaking arrangements within local
20 educational agencies, health care systems, disability
21 and aging services systems, financial institutions,
22 and court systems;

23 (2) standards for the areas (such as education,
24 finance, and health) in which a covered individual
25 requires decisionmaking supports;

1 (3) standards for how a covered individual
2 using a supported decisionmaking arrangement will
3 select the persons to serve on the supported decision-
4 making team;

5 (4) standards for additional supports, such as
6 assistive technology devices, required to ensure max-
7 imum participation by covered individuals in their
8 decisionmaking; and

9 (5) standards for interrupting the processes
10 that lead to guardianship or conservatorship through
11 retraining key decisionmakers, such as court per-
12 sonnel and administrators, to recognize overbroad
13 petitions for guardianships or conservatorships.

14 (c) STANDARDS FOR TRANSITIONING FROM
15 GUARDIANSHIPS TO ALTERNATIVE ARRANGEMENTS.—

16 The Attorney General, in coordination with the Secretary,
17 and with significant input from the Council and a stake-
18 holder group process, shall—

19 (1) establish standards, for transitioning cov-
20 ered individuals from guardianship or conservator-
21 ship arrangements into supported decisionmaking
22 arrangements or other alternative arrangements,
23 that restore the rights of individuals in appropriate
24 circumstances; and

25 (2) establish standards that—

1 (A) require a periodic review of
2 guardianships and conservatorships, to transi-
3 tion covered individuals in either type of ar-
4 rangement to a supported decisionmaking ar-
5 rangement or another alternative arrangement;

6 (B) provide for such a review at least once
7 a year for such covered individuals; and

8 (C) require that a review of a guardianship
9 or conservatorship occurs if such a covered indi-
10 vidual requests that review.

11 (d) MINIMUM STANDARDS FOR ESTABLISHMENT AND
12 REVIEW OF PROTECTIVE ARRANGEMENTS.—The Sec-
13 retary, with significant input from the Council, shall—

14 (1) establish standards for establishing
15 guardianships or other protective arrangements, in-
16 cluding in the case of a plenary guardianship, stand-
17 ards for health, medical, and financial well-being re-
18 views by the corresponding members serving on a
19 guardianship review panel before the guardianship is
20 established and during reviews described in para-
21 graph (4);

22 (2) create standards for individuals eligible to
23 serve on such a review panel, which shall include
24 lawyers, and advocates, with experience protecting
25 the civil rights described in section 5(a), other pro-

1 professionals with experience in protective arrangements
2 (such as doctors, psychologists, and certified finan-
3 cial planners), and covered individuals;

4 (3) establish standards requiring background
5 checks of individuals seeking to serve on guardian-
6 ship review panels; and

7 (4) establish standards for reviews of protective
8 arrangements described in section 2(a)(5)(F).

9 (e) AVAILABILITY AND ACCESSIBILITY.—The Sec-
10 retary shall make the standards described in this section,
11 and information on the standards, available and accessible
12 to covered individuals, family members and guardians of
13 covered individuals, judges and court personnel, school
14 personnel, minority language communities, and additional
15 appropriate entities and individuals.

16 (f) RELATION TO OTHER LAW.—A State that seeks
17 funding under—

18 (1) title I of the Rehabilitation Act of 1973 (29
19 U.S.C. 720 et seq.) shall include, in the State plan
20 submitted under section 101 of that Act (29 U.S.C.
21 721) or the application submitted under section 121
22 of that Act (29 U.S.C. 741), as the case may be, an
23 assurance that the State is implementing and en-
24 forcing the standards described in this section and

1 issued by the Secretary, other than subsection (c);
2 and

3 (2) subtitle B or C of the Developmental Dis-
4 abilities Assistance and Bill of Rights Act of 2000
5 (42 U.S.C. 15021 et seq., 15041 et seq.) shall in-
6 clude, in the State plan submitted under section 124
7 of that Act (42 U.S.C. 15024) or the materials dem-
8 onstrating eligibility under section 143 of that Act
9 (42 U.S.C. 15043), as the case may be, the assur-
10 ance described in paragraph (1).

11 **SEC. 7. PROTECTION AND ADVOCACY PROGRAM FOR OVER-**
12 **SIGHT OF PROTECTIVE ARRANGEMENTS.**

13 Title I of the Developmental Disabilities Assistance
14 and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.)
15 is amended by adding at the end the following:

16 **“Subtitle F—Protective**
17 **Arrangements Oversight**

18 **“SEC. 171. PROTECTION AND ADVOCACY PROGRAM FOR**
19 **OVERSIGHT OF PROTECTIVE ARRANGE-**
20 **MENTS.**

21 “(a) DEFINITIONS.—In this section:

22 “(1) AMERICAN INDIAN CONSORTIUM; STATE.—
23 The terms ‘American Indian Consortium’ and ‘State’
24 have the meanings given the terms in section 102.

1 “(2) GUARDIANSHIP BILL OF RIGHTS DEFINI-
2 TIONS.—Except as provided in paragraphs (1) and
3 (3), the terms used in this section have the mean-
4 ings given the terms in section 3 of the Guardian-
5 ship Bill of Rights Act.

6 “(3) PROTECTION AND ADVOCACY SYSTEM.—
7 The term ‘protection and advocacy system’ means—

8 “(A) a protection and advocacy system es-
9 tablished in accordance with section 143; and

10 “(B) an American Indian Consortium that
11 provides protection and advocacy services under
12 section 142.

13 “(b) ESTABLISHMENT.—The Secretary, acting
14 through the Administrator for the Administration for
15 Community Living, shall establish a Protection and Advo-
16 cacy Program, for oversight and monitoring of State and
17 local guardianships, conservatorships, and other protective
18 arrangements.

19 “(c) GRANTS.—The Secretary shall make a grant to
20 each protection and advocacy system to establish or ex-
21 pand a Protection and Advocacy Program for Oversight
22 of Protective Arrangements.

23 “(d) AUTHORITY.—In order for a protection and ad-
24 vocacy system for a State or serving an American Indian
25 tribe to receive a grant under this section—

1 “(1) the State or tribe shall have in effect a
2 protective arrangement oversight system to protect
3 and advocate for the rights of covered individuals
4 concerning protective arrangements; and

5 “(2) the protective arrangement oversight sys-
6 tem shall have the authority to—

7 “(A) pursue legal, administrative, and
8 other appropriate remedies or approaches to en-
9 sure the protection of, and advocacy for, the
10 rights of covered individuals within the State or
11 American Indian tribe who are being considered
12 for or in a protective arrangement;

13 “(B) provide legal representation to cov-
14 ered individuals who—

15 “(i) are facing a proceeding to estab-
16 lish a protective arrangement; or

17 “(ii) who desire to modify or dis-
18 continue a protective arrangement;

19 “(C) provide information, referrals, train-
20 ing, and legal representation to enable a cov-
21 ered individual to establish or defend a sup-
22 ported decisionmaking arrangement or another
23 alternative arrangement, including providing
24 such services in plain language, American Sign
25 Language, and other minority languages; and

1 “(D) investigate incidents of abuse of
2 guardianships and other protective arrange-
3 ments.

4 “(e) USE OF FUNDS.—

5 “(1) IN GENERAL.—An entity that receives a
6 grant under this section for a protective arrange-
7 ment oversight system shall carry out the activities
8 described in subsection (d) or (f).

9 “(2) LIMITATION.—The protective arrangement
10 oversight system may not use the grant funds to
11 provide legal representation, or other services, to
12 persons seeking to establish or maintain (with or
13 without modification) a guardianship or conservator-
14 ship.

15 “(f) REPORTS.—Each entity that receives a grant
16 under this section for a protective arrangement oversight
17 system shall prepare and submit to the Secretary, in ac-
18 cordance with such requirements as the Secretary may
19 specify, information on activities carried out through the
20 corresponding program described in subsection (c).

21 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
22 is authorized to be appropriated to carry out this section
23 \$50,000,000 for fiscal year 2024 and each succeeding fis-
24 cal year.”.

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