



Vote YES on HB17-1087

Who is Disability Law Colorado?

Disability Law Colorado is a nonprofit organization established to protect and promote the legal and human rights of individuals with disabilities. It serves as the federally-mandated and state-designated Protection and Advocacy System for people with disabilities. Since Disability Law Colorado was founded in 1976, we have represented nearly 20,000 individuals with disabilities and assisted more than 65,000 individuals with disabilities in advocating for themselves.

SB17-1087 Provides a **Necessary Safeguard for Adults with Severe Disabilities**

As a Protection & Advocacy System, Disability Law Colorado does not support the unnecessary or overly broad imposition of guardianship and is wary that guardianships can too often be imposed based on assumptions made about an individual's capacity because of their disability, rather than being based on a thoughtful examination of the individual's decision-making capacity and potential less restrictive alternatives to guardianship, such as supported decision-making. However, we at Disability Law Colorado also recognize that there are situations when individuals with severe disabilities are incapable of making some or all important life decisions and a guardian needs to be appointed to make decisions for them.

Making decisions for another human – *like deciding where they will live or how they will spend their money* – is a weighty responsibility that must be taken seriously and only after a court has fully scrutinized the need for and role of a guardian. Such is the aim of the protections of the current guardianship statutes. Specifically, a court visitor is appointed to act as an independent investigator for the court, a Guardian Ad Litem is appointed to inform the court of what is in the best interest of an individual, and an attorney is appointed to represent the rights of an individual for whom guardianship is being sought. During this court process, the interested parties and the court are to scrutinize whether the individual needs a guardian and what duties the guardian can and should provide. Though the system is not perfect, it aims to provide due process protections.

Unfortunately, the current system only works for people who have money to pay a guardian or have a family member or friend who is willing to provide the service for free. This is not the reality for many adults with severe disabilities and they are left either with nobody to act as their guardian or – even worse – one or more people step in and make decisions on their behalf without ever undergoing court scrutiny to become legally appointed.

Joe, Alone in a Nursing Home at 23 An Example of Why We Need HB17-1087

We worked with a young man we will call Joe who had cerebral palsy and significant developmental and communication disabilities. Joe was unable to make life decisions for himself, but because he was indigent and had been abandoned by his adoptive family during his teen years, he felt forced to allow an acquaintance to serve as his guardian. Unfortunately, the guardian failed to perform important duties, including financial accounting and responding to inquiries about medical needs. As a result of the guardian's failings, the court ordered Joe – only in his early 20's - to live in a nursing home so that there would be people around him 24 hours a day 7 days a week and they could "in effect" act as guardians and make decisions for Joe that typically a guardian would make. However, there was a significant problem - although Joe had high needs, he did not need to live in a nursing home. He could and should have been living in the community with supports – a notion championed by the Americans with Disabilities Act and our U.S. Supreme court and known as living in the *least restrictive environment*. But, since this young man's guardian was not doing the job he was tasked with doing and Joe had no other family, friends or resources to pay for a guardian, this young man instead languished in a nursing home. With a public guardianship option, despite being indigent and isolated, Joe could have gotten a court appointed guardian and been able to move into the community with appropriate supports and services.

Support for HB17-1087

HB17-1087 allows for the creation of a pilot program to allow adults with severe disabilities who do not have family or money – like Joe - to nonetheless enjoy the fundamental protections of due process when someone else is needed to step in to make decisions for them. This is a basic human and legal right that we need to extend to all people with severe disabilities – regardless of their income or family status.

For these reasons, we urge you to vote yes on HB17-1087.

Alison Daniels
Director of Legal Services
adaniels@disabilitylawco.org
(303) 722-0300

Claire Dickson
Senior Attorney
cdickson@disabilitylawco.org
(303) 722-0300