

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 813*

Short Title: Improve Oversight of Public Guardianship. (Public)

Sponsors: Senators Hise, Barringer, Randleman (Primary Sponsors); and Sanderson.

Referred to: Health Care.

May 21, 2014

A BILL TO BE ENTITLED

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2 AN ACT REQUIRING THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO
3 EXAMINE WAYS TO IMPROVE THE INTEGRITY, EFFICIENCY, AND OVERSIGHT
4 OF THE PUBLIC GUARDIANSHIP SYSTEM, AS RECOMMENDED BY THE JOINT
5 LEGISLATIVE OVERSIGHT COMMITTEE ON HEALTH AND HUMAN SERVICES.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** The Department of Health and Human Services, Division of Aging
8 and Adult Services, shall collaborate with the Administrative Office of the Courts to develop a
9 plan regarding the Department's evaluation of complaints pertaining to wards under the care of
10 publicly funded guardians in order to ensure that, in addition to current requirements, the
11 complaint process also incorporates a face-to-face observation of the ward, an interview with
12 the ward, or both. The plan shall include a requirement that an individual with experience in
13 understanding the unique needs and abilities of the ward be assigned to conduct the observation
14 or interview.

15 **SECTION 2.** The Department of Health and Human Services, Division of Social
16 Services, shall study the issue of conflicts of interest in child welfare cases as related to public
17 guardianship. In conducting the study, the Department shall consider the following regarding
18 addressing potential conflicts of interest:

- 19 (1) Creating internal firewalls to prevent information sharing and influence
20 among staff members involved with the conflicting cases.
21 (2) Creating a formal or an informal "buddy system" allowing a county with a
22 conflict to refer a case to a neighboring county.
23 (3) Referring the guardianship to a corporate guardian until the child welfare
24 case is resolved.
25 (4) Having the Department assume responsibility for either the guardianship or
26 the child welfare case.
27 (5) Recommending legislation to permit the clerk the option to appoint a public
28 agency or official, other than the director of social services, to serve as a
29 disinterested public agent in exceptional circumstances only.
30 (6) Any other issues specific to this matter the Department deems appropriate.

31 **SECTION 3.** The Department of Health and Human Services shall continue
32 utilizing existing safeguards regarding guardians as paid service providers. In addition, the
33 Division of Aging and Adult Services of the Department of Health and Human Services shall
34 consult with the clerks of superior court, local management entities that have been approved as
35 managed care organizations, the North Carolina Bar Association Section on Elder Law, and
36 any other interested groups to develop a model plan for transitioning a ward to an alternative



1 guardianship arrangement when an individual guardian of the person becomes unable or
2 unwilling to serve. The model plan shall focus on ways to prevent the appointment of a public
3 guardian.

4 **SECTION 4.** The Department of Health and Human Services shall continue to
5 study whether utilization of care coordination services would provide needed oversight to
6 safeguard against conflicts of interest when guardians serve as paid providers.

7 **SECTION 5.** The Department shall submit a final report of its findings and
8 recommendations for each of the issues described in Sections 1 through 4 of this act to the Joint
9 Legislative Oversight Committee on Health and Human Services and the Fiscal Research
10 Division no later than October 1, 2014.

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