

Proposal for Legislation – 2023 Legislative Session

Establish Adult Guardianship Program

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1. What is the problem or issue?

Adult Protective Services (APS) is currently the guardian of 96 individuals. The wards have been placed with APS as the last resort or as a replacement due to guardians who had conflicts of interest or were the perpetrator in an APS case.

2. What do you want the legislation to do?

Establish an adult guardianship program including clarifying when APS is to be accessed as a guardian. Clarify when APS is to be accessed as a guardian, that an appointed designee is a unit of the department and not a specific state employee. Provide authority for the department to establish a guardianship unit for the management of APS wards as needed.

3. If possible, please list the MCA (Montana Code Annotated) sections that would need to be amended.

MCA 72-5-312. Who may be guardian -- priorities

4. If the proposed change requires additional funding, what funding sources do you propose?

Currently the guardianships are managed by modified FTE under an ACL grant through FFY 9/25. According to ACL, this grant could move to permanent funding based on congressional action after 09/25. Without these funds, the general fund will be needed.

5. Has similar legislation been requested in the past, been introduced in another state, or provided as a model act? If so, please provide a citation, reference, or point of contact.

Not that DPHHS is are aware of.