

2013 HOUSE HUMAN SERVICES

HB 1040

2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee Fort Union Room, State Capitol

HB 1040
January 15, 2013
Job #17244

☐ Conference Committee

Committee Clerk Signature

Dicky Crabtree

Explanation or reason for introduction of bill/resolution:

Relates to appointment of emergency guardian and requirements of guardianship proceedings and appointment of temporary guardians.

Minutes:

Chairman Weisz: Opened the hearing on HB 1040.

Rep. Allan Weiland: Introduced and supported the bill. I'm from District 13 West Fargo. We have two bills for you today and 1040 is a result of a study done by Dr. Winzer Schmidt from Louisville University in Kentucky. Dr. Schmidt did an excellent job and the record he made it is a matter of record. HB 1040 deals with corrective measures on some of the laws we have already in guardianship. I will let others do the testifying for this bill.

3:05 Aaron Birst: With Association of Counties supports the changes. We didn't think these changes were anything that the system couldn't already handle. There were some other significant changes that are not a part of this bill that we weren't ready to address. This helps.

Rep. Fehr: Are you in opposition?

Birst: In favor.

Josh Askvig: With AARP of ND and we think these changes make sense and in many respects strengthen consumer protection on this bill. I will have more detail on HB 1041.

Chairman Weisz: Asked for further support and then for opposition. No response so he closed the hearing.

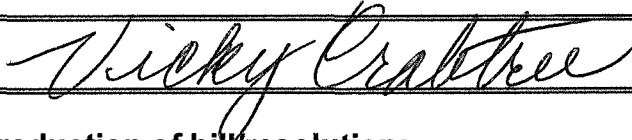
2013 HOUSE STANDING COMMITTEE MINUTES

House Human Services Committee
Fort Union Room, State Capitol

HB 1040
February 6, 2013
Job #18410

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to emergency guardianship.

Minutes:

You may make reference to "attached testimony."

Chairman Weisz: Taking up HB 1040.

Rep. Mooney: I received many e-mails from my area is all in favor and wants a Do Pass on this bill.

Rep. Mooney: I move a Do Pass on HB 1040.

Rep. Laning: Second.

ROLL CALL VOTE: 12 y 0 n 1 absent

MOTION CARRIED - DO PASS

Bill Carrier: Rep. Mooney

Date: 2-6-13
Roll Call Vote #:

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1040

House Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Mooney Seconded By Rep. Laning

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN WEISZ	✓		REP. MOONEY	✓	
VICE-CHAIRMAN HOFSTAD	✓		REP. MUSCHA	✓	
REP. ANDERSON	✓		REP. OVERSEN	✓	
REP. DAMSCHEN	✓				
REP. FEHR	✓				
REP. KIEFERT	✓				
REP. LANING	✓				
REP. LOOYSEN	✓				
REP. PORTER	✓				
REP. SILBERNAGEL	✓				

Total (Yes) 12 No 0

Absent 1

Floor Assignment Rep. Mooney

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1040: Human Services Committee (Rep. Weisz, Chairman) recommends **DO PASS**
(12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1040 was placed on the
Eleventh order on the calendar.

2013 SENATE HUMAN SERVICES

HB 1040

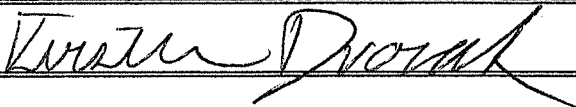
2013 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee
Red River Room, State Capitol

HB 1040
3/13/13
19854

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the appointment of an emergency guardian; Relating to the requirements of guardianship proceedings; relating to appointment of temporary guardians.

Minutes:

See "attached testimony."

Chairwoman J lee opens the Hearing for HB 1040

Sally Holeva state court admin. Introduces the bill to the committee. This bill came out of the interim study. (ends 5:28) **Chairwoman J Lee** asks if a family member is was named temporary guardian prior to the establishment to a permanent guardianship.

(0:11:24) Rep. Wieland: HB 1040 was the result of discussing the changes that Dr. Schmidt recommended to the state of North Dakota, and these were changes within the code itself, with basic guardianship. **Chairwoman J. Lee** asks for clarification on the appointment of another attorney for the ward.

(0:16:55) David Boeck state employee and Lawyer for the Protection and Advocacy Project. Supports HB 1040. See attached testimony #1 (Ends 23:08) **Chairwoman J. lee** asks about the difference between a guardian with limited functions and a limited power of attorney.

(0:29:41) Judy Vetter from guardian and protective services as administer and president of the guardianship association of North Dakota testifies in support HB 1040. It does provide another layer protection for the proposed ward. It goes from a 90 day appointment under a temporary emergency to a 60 day. 60 days is adequate.

Josh Askvig with AARP supports HB 1040.

(0:31:52) Sally Holeva state court admin: Goes over the bill for the committee.

Chairwoman J. lee Closes the hearing on HB 1040

2013 SENATE STANDING COMMITTEE MINUTES

Senate Human Services Committee
Red River Room, State Capitol

1040
3-19-13
20146

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Minutes:

Chairwoman J. Lee opens committee work for HB 1040

Chairwoman J. Lee goes over given testimony.

Senator Dever motions for Do Pass

Senator Larson Seconds

Do Pass 5-0-0

Senator Dever will carry to the floor

Date: 2-19-13
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1040

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Sen Dever Seconded By Sen Larsen

Senators	Yes	No	Senator	Yes	No
Chairman Judy Lee	✓		Senator Tyler Axness	✓	
Vice Chairman Oley Larsen	✓				
Senator Dick Dever	✓				
Senator Howard Anderson, Jr.	✓				

Total (Yes) 5 No 0

Absent _____

Floor Assignment Sen Dever

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1040: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS**
(5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1040 was placed on the
Fourteenth order on the calendar.

2013 TESTIMONY

HB 1040

Senate Human Services Committee
Sixty-Third Legislative Assembly of North Dakota
House Bill No. 1040
March 13, 2013

Good morning, Chairman Lee and Members of the Senate Human Services Committee: I am David Boeck, a State employee and lawyer for the Protection & Advocacy Project. The Protection & Advocacy Project is an independent state agency that acts to protect people with disabilities from abuse, neglect, and exploitation, and advocates for the disability-related rights of people with disabilities.

House Bill 1040 addresses temporary or emergency guardianships. Under current law, a son could petition to be named temporary guardian of his father by alleging that his father cannot make responsible decisions due to an impairment and that an emergency exists for which a guardian is necessary. A temporary guardianship in these circumstances is routinely valid for 90 days. As temporary guardian, the son could make legally binding decisions for his father and would not have to give notice to his father until fourteen days before a hearing. The hearing would not have to be held until the ninetieth day of the temporary guardianship.

The Protection & Advocacy Project supports House Bill 1040. If enacted, the bill would provide better protection for the constitutional rights of an individual who is allegedly incapacitated. This would greatly improve the fairness of this process.

Thank you. Please let me know if you have questions.