



March 5, 2024

The Honorable Ron Latz
Chair, Judiciary and Public Safety Committee
Minnesota Senate
3105 Minnesota Senate Building
St. Paul, MN 55155

The Honorable Warren Limmer
Ranking Minority Leader, Judiciary and Public Safety Committee
Minnesota Senate
2221 Minnesota Senate Building
St. Paul, MN 55155

Re: SF 3438 - Guardian Immunity

Dear Chair Latz, Ranking Minority Leader Limmer, and Members of the Judiciary and Public Safety Committee:

Legal Aid respectfully writes in support of SF 3438, the Guardianship Immunity Bill. Legal Aid provides civil legal services to low-income Minnesotans, statewide, to help them meet their basic needs.

This issue is before the committee because of a legal case¹ that arose when a vulnerable adult with Alzheimer's disease in long-term care facility was the victim of an unspeakable act by a facility staff member and the victim's guardian recklessly breached her duties by failing to inform the family of the heinous act and its traumatic impact on the victim. The court in that case held the guardian immune from any responsibility for her negligent action.

While there is debate about whether liability could possibly obtain under other sections of guardian law, any ambiguity regarding whether guardians should be held accountable no matter how egregious or harmful a guardian's act or omission needs to be clear. SF 3438 would establish that clarity.

While, of course, no one wants to discourage people from becoming guardians, there must be some middle ground between creating liability for second guessing reasonable, everyday decision making by guardians and those acts or omissions that shock the conscience and cause severe or irreparable harm. SF 3438 strikes such an appropriate balance.

Sincerely,

Ron Elwood, Supervising Attorney

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¹ Zika v. Elder Care of Minnesota, Inc., 979 N.W.2d 472 (Minn. Ct. App. 2022).