

Letters of Support

S.F.3438

Guardianship task force creation and immunity limitations for guardians

MN Senate Judiciary and Public Safety Committee

03/20/2024

elder voice

ADVOCATES

Date: March 5, 2024
RE: Support for HF3483/SF3438 – Jean's Law Addressing Guardian Immunity
To: House Judiciary Finance and Civil Law Committee and Rep. Sandra Feist
Senate Judiciary and Public Safety Committee and Sen. Scott Dibble

Dear Judiciary Committee Members:

Elder Voice Advocates strongly supports HF3483/SF3438, which aims to limit blanket immunity for guardians in Minnesota. As a nonprofit organization dedicated to protecting the rights vulnerable adults and improving the care given, we know how critically important it is to have accountability for wrongdoing.

Minnesota is believed to be an outlier in its recent guardian immunity interpretation that a guardian is not liable for their own acts of negligence when performing their core functions. This bill seeks to rectify this issue by restoring essential rights to individuals under guardianship.

The existing position of granting guardians complete immunity for their core responsibilities is illogical. Elders and vulnerable adults rely on us to safeguard them from harm, yet the current system poses a threat to their well-being. It's unreasonable that guardians are exempt from any consequences, even in cases of neglect or direct harm inflicted on those they are supposed to protect.

People under guardianship should not have fewer rights to pursue claims of negligence than others. If a guardian causes harm, the affected individual should have the right to seek recourse without encountering immunity barriers.

The legislature did not intend to grant guardians blanket immunity. Other professionals do not enjoy such broad immunity, so there's no reason why guardians, who oversee our most vulnerable citizens, should be exempt.

Given the significant power guardians wield over vulnerable individuals, it's crucial to implement additional safeguards to prevent abuse. Allowing guardians complete immunity puts those under their care at risk of harm.

With approximately 35,000 people under guardianship in Minnesota, the stakes are high. These individuals are relying on the legislature to safeguard their interests, and blanket immunity fails to provide adequate protection. It's imperative to support HF3483/SF3438 and address this issue promptly.

Thank you for your attention to this matter and for your dedication to improving the quality of care in our community.

Kristine Sundberg, Executive Director
Elder Voice Advocates

A handwritten signature in black ink, reading "Kristine Sundberg". The signature is written in a cursive style with a long, sweeping horizontal line at the end.



Adult Representation Services

March 5, 2024

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

The Honorable Warren Limmer
Ranking Minority Member, Judiciary
& Public Safety Policy Committee
Minnesota Senate
349 State Office Building
St. Paul, MN 55155

Re: In Support of Jean's Law; SF3438

Dear Chair Latz, Ranking Member Limmer, and Members of the Committee:

I write in support of Jean's Law (SF3438). I am an attorney at Hennepin County Adult Representation Services ("ARS"). ARS is an independent county department that provides advocacy to clients experiencing poverty in civil matters where they are entitled to an attorney, which includes representing persons subject to a Guardianship and Conservatorship.

ARS is the only county-funded law firm in the State of Minnesota that provides exclusive representation for respondents in Guardianship and Conservatorship matters. ARS does not provide representation to petitioners, family members, or third parties involved in adult guardianship matters. We do not represent professional or private guardians. Our interest is singularly to advocate for adequate protections for our clients which safeguard their rights and dignity. As of December 2022, there were over 7,200 open guardianship cases in Hennepin County alone. 2,962 new guardianships were established in Minnesota in 2023.

The current interpretation of Minn. Stat. § 524.5-313(c)(2) fails to adequately protect the rights and dignity of persons subject to guardianship in Minnesota, leaving our clients at increased risk of harm and without a remedy should harm occur. The change proposed in SF3438

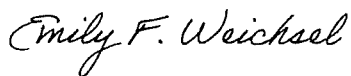
Hennepin County Adult Representation Services
525 Portland Avenue South, Suite 1000
Minneapolis, MN 55415-1600
Main Office: 612-348-7012 | Fax: 612-543-0938
ContactARS@hennepin.us
<http://www.hennepin.us/ars>

is urgently needed to bring balance to the rights of persons subject to to guardianship with the role of the guardian. This bill would correct the blanket immunity issue created by the Court of Appeals' narrow interpretation of the statute.

Currently, Minnesota is the only state that grants blanket immunity to guardians. It is unjust that persons subject to guardianship, who have been adjudicated as incapacitated by the Court and are now subject to restricted civil liberties as a result, would have less protection and redress for intentional harms committed to them by the person charged with protecting them. Unfortunately, the current interpretation of the statute post-*Zika* makes this scenario a reality for Minnesotans subject to guardianship.

SF 3438 ensures that some of the most vulnerable in our community are protected by deterring harmful behavior and providing recourse for those victimized should harm occur. For these reasons, I respectfully request that you support Jean's Law.

Sincerely,

A handwritten signature in cursive script that reads "Emily F. Weichsel".

Emily F. Weichsel
Attorney
(612) 596-9243
Emily.weichsel@hennepin.us

Date: March 5, 2024

RE: HF3483/SF3438 – Jean's Law Addressing Guardian Immunity

To: Senate Judiciary and Public Safety Committee

Dear Committee Members:

I write in support of HF3483/SF3438 addressing blanket immunity for guardians. We cannot take away even more rights of a person subject to guardianship. Blanket immunity puts vulnerable people at risk.

My name is Colleen Berning, and this is my family's truth about the guardian and why I believe that you must change the laws to protect other innocent people...

Our story is about my Uncle John (John J.O. Roland). He was having some trouble with his ostomy bag and went to the hospital for help, he left his place of residence never to return, until I picked him up from the crematorium.

During his first few days in the hospital, they were asking about his cognitive condition and if he was safe at home and I said that he was showing some confusion but nothing that I thought was unsafe at that time. I have over 20 years in geriatric care so I felt comfortable with my assessment. His wife, Beverly ended up in the same hospital a few days later and one of the social workers came to her room asking her for permission to give John shots, she asked what they were for and was not given an answer. I was in her room for this conversation. He touched on a few other subjects and then said that we may have to get a guardian if she was unwilling or unable to make a decision. Then I was asked to be the guardian and by other family members was instructed not to do it that it would just cause "family drama", believe me, I wish I would have because I am sure that he would still be alive. So we ended up with a court appointed guardian and that was the beginning of the end.

He was kept at the hospital for 10 months and every care center that was suggested was negated for one reason or another, until the guardian found a spot in Elmore, Minnesota. A 3 hour trip from his wife and home; Beverly doesn't and has never driven. I believe that the guardian had informed the staff at Elmore not to let John talk to Bev on the phone. One night Beverly got a phone call from the hospital in Faribault Minnesota saying that John had a heart attack and was wondering why he was in memory care because he didn't need to be, but he had some other medical issues and they were going to get him better and get him back home. The guardian stated that there were no hospital beds available in Minnesota and that he had to go to Souix Falls, South Dakota.

After speaking with the nurses, they were as confused as I was, but they were clear about what was going on with him. He had weeping sores on his legs and his backside, that had become septic. My husband and I talked with more family members and we planned a trip to Souix Falls, where Beverly and I stayed there Labor day weekend. We had been instructed by another attorney to get a written statement from Uncle John stating that he wanted to live. He asked what

we were doing with the paper and Beverly told him that you need to write down that you want to live, he said "that's ridiculous, of course I want to live " and we left him the pen and paper but it was gone in the morning. The day after we returned home we got a call saying we needed to have a care conference and at that point the guardian discontinued his antibiotics and he was DNR/DNI comfort measures only, changed by the guardian without permission and against my uncle's wishes. He was transported back to Rochester to a hospice unit to die.

When guardians get in there and they know that they are protected by the law, it gives them the room to do anything. This bill is about the right to bring a claim if necessary. Please support HF3483/3438.

Sincerely,

/s/ Colleen "Kelly" Berning

Colleen ("Kelly") Berning

Date: March 5, 2024

RE: HF3483/SF3438 – Jean's Law Addressing Guardian Immunity

To: Senate Judiciary and Public Safety Committee

Dear Committee Members:

I write in support of HF3483/SF3438 addressing blanket immunity for guardians. So many rights are taken away when a guardian is appointed. We cannot take away the fundamental right of a person under guardianship to bring a liability claim for terrible harm caused by a guardian.

I am writing with grave concerns about the granting of full immunity to guardians. This would put lives at jeopardy with safety and take away civil rights of individuals.

No entity should have complete power and control of lives, as guardians do, and not have any consequences when duties are not responsibly carried out. I am aware of this power and control firsthand. The long-term care facility at which my mother resided sought guardianship over her. They did not notify the family of the emergency guardian hearing or appointment and after my brother found out, the facility told him he didn't need to attend. My brother was my mother's appointed agent as attorney-in-fact and health care agent, which should have avoided the guardianship as a least restrictive alternative, but it did not. My mother was near the end of her life and we spent her last precious days fighting an unnecessary guardianship.

Presently, there is not enough oversight of guardians and therefore the possibility of not fulfilling their responsibilities is becoming more commonplace.

This does put lives in danger. Then on top of this granting immunity to guardians would only compound problems. There is no incentive for people to do the right thing if they are granted full immunity. Minnesota is known for being in the forefront of having progressive and insightful solutions to problems yet currently there are detrimental practices that are in place. I would appreciate a good look at the detrimental outcomes from a policy of full immunity for guardians would cause. Please say NO to full immunity to guardians! Please support HF3484/SF3438. Thank you!

Sincerely,

/s/ Colleen Howe

Colleen Howe
37139 Fenway Ave
North Branch, MN 55056

Date: March 5, 2024

RE: Support for HF3483/SF3438 – Jean's Law Addressing Guardian Immunity

To: **Senate Judiciary and Public Safety Committee**

From: Cindy Hagen

Dear Committee Members:

My name is Cindy Hagen. I am a Minnesotan who was paralyzed in a car accident when I was 15. I support HF3483/SF3438, which would limit blanket immunity for guardians in Minnesota. Here is my story.

In January 2023, after I had been stuck in a hospital for months, I was forcibly placed under guardianship and conservatorship without me or my lawyer being notified until after the court approved it. At the court hearings, I was never given the opportunity to speak. Before that, I had been trying very hard—to no avail—to get my county to approve disability services so I could move back home to my Mankato apartment. The hospital wanted me to move to a place they found, but I did not agree. I knew that if I went to their chosen place, I would lose my apartment and probably never get out. I was left in an impossible situation without a case manager. I didn't want to be in the hospital. I hated it there. But if I moved somewhere chosen by the hospital, then I would have lost my apartment and my independence.

I knew others were being bullied into doing what they didn't want to do and forced out of their homes. I couldn't let that happen to me. Having no case manager, I knew I had to fight because going back to another understaffed nursing home or facility would mean I would not get my cares met. The numerous pressure sores, infections, being forced to stay in bed because nobody would get me up, and then going weeks to months without getting bathed properly with mold in my hair. Mentally I already knew how much of a toll hospitalization was taking on me without fresh air and sunlight, but what about my body? Would I be able to endure another year or more of this until I could find new adequate accessible affordable housing? No, I knew I'd become just another statistic. This is why I never agreed to go in any of these places: another nursing home, or a group home where I would live in one little room, lose most of my belongings, with a huge monthly spend down, not being able to afford much of my daily expenses. That would have ended my ability to do things that made me happy: getting a new cat, going to concerts, buying new clothes, because living on a hundred dollars a month would be gone really quickly.

The hospital threatened guardianship for the first time on December 16th, 2022. The whole hospital management team came in and threatened me with guardianship: either I move to the place they found, or they would place a guardianship over me and they would forcibly move me. Yet on December 22nd, during a different meeting with Moving Home Minnesota, social services, and others, it was agreed that guardianship was not necessary because now, with the new, appropriate people, we were part of the "moving Cindy home project".

I remember the morning of January 5, 2023, very clearly. I had just woken up when a hospital social worker came into my hospital room, telling me my county's social services wanted to talk to me. Before I could say anything, a laptop was set on a table in front of the bed with my former social worker and a few other people I did not recognize. Despite a previous meeting stating people were not allowed to talk to me without my lawyer or other advocates present, the meeting went on anyway without my consent. **I was told that I must agree to and be physically placed in a group home approximately three hours away**

from my Mankato apartment, or else they would force guardianship upon me. This meeting was a crushing blow to me.

How should I go about talking about the mistreatment and abuse that I received when hospital management told staff to do what they needed to do to make me feel as uncomfortable as possible because "we need this room for somebody else that deserves to be here"? I understood what it meant to be in the hospital. I no longer needed to be there medically. But I was left in an impossible situation without a case manager. I felt guilty most of those ten months because I knew there were people who needed to be there instead of me. The proper people were not leaving me with much choice.

I remember the first time I met my guardian on February 14, 2023. Of the 15 minutes she spent talking to me, she wasn't concerned about how I was feeling and what was happening. About 13 minutes of that time was her wanting to know about my assets: how many bank accounts I had, how much money I had, and where did I bank? What property was in my apartment? What other things did I own?

I was forcibly subjected to guardianship and conservatorship for 80 days. I can't tell you how many times I was in fear of my life. At any given time, I could be forcibly removed from the hospital. I would have no choice and they didn't have to tell my loved ones, my lawyer, or anybody else who was helping me where I was going. Many times I had been told, "Did you know that they're coming today to take you to some mystery place? They found a facility for you to go." Then I would spend that whole day thinking, oh, great, today's the day someone's going to force me to go to some place and I have no idea where. But at the end of the day I'd still be in the hospital. They did this to me constantly.

One of the last places that I remember them talking about was a mental institution that did not like the way that I was catheterized. They wanted me to have an invasive surgery, making it more convenient for their staff. I guess you could say luckily the guardian did not agree to this. Finally, everybody agreed to drop the guardianship and conservatorship, and allow me to have the right under court-mandated timelines to go home with disability services.

I constantly had nightmares then and I still do now. As I have flashbacks over all of this, I still constantly wonder, what happens if they come back and force me under guardianship again?

It's been difficult being around certain people who know my story. I don't get treated the same way I used to. They still don't think that I can make decisions and others take it upon themselves to make decisions for me. I have to fight even harder in an already ableist society than the average disabled person since the guardianship.

Sometimes it's difficult for me to even leave my apartment because I'm afraid. I constantly worry that if I don't make a decision, people will think that I'm doing something wrong or that they don't like. This happened once before and is it going to happen again even though I am doing nothing wrong? Because I have a disability, I don't get the same rights to live my life?

I still can't fathom how courts can make the decision to appoint a complete stranger to make life decisions for somebody they don't know and decide what is in their best interest. To be such an inconvenience that now you're just seen as an object. And if God forbid, a guardian makes a decision that ends up causing the vulnerable person bodily harm or death? Do you think that somebody who spent fifteen minutes with you or your loved somehow makes them fit to be you or your loved one's guardian?

My situation could have ended up much worse, but I had the power and the ability to speak up no matter what was thrown at me. What about the others who fall between the cracks? **You give the guardian and other parties blanket immunity so when these vulnerable people end up injured physically or mentally and some are dying from the guardian's neglect, the guardian isn't held accountable? We can no longer allow blanket guardianship immunity in the state of Minnesota or quite frankly anywhere. People with disabilities and the elderly are human beings and have rights. When did we forget this?**

My guardianship story was never about me being incompetent. It was an issue of having no case manager to finalize disability services for me to obtain staff in my own home, and a hospital that demanded that I be moved somewhere I didn't want to go, and that would have resulted in me never returning home to my Mankato apartment. That is why the county and hospital pursued guardianship and conservatorship over me—because I knew I had the right to go back home with the disability services I need.

Thank you.

Cindy Hagen
Wheelgal13@gmail.com

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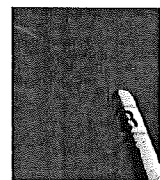
Surveillance craft shot
down on Biden's orders.

By ELLEN NAKASHIMA, ALEX
ROBERTSON and DONALD S.
HELDERMAN • Washington Post

WASHINGTON — A U.S. fighter jet, acting on an order from President Joe Biden, downed a Chinese surveillance balloon off the South Carolina coast on Saturday, the Pentagon said, ending what senior administration officials contended was an audacious attempt by Beijing to collect intelligence on sensitive U.S. military sites.

Biden had authorized the takedown on Wednesday, instructing the Pentagon to act "as soon as the mission could be accomplished without undue risk to American lives under the balloon's path," Defense Secretary Lloyd Austin said in a statement. The president, in brief remarks to reporters, said: "They successfully took it down. And I want to compliment our warriors who did it."

With a single missile fired from an F-22 Raptor, the craft was taken down at 1:39 p.m. CST, shortly after the Federal Aviation Administration ordered ground stops for all flights in and out of Wilmington, N.C., Myrtle Beach, See **BALLOON** on A5 ▶



JAISON KILLIAN/AP
An Air Force fighter jet shot down the balloon Saturday.

AS FAR SUBURBS SOAR, LAKE ELMO ON TOP



The Brockhus family recently moved to Lake Elmo. The suburb is drawing buyers seeking plenty of space.

The city's scant listings, rural feel
drive demand and rising prices.

Story by JIM BUCHTA and MARYJO WEISTER
Photo by CARLOS GONZALEZ • Star Tribune staff

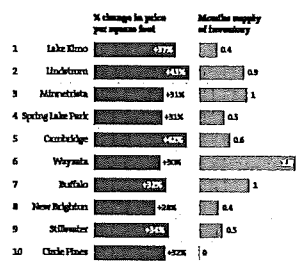
Mortgage rates weren't the only thing home buyers focused on during 2022. Buyers were obsessed with big houses and big yards, making far-flung suburbs the most popular places in the metro area last year, according to the Star Tribune's seventh annual Hot Housing Index, which tracks the annual increase in sales, prices and other metrics for nearly every city in the metro.

By that measure, the hottest city for home buyers last year was also one of the most inconspicuous: Lake Elmo, a second-ring suburb that's a sharp contrast to its livelier next-door neighbor, Woodbury.

With hundreds of acres of rolling farmland, a regional park and several lakes, Lake Elmo was a magnet for house shoppers on the hunt for a more

See **HOUSING** on A8 ▶

TOP 10 METRO HOUSING MARKETS



See where your city ranks at startribune.com/housing

Science muddies cannabis' legal path

With risks difficult
to quantify, lawmakers
grapple with THC levels
and age minimums.

By JEREMY OLSON
jeremy.olson@startribune.com

The University of Minnesota's famed twins study had as good a shot as any to sort out the murky health effects of recreational marijuana.

By factoring out differences in genetics, upbringing and age, the study offered a purer comparison of twins who smoked marijuana vs. siblings who didn't. After comparing 364 sets of identical twins, the U researchers found in 2021 that the marijuana users had lower grades and were less likely to attend college and earn higher incomes.

But the study didn't find the cognitive declines and mental health problems others have ascribed to marijuana. Even twins lead different lives, so it's also possible other influences were at work, said Jonathan Schaefer, a lead author and researcher at the U's Institute of Child Development.

"By virtue of comparing twins, we can get a much more accurate estimate of the true effect of the drug," he said. "But it is still an estimate, and it's not necessarily wholly attributable to the drug."

Those uncertainties reflect Minnesota's paradox as its leaders debate whether to join 18 states in legalizing recreational marijuana. Few studies let marijuana off the hook, and yet its harms seem unclear or modest compared to tobacco or alcohol — making it hard to stand in the way of the people who want to smoke it, the industry that wants to sell it, and the politicians who want

See **MARIJUANA** on A9 ▶

WHO GUARDS AGAINST GUARDIANSHIP LAW?

Story by CHRIS SOKKES • Photo by ELIZABETH FLORES • Star Tribune staff

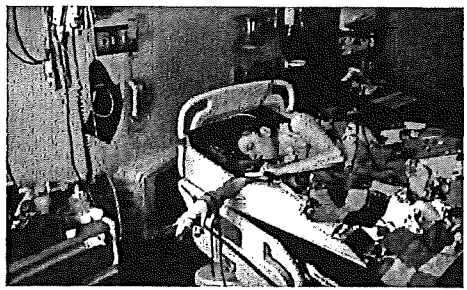
**FIGHTING TO
RETURN HOME**
Cindy Hagen, in the
hospital in Austin,
Minn., is contesting
Blue Earth County's
efforts to move her to
a care facility. "There
is absolutely nothing
wrong with my mind,"
she said after
a hearing. "I don't
need a guardian."

Lying sideways in a hospital bed, in too much pain to sit upright, Cindy Hagen felt a wave of anxiety sweep over her as she stared at the smartphone screen next to her pillow.

There, on her screen, solemn-faced social workers and attorneys were debating Hagen's future in a Zoom court hearing, including whether she was capable of making her own decisions. An adverse ruling could upend Hagen's life. It would mean that someone appointed by the court — known as a guardian — would determine where she could live and what medical care she could receive.

Hagen, who is 49 and quadriplegic from a childhood car crash, waited for her chance to speak — to recount her odyssey and demonstrate that

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Cindy Hagen, 49, has limited mobility and has been stuck in the hospital because she can't find home caregivers. She is fighting Blue Earth County efforts to appoint a guardian.

'I JUST WANT TO GO HOME'

“GANE from AI she is of ‘sound mind’ despite her physical limitations. Mostly, she wanted to tell everyone in the remote hearing that it was a severe shortage of home caregivers — and not impaired decision-making — that kept her stuck in a hospital room in Austin, Minn., for more than six months, long after she was healthy enough to leave. But the hearing ended before she could testify, leaving her upset and confused.

“There is absolutely nothing wrong with my mind,” Hagen said from her hospital bed after the hearing last month. “I don’t need a guardian. I just want to go home.”

Hagen’s struggle to regain her freedom has become a flash point in a broader debate over the guardianship system in Minnesota. Disability rights activists across the state have rallied to her side and spread details of her case on social media sites with the hashtag #FreeCindy. Some have likened her plight to that of pop star Britney Spears, who lost control of nearly every aspect of her life after a court deemed she was unable to care for herself and appointed a conservator, even as she continued to perform for her fans.

“This is a textbook case of everything that’s wrong and dehumanizing about the guardianship process,” said Jonathan Martin, a senior director for law and policy at a center for disability rights at Syracuse University and a national expert on guardianship law.

Minnesota’s system for appointing guardians — for those found unable to care for themselves — has long been criticized as a heavy-handed approach to supervising the care of people with disabilities. For decades, guardians have been granted broad authority over the housing, medical care and even the personal relationships of people they are assigned to protect. Judges often grant this authority based on limited information and assumptions that people with disabilities are incapable of making major life decisions, say legal scholars and attorneys.

In 2020, longstanding concerns over the power of guardians led state lawmakers to amend Minnesota’s guardianship law to limit its use. For the first time, courts were directed by statute to appoint guardians only after less-intrusive options had been attempted. The changes were also intended to encourage the use of “supported decision-making,” an alternative legal process that allows individuals to retain more autonomy.

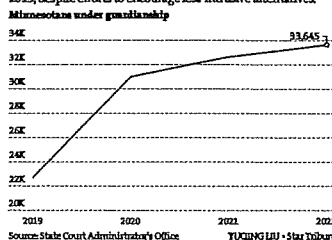
But disability rights advocates and some attorneys say the law is not being adequately enforced, and they are calling for greater judicial oversight and state funding of alternatives to guardianship. They point to recent state data showing that court orders to place people under guardianship keep increasing year after year. As of 2022, some 33,645 Minnesotans were living under the supervision of court-appointed guardians — up nearly 50% since 2019, before the legislation was passed, according to the State Court Administrator’s Office.

“We need fundamental change because what’s happening to Cindy [Hagen] could happen to any one of us,” said Lance Hegland, who has muscular dystrophy and is the former co-chair of a state council on disability services. “You can have all your rights stripped away simply because we lack an adequate safety net.”

Hagen didn’t used to have regular panic attacks. She is a nature lover who lived in an apartment in Mankato and led an active life before she was hospitalized with an infection at the Mayo Clinic hospital in Austin last summer. Confined to a second-floor room, Hagen has not ventured outside in more than 200 days. She misses the sun

GUARDIANSHIPS ON THE RISE

The number of Minnesotans living under the supervision of court-appointed guardians has increased by nearly 50% since 2019, despite efforts to encourage less-intrusive alternatives.



on her face and the chirping of birds. She spends many of her waking hours staring out a window with a view obscured by a hospital wall. On a sunny day, she may catch 20 minutes of sunlight through her bedside window.

“There are times when these walls feel like they are crushing in around me,” said Hagen, recounting a recent panic attack. “You get to the point where you feel like you just can’t breathe because nothing is happening, and the doors around you seem permanently shut.”

Hagen was medically cleared for release from the Mayo Clinic hospital on July 8, 2022, but she says that a lack of home care staff has prevented her from returning home. Several of her longtime caregivers have moved on, and Hagen’s limited mobility makes it difficult for her to recruit new ones. Unable to move her fingers, Hagen uses her tongue and tip of her nose to tap out emails and texts on her smartphone to home care agencies.

The crash that left her paralyzed at age 15 also damaged her vocal cords, which makes every conversation a physical strain. And because she has been bedridden for so long, Hagen said she has developed a painful pressure sore that further limits her mobility.

But the chief source of her anxiety is a court petition filed early last month by Blue Earth County Human Services, seeking an emergency guardian “to protect and supervise” Hagen. A day later, a judge appointed an Owatonna-based business, Alternative Resolutions, Inc., as her guardian for 90 days. The judge cited Hagen’s mental health problems and struggles accessing personal care support at home as evidence that her health and safety were at risk.

Suddenly, and with no opportunity to testify on her own behalf, Hagen learned that many of her basic rights had been stripped away and handed to an entity she had never heard of. The judge granted the newly appointed guardian all the powers allowed under Minnesota’s guardianship law, including control over where she lives and her medical care. She has hired an attorney and is contesting the guardianship order.

But Hagen said she now lives in fear that, on any given day, she could be removed from the hospital and shipped off to a nursing home or other institution. “How is this any different from a kidnapping?” she asked.

Her experience is far from unique. A survey by the Minnesota Hospital Association

found that, in a single week in December, nearly 2,000 patients were stuck in hospital rooms, despite being well enough to be sent home or to less-acute settings, largely because of a statewide shortage of health care workers. Unnecessary hospital stays had surged 39% since the association surveyed hospitals in September 2021, when the COVID-19 pandemic was still raging.

Hagen’s situation has been complicated by her independence and refusal to be discharged to another institution. Hagen has spent the past 21 years living on her own in an apartment with a lush backyard and easy wheelchair access to a nearby park. She volunteers at a local activity center for adults with disabilities and has been a visible advocate for the community — at times testifying at public meetings in Mankato on safer sidewalk access for people who use wheelchairs.

But Hagen’s insistence on living independently, instead of in institutions, is now being used against her in court proceed-

ings — a scenario her lawyer describes as “Kafkaesque.”

In its petition for emergency guardianship, Blue Earth County cited her repeated refusal to be discharged to skilled nursing homes, assisted-living facilities and other institutions as evidence that she had “impaired decision-making” and was “lacking sufficient understanding of the reality of her situation,” and hence was in need of a guardian, according to the county’s petition. An attorney for Blue Earth County declined to comment further on the case.

Now, Hagen finds herself caught in another quandary: The longer she stays at the hospital, the more she exhibits so-called “behaviors” that can be used to justify the appointment of a guardian. In a recent statement filed with the court, a Mayo Clinic physician maintained that Hagen’s purchase of a Christmas tree and stocking for her hospital room was evidence that Hagen had “impaired decision-making,” and failed to see that the hospital was not a suitable living option, the statement said.

“The threat is very clear,” said Hagen’s attorney, Misti Okertund. “If you don’t act in the way we expect you to act, then we have the power and the means to deprive you of your rights.”

In response, Hagen said that celebrating Christmas had always been a cherished tradition in her family, but she denied ordering a tree for her room. Instead, she asked hospital staff if they could give her a print-out of a Christmas tree to brighten up her room. They never did, she said. But one morning, she woke to discover that someone had scribbled a Christmas tree on the white board.

Now, as Valentine’s Day approaches, the staff has been erased and replaced with the black outline of a pierced heart below the initials “VD.”

The line on the board for her anticipated discharge date is blank.

Staff researcher John Wareham contributed to this report.
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WEDNESDAY, APRIL 5, 2023

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MINNESOTA

LOCAL • STATE • REGION

Pardon process gets fresh look

The Legislature is considering changes to Minnesota's stringent system that requires a unanimous vote.

By LOUIS KRALYIS
louis.kralyis@startribune.com

Minnesota is the only U.S. state that requires three top state officials to unanimously sign off on pardons or commutations of past criminal convictions, but state lawmakers are considering a proposal to lower that high bar.

Gov. Tim Walz — who sits on the Board of Pardon and also on the Board of Pardons and with Attorney General Keith

Ellison and Supreme Court Chief Justice Lorie S. J. Gildea — is backing the legislation, along with the state Department of Corrections and a variety of advocacy groups.

Under current law, Walz, Ellison and Gildea all need to vote in favor of a pardon for it to be granted. The unanimous vote requirement is unique to Minnesota, as all other states either give the governor sole

control over whether a pardon is granted, or require the majority of a board to vote in favor of it. Only in Minnesota can one dissenting vote sink the process.

The current arrangement dashes the hopes of too many deserving people trying to change their lives and re-enter society, say the backers of the House and Senate bills.

"It makes it incredibly hard to receive a pardon, and for

people who have turned their lives around and done everything right since a conviction," said Rep. Esther Agbaje, DFL-Minneapolis, lead sponsor in the House.

Walz and Ellison, both Democrats, have at times joined in backing pardons or commutations that Gildea rejected. The chief justice was first appointed to the court by former Gov. Tim Pawlenty, a Republican.

Under the new proposal, only two of the three would need to vote in favor of a pardon or commutation for it to be granted, as long as the majority includes the governor.

In recent years the state has recorded a much lower number of pardons compared with many nearby states. But applications are increasing. After processing 77 clemency applications in 2018 (16 of which

See PARDONS on B3 >

Court backs her quest to go home

Quadriplegic Mankato woman is seeking to free herself from guardianship.

By CHRIS SEARES
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In a case closely watched by disability rights advocates, a Mankato woman has won a temporary legal victory in her monthlong struggle to regain control of her personal decisions from a court-appointed guardian.

Cindy Hagen, a 49-year-old who became quadriplegic after a childhood car accident, has been at the Mayo Clinic hospital in Austin, Minn., since last July, even after she was deemed healthy enough to leave, because she has been unable to find enough staff to provide care at her apartment in Mankato.

After several failed attempts to move Hagen to a facility for seniors, a Blue Earth County District Court judge in January placed her under an emergency guardianship — which gave an outside entity control over nearly every aspect of Hagen's life. Hagen and her attorney have insisted that she is capable of making decisions on her own, and that a guardian is not necessary.

Now, after two months of contested proceedings, Hagen has won back her independence — for now.

A Blue Earth County District Judge approved an agreement last week that lifts the emergency guardianship, allowing Hagen to transition to a home of her choosing. The agreement comes with a caveat: The guardianship will be reinstated if Hagen does not arrange in-home care and move by May 12.

Although the threat of a See DEBILITY on B3 >

Triplexes facing hurdles in Mpls.

North Side developers forced to scale down plans.

By SUSAN DU
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Lena Gardner's vision for a slate of vacant properties in north Minneapolis was exactly what city leaders said they want: denser, more affordable housing on former single-family lots.

The neighborhood supported it. The city offered her nonprofit, Black Lives of Unitarian Universalism (BLUU), assistance to fund it.

But when she presented the plan for the first triplex to the city planning staff, it didn't fit the neighborhood. A City Council committee agreed, telling her to go back to the drawing board.

Gardner had to scale the project back, eliminating amenities like balconies and shrinking the third floor. While construction is on schedule to begin this summer, she's not sure whether she will run into the same obstacles for the next seven lots in her pipeline.

"I think that zoning law could change to be more reasonable and equitable because we are trying to provide housing — we're providing four-bedroom, 2½-bath, brand-new construction with significant investments from the city of Minneapolis," Gardner said.

Despite the 2040 Comprehensive Plan's elimination of single-family zoning four years ago, zoning codes have not yet been updated to align with the plan, making it hard to redevelop lots into multifamily housing.

BLUU snapped up eight tax-forfeited properties in 2019 with plans to build triplexes on each lot. A total of 24 units would be sold to people making at most 60% of area median income. The homeowners would form a limited-equity housing cooperative, sharing

See HOUSING on B3 >



SPRING? BRRRRING IT ON

A large wave smashed into the shoreline along Duluth's Canal Park on Tuesday as a spring storm pummeled the North Shore. Carlton and southern St. Louis counties were under a winter storm warning until 7 p.m. Wednesday with wind gusts of up to 60 mph. Those gale-force winds could also churn the waters of Lake Superior, potentially creating 20-foot-high waves.

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Republicans rally at Capitol in opposition to DFL priorities



"Stop the madness," yelled Judy Kretschmar of Bagley, Minn., during a Minnesota GOP "Freedom Rally" at the State Capitol.

Spending plans, policies on abortion, guns and gender care dismay GOP.

By JESSIE VAN REKEL
jessie.vanrek@startribune.com

Republicans chanting, "It's our surplus, give it back!" and wearing shirts with the slogan "stop the madness" rallied Tuesday at the State Capitol to proclaim that Democrats' spending and policy plans have gone too far.

The DFL won full control of state government last

year. Lawmakers have since pushed to protect abortion access, add gun restrictions and ensure transgender people from other states could get gender-affirming medical services in Minnesota. Those policy measures, coupled with proposed spending increases, were at the center of much of Tuesday's angst.

"What the Democrats are doing are running through all these liberal policies. It's not the majority. I'm from rural Minnesota ... We have different values," said Judy Kretschmar of Bagley. "We

cherish our kids and we value the Second Amendment."

She and two dozen others chartered a bus from Bemidji to attend the rally, which Kretschmar said is the first she's attended at the Capitol. She said Minnesotaers are tuning into the legislative action and asking themselves, "What is at risk here?"

The rally landed on the same day former President Donald Trump appeared at a Manhattan courthouse for his arraignment, where he pleaded not guilty to

See RALLY on B5 >

3 finalists named for chief public defender

By KIM HYATT
kim.hyatt@startribune.com

Three finalists have been selected to lead the Hennepin County public defender's office, a position that's turned over twice in the past three years.

The Minnesota Board of Public Defense looks to name a new chief following a final round of interviews April 11, according to a list of finalists obtained by the Star Tribune. The finalists include: Michael Berger, Greg Ryan and Shawn Webb.

The position oversees the state's largest public defender's office with a budget of about \$9 million and more than 200 staffers.

Hennepin County has been without a chief public defender for half a year. Former chief Kassius Benson resigned in October after news surfaced over the summer of an IRS investigation into his private practice, along with a drunken driving charge. He was indicted on 17 counts of federal tax evasion in February. Benson had replaced Mary Moriarty, after the board declined to reappoint her in 2020. An investigation found that she fractured relationships

See DEFENDER on B5 >

Guardianship fight is closely watched by advocates for disabled

• DISABILITY from B1

guardianship still looms, Hagen expressed relief that she would once again be able to avail herself of freedoms that most people take for granted. For the past few months, Hagen said she has lived in fear that a guardian would move her to a nursing home or other site far removed from her apartment and community of friends in Mankato, where she led an active life before she was hospitalized last summer for an infection.

"I finally have my freedom back," Hagen said from her hospital room. "But it's really scary to think that they could strip away my right to make my own decisions and send me wherever they want. ... What kind of life is that?"

Hagen's struggle to win back her autonomy galvanized many in the disability rights community, who have long argued that Minnesota's system for appointing guardians is heavy-handed and overused. For decades, guardians have been granted broad authority over the housing, medical care and even the personal relationships of people they are assigned to protect. Judges often grant this authority based on limited information and assumptions that people with disabilities are incapable of making major life decisions, say attorneys and disability advocates.

"I cannot tell you how frustrating it is to have people, even medical professionals who should know better, treat me like I am mentally impaired when it is my physical body that is broken," Hagen wrote in a written statement to the court. "The guardianship is an extension of that."

For now, Hagen said she is confident that she will find enough staff to return home by early May. Blue Earth County Human Services has approved a robust mix of services, including round-the-clock home care. Her attorney, Matt Osterlund, said they have identified eight people prepared to care for Hagen at her home, although not all of them have completed background checks.

"Cindy is going home," Osterlund said. "And we will stop at nothing to get her there — and with her civil liberties preserved." Hagen, who has not been outside a hospital room for nearly nine months, has begun to imagine what she will do when she returns home. She plans to plant some spring flowers, adopt a cat and go on rock concerts with friends and become more involved in disability rights campaigns.

"The very first thing I'm going to do is go outside and take the biggest and deepest breath of fresh air I've ever taken," she said, "and then probably bawl my eyes out."

A survey of 95 hospitals showed patients received 14,622 more days of care than necessary — in one week in mid-December. Many patients are being discharged to facilities more than 100 miles from their homes because of staffing shortages,

hospital administrators say. Hagen's case was complicated by the fact that she insisted on living independently, rather than in institutions, which is ultimately what led to the guardianship proceedings.

Blue Earth County cited her repeated refusal to be discharged to skilled nursing homes and other facilities as evidence that she had impaired decision-making skills. Hagen noted that she has a sufficient understanding of the reality of her situation, and hence was in need of a guardian, according to the county's guardianship petition.

In interviews, Hagen acknowledged that she sometimes gets upset with staff when she feels ignored but insists she is mentally sound enough to make decisions. Hagen said she has lived independently with support staff for three decades and helped lead a grassroots campaign in Mankato (called "How I walk") designed to improve sidewalk safety for people in wheelchairs.

"I cannot tell you how frustrating it is to have people, even medical professionals who should know better, treat me like I am mentally impaired when it is my physical body that is broken," Hagen wrote in a written statement to the court. "The guardianship is an extension of that."

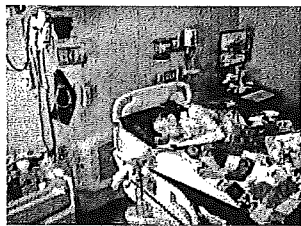
Some likened her plight to that of pop star Britney Spears, who lost control of her finances and career after a court deemed she was unable to care for herself and appointed a conservator, even as she continued to perform for her fans.

"We should all be very troubled by this case because it could happen to any one of us," said Nancy Fitzsimons, a professor of social work at Minnesota State University, Mankato. "It should be really hard to take away a person's autonomy. But in Cindy's case, her rights were stripped away simply because she was making choices that were not convenient."

The case has drawn attention to the state's severe shortage of health care workers, which has caused many people to languish in acute-care hospitals, rooms long after they were well enough to leave.

A survey of 95 hospitals showed patients received 14,622 more days of care than necessary — in one week in mid-December. Many patients are being discharged to facilities more than 100 miles from their homes because of staffing shortages,

Chris Serna • 612-673-4508



Cindy Hagen talked on the phone from her hospital bed in the Mayo Clinic hospital in Austin, Minn. Hagen says she can't wait to get home and go outside in the fresh air.

Dassel man is killed in crash near Howard Lake

A Dassel man was killed in a two-vehicle crash near Howard Lake on Tuesday morning, and the Minnesota State Patrol is investigating.

The man who died was identified as Toby Jo Bitt, 46. Officers responded at around 7:30 a.m. to the crash on Hwy 12 near Keas Avenue SW. A Ford Taurus, driven by Bitt, and a Ford box truck

were both traveling east on Hwy. 12 when they collided near Keas Avenue, according to the online incident report.

The truck driver was not injured in the crash, and alcohol was not involved, the State Patrol added in the report. The crash is still under investigation.

LOUIS STAUS

Legislature considers changes to pardon process

• PARDONS from B1
were granted), it shot up to 185 applications in 2021, 41 of which were granted. The number of applications dropped slightly in 2022 to 169, and 44 were approved.

In comparison, Wisconsin Gov. Tony Evers announced in December he has granted 774 pardons since 2019, compared with 128 people granted clemency in Minnesota over the same years.

Walz said Minnesota needs to remove the unanimity requirement to become fairer to applicants who deserve clemency. The state issues too few pardons each year, he said. "One of the things maybe Republicans can take on this is crime and redemption," Walz said. "These people are decades past paying for their crime — they've past everything."

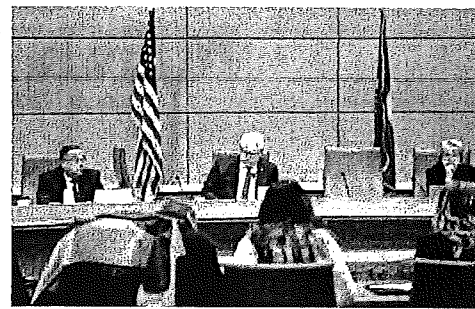
The governor said he takes issue with the fact that the unanimous vote gives veto power for a pardon back to the court system after it issued the conviction originally.

The courts "should be part of the process, but I think you get a better representation when the executive (branch) has the ability to issue this clemency to folks," Walz said.

The proposal also attempts to make the application process more accessible. The legislation allocates \$986,000 annually to establish a nine-member "clemency review commission" that would take over reviewing Minnesota's growing number of applications. Each Board of Pardons member would appoint three commission members.

The commission would vote on whether to recommend clemency before the Board of Pardons makes a final vote. The goal would be to process more applications each year. The number of applications is expected to continue to increase, and could double to 370 or more next year, according to a DOJ fact sheet about the bill.

Republicans have concerns, especially over the proposed removal of the unanimity requirement. Rep. Paul Norvotny, R-Elk River, said he doesn't believe there is a problem with the current system.



Under current state law, Attorney General Keith Ellison, Gov. Tim Walz and Minnesota Chief Justice Lorie Sjaferen Gildes, left to right, must agree on pardons of past criminal convictions.

"It's just another attempt to water down the process that has worked in the past," Norvotny said. "I think they're fixing something that's not broken — spending a million dollars on it."

Other Republicans said they support the benefits of a separate commission, but want the unanimous vote rule to stay.

"Pardons are a big deal — these are people that have already had their due process and have been convicted, many of them serious crimes," said Sen. Michael Kreun, R-Bloomington.

Kreun said while he is against the proposal as is, he supports adding six paid staff members who would assist the commission and petitioners, and help connect involved victims to services. The measure would also allow victims to provide confidential statements for a pardon hearing if they fear appearing in person.

Gildes declined to comment, with a spokesperson saying that the Supreme Court "does not weigh in on pending legislation." In a statement, Ellison said he has concerns that the commission, as written, would take away the Board of Pardons' role of having direct meetings with those involved in the pardon process.

"I support a bill that preserves direct, face-to-face contact between Board of Pardons

members and petitioners, victims, and community," Ellison said. "I do not support delegating that function to another body, except in cases where victims, courts, and prosecutors all agree the pardon should issue."

Ellison's spokesperson did not respond to a follow-up inquiry on whether the attorney general supports scrapping the unanimous vote rule.

Motivation for the bill stems from the pardon application and lawsuit by Ethiopian immigrant Amireya Shefa. She killed her husband in 2013 in what she claimed was self-defense after he raped and beat her. She was found guilty of manslaughter, and after her release in 2018, Homeland Security sought to deport her.

Shefa applied for a pardon, which could have stopped her deportation to Ethiopia, where her husband's family had sworn to kill her. Walz and Ellison voted in favor of the pardon, but Gildes dissented. Shefa's deportation case was "administratively closed" and put on hold after Walz requested Immigration and Customs Enforcement do so.

Shefa filed a lawsuit arguing the unanimous vote requirement was unconstitutional. A Ramsey County judge sided with Shefa, but the Supreme Court overturned the decision.

Andy Crowder, Shefa's former lawyer, said he thinks the bill represents a much-needed change.

"Minnesota is way behind, and it's way behind because you have situations where one individual person can block somebody's pardon, and somebody who's not the governor," Crowder said.

The pardons can be life-changing. One recent success story is Zach Lindstrom, who went from spending nights in a Minneapolis treatment facility for drug and alcohol use to being elected to the Mounds View City Council last November.

Lindstrom was convicted of a gross misdemeanor for marijuana possession in 2005. He now works as a loan officer for a credit union, and he said the pardon has been an "enormous weight" off his shoulders.

It has also allowed him to go hunting with his kids, because the conviction prohibited him from owning a gun.

Lindstrom said he supports a switch to a majority vote requirement, saying that he thinks board members vote based on, in part, their own personal "fears" and life experience.

"Some of those lenses might not be as forgiving as they ought to be," Lindstrom said.

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Triplex developers encounter zoning code obstacles

• HOUSING from B1

the costs of maintenance, child care and food-buying. The land would be kept perpetually affordable by the City of Lakes Community Land Trust.

Last summer, BLUU and its partner Urban Homeworks, a developer of affordable housing rentals, received neighborhood approval for architect Damaris Hollingsworth's designs for the first of its triplexes at 1338 Logan Ave. N. They received a commitment of \$923,000 from the Minneapolis Homes program to keep the purchase price affordable pending closing. But the plans required variances from the zoning code to increase the height by 1 foot and the gross floor area by about 1,000 square feet.

The developers argued that the lot's narrower-than-average size made it difficult to build a triplex without those variances, despite the 2040 Plan's endorsement of duplexes and triplexes in parts of the city formerly zoned for single-family homes. City staff recommended denying their request for the variances, countering that the bulk of the property would shadow its neighbors and fail to blend in. At the end of January, the City Council's Business, Inspections, Housing and Zoning Committee unanimously sided with staff, rejecting the variances.

No one from the neighborhood had complained about BLUU's triplex design. Project supporter William Wells, a triplex architect, criticized the city's review process as overly arduous for small developers of affordable



Urban Homeworks' Amalel Young, left, and BLUU's Lena Gardner and daughter Winnie on N. Logan Avenue where the developers will construct the first of eight cooperative triplexes.

housing. The Northside Residents Redevelopment Council (NRRRC) also made it clear it supported the variances, commending developers in a statement for "the care and time taken to develop this vision in collaboration with our community."

The neighborhood group had earlier voiced strong objections to a much larger 63-unit apartment complex proposed for the corner of Plymouth and Russell Avenues on the grounds that the neighborhood lacked a grocery store and other infrastructure to support the influx of residents. That development, which had asked the city for significant variances reducing various setbacks — including the front yard by

more than 30 feet — was nevertheless approved.

"NRRRC recommends that before variances are reviewed by zoning the developer should be able to demonstrate actual community support for the requested variances," said Marlene Smaller, NRRRC executive director.

BLUU and Urban Homeworks submitted the new, scaled-back design that would not require any variances. It was approved in mid-February.

The project was left with "zero outdoor space," said Gardner. The redesign cost the developers \$45,000. Construction on 1338 Logan is set to begin this summer and last about a year and a half. Families could move in as soon as 2025.

Urban Homeworks Executive Director Amalel Young said they hope to recruit the first home buyers among people, especially single mothers, currently living in one of Urban Homeworks' 134 affordable rental homes. "Lena's focus, which aligns perfectly with Urban Homeworks' focus, is to really close the stability and wealth gap for Black and Indigenous families," Young said.

Despite voting to turn down the variances for 1338 Logan, City Council Member Jeremiah Ellison proposed working out a "sustainable solution" that developers face while building denser housing on small single-family lots.

"Important points were made about equity and maybe some of the low changes that need to happen," he said. "I want to better understand if this is going to be an issue that BLUU is going to run into on every single project that they have."

The city of Minneapolis' code development team is working on citywide land use rezoning, a part of implementing the 2040 Plan. The Land Use Rezoning Study is expected to be completed this summer. Once it's done, the code development team will turn to other zoning code updates, said Community Planning and Economic Development spokeswoman Johna Lewis.

"How to reduce barriers for the production of missing middle housing in general is a goal and looking at regulatory barriers that may exist will be considered a part of that overall work," Lewis said.

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"I think that zoning law could change to be more reasonable and equitable because we are trying to provide housing."

Lena Gardner, Black Lives of Unitarian Universalism executive director



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TASTE



THURSDAY
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spills into tomorrow's

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FOR BREAKING NEWS

RICO charges target two Mpls. gangs

U.S. uses racketeering conspiracy statute to indict alleged members of Highs, Bloods.

By STEPHEN MONTMAYOR
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Federal prosecutors have charged 45 people they accuse of belonging to two of Minneapolis' most prominent street gangs with complex conspiracy charges in what law enforcement leaders are

gun crimes. The statute — also referred to as the Racketeer Influenced and Corrupt Organizations Act (RICO) — was first rolled out in the 1970s to bring down organized crime families and requires approval from the Justice Department in Washington, D.C.

"Today's announcement marks a fundamental change for federal law enforcement," U.S. Attorney Andrew Luger said Wednesday, as two indict-

ments were unsealed. "We are now addressing gang violence for what it is: organized criminal activity."

Of the 45 defendants — linked either to the Highs or the Bloods gangs — 30 are charged across two indictments and 15 other members are being charged in separate documents with drug and gun crimes. Luger said that those charged engaged in a "brutal and unrelenting trail of

violence" spanning multiple years, with membership of the gangs swelling since the 2020 onset of the COVID-19 pandemic and the unrest that followed George Floyd's murder. Some two dozen shooting victims — a blend of targeted murders and bystanders who survived — are referenced in the charges, with the shootings dating as far back as 2014. Luger said agents had arrested all but two of those

charged as of Wednesday afternoon.

The Justice Department's organized crime and gang section is assisting with the prosecution, and investigators from the Minneapolis Police Department have been embedded within the U.S. Attorney's Office in Minnesota. Wednesday's announcement arrived on the anniversary of Luger launching a coordinated effort

See GANGS on A11 >

'I feel like a human again'



Muti Okechund cried as client Cindy Hagen left the Mayo Clinic hospital in Austin, Minn., after 10 months.

Woman home after legal saga kept her in hospital 294 days

Story by CHRIS SKERRIS • Photo by ELIZABETH FLORES • Star Tribune staff

Cindy Hagen was overwhelmed as she leaned back in her wheelchair and inhaled outside air for the first time in 294 days.

A group of friends and relatives huddled in the drizzle outside a hospital in Austin, Minn., last week as Hagen, 48, a quadriplegic with limited movement of her limbs, relished her newfound freedom.

"What is that?" asked Hagen, her eyes filling with tears. "Is that fresh air that I'm breathing?"

Moments later, Hagen wheeled herself into a Dodge van and began a 90-minute journey home to Mankato. Gazing out the window at the passing landscape, Hagen excitedly pointed out the spring wildflowers. "I've been away too long," she said.

For Hagen, the journey home marked a victory in a months-long struggle to regain her independence — one that galvanized many in Minnesota's disability

community and prompted renewed calls to protect the civil rights of people with significant disabilities.

Hagen had been living at the Mayo Clinic hospital in Austin since last July after seeking treatment for an infection. Even after she was healthy enough to leave, she could not do so, because she could not retain enough weight to provide care at the apartment in Mankato where she had lived for 21 years.

After several failed attempts to move Hagen to a senior facility, a Blue Earth County District Court judge in January placed her under an emergency guardianship — which gave an outside entity control over virtually every aspect of Hagen's life. Hagen and her attorney argued that she was capable of making decisions on her own and that a guardian was not necessary.

For four months, Hagen lived in fear that a guardian

See HAGEN on A11 >

Fed signals possible pause in rate hikes

Quarter-point increase puts benchmark at its highest level since 2007.

By JESSICA SHALALEX
New York Times

WASHINGTON — Federal Reserve officials raised interest rates by a quarter-point Wednesday, the 10th straight increase in an aggressive campaign to tame rapid inflation. But they also opened the door to a pause as their policies combine with bank turmoil to weigh down the economy.

Central bankers lifted rates to a range of 5% to 5.25%, a level they have not reached since summer 2007. The move capped the fastest series of rate increases since the 1980s as central bankers attempt to cool price increases by slowing growth.

But in their statement

announcing the decision, policymakers also tempered language around future rate increases, saying that additional moves "may" be appropriate. Fed Chair Jerome Powell underscored in a news conference following the release that any additional changes would hinge on incoming economic data.

Taken together, those statements were a meaningful shift in the Fed's stance. For months, officials had assumed that additional increases would be needed. Now, they could stop raising interest rates at any upcoming meeting — perhaps as soon as their gathering June 13-14.

Yet, central bankers were careful to keep their options open at a highly uncertain economic moment, suggesting that they could continue to raise rates if the economy and

See RATE on A11 >

Riot recovery aid working its way through Legislature

By JESSIE VAN BEEKEL
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Looters broke into Rob Yang's footwear store in Minneapolis and St. Paul in 2020, wiping out an overflowing inventory of shoes that had piled up as pandemic restrictions blocked sales.

Yang is still struggling to bounce back after his insurance coverage fell far short of his losses. It's a common story along riot-damaged corridors.

Things are slowly coming back. Yang said Wednesday as he surveyed renovation

work on a University Avenue property he bought in St. Paul's Midway neighborhood in early 2021. "A lot of people pulled out of this area. ... For us to revitalize this area again and get developers to come in, we really need to reinvest in ourselves."

Nearly three years after the police murder of George Floyd sparked unrest across the Twin Cities, community groups and business owners are pressing Minnesota leaders to give more money to businesses and nonprofits for

See RIOT DAMAGE on A11 >



ANTHONY SOUTHERN • anthony.southern@startribune.com
Rob Yang, left, who got \$166,000 in state aid to rehab a building he bought in 2021, said many other businesses need help, too.

Mortgage past due on landmark IDS Center in Mpls.

By BURL GILYARD
burl.gilyard@startribune.com

The deadline to pay off a large mortgage bubble has come and gone for the owner of the IDS Center in downtown Minneapolis without resolution.

The deadline to pay was Monday.

The loan balance is listed at \$154.4 million by Cred Itq, a Pennsylvania-based firm that tracks commercial real estate data, analytics and valuations. IDS Center owner Accesso Partners said that it is continuing talks to resolve the issue. "We are working with a lender to refinance the asset and are negotiating a forbear-

ance agreement with the special servicer to allow us time to close the new loan," the firm said in a statement.

Forbearance temporarily postpones loan payments. JPMorgan Chase & Co. provided the original \$182.5 million loan.

Cred Itq's report indicates

See IDS on A11 >

\$154.4 million
Loan balance listed for the IDS Center

\$182.5 million
The original loan provided by JPMorgan Chase & Co.

\$253.5 million
Amount paid for the IDS Center a decade ago

TOP NEWS

TRUMP WON'T CALL WITNESSES

In recorded testimony rather than in person, ex-president calls rape claim "made up." A4



HAVE YOU HEARD?

Galactic gulps: For the first time, astronomers see a star eat a planet — a rare preview of Earth's eventual demise. A9

NATION & WORLD

First RVV vaccine OK'd: Doses are expected this fall for people 60 and older. A3

Ex-FBI agent charged in 1/6 riots: He allegedly urged mob to kill police. A10

MINNESOTA

Turks of Minnesota: The July 4th party, formerly in St. Paul, heads to Mpls. B3

Metro Transit crime in up 64%: New police chief calls for accountability. B1

SPORTS

Not worried about draft: Vikings' Cousins says proving himself goes with job. C1

A returned ace: Gophers' Autrum Pease is back to be a top Big Ten pitcher. C1

BUSINESS

Storm chasers, opportunists open Big box shut-downs free up space: D3

U.S. Bancorp catches young exec's pitches: Students present ideas. D1

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Lawmakers working on riot recovery aid

—**NOT DAMAGE** from Al

Yang, who plans to rent his building to a small business, said he learned two weeks ago that he will get \$16,000 from the state to help with the project. He said he knows many other businesses also need aid.

Minnesota legislators previously passed \$80 million for a Main Street Economic Revitalization Program. This year, the House has proposed \$126 million and the Senate suggested \$100 million for grants and loans.

The two chambers, led by Democrats, included the cash in their economic development budget bills. Since the details and dollar figures diverge, lawmakers are sorting through the differences this week.

The Senate's Promise Act takes the more expansive approach. It goes beyond damage from unrest and aims to help with broad economic challenges statewide. The proposal would devote \$100 million over the next two years to communities hurt by civil unrest, structural racism, lack of access to capital, population losses or regional lack of economic diversification.

"How do you think about communities that have been traditionally disenfranchised, but also other parts of our state that have other issues that need to have an economic infusion?"

said bill sponsor Sen. Bobby Joe Champlin, DFL-Minneapolis. "How do we make sure we don't forget about anyone, as best we can, while also paying attention to those that were affected by civil unrest?"

Meanwhile, the House version would dedicate almost \$126 million for the Empowering Enterprise Program focused on the Twin Cities. The bill would give money to Minneapolis, St. Paul and various community organizations based in the two cities. The dollars could be used for economic relief programs "with the primary goal of assisting communities adversely affected by civil unrest during the peacetime emergency," the proposal says.

Rep. Hodan Hassan, DFL-Minneapolis, declined to be interviewed about the approach in the House bill she sponsored, but said in a statement that legislators are trying to strike a balance between advocating for their districts and for Minnesota as a whole.

"There are several areas in need of infrastructure improvements, and many of them are located in primarily BIPOC communities in Minneapolis and Saint Paul," Hassan said in the statement, using the acronym for Black, Indigenous and people of color.

"These once vibrant, pedestrian-friendly areas have store-



Businessman Rob Yang, left, and Bill Lasher of Drake Bank looked over the renovation of a St. Paul building Yang bought in 2021 after his shoe stores were ransacked in riots after George Floyd's murder. Yang plans to rent the building to a small business.

fronts still boarded up, broken windows, and low foot traffic. The House and the Senate are united in our commitment to investing in these areas."

The House version provides a clear path to fund real estate development, and that is the "missing piece" to reconstruction and recovery along corridors such as Lake Street, said Russ Adams, manager of Corridor Recovery Initiatives at the Lake Street Council in Minneapolis. The council would receive about \$11 million to distribute under the plan.

Adams stressed that enormous needs left in the unrest's wake still linger.

"We put traumatic events in the back of our minds; our instincts are to try to move forward and not dwell," Adams said. "That's a bit of a challenge in terms of maintaining public and policymaker focus on some of this. It's important to remember the catastrophic destruction."

The state dollars that groups have been distributing through the Main Street program have been "pretty narrowly defined," said Warren McLean, president of the Northside Economic Opportunity Network in Minneapolis. He said that in north Minneapolis, much of the money was restricted to businesses along W. Broadway.

McLean said he hopes to see more flexibility in whatever lawmakers pass and stressed that the state's massive surplus provides a key moment

to address longstanding problems.

"It's more of an opportunity to deal with distrustment over years, over decades," he said. "You have a smoldering condition that once an incendiary act like George Floyd's murder occurs, then you have an explosion. And so if you start dealing with the underlying causes, you will not have a civil unrest that erupts."

Jessie Viteri/Star Tribune • 612-915-8044
Twitter: @jviteri

Case galvanized disability-rights advocates

—**HAGEN** from Al

would move her to a nursing home or other institution far removed from Mankato. Confined to a room for 24 hours a day, with a window that looked out on a blank wall, Hagen felt her mental and physical health deteriorate, day by day. She had frequent panic attacks and nightmares of being kidnapped.

Now, her legal saga has come to an end. This week, Blue Earth County Human Services asked the court to dismiss its guardianship petition — after Hagen met the terms of a legal agreement that called for her transition from the hospital to her home before May 12.

"It feels like I've been freed from prison," said Hagen, who is quadriplegic from a childhood car accident. "But in prison, I would have enjoyed more civil liberties."

Euphoric, Hagen pulled out, "I'm home!" as her father swung open the doors to her apartment in Mankato — a place that had sat vacant for nearly 10 months. She did several tight circles with her wheelchair. Hagen was pleased to see that the tree outside her window was bursting with green buds and that her large collection of stuffed animals stood like sentries in her living-room cabinet, just as she had left them.

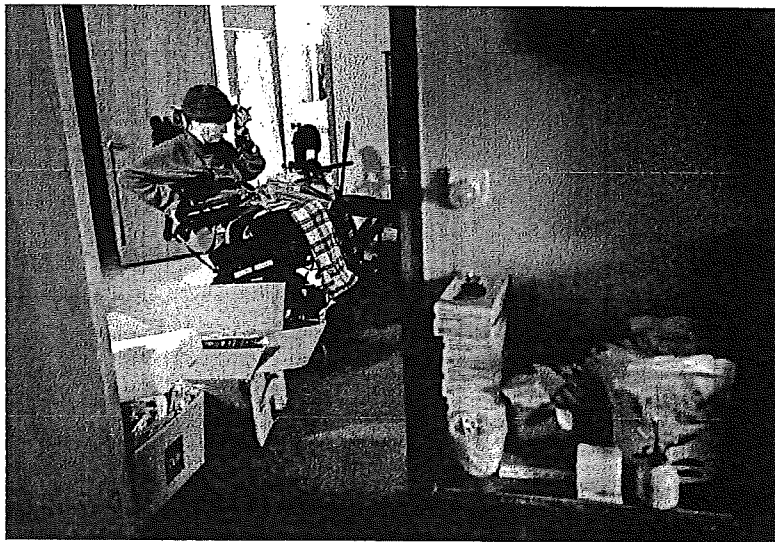
"Never, ever underestimate a quad," she said, smiling.

As the evening bells of nearby St. John the Baptist Catholic Church tolled, Hagen pondered the hours and days ahead. First, she would need a shower. Her long brown hair, which hung in a ponytail, had only been washed once since Christmas. "I'm sick of these greasy locks!" she exclaimed. Second, she would look into adopting a cat. Eventually, as her stamina improved, Hagen would reconnect with old friends and fellow disability advocates in Mankato.

"I finally feel like I'm back to living where I wanted, and everyone wants to be where they're wanted," she said.

Hagen acknowledged that her freedom still hangs in the balance, largely because the conditions that landed her in the hospital last summer have not gone away.

A crisis-level shortage of people willing to care for adults with disabilities has made it difficult for them to get essential help, from bathing and dressing to being transferred from their beds to their wheelchairs. Some have been forced to move into group



Cindy Hagen navigated her chair after arriving at her Mankato apartment on April 28 after 293 days in the hospital following a legal battle over guardianship.



Photos of Cindy Hagen when she was younger were displayed in her home after her father and aunt cleaned and painted her apartment for her arrival in Mankato on April 28.

"It feels like I've been freed from prison.
But in prison, I would have enjoyed more civil liberties."
Cindy Hagen

homes and nursing facilities, where they are more isolated and have less control over their lives, say disability advocacy groups and service providers.

Statewide, vacancies for home health care jobs have more than tripled over the past three years, to 13,519 at the end of 2022, with roughly 1 in 10 positions going vacant, according to the most recent state workforce data.

"We've never seen a staffing shortage this dire," said Dena Bellale, president of the Minnesota First Provider Alliance, a state association of personal care assistant providers. "It's heartbreaking to say this, but if you don't have family and friends, and you are relying on [personal care] agencies to provide supports, then it's almost impossible to make that work right now."

Already, Hagen's in-home support team is starting to fray. Hagen and her attorney, Misti Oberndorf, had recruited a team of eight caregivers, as well as relatives, to provide her with round-the-clock care. Within 72 hours, one of her home care aides had to leave with a back injury and another didn't show

up for a second shift. The challenge, said Hagen, is that Medicaid's reimbursement rate for personal care aides hasn't kept pace with inflation. Workers can make the same or more money doing less-demanding jobs, such as flipping burgers, she said.

"It used to be that, once you had your [care] team in place, you knew they would almost always show," she said. "Now you're always wondering if they're going to come back ... It feels like a roller-coaster ride that never ends."

Even so, Hagen is relieved to be in charge of her own decisions, such as hiring her own support staff. On her first night home, Hagen sat among relatives in her tiny kitchen and savored a cocktail — a small glass of rum and cream soda.

For the first time in months, Hagen could get lost in her own thoughts without the cacophony of hospital sounds — the beeping of phones and hospital staff opening and closing her door at all hours.

"I feel like a human again," she said.

Chris Serres • 612-673-4306

March 5, 2024

To: **Senate Judiciary and Public Safety Committee**

Re: Proposed Amendments to Minn. Stat. § 524.5-313 and Minn. Stat. § 524.5-315 in the House of Representatives (House File No. 3483) for the State of Minnesota, and the Senate in the State of Minnesota (Senate File No. 3438).

Dear Committee Members:

My name is David Ludescher. I am a licensed attorney in the State of Minnesota and have been since 1989. I have been working in the guardianship and conservatorship area for almost my entire career. I have a certification from Mitchell Hamline Law School in Elder Law. I am writing in support of the above legislation.

Almost all of my guardianship and conservatorship practice has involved representing people who are under guardianship and conservatorship. There have been what I would consider relatively recent developments in the law which are designed to provide greater protection for people under conservatorship. For example, after some rampant abuse by a corporate conservator and guardian in a number of counties, including Rice County, the legislature changed the law to add Minn. Stat. § 524.5-120, which was designed to make it clear that people under guardianship and conservatorships retained all their ordinary human rights unless those rights are taken away by a judge. Those rights include accountability for harm.

In my own county, the guardian and conservator were responsible for fifty-one (51) cases, all of which were neglected or in which the person was abused in some way. In some cases, persons under guardianship or conservatorship went without needed medical care because the guardian/conservator was not available to give consent. In a case that I was on, the guardian/conservator was convicted of felony theft of funds of the conservatee. The person who was supposed to be under protection was both double billed and charged for services after the date of death. In addition, the guardian/conservator spent nearly \$200,000.00 of the person's money in approximately two (2) years of the conservatorship. The guardian/conservator had a bond that was supposed to protect the protected person, but because the conservatee was only held responsible for the money that was actually stolen, my client was not able to recover for her wanton mismanagement of the \$200,000.00 nor was she able to recover about \$20,000.00 in fees

that the conservator charged in the process of spending the \$200,000.00. These are examples of the power of a court appointed agent, whether guardian or conservator.

The proposed legislation does not change anything fundamentally about how guardianships are handled, except that a guardian can be held responsible under the new legislation if the guardian acts in a wanton, reckless, or intentional manner, or violates a known law. Simply put, the only guardians that need to worry about this law are guardians who should not be guardians.

In many other areas of law when a person is handling someone else's money or arranging care for them, the law holds them responsible to a much higher duty than the duty to which guardians are currently held, which is none at all. Guardians right now are not held liable because the law (as interpreted by the Court of Appeals) grants complete immunity.

Since my admission to the bar thirty-five (35) years ago, there have been three phenomena that have drastically changed this area of the law. First, medical advances have allowed people to live much longer in situations where they lack full capacity. Second, the proportion of the people who are elderly as compared to those who are able to care for those people has changed such that there are less family caregivers available to care for family members resulting in more institutionalization and more need for responsible people such as guardians to be involved. Third, societal changes have resulted in a significant number of persons being placed under guardianship, supposedly for their own protection.

My experience with corporate guardians is that they have divided loyalties between their corporation making a profit and them spending the needed time with the person who needs protection. The end result is often that the person in need of help or protection finds that they have lots of protection from others, but very little protection or recourse against their guardians, even when the guardian fails in their duties.

In sum, the law needs to make it clear that guardians who are wanton, reckless, or intentional about their behavior or who knowingly violate the law can be held responsible under the law in the same manner as any other person. Please pass HF3483. Thank you for your attention.

Sincerely,
/s/ *David Ludescher*
David L. Ludescher

Date: March 5, 2024

RE: HF3483/SF3438 - Jean's Law Addressing Guardian Immunity

To: Senate Judiciary and Public Safety Committee

Dear Committee Members:

I am writing in support of HF3483/SF3438 to remove blanket immunity for guardians. Minnesota is believed to be an outlier in its current interpretation that a guardian is not liable for their own acts of negligence when performing their core functions. This bill restores key rights to persons subject to guardianship.

I was shocked and horrified to learn that you actually were planning to give abusive, for-profit guardians immunity for harming persons under guardianship! It is like saying parents are not responsible if they harm their children! This is ludicrous!

My mother was kidnapped, forced into an involuntary, abusive, for-profit, fraudulent guardianship and conservatorship, trafficked 215 miles away from family and friends to a negligent nursing home which refused to allow her to have a phone and drugged her continuously with harmful chemical restraints. The minute she was told she was going to a nursing home, she said "NO!" The nurse gave her a shot, so I asked what it was. I was told it was Morphine because the guardian had authorized it.

Within three weeks of being at that negligent nursing home, my mother developed pneumonia, a staph infection, septic blood, a UTI, bed sores, bumps and bruises and temperature of 102! Thank goodness the evening nurse called 911. My mother was given four IV antibiotics on Monday. By Wednesday, with better care, she was sitting up and doing great! So I found her a bed at a nearby nursing home. But the guardian insisted that my mother go over 80 miles back to the negligent nursing home on Thursday, just three days after nearly dying!

Well, the rest is history. The guardian refused to release my mother's records and the nursing home doctor ordered Hospice, against my mother's will and against her family's wishes. My mother just fought pneumonia, a staph infection, septic blood and UTI only to be forced on Hospice, which was a death sentence! She couldn't breathe or swallow on the Hospice drugs. She had chest and stomach pain, migraine headaches and seizures. I pleaded that she be allowed to see a real doctor, but the guardian refused. My mother died with a blood clot by the heart, as determined by the autopsy, which could have been dissolved had she been allowed to see a doctor! Hospice is for the

terminally ill. My mother was not terminally ill and should never had been forced on Hospice!

A local police officer came out and told me that he wished he could help, but could not, as she was in a guardianship. Nonetheless, he said that my mother would have more rights if she were a convicted criminal! At least she could refuse the harmful drugs and not be forced to take them. Something is truly messed up with our laws when criminals have more rights than innocent, precious, law abiding citizens!

My mother had a POA, HCD and family, but the guardian trumped everyone! This is truly unbelievable!

Since my mother's experience with a guardian, I have tried to help others with guardianships. We tried two years ago to simply get the Wards Bill of Rights enforced, but were blocked from getting a hearing in the House. Guardians and Conservators must be held accountable for their actions! Under the current law, a person could provide no care or directly harm the person subject to guardianship and not be held accountable for their actions. Which is why, when I have informed guardians, on many occasions, that they were violating the Bill of Rights, they just laugh at me and say "Oh, whose going to enforce it?!" There Is No Enforcement! Persons under guardianship have no liberty, justice or freedom! This is disgraceful!

Guardians have tremendous power over vulnerable people. We must take extra measures to check that power. Under the current law, we are continuously putting persons subject to guardianship at risk of harm when permitting their guardians to have no liability!

Individuals subject to guardianship in Minnesota are relying on the Legislature to protect them. Blanket immunity does not do that and needs to be changed. We all reap what we sow. How do you want to be remembered? Take a stand and do what is right. Protect our most vulnerable. Please support HF3483/SF3438.

With Sincere Appreciation,

Joyce Lacey
Box 66
Ashby, MN 56309

From: JAMES M. ZIKA

Date: February 20, 2024

Re: HF3483/SF3438

**To: House Judiciary Finance and Civil Law and Rep. Sandra Feist
Senate Judiciary and Public Safety Committee and Sen. Scott Dibble**

Dear Judiciary Committee Members:

I write in support of HF3483/SF3438 to remove blanket immunity for guardians. Minnesota is an outlier in its current interpretation that a guardian is not liable for their own acts of negligence when performing their core functions. This bill restores key rights to person subject to guardianship.

From the very beginning of the guardianship appointment, the guardian abused her power and made decisions that were not in the best interest of my sister, Jean Krause. She did not communicate with the family despite knowing Jean wanted the family to know her health information. My Sister (Jean Krause) who suffered from dementia was placed by her guardian in an assisted living facility which lacked a memory care unit, or programs essential for dementia patients. The guardian refused our multiple requests to move her to a facility which could provide her the care and treatment she deserved even though such care was locally available. I believe based on my thirty years working in health care that my sister deteriorated mentally more quickly than she would have in a modern memory care skilled nursing facility. It is the fault of her guardian that she was deprived of proper care and treatment for her condition.

After my sister died we learned from the county prosecuting attorney that she had been sexually assaulted in that facility and that the guardian had coerced the facility management into not informing us (the family). If we had that information, we would have arranged post assault care and had her moved away from that place of trauma. Soon after she went into a rapid decline, at the time we did not understand the changes, We now know the decline began after the assault. Her guardian not only did not make an effort to see my sister got proper medical care, but did nothing to help her through this traumatic event.

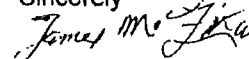
Under the current law my sister's guardian failed to get her proper care, and hid vital information from our family, further preventing my very vulnerable sister from proper care for her trauma. The guardian willfully did great harm to my sister's life in her final days but has no liability or accountability for her actions. This has been an incredibly long and difficult journey for our family, advocating for my sister only to have the guardian block our attempts, deny our claims, and have the court not even hear our case on the merits. We continue to advocate for this change in law on behalf of my sister and all those under guardianship.

Guardians have great power over very vulnerable people. These people should expect to be protected. People under guardianship are not protected if their guardian can act with no liability for their actions. People who are harmed by a guardian need to have recourse. They should be able to bring a claim.

The current law needs to be changed. No one should get full immunity for their actions when dealing with vulnerable people.

Support HF3483/SF3438

Sincerely



James M. Zika

March 5, 2024

To: Senate Judiciary and Public Safety Committee

RE: HF3483 and SF3438, Jean's Law

Dear Committee Members,

My name is Leanne Ashley and I live in Chanhassen, Mn of Carver County. I have an adult disabled daughter under guardianship with a professional as guardian.

I am in support of the above referenced bill to move away from complete immunity for guardians in Minnesota. I am in support of this for many reasons. I hope it will pass to support more transparency in the guardship relationship. Currently, even though the law states that the court is in control of the guardians' actions and decisions, I have not experienced this. I have experienced complete control over my daughter's life from the professional guardian . The restrictions on her from the beginning collaborated with the county's desires. Her rights to lead a free life ended when I signed her over to a professional guardian from the constant bullying from Carver County to do so. I was assured by the Carver County attorney that if I signed her over, "You can see your daughter for Christmas." This never occurred. Shockingly, we never see each other. This began a journey of extreme control over my daughter to erase her mother from her life.

The first guardian assignment from the professional guardian company was a young woman who had been taken off two other cases. I was to believe that she would be better than myself, my daughter's safe mother in her safe beautiful home. This guardian blocked every effort of my daughter and I to be together without any court hearing for a restriction.

It has been 13 years since Carver County bullied their way into my daughter's guardianship, into a contracted professional guardian without proper procedure, erasing my daughter's rights and mine. She has had 5 different guardians at the same professional guardian company. Only one has been honest.

The few times I have had communication with my daughter she has detailed some of the abuse she has to withstand in her guardianship-controlled court ordered relationship. Please know that she is aware of her right to a county attorney. However, she would not be able to start such a procedure. She has communicated the following to me:

1. He (guardian) will not allow me to see or communicate with anybody unless he approves. (Not court ordered)
2. My group home roomies all have family coming to see them. I do not. (She could. This is guardian's demand for her to remain isolated) And I am treated differently because I do not have family seeing me. (Result of guardian restrictions, not court ordered)
3. My guardian and care team told me to write the letter to you and what to say. (They dictated to her to write to her mom. And to say that she does not wish to ever see her again). This plays into their corrupt scheme to keep me out of her life, so I do not get information about the harm they are causing and have caused.
4. They have told me to disregard your gifts and pretend I did not receive them. I did get them, and I loved them.
5. I have always wanted to see you and go home.
6. In 2021 my daughter was ready to change her guardianship to other less restrictive alternatives. The guardian and the county blocked her ability to choose.

I would desire that guardians be held accountable for their unjust actions to persons subject to guardianship and to the Interested Persons of the court,

such as myself. However, according to the law it is now, the guardian would have complete immunity for harm. Many parents of these adult children do not have the amount of money needed to retain legal help to hold guardians accountable. Perhaps this new Law, if passed, would somehow create transparency and send a message that people like my daughter still have rights. For the record, I am not the only parent experiencing this. Many parents with adult disabled children have been bullied and unjustly forced to give up our family guardianships to professional guardians.

My family has been torn apart. Our life was once in a lovely neighborhood with good people as friends. We were in the fabric of a close community where I served in leadership positions. My daughter's life was difficult with her challenges, but we had a lot of help. I had hopes and dreams for her and I. Those were never fulfilled due to the injustice the county forced on me in giving up my rights as her guardian.

Please allow this bill to pass, allowing for some accountability in Minnesota Guardianship Law. Our case is in desperate need of changes in the law supporting my daughter's rights and supporting parents of adult disabled children. Minnesota Guardianship Law is quite antiquated and harms those who are persons under guardianship as well as their families. If the harm is due to the egregious conduct of the guardian, the guardian should not be immune from liability.

Thank You for your Consideration,

/s/ Leanne Ashley

Leanne Ashley
820 Santa Vera Dr.
Chanhassen, MN 55317

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
Republican Lead, Judiciary and Public Safety Committee
Minnesota Senate
2221 Minnesota Senate Building
St. Paul, MN 55155

Re: SF 3483 - Guardian Immunity

Dear Chair Latz, Lead Limmer, and Members of the Judiciary and Public Safety Committee:

My name is Misti Okerlund. I am a disability rights attorney and a board member of Elder Voice Advocates, which has a Disability Voice Advocates initiative that I am leading. I strongly support the passage of HF3483 regarding guardianship immunity and the creation of a task force on guardianship and less restrictive alternatives to guardianship.

I took a crash course in Minnesota's guardianship laws last year when I represented Ms. Cindy Hagen, a person with disabilities who, after being stuck in a hospital for several months, was subjected to an emergency guardianship and conservatorship. The county's guardianship petition was filled with hearsay within hearsay, which typically would not be admissible in Court, yet the petition was granted by the Court one day later, without Ms. Hagen or me being notified of the petition or allowed to participate in the process until after the guardianship was in place. Ms. Hagen was not given an opportunity to speak to defend herself during the two Court hearings that were held. I believe Ms. Hagen's constitutional rights to due process were violated. Ms. Hagen's human rights were violated as well. I was shocked at the injustice that my client faced.

Guardians hold so much power and control over persons subject to guardianship. There is a clear power imbalance. I saw this when Ms. Hagen lost her legal rights to make her own life decisions. And I hear about the power imbalance from people who contact me, looking for legal help. I am contacted weekly by people with disabilities who do not want to be subject to overbearing guardianships anymore, and by family and friends of people with disabilities who are subject to abusive guardianships. Common problems include retaliation, visitation and phone restrictions, and other restrictions placed on these vulnerable adults' freedoms and lives.

The guardianship laws were not written to protect guardians. They were written to protect vulnerable adults who are subject to guardianship when they need help managing certain aspects of their lives. And yet, lawyers opposing HF3483 appear to be more concerned about guardians than they are about the legal rights of people with disabilities who have been wronged, abused, or egregiously harmed by their guardians.

The focus of HF3483 is to remove guardians' blanket immunity so people with disabilities subject to guardianship have the legal right to bring a liability claim against a guardian, and to create a task force on guardianship and less restrictive alternatives to guardianships, such as Supported Decision-Making.

People with disabilities are human beings who have legal rights. I have worked thousands of hours as the attorney of people with disabilities and their family members without charging any of them a dime. And I do it because I am outraged at how poorly people with disabilities are still treated, and because I see the great need to fight hard for the human rights and civil liberties of people with disabilities.

Please support the passage of HF3483.

Thank you.

A handwritten signature in black ink, appearing to be 'Misti Okerlund', with a stylized 'M' and a long horizontal stroke.

Misti Okerlund, Esq.
disability rights attorney
Board member of Elder Voice Advocates
Head of Disability Voice Advocates Initiative
Email: misti.okerlund@yahoo.com
Phone: 612-703-7869

Date: March 5, 2024

RE: HF3483/SF3438 – Jean's Law Addressing Guardian Immunity

To: Senate Judiciary and Public Safety Committee

Dear Committee Members:

I write in support of HF3483/SF3438 to remove blanket immunity for guardians. Minnesota is believed to be an outlier in its current interpretation that a guardian is not liable for their own acts of negligence when performing their core functions. This bill restores key rights to persons subject to guardianship.

First of all, it's hard to believe that a person who is not liable for their own acts of negligence when performing their core functions can be appointed guardian over someone else's human and civil rights.

This committee is receiving a lot of personal testimony from friends and family whose loved ones were abused, exploited, harmed, neglected or deceased because of negligent acts of persons who are in the business of guardianship. We all had hope that someday, our family members would be safe, and our families made whole again. But we've learned "Someday" is a very long time to wait for accountability.

Our testimonies come at great personal cost to those who dare to speak in public about such acts; the grief of having to explain to a body of policymakers why guardian acts against protected persons are inexcusable, or recount for your hearing the number of pressure sores, bruises, broken bones and teeth, or in my family member's case, nine falls in 8 years, at least 3 physical assaults, and countless tears. I cannot begin to communicate the power imbalance for my family member having a guardian appointed over them, and for our whole family. The guardian controls all aspects of my family member's life.

We also face a very real risk of retaliation for speaking out against guardians, the local agencies that protect them and the judges that enable them to evade accountability. Retaliation such as mailing annual reports to incomplete addresses so they do not arrive, or mark "no restrictions" on those annual reports to the court when in reality the guardian has agreed to and enforces restrictions but didn't personally sign the authorization for the restriction, so they can't be held accountable.

Retaliation such as moving our family members without telling us where they are. Requiring phone calls to be on speaker phone with a staff member present, at 6:30 pm or only when convenient for staff, or requiring personal visits to be approved a week or more in advance. Limiting water to a person who is forced to be wheelchair bound and now has lost pelvic floor function. Withholding food as punishment.

Our family member wants a change in the guardianship but has stopped talking about their "someday" because nothing seems to change. Everytime I spoke up to advocate, they paid the price. And every time we lost a little more hope. Restore hope, remove guardianship immunity.

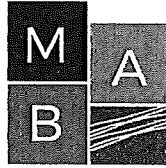
Please support HF3483/SF3438.

Sincerely,

/s/ Anne Murray

Anne Murray
2500 38th Ave NE
St Anthony Village, MN 55421

Randy F. Boggio
Brenna M. Galvin
Lauren L. Fink
Sarah B. Sicheneder



MASER | AMUNDSON | BOGGIO P.A.

Allison J. Frasier
J. Noble Simpson
Christopher Kradle
Kris L. Maser*
Luther M. Amundson*
*Retired

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
Republican Lead, Judiciary and Public Safety Committee
Minnesota Senate
2221 Minnesota Senate Building
St. Paul, MN 55155

Re: SF 3438 - Guardian Immunity

Dear Chair Latz, Lead Limmer, and Members of the Judiciary and Public Safety Committee:

My name is J. Noble Simpson. I'm an elder law litigation attorney interested in protecting vulnerable adults by holding guardians accountable. I was the lead drafting attorney on the Minnesota State Bar Association Elder Law Section's amicus curiae brief in *Zika v. Elder Care of Minnesota, Inc., et al.*, and an attorney on the district court case *In re Conservatorship of Thomas Dredge*, No. 27-GC-PR-11-421 (Henn. Co. Dist. Ct. Apr 20, 2017) in which the district court held a conservator personally liable for his negligent acts and omissions the conservatorship. I write in support of HF3483, which would allow guardians to be held personally liable for their wanton, reckless, or intentional acts or omissions, for their acts or omissions that violate the law, and for their acts or omissions in breach of their fiduciary duties.

If a person subject to guardianship is harmed or dies because of their guardian's neglect, their estate and family members should be able to hold the guardian accountable. Currently, under *Zika*, removal of the guardian is the only remedy. The results of guardian immunity from monetary liability are that courts can't enforce the *Bill of Rights for Persons Subject to Guardianship and Conservatorship* and that persons subject to guardianship who can't afford a professional guardian are put at greater risk of non-recoverable harm than those who can afford a professional guardian. This creates a lower standard of human dignity owed to the most vulnerable population, which runs counter to every value held by society. As a society, we have a duty to protect this population from abuse and neglect, which is why I support HF3483.

Respectfully,

MASER, AMUNDSON & BOGGIO, P.A.

/s/ J. Noble Simpson

J. Noble Simpson
Attorney

JNS



March 5, 2024

Minnesota House of Representatives
Senate Judiciary and Public Safety Committee

Re: HF3483/SF3438

Dear Committee Members,

I am writing in support of HF3483/SF3438, Jean's Law. As I am sure you are aware the Minnesota Court of Appeals interpreted the current version of Minn. Stat. § 524.5-313(c)(2) to state that Guardians have what amounts to blanket "immunity from liability for negligence in the performance of the guardian's duty to provide for care, comfort, and maintenance needs of the person subject to guardianship." *Minn. Ct. App A21-1710, filed August, 2022*. Blanket immunity from negligent actions is an absurd consequence of the Appeals Court's interpretation of a statute that, by its nature, is meant to protect the most vulnerable of our citizens. Minnesota, if this interpretation is allowed to stand, would be the only state that allows for blanket immunity to guardians.

As an attorney, I represent guardians as well as petitioners for guardianship. I encounter many good guardians but also those not properly caring for the person subject to guardianship. I am also a member of the Minnesota Association of Guardians and Conservators (MAGiC). Legal recourse must be available when harm due to negligence occurs.

Opponents of the bill make the claim that this change will result in fewer people agreeing to be guardians because it places them at risk of liability for their actions. This is nothing more than fearmongering in an attempt to maintain the status quo. Under tort law, negligence requires a finding that the individual owed a duty of care to the injured person, that they breached that duty of care, that the breach caused an injury, and that there are actual damages. Any individual who feels that they were harmed by the negligence of another can file a claim against that person and have the facts considered under tort law. Why should guardians be immune? The duty of care is the equivalent of the necessary standard of care imposed on Guardians under the statute. Guardians agree to a duty of care for the persons under their charge. They sign an oath accepting their appointments and agreeing to fully and faithfully perform their duties. Should they not be held to that oath? Additionally, every year, Guardians are required to provide a copy of a Bill of Rights for Persons Subject to Guardianship and Conservatorship. What good are these rights if the only recourse when the rights are violated by the Guardian is that a new Guardian is appointed? Should Guardians be allowed to breach their duty of care to those who rely on them with no consequences?

The change in the statute, proposed by HF3483/SF3438 would fix this issue of blanket immunity and would balance the rights of the person subject to guardianship with the role of the guardian to fulfill their duties.

SW MN Office: 106 Center St. N., PO Box 117, Lake Benton, MN 56149
Metro Office and Mailing Address: 2633 Innsbruck Drive, Suite A, New Brighton, MN 55112
Local 1-507-247-5900 ~ Toll Free 1-866-457-3131 ~ Fax 1-507-247-5868

I urge you to support HF3483/SF3438. It is the right thing to do and vulnerable people are counting on laws to protect them. If you have any questions please call 1-866-457-3131.

Sincerely,
PLUTO BOES LEGAL

A handwritten signature in black ink that reads "Traci J. Sherman". The signature is fluid and cursive, with the first name "Traci" being more prominent.

Traci J. Sherman
Attorney at Law
tsherman@plutoboeslegal.com

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Date: March 5, 2024

RE: HF3483/SF3438 – Jean's Law Addressing Guardian Immunity

To: Senate Judiciary and Public Safety Committee

Dear Committee Members:

I write in support of HF3483/SF3438 to remove blanket immunity for guardians. Minnesota is believed to be an outlier in its current interpretation that a guardian is not liable for their own acts of negligence when performing their core functions. This bill restores key rights to persons subject to guardianship.

My 30-year-old son Jimmy was placed in Nursing home for a 30-day wound healing and physical therapy following his TBI surgery due to auto related injury. At first, we were all so happy to see him doing well when he first got there. He had family visitors every day, making sure he was getting cared for. Jimmy was doing scramble puzzles, flash cards, singing, telling Jokes and feeding himself, and walking. Jimmy's long-term memory was better than ever. But his short-term memory was affected. The nursing home was very short-staffed and most of the employees were very deviant, neglectful and unprofessional. Then one day Jimmy's Grandma and I (Mother) stopped in for a lunch visit, and to our horror Jimmy had become a zombie. I tried to find out what happened to cause my son to become like that, and they refused to give me any information. Shortly after that, based on lies, fraud and perjury, a court appointed guardian and Conservator was appointed over him. Now my son Jimmy is kept like a hostage in a bedroom 24/7 in extreme isolation. He is not allowed any visitors at all. He suffers from abuse, neglect and maltreatment daily. P.S, I found out later what caused Jimmy to have the extremely painful contractions and spasticity that were so severe it caused a compound break in his left wrist and is permanent, it also caused him to become zombie, while Jimmy was in the nursing home, unbeknownst to Jimmy and his two health care agents his mother & aunt Barb, with no discussion or consent they snuck Jimmy onto several unnecessary Life Threatening Antipsychotic Drugs that nearly killed him. Our experience was that the court appointed guardian was a stranger who did not exhibit care for my son. Absolutely they should be held responsible when they intentionally fail to respond to protect the VA.

The current position of no liability for guardians for their core functions does not make sense. No one gets full immunity. Under the current law, a person could provide no care or directly harm the person subject to guardianship and not be held accountable for their actions. Persons subject to guardianship should not have less rights to bring a claim of negligence than others.

The legislature did not intend a guardian to receive blanket immunity. Regardless, the law now needs fixed. Others do not receive blanket immunity, why should guardians who serve our most vulnerable.

Guardians have tremendous power over vulnerable people. We must take extra measures to check that power.

Please support HF3483/SF3438.

Sincerely,

Tammy Hook
13912 Lower 59th St. North Apt 321
Stillwater, MN 55082

March 5, 2024

Re: Jean's Law – HF3483/SF3438 Addressing Guardian Immunity

TO: Senate Judiciary and Public Safety Committee

Dear Committee Member,

I am writing in support of Jean's Law (HF3483/SF3438). My Mother, Jean Krause, was assigned a non-family member, Naree Weaver, as guardian/conservator in February 2013 due to her Alzheimer's disease. I objected at the time and throughout the guardianship. During her entire time as guardian, Ms. Weaver NEVER submitted any of her legally required accounting or inventory, and at times other statements of condition for my mother. She never kept any member of my mother's family informed of her physical or mental condition and refused to give complete information when asked. After nearly three years the conservatorship was taken from her & given to my uncle James Zika and he had to submit the corrected and completed various accountings to the state and the court that Ms. Weaver had failed to complete. She was, however, allowed to remain as guardian. At no time during this process was she ever given any consequences for her failures. She did, however, manage to pay herself thousands of dollars from my mother's savings as well as pay herself mileage at three times the I.R.S. allowable rate.

In late spring of 2016, my mother's health took a sharp turn for the worse. My mother passed away on September 18, 2016. In July of 2017, I received a call from the Crow Wing County Attorney. I was then informed that my mother had been raped in May 2016 at her place of residence, her assisted living facility. At no time did Ms. Weaver ever inform me or any family members of my mother's rape. She forbid the assisted living from informing us. I had no idea what had happened to her until the County Attorney called me. I found out at the time that she had turned down any involvement in seeking justice for my mother. She had also informed the County Attorney that "Jean's family was not interested in her". Nothing could be further from the truth. Luckily, the Minnesota ombudsman for the area was very familiar with me as I had extensive conversation with her about my mother's case starting in 2013 and she was able to supply my contact information to the County Attorney. I was able to give a statement at the rapist's sentencing on behalf of my mother. At the time of the attack, my mother was completely physically disabled and had very little vocal volume left. She couldn't even call out for help.

After all this I find out that guardians do not have any liability for their failures in caring for their wards. No matter how neglectful or abusive they are, they cannot be held accountable in Minnesota. It is my firm belief that this attack and lack of post-trauma care hastened my mother's death. When interviewed by her hospice care social worker, my mother indicated she would like to meet with a sexual assault therapist. Ms. Weaver was informed of this and didn't even bother to return the social worker's call. Without liability, there is nothing to stop guardians from completely neglecting or abusing the wards. I urge you with all my heart to pass this law so the vulnerable adults of Minnesota can get the protection they so clearly need.

Thank you for your time and attention.

Sincerely,

/s/ Robert Krause

Robert E. Krause

Date: March 5, 2024

RE: HF3483/SF3438 – Jean's Law Addressing Guardian Immunity

To: Senate Judiciary and Public Safety Committee

Dear Committee Members:

I write in support of HF3483/SF3438 addressing blanket immunity for guardians. Minnesota has many people subject to guardianship and they need the right to bring a claim if the guardian is negligent resulting in harm.

My sister and I were very close. We grew up on the farm together, lived near each other, and were a constant fixture together in our community. I watched out for her and helped care for her when needed. One time when my sister's daughter-in-law phoned her, my sister went to the phone to answer and she missed the chair as she sat down and fell on the floor. The in-law phoned to tell me this so I immediately went to my sister to help but she had already gotten up by herself and didn't want to go to a doctor. I phoned to tell the in-law this and she said they would come there but they waited a long time before coming. My sister was in pain. She had no broken bones and was hospitalized only overnight. After that, the in-law placed her in an assisted living place in spite of the fact that I had always intended to take my sister into my own home to tend to her needs. In addition, the in-law became my sister's emergency guardian.

In the assisted living, the in-law began to order staff at the assisted living to not let me see my sister. I tried to see my sister for she had NO right to keep me away but the in-law called Police who questioned me and let me go. The in-law then removed the phone in my sister's room and she suddenly moved her out of there to another facility. I was not allowed to know where they took her but a friend told me that she was in the same home as his mother! I went there but was not allowed to come in there either. A professional guardian was appointed permanently who continued to not allow contact or communication about my sister.

My sister loved reading 3 county newspapers but I was later even forbidden to bring those to her. I was beside myself given our extensive history and companionship. I so wanted to support her, bring her things that were familiar that I knew she liked, but I was prevented. One time when I brought her flowers, they refused to let me bring them in when I rang the doorbell. I saw my sister in the large window so I knocked on the window lightly and they called the Police so I left before the Police came. When I sent her mail, they would NOT give any of it to her. My friend sent her merely a photograph by Certified Mail that was refused and returned to the sender. I tried everything to get word to her and information about her, but the professional guardian would not communicate and neither my brother nor I could ever talk to the guardian at any time! The in-law told me nothing.

She was the best sister in the whole world and I loved her with all my heart and we had done everything together before she was taken away. I would NEVER hurt my sister and missed her terribly. It pained me terribly to think she wondered where I was and whether I still loved her because I could not be around. I tried everything to get word to her and information about her,

but the guardian would not communicate. After five years of not seeing my sister, I asked the guardian for one supervised visit and was told no. I finally asked the court to allow one supervised visit so I could see my sister. She was 94 years old and I was age 85 at that time. The court had not given an opinion for 69 days when tragically my sister died. I was not notified by her son, the in-law, or the guardian and found out from my attorney. It is believed that someone at the assisted living found my sister by her bed and that she lived for several hours prior to passing away. They NEVER called me or any of our brothers so we could have gotten there to say goodbye to her!! I greatly wonder whether she may have fallen from her bed or been badly bruised in some way because they REFUSED to let me see my sister at the mortuary before she was sent for cremation.

It remains extremely painful to think that I could not be there to support my sister for over five years and could not even see her when she died and it has left me extremely depressed. A friend who went there to sing for her one time long ago was even forbidden to come back to sing a familiar song to my sister! NONE of our mutual friends nor I were allowed to phone, visit, or write to my beloved sister for years.

The guardian exerted tremendous power over my sister and contributed to her pain, injury, and death. We must take extra measures to make sure guardians do not abuse that power. If they do harm the person subject to guardianship, the person should have the right to bring a claim. Under the current law, we are putting persons subject to guardianship at risk of harm when allowing their guardians to have no liability. Blanket immunity for guardians needs to be changed. . I am privileged to be able to share my horror story but I know several friends and others who are suffering from being forbidden to contact their beloved family members as well.

Please support HF3483/SF3438.

Sincerely,

/s/ Inga Mae Urke

Inga Mae Urke
403 Hope St.
Starbuck, MN 56381

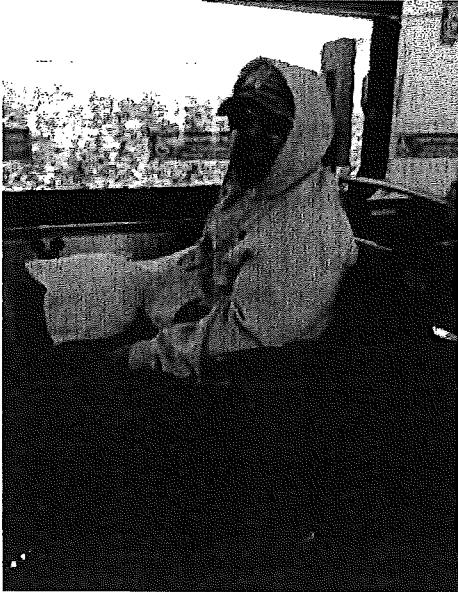
Date: March 5, 2024

RE: HF3483/SF3438 – Jean's Law Addressing Guardian Immunity

TO: Senate Judiciary and Public Safety Committee

Dear Committee Members:

I write in support of HF3483/SF3438 addressing blanket immunity for guardians. Those under guardianship in Minnesota should not be stripped of yet another right, their right to bring a claim against the guardian for egregious harm.



I am writing this letter on behalf of my brother William Richard Say Jr. who suffered a life-threatening massive stroke and sadly passed away on December 4, 2018. This is a summary of the treatment he received while under the care of a nursing home located in St. Cloud, MN and the legal guardianship by a professional guardian assigned by the Sherburne County Court Judge.

William aka Billy was supposed to temporarily be treated at the nursing home for physical therapy and to have short term care until his home could be repaired so it would be safe for him to live there. Unfortunately, Billy would never be given the opportunity to go back to where he would daily plead to please allow him to return to his home. My brother would cry and did not understand why he was not able to leave. Billy had feelings and he suffered emotional and physical abuse

while being placed under guardianship. When I would request doctor updates it would be denied, we were not allowed to ask or receive information unless the guardian approved. I was not allowed access to what type of medical care my brother was receiving.

After Billy's stroke, we as a family had decided it would be in the best interest of Billy to have a guardian that would help allow him to express his right to make decisions on his own behalf with legal guidance. Our family needed to try and focus on the help and support Billy would need from us to become better and in hopes he would be able to return home.

The importance of this letter is that no matter what type of situation, a person who is provided with a guardian they should be treated respectfully and with the intent to protect their rights and try to allow them the best health care to recover, so they can try to make their own decisions.

My brother seemed to be punished and imprisoned rather than supported and cared for by his appointed guardian. His wife and I were very restricted to the point that we would receive threatening emails with more restrictions or false accusations. One time, Billy came from a medical appointment with Mt. Dew. He was not supposed to have pop due to diet restrictions based on swallowing. I was unsure and asked how he got that can of pop. Billy proudly said he was given it, and I thought his medical professionals must have thought it was ok and that he was improving. I got home to see that I had already received an email from the guardian stating that I was being an unsupportive sister and that I did not have Billy's best interest for his care and treatment by

encouraging him to have Mt. Dew when it was not allowed. The next day I walked into his room only to find that same Mt. Dew was not taken away by any of the staff. I was the one who had to remove the pop out of his room, and it was heartbreaking because he enjoyed that pop and it made him very sad. I had to explain to him that it was not allowed and that we want to make sure he is safe drinking only certain fluids while he was recovery from the stroke.

His wife and I were constantly being denied any help in trying to get Billy out of his guardianship. Billy requested several times that he wanted me to become his new guardian. I went to the Sherburne County courthouse and filed for guardianship, and it was never granted.

Billy was neglected by the guardian. We would report to the Department of Health. I still have a letter for investigation that was followed up by the State of MN. When I called to find out the status the representative could only state that follow-up had not occurred.

I saw my brother as a whole person since he had a life altering stroke. Billy still had an extraordinarily strong mind and showed pure determination to live his life to the fullest. Billy was improving in the short-term care and asked if he could marry his long-term girlfriend. My husband and I took Billy and his wife to be to the St. Cloud Mall to pick out outfits for the special occasion and Billy even had picked out a ring at the jewelry store and we all were having such a wonderful day.

We had agreed to have their wedding at the chapel in the nursing home. It was officiated by a very well-known Sherburne County court representative who had retired after several years of service, and who also knew and worked closely with the Judge assigned to my brother's case. I had asked if he thought my brother was in sound mind and understood what he was agreeing to by getting married. The wedding officiant stated he had tested my brother just to make sure and he was extremely confident that Billy was competent to be married. The wedding was simple but beautiful and Billy had tears in his eyes filled with love for his wife. I have a video and I would always ask my brother his permission to be recorded. I stated to my brother hopefully we could have the whole family join in another ceremony when things between the family are able to calm down and he can return home.

The guardian was given the legal rights to my brother, and we were left with regrets while we watched the guardian slowly diminish any hope of Billy returning home. They restricted his wife, his son, and me to limited and supervised visitations. I was constantly stressed and worried about my brother. Billy was denied permission to attend court and could not appear in front of the judge on his own behalf. This devastated my brother. He did not understand why he was not being allowed in front of the judge. It was stated he was not well enough to attend and that was not true he would have been completely able to attend. The court assigned attorney would not even look or talk with me regarding his well-being and I wanted to ask her what reason they had that made him not well enough to attend. I was absolutely saddened by what was happening, especially being told such harsh and untrue statements. I believed in the truth and was going to support my brother. It was heartbreaking to watch as he would be denied his rights and completely discarded of his health care and living requests.

It was a complete nightmare watching how my brother was being cared for by his guardian. There are laws that are written by our legal system that are supposed to protect those under guardianship from abuse. In my brother's case, unfortunately, that law did not protect him and only protected the guardian. Their poor decisions on my brother's health care eventually caused him to lose his life.



He could never leave the facility with his family. He had extremely limited visits with his wife and me.

His wife was allowed to take Billy once to attend his son's birthday party but if she did not have him back within the time limit the guardian allowed the authorities would be notified. It was absolutely a constant worry that we would be possibly arrested by being falsely accused or did not agree to follow all the restrictions set on Billy by his guardian. I never could understand why this was happening. Having your brother have a major

stroke is stressful and then have constant fear from your brother's guardian. It was such an awful experience. This was someone who we loved and adored only wanting him to recover and be safe.

The guardian moved Billy to long-term care. He became nonverbal and extremely sick, and I was notified by his wife to come immediately Billy had become nonresponsive and they were denying him emergency care. When I finally got there and came into the room, my brother looked to be septic. I explained my parents both had passed away in similar situations and I knew he needed immediate medical attention. We needed to get him into the hospital. I begged the nurses and staff to call the guardian so they would release him to the hospital. They kept denying the request stating he was going to be all right and stable. It took over an hour while the nurses and staff kept stating that their on-call doctor would not release Billy because he was in stable condition. I went to the front counter nurse and said please what would you do if this was your loved one. My brother will not last the night if you deny him to be seen at St. Cloud hospital. The guardian finally agreed to have him released where he was seen by their doctors, and it was determined and noted that Billy had become septic and would not have lived much longer without their treatment. Billy had an open sore on his foot that was never treated properly and as the months went by, he became worse, and his physical condition declined rapidly. I went for emergency guardianship and was denied.

The guardian went against the family's request and wishes. The guardian placed Billy back into the same nursing home even with a St. Cloud doctor who requested to hold Billy, so we found another care facility which I was able to in Buffalo, MN. I had notified the guardian that they had the staff, and the room for him. They would have been able to accept him as a transfer and provide the dialysis treatment that he needed for his kidneys. The guardian denied and sent him back and placed even harsher restrictions on his wife and me. It was absolutely horrifying to only be allowed to watch them send him back knowing that he was never going to leave there.

The hurtful emails I would receive continuously from the guardian stating all the rules and restrictions. I was completely being denied the right to care for and see my own brother. A stranger who had no history with my brother was given complete and too much authority over his life decisions and they had too much control over my rights by restricting me and not allowing me to be there for him as his sister.

We were constantly threatened and abused by the guardian and to this day I am still trying to heal from the pain they caused not only for my brother but for my family and myself. Nobody should ever have to watch their loved one die while some stranger who does not know your loved one can decide when you are allowed to support him, when you can see him or visit him in his most crucial time of

recovery. Billy was a stroke victim who was being punished and denied his family support. It was cruel and absolutely appalling to know my brother had died alone while his guardian had all legal rights. The guardian had no empathy for my brother and would deny my requests to meet in person with them. I never met my brother's guardian, only her assistant once.

The email threats were getting profoundly serious, stating the staff has the right to call the authorities if they felt the need. I was tired of being afraid and threatened constantly and had to make the difficult decision towards the end of my brother's life. There is not a doubt in my heart and mind that I honestly believe my brother Bill would have healed enough while in short term care that he could have left the nursing home with his family and brought home where he would have been safe. He could have shared happier memories and cherished our time together if the guardian had worked with us instead of being determined to keep us apart from him. Instead, we lost Billy. The court decision that allowed the guardian to have more legal rights, that was appointed to my brother's case, seemed to be a business transaction rather than an actual decision to protect him.

The guardian is responsible. They ripped our family completely apart and their accusations were unprofessional. The guardian left my family and I completely heartbroken. The guardian assigned had caused me emotional pain, anxiety, and such a deep sadness for the fact that I was not allowed to be a sister to my brother in his darkest days to help support and protect him. Please consider the importance of writing laws that will protect the person who is placed under guardianship and hold the guardian accountable for any negligence.

When a guardian was appointed, we were taken in a room at the courthouse and the court staff talked about guardianship but never explained in full detail before making the crucial decision on behalf of my brother that once you allow a guardian to be assigned to someone you love, it is exceedingly difficult to have a change in that guardianship. even when you notice your loved one has become neglected and appears to be abused. The laws in place as of today do not protect the ward as intended, based on my own experience with my brother and his guardian. A person will lose their rights when they become the responsibility of a third-party guardian, and the family also loses all rights to their loved one and makes it difficult to help with any important health decisions or care choices. I cannot express the importance of knowing your rights and the rights of your loved one who is under guardianship. Please support HF3483/SF3438.

Thank you for your time,

/s/ Sherry Ramler

Sherry A Ramler
[address]

SEMCIL

SE MN Center for Independent Living, Inc.

March 5, 2024

Rosalie Eisenreich, MPH
Strategic Initiatives Director
507-421-4503
rosalie@semcil.org

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

The Honorable Warren Limmer
Republican Lead, Judiciary and Public Safety Committee
Minnesota Senate
2221 Minnesota Senate Building
St. Paul, MN 55155

Re: SF 3483 - Guardian Immunity

Dear Chair Latz, Lead Limmer, and Members of the Judiciary and Public Safety Committee:

As a Center for Independent Living (CIL) that is controlled, led, and managed by people with disabilities since 1981, we ask you to support House File 3483 and Senate File 3438 put forward by Elder Voice Advocates.

SEMCIL has been a witness to and advocated for many who have been subject to the abuse wrongful guardianship or direct abuse and neglect under both private and professional guardianship. This is not a new issue, but because of community leaders such as Cindy Hagen, we are identifying concerning ways in which people are not only abused by their guardians but also how professionals across systems are working actively to remove decision-making rights, even after previous legislation from 2020 was supposed to redirect people and professionals to supported decision-making options.

In 2023, SEMCIL signed a petition to the Administration on Community Living (ACL) to build a national database on guardianship by state, audit entities such as Areas on Aging, CILs, and other federal grant benefactors, and provide necessary accountability as there is a significant need for gathering and centralizing data, providing quality assurance and improvement to guardianship, and most importantly, there needs to be accountability when significant abuse and neglect occurs. A task force here in Minnesota now will ensure we are proactive in protecting the civil rights of people with disabilities and that when the federal administrations reform, Minnesota will be prepared and a national leader.

SEMCIL

SE MN Center for Independent Living, Inc.

Guardianship in Minnesota, as it currently stands in policy and practice, silences people from their ability to advocate and functionally segregates people from any hope of justice, let alone equal opportunity. Previous legislation provided infrastructure for alternatives, but it did not provide the necessary policy to understand how, when, and where abuse occurs, to what extent, and ultimately provides no accountability of perpetrators.

Our community is demanding action. We are asking for partnership from you, our representatives. I and our Executive Director, Jacob Schuller, are available to help provide community-led technical assistance regarding the subject of guardianship. I have included my contact information above for any questions or concerns you may have. We thank you for your thoughtful consideration.

Sincerely,

Rosalie Eisenreich, MPH

