



**Testimony of Kimberly McCullough, Legislative Director
In Support of SB 501, SB 502 and SB 503
Senate Committee on Judiciary
March 1, 2017**

Chair Prozanski and Members of the Committee:

The American Civil Liberties Union of Oregon¹ strongly supports Senate Bills 501, 502 and 503, which strengthen the civil rights and liberties of people with disabilities in guardianship proceedings.

Guardianship is a legal proceeding that strips an individual of multiple or *all* rights recognized as fundamental by the Supreme Court. People under guardianship cannot make their own choices about: where they live; where they work; what kind of medical care they get – or whether they will get any medical care; what they eat; who they spend time with; and whether they will get married. A full guardianship represents the erasure of the autonomous legal individual, and should not be countenanced without a heightened degree of scrutiny from the courts and adequate due process.

Even though guardianship has serious, life-long consequences, it is often imposed as a matter of course. When adults – often seniors – develop a disability, especially one that affects the ability to manage finances or make complex decisions, their spouse or child is often encouraged to become their guardian. In addition, parents are frequently told that they have to get guardianship over a child with a disability turning 18, if they want to continue to help with education plans and medical treatment. This condemns an adult with a disability to a perpetual childhood – first parents make all decisions, and then, when the parents are no longer able to serve, a complete stranger may be appointed to make every choice for the individual. These professional guardians are often making choices for dozens of people, and tend to push their wards into institutions.

In both of the circumstances, other less restrictive options are available. Creating a power of attorney for health care or a power of attorney for financial matters is often a better solution. These are contracts between the person with a disability and someone they trust – and choose themselves – to help advise them, or to make decisions if they are unable to. The person with a disability still keeps the right to make decisions in other areas of his or her life.

In another model, known as "supported decision-making," people with disabilities keep their rights and their decision-making capacity. Instead of having a guardian make choices for them, people with disabilities have supporters who help them make their own choices. A person using supported decision-making appoints trusted advisors, such as friends, family, or professionals, to serve as supporters. The supporters help the person with a disability understand, make, and communicate her own choices.

¹ The American Civil Liberties Union of Oregon (ACLU of Oregon) is a nonpartisan organization dedicated to the preservation and enhancement of civil liberties and civil rights. We have more than 28,000 members in the State of Oregon, and that number is growing as we speak.

At the ACLU of Oregon, we believe that we should have more, and clearer, conversations about guardianship that include the voices of those who are most affected by guardianship's grasp. We need to explore and further develop the best models to support individuals with disabilities in their decision-making. And, we need to be cautious when anyone suggests guardianship for our children, our parents or ourselves.

Most of all, we must recognize that disability should not be an excuse to deprive someone of her basic civil liberties.

Each of these bills strengthens the rights of people subject to guardianship proceedings in a significant way. We believe these bills would help to move Oregon's guardianship law in the right direction.

We urge you to support SB 501, SB 502 and SB 503. We also hope that this committee and the legislature will continue to engage in conversations and work to support the rights, liberty and autonomy of individuals with disabilities in Oregon.

Thank you for your time and consideration. Please feel free to contact me if you have questions or concerns.