

## **SB 199: Guardianship Amendments**

Senator Keven J. Stratton

Representative Steve Eliason

Families of, and advocates for, Adults with a Severe Intellectual Disability ask you to support SB 199 to create a new section within the guardianship statute (Utah Code Ann. § 75-5-101 *et seq.*) for this group, to adequately protect them from harm and exploitation. The Utah Legislative Coalition for People with Disabilities voted to support SB 199.

- Adults with a Severe Intellectual Disability have never had and will not have legal capacity. They will never be able to receive and evaluate information, make and communicate decisions, or provide for necessities such as food, shelter, clothing, health care or safety. They require greater protection.
- The current general guardianship statute, Utah Code Ann. § 75-5-101 *et seq.*, is tailored to the elderly and others who once had legal capacity, may regain capacity, and/or have somewhat limited capacity.
- HB 334 makes needed changes for those who are higher functioning, but there is still a need for additional protection for those with severe functional and cognitive impairments. SB 199 fills that gap.
- Separating Adults with a Severe Intellectual Disability from the elderly and others with more capacity makes sense. It allows for greater protection for those with greater vulnerability, without impacting or creating restrictions on those who have the ability to be more independent.
- The lack of ability to receive and evaluate information renders Adults with a Severe Intellectual Disability (some of whom may not physically appear to have a disability) unable to make reasoned decisions. They are unable to manage finances and may lose critical state and federal benefits without assistance.
- While retaining full due process rights for the Adult with a Severe Intellectual Disability and strong judicial oversight, SB 199 helps provide a smoother guardianship process (remote hearings, attorney not required under certain circumstance, discretion to appoint a court visitor, simpler annual reporting, etc.). It also clarifies that Adults with a Severe Intellectual Disability do not have the capacity to contract and allows guardians to protect them from harmful substances and activities.
- Families, the state's greatest asset, typically become the guardians as they continue to protect and care for their Adult family member with a Severe Intellectual Disability. This saves the State of Utah significant sums, as an Adult with a Severe Intellectual Disability would otherwise become a ward of the state. It's good public policy to assist the families who are stepping up.

If SB 199 is not passed:

- If the new section for Adults with a Severe Intellectual Disability is not passed, this group will continue to be put at risk by provisions in the general guardianship statute that do not consider their greater inability to protect and care for themselves. The revisions of HB 334 do not fully protect this population and each year's new legislation will continue to put this group in jeopardy.
- Adults with a Severe Intellectual Disability will continue to be prime targets for financial and sexual exploitation. They can be unknowingly involved in criminal activity. Their continuing need to rely on others for assistance often makes them more compliant and easier to manipulate. Guardians, typically the parents, need the powers of protection and guidance afforded by SB 199 to keep this group safe.

**SB 199 passed unanimously: Senate Judiciary Committee; passed Senate 3<sup>rd</sup> Calendar Reading, 1 may**

Please Contact Lisa Thornton (801-556-8012) or Anneli Smith (801-573-8598) for any questions or concerns