

ONE HUNDRED EIGHTH LEGISLATURE

FIRST SESSION

LEGISLATIVE RESOLUTION 244

Introduced by Day, 49.

PURPOSE: The purpose of this resolution is to propose an interim study to examine guardianship in Nebraska. Guardianship is the process by which individuals can be found legally incapable of making decisions for themselves, and other adults are appointed to make decisions for them. Guardianships can be limited in scope, only giving decision-making authority in a limited number of areas, or they can be plenary, giving the guardian authority in all areas. Data indicates Nebraskans with disabilities are more often subject to plenary rather than limited guardianships. Experience has shown that plenary guardianships can be exploitative and abused when training does not require periodic recertification and oversight is lax. Alternatives to guardianship such as allowances for a deliberative limiting of guardian decision-making or the providing of resources and structure that would be necessary to support self-direction for individuals with disabilities are rarely discussed or implemented.

This interim study should include, but need not be limited to:

(1) Examination of the present legal framework for guardianships, including the existing statutory preference of plenary guardianships versus limited guardianships, the training offered to guardians and judges, the judicial oversight of guardians and guardianships, and the services provided and fees charged by guardians;

(2) Exploration of public policy and legal mechanisms, including examples from other states, that result in better outcomes for individuals under guardianship; and

(3) Discussion of alternatives to guardianship, limiting guardianships to maximize a ward's self-determination, and ways to ensure that guardianships are

appropriate and tailored to the needs of the individual rather than convenience.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED EIGHTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Judiciary Committee of the Legislature shall be designated to conduct an interim study to carry out the purposes of this resolution.

2. That the committee shall upon the conclusion of its study make a report of its findings, together with its recommendations, to the Legislative Council or Legislature.