

SB

101

SENATE COMMITTEE REPORT

DATE: 3/14/07

FURTHER: Finance

DATE TURNED
IN TO OFFICE: _____

State Affairs Committee considered SENATE BILL NO. 101

SB 101 GUARDIANSHIP AND CONSERVATORS

"An Act relating to private professional conservators and private and public guardians."

and recommends:

- be replaced with SCS or CS SB 101 (STA)
- adopt previous SCS or CS _____ (_____)
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input checked="" type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

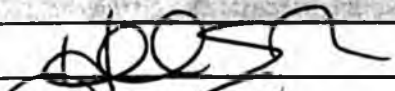


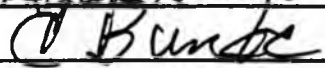

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
COMMERCE	03/07			✓	
ADMIN	02/06			✓	

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	French			x	
	Green			x	
	Green	✓			
	Bundo	✓			
CHAIR: 	McGuire	✓			

Alaska State Legislature

Session:

State Capitol, Rm. 125
Juneau, AK 99801
Phone: (907) 465-2995
Fax: (907) 465-6592



Interim:

716 W 4th Avenue, Suite 430
Anchorage, AK 99501-2133
Phone: (907) 269-0250
Fax: (907) 269-0249

Senator Lesil McGuire

Chair, Senate State Committee

Fax

To: Leg Legal (Bullard) **From:** Shalon Szymanski, SSTA Committee Aide

Fax: 2029 **Pages:**

Phone: **Date:** March 29, 2007

Re: Final CS Request (SB 101) **CC:**

Urgent For Review Please Comment Please Reply Please Recycle

● **Comments:**

ALASKA STATE LEGISLATURE

Sen. Lesil McGuire, Chair
Sen. Gary Stevens, Vice-Chair
Sen. Lyda Green
Sen. Hollis French
Sen. Con Bunde



State Capitol, Room 125
Juneau, AK 99801-1182
(907) 465-2995
Fax (907) 465-6592

SENATOR LESIL McGUIRE
CHAIR, STATE AFFAIRS

Memorandum

To: Leg. Legal (Bullard)
From: Shalon Szymanski, Committee Aide
Senate State Affairs Committee
Date: March 29, 2007
Re: Final CS Request

Please create a Final Committee Substitute (STA) for work order # **25-LS0559\K**, mirroring # **25-LS0559\K** but also including:

-1 attached amendment

SB 101 did move out of committee today and we would like to have it read across on the floor tomorrow.

Thank you!

Senator McGuire
25-LS0559\K

AMENDMENT # 1

**OFFERED IN THE SENATE
STATE AFFAIRS COMMITTEE**

Page 4:

Delete:

Section 4
Lines 14-16

25th
ALASKA STATE LEGISLATURE

Senator Johnny Ellis, Chair
Senator Bettye Davis
Senator Lyman Hoffman
Senator Gary Stevens
Senator Con Bunde



State Capitol, Room 9
465-3704

Senate Labor & Commerce Committee

Senate Bill 101, An Act relating to private professional conservators and private and public guardians

Sponsor Statement

The Senate Labor & Commerce Committee introduced Senate Bill 101, An Act relating to private professional conservators and private and public guardians, at the request of the Office of Public Advocacy. The bill seeks to encourage more private professional guardians in Alaska, while assuring that individuals providing that service are appropriately licensed and regulated. Additionally, it mandates that public guardians meet or exceed the same standards as private professional guardians.

Senate Bill 101, now CSSB 101 (L&C) would amend licensing statutes to require that all private professional guardians and conservators be licensed individually; the bill would repeal organizational licenses. Additionally, the bill would clarify that bonding and insurance requirements for guardians and conservators are those imposed by courts. The bill also specifies certain crimes that would disqualify an individual from obtaining a license and imposes a further test of any other crime that would indicate that the individual is unsuitable to competently and safely provide services to the protected person.

The Labor & Commerce Committee views SB 101 as a housekeeping measure.

25th
ALASKA STATE LEGISLATURE

Senator Johnny Ellis, Chair
Senator Gary Stevens, Vice Chair
Senator Bettye Davis
Senator Lyman Hoffman
Senator Con Bunde



State Capitol, Room 9
465-3704

Senate Labor & Commerce Committee

CSSB 101 (L&C) GUARDIANSHIP AND CONSERVATORS

Sectional Analysis

Section 1.

A.S. 08.26.010 is amended by inserting the phrase "private professional" before "guardian or conservator" to clarify that licensure is not required of family guardians and public guardians with the Office of Public Advocacy (OPA). Occupational Licensing has pointed out that public guardians could be construed to be "engaging in the business of providing private and professional services." OPA is also proposing an amendment to the Public Guardian statute that would specify that public guardians must meet or exceed the requirements for private professional guardians and conservators, except for the bonding and licensure requirements. See Section 12 below.

Section 2.

A.S. 08.26.020 is amended by deleting the term "individual" in the section title. This amendment is necessary as a result of the proposed repeal of the organizational license statute discussed in Section 13 below. The section title is also amended to clarify that an applicant does not need to obtain a separate conservator license if that applicant is willing to take "full" guardianship cases, which include conservatorship responsibilities. Currently, Occupational Licensing views these statutes as supporting a requirement that applicants obtain separate guardianship and conservatorship licenses. While it is possible that an applicant might only acquire a conservatorship license (which has different requirements) most applicants are going to be willing to act as full guardian and should not have to obtain a separate license to do so, so long as they meet the background and experience requirements to act as both guardian and conservator.

The requirement that an applicant provide proof that he or she is able to be bonded, contained in subsection (7), is also deleted. This requirement lacks meaning without identifying an amount, and that cannot be done without looking at the actual clients one would be taking. Under current law, the court may impose bonding requirements in individual cases based on the size of the estate and other considerations.

This section also clarifies the types of crimes which would preclude licensure if an applicant had been convicted within ten years of applying for a license. This would include any felony or misdemeanor offense involving fraud, misrepresentation, material omission, misappropriation, theft, or conversion in Alaska or any other state. Any other crime which could affect an individual's ability to provide guardianship services – such as assault on a vulnerable person – could also preclude licensure.

Finally, an amendment to the newly numbered subsection (6) would clarify that a person can obtain a "full guardian" license under AS 08.26.020 only if they meet the conservator background and qualification standards of AS 08.26.030.

Section 3.

A new subsection is added to AS 08.26.020(b) to address the rare situation in which a person might want to act as a private professional guardian without assuming conservatorship responsibilities, either because that individual does not meet the requirements of AS 08.26.030 or because the individual does not wish to assume financial responsibilities.

Section 4.

The phrase "individual" in the title of A.S. 08.26.030 is deleted because of the proposed repeal of A.S. 08.26.040, the organizational license. Insurance and bond requirements are repealed, and clarification is provided regarding the criminal convictions which would preclude licensure for private professional conservatorship licenses. See section 2 above.

Section 5.

Subsection (1) deletes language regarding the fingerprinting of members of an organizational applicant as such licenses are repealed. (See Section 13).

Subsection (2), the requirement for proof of insurance and the ability to obtain a bond is deleted.

Subsection (7) is deleted because it pertains to organizational applicants.

Section 6.

The annual report section is amended to require that the annual report be submitted to the Office of Public Advocacy where expertise exists to examine the reports.

Subsection (1) of A.S. 08.26.080 is revised to require that licensees annually submit evidence of any bond ordered by the court since the bonding requirement is a court determination.

The proposed change to subsection (3) would provide some specificity to the requirement that licensees annually submit an accurate financial statement.

Subsection (5) would be amended by adding the phrase "calendar year" to clarify that only the preceding year's tax returns and correspondence will be submitted with the annual report.

Subsection (6) would be deleted since it pertains to organizational applicants.

Section 7.

A new subsection (b) is created in A.S. 08.26.080 requiring the OPA to notify the Division of Occupational licensing regarding a licensee's compliance with the annual reporting requirements.

Section 8.

The term "individual" is substituted for the term "person" in this section and throughout the rest of this statutory scheme because "person" is defined in AS 01.10.060(a)(8) to "include a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person." Since the organizational license statute is being repealed, use of the term "individual" and not "person" clarifies that the statutory reference is to a "natural person" and not an organization.

Section 9.

A.S. 08.26.130 is amended to clarify that Occupational Licensing may refuse to renew a license as well as take disciplinary action if there is a determination that the licensee has not met his or her obligations under A.S. 08.26.130.

AS 08.26.130 (12) is deleted because it pertains to organizational licenses.

For the reason discussed in Section 8 above, the phrase "individual" is being substituted for the phrase "person."

Section 10.

This section would clarify that employees of a financial institution are exempted from licensure requirements only to the extent they perform these responsibilities in the course of their professional employment.

Section 11.

The definition section is changed by deleting the definition in subsection (5), the organizational license, as previously discussed, and by replacing the term "person" with "individual."

The new subsections (6) and (7) are amended to clarify that an individual who is an immediate family member of the ward or respondent need not obtain a license to provide conservator or guardianship services to that family member even if he or she receives compensation for such services.

Section 12.

This proposed revision to A.S. 13.26.400, pertaining to employees of the Public Guardian section of the Office of Public Advocacy, specifies that public guardians (like private professional guardians and conservators) would be required to pass the criminal history check required of private professional guardians, and obtain certification by a nationally recognized organization in the field of guardianships within one year of employment.

Section 13.

This section repeals A.S. 08.26.040, which provides for an organizational license.

The Office of Public Advocacy, Occupational Licensing, and ASAGA believe that this section (Requirements for Organizational Licensing) should be repealed in its entirety. Currently, interested applicants are being told that they must maintain an organizational license if they meet the definition of an organization under this statute. This would require an additional fee and has a chilling effect on the number of person interested in entering this field. There is no need for an organizational license as long as the person within the organization who is providing guardianship and conservatorship services are individually licensed.

Section 14.

This section provides a transitional period such that current private professional guardians operating under an organizational license may continue to do so until the license expires. Thereafter, the individuals that had been operating under the organizational license would have 60 days to obtain an individual license under A.S. 08.26.



STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION OFFICE OF PUBLIC ADVOCACY

Sara Palin, Governor

900 W. 5th Ave., Suite 525
Anchorage, Alaska 99501
(907) 269-3500 Telephone
(907) 269-3535 Facsimile

Section 1.

A.S. 08.26.010 is amended by inserting the phrase "private professional" before "guardian or conservator" to clarify that licensure is not required of family guardians and public guardians with the Office of Public Advocacy. Occupational Licensing has pointed out that public guardians could be construed to be "engaging in the business of providing private and professional services". OPA is also proposing an amendment of a Public Guardian statute that would specify that public guardians must meet or exceed the requirements for private professional guardians and conservators, except for the bonding and licensure requirements. See Section 10 below.

Section 2.

A.S. 08.26.020 is amended by deleting the term "individual" in the section title which is necessary as a result of the proposed repeal of the organizational license statute discussed in Section 12 below. The section title is also amended to clarify that an applicant does not need to obtain a separate conservator license if that applicant is willing to take "full" guardianship cases, which include conservatorship responsibilities. Currently, Occupational Licensing views these statutes as supporting a requirement that applicants obtain separate guardianship and conservatorship licenses. While it is possible that an applicant might only acquire a conservatorship license (which has different requirements) most applicants are going to be willing to act as full guardian and should not have to obtain a separate license to do so, so long as they meet the background and experience requirements to act as both guardian and conservator. .

This section also clarifies the types of crimes which would preclude licensure if an applicant had been convicted within ten years of applying for a license. This would include any felony or misdemeanor offense involving fraud, misrepresentation, material omission, misappropriation, theft, or conversion in Alaska or any other state.

Finally, section 2 of the bill would, in subsection A.S. 08.26.020(7), clarify that a person can obtain a "full guardian" license under AS 08.26.020 only if they meet the conservator background and qualification standards of AS 08.26.030.

Section 3.

A new subsection is added to AS 08.26.020(b) to address the rare situation in which a person might want to act as a private professional guardian without assuming conservatorship responsibilities, either because that individual does not meet the requirements of AS 08.26.030 or because the individual does not wish to assume financial responsibilities.

Section 4.

The phrase "individual" in the title of A.S. 08.26.030 is deleted because of the proposed repeal of A.S. 08.26.040, the organizational license. Subsection (6) of this statute is amended in the same fashion as AS 08.26.020, discussed in Section 2 above, precluding individuals with certain criminal convictions from qualifying for private professional conservatorship licenses.

Section 5 .

Subsection (1) deletes language regarding the fingerprinting of members of an organizational applicant as such licenses are repealed. (See Section 13).

Subsection (2) addresses ambiguities in AS 08.26.060(2). This statute as currently written does not specify what type of insurance an applicant must possess and it is possible an applicant could argue that they satisfied this requirement by virtue of having automobile, life, or homeowner's insurance. Also, the current version of AS 08.26.080 does not require the licensee to annually submit proof of professional liability insurance. The proposed change would clarify that the applicant must provide proof of professional liability insurance.

Revised AS 08.26.060(2) would also clarify that the nature of the bond required is a surety bond imposed by the court. Under current law the court may impose a requirement of bonding on a conservator but is not obligated to do so. See AS 13.26.215.

Subsection (7) is deleted because it pertains to organizational applicants.

Section 6.

Subsection (1) of A.S. 08.26.080 is revised to require that licensees annually submit evidence of any bond ordered by the court since the bonding requirement is a court determination.

ASAGA also proposes that the phrase "required by a court" in current AS 08.26.080 be deleted to reflect the change to AS 08.26.060(2), previously discussed, that would make professional liability insurance an application requirement and not a judicial determination.

The proposed change to subsection (3) would provide some specificity to the requirement that licensees annually submit an accurate financial statement.

Subsection (5) would be amended by adding the phrase "calendar year" to clarify that only the preceding year's tax returns and correspondence will be submitted with the annual report.

Subsection (6) would be deleted since it pertains to organizational applicants.

Section 7.

The term "individual" is substituted for the term "person" in this section and throughout the rest of this statutory scheme because "person" is defined in AS 01.10.060(a)(8) to "include a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person." Since the organizational license statute is being repealed, use of the term "individual" and not "person" clarifies that the statutory reference is to a "natural person" and not an organization.

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A.S. 08.26.130 is amended to clarify that Occupational Licensing may refuse to renew a license as well as take disciplinary action if there is a determination that the licensee has not met his or her obligations under A.S. 08.26.130.

AS 08.26.130 (12) is deleted because it pertains to organizational licenses.

For the reason discussed in Section 7 above, the phrase "individual" is being substituted for the phrase "person".

Section 9.

This section would clarify that employees of a financial institution are exempted from licensure requirements only to the extent they perform these responsibilities in the course of their professional employment.

Section 10.

The definition section is changed by deleting the definition in subsection (5), the organizational license, as previously discussed, and by replacing the term "person" with "individual."

The new subsections (6) and (7) are amended to clarify that an individual who is an immediate family member of the ward or respondent need not obtain a license to provide conservator or guardianship services to that family member even if he or she receives compensation for such services.

Section 11.

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March 7, 2007

Page 4 of 4

nationally recognized organization in the field of guardianships within one year of employment.

Section 12.

This section repeals A.S. 08.26.040, which provides for an organizational license.

The Office of Public Advocacy, Occupational Licensing, and ASAGA believe that this section (Requirements for Organizational Licensing) should be repealed in its entirety. Currently, interested applicants are being told that they must maintain an organizational license if they meet the definition of an organization under this statute. This would require an additional fee and has a chilling effect on the number of person interested in entering this field. There is no need for an organizational license as long as the person within the organization who is providing guardianship and conservatorship services are individually licensed.

Section 13.

This section provides a transitional period such that current private professional guardians operating under an organizational license may continue to do so until the license expires. Thereafter, the individuals that had been operating under the organizational license would have 60 days to obtain an individual license under A.S. 08.26.



STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION OFFICE OF PUBLIC ADVOCACY

Sara Palin, Governor

900 W. 5th Ave., Suite 525
Anchorage, Alaska 99501
(907) 269-3500 Telephone
(907) 269-3535 Facsimile

February 22, 2007

The Honorable Johnny Ellis
State Senator
Chairman, Labor and Commerce Committee
State Capitol, Room 9
Juneau, Alaska 99801-1182

Dear Senator Ellis:

Thank you for agreeing to introduce legislation through the Senate Labor & Commerce Committee to amend the licensure statute for private professional guardians and conservators. The amendments sought should go along way to help encourage the development of private professional guardians in Alaska, while providing some level of assurance that individuals providing such services are appropriately licensed and regulated.

Some history of licensure for private professional guardians and conservators may be helpful. In 2004 the legislature passed House Bill 280, the private professional guardianship and conservatorship reform bill. This legislation was supported by the Office of Public Advocacy (OPA) and the Alaska State Association for Guardianship and Advocacy (ASAGA) and by many advocates for seniors and vulnerable adults in our state. House Bill 280 was passed to ensure that those entrusted with managing the lives and finances of Alaskans in need of such services would be subject to licensure in order to prevent financial exploitation by private professional guardians and conservators. Prior to its passage, there was no licensure requirement for private professional guardians, and a number of Alaskans were victimized by their private guardians.

Unfortunately, since the passage of HB 280 three years ago, it has come to my attention, from numerous sources, that there are problems with the new licensure statute that need to be addressed. The proposed amendments will correct the statute in certain areas so as to achieve the original purposes of this legislation.

As you know, OPA is very supportive of engendering the development of private professional guardians and conservators in Alaska. We have an aging population that will need such services and yet have very few private professional guardians or conservators currently operating in the State. OPA provides such services through its public guardians but is meant to be an appointment of last resort – that is where there are no available family members, friends, or private entities that are able or willing to provide these services. Unfortunately, because of the paucity of current private entities

February 22, 2007

Page 2 of 2

in the State, OPA occasionally does receive appointments for individuals with sufficient assets such that if there were private guardians and conservators available the appointment could go to the private sector. It is my hope that with the following proposed amendments, we will further the goal of developing this industry, and remove current impediments (such as unnecessary multiple licensing fees) that were not intended when HB 280 was enacted.

Specifically, OPA believes that some of the provisions of A.S. 08.26 need to be amended. OPA and ASAGA have been in contact with the Division of Corporations, Business and Professional Licensing (Occupational Licensing) regarding promulgation of regulations which would advance the goals of protecting vulnerable Alaskans while encouraging the development of private sector guardians and conservators. Occupational Licensing has pointed out that some of the current statutory provisions must be changed before regulations can be implemented which will serve to encourage the development of a healthy and qualified private sector of guardians and conservators. OPA has also received concerns from private guardians attempting to comply with HB 280 but finding unintended impediments. The attached amendments should rectify this situation.

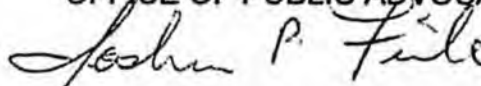
In addition to the proposed amendments to AS 8.26, I am also seeking amendments to AS 13.26, the provision regarding qualifications of public guardians and conservators. Alaska Statute 13.26.400 should be amended to require that public guardians obtain certification by a nationally recognized organization in the field of guardianships within one year of employment. This is a requirement for private professional guardians and conservators and is currently policy at OPA for its public guardians. This amendment would require that public guardians take and pass an exam as a registered or master guardian. Currently all of OPA's public guardians are so certified, but I would like to see this requirement in statute.

Finally, I would request that AS 13.26 be amended to require that public guardians pass the same criminal background check required of private professional guardians and conservators under AS 08.26.070. OPA recently initiated a policy to require such background checks, but again, sound public policy would incorporate this requirement into statute.

Thank you again for your assistance on this rather technical, but important piece of legislation. I look forward to working with you on enacting the attached changes.

Sincerely,

OFFICE OF PUBLIC ADVOCACY



Joshua P. Fink
Public Advocate



March 13, 2007

The Honorable Johnny Ellis, Chair
Senate Labor and Commerce Committee
Alaska State Capitol, Room 9
Juneau, AK 99801-1182

RE: SB 101 (Senate Labor and Commerce Committee)--Support

Dear Chair Ellis:

On behalf of the members of AARP in Alaska, we encourage you and your colleagues on the Senate Labor and Commerce Committee to support your Committee bill SB 101.

SB 101 is, in AARP's view, a consumer safeguard bill that builds on previous work to make certain our guardianship and conservatorship regulations work as they are intended.

Incapacitated elders are at risk of abuse, neglect and exploitation by guardians and conservators. SB 101 will help guard against fiduciary abuse.

As the need for guardians has grown, courts have found it more difficult to find family members or friends able and willing to accept the responsibilities of guardianship. Professional guardians and conservators are used more and more often. SB 101 will help improve the quality of guardians and prevent abuses. As Alaska insists on training and certification and reporting, we will ensure that all guardians are better informed about their responsibilities and the requirements for caring for incapacitated people.

AARP considers SB 101 as one more significant step creating safeguards in what will only become a growing industry. Government oversight is essential for quality control.

We urge an "AYE" vote on SB 101.

Should you have any questions about our position, please feel free to contact me (586-3637) or Patrick Luby, AARP Advocacy Director (907-762-3314).

Thank you for your consideration.

Sincerely,

Marie Darlin

Marie Darlin, Coordinator
AARP Capital City Task Force
415 Willoughby Avenue, Apt. 506
Juneau, AK 99801
586-3637 (voice)
463-3580 (fax)

CC: Senator Gary Stevens
Senator Bettye Davis
Senator Lyman Hoffman
Senator Con Bunde

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: SB101-DOA-OPA-3-6-07
 Bill Version: SB 101(L&C)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act relating to private professional RDU Legal and Advocacy Services
conservators and private and public guardians Component Office of Public Advocacy
 Sponsor Labor and Commerce
 Requester Labor and Commerce Component No. 43

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will amend the current licensure requirements for private professional conservators and guardians so as to eliminate duplicative licenses and fees. This legislation would also impose requirements that public guardians and conservators undergo a criminal background check to determine whether the applicant has been convicted of any crimes of dishonesty within ten years of his or her application, and also require that Public Guardians receive certification from a national guardian/conservatorship organization within one year of employment at OPA. These two requirements are already imposed on private guardians. The costs of the criminal background checks and certification fees will be de minimus, and therefore, OPA submits a zero fiscal note.

Prepared by: Joshua Fink, Director
 Division: Office of Public Advocacy
 Approved by: Rachael Petro, Deputy Commissioner
 Agency: Administration

Phone 907-269-3501
 Date/Time 3/6/07, 11:00 a.m.
 Date 3/6/07, 11:45am

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: SB101-COM-OL-03-07-07
 Bill Version: SB 101
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title Guardianship and Conservators RDU Occupational Licensing (117)
 Component Occupational Licensing
 Sponsor Senate Labor & Commerce
 Requester Senate Labor & Commerce Component No. 2360

Expenditures/Revenues (Thousands of Dollars)
 Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation amends various provisions of AS 08.26 Professional Conservators and Guardians and is not expected to result in the need for additional funds to implement the provisions.

Prepared by: Chris Wyatt, Administrative Manager Phone (907) 465-2572
 Division Corporations, Business, and Professional Licensing Date/Time 3/7/07 3:29 PM
 Approved by: Emil Notti, Commissioner Date 3/7/2007
 Agency Commerce, Community, and Economic Development



STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION OFFICE OF PUBLIC ADVOCACY

Sara Palin, Governor

900 W. 5th Ave., Suite 625
Anchorage, Alaska 99501
(907) 269-3600 Telephone
(907) 269-3535 Facsimile

March 15, 2007

The Honorable Lesil McGuire
State Senator
Chairman, State Affairs Committee
State Capitol, Room 9
Juneau, Alaska 99801-1182

Dear Senator ^{Lesil} McGuire:

I am writing to request that you schedule Senate Bill 101, "An Act relating to private professional conservators and private and public guardians," for a hearing before the Senate State Affairs Committee at the Committee's earliest convenience.

This legislation amends the licensure statute for private professional guardians and conservators enacted by the legislature in 2004 in House Bill 280. The original legislation was sponsored by Representative Tom Anderson and enacted licensure requirements for private professional guardians and conservators. The amendments contained in SB 101 should go along way to help encourage the development of private professional guardians in Alaska, while providing some level of assurance that individuals providing such services are appropriately licensed and regulated.

The original legislation was supported by the Office of Public Advocacy (OPA) and the Alaska State Association for Guardianship and Advocacy (ASAGA) and by many advocates for seniors and vulnerable adults in our state. House Bill 280 was passed to ensure that those entrusted with managing the lives and finances of Alaskans in need of such services would be subject to licensure in order to prevent financial exploitation by private professional guardians and conservators. Prior to its passage, there was no licensure requirement for private professional guardians, and a number of Alaskans were victimized by their private guardians.

Unfortunately, since the passage of HB 280 three years ago, it has come to my attention, from numerous sources, that there are problems with the new licensure statute that need to be addressed. The proposed amendments will correct the statute in certain areas so as to achieve the original purposes of this legislation.

As you know, OPA is very supportive of engendering the development of private professional guardians and conservators in Alaska. We have an aging population that will need such services and yet have very few private professional guardians or conservators currently operating in the State. OPA provides such services through its public guardians but is meant to be an appointment of last resort – that is where there

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are no available family members, friends, or private entities that are able or willing to provide these services. Unfortunately, because of the paucity of current private entities in the State, OPA occasionally does receive appointments for individuals with sufficient assets such that if there were private guardians and conservators available the appointment could go to the private sector. It is my hope that with the following proposed amendments, we will further the goal of developing this industry, and remove current impediments (such as unnecessary multiple licensing fees) that were not intended when HB 280 was enacted.

Specifically, OPA believes that some of the provisions of A.S. 08.26 need to be amended. OPA and ASAGA have been in contact with the Division of Corporations, Business and Professional Licensing (Occupational Licensing) regarding promulgation of regulations which would advance the goals of protecting vulnerable Alaskans while encouraging the development of private sector guardians and conservators. Occupational Licensing has pointed out that some of the current statutory provisions must be changed before regulations can be implemented which will serve to encourage the development of a healthy and qualified private sector of guardians and conservators. OPA has also received concerns from private guardians attempting to comply with HB 280 but finding unintended impediments. The attached amendments should rectify this situation.

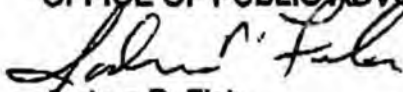
In addition to the proposed amendments to AS 8.26, I am also seeking amendments to AS 13.26, the provision regarding qualifications of public guardians and conservators. Alaska Statute 13.26.400 should be amended to require that public guardians obtain certification by a nationally recognized organization in the field of guardianships within one year of employment. This is a requirement for private professional guardians and conservators and is currently policy at OPA for its public guardians. This amendment would require that public guardians take and pass an exam as a registered or master guardian. Currently all of OPA's public guardians are so certified, but I would like to see this requirement in statute.

Finally, I would request that AS 13.26 be amended to require that public guardians pass the same criminal background check required of private professional guardians and conservators under AS 08.26.070. OPA recently initiated a policy to require such background checks, but again, sound public policy would incorporate this requirement into statute.

Thank you for your consideration of this request.

Sincerely,

OFFICE OF PUBLIC ADVOCACY



Joshua P. Fink
Public Advocate