Guardianship Programs in the Department of Human Services
Compiled for Legislative Task Force #4

The Department of Human Services (DHS) administers two programs related to guardianship/ conservatorship.

- The Establishment Program provides a $500.00 stipend to cover legal fees to establish a permanent guardianship/conservatorship for a person in need of protection. The stipend is requested by family or friends of an individual in need of a guardian/conservator.
    - The program is available to South Dakota residents eighteen years or older with a documented need for the guardianship/conservatorship. Application is made to DHS.
    - Often used when a special education student comes of age or when family members are recruited to become guardians/conservators instead of DHS.
    - The stipend is paid by DHS to the attorney when they submit a billing with a copy of the Order appointing a guardian/conservator.
- Guardianship Program where DHS becomes the guardian/conservator of an individual.
    - DHS can only be the guardian/conservator of last resort for individuals under the department's care or to whom it is providing services or financial assistance.
    - In situations where providers, families, state agencies, or others request DHS become the guardian/conservator, DHS will attempt to exhaust all other options to identify an alternative guardian/conservator.
    - The court may appoint DHS because of a family dispute or as a successor guardian or conservator when the initial guardian/conservator has failed in his or her duties.
    - DHS may be appointed the guardian/conservator as a part of an adult protection matter.
    - Once DHS is appointed as guardian/conservator, the DHS generally is the guardian/ conservator for the rest of the protected person's life.
    - Guardianship/conservatorship terminates upon the death of the protected person.
        - DHS does not have the legal authority to plan funerals, distribute property or open a probate case.
    - DHS currently serves as a guardian/conservator or both for 168 individuals.
    - There are 34 Guardian Representatives across the state, who serve as guardian representatives on state contract for a monthly rate of approximately $75.00 per month per protected person.