

The Legislature
of the
State of New Mexico

48th Legislature, 2nd Session

LAWS 2008

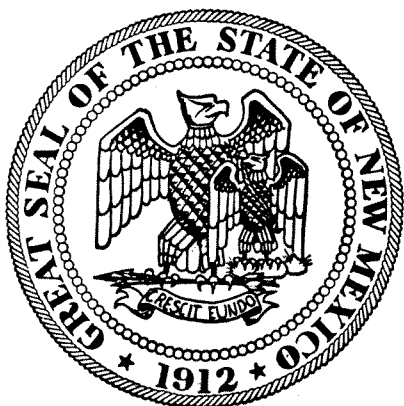
CHAPTER _____

HOUSE MEMORIAL 6, as amended

Introduced by

REPRESENTATIVE JIM R. TRUJILLO

REPRESENTATIVE MIGUEL P. GARCIA
REPRESENTATIVE GAIL CHASEY
REPRESENTATIVE ANTONIO LUJAN
REPRESENTATIVE JONI MARIE GUTIERREZ
REPRESENTATIVE DANICE PICRAUX
REPRESENTATIVE JEFF STEINBORN



1 A MEMORIAL

2 REQUESTING THAT THE DEVELOPMENTAL DISABILITIES PLANNING
3 COUNCIL CONVENE A TASK FORCE TO REVIEW THE PROCESSES BY WHICH
4 GUARDIANS OF ADULTS ARE APPOINTED, TRAINED, SUPERVISED AND
5 REVIEWED.

6
7 WHEREAS, the appointment of a guardian pursuant to the
8 Uniform Probate Code for an adult with diminished capacity
9 limits or eliminates the legal authority of the adult to make
10 decisions and control the adult's own life; and

11 WHEREAS, appointment of plenary guardians, with
12 authority to control all aspects of a ward's life, is still
13 the typical outcome of guardianship petitions to the district
14 courts, despite the preference in New Mexico law for limited
15 guardianships that would maximize the autonomy and authority
16 of adults with limited capacity; and

17 WHEREAS, recent studies have demonstrated that there is
18 very little effective oversight of guardianship arrangements
19 once they have been established, including one study that
20 showed that only twelve percent of private guardians have
21 filed required annual reports; and

22 WHEREAS, there is no systematic process through which
23 existing guardianship orders and arrangements are reviewed to
24 determine whether such arrangements are still needed or
25 appropriate, even though some existing orders are twenty years

1 old or more and the ward's circumstances or capacity may have
2 changed;

3 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF
4 REPRESENTATIVES OF THE STATE OF NEW MEXICO that the
5 developmental disabilities planning council be directed to
6 convene a task force to review the processes by which
7 guardians of adults under the Uniform Probate Code are
8 appointed, trained, supervised and reviewed; and

9 BE IT FURTHER RESOLVED that the task force be composed
10 of persons who have sufficient authority to engage in policy
11 planning and implementation on behalf of the departments or
12 agencies they represent. The participants shall include
13 representatives of the developmental disabilities planning
14 council, the administrative office of the courts, the adult
15 protective services division of the aging and long-term
16 services department, the department of health, the attorney
17 general's office, other appropriate state agencies, New Mexico
18 district court judges, the New Mexico guardianship
19 association, the protection and advocacy system, the senior
20 citizens law office, individual and corporate guardians,
21 elders, individuals with disabilities, advocates or other
22 representatives of elders or adults with disabilities and
23 other interested individuals; and

24 BE IT FURTHER RESOLVED that representatives of state
25 agencies constitute less than fifty percent of the membership

1 of the task force; and

2 BE IT FURTHER RESOLVED that the task force consider
3 potential statutory or regulatory changes, training
4 requirements, identification and dissemination of best
5 practices and other recommendations that would improve New
6 Mexico's system for qualification, appointment and oversight
7 of guardians of adults with limited capacity; and

8 BE IT FURTHER RESOLVED that the task force present its
9 recommendations no later than October 31, 2008 to the interim
10 legislative health and human services committee and the
11 courts, corrections and justice interim committee; and

12 BE IT FURTHER RESOLVED that copies of this memorial be
13 transmitted to the developmental disabilities planning
14 council.

S/ BEN LUJAN
BEN LUJAN, SPEAKER
HOUSE OF REPRESENTATIVES

S/ STEPHEN R. ARIAS
STEPHEN R. ARIAS, CHIEF CLERK
HOUSE OF REPRESENTATIVES