

Wisconsin Judicial Committee on Child Welfare Notes from July 13, 2016 Meeting

The committee discussed Chapter 54 guardianships and reviewed the State Bar's proposed minor guardianship legislation.

Some of the challenges related to the current Chapter 54 statutes related to minors:

- Process is unclear for terminating the guardianship upon parent's request (reverse *Barstad*, etc.) or modifying the guardianship.
- Confusion as to whether an unfitness finding is required when the parent's consent to the guardianship.
- Families seeking Chapter 54 guardianships to circumvent the child welfare system, sometimes at the direction of the child welfare agency and/or when safety issues exist.
- Lack of information regarding the child, family, and proposed guardian in private Chapter 54 guardianship cases.
- The juvenile court or family court are not aware of Chapter 54 guardianship proceedings and vice versa.

Comments on the minor guardianship legislation:

- Generally in favor of moving minor guardian proceedings to Chapter 48; better fit and less confusing.
- Liked giving the judge the ability to order the county agency to prepare a report for private guardianship cases.
- Allow good cause finding for delay for guardianship proceedings under s. 48.315.
- Require inquiry at guardianship initiation (e.g., on petition or at first hearing) regarding any pending/existing juvenile case or delegation of parental powers.
- Examine whether "best interests" should be defined for purposes of the guardianship statutes and whether to clarify it is different from other types of proceedings (e.g., Chapter 767).