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## Guardianship Standards Workgroup

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Honorable Cynthia Feland, Chair  
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September 30, 2015

Honorable Gerald W. VandeWalle  
Chief Justice  
North Dakota Supreme Court  
600 E. Boulevard, Dept 180  
Bismarck, ND 58505-0530

Re: Proposed Rule or Order - Process for Review of Guardianships

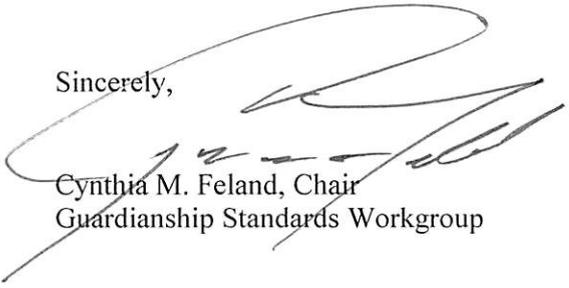
Dear Chief Justice VandeWalle:

As part of the legislative revisions to the guardianship procedures, N.D.C.C. §30.1-28-04(5) was amended to limit the duration of a guardian's authority for a period of up to five years. To address cases in effect prior to the legislative change, N.D.C.C. §30.1-28-04(5) provides, in part, that "[t]he supreme court, by rule or order, shall provide for the regular review of guardianships in existence on the effective date of this Act [August 1, 2015]."

As the Guardianship Standards Workgroup proposed the limitation for the duration of guardianship powers, the Workgroup discussed the possible framework for a process to review guardianships in existence on August 1, 2015. Enclosed is a draft rule or order proposed by the Workgroup to provide general guidance for the trial courts in establishing a process for the regular review of these guardianships. The intent is that existing guardianships would be reviewed over a five-year period, beginning with the oldest guardianships and proceeding to the newer guardianships, with the objective of reviewing at least twenty percent of the guardianships in place in each judicial district. The proposal provides that the review process established within each judicial district would be developed by the presiding judge of each judicial district and the unit trial court administrator and conform to the requirements of Section 30.1-28-04(5).

If you have any questions regarding the proposal, please do not hesitate to contact me.

Sincerely,

  
Cynthia M. Feland, Chair  
Guardianship Standards Workgroup

RECEIVED BY  
Chief Justice  
Supreme Court

OCT 02 2015

STATE OF  
NORTH DAKOTA

FILED  
IN THE OFFICE OF THE  
CLERK OF SUPREME COURT

OCT 02 2015

STATE OF NORTH DAKOTA

**REVIEW OF GUARDIANSHIPS - PROCESS**

1       **Section 1. Purpose.** This [rule] [order] implements N.D.C.C. §30.1-28-  
2 04(5), which requires the Supreme Court to provide by rule or order for the regular  
3 review of guardianships in existence on August 1, 2015. The review is the  
4 antecedent corollary of the prospective regular review of guardianships established  
5 on or after August 1, 2015, for purposes of ensuring that the best interests of the  
6 ward are adequately served by guardianships established by the courts.

7       **Section 2. Identification of Guardianship Cases.** The State Court  
8 Administrator, in coordination with the Director of the Information Technology  
9 Department, shall identify active guardianships in existence on August 1, 2015,  
10 in each judicial district. The State Court Administrator shall notify each unit trial  
11 court administrator of guardianships established in the respective judicial  
12 districts.

13       **Section 3. Implementation of Review.** Each unit trial court  
14 administrator, in consultation with the presiding judge of each judicial district in  
15 the administrative unit, shall establish a process of case assignment and review  
16 of guardianships in existence on August 1, 2015, in each judicial district. The  
17 process must consider judicial workload, availability of judges, hearing schedules,  
18 the age of guardianship cases, and other relevant factors to ensure the timely  
19 review of existing guardianships. The following elements must be included in the  
20 review process:

1 A. Reviews of guardianships in existence on August 1, 2015, must be  
2 completed within five years.

3 B. At least twenty percent of existing guardianships must be reviewed  
4 each year.

5 C. Reviews must begin with the earliest established guardianships and  
6 proceed to review of later established guardianships.

7 **Section 4. Review Result.** Following review of each guardianship, the  
8 court shall determine whether the existing guardianship shall be continued, a new  
9 guardian appointed, or the guardianship terminated.

10 **Section 5. Effective Date.** This [rule] [order] is effective \_\_\_\_\_.