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Health, Education, and Human Services Committee approves the Navajo Adult Guardianship Act of 2014

WINDOW ROCK – On Wednesday, the Health, Education, and Human Services Committee approved Legislation No. 0100-14, the Navajo Adult Guardianship Act of 2014.

The intent of the legislation is to protect the rights of individuals facing guardianship issues based on a perceived disability.

“This act basically states to protect the rights of our Navajo people with disabilities and making sure they get appropriate guardianship. It is very simple but the process of it, how the court will decide who will be the guardian to the individual and implementing certain guidelines is very important,” stated legislation sponsor Council Delegate Danny Simpson (Becenti, Crownpoint, Huerfano, Lake Valley, Nageezi, Nahodishgish, Tse’ii’ahi, Whiterock).

Currently, there is no statute in place that protects the rights of adults who are subject to adult guardianships.

President of the Native American Disability Law Center Hoskie Benally, said the Nation’s laws regarding guardianship was last evaluated in 1945, while pointing out certain problems that have developed over the years since.

“What was happening was a person gained guardianship over another person and assuming all the rights to make decisions for that person, like where they were going to live, spend their money, and that person didn’t have any say so as to their daily activities,” stated Benally.

Benally stressed the significance of the term “partial guardianship,” found within the language of the bill and also stressed the importance of distinguishing between a person with a cognitive disability that needs full-time guardianship versus a person with a disability that allows them to continue making decisions for him or herself.

“Partial guardianship is saying based on the nature of the disability, the accord needs to take that into consideration and give limited guardianship to the person that is going to be the guardian in the decision-making process,” stated Benally.

According to their website, the Native American Disability Law Center is a private non-profit organization that advocates for the legal rights of Native American with disabilities.

“This act, right now, if you look at it, there is only 5 sections and there are 5 sentences and that was approved back in 1945 and has never been changed and has never been amended. Now, if you look at the legislation, there is almost 25 pages and it is very comprehensive,” stated Delegate Simpson.

Council Dwight Witherspoon (Black Mesa, Forest Lake, Hardrock, Pinon, Whippoorwill) proposed an amendment to change language that includes adults with disabilities will, “have a freedom of choice between a home-based environment, a community group home environment, for an institution/facility care environment.”

EHSC members approved Delegate Witherspoon’s amendment with a vote of 3-0.

EHSC members voted 2-1 to approve Legislation No. 0100-14. The legislation now goes to the Naabik’iyátí’ Committee for consideration. The Navajo Nation Council serves as the final authority.

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