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Int. No. 1486

By Council Members Morano, Menin, Ariola, Paladino, Hanif, Banks, Restler and Vernikov

A Local Law in relation to establishing a New York city guardianship reform commission

Be it enacted by the Council as follows:

Section 1. Definitions. For purposes of this local law, the following terms have the following meanings:

City. The term “city” means the city of New York.

Guardian. The term “guardian” means a person who is 18 years of age or older, a

corporation, or a public agency, appointed in accordance with the terms of article 81 of the mental hygiene law by the New York state courts to act on behalf of an incapacitated person in providing for personal needs or for property management.

Guardianship. The term “guardianship" means the system established pursuant to article 81 of the mental hygiene law, whereby guardian appointments for incapacitated persons are made by the New York state courts, who assign a person or organization to make certain determinations for such incapacitated persons.

Incapacitated person. The term “incapacitated person” means a person determined by a court of the state of New York to be unable to care for their own property or personal needs, and who is likely to suffer harm because they cannot or are otherwise unable to understand the consequences of not being able to care for their property or personal needs.

§ 2. Guardianship commission established. A commission is hereby established to study and make recommendations regarding guardianship in the city.

§ 3. Membership. a. The commission shall consist of at least 5 members appointed by the commissioner

of social services. The members of the commission shall include, but not be limited to, the following persons:

1. The commissioner of social services or such commissioner's designee, who shall serve as chair;

2. Two persons who have a background in the provision of guardianship services in the city; and

3. Two persons who are members of institutions, organizations, corporations, or associations that are organized or operate to advocate for incapacitated persons in guardianship arrangements.

b. All commission members required by this local law shall be appointed by no later than 180 days after the effective date of this local law.

c. The commissioner of social services may invite officers and representatives of relevant state and local agencies and authorities to participate in the work of the commission.

d. No member of the commission may be removed except for cause and upon notice and hearing by the commissioner of social services. Any vacancy shall be filled in the same manner as the original appointment.

e. Members of the commission shall serve without compensation.

§ 4. Duties. a. The commission shall investigate, analyze, and study the provision and receipt of guardianship services in the city. In carrying out such duties, the commission may conduct outreach to relevant stakeholders for the purpose of obtaining relevant information and data. The commission shall examine the impact of city and state laws, policies, and rules and regulations on the provision and receipt of guardianship services in the city.

b. The commission shall make recommendations regarding policy changes or reforms to improve the provision and receipt of such services in the city and to improve public transparency in guardianship outcomes. Such recommendations shall include any funding or programming needed to enhance the provision and receipt of guardianship services in the city. Such recommendations may include strategies to identify and prevent potential abuses within the guardianship system, strengthen protections for incapacitated persons, and reforms to improve oversight and accountability in the guardianship system. In making such recommendations, the commission shall consider the experiences and needs of persons in guardianship arrangements.

§ 5. Meetings. a. The chair shall convene the first meeting of the commission no later than 90 days after the last member has been appointed, except that where not all members of the commission have been appointed within the time specified in section 3 of this local law, the chair shall convene the first meeting of the commission within 10 days of the appointment of a quorum.

b. The commission shall meet no less than once each quarter to carry out the duties described in section 4 of this local law, until the submission of the report required by subdivision b of section 6 of this local law.

§ 6. Reports. a. No later than 1 year after the appointment of all commission members pursuant to section 3 of this local law, the commission shall submit a report to the mayor and the speaker of the council setting forth its recommendations as determined pursuant to section 4 of this local law. The report shall include a summary of information the commission considered in formulating its recommendations.

b. No later than 2 years after the submission of the report required by subdivision a of this section, the commission shall submit an additional report to the mayor and the speaker of the council updating the recommendations contained in the report submitted pursuant to subdivision a of this section.

c. The commissioner of social services shall publish the report required by this section on the department of social services' website no later than 10 days after such reports are submitted to the mayor and the speaker of the council.

d. The commission shall terminate 180 days after the date on which it submits the report required by subdivision b of this section.

§ 7. This local law takes effect immediately.

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