May 8, 2013

Submitted to Senate Families, Senior, and Human Services Committee

Respectfully submitted by,

The Arc Michigan
Autism Society of Michigan
Developmental Disabilities Institute, Wayne State University
The Epilepsy Foundation
Michigan Developmental Disabilities Council
Michigan Disability Rights Coalition
Michigan Protection and Advocacy Services
United Cerebral Palsy/Michigan

Madam Chair and Members of the Committee:

We are writing collectively to express our opposition to Senate Bill 176. (We also oppose Senate Bill 144, which has a different sponsor but identical language, but which is not before this committee today.)

SB 176 proposes to allow someone to petition for guardianship under the Michigan Mental Health Code (Code) of a person with a developmental disability who is at least 17 years, 6 months of age with the guardianship going into effect on the individual's 18th birthday. We object to this change for several reasons:

- The Code states that "Guardianship for individuals with developmental disabilities shall be utilized only as necessary to promote and protect the well-being of the individual. . . and shall be ordered only to the extent necessitated by the individual's actual mental and adaptive limitations." MCL 330.1602

- The proposed change would base the guardianship not on the individual's actual mental and adaptive limitations, but on the petitioner's anticipation of what those limitations may be when the individual turns 18 and would bar the individual from the opportunity to exercise his or civil rights and experience life as an adult. The individual would go from a minor under natural guardianship of the parents to a ward under court appointed guardianship without ever having actual experience on which to determine whether the guardianship was necessary.

- A person's actual mental and adaptive limitations may change in the six months before he or she turns 18.

- A court order put in place prior to the need violates the individual's civil rights.

- Letters of authority that would go into effect on a future date will be confusing and interfere with the smooth administration of justice.

- The proposed change may increase the number of guardianships in a state that already has an overuse of guardianship for people with developmental disabilities contrary to the express (and very good) language of the Code.

For these reasons, we oppose these bills and recommend that no such changes be made to the Michigan Mental Health Code and that you do not move Senate Bill 176 from this committee.