A bill for an act

relating to guardianship; clarifying certain compensation provisions; amending Minnesota Statutes 2010, section 524.5-502.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2010, section 524.5-502, is amended to read:

524.5-502 COMPENSATION AND EXPENSES.

(a) The court may authorize a proceeding under this article to proceed in forma pauperis, as provided in chapter 563.

(b) In proceedings under this article, a lawyer or health professional rendering necessary services with regard to the appointment of a guardian or conservator, the administration of the ward's or protected person's estate or personal affairs, or the restoration of that person's capacity or termination of the protective proceeding shall be entitled to compensation from the ward's or protected person's estate or from the county having jurisdiction over the proceedings if the ward or protected person is indigent. When the court determines that other necessary services have been provided for the benefit of the ward or protected person by a lawyer or health professional, the court may order fees to be paid from the estate of the ward or protected person or from the county having jurisdiction over the proceedings if the ward or protected person is indigent. If, however, the court determines that a petitioner, guardian, or conservator has not acted in good faith, the court shall order some or all of the fees or costs incurred in the proceedings to be borne by the petitioner, guardian, or conservator not acting in good faith. In determining compensation for a guardian or conservator of an indigent person, the court shall consider a fee schedule recommended by the Board of County Commissioners. The fee schedule may also include a maximum compensation based on the living arrangements of the ward or protected

person. If these services are provided by a public or private agency, the county may contract on a fee-for-service basis with that agency.

(c) When the court determines that a guardian or conservator has rendered necessary services or has incurred necessary expenses for the benefit of the ward or protected person, the court may order reimbursement or compensation to be paid from the estate of the ward or protected person or from the county having jurisdiction over the guardianship or protective proceeding if the ward or protected person is indigent. The court may not deny an award of fees solely because the ward or protected person is a recipient of medical assistance. In determining compensation for a guardian or conservator of an indigent person, the court shall consider a fee schedule recommended by the Board of County Commissioners. The fee schedule may also include a maximum compensation based on the living arrangements of the ward or protected person. If these services are provided by a public or private agency, the county may contract on a fee-for-service basis with that agency.

(d) The court shall order reimbursement or compensation if the guardian or conservator requests payment and the guardian or conservator was nominated by the court or by the county adult protection unit because no suitable relative or other person was available to provide guardianship or protective proceeding services necessary to prevent maltreatment of a vulnerable adult, as defined in section 626.5572, subdivision 15. In determining compensation for a guardian or conservator of an indigent person, the court shall consider a fee schedule recommended by the Board of County Commissioners. The fee schedule may also include a maximum compensation based on the living arrangements of the ward or protected person. If these services are provided by a public or private agency, the county may contract on a fee-for-service basis with that agency.

(e) When a county employee serves as a guardian or conservator as part of employment duties, the court shall order compensation if the guardian or conservator performs necessary services that are not compensated by the county. The court may order reimbursement to the county from the ward's or protected person's estate for compensation paid by the county for services rendered by a guardian or conservator who is a county employee but only if the county shows that after a diligent effort it was unable to arrange for an independent guardian or conservator.