

SENATE No. 974

The Commonwealth of Massachusetts

PRESENTED BY:

Cynthia Stone Creem

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to establish an office of adult decisional support services.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Cynthia Stone Creem</i>	<i>First Middlesex and Norfolk</i>	
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>3/2/2021</i>

SENATE No. 974

By Ms. Creem, a petition (accompanied by bill, Senate, No. 974) of Cynthia Stone Creem and Tami L. Gouveia for legislation to establish an office of adult decisional support services. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 888 OF 2019-2020.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act to establish an office of adult decisional support services.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 The General Laws are hereby amended by inserting after section 9B of chapter 211B the
2 following section:-

3 SECTION 9C

4 OFFICE OF ADULT DECISIONAL SUPPORT SERVICES

5 Section 9C. Office of Adult Decisional Support Services created

6 (a) There is hereby established an office of adult decisional support services (the
7 “office”) within the executive office of the trial court, whose purpose is to implement legal and
8 ethical standards for adult decisional support services in the Commonwealth, including the
9 services of guardians and conservators appointed under Article V of Chapter 190B of the

General Laws of the Commonwealth (hereinafter, “Article V”), and voluntary services provided through alternatives to judicial appointment. The goals of the office are to promulgate practice standards for all such services that are based on recognized best-practices; to ascertain and report on the adequacy of public and private resources for decisional support in Massachusetts, particularly for the indigent; and to develop oversight and accountability procedures to prevent potential errors or abuses by decisional fiduciaries.

(b) The office shall be directed by a judicial administrator of decisional support (the “judicial administrator”), who shall be appointed by the chief justice of the trial court. The judicial administrator shall have significant experience with the laws and clinical practices of decisional surrogacy within Massachusetts, and shall not be a sitting judge or magistrate of any court in any jurisdiction. The judicial administrator shall report to the chief justice of the trial court, and shall have such powers and perform such duties as said chief justice may from time to time prescribe. The judicial administrator may be removed by the chief justice of the trial court.

(c) The judicial administrator shall be an officer of the court and shall be authorized to communicate with judges and court personnel in all departments of the trial court, to have access to files and records in all cases involving protective proceedings for adults, and to establish and maintain a database of all judicial appointments for adults under Article V. Any limitations on public disclosure imposed in any case so accessed shall apply to the judicial administrator, except to the extent that data may be de-identified in accordance with procedures established and directed by the chief justice of the trial court.

(d) The judicial administrator shall, in his or her discretion, and subject to the direction of the chief justice of the trial court: review cases; develop databases; communicate with court

personnel and decisional fiduciaries; submit reports; create media, materials and programs for the public; review relevant technology and communicate with judicial and administrative offices in jurisdictions outside of Massachusetts; propose administrative or judicial procedures or rules; develop, identify and/or designate training programs for guardians, conservators and other decisional fiduciaries; investigate and make recommendations as to the advisability of, and/or the means for, certifying decisional fiduciaries; and perform such other duties as the chief justice of the trial court shall direct. The judicial administrator may, subject to appropriation, appoint or contract with such other personnel as he or she deems necessary for the efficient management of the office and the diligent performance of the duties described herein.

(e) In the event that the judicial administrator discovers, pursuant to the normal discharge of the duties of the office, evidence of abuse, neglect, theft, breach of fiduciary duty or other wrongdoing to the person or property of someone who is decisionally-impaired and receiving decisional support, the decisional support administrator, may —

(i) Petition to modify, discharge or terminate any appointment of a guardian, conservator or other judicially-appointed fiduciary;

(ii) File a complaint with an appropriate professional association, or with a state law enforcement or other investigative authority, seeking discipline of, or other remedy against, the decisional fiduciary, whether appointed judicially or through a voluntary instrument.

(f) The judicial administrator shall establish an informal help and information process for decisional fiduciaries and those affected by such an appointment.