Guardianship of Children

by ALICE SCOTT HYATT *

In this country the principle is firmly established that every child needs to have someone legally responsible for him. All the States have made provision in law for the appointment of legal guardians for children. In the following article, based on a longer report,[1] the Children's Bureau reports on a study of guardianship policies in selected areas in six States and offers recommendations designed to serve the States as a basis for setting standards, revising legislation, and improving their service to children in guardianship.

THE Children's Bureau undertook the study of guardianship with three major objectives in mind. The first was to discover the circumstances under which guardianship is necessary and desirable for children; the second, to ascertain the procedures by which guardianship can be provided most effectively for children who need it; and the third, to determine what judicial and social services are needed to protect children adequately while under guardianship.

Need For Guardianship

The idea of the study goes back to the pioneering researches done by Sophonisba P. Breckinridge and her students at the University of Chicago School of Social Service Administration. Through these earlier studies and through reports and questions coming direct from States and local communities, the Children's Bureau has long been aware of the need for special attention to problems related to the guardianship of children.

Problems that have long existed have been joined by others growing out of recent developments. As a result of war casualties and postwar disturbances of family life, for example, great numbers of children have been separated from their parents, with consequent increased need for their care and supervision away from home. Then, too, more and more children are becoming eligible for financial benefits under social security and veterans' legislation; to ensure that payments are used for the children's benefit, safeguards are increasingly necessary—especially when the children are not living in their parental homes. Of the hundreds of thousands of children now receiving monthly benefits from these programs, an estimated tenth do not have a parent or legal guardian to receive the payments for them. In most instances the payments are made to the persons who happen to be caring for them. And finally, public welfare agencies of the States and of local communities are taking more responsibility for children; to clarify public responsibility, greater attention must be given the legal status of children.

These matters—the care of children outside parental homes, the protection of their funds, the assumption of public responsibility for them—all frequently involve questions of guardianship. This fact was borne out in informal discussions with other Federal agencies, particularly those handling social security and veterans' benefits, and in exploratory visits to several States during the preliminary stages of the study.

The experience of the agencies in Washington and in the States visited indicated that the handling of questions of guardianship is much handicapped by lack of first-hand information concerning guardianship procedures and practices. Though guardianship is an old subject, it seems that its study has been generally neglected both by social workers and by lawyers.

Social work literature, with few exceptions,[2] contains only brief general references to the subject. In legal literature, a summary of important case rulings and State laws is presented in the article, "Guardian and Wards," in *39 Corpus Juris Secundum.* The recently published (1946) *Model Probate Code,* prepared by the research staff of the University of Michigan Law School in cooperation with a committee of the American Bar Association, contains a section on guardianship.

Nature of Guardianship

The idea of guardianship is to supply continuous, responsible management for the child who needs it "by reason of minority." The statutory definition of this phrase is practically the same in all States. It embraces all children below the age of 21 who have not married or otherwise been lawfully emancipated.

In all States the responsibility of guardianship belongs to parents in the first instance. In all but a few States the father and the mother are considered joint and equal guardians of the child born in wedlock and the mother is considered the sole guardian of the child born out of wedlock.

Parental guardianship is called natural guardianship. Yet it is not an absolute right of the parents but a trust which must be exercised at all times for the child's benefit. It must yield to the child's interests and welfare. And it must confine itself to matters pertaining to his person.

If the child acquires property, if he loses his parents, or if his parents cannot discharge the functions of guard-

*Chief, Special Services Branch, Social Service Division, Children's Bureau.

[1] *Guardianship: A Way of Fulfilling Public Responsibility to Children,* by Irving Weissman in association with Laura Stolzenberg, Harry S. Moore, Jr., and Robbie W. Patterson. Children's Bureau Publication No. 330, 1949. 203 pp.

[2] Mary Stanton, *The Administration of the Law of Guardian and Ward With Special Reference to Minors.* (Doctor's thesis, unpublished, University of Chicago.)

Hasseltine Byrd Taylor, *Law of Guardian and Ward.* Chicago: University of Chicago Press, 1935.

Sophonisba P. Breckinridge, *The Family and the State,* select documents. Chicago: University of Chicago Press, 1934, pp. 282–343.

Grace Abbott, *The Child and the State,* select documents. Chicago: University of Chicago Press, 1933. Vol. II.

ianship in accordance with the standards of child care and protection demanded by society, it becomes the duty of the State as *parens patriae* to protect the child by supplying him with a supplementary or substitute form of guardianship.

Every State has recognized this responsibility toward its children by making provisions in law for the appointment of legal guardians for children. Three plans of legal guardianship are generally provided by State laws. One extends to the person of the child, another to his estate, and a third to his person and his estate.

The provision of legal guardianship is recognized by law to involve various types of services to be furnished by the State to children. The State first should determine and designate who shall have guardianship over a particular child; second, it should make a proper public record of the appointment of the guardian and maintain that record to show what happens to the child and his property under guardianship; third, it should oversee and help the guardian serve the ward's best interests and welfare; and fourth, it should discharge the guardian, by removal if necessary, when his services are no longer needed or desirable.

Though some of these services are administrative in character and others judicial, practically all States assign to courts the entire job of rendering them. There are a number of reasons for this. Questions about the rights and relationships of persons are the traditional concern of courts in this country. We hold it incompatible with democratic principles for one person to exercise power and authority over another's person or property without the sanction of the courts. We have long relied on due process of law to secure our individual rights, fix our individual responsibilities, and enforce the obligations we owe one another and society as a whole.

Plan of Study

Because legal guardianship is created by court process, it was decided to focus on courts having the power of appointing guardians of children. Practical considerations dictated limiting the study to two local jurisdictions in each of six States.

The States selected were California, Connecticut, Florida, Louisiana, Michigan, and Missouri. Their selection was influenced by considerations of geographical location, statutory provisions for guardianship, the court having jurisdiction, the area served by the court, and other factors.

Local communities within the States include two probate districts of Connecticut—Hartford and Greenwich; two judicial districts of Louisiana—East Baton Rouge and Caddo; and two county jurisdictions in each of four States—Los Angeles and Sacramento in California, Alachua and Duval in Florida, Kent and Muskegon in Michigan, and Cole and Jackson in Missouri.

Five methods were used in gathering information: (1) review of the laws relating to the guardianship of minors in each State of the study; (2) interviews with judges and other court people concerning court organization, policies, and procedures and with lawyers, public officials, and social workers concerning their contacts with the court in relation to guardianship cases; (3) observation of the courts at work; (4) reading of court records and statistical study of cases before the court for appointment and discharge of guardians during the entire year 1945; and (5) case studies of a small number of children under guardianship, by home visits and by reading of case records on those children who were known to social agencies. The field work was carried on during the fiscal year ended June 30, 1947.

Some 4,000 schedules on individual children were prepared from court records. Case studies of 67 children under guardianship were made by home visits and by interviews with guardians, wards, and other interested persons.

Findings

Through the five methods used in this study, it was found that legal guardianship procedure is used infrequently for the protection of children. The law does not require that it be used, and no adequate machinery has been provided for using it effectively.

Guardianship of the Person

Many children grow up in a kind of second-class status because their parents are dead or incompetent and no one else is legally authorized to act as their personal guardians.

We do not know how many children are growing up under these circumstances, nor can their numbers be estimated. No community has available any accurate information on the extent of orphanhood and other conditions that deprive children of the natural guardianship of their parents. And no court has available any complete statistics on the number of children currently under legal guardianship of the person.

Statistics compiled from court records for the year 1945 show that 1,450 children were supplied personal guardians that year by the 12 courts in the study. These courts serve populations including nearly 1,350,000 children under 21 years of age. Of this number, about 142,000 are estimated to live away from home, and they possibly need attention with reference to personal guardianship. The appointments, therefore, can scarcely be assumed to be meeting in full measure the local needs for personal guardians.

That they do not do so is indicated by the fact that all courts were found to concern themselves with the personal guardianship of children only when petitioned to do so. Instances of the courts acting on their own motion were extremely rare, despite the fact that some of the children for whom the courts were asked to appoint guardians of estate were identified as full orphans who had no one legally responsible for their persons.

Another indication that the needs of children for personal guardianship are not being met is the fact that, in addition to those children who ordinarily did not come to the attention of the courts until they chanced to acquire estates subject to legal guardianship, there were other children who did not come to the court's attention until they got into situations in which they needed legal consent for such plans as adoption, medical treatment, entry into military service, or marriage. In more than half the appointments of personal guardians an

estate guardian was appointed at the same time. Of the appointments of guardians of the person only, slightly more than three-fourths definitely involved children who needed some kind of consent from a legal guardian.

A basic reason why more children are not supplied personal guardians by the courts is that no State requires the appointment of legal guardians for children who lose the natural guardianship of parents through death or legal action. As a matter of fact, existing legislation offers alternative methods for transferring responsibility for children. One permits parents to relinquish their rights voluntarily through such informal means as passing the children on to others who thereupon become the guardians in fact by virtue of standing in the place of the parents. A more formal procedure provided by the laws of some States involves the signing of surrender papers or the designation of a guardian in a deed or a last will and testament. These instruments may not require court approval. Statutes also authorize juvenile courts to terminate parental rights and assume wardship over the children directly or to transfer the responsibility to some agency, institution, or individual by commitment process.

Another reason why more children are not placed under personal guardianship is the lack of effective procedure for finding and routinely reporting children needing personal guardianship. Two of the six States in the study were found to place a duty for reporting upon certain individuals, including in one instance public officials and in the other relatives of the child. But even in these States, practically all the petitions were initiated by the person who wanted the child.

Still another reason is the lack of provision for finding suitable guardians and for paying guardians of children who have no estates that can be drawn upon for the purpose.

Many appointments of guardians of person were found to be appointments in name only. The guardians assumed little actual responsibility. Those appointed to care for both the person and the estate of the child often confined their activities to the child's estate, leaving his personal welfare to those with whom he lived. Those appointed to give legal consent ordinarily limited their attention to the matter requiring consent, although in many cases the letters of guardianship set no limit to their powers and were not revoked after the consent had been given.

Relatives were named guardians in the great majority of cases. Among nonrelatives found receiving appointments as personal guardians of children were public estate administrators, bank trust officers, attorneys, foster parents, and persons whose petitions for adoption of the child were before the court. In some instances social agencies were named guardians, but generally this action was taken only for the purpose of planning and arranging adoption.

Guardianship of the Estate

For many children the appointment of a guardian of estate is a meaningless, wasteful, and expensive procedure that adds nothing to the protection he already enjoys.

In a great majority of cases, the appointment adds up to the child's paying a myriad of legal and court charges for the privilege of having his own parent handle his money. Of the estate guardians appointed during 1945 by the courts studied, 70 percent were the parents of the children concerned.

Most estates of children contain no real property or investments requiring active administration. Approximately 80 percent of those studied consisted of cash in the bank, monthly benefit payments, and similar assets applicable to the current expenses of the child. Over 40 percent were valued at less than $500, despite the fact that most of the States studied let parents handle small amounts without being appointed estate guardians. Cumulatively, nearly 60 percent were worth less than $1,000, nearly 80 percent less than $2,500, and nearly 90 percent less than $5,000.

The establishment of formal guardianship over small estates is a costly and dubious form of protection for the child. Small estates do not lend themselves to effective administration through the regular procedures governing guardianship of estates. The law should permit whoever has legal responsibility for the person of the child to accept such estates for the use of the child without the necessity of a court appointment as guardian of estate. When a child has no one legally responsible for his person to whom such a small estate can be entrusted, a proceeding for the appointment of a guardian of the person rather than of a guardian of the estate should be instituted.

The parent or legal guardian of the person who accepts a child's small estate should have full discretion in the use of the estate in behalf of the child, whether it consists of a lump sum of money or monthly payments from public assistance, old-age and survivors insurance, or veterans' benefits. If, however, questions arise at any time about the competency of the personal guardian to handle the estate for the benefit of the child, the matter should be brought into the court with jurisdiction over guardianship of the person, for such action as the court may deem advisable.

In fact, the law should give the court of jurisdiction discretion to determine the kind of protection that would be desirable and suitable for each estate that is reported. It should thus be possible for the court to release to the parent or personal guardian an estate needed for the current support, maintenance, and education of a child. If the estate is too small for other investment and withdrawals are not necessary for the current expenses of the child, it should be possible, as suggested by the *Model Probate Code*, for the court to order the estate's conversion into government bonds or a supervised bank account, without having to appoint a guardian of estate. The appointment procedure should be reserved for estates where management functions must be discharged.

The Courts Administering Guardianship

Only certain courts may act for the State in guardianship matters. Although variously designated in the different States, the most common name being probate courts, they are—everywhere—those courts or divisions to which is also entrusted the administration of estates of deceased per-

sons. The setting, therefore, is one in which emphasis is upon property considerations. In most States the court organization does not make for prompt, efficient, and effective guardianship service to children.

The judges handling child guardianship cases are not required to have a special background for work with children. Nor are they required to specialize in children's cases. Some States do not require them to be lawyers. In States where guardianship jurisdiction rests in a separate probate court, the judge of probate often has less desirable tenure and salary than the judges of other courts hearing cases in the first instance.

Most courts handling child guardianship cases are cluttered with a variety of diverse responsibilities. Some serve populations too small to provide the necessary volume of business to support the court adequately and to enable the judge to acquire sufficient experience and skill in children's cases. Others have too large a volume of business to permit the judge to individualize cases and give proper attention to social as well as legal considerations.

Administrative court services are generally inadequate. The clerk's office is seriously understaffed at many courts. Specialist personnel—such as financial investigators, accountants, and auditors—are lacking at all but the larger courts.

Many courts lack adequate physical facilities. Some are severely cramped for office space and lack suitable and dignified courtrooms. Record and filing systems are antiquated at most courts. Satisfactory index systems to identify children's guardianship cases are not available. Confidential information in the records is often inadequately protected. As a rule, the courts do not systematically inform the public concerning their work. None publishes adequate statistics that relate to child guardianship cases.

The courts are not accustomed to taking a social approach in handling guardianship matters. Estate matters usually absorb their time and attention. This is often a financial necessity for the courts that depend upon fees to meet their pay rolls and other expenses.

Because legal guardianship over a child's person constitutes a substitute for the parent and child relationship, the guardian of the person of a child should be appointed in a court proceeding in which the recognized principles of child protection and family welfare are controlling. Jurisdiction should be vested in a local court of broad jurisdiction. It would be desirable in the more populous areas to have a special division of the court established, or a specialist judge assigned, to handle all matters affecting children, including their legal rights, status, and relationship.

Whatever the court structure, it is essential that there be special competence on the part of the judge for handling children's cases. To ensure that such competence is attracted to the judgeship, the tenure of office should be long enough to warrant special preparation, and the salary should be large enough to compare favorably with those of judges in other assignments.

The court should be provided a suitable and dignified courtroom with adequate facilities and equipment to carry on the court work. The clerical staff should be adequate both in numbers and in qualifications.

The guardianship proceeding should be available without cost to the child or the petitioner. It should be possible, if it is desired, to file a single petition in behalf of all the children of common parents who may need guardianship. The court should handle guardianship cases in the simple and informal tradition of the children's court. Judicial safeguards of notice, hearing, and proper recording should surround the consideration of each petition.

Jurisdiction over petitions for guardianship of the estate should also be vested in a local court of broad jurisdiction. In the more populous areas it would be desirable to have a special division of the court established, or a specialist judge assigned, to handle all estate matters.

The court handling guardianship of estate should be a court of record. It should be financed by tax funds rather than by fees, and the judge and other staff should be paid on a salary rather than fee basis. Fee charges should be kept to a minimum.

For the court handling guardianship of estate, recommendations similar to those for the court handling guardianship of person are applicable with respect to physical facilities and equipment, observance of safeguards for notice, hearing, and recording, and provision for a single petition. A proper inventory of the estate should be required before the guardian is appointed. Appraisal of inventoried property should be optional with the court.

Appointment and Supervision of Guardians

Whether appointing guardians of the person or guardians of the estate, many courts do not see the child or the guardian. The arrangements are frequently made through attorneys. The courts as a rule accept the petition of the first person who files one. Few courts use social agency service to inform themselves about the child's situation and the fitness as personal guardian of the person desiring appointment. Nor is the competence of estate guardians formally investigated. Notice is not always given to persons legitimately interested in the appointment. Ordinarily, in most States, there is no hearing on the appointment unless a conflict arises. The petition is often disposed of the same day that it is filed.

Practically no follow-up of the child under personal guardianship is made by the courts unless a petition for the removal of the guardian is presented. Except for the requirement of a nominal bond in three States, the guardian of the person is completely outside the superintending control of the court appointing him. He is under no requirement to submit an accounting of his stewardship at any time. Nor is he required to submit a formal discharge procedure. The courts generally maintain no contact with him and, to all practical intents and purposes, permit personal guardianship to be exercised and to lapse at the guardian's pleasure.

The guardian of estate, on the other hand, is subject to a number of legal controls by the court. He must file bond, inventory, and periodic accounts. He must submit for court approval his plans to invest, sell, or dis-

burse the assets of the child's estate. His settlements with the child must be sanctioned by the court. He must submit to formal court termination of his guardianship.

In actual practice, however, the courts are extremely lax in enforcing these legal requirements. Generally, the smaller the estate, the less the attention from the courts. Since most children's estates are small, few receive active supervision from the courts. This is borne out by the records, which disclose many instances in which inventories and periodic accounts have not been filed; the bond has not been maintained in an amount adequate to cover possible losses resulting from maladministration; and investments and expenditures have been made without advance authorization from the court or subsequent formal approval. Furthermore, final settlements between guardians and wards often are made outside the court and the guardian is discharged without an accounting to the court.

Despite the considerable evidence of the records that guardians had not complied with the legal requirements governing estate guardianship, there were only a few instances in which the courts removed guardians or otherwise invoked the penalties provided by law for noncompliance.

Since guardianship of the person is intended to encompass so many of the attributes of the parental relationship, the proceeding for the appointment of the guardian should be surrounded by the social safeguards and services developed for the protection of the child in other types of substitute parental relationships.

The judge's discretion in the selection of the guardian should not be circumscribed, as it is in some States, by any prescribed order of preference; rather, the facts adduced in each case, by social investigation or court hearing, should be controlling. Provision should be made for periodic follow-up of the guardianship to ascertain how the child is faring.

Local social services should be expanded to provide assistance to the court with guardianship as well as with other children's cases. These services may be established in the court itself or in a local public welfare agency. The State welfare department should give leadership in stimulating the development of such services.

Social service should be adequate to meet the court's need for initial and follow-up studies and investigation, for finding suitable guardians, for placing the child in temporary care until a guardian is appointed, and for counseling and helping guardians to meet the immediate problems presented by the child and to plan for the future.

It would be desirable to require the court to request that investigations be made and written reports submitted on all petitions for the appointment of guardians of the person. If this is not feasible, however, legislation should be permissive.

The court should be required to request a financial investigation of the individual seeking appointment as guardian of estate. If the court does not have a sufficient volume of business to warrant the employment of a special financial investigator, it should be possible to arrange for such service from other public agencies or from commercial agencies. Selection of the guardian of estate should not be narrowed to any prescribed order of preference but should be based on the special competence needed for the management of a particular estate. If, however, the guardian of the person of a child meets the test of financial competence, he should have preference for appointment as guardian of the child's estate.

Procedures should be prescribed for maintaining the adequacy of bond, for ensuring the solvency of surety and the prompt filing of inventories and periodic accounts, and for controlling investments and disbursements. Annual plans for investment and annual budgets of expenditures should be adopted as supervisory devices. A final accounting and settlement should be required as a basis for formal termination of the guardianship.

Social Agencies and Legal Problems of Guardianship

Increasingly, the experience of social agencies tends to focus attention upon guardianship as a child welfare problem and to thrust legal questions of guardianship to the forefront of considerations for establishing service relations with children.

Many troublesome guardianship problems are encountered by agencies in connection with adoptions, placements, the licensing of foster homes, and the handling of benefit funds made available for children under agency care.

The root of many of these problems is the lack of an approach to children in law and in practice that would integrate legal and social considerations and provide protection for the children's rights and status at the same time that provision is made for their welfare.

Agency intake practices do not always allow for sufficient inquiry into the child's legal status and the legality of guardianship exercised over his personal and property relations to provide a clear and definite base on which to rest the agency's services and the child's adjustments. The resultant uncertainty as to who has legal responsibility for the child often hampers agency planning for the child.

Existing legislation defining the status and legal relations of children further makes for confusion in agency practice. Special sources of confusion are the absence of definite legal requirement that all minors have guardians and the lack of clear distinctions between guardianship and custody and between juvenile court wardship and probate guardianship.

Further complications result from the lack of clarity of juvenile court orders committing children to agencies. The commitment orders frequently do not state whether parental rights have been terminated, nor do they specify what rights are transferred by the court to the agency receiving the children.

Children voluntarily given up by their parents to agencies for adoption present special problems with respect to their guardianship status. The agencies' right to act for these children has been challenged in some places by the courts granting the adoptions and by various health agencies that had been called upon for medical services to the children while the adoption was in process. These courts and health agencies have contended that the voluntary relinquishment agreement does not constitute a

valid basis for agency exercise of parental guardianship rights.

Some agencies have resorted to guardianship procedure to clarify their legal right to act for children. In general, however, agency use of guardianship procedure has been infrequent. In instances, agencies have accepted court appointment as legal guardians of the person, estate, or both, of children already in agency care. There is some feeling, however, among private agencies for children, that the assumption of the long-time and general responsibilities of guardianship is outside their service function and their normal resources. In some States, certain public agencies and institutions are designated by statute as the legal guardians of children committed to them by the juvenile court. In most instances the guardianship lapses automatically when the children leave agency care. Some agencies discharge children from care entirely by administrative procedure, without returning the children to the courts that had committed them for a reassignment of guardianship.

Instances of the use of guardianship procedure to circumvent the requirements of the adoption and licensing laws are coming to the attention of agencies. Persons who have been denied adoption of a child or refused a foster-home license because of their unsuitability or the inadequacy of their homes are obtaining a legal hold on the children through guardianship in order to prevent removal of the children from their care.

The laws relating to the establishment and transfer of legal responsibility for the child should be correlated, and existing conflicts, inconsistencies, and ambiguities in language and provisions should be eliminated. There is particular need to introduce distinctive nomenclature for such relationships as guardianship of the person and guardianship of the estate; to distinguish the appointment of the guardian of the person of a child from other methods of safeguarding the child, such as relinquishment and termination of parental rights, transfer of legal custody, and the voluntary acceptance of the child by individuals and agencies for care and custody; to define precisely the meaning of such terms as guardianship, wardship, and custody; and to state clearly the specific elements of authority and responsibility inherent in guardianship of the person that distinguishes it from other forms of substitute for the parent-and-child relationship.

The legal concept of the child as lacking capacity for independent action and judgment carries with it a legal obligation to supply him a medium through which to assert his interests and exercise his rights.

In the absence of a concurrent development of judicial and administrative facilities, it would be impractical to require, by legislative mandate, that a guardian be appointed for every child who is without a natural guardian or adoptive parent. In their present stage of development, court and social agency resources would be disastrously overtaxed by the vast extension of work that would follow from such a course.

Nevertheless, there is need for positive statement of policy in law declaring the State's responsibility for securing the protection and legal representation of the child who lacks parental guardianship and the child's right to definite legal status in relation to any persons or agency assuming custody of him.

Implementation of these points of public policy should take the form of specific provisions that would assure the availability and use of the guardianship proceeding in behalf of any child who may need the protection and security of a legal guardian.

One such provision should require child custody to be assumed on a legally responsible basis and should provide the guardianship proceeding, as far as feasible, in the interest of effecting secure and responsible relationships. In this connection, there is need for the establishment of some method or basis for ensuring against the irresponsible transfer or abandonment of the custody of children. To the extent practicable, the duty should be placed upon the custodian of the child to establish the relationship on a legal basis.

Another provision should emphasize the desirability of using the guardianship proceeding at the earliest discovery that a child is without the protection and legal status of parental guardianship. Emphasis upon such a preventive use of the proceeding should have the effect of forestalling the tragic consequences of neglect and maladjustment that often befall the child for whom responsibility is transferred casually. It should have the further effect of reducing the currently prevalent deferment of guardianship action until a crisis arises in the life of the child that involves the securing of legal consent from a parent or guardian, as in situations of medical care, military enlistment, and marriage.

Still another provision should emphasize the peculiar responsibility falling on social agencies who deal with children, including public assistance, social insurance, and veterans agencies, to back up the public policy with respect to the guardianship of children by taking all expedient steps toward the appointment of legal guardians of the person of the children who are without parental protection. These agencies should be charged with the special duty of reporting to the proper court, for such action as it may deem advisable, any child discovered by them to be without the guardianship of a parent or legal substitute. Reporting should be facilitated by clearance and referral procedures. In this connection it would be desirable to establish a system of clearance and referral between the various courts dealing with children in the community.

Recommendations

In the light of the findings of the study, the Children's Bureau makes the following recommendations with respect to sound legislation and its greater utilization for the guardianship of the person and the property of children.

Guardianship of the Person

1. A special court proceeding should be established to consider a child's need for guardianship of the person separately from his need for guardianship of the estate.

2. The special court proceeding for the appointment of the guardian of the person should be available in behalf of the child whose parents are

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nected and which is due to short-term illness and the first 6 months of more extended disability, amounted in 1948 to about $4.1 billion. It will be noted in the table that 6.0–6.7 percent of this income loss was covered by the estimated insurance indemnity payments (about $245–275 million in 1948).[11] If the estimate of income loss included all disability that was not work-connected, and not merely the limited portion specified, the insurance payments would equal less than 1, 2, or 3 percent.

[11] This is probably an overstatement of the extent to which income loss is indemnified. The estimate of income loss dealt only with non-work-connected disabilities that were total in severity and took no account of durations beyond 6 months, whereas the insurance indemnity estimates included such payments as were made, under various policies, for work-connected disabilities, for partial disabilities, and for disabilities extending beyond 26 weeks.

If the estimate is confined to the loss ($2.7 billion) of current income due to illness after the first 7 days, the insurance indemnity payments ($245–275 million) equal about 9.1–10.2 percent.

Voluntary insurance, through benefit payments of $605–650 million, met 8.2–8.8 percent of the total consumers' (private) medical care bill of $7.4 billion in 1948.

The combined income-loss and private medical care bill amounted to at least $11.5 billion in 1948. About 7.4–8.0 percent of this amount was indemnified through total benefit payments ($850–925 million) from all voluntary insurance companies and organizations.

Physicians' and hospital services purchased privately cost consumers about $4.0 billion in 1948. If all voluntary insurance benefit payments ($605–650 million) had related only to these services, they would have met 15.1–16.3 percent of this bill.

If the current income loss of $4.1 billion is added to the $4.0 billion for physicians' and hospital services, 10.5–11.4 percent of this total of $8.1 billion was indemnified by all forms of voluntary insurance.

The combined total for income loss, with a 1-week waiting period, and private medical expenditures that might be regarded as presently within the potential scope of voluntary insurance (physician, hospital, dental, and nursing services, one-third of the expenditures for medicines and appliances, and the net costs of insurance) is $8.6 billion. Aggregate voluntary insurance payments amounted to 9.9–10.8 percent of this total.

This analysis shows that in 1948 voluntary insurance was meeting only a small fraction of the costs of illness in the United States.

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dead or who is otherwise deprived of parental care and protection.

3. The proceeding for the appointment of the guardian of the person should be conducted in a court of general jurisdiction in children's cases.

4. The court conducting the proceeding for the appointment of the guardian of the person should have social services available to it.

Guardianship of the Estate

1. The guardian of the person should be entitled to act for the child when the child's whole estate is valued at $500 [3] or less in lump sum or consists of monthly money payments of $50 [3] or less.

2. When a child is entitled to receive assets valued at more than $500 [3] in lump sum or more than $50 [3] in monthly payments, this fact should be reported to the local court of jurisdiction for such action as it deems appropriate; in the event that no problem of management of the estate is found present, the court should permit the guardian of the person of the child to act for the child, without the necessity of appointing that individual or agency as guardian of the estate.

3. The power of appointing the guardian of the estate should be vested in a court of general jurisdiction in estate matters.

4. The court appointing the guardian of the estate should have social services available to it.

[3] This amount was selected arbitrarily, in line with the tendency noted in a number of State laws. It should be reconsidered by individual States, however, in relation to the purchasing power of the dollar at a particular date.