January 28, 2014

Honorable Brad Ashford
Chair, Judiciary Committee
Nebraska Legislature
Room 1103, State Capitol
Lincoln, NE 68509

Subject: LB 908 (Guardianship and Foster Care)

Dear Chairperson Ashford:

I write on behalf of the American Bar Association in support of the guardianship provisions of LB 908, a bill pending before the Judiciary Committee that would strengthen the support available to children and youth in foster care in Nebraska.

The ABA has long been committed to improving the lives of our nation’s most vulnerable children and families. Dating back to 1988, the ABA House of Delegates has approved policies that address key services and support to children and families involved in the child welfare system. In 1999, the ABA urged states to enact Kinship Care Legal Reform, through which kinship providers for youth in foster care would receive training and education regarding the option of achieving permanency through subsidized legal guardianships and which provided financial support to care for the children and youth in their care.

Legal guardianships arising from dependency or child welfare matters promote the stability and safety of children who have been in foster care and for whom reunification and adoption are not appropriate permanency options. Guardianship provides security and a sense of belonging by maintaining the child’s connection to the caregiver, without the need for continued child welfare agency oversight or unnecessarily keeping the child in foster care. Subsidized guardianships provide financial assistance to support caregivers who offer children permanent families. States have reported that their subsidized guardianship programs have helped keep siblings together, have allowed older youth to receive continued support and maintain permanent connections, and can serve as a meaningful option for otherwise “hard to place” youth, as documented in *Making it Work: Using the Guardianship Assistance Program (GAP) to Close the Permanency Gap for Children in Foster Care*, A Collaborative Project of the Children’s Defense Fund, Child Trends, ABA Center on Children and the Law, Casey Family Programs, Child Focus, and Generations United (October 2012), at 8-10.
In 2010, the ABA urged that states implement provisions of the federal Fostering Connections to Success and Increasing Adoptions Act of 2008, P.L. 110-351, including the extension of adoption and guardianship assistance for youth up to age 21. The Nebraska Legislature recognized the tremendous value of this extension to older youth by enacting the Young Adult Voluntary Services and Support Act (YAVSS) in 2013. The ABA commends the Legislature for building upon that existing framework by considering LB 905, which would not only provide additional support to older youth, but would also address the needs of all children in care for whom guardianship is an appropriate permanency option.

The guardianship provisions of LB 908 benefit children and youth who are in foster care placements and those who achieve permanency through guardianship arrangements, as well as their caregivers and families. The bill (Section 7) brings the Nebraska Revised Statutes into compliance with YAVSS by confirming that youth age 19-21 may benefit from continued guardianship assistance and clarifies the availability of a permanent guardianship arrangement for children who would benefit from a permanent exit from foster care (Sections 1, 4, 5, and 6).

Further, Section 8 articulates the distinction between a permanent guardianship as a permanency option for foster children and other forms of guardianship for children. This comprehensive description of guardianship of adjudicated children will help ensure that all child welfare stakeholders – including courts, legal practitioners, Department of Health and Human Services personnel, caregivers, and youth – share a uniform understanding of the permanency option of guardianship and the related processes involved. Additionally, the bill allows for specific provisions in the court order that strengthen the role of the guardian and emphasize the permanency of the relationship.

The ABA strongly supports this legislative effort to help children remain connected to their families and kin by providing them a stable, permanent home and to support older youth as they transition into adulthood. Should you have any questions or want additional information concerning our comments, please feel free to contact Bruce Nicholson, Senior Legislative Counsel (202-662-1769; bruce.nicholson@americanbar.org) or Heidi Redlich Epstein, Director of Kinship Policy (202-662-1725; heidi.epstein@americanbar.org). Thank you for consideration of our views.

Sincerely,

Thomas M. Susman