

# Exemplary cases of public guardianship support projects to provide assistance in decision-making for persons with developmental disabilities

National Center for Disabled Children  
and Developmental Disabilities

Ms Park Jueun



- Introduction to Korea's National Center for Disabled Children and Developmental Disabilities
- Introduction to the public guardianship support project for persons with developmental disabilities
- Exemplary cases of public guardianship
- Final Thoughts

# I . Korea's National Center for Disabled Children and Developmental Disabilities

## “BIROSO”

Center for Disabled Children and Developmental Disabilities

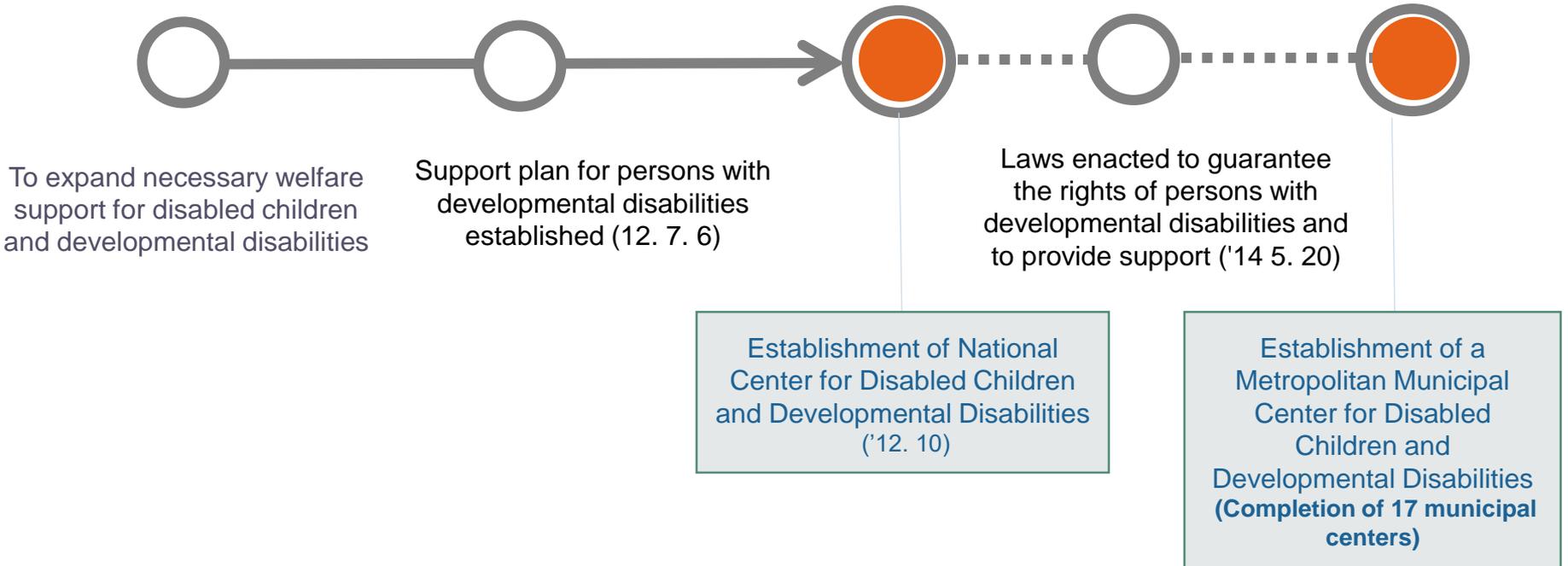


# Korea's National Center for Disabled Children and Developmental Disabilities

- A public agency, established under the Act of the Guarantee of Rights and Support for Persons with Developmental Disabilities, for the development of persons with disabilities, to promote ideal social integration and to safeguard the rights and interests of persons with disabilities

- Classified as Support Center for Developmental Disabilities established and operated by the Ministry of Health and Welfare, and 17 regional Support Centers for Developmental Disabilities established and operated by local autonomies

# Background for Establishment



# Major Projects

## Plans for individualized support



## Public guardianship support project



## Protection of Rights



# Laws to guarantee and the rights of persons with developmental disabilities and to provide support

## Article 1 (Purpose)

The purpose of this Act is to facilitate social engagement of persons with developmental disabilities, protect their rights, and contribute to the betterment of their lives as human beings by providing necessary matters to ensure that opinions of persons with developmental disabilities are respected to the maximum extent possible, that assistance is rendered appropriate for their special conditions and needs for welfare according to their life cycle, and that their rights are advocated systematically and effectively.



# Laws to guarantee and the rights of persons with developmental disabilities and to provide support

## Article 9 (Assistance for Use of Adult Guardianship)

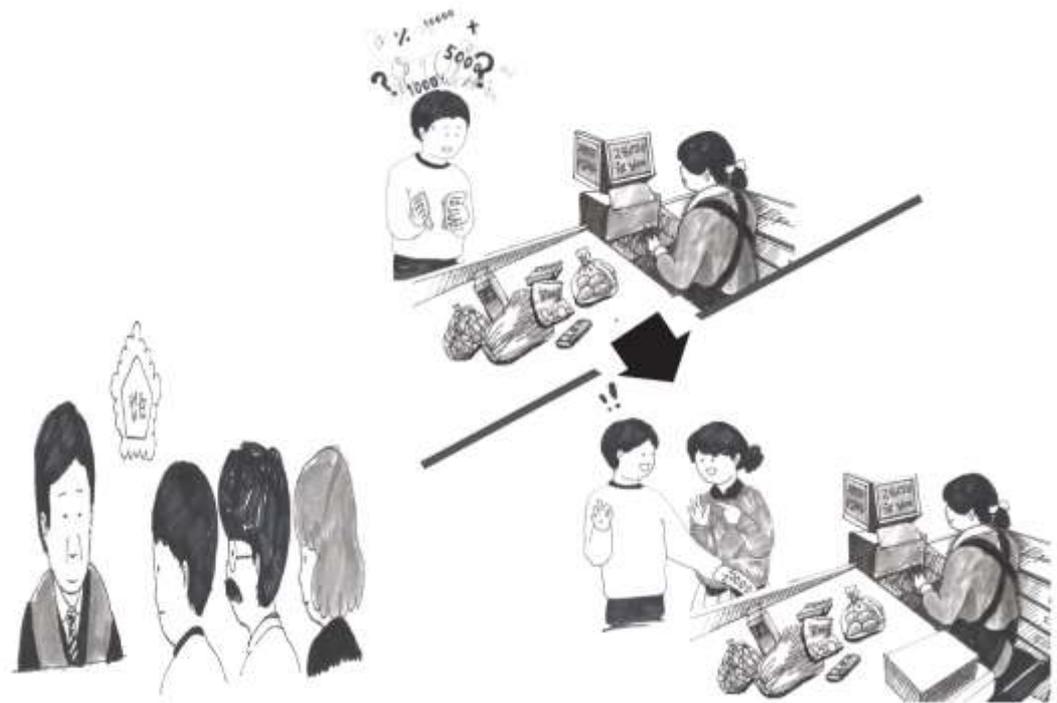
- 1) Where a person with a developmental disability has insufficient ability to make a decision in daily life or substantially lacks such abilities. Therefore, a reasonable ground exists to believe that he/she needs a representative or an assistant in decision making;
- 2) Where a person with a developmental disability has no family member to represent his/her rights properly;
- 3) Where it is most likely that the rights of a person with a developmental disability will be violated, if no particular measure has been taken

“

The head of the relevant local government may file a petition for the commencement of guardianship.

”

## 2. Public guardianship support project for persons with developmental disabilities



# Public guardianship support project-significance

- By enacting [Civil Code] that took effect as of July 1, 2013, the Korean Government did away with the Limitation of Incapacity System, which did not consider the existing, specific competencies of an individual that has drastically limited one's competencies, would be severely detrimental to autonomous decision-making, and introduced a new system of adult guardianship as of 2016.7.1.
- The public guardianship support projects as of September 2013, provide guardianship service by contributing national budget for adults with developmental disabilities that are experiencing difficulty due to a lack of autonomous decision-making, but do not have the means to appoint a guardian.

# Public guardian support project- support content

- Fostering potential guardians
- Support to file petition for commencement of guardianship
- Recommendation of a potential guardian (linked)
- Guardian activity support and supervision

# Public guardianship support project - Guardianship types

## 『Specific Guardianship』

- Types of legal guardians according to the system of guardianship in the Republic of Korea: adult guardianship, limited guardianship, specific guardianship
- In case of adult guardianship or limited guardianship: the ward of the court has limited capacity, guardianship can commence even against one's will, and the guardianship continues for a lifetime
- In case of specific guardianship: the capacity of the ward is not limited, guardianship cannot commence against the ward's will, and the guardianship is limited to a specified time and at the time a judgment is made

Closest to the basic ideology of adult guardianship

# Public guardian support project-support content

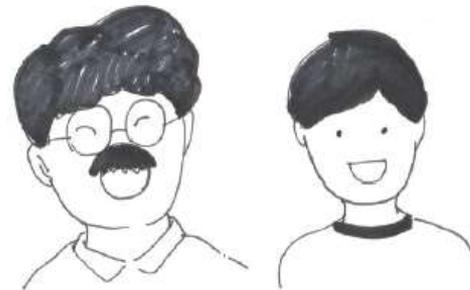
Support to file petition for commencement of guardianship

- Recommendation of a potential guardian
- Confirmation of consent for petition for judgment of guardianship
- Specific content consulting for guardianship
- Compilation, drafting of the required documents  
→Petition for judgment of guardianship at the court

Public guardian activity support

- Nurturing, managing candidates
- Guardianship activity orientation
- Guardian activity support, advisory
- Guardianship activity monitoring, guardian oversight
- Direct guardian service by a public guardianship company

### 3. Introduction to cases of public guardianship



support



# Current status of petitions for the public guardianship support project

(2013. 9. 1 ~ 2017. 9. 30)

Category	Specific Guardianship Petition for judgment	Application for advance decision	Various changes Claims	Other	Total
2017	192 cases	7 cases	21 cases		220 cases
2016	86 cases	9 cases	40 cases	1 case	136 cases
2015	76 cases	26 cases	11 cases		113 cases
Pilot project ('13.9~'14.12)	336 cases	49 cases		2 cases	387 cases

Implementing agency for the public guardianship support project for persons with developmental disabilities, "Central support group for public guardianship support project for persons with developmental disabilities (Sep. 2013 - Dec. 2014, pilot project period)," "Center for Disabled Children and Developmental Disabilities (Feb. 2015 - Sept. 30, 2017)" based on petition results Cases directly filed by municipalities, guardianship education agencies separately designated by municipalities, public guardianship company (Jun. 2017) and other judgment petition support matters were not included.

\*Pilot project period: Among cases where documents were submitted to court through the implementing agency, the "central support group," 317 of these cases were petitions for judgment of guardianship for those for public guardianship support projects

# Public guardianship support project - case types

Support Protection of Rights



Support Self-reliance



Public Guardianship

Appropriate Protection



# Guardianship application for appropriate protection

"A" has a "level 2" mental disability (in 20s, basic livelihood recipient) and constantly suffers physical and mental abuse from an alcoholic mother. In January 2014, for reasons unknown, this person had suffered a fall which required medical attention, but the mother interfered (continually insisted "A" be discharged, caused a disturbance at the hospital) and "A" was not able to receive the proper treatment. "A's" mother was ordered to serve a jail sentence due to such behavior. Afterwards, "A" was able to receive proper treatment. But when "A's" mother was paroled, she once again coerced "A" to be discharged. As a result, the municipality of the jurisdiction that "A's" address falls under quickly connected "A" with a public guardian. "A" could thereafter receive help from the public guardian, remain a safe distance away from "A's" mother and receive the proper medical care.



## 2. Guardianship application for support for protection of rights



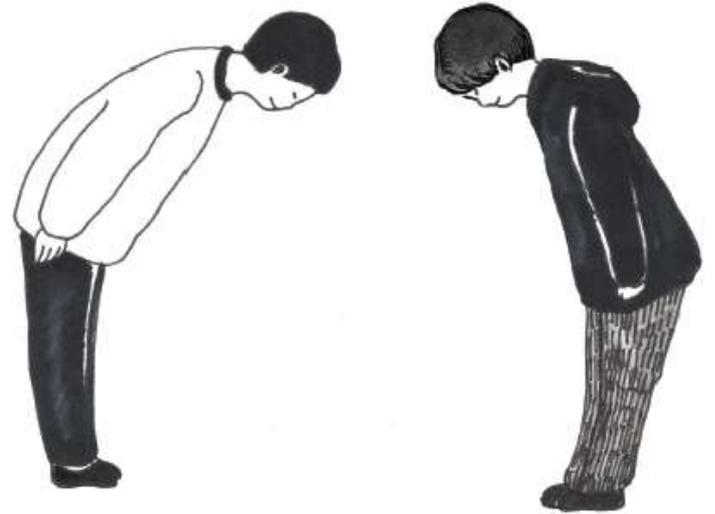
"A" (wife) has a mental disability, and lives with "B" (husband) and "C" (brother-in-law), but experienced sexual violence on several occasions from "C." When this was revealed, "A," and "B," were separated from "C" to a shelter for disabled person. An investigation was launched against "C." Meanwhile, as soon as the investigation started on "C," his son who has been out of contact with him for several years, appeared and considered himself the guardian of "A" and "B" while a criminal investigation proceeded against "C." Through the assistance in use of adult guardianship for implementing the procedure for damage relief and to manage the compensation for damages, the municipality immediately connected "A" with a third party public guardian. The guardian implemented an appropriate procedure for damage relief enabling "A" to receive sufficient compensation for damages from "C." With the help of the guardian, this compensation was being safely managed.

# 3. Guardianship application for support for self-sufficiency



"A" has a "level 2" mental disability (in 20s, basic livelihood recipient) and is under compulsory hospitalization at a mental hospital. "A" is unable to be discharged even though "A's" has expressed intentions to be discharged because "A's" aunt, the acting guardian, refused consent. In "A's" case, "A" required a discharge because "A's" violent behavior was the reason for being admitted and had now subsided. The municipal recognized this and connected "A" to a guardian through the public guardianship support project to enable the discharge procedures and a stable return to society. "A" was able to be discharged from the mental hospital after obtaining consent from the guardian. Afterwards, the guardian put "A" in contact with a group home and "A" is now receiving help from an employment agency and is preparing to be self-sufficient. At this time, "A" fell victim to phishing, a small sum loan con, and threats after inducing "A" into texting. But, with the help of the guardian, "A" was able to proceed with the proper civil case and pay the debt involved. Afterwards, the guardianship over "A" ended and "A" currently is working for a large supermarket chain and is leading a stable lifestyle in the local community.

# 4. Final Thoughts



## Principles of Guardianship

- Support guardianship for a fixed period (specific guardianship)
- Find neighbors that will aid those with developmental disabilities and create a municipal system for them
- Support for those with a developmental disability to make decisions, and lead a self-sufficient life.

## Present

- In Korean society today it is difficult for persons with developmental disabilities to handle their affairs
- Present need for guardianship

## Vision

- Social changes to the social fabric of Korea should be done in order to confine decision-making and handling affairs on one's own accord
- A pioneer path of rights to access information, autonomous decision-making, and guaranteeing a diversity of expression



Do you have any Questions?