

# HOUSE BILL REPORT

## HB 1771

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### As Reported By House Committee On:

Law & Justice

**Title:** An act relating to court appointed guardians.

**Brief Description:** Providing for certification of professional guardians.

**Sponsors:** Representatives Mitchell, Tokuda, Constantine, Sheahan, Keiser, Mason, Blalock, Costa, Conway, Butler, Murray and Cody; by request of Secretary of State.

### Brief History:

#### Committee Activity:

Law & Justice: 3/5/97 [DPS].

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### HOUSE COMMITTEE ON LAW & JUSTICE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Cody; Kenney; Lantz; Radcliff and Skinner.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Carrell; Lambert and Sherstad.

**Staff:** Edie Adams (786-7180).

**Background:** A court may appoint a guardian over the estate or the person of an incapacitated person. A person is incapacitated if the individual is at a significant risk of personal harm because of an inability to provide for nutrition, health, housing, or physical safety, or at risk of financial harm because of an inability to manage his or her property or financial affairs.

Generally, any resident of the state who is at least 18 years of age, of sound mind, and has not committed certain crimes may be appointed as a guardian. If authorized, a trust company or national bank may serve as guardian of the estate of an incapacitated person, and a nonprofit corporation may serve as guardian of the person and/or estate of an incapacitated person.

A testamentary guardian is a person appointed as the guardian of a minor child by a parent in the parent's will.

**Summary of Substitute Bill:** The Office of the Administrator for the Courts (OAC) is directed to develop a system for standards and administration of certification of professional guardians.

The express authority for a nonprofit corporation to act as guardian of the person and/or the estate of an incapacitated person is removed. An individual or guardianship service may be appointed as the professional guardian of the person and/or the estate of an incapacitated person if the individual or guardianship service meets certification requirements established by the OAC. Testamentary guardians and financial institutions serving as the guardian of the estate of an incapacitated person are not subject to the certification requirements.

A professional guardian is a court-appointed guardian who is not a member of the incapacitated person's family, charges a fee for providing guardianship services, and serves as guardian for at least three incapacitated persons.

**Substitute Bill Compared to Original Bill:** The original bill does not provide the exemption from certification for testamentary guardians and financial institutions that serve as guardian of the estate of an incapacitated person. The original bill does not contain a delayed effective date.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Substitute Bill:** The act takes effect July 1, 1998.

**Testimony For:** Certification of guardians will ensure that people who serve in this capacity are qualified to do so. When a guardian is appointed for an incapacitated person, that person's rights are being taken away. The guardian has to make a wide variety of decisions for the ward relating to health care, housing, and financial needs. When a guardian is appointed, the parties should have confidence that the person has had training and understands the diversity and complexity of decisions that have to be made and how those decisions will affect the ward. Currently, an incompetent guardian can be removed in individual cases, but can show up in another county and be appointed to represent a different individual.

**Testimony Against:** None.

**Testified:** Representative Mitchell, prime sponsor; Tom O'Brien, Washington Association of Professional Guardians and Guardianship Services of Seattle (pro); Liz

Lindley, Washington Association of Professional Guardians (pro); Jim Hardman, attorney (pro); John Jardine, Washington Association of Professional Guardians (pro); Brandon Johnson, Washington Association of Professional Guardians and Northwest Support Services (pro); and Sheila Brasheay, professional guardian (pro).