

# SENATE BILL REPORT

## SB 6005

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As of February 26, 1997

**Title:** An act relating to guardianship.

**Brief Description:** Revising provisions for guardianship.

**Sponsors:** Senators Roach, Hargrove, Schow, Franklin, Long and Winsley.

**Brief History:**

**Committee Activity:** Law & Justice: 3/3/97.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Mal Murphy (786-7412)

**Background:** State law recognizes and provides for guardians and guardians ad litem. A guardian may be appointed for incapacitated persons to manage the personal or financial affairs, or both. Guardians ad litem are appointed by the court to represent the interests of minors and incapacitated adults who are involved in the legal system, for example, in the case of adults, when someone (usually a family member) files a petition for guardianship for an alleged incapacitated person. Alleged incapacitated persons are entitled to a jury trial on the question of their incapacity. The guardian ad litem is a temporary appointment, to be succeeded by the guardian if incapacitation is found and a guardian appointed. Both guardians and guardians ad litem can be granted broad powers.

**Summary of Bill:** The law is clarified that only the alleged incapacitated person, and no one else, is entitled to a jury trial.

One of the conditions rendering a person disqualified from serving as a guardian is restated to be conviction of a felony or misdemeanor involving dishonesty, theft, fraud, or the neglect, abuse or exploitation of another.

If, after presentation of a guardian ad litem's report, the court orders the guardian ad litem to perform further duties, they may be performed at county expense with prior court approval.

Courts are given discretion to award attorneys' fees from the estates of incapacitated persons, or to charge such fees to any other person. Among the factors to be taken into consideration are whether or not the person or the estate of the incapacitated person was benefitted by the proceedings.

**Appropriation:** None.

**Fiscal Note:** Requested on February 26, 1997.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.