

# SENATE BILL REPORT

## SHB 1525

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As Reported By Senate Committee On:  
Judiciary, March 29, 1999

**Title:** An act relating to authorizing mediation in guardianship proceedings.

**Brief Description:** Authorizing mediation in guardianship proceedings.

**Sponsors:** House Committee on Judiciary (originally sponsored by Representatives Dickerson, Constantine and Lambert).

**Brief History:** Passed House 3/10/99, 98-0.

**Committee Activity:** Judiciary: 3/22/99, 3/29/99 [DP].

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass.

Signed by Senators Heavey, Chair; Kline, Vice Chair; Costa, Goings, Hargrove, Haugen, Johnson, Long, McCaslin and Roach.

**Staff:** Lidia Mori (786-7755)

**Background:** A court may appoint a guardian to help an "incapacitated" person manage his or her personal or financial affairs. A person may be "incapacitated" because of old age, disability, or youth. In order to establish a guardianship, a person must file a petition with the superior court. Upon the filing of such a petition, the court must appoint a guardian ad litem to represent the best interests of the alleged incapacitated person.

Once a guardianship has been established, a person may apply to the court to have the guardianship modified or terminated. After an application for termination or modification of a guardianship has been filed, the court may (1) schedule a hearing, (2) appoint a guardian ad litem to investigate the issues raised by the application or protect the incapacitated person until the hearing, or (3) deny the application. In a hearing to modify or terminate a guardianship, the court may grant any relief it deems just and in the best interests of the incapacitated person.

**Summary of Bill:** Whenever it appears that an incapacitated person or incapacitated person's estate could benefit from mediation and such mediation would likely result in overall reduced costs to the estate, the court may order the parties subject to its jurisdiction into mediation upon a motion of the parties. Before the appointment of a guardian, a motion for mediation can be made by the incapacitated person or the guardian ad litem. After the appointment of a guardian, a motion for mediation can be made by any interested person. The court must establish the terms for the mediation and allocate the costs of the mediation among the parties and the estate of the incapacitated person as justice requires.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** There is currently no specific statutory authority for a court to order parties in a guardianship proceeding to mediate. This bill will reduce court congestion.

**Testimony Against:** None.

**Testified:** PRO: Representative Dickerson, prime sponsor; Preston Johnson, Elder Law Section of the Washington State Bar Association; Neil Sarles, King County Bar Association.