
**State Government Operations &
Accountability Committee**

HB 1876

Brief Description: Expanding voting rights of persons under guardianship.

Sponsors: Representatives Green, Haler, Moeller, Darneille, Haigh, Miloscia and Upthegrove.

Brief Summary of Bill

- Preserves the right to vote of an individual under full guardianship unless the court makes a determination that the individual is incompetent for purposes of voting.

Hearing Date: 2/23/05

Staff: Hannah Lidman (786-7291).

Background:

The superior court of each county has the authority to appoint guardians for persons and/or estates of incapacitated persons. A person may be deemed incapacitated when the court determines the individual poses a significant risk of personal or financial harm. Incapacity is a legal, not medical, determination.

An incapacitated person subject to a limited guardianship may not lose the right to vote unless the court determines that the person cannot rationally exercise the franchise. An incapacitated person subject to a full guardianship may not vote unless the court specifically finds that the person is rationally capable of exercising the franchise.

Summary of Bill:

The Legislature finds that the right to vote is a fundamental liberty which should not be confiscated without due process, including clear notice and a meaningful opportunity to be heard. The Legislature additionally finds that any restriction of voting rights through guardianship proceedings should be narrowly tailored to meet the compelling interest of the state in ensuring that those who vote understand the nature and effect of their actions.

An incapacitated person under either limited or full guardianship will not lose the right to vote unless a court specifically determines the person to be incapable of rationally exercising the franchise in that the individual cannot understand the nature and effect of voting and cannot make an individual choice.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed except for section 3, relating to Help America Vote Act requirements, which takes effect January 1, 2006.