

SENATE BILL REPORT

SB 5016

As Reported By Senate Committee On:
Judiciary, February 28, 2007

Title: An act relating to petitions for guardianship.

Brief Description: Limiting petitions for guardianship by professional guardians.

Sponsors: Senator Jacobsen.

Brief History:

Committee Activity: Judiciary: 1/26/07, 2/28/07 [DPS].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5016 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin, Ranking Minority Member; Murray and Weinstein.

Staff: Lidia Mori (786-7755)

Background: In Washington State, guardianship is a legal process under the jurisdiction of the Superior Court. Any interested person may bring a petition for appointment of a guardian and the Superior Court of each county has the authority to appoint guardians for the persons and/or estates of incapacitated persons. The court may decide that a person is incapacitated as to person if it finds the individual has a significant risk of personal harm based upon a demonstrated inability to adequately provide for nutrition, health, housing, or physical safety. A person may be determined to be incapacitated as to the person's estate if the superior court finds the individual is at significant risk of financial harm based on a demonstrated inability to adequately manage property or financial affairs.

A "professional guardian" is a guardian appointed by the court who is not a member of the incapacitated person's family and who charges fees for carrying out the duties of court-appointed guardian of three or more persons. Professional guardians must be certified by the Certified Professional Guardian Board and must meet certain education, experience, and training requirements established by the Board.

Summary of Bill: Any person or entity, other than a professional guardian, may petition for the appointment of a qualified person, trust company, national bank, or nonprofit corporation as the guardian or limited guardian of an incapacitated person.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Judiciary): Professional guardians are required to comply with the ethical advisory opinions issued by the certified professional guardian board with respect to petitions for self-appointment.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: The guardianship program in this state has serious problems. There have been numerous newspaper articles detailing abuses and unethical conduct. The ethics rule says a certified professional guardian cannot try to get himself or herself appointed as guardian for an alleged incapacitated person. There should be an emergency clause in this bill. It should also be easier to file a grievance about the behavior of a guardian.

CON: This bill might be contrary to some case law because a guardian may have to file a new petition if he or she thought more needs should be addressed. These guardianship statutes are cumbersome and should be revised.

OTHER: There should be disclosure of any conflict of interest and this should be in writing and signed.

Persons Testifying: PRO: Claudia Donnelly, citizen; Loren M. Freeman, Freeman & Associates.

CON: Robert Nettleton, citizen; Leesa Camerota, Capitol Guardianship Services.

OTHER: James R. Hardman, Larry Ingraham, Tami Ingraham, citizens.