

# SENATE BILL REPORT

## SB 5017

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As of January 25, 2007

**Title:** An act relating to guardianship fees and costs.

**Brief Description:** Allocating guardianship fees and costs to substantially prevailing party.

**Sponsors:** Senators Jacobsen and Shin.

**Brief History:**

**Committee Activity:** Judiciary: 1/26/07.

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### SENATE COMMITTEE ON JUDICIARY

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

**Background:** A superior court may require a person to participate in mediation whenever it appears that the incapacitated person or his or her estate could benefit from mediation. The court may order the participation in mediation either before the appointment of a guardian or limited guardian for an incapacitated person or after the appointment of a guardian. Before requiring the mediation, the court will also consider whether mediation will likely result in overall reduced costs to the estate. The court may establish the terms of the mediation and allocate the cost of the mediation.

The court decides whether a guardian or a limited guardian should be allowed compensation and the court decides how much is just and reasonable. Guardians may not be compensated at county or state expense.

**Summary of Bill:** After a court determines that an incapacitated person or his or her estate could benefit from mediation, the court is directed to allocate the cost of the mediation to the substantially prevailing party, if any. If there is no substantially prevailing party, each party will pay its own costs and attorneys' fees.

When a professional guardian petitions the court to be appointed as the guardian or limited guardian of an incapacitated person, the professional guardian and his or her attorney will not be compensated by the alleged incapacitated person for time spent bringing the petition unless the professional guardian is the substantially prevailing party. This also applies to a professional guardian in an action to modify or terminate a guardianship or limited guardianship for the time spent opposing a petition or action to modify or terminate the guardianship, unless the professional guardian is the substantially prevailing party.

**Appropriation:** None.

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*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.*

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

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