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HOUSE BILL 2278

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State of Washington                      60th Legislature                      2007 Regular Session

By Representative Chase

Read first time 02/16/2007. Referred to Committee on Judiciary.

1            AN ACT Relating to guardianship proceedings; and amending RCW  
2 11.88.030.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            **Sec. 1.** RCW 11.88.030 and 1996 c 249 s 8 are each amended to read  
5 as follows:

6            (1) Any person or entity may petition for the appointment of a  
7 qualified person(~~(, trust company, national bank, or nonprofit~~  
8 ~~corporation))~~ authorized in RCW 11.88.020 as the guardian or limited  
9 guardian of an incapacitated person. ~~((No liability for filing a~~  
10 ~~petition for guardianship or limited guardianship shall attach to a~~  
11 ~~petitioner acting in good faith and upon reasonable basis.))~~ A petition  
12 for guardianship or limited guardianship may not disclose the social  
13 security number, medicare or medicaid number, or financial account  
14 numbers of the alleged incapacitated person or a family member of the  
15 alleged incapacitated person. A petition for guardianship or limited  
16 guardianship shall state:

17            (a) The name, age, residence, and post office address of the  
18 alleged incapacitated person;

1 (b) The nature of the alleged incapacity in accordance with RCW  
2 11.88.010;

3 (c) The approximate value and description of property, including  
4 any compensation, pension, insurance, or allowance, to which the  
5 alleged incapacitated person may be entitled;

6 (d) Whether there is, in any state, a guardian or limited guardian,  
7 or pending guardianship action for the person or estate of the alleged  
8 incapacitated person;

9 (e) The residence and post office address of the person whom  
10 petitioner asks to be appointed guardian or limited guardian;

11 (f) The names and addresses, and nature of the relationship, so far  
12 as known or can be reasonably ascertained, of the persons most closely  
13 related by blood or marriage to the alleged incapacitated person;

14 (g) The name and address of the person or facility having the care  
15 and custody of the alleged incapacitated person;

16 (h) The reason why the appointment of a guardian or limited  
17 guardian is sought and the interest of the petitioner in the  
18 appointment, and whether the appointment is sought as guardian or  
19 limited guardian of the person, the estate, or both;

20 (i) A description of any alternate arrangements previously made by  
21 the alleged incapacitated person, such as, but not limited to, trusts  
22 or powers of attorney, including identifying any guardianship  
23 nominations contained in a power of attorney or elsewhere, and why a  
24 guardianship is nevertheless necessary;

25 (j) The nature and degree of the alleged incapacity and the  
26 specific areas of protection and assistance requested and the  
27 limitation of rights requested to be included in the court's order of  
28 appointment;

29 (k) The requested term of the limited guardianship to be included  
30 in the court's order of appointment;

31 (l) Whether the petitioner is proposing a specific individual to  
32 act as guardian ad litem and, if so, the individual's knowledge of or  
33 relationship to any of the parties, and why the individual is proposed.

34 (2)(a) A hospital, a facility as defined in RCW 74.34.020, or any  
35 other entity that provides long-term care services, may not petition  
36 for, or request, or induce any other person to petition for, a  
37 guardianship or limited guardianship of an alleged incapacitated person

1 who is, was, or will be either: (i) Temporarily staying at the  
2 facility, hospital, or other entity; or (ii) a resident of the  
3 facility, hospital, or other entity.

4 (b) The court shall dismiss any petition for guardianship or  
5 limited guardianship that violates (a) of this subsection.

6 (3)(a) The attorney general may petition for the appointment of a  
7 guardian or limited guardian in any case in which there is cause to  
8 believe that a guardianship is necessary and no private party is able  
9 and willing to petition.

10 (b) Prepayment of a filing fee shall not be required in any  
11 guardianship or limited guardianship brought by the attorney general.  
12 Payment of the filing fee shall be ordered from the estate of the  
13 incapacitated person at the hearing on the merits of the petition,  
14 unless in the judgment of the court, such payment would impose a  
15 hardship upon the incapacitated person, in which case the filing shall  
16 be waived.

17 ~~((3))~~ (4) No filing fee shall be charged by the court for filing  
18 either a petition for guardianship or a petition for limited  
19 guardianship if the petition alleges that the alleged incapacitated  
20 person has total assets of a value of less than three thousand dollars.

21 ~~((4))~~ (5)(a) Notice that a guardianship proceeding has been  
22 commenced shall be personally served upon the alleged incapacitated  
23 person and the guardian ad litem along with a copy of the petition for  
24 appointment of a guardian. Such notice shall be served not more than  
25 five court days after the petition has been filed. Notice that a  
26 guardianship proceeding has been commenced, along with a copy of the  
27 petition for appointment of a guardian, shall be mailed not more than  
28 five court days after the petition is filed to the next of kin or  
29 closest known relative of the alleged incapacitated person, the family  
30 caregiver, former family caregiver, or person having the care and  
31 custody of the alleged incapacitated person, and the alleged  
32 incapacitated person's attorney and attorney-in-fact, if known.

33 (b) Notice under this subsection shall include a clear and easily  
34 readable statement of the legal rights of the alleged incapacitated  
35 person that could be restricted or transferred to a guardian by a  
36 guardianship order as well as the right to counsel of choice and to a  
37 jury trial on the issue of incapacity. Such notice shall be in

