

# HOUSE BILL REPORT

## SB 5819

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**As Reported by House Committee On:**  
Judiciary

**Title:** An act relating to guardian and limited guardian duties.

**Brief Description:** Concerning guardian and limited guardian duties.

**Sponsors:** Senator Litzow.

**Brief History:**

**Committee Activity:**

Judiciary: 3/16/11, 3/17/11 [DP].

**Brief Summary of Bill**

- Requires a guardian appointed over an incapacitated person to include certain information in the guardian's annual report to the court.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass. Signed by 12 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Chandler, Eddy, Frockt, Kirby, Klippert, Nealey, Orwall and Roberts.

**Staff:** Trudes Tango (786-7384).

**Background:**

Guardianship is a legal process through which a guardian is given the power to make decisions for a person who is determined to be incapacitated. A person may be incapacitated if the individual is at a significant risk of financial harm because of an inability to manage his or her property or financial affairs or has a significant risk of personal harm because of an inability to provide for nutrition, health, housing, or physical safety.

The court may establish a guardianship over the person, the person's estate, or both. The court may also establish a limited guardianship for persons who need protection or assistance because of an incapacity, but who are capable of managing some of their affairs.

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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.*

A guardian appointed over the person has a duty to maintain the incapacitated person in a setting that is the least restrictive to the incapacitated person's freedom and that is appropriate to the person's personal care needs. Guardians also have a duty to see that, when it is appropriate, the incapacitated person receives training and education, and has the opportunity to learn a trade, occupation, or profession.

Guardians and limited guardians must file annual reports regarding the status of an incapacitated person's well-being. The report must include information such as changes in residence, a list of services and programs the incapacitated person receives, the medical and mental status of the incapacitated person, activities of the guardian, and recommended changes in the scope of authority of the guardian.

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**Summary of Bill:**

The guardian or limited guardian over a person must include in the annual report information about:

- activities the guardian took to determine whether an incapacitated person wants to work, and any activities taken to identify and secure training and education so the incapacitated person has the opportunity to learn, acquire, and maintain employment in a trade occupation, or profession; and
- activities the guardian has undertaken to maintain the incapacitated person in a setting least restrictive to the person's freedom and appropriate to the person's personal care needs.

If the incapacitated person resides in a facility, the report must include an explanation of why the setting is the least restrictive and appropriate for the incapacitated person, and any steps the guardian has taken to identify placement options and determine the person's preferences for placement.

If the incapacitated person is in a non-facility residence and requires additional support in order to remain in that residence, the report must include information regarding the activities the guardian has taken to secure and maintain adequate support for the incapacitated person in that residence and a plan to assist the person in maintaining the residence.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect on August 1, 2011.

**Staff Summary of Public Testimony:**

(In support) This bill furthers the goals of the state to serve incapacitated persons in the least restrictive settings and to foster communication between case managers and guardians about the incapacitated person's choice of settings. This bill does not create any new duties for guardians. It takes the existing duties of the guardian and makes it clear that those things the guardian is supposed to be doing will be included in the report. Services and programs exist for incapacitated people who want to learn and work, and this bill will increase the guardian's awareness of the existence of those services.

(Opposed) None.

**Persons Testifying:** Bill Moss, Department of Social and Health Services; and David Lord, Disability Rights Washington.

**Persons Signed In To Testify But Not Testifying:** None.