

# SENATE BILL REPORT

## SB 5819

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As Passed Senate, March 5, 2011

**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: 2/18/11 [DP].

Passed Senate: 3/05/11, 46-0.

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass.

Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug, Ranking Minority Member; Kohl-Welles, Regala and Roach.

**Staff:** Aldo Melchiori (786-7439)

**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 and therefore unable to take care of himself or herself. 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.

Guardians have a duty to maintain an incapacitated person in a setting that is the least restrictive to the incapacitated person's freedom and 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 for the period, and recommended changes in the scope of authority of the guardian.

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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.*

**Summary of Bill:** The content of the annual report a guardian or limited guardian must file regarding the status of an incapacitated person is amended to require 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 acquire and maintain employment; and
- activities the guardian has undertaken to maintain the incapacitated person in the 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, then the report should include an explanation of why the setting is the least restrictive and appropriate to an incapacitated person's personal care needs, 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, then the report should include information regarding the activities that have been taken by the guardian to secure and maintain adequate support for the incapacitated person in that residence and a plan to assist the individual in maintaining the residence.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

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

**Staff Summary of Public Testimony:** PRO: We believe that this bill aligns the expectations of guardians with the goals of the state to place persons in the least restrictive setting appropriate to their needs. This will also facilitate communication between a case manager and a guardian related to a common goal of serving individuals at home and in community based services. It recognizes that special care should be taken to determine a person's preferences. This bill does not create any additional duties that are not already in law. This bill simply sets out a way for a judge who looks at a report from a guardian to get information about activities a guardian has taken to meet these statutory duties. This does not require an additional report, it will be part of the form that they already fill out. This calls attention to the judge and the guardian that they have these duties and that they should report about them.

I know of at least six other families, besides my own, that have suffered guardian abuse. Our seniors need your help. This bill should be combined with SB 5740 to get some real protection for the elderly and their families from corrupt guardians.

**Persons Testifying:** PRO: Bill Moss, DSHS; David Lord, Disability Rights Washington.

**Signed in, Unable to Testify & Submitted Written Testimony:** PRO: Claudia Donnelly, citizen.