SENATE BILL REPORT
SB 5694

As of November 18, 2013

Title: An act relating to improving protections for incapacitated adults.

Brief Description: Improving protections for incapacitated adults.

Sponsors: Senators Conway, Schlicher, Dammeier, Hargrove, Carrell, Chase, Mullet, Harper, McAuliffe and Kohl-Welles.

Brief History:
 Committee Activity: Law & Justice:

SENATE COMMITTEE ON LAW & JUSTICE

 Staff: Tim Ford (786-7423)

 Background: Any person or entity may petition the court for the appointment of a guardian or limited guardian for an allegedly incapacitated person. Incapacitated means that 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 guardian may be a lay guardian, generally a family member or friend of the alleged incapacitated person, or a professional guardian, who charges a fee to provide guardianship services. Professional guardians are regulated by the Certified Professional Guardianship Board. The court has supervisory power over guardianships, and may modify a guardianship or remove a guardian upon petition and showing of good cause. A guardian ad litem must be appointed to represent an allegedly incapacitated person during the guardianship proceeding.

 Summary of Bill: The court must provide information to persons who file petitions for guardianships about the powers of a guardian and process for modification and removal. Amendments are made in the notice provided to alleged incapacitated persons, removing the warning that the alleged incapacitated person may lose the right to hold elected office, adding an advisement of the right to representation by attorney and to request modification of a guardianship or discharge of a guardian, and removing a requirement that the warning be printed in all capital letters.

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.

The time for holding a guardianship hearing after service of a guardianship petition is extended from 10 to 15 days. Any person may register a complaint about the conduct of a guardian or limited guardian with the court. An application to modify or terminate a guardianship by an unrepresented person must be considered the equivalent of a motion for an order to show cause. The court must schedule a hearing on a petition to modify a guardianship or discharge a guardian unless it appears to be frivolous, but consideration of the request may be deferred to the next regularly scheduled guardianship hearing if there is no indication that the incapacitated person will suffer physical, emotional, or financial harm as a result of the court's delay. A guardian ad litem must disclose any relationship or circumstance that may create the appearance of a conflict of interest when recommending the appointment of a guardian. A proposed professional guardian must disclose in writing to the guardian ad litem any prior or existing relationship or other circumstance that would cause the appearance of a conflict of interest.

No guardian may limit contact between an incapacitated person and a family member without a court order, except that if the guardian believes that contact should be limited to protect the incapacitated person from abuse, neglect, abandonment, or exploitation, the guardian may prevent or limit contact for the period necessary to prepare and file a petition for a vulnerable adult protection order.

The Administrator for the Courts and the Long-Term Care Ombudsman must publish information about guardianships, the powers of guardians, and the process to modify a guardianship or discharge a guardian on a website.

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.