

# SENATE BILL REPORT

## SB 6502

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As of February 3, 2014

**Title:** An act relating to guardianship restrictions and disclosures.

**Brief Description:** Concerning guardianship restrictions and disclosures.

**Sponsors:** Senator Padden.

**Brief History:**

**Committee Activity:** Law & Justice: 2/06/14.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Tim Ford (786-7423)

**Background:** Under certain conditions, Washington law prohibits a person from inheriting property or receiving benefits from another person. The slayer statute prohibits a slayer from inheriting property or receiving benefits as a result of the death of a decedent where the slayer participated in the willful and unlawful killing of that decedent. In 2009 the Legislature amended the slayer statute to prohibit inheritance by an abuser of a vulnerable adult. In most cases an abuser is treated the same as a slayer with respect to the distribution of the decedent's estate. However, the abuse does not need to cause the death of the vulnerable adult in order to prohibit inheritance.

A vulnerable adult means a person 60 years of age or older who is vulnerable for a variety of reasons. Some of those reasons may be that a vulnerable adult is unable to care for themselves, or may be found incapacitated, or may have developmental disabilities. The abuse of a vulnerable adult may include financial exploitation. Financial exploitation means the illegal or improper use, control over, or withholding of the property, income, resources, or trust funds of the vulnerable adult for the financial advantage of another. Financial exploitation includes the breach of duty by an appointed guardian that results in the unauthorized transfer of property, income, funds, or resources.

Guardianships are authorized by law, and appointed and supervised by the court. Guardians may be certified or non-certified professionals, and a guardian may be a family member. Any person may need a guardian if they have incapacities, or unique abilities and needs. Some people cannot exercise their rights or provide for their basic needs without the help of a guardian. The guardianship process must adequately provide for the person's health or

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safety, or adequately manage their financial affairs. Guardianships are not limited to vulnerable adults over age 60, but may include minors, or incapacitated or disabled persons of any age. A guardianship of the person, or a guardianship of the estate is an appointment of trust.

**Summary of Bill:** A guardian may not inherit or acquire any property interest or receive any benefit from any ward of that guardian if the guardian has either been convicted of theft or found to have committed financial exploitation. However, a court may allow inheritance if by clear, cogent, and convincing evidence the decedent ward:

- knew of the theft or financial exploitation; and
- subsequently ratified in writing an intent to allow inheritance.

In a court proceeding to determine inheritance, the court may consider the totality of the circumstances and the harm resulting from the theft or financial exploitation.

Prior to appointment of any guardianship, a person must disclose to the court any prior finding of financial exploitation, conviction, or arrest. Appointed guardians have an ongoing duty to disclose to the court any findings of financial exploitation, convictions, or arrest. Upon disclosure the court should determine whether removal of the guardian is in the best interest of the ward. Any person who fails to make the required disclosures is subject to removal as a guardian and in contempt of court.

**Appropriation:** None.

**Fiscal Note:** Requested on February 1, 2014.

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

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