

HOUSE BILL REPORT

HB 1839

As Passed House:
March 11, 2015

Title: An act relating to services that provide support for decision making.

Brief Description: Concerning services that provide support for decision making.

Sponsors: Representatives Kilduff, Rodne, Muri, Goodman, Orwall, Walkinshaw, Moeller, Tharinger and Jinkins.

Brief History:

Committee Activity:

Judiciary: 2/5/15, 2/12/15 [DP].

Floor Activity:

Passed House: 3/11/15, 98-0.

Brief Summary of Bill

- Expands the Office of Public Guardianship's authority to include support for decision-making.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 12 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Goodman, Hansen, Kirby, Klippert, Muri, Orwall, Stokesbary and Walkinshaw.

Staff: Brent Campbell (786-7152).

Background:

Guardianship.

A guardianship action is a legal process in which a guardian is appointed and empowered by the court to make decisions for an incapacitated person. This process removes decision-making authority from the incapacitated person and gives the authority to make decisions for an incapacitated person to the guardian.

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 person may be deemed incapacitated if the court determines 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 person may also be deemed incapacitated if he or she is at significant risk of financial harm based upon a demonstrated inability to adequately manage property or financial affairs.

The Office of Public Guardianship.

In 2007 the Legislature established an Office of Public Guardianship (OPG) within the Administrative Office of the Courts to promote the availability of guardianship services to incapacitated individuals for whom adequate services may not otherwise be available.

The OPG is authorized to contract with public or private entities or individuals to provide public guardianship services for persons age 18 or older and whose income does not exceed 200 percent of the federal poverty level. The OPG monitors and oversees the use of state funding on public guardianship, but is prohibited from acting as a public guardian or in any other representative capacity for any individual. The OPG is also required to adopt eligibility criteria to enable it to serve individuals with the greatest need when the number of cases requiring appointment of a public guardian exceeds the number of cases in which public guardianship services can be provided.

The OPG creates minimum standards of practice for public guardianship services and adopts processes to receive and consider complaints against the OPG and contracted providers of public guardianship services. The OPG also has a system for monitoring the performance of public guardianship services.

Summary of Bill:

The OPG is directed to establish and administer supported decision-making assistance programs in concert with public guardianship programs. "Supported decision-making assistance" would act as an alternative service to guardianship and is defined as "support for an individual with diminished decision-making ability in making decisions affecting health or safety or to manage financial affairs. Assistance includes, without limitation, acting as a representative payee, an attorney-in-fact, a trustee, and a public guardian."

The OPG is required to provide for supported decision-making assistance services in a similar manner as they provide for public guardianship services. Supported decision-making assistance services will be contracted through public or private entities and will be provided to individuals who meet the same age and financial requirements for public guardianship. The OPG also must create eligibility criteria and oversight for supported decision-making assistance services as it did for public guardianship services.

A provision stating that the "initial implementation of public guardianship services is on a pilot basis" is removed. Three provisions requiring reports be made over the first several years of the OPG's operation are removed.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This is a bill about helping vulnerable people. The OPG satisfies an important need, but guardianship is very expansive. Guardianship is for those who are completely incapacitated. However, many people who need help do not need a full guardianship. These people are capable of maintaining their autonomy, but they need advocates who will work with them. This bill would allow the OPG to offer alternate services to people along the spectrum of capacity and would give the OPG the tools necessary to assist those in need. Allowing the OPG to add these tools is a no-risk, no-cost solution to a growing need.

There is a lack of advocacy for the indigent elderly. No public or private agency exists to help these individuals find advocates. Vulnerable people live in fear due to their lack of resources, and this fear exacerbates their existing vulnerabilities. This is an injustice, and this bill creates a common sense solution to this injustice.

(Opposed) None.

Persons Testifying: Representative Kilduff, prime sponsor; Michael Kurzner; Marsha Paprowey; Eileen Shock, Columbia Legal Services; and Dan Smerken, Washington Association of Professional Guardians.

Persons Signed In To Testify But Not Testifying: None.