

FINAL BILL REPORT

SHB 1865

C 297 L 95

Synopsis as Enacted

Brief Description: Clarifying numerous miscellaneous guardianship provisions.

Sponsors: House Committee on Law & Justice (originally sponsored by Representatives Mitchell and Tokuda).

House Committee on Law & Justice
Senate Committee on Law & Justice

Background: Superior courts have the authority to appoint a guardian to represent an incapacitated person and/or that person's estate. A person may be deemed incapacitated if the person is incapable of providing for his or her basic needs, if the person is incapable of adequately managing his or her finances or property, or if the person is a minor. A court may also appoint a limited guardian for a person with less severe incapacities.

Any person over the age of 18 and any parent may serve as a guardian if the court deems them to be suitable. The guardian is at all times under the direction and control of the court. A guardian is allowed reasonable compensation for his or her services and administrative costs, subject at all times to approval by the court. Any person may petition the court to modify or terminate a guardianship.

Prior to appointment of a guardian for an incapacitated person, the court must receive a written report from an examining physician or psychologist regarding the incapacitated person's condition. Current law has been interpreted to require this examination within 30 days of the court hearing to appoint a guardian.

The appointment of a legal guardian or limited guardian does not affect the authority of the court to appoint a guardian ad litem to represent the interests of the incapacitated person in court proceedings.

Summary: Changes are made to a number of code sections regarding guardianship.

Notice of the commencement of guardianship proceedings must be provided within five court days of filing of a guardianship petition. Notice of the hearing to appoint a guardian is to be sent to the last known address of each person to be notified.

Prior to the appointment of a guardian for an incapacitated person, the court must receive a written report from a physician or psychologist regarding the person's condition. The examination by the physician or psychologist must be performed within 30 days of the preparation of that report, rather than within 30 days of the appointment hearing. In addition, guardianships based on minority are exempted from the medical report requirement.

For cases in which a guardian ad litem has been appointed to represent an incapacitated person in court, the number and nature of persons to whom the guardian ad litem must send his or her report is changed. In addition to immediate family members and anyone who has requested special notice, the guardian ad litem need only send his or her report to persons with significant interest in the welfare of the incapacitated person.

Unless otherwise ordered, appointment of a guardian for an estate automatically revokes any powers of attorney. Appointment of a guardian for a person requires the court to make a finding regarding any existing medical powers of attorney.

The court is given discretion regarding the appointment of a guardian ad litem to review the report of a guardian for the purposes of settling an intermediate guardianship account. Intestate estates are included in the provisions for settlement of terminated guardianship accounts, and the court is given authority to appoint a guardian ad litem to review the final settlement of a guardianship account.

The Department of Social and Health Services is given the right to notice of, access to, and participation in any hearings which affect the assets of an incapacitated person, if that person is a client of the department and is required to contribute to the cost of residential or support services.

Several technical changes are made, including amending incorrect references and outdated grammar and adding gender neutral language.

Votes on Final Passage:

House	98	0	
Senate	48	0	(Senate amended)
House	88	0	(House concurred)

Effective: July 23, 1995