

2 **ESHB 1771** - S COMM AMD

3 By Committee on Human Services & Corrections

4 ADOPTED AS AMENDED 4/18/97

5 Strike everything after the enacting clause and insert the  
6 following:

7 "Sec. 1. RCW 11.88.020 and 1990 c 122 s 3 are each amended to read  
8 as follows:

9 (1) Any suitable person over the age of eighteen years, or any  
10 parent under the age of eighteen years or, if the petition is for  
11 appointment of a professional guardian, any individual or guardianship  
12 service that meets any certification requirements established by the  
13 administrator for the courts, may, if not otherwise disqualified, be  
14 appointed guardian or limited guardian of the person and/or the estate  
15 of an incapacitated person~~((; any trust company regularly organized~~  
16 ~~under the laws of this state and national banks when authorized so to~~  
17 ~~do may act as guardian or limited guardian of the estate of an~~  
18 ~~incapacitated person; and any nonprofit corporation may act as guardian~~  
19 ~~or limited guardian of the person and/or estate of an incapacitated~~  
20 ~~person if the articles of incorporation or bylaws of such corporation~~  
21 ~~permit such action and such corporation is in compliance with all~~  
22 ~~applicable provisions of Title 24 RCW)). A financial institution~~  
23 subject to the jurisdiction of the department of financial institutions  
24 and authorized to exercise trust powers, and a federally chartered  
25 financial institution when authorized to do so, may act as a guardian  
26 of the estate of an incapacitated person without having to meet the  
27 certification requirements established by the administrator for the  
28 courts. No person is qualified to serve as a guardian who is

29 ~~((+1))~~ (a) under eighteen years of age except as otherwise  
30 provided herein;

31 ~~((+2))~~ (b) of unsound mind;

32 ~~((+3))~~ (c) convicted of a felony or of a misdemeanor involving  
33 moral turpitude;

34 ~~((+4))~~ (d) a nonresident of this state who has not appointed a  
35 resident agent to accept service of process in all actions or

1 proceedings with respect to the estate and caused such appointment to  
2 be filed with the court;

3 ~~((+5))~~ (e) a corporation not authorized to act as a fiduciary,  
4 guardian, or limited guardian in the state;

5 ~~((+6))~~ (f) a person whom the court finds unsuitable.

6 (2) The professional guardian certification requirements required  
7 under this section shall not apply to a testamentary guardian appointed  
8 under RCW 11.88.080.

9 NEW SECTION. Sec. 2. A new section is added to chapter 11.88 RCW  
10 to read as follows:

11 As used in this chapter, "professional guardian" means a guardian  
12 appointed under this chapter who is not a member of the incapacitated  
13 person's family and who charges fees for carrying out the duties of  
14 court-appointed guardian of three or more incapacitated persons.

15 NEW SECTION. Sec. 3. (1) The administrator for the courts shall  
16 study, and make recommendations on, standards and criteria for  
17 implementing a system of certification of professional guardians as  
18 defined in section 2 of this act and improved coordination between  
19 guardians and guardians ad litem.

20 (2) In conducting the study and preparing the recommendations, the  
21 administrator may include examination of:

22 (a) Criteria for certification as a professional guardian;

23 (b) A fee structure that will make the certification process self-  
24 supporting;

25 (c) Whether persons other than an alleged incapacitated person  
26 should be given standing to request a jury trial to determine  
27 incapacity;

28 (d) Whether, following the appointment of a guardian, a guardian ad  
29 litem may continue to serve at public expense;

30 (e) Whether the superior court should have authority to limit fees  
31 for attorneys, guardians, and guardians ad litem;

32 (f) The appropriate entity to certify professional guardians; and

33 (g) Grounds for discipline of professional guardians.

34 (3) In conducting the study, the administrator shall consult with  
35 the appropriate groups and interested parties including, but not  
36 limited to, representatives of senior citizens, members of both  
37 chambers of the legislature, the bar association, superior court

1 judges, associations affiliated with persons with developmental and  
2 chronic functional disabilities, health care organizations, persons who  
3 act as guardians for compensation and on a voluntary basis, and  
4 guardians ad litem.

5 (4) The administrator shall submit the results of the study and  
6 recommendations to the governor and legislature not later than January  
7 1, 1998.

8 NEW SECTION. **Sec. 4.** Sections 1 and 2 of this act take effect  
9 January 1, 1999."

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12  
13 On page 1, line 1 of the title, after "guardians;" strike the  
14 remainder of the title and insert "amending RCW 11.88.020; adding a new  
15 section to chapter 11.88 RCW; creating a new section; and providing an  
16 effective date."

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