

HOUSE BILL REPORT

SSB 5667

As Reported By House Committee On:

Law & Justice

Title: An act relating to court appointed guardians.

Brief Description: Providing for certification of professional guardians.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Roach, Haugen and Kohl; by request of Secretary of State).

Brief History:

Committee Activity:

Law & Justice: 4/1/97, 4/4/97 [DPA].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended. Signed by 13 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Carrell; Cody; Kenney; Lambert; Lantz; Radcliff; Sherstad and Skinner.

Staff: Edie Adams (786-7180).

Background: A court may appoint a guardian for an incapacitated person to help the person manage his or her personal or financial affairs. A person is incapacitated as to that person's estate if the individual is at a significant risk of financial harm because of an inability to manage his or her property or financial affairs. A person is incapacitated "as to person" if the individual has a significant risk of personal harm because of an inability to provide for nutrition, health, housing, or physical safety.

Generally, any resident of the state who is at least 18 years of age, of sound mind, and who has not committed certain crimes may be appointed as a guardian. If authorized, a trust company or national bank may serve as guardian of the estate of an incapacitated person, and a nonprofit corporation may serve as guardian of the person and/or estate of an incapacitated person.

Summary of Amended Bill: An individual or guardianship service may be appointed as the professional guardian of the person and/or the estate of an incapacitated person if the individual or guardianship service meets certification requirements established

by the Office of the Administrator of the Courts (OAC). Testamentary guardians, and financial institutions serving as the guardian of the estate of an incapacitated person, are not subject to the certification requirements.

A professional guardian is a court-appointed guardian who is not a member of the incapacitated person's family, charges a fee for providing guardianship services, and serves as guardian for at least three incapacitated persons.

The OAC must conduct a study and make recommendations on standards and criteria for implementing a system of certification of professional guardians and improved coordination between guardians and guardians ad litem. The OAC may also examine: (1) criteria for certification; (2) whether persons other than the alleged incapacitated person should be able to request a jury trial to determine incapacity; (3) whether a guardian ad litem may continue to serve at public expense following appointment of a guardian; (4) whether the court should be able to limit the fees of attorneys, guardians, and guardians ad litem; (5) the appropriate entity to certify professional guardians; and (6) grounds for discipline of professional guardians.

The OAC must consult with a variety of groups and interested parties in conducting the study. The results of the study must be submitted to the Legislature by January 1, 1998.

Amended Bill Compared to Substitute Bill: The substitute bill only provided for a study, to be conducted by the OAC, on the desirability and feasibility of requiring professional guardian certification, how that professional guardian certification should be composed and implemented, and other issues relating to guardianship.

Appropriation: \$35,000 from the general fund.

Fiscal Note: Requested April 1, 1997.

Effective Date of Amended Bill: The bill contains several effective dates. Please refer to the bill.

Testimony For: Professional guardians should be under a certification and reporting system to protect incapacitated persons and provide a tool to deal with bad guardians.

Testimony Against: None.

Testified: Ralph Munro, Secretary of State (pro, with amendment); Tom O'Brien, Washington Association of Professional Guardians (pro); and Liz Lindley, Lifetime Advocacy Plus and Washington Association of Professional Guardians (pro).