

HOUSE BILL REPORT

HB 1525

As Reported By House Committee On:
Judiciary

Title: An act relating to authorizing mediation in guardianship proceedings.

Brief Description: Authorizing mediation in guardianship proceedings.

Sponsors: Representatives Dickerson, Constantine and Lambert.

Brief History:

Committee Activity:

Judiciary: 2/19/99, 3/2/99 [DPS].

Brief Summary of Substitute Bill

- Authorizes a court to order parties to a guardianship proceeding into mediation.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Constantine, Democratic Co-Chair; Hurst, Democratic Vice Chair; Lambert, Republican Vice Chair; Cox; Dickerson; Esser; Kastama; Lantz; Lovick; McDonald and Schindler.

Minority Report: Without recommendation. Signed by 1 member: Representative Carrell, Republican Co-Chair.

Staff: Jim Morishima (786-7191).

Background:

A court may appoint a guardian to help an "incapacitated" person manage his or her personal or financial affairs. A person may be "incapacitated" because of old age, disability, or youth. In order to establish a guardianship, a person must file a petition with the superior court. Upon the filing of such a petition, the court must appoint a guardian ad litem to represent the best interests of the alleged incapacitated person.

Once a guardianship has been established, a person may apply to the court to have the guardianship modified or terminated. After the application has been filed, the court may (1) schedule a hearing, (2) appoint a guardian ad litem to investigate the issues raised by the application or protect the incapacitated person until the hearing, or (3) deny the application. In a hearing to modify or terminate a guardianship, the court may grant any relief it deems just and in the best interests of the incapacitated person.

Summary of Substitute Bill:

Whenever it appears that the incapacitated person or incapacitated person's estate could benefit from mediation and such mediation would likely result in overall reduced costs to the estate, the court may order the parties subject to its jurisdiction into mediation upon a motion of the parties. Before the appointment of the guardian, a motion for mediation can be made by the incapacitated person or the guardian ad litem. After the appointment of the guardian, a motion for mediation can be made by any interested person. The court must establish the terms for the mediation and allocate the costs of the mediation among the parties and the estate of the incapacitated person as justice requires.

Substitute Bill Compared to Original Bill: The original bill allows the court to order the parties into mediation upon its own motion, instead of only upon the motion of the incapacitated person, the guardian ad litem, or other interested party. The original bill allows the court to impose mediation whenever it appears that the best interests of the incapacitated person would be served, instead of whenever it appears that the incapacitated person or incapacitated person's estate could benefit from mediation and such mediation would likely result in reduced costs to the estate. The original bill requires the court to allocate the costs of the mediation among the parties, instead of among the parties and the estate of the incapacitated person.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: (Original bill) Guardianship proceedings often involve disputes between family members. Disputes arise throughout the process on a wide variety of issues. Courts do not have the specific authority to refer these disputes to mediation. This bill gives courts the discretionary authority to order the parties into mediation and does not affect any other existing right.

Testimony Against: None.

Testified: (In support) Representative Dickerson, prime sponsor; and Neil Sarles, King County Bar Association.

(In support with concerns) Donald Barovic, ALSO.