

SENATE BILL REPORT

SB 5187

As of January 28, 2005

Title: An act relating to guardianship bond requirements.

Brief Description: Modifying guardianship bonding requirements.

Sponsors: Senators Franklin, Thibaudeau, Rockefeller, Keiser, Kline and Jacobsen.

Brief History:

Committee Activity: Financial Institutions, Housing & Consumer Protection: 1/19/05.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & CONSUMER PROTECTION

Staff: Joyce Ahlering (360-786-7486)

Background: When an incapacitated person cannot manage his or her financial affairs, the court may appoint a guardian for that person. The guardian must take an oath and file a bond, with sureties, to preserve the incapacitated person's funds. The court considers the income and assets involved, and approves the amount and number of bonds required. If posting a bond would cause hardship, the funds may be deposited into a blocked account, subject to withdrawal only by court order.

The bond may be put in suit against any of its obligors on behalf of its beneficiary. If the guardian breaches his or her fiduciary duty, the bond becomes payable to the state for the use of the incapacitated person.

Currently, this guardianship bond requirement does not apply to funds held in trust under the Uniform Transfers to Minors Act.

Summary of Bill: Funds held in all fiduciary and trust accounts must be bonded, unless the funds are held subject to court order. This includes fiduciary accounts under the Uniform Transfers to Minors Act.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Testimony For: This bill is a response to several recent legal cases where guardians were found to have breached their fiduciary duty to minors. This bill is an attempt to close a loophole in the current law by requiring that all fiduciary and trust accounts be bonded.

Testimony Against: None.

Who Testified: PRO: Senator Rosa Franklin, sponsor.