
SENATE BILL 5819

State of Washington

62nd Legislature

2011 Regular Session

By Senator Litzow

Read first time 02/16/11. Referred to Committee on Judiciary.

1 AN ACT Relating to guardian and limited guardian duties; amending
2 RCW 11.92.043; and providing an effective date.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 11.92.043 and 1991 c 289 s 11 are each amended to read
5 as follows:

6 (1) It (~~(shall be)~~) is the duty of the guardian or limited guardian
7 of the person:

8 ~~((+1))~~ (a) To file within three months after appointment a
9 personal care plan for the incapacitated person which (~~(shall)~~) must
10 include ~~((+a))~~ (i) an assessment of the incapacitated person's
11 physical, mental, and emotional needs and of such person's ability to
12 perform or assist in activities of daily living, and ~~((+b))~~ (ii) the
13 guardian's specific plan for meeting the identified and emerging
14 personal care needs of the incapacitated person.

15 ~~((+2))~~ (b) To file annually or, where a guardian of the estate has
16 been appointed, at the time an account is required to be filed under
17 RCW 11.92.040, a report on the status of the incapacitated person,
18 which (~~(shall)~~) must include:

- 1 ~~((a))~~ (i) The address and name of the incapacitated person and
2 all residential changes during the period;
- 3 ~~((b))~~ (ii) The services or programs which the incapacitated
4 person receives;
- 5 ~~((c))~~ (iii) The medical status of the incapacitated person;
- 6 ~~((d))~~ (iv) The mental status of the incapacitated person;
- 7 ~~((e))~~ (v) Changes in the functional abilities of the
8 incapacitated person;
- 9 ~~((f))~~ (vi) Activities of the guardian for the period;
- 10 ~~((g))~~ (vii) Any recommended changes in the scope of the authority
11 of the guardian;
- 12 ~~((h))~~ (viii) The identity of any professionals who have assisted
13 the incapacitated person during the period;
- 14 (ix) Activities of the guardian undertaken to determine if the
15 incapacitated person wants to work, and if so, the activities
16 undertaken by the guardian to identify and secure training and
17 education so that the incapacitated person has the opportunity to
18 learn, acquire, and maintain employment in a trade, occupation, or
19 profession; and
- 20 (x) Activities of the guardian undertaken to maintain the
21 incapacitated person in the setting least restrictive to the
22 incapacitated person's freedom and appropriate to the incapacitated
23 person's personal care needs, including the following:
- 24 (A) If the incapacitated person resides in a facility, an
25 explanation of why the setting is the least restrictive appropriate to
26 the person's needs and appropriate to the incapacitated person's
27 personal care needs; what steps the guardian has taken to identify
28 placement options and determine the incapacitated person's preferences
29 regarding placement; and, where appropriate, a plan which will be
30 implemented to assist the individual in moving to an appropriate and
31 less restrictive setting;
- 32 (B) If the incapacitated person remains in a nonfacility residence
33 and requires additional support in order to remain in that residence,
34 activities that have been undertaken by the guardian to secure and
35 maintain adequate support for the incapacitated person in that
36 residence, and a plan which will be implemented to assist the
37 individual in maintaining the residence.

1 ~~((+3))~~ (c) To report to the court within thirty days any
2 substantial change in the incapacitated person's condition, or any
3 changes in residence of the incapacitated person.

4 ~~((+4))~~ (d) Consistent with the powers granted by the court, to
5 care for and maintain the incapacitated person in the setting least
6 restrictive to the incapacitated person's freedom and appropriate to
7 the incapacitated person's personal care needs, assert the
8 incapacitated person's rights and best interests, and if the
9 incapacitated person is a minor or where otherwise appropriate, to see
10 that the incapacitated person receives appropriate training and
11 education and that the incapacitated person has the opportunity to
12 learn a trade, occupation, or profession.

13 ~~((+5))~~ (e) Consistent with RCW 7.70.065, to provide timely,
14 informed consent for health care of the incapacitated person, except in
15 the case of a limited guardian where such power is not expressly
16 provided for in the order of appointment or subsequent modifying order
17 as provided in RCW 11.88.125 as now or hereafter amended, the standby
18 guardian or standby limited guardian may provide timely, informed
19 consent to necessary medical procedures if the guardian or limited
20 guardian cannot be located within four hours after the need for such
21 consent arises. No guardian, limited guardian, or standby guardian may
22 involuntarily commit for mental health treatment, observation, or
23 evaluation an alleged incapacitated person who is unable or unwilling
24 to give informed consent to such commitment unless the procedures for
25 involuntary commitment set forth in chapter 71.05 or 72.23 RCW are
26 followed. Nothing in this section (~~shall~~) may be construed to allow
27 a guardian, limited guardian, or standby guardian to consent to:

28 ~~((+a))~~ (i) Therapy or other procedure which induces convulsion;

29 ~~((+b))~~ (ii) Surgery solely for the purpose of psychosurgery;

30 ~~((+c))~~ (iii) Other psychiatric or mental health procedures that
31 restrict physical freedom of movement, or the rights set forth in RCW
32 (~~71.05.370~~) 71.05.217.

33 (2) A guardian, limited guardian, or standby guardian who believes
34 these procedures are necessary for the proper care and maintenance of
35 the incapacitated person (~~shall~~) must petition the court for an order
36 unless the court has previously approved the procedure within the past
37 thirty days. The court may order the procedure only after an attorney

1 is appointed in accordance with RCW 11.88.045 if no attorney has
2 previously appeared, notice is given, and a hearing is held in
3 accordance with RCW 11.88.040.

4 NEW SECTION. **Sec. 2.** This act takes effect August 1, 2011.

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