

HOUSE BILL REPORT

SHB 1876

As Passed House:

March 9, 2005

Title: An act relating to the voting rights of persons under guardianship.

Brief Description: Expanding voting rights of persons under guardianship.

Sponsors: By House Committee on State Government Operations & Accountability (originally sponsored by Representatives Green, Haler, Moeller, Darneille, Haigh, Miloscia and Upthegrove).

Brief History:

Committee Activity:

State Government Operations & Accountability: 2/23/05, 3/2/05 [DPS].

Floor Activity:

Passed House: 3/9/05, 96-0.

Brief Summary of Substitute Bill

- Preserves the right-to-vote of an individual under full guardianship unless the court makes a determination that the individual is incompetent for purposes of voting.
- Requires the court to decide an individual's voting right when guardianship is created.

HOUSE COMMITTEE ON STATE GOVERNMENT OPERATIONS & ACCOUNTABILITY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Haigh, Chair; Green, Vice Chair; Nixon, Ranking Minority Member; Clements, Assistant Ranking Minority Member; Hunt, McDermott, Miloscia, Schindler and Sump.

Staff: Hannah Lidman (786-7291) and Marsha Reilly (786-7135).

Background:

The superior court of each county has the authority to appoint guardians for persons and/or estates of incapacitated persons. A person may be deemed incapacitated when the court

determines the individual poses a significant risk of personal or financial harm. Incapacity is a legal, not medical, determination.

An incapacitated person subject to a limited guardianship may not lose the right-to-vote unless the court determines that the person cannot rationally exercise the franchise. An incapacitated person subject to a full guardianship may not vote unless the court specifically finds that the person is rationally capable of exercising the franchise.

Summary of Substitute Bill:

The Legislature finds that the right-to-vote is a fundamental liberty which should not be confiscated without due process, including clear notice and a meaningful opportunity to be heard. The Legislature additionally finds that any restriction of voting rights through guardianship proceedings should be narrowly tailored to meet the compelling interest of the state in ensuring that those who vote understand the nature and effect of their actions.

An incapacitated person under either limited or full guardianship will not lose the right-to-vote unless a court specifically determines the person to be incapable of rationally exercising the franchise in that the individual cannot understand the nature and effect of voting and cannot make an individual choice.

The court must make a clear determination regarding the voting rights of the individual when a guardianship is created.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed, except for section 3, which reinstates prior law related to voting rights under guardianship, and takes effect January 1, 2006.

Testimony For: (In support of original bill) Voting is the fundamental right of a citizen which defines the relationship between the citizen and the state. The right-to-vote should only be restricted minimally and should not be revoked without due process. People with disabilities believe their right-to-vote is very important and that the voices of the disabled should be heard and have the same weight as the voice of any other citizen. This legislation gives greater detail on what it means to make a rational choice.

Testimony Against: None.

Persons Testifying: (In support of original bill) Representative Green, prime sponsor; David Lord, Washington Protection and Advocacy System; and Sheryl Johnston.

Persons Signed In To Testify But Not Testifying: None.