

CERTIFICATION OF ENROLLMENT

SENATE BILL 5699

Chapter 117, Laws of 2009

61st Legislature
2009 Regular Session

OFFICE OF PUBLIC GUARDIANSHIP--AUTHORITY

EFFECTIVE DATE: 07/26/09

Passed by the Senate March 6, 2009
YEAS 45 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 7, 2009
YEAS 98 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved April 16, 2009, 3:55 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5699** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

April 17, 2009

**Secretary of State
State of Washington**

SENATE BILL 5699

Passed Legislature - 2009 Regular Session

State of Washington 61st Legislature 2009 Regular Session

By Senators Franklin, Kline, and Parlette

Read first time 01/29/09. Referred to Committee on Judiciary.

1 AN ACT Relating to the office of public guardianship; and amending
2 RCW 2.72.030.

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

4 **Sec. 1.** RCW 2.72.030 and 2007 c 364 s 4 are each amended to read
5 as follows:

6 The public guardianship administrator is authorized to establish
7 and administer a public guardianship program as follows:

8 (1)(a) The office shall contract with public or private entities or
9 individuals to provide public guardianship services to persons age
10 eighteen or older whose income does not exceed two hundred percent of
11 the federal poverty level determined annually by the United States
12 department of health and human services or who are receiving long-term
13 care services through the Washington state department of social and
14 health services. Neither the public guardianship administrator nor the
15 office may act as public guardian or limited guardian or act in any
16 other representative capacity for any individual.

17 (b) The office is exempt from RCW 39.29.008 because the primary
18 function of the office is to contract for public guardianship services

1 that are provided in a manner consistent with the requirements of this
2 chapter. The office shall otherwise comply with chapter 39.29 RCW and
3 is subject to audit by the state auditor.

4 (c) Public guardianship service contracts are dependent upon
5 legislative appropriation. This chapter does not create an
6 entitlement.

7 (d) The initial implementation of public guardianship services
8 shall be on a pilot basis in a minimum of two geographical areas that
9 include one urban area and one rural area. There may be one or several
10 contracts in each area.

11 (2) The office shall, within one year of the commencement of its
12 operation, adopt eligibility criteria to enable it to serve individuals
13 with the greatest need when the number of cases in which courts propose
14 to appoint a public guardian exceeds the number of cases in which
15 public guardianship services can be provided. In adopting such
16 criteria, the office may consider factors including, but not limited
17 to, the following: Whether an incapacitated individual is at
18 significant risk of harm from abuse, exploitation, abandonment,
19 neglect, or self-neglect; and whether an incapacitated person is in
20 imminent danger of loss or significant reduction in public services
21 that are necessary for the individual to live successfully in the most
22 integrated and least restrictive environment that is appropriate in
23 light of the individual's needs and values.

24 (3) The office shall adopt minimum standards of practice for public
25 guardians providing public guardianship services. Any public guardian
26 providing such services must be certified by the certified professional
27 guardian board established by the supreme court.

28 (4) The office shall require a public guardian to visit each
29 incapacitated person for which public guardianship services are
30 provided no less than monthly to be eligible for compensation.

31 (5) The office shall not petition for appointment of a public
32 guardian for any individual. It may develop(~~(, and shall consult with~~
33 ~~the advisory committee regarding the need to develop,~~) a proposal for
34 the legislature to make affordable legal assistance available to
35 petition for guardianships.

36 (6) The office shall not authorize payment for services for any
37 entity that is serving more than twenty incapacitated persons per
38 certified professional guardian.

1 (7) The office shall monitor and oversee the use of state funding
2 to ensure compliance with this chapter.

3 (8) The office shall collect uniform and consistent basic data
4 elements regarding service delivery. This data shall be made available
5 to the legislature and supreme court in a format that is not
6 identifiable by individual incapacitated person to protect
7 confidentiality.

8 (9) The office shall report to the legislature on how services
9 other than guardianship services, and in particular services that might
10 reduce the need for guardianship services, might be provided under
11 contract with the office by December 1, 2009. The services to be
12 considered should include, but not be limited to, services provided
13 under powers of attorney given by the individuals in need of the
14 services.

15 (10) The office shall require public guardianship providers to seek
16 reimbursement of fees from program clients who are receiving long-term
17 care services through the department of social and health services to
18 the extent, and only to the extent, that such reimbursement may be
19 paid, consistent with an order of the superior court, from income that
20 would otherwise be required by the department to be paid toward the
21 cost of the client's care. Fees reimbursed shall be remitted by the
22 provider to the office unless a different disposition is directed by
23 the public guardianship administrator.

24 (11) The office shall require public guardianship providers to
25 certify annually that for each individual served they have reviewed the
26 need for continued public guardianship services and the appropriateness
27 of limiting, or further limiting, the authority of the public guardian
28 under the applicable guardianship order, and that where termination or
29 modification of a guardianship order appears warranted, the superior
30 court has been asked to take the corresponding action.

31 (12) The office shall adopt a process for receipt and consideration
32 of and response to complaints against the office and contracted
33 providers of public guardianship services. The process shall include
34 investigation in cases in which investigation appears warranted in the
35 judgment of the administrator. ~~((The office shall provide the advisory
36 committee with a summary and analysis of the results of these
37 complaints. When requested by the complaining party, his or her~~

1 ~~identity shall not be disclosed to the advisory committee created under~~
2 ~~section 5 of this act.))~~

3 (13) The office shall contract with the Washington state institute
4 for public policy for a study. An initial report is due two years
5 following July 22, 2007, and a second report by December 1, 2011. The
6 study shall analyze costs and off-setting savings to the state from the
7 delivery of public guardianship services.

8 (14) The office shall develop standardized forms and reporting
9 instruments that may include, but are not limited to, intake, initial
10 assessment, guardianship care plan, decisional accounting, staff time
11 logs, changes in condition or abilities of an incapacitated person, and
12 values history. The office shall collect and analyze the data gathered
13 from these reports ~~((and submit it to the advisory committee~~
14 ~~periodically))~~.

15 (15) The office shall identify training needs for guardians it
16 contracts with, and shall make recommendations ~~((, after consultation~~
17 ~~with the advisory committee,))~~ to the supreme court, the certified
18 professional guardian board, and the legislature for improvements in
19 guardianship training. The office may offer training to individuals
20 providing services pursuant to this chapter or to individuals who, in
21 the judgment of the administrator or the administrator's designee, are
22 likely to provide such services in the future.

23 (16) The office shall establish a system for monitoring the
24 performance of public guardians, and office staff shall make in-home
25 visits to a randomly selected sample of public guardianship clients.
26 The office may conduct further monitoring, including in-home visits, as
27 the administrator deems appropriate. For monitoring purposes, office
28 staff shall have access to any information relating to a public
29 guardianship client that is available to the guardian. ~~((The office~~
30 ~~shall confer with the advisory committee in developing its monitoring~~
31 ~~process.))~~

32 (17) During the first five years of its operations, the office
33 shall issue annual reports of its activities ~~((, after review of and~~
34 ~~comment by the advisory committee))~~.

Passed by the Senate March 6, 2009.

Passed by the House April 7, 2009.

Approved by the Governor April 16, 2009.

Filed in Office of Secretary of State April 17, 2009.