

FINAL BILL REPORT

SB 5692

C 304 L 13
Synopsis as Enacted

Brief Description: Concerning standby guardians and standby limited guardians.

Sponsors: Senators King, Harper, Conway, Eide and Tom.

Senate Committee on Law & Justice
House Committee on Judiciary

Background: A guardian is appointed by the court to make decisions on behalf of an incapacitated person. A guardian can be appointed to manage the affairs of the person, the estate, or both. The person can be appointed as a full guardian or a limited guardian. A limited guardianship is created when the court allows an incapacitated person to retain certain rights. A standby guardian is a person who acts as the guardian when the primary guardian is unavailable.

Within 90 days of appointment by the court, a guardian must file a notice designating a standby guardian to serve as guardian at the death or legal incapacity of the court-appointed guardian. Notice must be given to the standby guardian, the incapacitated person and incapacitated person's family, the facility where the incapacitated person resides – if applicable, and any person entitled to receive special notice or pleadings.

The standby guardian has the all the powers, duties, and obligations of the regularly appointed guardian. Within 30 days of the death or adjudication of the regularly appointed guardian, the standby guardian must file a petition for appointment of a substitute guardian in the superior court where the guardianship is being administered.

Upon the court's appointment of a new, substitute guardian, the standby guardian must make an accounting and report for approval by the court. Upon approval by the court, the standby guardian must be released from all duties and obligations arising from or out of the guardianship or limited guardianship.

Summary: A standby guardian may serve as the guardian during a planned absence of the court-appointed guardian. If the appointed guardian dies or becomes incapacitated, the standby guardian must have all the powers, duties, and obligations of the court-appointed guardian. The notice that a standby guardian must provide upon appointment includes the incapacitated person's spouse or domestic partner and adult children, and anyone who requested special notice.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A standby guardian may assume some or all of the duties, responsibilities, and powers of the guardian during the guardian's planned absence. Prior to the guardian's planned absence and to the standby guardian assuming the duties, responsibilities, and powers, the guardian must file a petition in the superior court where the guardianship is being administered stating the dates of the planned absence and the duties, responsibilities, and powers the standby guardian should assume. The guardian must give notice of the planned absence petition to the standby guardian, the incapacitated person and that person's spouse or registered domestic partner and adult children, any facility in which the incapacitated person resides, and any person who requested special notice.

Upon the conclusion of the hearing on the planned absence petition, and a determination by the court that the standby guardian meets the qualification requirements to act as a guardian, the court must issue an order specifying the following: (1) the amount of bond to be filed by the standby guardian; (2) the duties, responsibilities, and powers the standby guardian will assume during the planned absence; (3) the duration that the standby guardian will be acting; and (4) the expiration date of the letters of guardianship to be issued to the standby guardian.

Upon the court's approval of the standby guardian, letters of guardianship must be issued to the standby guardian upon filing an oath and posting a bond. The standby guardian must give notice of their appointment to the incapacitated person and that person's spouse or domestic partner and adult children, any facility in which the incapacitated person resides, and any person who requested special notice. The provisions governing bonds posted by regularly appointed guardians apply to standby guardians.

Votes on Final Passage:

Senate	48	0	
House	95	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 28, 2013.