

SENATE BILL REPORT

SB 5692

As Amended by House, April 12, 2013

Title: An act relating to standby guardians and limited guardians.

Brief Description: Concerning standby guardians and limited guardians.

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

Brief History:

Committee Activity: Law & Justice: 2/18/13, 2/21/13 [DP].

Passed Senate: 2/28/13, 48-0.

Passed House: 4/12/13, 95-0.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Padden, Chair; Carrell, Vice Chair; Kline, Ranking Member; Darneille, Kohl-Welles, Pearson and Roach.

Staff: Jessica Stevenson (786-7465)

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.

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.

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 of Bill: The standby guardian may serve as the guardian during a planned absence of the court-appointed guardian. The regularly appointed guardian may delegate decision-making authority to the standby guardian in advance of a planned absence.

If the regularly appointed guardian dies, becomes incapacitated, is out of the state, or is otherwise unavailable to fulfill their duties, the standby guardian must have all the powers, duties, and obligations of the regularly appointed guardian.

The standby guardian must receive notice of all proceedings.

The regularly appointed guardian must report quarterly, or when there is a substantial change in circumstances, to the designated standby guardian to keep the standby guardian adequately informed about the needs of the incapacitated person. The report can be made by phone or other reasonable means.

If the standby guardian must act due to the death, incapacity, or absence of the regularly appointed guardian, the standby guardian may apply to the court to be paid for fees and costs.

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.

Staff Summary of Public Testimony: PRO: A standby guardian needs to be more informed since the standby guardian may need to make a decision for the incapacitated person whenever the primary guardian is unavailable.

OTHER: The bill attempts to clarify communication with and duties of standby guardians, but the bill does not sufficiently address these issues.

Persons Testifying: PRO: Senator King, prime sponsor.

OTHER: Steve Lindstrom, WA Assn. of Professional Guardians.

House Amendment(s): The amendment strikes new provisions in the underlying bill that: (1) would require notice to all standby guardians of all proceedings; (2) would require quarterly reporting to all standby guardians; and (3) would specifically provide for fees and costs to standby guardians. The section regarding a regularly appointed guardian's planned absence is restructured, a new self-contained subsection permitting standby guardians to act in the event of

a guardian's planned absence is added, and the required procedures for naming a standby guardian are outlined. The effective date of May 1, 2014 is changed to 90 days after adjournment of the session in which it is passed. Minor changes are made to cross-references.