
Civil Rights & Judiciary Committee

HB 1258

Brief Description: Improving guardianship monitoring.

Sponsors: Representatives Jenkins, Harris, Tharinger, Kilduff, Ortiz-Self, Appleton, Wylie, Fey and Leavitt.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Creates a guardianship monitoring pilot program administered by the Administrative Office of the Courts.
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Hearing Date: 1/30/19

Staff: Ingrid Lewis (786-7289).

Background:

A guardian is an individual or entity appointed and empowered by the court to make decisions for either the person or the estate, or both, of an incapacitated person. A person may be deemed incapacitated when the court determines that there is a significant risk of personal harm based upon a demonstrated inability to adequately provide for nutrition, health, housing, or physical safety. Incapacity as to the person's estate means the person is at significant risk of financial harm based upon a demonstrated inability to adequately manage property or financial affairs. If a person is incapacitated in some aspects, but not others, a limited guardian may be appointed over the person, the estate, or both, to make decisions regarding the areas in which the person is incapacitated.

In Washington there are professional guardians, public guardians, and lay guardians. A professional guardian is an individual appointed by the court who is not a member of the incapacitated person's family and who charges fees for carrying out duties. In addition to court supervision, professional guardians are certified and regulated by the Certified Professional Guardianship Board. A public guardian is a certified professional guardian who contracts with the Office of Public Guardianship (OPG) to provide services to low income individuals. A lay

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guardian is generally a family member or friend of the person subject to guardianship. They are usually a volunteer who is not paid to perform guardianship services.

Any individual may petition the court to appoint a guardian for an alleged incapacitated person. Following a hearing, the court may establish the extent and duration of the guardian's power as a decisionmaker for the incapacitated person. Superior courts retain ultimate responsibility for protecting an incapacitated person. Superior courts are responsible for monitoring guardianships and do some form of monitoring as required by statute. These monitoring practices vary widely by jurisdiction. Some courts utilize court administrators, the clerk's office, or Superior Court judges or commissioners to monitor and review a guardian's reports and accountings; others use court officers to oversee monitoring programs. Generally, these programs are volunteer-based court-sponsored efforts. Guardianship monitoring programs are not required by state law, and there are no statewide standards for monitoring programs.

Administrative Office of the Courts.

The Administrative Office of the Courts (AOC) develops and implements uniform systems, policies, and administrative methods for the state's judicial system. In 2007 the OPG was created within the AOC to provide public guardianship services to incapacitated persons who need the services of a guardian and for whom adequate services may be otherwise unavailable.

Summary of Bill:

A guardianship monitoring pilot program administered by the Administrative Office of the Courts (AOC) is created. The AOC will select three pilot sites: two in a superior court district without a monitoring program; and one in a superior court district with an existing program. The AOC is required to develop uniform data points to be maintained and tracked by the sites and is required to develop an evaluation tool to assess the sites. Each site must have a full-time program manager to oversee a formal volunteer monitoring program; a full-time guardianship specialist to assist with trainings and information and referrals; and a courthouse facilitator as authorized in statute. Each site is required to develop an education component in collaboration with community stakeholders. The AOC is required to submit a report to the Legislature within one year of the start of the full operation of the pilot sites.

Appropriation: None.

Fiscal Note: Requested on January 23, 2019.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.