

HOUSE BILL REPORT

HB 1258

As Reported by House Committee On:
Civil Rights & Judiciary

Title: An act relating to improving guardianship monitoring.

Brief Description: Improving guardianship monitoring.

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

Brief History:

Committee Activity:

Civil Rights & Judiciary: 1/30/19, 2/8/19 [DP].

Brief Summary of Bill

- Creates a guardianship monitoring pilot program administered by the Administrative Office of the Courts.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: Do pass. Signed by 14 members: Representatives Jinkins, Chair; Thai, Vice Chair; Irwin, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Goodman, Graham, Hansen, Kilduff, Kirby, Klippert, Orwall, Valdez, Walen and Ybarra.

Minority Report: Do not pass. Signed by 1 member: Representative Shea.

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

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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 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: Available.

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

Staff Summary of Public Testimony:

(In support) There are many guardians in the system with varying degrees of knowledge about the law. Due to volume the courts are limited in their ability to monitor guardianships closely. Spokane County has one of the more advanced monitoring programs in the state.

The guardianship process is overwhelming, arduous, and difficult to navigate for nonattorneys. Attorneys are costly and time consuming, and the cost of a professional guardian is high. A person receives a stack of forms from the clerk's office and often has to figure out how to complete them without any assistance. The online training required for lay guardians is great, but it comes too late in the process. Lay guardians need help, and this bill would help the public understand the system. This bill creates a clear monitoring system with an incredibly important educational component specific to the county a family member is filing in.

(Opposed) None.

Persons Testifying: Representative Jinkins, prime sponsor; Shannon Beigert; Glenda Faatoafe; Demas Nesterenko, Service Employees International Union 775; Steve Lindstrom, Washington Association of Professional Guardians; and David Lord, Disability Rights Washington.

Persons Signed In To Testify But Not Testifying: None.