

FINAL BILL REPORT

SHB 1876

C 236 L 05

Synopsis as Enacted

Brief Description: Expanding voting rights of persons under guardianship.

Sponsors: By House Committee on State Government Operations & Accountability (originally sponsored by Representatives Green, Haler, Moeller, Darneille, Haigh, Miloscia and Upthegrove).

House Committee on State Government Operations & Accountability
Senate Committee on Government Operations & Elections

Background:

The superior court of each county has the authority to appoint guardians for persons and/or estates of incapacitated persons. A person may be deemed incapacitated when the court determines that the individual poses a significant risk of personal or financial harm. Incapacity is a legal, not medical, determination.

An incapacitated person subject to a limited guardianship may not lose the right to vote unless the court determines that the person cannot rationally exercise the franchise. An incapacitated person subject to a full guardianship may not vote unless the court specifically finds that the person is rationally capable of exercising the franchise.

Summary:

The Legislature finds that the right to vote is a fundamental liberty which should not be confiscated without due process, including clear notice and a meaningful opportunity to be heard. The Legislature additionally finds that any restriction of voting rights through guardianship proceedings should be narrowly tailored to meet the compelling interest of the state in ensuring that those who vote understand the nature and effect of their actions.

An incapacitated person under either limited or full guardianship will not lose the right to vote unless a court specifically determines the person to be incapable of rationally exercising the franchise in that the individual cannot understand the nature and effect of voting and cannot make an individual choice.

The court must make a clear determination regarding the voting rights of the individual when a guardianship is created.

Votes on Final Passage:

House	96	0
Senate	39	6

Effective: July 24, 2005
January 1, 2006 (Section 3)