

SSB 5320 - H COMM AMD
By Committee on Appropriations

ADOPTED AS AMENDED 04/09/2007

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** In establishing an office of public
4 guardianship, the legislature intends to promote the availability of
5 guardianship services for individuals who need them and for whom
6 adequate services may otherwise be unavailable. The legislature
7 reaffirms its commitment to treat liberty and autonomy as paramount
8 values for all Washington residents and to authorize public
9 guardianship only to the minimum extent necessary to provide for health
10 or safety, or to manage financial affairs, when the legal conditions
11 for appointment of a guardian are met. It does not intend to alter
12 those legal conditions or to expand judicial authority to determine
13 that any individual is incapacitated.

14 NEW SECTION. **Sec. 2.** The definitions in this section apply
15 throughout this chapter unless the context clearly requires otherwise.

16 (1) "Office" means the office of public guardianship.

17 (2) "Public guardian" means an individual or entity providing
18 public guardianship services.

19 (3) "Public guardianship services" means the services provided by
20 a guardian or limited guardian appointed under chapters 11.88 and 11.92
21 RCW, who is compensated under a contract with the office of public
22 guardianship.

23 (4) "Long-term care services" means services provided through the
24 department of social and health services either in a hospital or
25 skilled nursing facility, or in another setting under a home and
26 community-based waiver authorized under 42 U.S.C. Sec. 1396n.

27 NEW SECTION. **Sec. 3.** (1) There is created an office of public
28 guardianship as an independent agency of the judicial branch.

1 (2) The supreme court shall appoint a public guardianship
2 administrator to establish and administer a public guardianship program
3 in the office of public guardianship. The public guardianship
4 administrator serves at the pleasure of the supreme court.

5 NEW SECTION. **Sec. 4.** The public guardianship administrator is
6 authorized to establish and administer a public guardianship program as
7 follows:

8 (1)(a) The office shall contract with public or private entities or
9 individuals to provide public guardianship services to persons age
10 eighteen or older whose income does not exceed two hundred percent of
11 the federal poverty level determined annually by the United States
12 department of health and human services or who are receiving long-term
13 care services through the Washington state department of social and
14 health services. Neither the public guardianship administrator nor the
15 office may act as public guardian or limited guardian or act in any
16 other representative capacity for any individual.

17 (b) The office is exempt from RCW 39.29.008 because the primary
18 function of the office is to contract for public guardianship services
19 that are provided in a manner consistent with the requirements of this
20 chapter. The office shall otherwise comply with chapter 39.29 RCW and
21 is subject to audit by the state auditor.

22 (c) Public guardianship service contracts are dependent upon
23 legislative appropriation. This chapter does not create an
24 entitlement.

25 (d) The initial implementation of public guardianship services
26 shall be on a pilot basis in a minimum of two geographical areas that
27 include one urban area and one rural area. There may be one or several
28 contracts in each area.

29 (2) The office shall, within one year of the commencement of its
30 operation, adopt eligibility criteria to enable it to serve individuals
31 with the greatest need when the number of cases in which courts propose
32 to appoint a public guardian exceeds the number of cases in which
33 public guardianship services can be provided. In adopting such
34 criteria, the office may consider factors including, but not limited
35 to, the following: Whether an incapacitated individual is at
36 significant risk of harm from abuse, exploitation, abandonment,
37 neglect, or self-neglect; and whether an incapacitated person is in

1 imminent danger of loss or significant reduction in public services
2 that are necessary for the individual to live successfully in the most
3 integrated and least restrictive environment that is appropriate in
4 light of the individual's needs and values.

5 (3) The office shall adopt minimum standards of practice for public
6 guardians providing public guardianship services. Any public guardian
7 providing such services must be certified by the certified professional
8 guardian board established by the supreme court.

9 (4) The office shall require a public guardian to visit each
10 incapacitated person for which public guardianship services are
11 provided no less than monthly to be eligible for compensation.

12 (5) The office shall not petition for appointment of a public
13 guardian for any individual. It may develop, and shall consult with
14 the advisory committee regarding the need to develop, a proposal for
15 the legislature to make affordable legal assistance available to
16 petition for guardianships.

17 (6) The office shall not authorize payment for services for any
18 entity that is serving more than twenty incapacitated persons per
19 certified professional guardian.

20 (7) The office shall monitor and oversee the use of state funding
21 to ensure compliance with this chapter.

22 (8) The office shall collect uniform and consistent basic data
23 elements regarding service delivery. This data shall be made available
24 to the legislature and supreme court in a format that is not
25 identifiable by individual incapacitated person to protect
26 confidentiality.

27 (9) The office shall report to the legislature on how services
28 other than guardianship services, and in particular services that might
29 reduce the need for guardianship services, might be provided under
30 contract with the office by December 1, 2009. The services to be
31 considered should include, but not be limited to, services provided
32 under powers of attorney given by the individuals in need of the
33 services.

34 (10) The office shall submit a biennial budget request.

35 (11) The office shall require public guardianship providers to seek
36 reimbursement of fees from program clients who are receiving long-term
37 care services through the department of social and health services to
38 the extent, and only to the extent, that such reimbursement may be

1 paid, consistent with an order of the superior court, from income that
2 would otherwise be required by the department to be paid toward the
3 cost of the client's care. Fees reimbursed shall be remitted by the
4 provider to the office unless a different disposition is directed by
5 the public guardianship administrator.

6 (12) The office shall require public guardianship providers to
7 certify annually that for each individual served they have reviewed the
8 need for continued public guardianship services and the appropriateness
9 of limiting, or further limiting, the authority of the public guardian
10 under the applicable guardianship order, and that where termination or
11 modification of a guardianship order appears warranted, the superior
12 court has been asked to take the corresponding action.

13 (13) The office shall adopt a process for receipt and consideration
14 of and response to complaints against the office and contracted
15 providers of public guardianship services. The process shall include
16 investigation in cases in which investigation appears warranted in the
17 judgment of the administrator. The office shall provide the advisory
18 committee with a summary and analysis of the results of these
19 complaints. When requested by the complaining party, his or her
20 identity shall not be disclosed to the advisory committee created under
21 section 5 of this act.

22 (14) The office shall contract with the Washington state institute
23 for public policy for a study. An initial report is due two years
24 following the effective date of this section and a second report by
25 December 1, 2011. The study shall analyze costs and off-setting
26 savings to the state from the delivery of public guardianship services.

27 (15) The office shall develop standardized forms and reporting
28 instruments that may include, but are not limited to, intake, initial
29 assessment, guardianship care plan, decisional accounting, staff time
30 logs, changes in condition or abilities of an incapacitated person, and
31 values history. The office shall collect and analyze the data gathered
32 from these reports and submit it to the advisory committee
33 periodically.

34 (16) The office shall identify training needs for guardians it
35 contracts with, and shall make recommendations, after consultation with
36 the advisory committee, to the supreme court, the certified
37 professional guardian board, and the legislature for improvements in

1 guardianship training. The office may offer training to individuals
2 providing services pursuant to this chapter.

3 (17) The office shall establish a system for monitoring the
4 performance of public guardians, and office staff shall make in-home
5 visits to a randomly selected sample of public guardianship clients.
6 The office may conduct further monitoring, including in-home visits, as
7 the administrator deems appropriate. For monitoring purposes, office
8 staff shall have access to any information relating to a public
9 guardianship client that is available to the guardian. The office
10 shall confer with the advisory committee in developing its monitoring
11 process.

12 (18) During the first five years of its operations, the office
13 shall issue annual reports of its activities, after review of and
14 comment by the advisory committee.

15 NEW SECTION. **Sec. 5.** (1) There is created a public guardianship
16 advisory committee consisting of the following members:

- 17 (a) Two persons appointed by the supreme court;
- 18 (b) Two persons appointed by the board for judicial administration;
- 19 (c) Two senators, one from each of the two largest caucuses,
20 appointed by the president of the senate; and two members of the house
21 of representatives, one from each of the two largest caucuses,
22 appointed by the speaker of the house of representatives;
- 23 (d) One person appointed by the governor;
- 24 (e) One person appointed by the secretary of the department of
25 social and health services;
- 26 (f) Two persons appointed by the director of the Washington
27 protection and advocacy system;
- 28 (g) One person appointed by the chairperson of the governor's
29 committee on disability issues and employment;
- 30 (h) Two persons appointed by the chairperson of the developmental
31 disabilities council;
- 32 (i) One person appointed by the long-term care ombudsman;
- 33 (j) One person appointed by the Washington state bar association;
- 34 and
- 35 (k) One person appointed by the dean of the University of
36 Washington school of social work.

1 (2) During the term of his or her appointment, an appointee may not
2 be employed by a provider of public guardianship services.

3 (3) Except as provided in subsection (4) of this section, members
4 shall each serve a three-year term, subject to renewal for no more than
5 one additional three-year term.

6 (4) The first appointments to the advisory committee shall be for
7 terms of varying durations as follows: By the supreme court for two
8 and four years; by the board for judicial administration for three and
9 four years; by the president of the senate for two and three years; by
10 the speaker of the house of representatives for two and three years; by
11 the governor for four years; by the secretary of the department of
12 social and health services for two years; by the director of the
13 Washington protection and advocacy system for one and three years; by
14 the chairperson of the governor's committee on disability issues and
15 employment for four years; by the chairperson of the developmental
16 disabilities council for two and four years; by the long-term care
17 ombudsman for three years; by the Washington state bar association for
18 three years; and by the dean of the University of Washington school of
19 social work for four years.

20 (5) Members of the advisory committee receive no compensation for
21 their services as members of the advisory committee, but may be
22 reimbursed for travel and other expenses in accordance with rules
23 adopted by the office of financial management.

24 (6) The advisory committee: Shall review the activities of the
25 office; shall review the performance of the public guardianship
26 administrator; and may make recommendations to the supreme court, the
27 certified professional guardian board, and the legislature on issues
28 relating to the provision of public guardianship services.

29 (7) The meetings of the advisory committee shall be open to the
30 public, with agendas published in advance and minutes kept and made
31 available to the public. The public notice of all meetings shall
32 indicate that accommodations for disability will be available upon
33 request.

34 NEW SECTION. **Sec. 6.** The courts shall waive court costs and
35 filing fees in any proceeding in which an incapacitated person is
36 receiving public guardianship services funded under this chapter.

1 NEW SECTION. **Sec. 7.** The public guardianship administrator may
2 develop rules to implement this chapter. The administrator shall
3 request and consider recommendations from the advisory committee in the
4 development of rules.

5 NEW SECTION. **Sec. 8.** If any provision of this act or its
6 application to any person or circumstance is held invalid, the
7 remainder of the act or the application of the provision to other
8 persons or circumstances is not affected.

9 NEW SECTION. **Sec. 9.** Sections 1 through 8 of this act constitute
10 a new chapter in Title 2 RCW."

11 Correct the title.

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