

SSB 5320 - H COMM AMD  
By Committee on Appropriations

ADOPTED AND ENGROSSED 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 within the administrative office of the courts.

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 require public guardianship providers to seek  
35 reimbursement of fees from program clients who are receiving long-term  
36 care services through the department of social and health services to  
37 the extent, and only to the extent, that such reimbursement may be  
38 paid, consistent with an order of the superior court, from income that

1 would otherwise be required by the department to be paid toward the  
2 cost of the client's care. Fees reimbursed shall be remitted by the  
3 provider to the office unless a different disposition is directed by  
4 the public guardianship administrator.

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

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

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

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

33 (15) The office shall identify training needs for guardians it  
34 contracts with, and shall make recommendations, after consultation with  
35 the advisory committee, to the supreme court, the certified  
36 professional guardian board, and the legislature for improvements in  
37 guardianship training. The office may offer training to individuals  
38 providing services pursuant to this chapter.

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

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

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

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

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

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

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

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

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

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

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

35 NEW SECTION. **Sec. 7.** The public guardianship administrator may

1 develop rules to implement this chapter. The administrator shall  
2 request and consider recommendations from the advisory committee in the  
3 development of rules.

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

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

10 Correct the title.

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