

SENATE BILL REPORT

SB 5740

As of February 14, 2011

Title: An act relating to preventing predatory guardianships of incapacitated adults.

Brief Description: Preventing predatory guardianships of incapacitated adults.

Sponsors: Senators Kastama, Chase and Roach.

Brief History:

Committee Activity: Human Services & Corrections: 2/17/11.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Staff: Kevin Black (786-7747)

Background: Any person or entity may petition the court for the appointment of a guardian or limited guardian for an incapacitated person. The court must appoint a guardian ad litem to represent the allegedly incapacitated person in the guardianship proceeding.

Summary of Bill: The court must provide information to a petitioner in a guardianship proceeding. The minimum time for service by registered or certified mail before a guardianship hearing is increased from ten to 15 days. A written request to modify or terminate a guardianship by an unrepresented party must be deemed by the court as a motion for an order to show cause why the motion should not be granted. The court must schedule a hearing on such a request unless the request appears to be frivolous. A burden of proof is placed on the guardian to establish that the guardian has met all the guardian's duties. The court must grant a request to remove a guardian and appoint a new guardian if it is made within the first year of the guardianship and no previous request has been made. When recommending a guardian, a guardian ad litem must disclose in writing any relationship or circumstance that would cause the appearance of a conflict of interest to the court, family members of the incapacitated person, and anyone else who has requested notice. Any searchable database available to the public containing information about certified professional guardians must include information about complaints and legal proceedings related to the guardian. The Administrative Office of the Courts and the Long-Term Care Ombudsman must publish information about guardianships on a website.

Appropriation: None.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Fiscal Note: Requested on February 9, 2011.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.