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**HOUSE BILL 2869**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Representatives Jinkins, Rodne, and Kuderer

AN ACT Relating to preventing guardians from isolating incapacitated persons; and adding a new section to chapter 11.88 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  A new section is added to chapter 11.88 RCW to read as follows:

(1) Any action by a guardian or limited guardian to prevent or limit contact between an incapacitated person and another must be made by motion to the court having jurisdiction over the guardianship. The person against whom such an order is sought must receive notice and must have not less than fourteen days to respond to any allegations set forth in the motion. In order to limit such contact the guardian or limited guardian must prove by a preponderance of the evidence that the incapacitated person will suffer substantial harm as a result of actions by the person against whom such an order is sought. The guardian or limited guardian seeking such an order bears the burden of proof.

(2) A hearing on the matter must proceed with all testimony taken under oath. Medical testimony may be entered by declaration. Any court order preventing or limiting contact between an incapacitated person and another person must be based upon written findings of fact and conclusions of law. If the motion is granted in whole or in part, the findings of fact and conclusions of law must specify the manner in which the order furthers the best interests of the incapacitated person. The court must set forth the substantial harm the incapacitated person will suffer if contact is not severed or limited and the basis thereof. The scope of such an order may not be more restrictive than is necessary to prevent substantial harm. Any such order entered pertaining to this section must contain language setting forth the right of the person or persons subject to the order to appeal the court's decision and setting forth whether that challenge, pursuant to the jurisdiction hearing the matter, should be made through revision, reconsideration, or appeal and setting forth the timeline for any such action.

(3) If a guardian or limited guardian has reasonable objective grounds to believe that contact between an incapacitated person and a specified person or persons is necessary to protect the incapacitated person from imminent substantial harm then the guardian or limited guardian may prevent or limit contact with the specified person or persons for the period of time necessary to provide notice to those individuals affected, and to prepare and file a motion or petition for a court order, but in no case for more than fourteen days.

**--- END ---**