

# SENATE BILL REPORT

## SB 5607

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As of January 30, 2015

**Title:** An act relating to complaint procedure for the modification or termination of guardianship.

**Brief Description:** Concerning the complaint procedure for the modification or termination of guardianship.

**Sponsors:** Senators Conway, Dammeier, Darneille, O'Ban and Padden.

**Brief History:**

**Committee Activity:** Human Services, Mental Health & Housing: 2/02/15.

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### SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

**Staff:** Lindsay Erickson (786-7465)

**Background:** Any person or entity may petition the court for the appointment of a guardian or limited guardian for an allegedly incapacitated person. Incapacitated means that the individual has a significant risk of personal harm based upon a demonstrated inability to adequately provide for nutrition, health, housing, or physical safety. A guardian may be a lay guardian, generally a family member or friend of the alleged incapacitated person, or a professional guardian, who charges a fee to provide guardianship services. Professional guardians are regulated by the Certified Professional Guardianship Board. The court has supervisory power over guardianships, and may modify a guardianship or remove a guardian upon petition and showing of good cause. A guardian ad litem must be appointed to represent an allegedly incapacitated person during the guardianship proceeding.

**Summary of Bill:** The court may modify the authority of a guardian or limited guardian if the guardian has died or for good reason. This action may be taken on the court's own motion, based on a motion by an attorney for a person or entity, based on a motion of a person or entity representing themselves, or based on a written complaint. The court may grant relief as it deems just and in the best interest of the incapacitated person.

An unrepresented person or entity may submit a complaint to the court. Complaints must be addressed to one of the following designees of the court: the clerk of the court having jurisdiction in the guardianship, the court administrator, or the guardianship monitoring program. The complaint must:

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- identify the complainant;
- identify the incapacitated person who is the subject of the guardianship;
- provide the complainant's address;
- provide the case number, if available;
- provide the address of the incapacitated person, if available; and
- state facts to support the claim.

By the next judicial day after receipt of a complaint from an unrepresented person, the court's designee must ensure the original complaint is filed and deliver the complaint to the court. Within 14 days of being presented with a complaint, the court must enter an order to do one or more of the following actions:

1. show cause, with 14 days' notice, directing the guardian to appear at a hearing set by the court in order to respond to the complaint;
2. appoint a guardian ad litem to investigate the issues raised by the complaint or take any emergency action the court deems necessary to protect the incapacitated person until a hearing can be held;
3. dismiss the complaint without scheduling a hearing, if it appears to the court that the complaint:
  - a. is without merit on its face;
  - b. is not filed in good faith;
  - c. is filed for an improper purpose;
  - d. regards issues that have already been adjudicated; or
  - e. is frivolous;
4. direct the guardian to provide, in not less than 14 days, a written report to the court on the issues raised in the complaint;
5. defer consideration of the complaint until the next regularly scheduled hearing in the guardianship, if the date of that hearing is within the next three months, provided that there is no indication that the incapacitated person will suffer physical, emotional, financial, or other harm as a result of the court's deferral of consideration; or
6. order another action, in the court's discretion, in addition to doing one or more of the actions set out in this subsection.

The Certified Professional Guardianship Board may send a grievance it has received regarding an active guardian case to the court's designee with a request that the court review the grievance and take any action the court deems necessary. This type of request from the board must be treated as a complaint under this section and the person who sent the complaint must be treated as the complainant. The court must direct the clerk to transmit a copy of its order to the board. Any further action taken by the board must be consistent with the court order.

**Appropriation:** None.

**Fiscal Note:** Requested on January 29, 2015.

**Committee/Commission/Task Force Created:** No.

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