
HOUSE BILL 2869

State of Washington 64th Legislature 2016 Regular Session

By Representatives Jenkins, Rodne, and Kuderer

Read first time 01/25/16. Referred to Committee on Judiciary.

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

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 11.88
5 RCW to read as follows:

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

17 (2) A hearing on the matter must proceed with all testimony taken
18 under oath. Medical testimony may be entered by declaration. Any
19 court order preventing or limiting contact between an incapacitated
20 person and another person must be based upon written findings of fact
21 and conclusions of law. If the motion is granted in whole or in part,

1 the findings of fact and conclusions of law must specify the manner
2 in which the order furthers the best interests of the incapacitated
3 person. The court must set forth the substantial harm the
4 incapacitated person will suffer if contact is not severed or limited
5 and the basis thereof. The scope of such an order may not be more
6 restrictive than is necessary to prevent substantial harm. Any such
7 order entered pertaining to this section must contain language
8 setting forth the right of the person or persons subject to the order
9 to appeal the court's decision and setting forth whether that
10 challenge, pursuant to the jurisdiction hearing the matter, should be
11 made through revision, reconsideration, or appeal and setting forth
12 the timeline for any such action.

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

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