
ENGROSSED SUBSTITUTE SENATE BILL 5607

State of Washington

64th Legislature

2015 Regular Session

By Senate Human Services, Mental Health & Housing (originally sponsored by Senators Conway, Dammeier, Darneille, O'Ban, and Padden)

READ FIRST TIME 02/20/15.

1 AN ACT Relating to complaint procedure for the modification or
2 termination of guardianship; and amending RCW 11.88.120.

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

4 **Sec. 1.** RCW 11.88.120 and 1991 c 289 s 7 are each amended to
5 read as follows:

6 (1) At any time after establishment of a guardianship or
7 appointment of a guardian, the court may, upon the death of the
8 guardian or limited guardian, or, for other good reason, modify or
9 terminate the guardianship or replace the guardian or limited
10 guardian((-

11 ~~(2) Any person, including an incapacitated person, may apply to~~
12 ~~the court for an order to modify or terminate a guardianship or to~~
13 ~~replace a guardian or limited guardian. If applicants are represented~~
14 ~~by counsel, counsel shall move for an order to show cause why the~~
15 ~~relief requested should not be granted. If applicants are not~~
16 ~~represented by counsel, they may move for an order to show cause, or~~
17 ~~they may deliver a written request to the clerk of the court.~~

18 ~~(3) By the next judicial day after receipt of an unrepresented~~
19 ~~person's request to modify or terminate a guardianship order, or to~~
20 ~~replace a guardian or limited guardian, the clerk shall deliver the~~
21 ~~request to the court. The court may (a) direct the clerk to schedule~~

1 a hearing, (b) appoint a guardian ad litem to investigate the issues
2 raised by the application or to take any emergency action the court
3 deems necessary to protect the incapacitated person until a hearing
4 can be held, or (c) deny the application without scheduling a
5 hearing, if it appears based on documents in the court file that the
6 application is frivolous. Any denial of an application without a
7 hearing shall be in writing with the reasons for the denial
8 explained. A copy of the order shall be mailed by the clerk to the
9 applicant, to the guardian, and to any other person entitled to
10 receive notice of proceedings in the matter. Unless within thirty
11 days after receiving the request from the clerk the court directs
12 otherwise, the clerk shall schedule a hearing on the request and mail
13 notice to the guardian, the incapacitated person, the applicant, all
14 counsel of record, and any other person entitled to receive notice of
15 proceedings in the matter.

16 (4) In a hearing on an application to modify or terminate a
17 guardianship, or to replace a guardian or limited guardian, the court
18 may grant such relief as it deems just and in the best interest of
19 the incapacitated person.

20 (5)) or modify the authority of a guardian or limited guardian.
21 Such action may be taken based on the court's own motion, based on a
22 motion by an attorney for a person or entity, based on a motion of a
23 person or entity representing themselves, or based on a written
24 complaint, as described in this section. The court may grant relief
25 under this section as it deems just and in the best interest of the
26 incapacitated person.

27 (2)(a) An unrepresented person or entity may submit a complaint
28 to the court. Complaints must be addressed to one of the following
29 designees of the court: The clerk of the court having jurisdiction in
30 the guardianship, the court administrator, or the guardianship
31 monitoring program, and must identify the complainant and the
32 incapacitated person who is the subject of the guardianship. The
33 complaint must also provide the complainant's address, the case
34 number (if available), and the address of the incapacitated person
35 (if available). The complaint must state facts to support the claim.

36 (b) By the next judicial day after receipt of a complaint from an
37 unrepresented person, the court's designee must ensure the original
38 complaint is filed and deliver the complaint to the court.

39 (c) Within fourteen days of being presented with a complaint, the
40 court must enter an order to do one or more of the following actions:

1 (i) To show cause, with fourteen days' notice, directing the
2 guardian to appear at a hearing set by the court in order to respond
3 to the complaint;

4 (ii) To appoint a guardian ad litem to investigate the issues
5 raised by the complaint or to take any emergency action the court
6 deems necessary to protect the incapacitated person until a hearing
7 can be held;

8 (iii) To dismiss the complaint without scheduling a hearing, if
9 it appears to the court that the complaint: Is without merit on its
10 face; is filed in other than good faith; is filed for an improper
11 purpose; regards issues that have already been adjudicated; or is
12 frivolous. In making a determination, the court may review the matter
13 and consider previous behavior of the complainant that is documented
14 in the guardianship record;

15 (iv) To direct the guardian to provide, in not less than fourteen
16 days, a written report to the court on the issues raised in the
17 complaint;

18 (v) To defer consideration of the complaint until the next
19 regularly scheduled hearing in the guardianship, if the date of that
20 hearing is within the next three months, provided that there is no
21 indication that the incapacitated person will suffer physical,
22 emotional, financial, or other harm as a result of the court's
23 deferral of consideration;

24 (vi) To order other action, in the court's discretion, in
25 addition to doing one or more of the actions set out in this
26 subsection.

27 (d) If after consideration of the complaint, the court believes
28 that the complaint is made without justification or for reason to
29 harass or delay or with malice or other bad faith, the court has the
30 power to levy necessary sanctions, including but not limited to the
31 imposition of reasonable attorney fees, costs, fees, striking
32 pleadings, or other appropriate relief.

33 (3) The court may order persons who have been removed as
34 guardians to deliver any property or records belonging to the
35 incapacitated person in accordance with the court's order. Similarly,
36 when guardians have died or been removed and property or records of
37 an incapacitated person are being held by any other person, the court
38 may order that person to deliver it in accordance with the court's
39 order. Disobedience of an order to deliver shall be punishable as
40 contempt of court.

1 (4) The administrative office of the courts must develop and
2 prepare in consultation with interested persons, a model form for the
3 complaint described in subsection (2)(a) of this section and a model
4 form for the order that must be issued by the court under subsection
5 (2)(c) of this section.

6 (5) The board may send a grievance it has received regarding an
7 active guardian case to the court's designee with a request that the
8 court review the grievance and take any action the court deems
9 necessary. This type of request from the board must be treated as a
10 complaint under this section and the person who sent the complaint
11 must be treated as the complainant. The court must direct the clerk
12 to transmit a copy of its order to the board. Any further action
13 taken by the board must be consistent with the court order.

14 (6) In any court action under this section that involves a
15 professional guardian, the court must direct the clerk of the court
16 to send a copy of the order entered under this section to the board.

17 (7) The definitions in this subsection apply throughout this
18 section unless the context clearly requires otherwise.

19 (a) "Board" means the certified professional guardianship board.

20 (b) "Complaint" means a written submission by an unrepresented
21 person or entity, who is referred to as the complainant.

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