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**SENATE BILL 5665**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senator Wagoner

AN ACT Relating to allowing courts to order appropriate hospital discharge and transition to long-term care services or residence for an individual in a hospital during the pendency of a guardianship process; and adding a new section to chapter 11.130 RCW.

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

NEW SECTION. **Sec.**  A new section is added to chapter 11.130 RCW to read as follows:

(1) Upon a motion by an interested party, or on its own accord, the court, having determined that the respondent lacks the ability to meet essential requirements for physical health, safety, or self-care because the respondent is unable to receive and evaluate information or make or communicate decisions, even with appropriate supportive services, technological assistance, or supported decision making and unable to make appropriate discharge and care planning decisions for themselves and after notice is given to the parties as provided in RCW 11.130.270(2) (a) through (c) and notice is provided to any other notice party, and after an opportunity for hearing, which may be shortened on the court's discretion, may issue an order in a proceeding for a protective arrangement, emergency guardianship, guardianship, or conservatorship, granting an appropriate third person limited decision-making authority in order to do any or all of the following:

(a) Discharge the respondent from an acute care hospital licensed under chapter 70.41 RCW, a psychiatric hospital licensed under chapter 71.12 RCW, or a state psychiatric hospital licensed under chapter 72.23 RCW. The respondent must be ready for discharge as determined by the treating physician;

(b) Effect the transfer of the respondent into an appropriate care setting that is desired by the respondent or an appropriate third person if the respondent is unable to express their desires and is consistent with RCW 11.130.330(7);

(c) Apply for medicaid long-term care benefits or other public benefits and authorize available services on behalf of the respondent including, but not limited to, authorization of negotiated care plans; or

(d) Exercise other authority the court deems appropriate to effectuate appropriate hospital discharge and transition to long-term care services or residence, including authority to relocate the respondent if a long-term care or residence placement is determined by the facility, the respondent, or the appropriate third person to be an inappropriate setting for the respondent.

(2) For purposes of this section, an "appropriate third person" means a spouse or registered domestic partner of the respondent, children of the respondent who are at least 18 years of age, parents of the respondent, or adult siblings of the respondent. The court may assess the knowledge, skills, and abilities of an appropriate third person to make decisions that are based on the known desires of the respondent and in the respondent's best interests.

(3) An appropriate third person authorized to make decisions under this section must make decisions in accordance with RCW 11.130.325 and does not have authority to dispose of the respondent's property except as specifically authorized by court order.

(4) An appropriate third person authorized to make decisions under this section is required to notify any potential care setting or care provider of the pending proceeding under this chapter in writing before the respondent's facility contract and care plan are finalized.

(5) The authority for an appropriate third person to provide consent under this section must terminate no later than when the pending proceeding under this chapter is resolved.

(6) The court may set a reasonable schedule of reporting requirements in order to monitor any decisions and outcomes as authorized by the court order.

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