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SENATE BILL 5699

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State of Washington                      61st Legislature                      2009 Regular Session

By Senators Franklin, Kline, and Parlette

Read first time 01/29/09. Referred to Committee on Judiciary.

1            AN ACT Relating to the office of public guardianship; and amending  
2            RCW 2.72.030.

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

4            **Sec. 1.** RCW 2.72.030 and 2007 c 364 s 4 are each amended to read  
5            as follows:

6            The public guardianship administrator is authorized to establish  
7            and administer a public guardianship program as follows:

8            (1)(a) The office shall contract with public or private entities or  
9            individuals to provide public guardianship services to persons age  
10            eighteen or older whose income does not exceed two hundred percent of  
11            the federal poverty level determined annually by the United States  
12            department of health and human services or who are receiving long-term  
13            care services through the Washington state department of social and  
14            health services. Neither the public guardianship administrator nor the  
15            office may act as public guardian or limited guardian or act in any  
16            other representative capacity for any individual.

17            (b) The office is exempt from RCW 39.29.008 because the primary  
18            function of the office is to contract for public guardianship services

1 that are provided in a manner consistent with the requirements of this  
2 chapter. The office shall otherwise comply with chapter 39.29 RCW and  
3 is subject to audit by the state auditor.

4 (c) Public guardianship service contracts are dependent upon  
5 legislative appropriation. This chapter does not create an  
6 entitlement.

7 (d) The initial implementation of public guardianship services  
8 shall be on a pilot basis in a minimum of two geographical areas that  
9 include one urban area and one rural area. There may be one or several  
10 contracts in each area.

11 (2) The office shall, within one year of the commencement of its  
12 operation, adopt eligibility criteria to enable it to serve individuals  
13 with the greatest need when the number of cases in which courts propose  
14 to appoint a public guardian exceeds the number of cases in which  
15 public guardianship services can be provided. In adopting such  
16 criteria, the office may consider factors including, but not limited  
17 to, the following: Whether an incapacitated individual is at  
18 significant risk of harm from abuse, exploitation, abandonment,  
19 neglect, or self-neglect; and whether an incapacitated person is in  
20 imminent danger of loss or significant reduction in public services  
21 that are necessary for the individual to live successfully in the most  
22 integrated and least restrictive environment that is appropriate in  
23 light of the individual's needs and values.

24 (3) The office shall adopt minimum standards of practice for public  
25 guardians providing public guardianship services. Any public guardian  
26 providing such services must be certified by the certified professional  
27 guardian board established by the supreme court.

28 (4) The office shall require a public guardian to visit each  
29 incapacitated person for which public guardianship services are  
30 provided no less than monthly to be eligible for compensation.

31 (5) The office shall not petition for appointment of a public  
32 guardian for any individual. It may develop(~~(, and shall consult with~~  
33 ~~the advisory committee regarding the need to develop,~~) a proposal for  
34 the legislature to make affordable legal assistance available to  
35 petition for guardianships.

36 (6) The office shall not authorize payment for services for any  
37 entity that is serving more than twenty incapacitated persons per  
38 certified professional guardian.

1 (7) The office shall monitor and oversee the use of state funding  
2 to ensure compliance with this chapter.

3 (8) The office shall collect uniform and consistent basic data  
4 elements regarding service delivery. This data shall be made available  
5 to the legislature and supreme court in a format that is not  
6 identifiable by individual incapacitated person to protect  
7 confidentiality.

8 (9) The office shall report to the legislature on how services  
9 other than guardianship services, and in particular services that might  
10 reduce the need for guardianship services, might be provided under  
11 contract with the office by December 1, 2009. The services to be  
12 considered should include, but not be limited to, services provided  
13 under powers of attorney given by the individuals in need of the  
14 services.

15 (10) The office shall require public guardianship providers to seek  
16 reimbursement of fees from program clients who are receiving long-term  
17 care services through the department of social and health services to  
18 the extent, and only to the extent, that such reimbursement may be  
19 paid, consistent with an order of the superior court, from income that  
20 would otherwise be required by the department to be paid toward the  
21 cost of the client's care. Fees reimbursed shall be remitted by the  
22 provider to the office unless a different disposition is directed by  
23 the public guardianship administrator.

24 (11) The office shall require public guardianship providers to  
25 certify annually that for each individual served they have reviewed the  
26 need for continued public guardianship services and the appropriateness  
27 of limiting, or further limiting, the authority of the public guardian  
28 under the applicable guardianship order, and that where termination or  
29 modification of a guardianship order appears warranted, the superior  
30 court has been asked to take the corresponding action.

31 (12) The office shall adopt a process for receipt and consideration  
32 of and response to complaints against the office and contracted  
33 providers of public guardianship services. The process shall include  
34 investigation in cases in which investigation appears warranted in the  
35 judgment of the administrator. ~~((The office shall provide the advisory  
36 committee with a summary and analysis of the results of these  
37 complaints. When requested by the complaining party, his or her~~

1 ~~identity shall not be disclosed to the advisory committee created under~~  
2 ~~section 5 of this act.)~~)

3 (13) The office shall contract with the Washington state institute  
4 for public policy for a study. An initial report is due two years  
5 following July 22, 2007, and a second report by December 1, 2011. The  
6 study shall analyze costs and off-setting savings to the state from the  
7 delivery of public guardianship services.

8 (14) The office shall develop standardized forms and reporting  
9 instruments that may include, but are not limited to, intake, initial  
10 assessment, guardianship care plan, decisional accounting, staff time  
11 logs, changes in condition or abilities of an incapacitated person, and  
12 values history. The office shall collect and analyze the data gathered  
13 from these reports ~~((and submit it to the advisory committee~~  
14 ~~periodically))~~.

15 (15) The office shall identify training needs for guardians it  
16 contracts with, and shall make recommendations(~~(, after consultation~~  
17 ~~with the advisory committee,~~) to the supreme court, the certified  
18 professional guardian board, and the legislature for improvements in  
19 guardianship training. The office may offer training to individuals  
20 providing services pursuant to this chapter or to individuals who, in  
21 the judgment of the administrator or the administrator's designee, are  
22 likely to provide such services in the future.

23 (16) The office shall establish a system for monitoring the  
24 performance of public guardians, and office staff shall make in-home  
25 visits to a randomly selected sample of public guardianship clients.  
26 The office may conduct further monitoring, including in-home visits, as  
27 the administrator deems appropriate. For monitoring purposes, office  
28 staff shall have access to any information relating to a public  
29 guardianship client that is available to the guardian. ~~((The office~~  
30 ~~shall confer with the advisory committee in developing its monitoring~~  
31 ~~process.))~~

32 (17) During the first five years of its operations, the office  
33 shall issue annual reports of its activities(~~(, after review of and~~  
34 ~~comment by the advisory committee))~~).

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