
SENATE BILL 5016

State of Washington

60th Legislature

2007 Regular Session

By Senator Jacobsen

Read first time 01/08/2007. Referred to Committee on Judiciary.

1 AN ACT Relating to petitions for guardianship; and amending RCW
2 11.88.030.

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

4 **Sec. 1.** RCW 11.88.030 and 1996 c 249 s 8 are each amended to read
5 as follows:

6 (1) Any person or entity, other than a professional guardian, may
7 petition for the appointment of a qualified person, trust company,
8 national bank, or nonprofit corporation authorized in RCW 11.88.020 as
9 the guardian or limited guardian of an incapacitated person. No
10 liability for filing a petition for guardianship or limited
11 guardianship shall attach to a petitioner acting in good faith and upon
12 reasonable basis. A petition for guardianship or limited guardianship
13 shall state:

14 (a) The name, age, residence, and post office address of the
15 alleged incapacitated person;

16 (b) The nature of the alleged incapacity in accordance with RCW
17 11.88.010;

18 (c) The approximate value and description of property, including

1 any compensation, pension, insurance, or allowance, to which the
2 alleged incapacitated person may be entitled;

3 (d) Whether there is, in any state, a guardian or limited guardian,
4 or pending guardianship action for the person or estate of the alleged
5 incapacitated person;

6 (e) The residence and post office address of the person whom
7 petitioner asks to be appointed guardian or limited guardian;

8 (f) The names and addresses, and nature of the relationship, so far
9 as known or can be reasonably ascertained, of the persons most closely
10 related by blood or marriage to the alleged incapacitated person;

11 (g) The name and address of the person or facility having the care
12 and custody of the alleged incapacitated person;

13 (h) The reason why the appointment of a guardian or limited
14 guardian is sought and the interest of the petitioner in the
15 appointment, and whether the appointment is sought as guardian or
16 limited guardian of the person, the estate, or both;

17 (i) A description of any alternate arrangements previously made by
18 the alleged incapacitated person, such as trusts or powers of attorney,
19 including identifying any guardianship nominations contained in a power
20 of attorney, and why a guardianship is nevertheless necessary;

21 (j) The nature and degree of the alleged incapacity and the
22 specific areas of protection and assistance requested and the
23 limitation of rights requested to be included in the court's order of
24 appointment;

25 (k) The requested term of the limited guardianship to be included
26 in the court's order of appointment;

27 (l) Whether the petitioner is proposing a specific individual to
28 act as guardian ad litem and, if so, the individual's knowledge of or
29 relationship to any of the parties, and why the individual is proposed.

30 (2)(a) The attorney general may petition for the appointment of a
31 guardian or limited guardian in any case in which there is cause to
32 believe that a guardianship is necessary and no private party is able
33 and willing to petition.

34 (b) Prepayment of a filing fee shall not be required in any
35 guardianship or limited guardianship brought by the attorney general.
36 Payment of the filing fee shall be ordered from the estate of the
37 incapacitated person at the hearing on the merits of the petition,

1 unless in the judgment of the court, such payment would impose a
2 hardship upon the incapacitated person, in which case the filing shall
3 be waived.

4 (3) No filing fee shall be charged by the court for filing either
5 a petition for guardianship or a petition for limited guardianship if
6 the petition alleges that the alleged incapacitated person has total
7 assets of a value of less than three thousand dollars.

8 (4)(a) Notice that a guardianship proceeding has been commenced
9 shall be personally served upon the alleged incapacitated person and
10 the guardian ad litem along with a copy of the petition for appointment
11 of a guardian. Such notice shall be served not more than five court
12 days after the petition has been filed.

13 (b) Notice under this subsection shall include a clear and easily
14 readable statement of the legal rights of the alleged incapacitated
15 person that could be restricted or transferred to a guardian by a
16 guardianship order as well as the right to counsel of choice and to a
17 jury trial on the issue of incapacity. Such notice shall be in
18 substantially the following form and shall be in capital letters,
19 double-spaced, and in a type size not smaller than ten-point type:

20 IMPORTANT NOTICE
21 PLEASE READ CAREFULLY

22 A PETITION TO HAVE A GUARDIAN APPOINTED FOR YOU HAS BEEN FILED IN THE
23 COUNTY SUPERIOR COURT BY IF A GUARDIAN IS
24 APPOINTED, YOU COULD LOSE ONE OR MORE OF THE FOLLOWING RIGHTS:

- 25 (1) TO MARRY OR DIVORCE;
- 26 (2) TO VOTE OR HOLD AN ELECTED OFFICE;
- 27 (3) TO ENTER INTO A CONTRACT OR MAKE OR REVOKE A WILL;
- 28 (4) TO APPOINT SOMEONE TO ACT ON YOUR BEHALF;
- 29 (5) TO SUE AND BE SUED OTHER THAN THROUGH A GUARDIAN;
- 30 (6) TO POSSESS A LICENSE TO DRIVE;
- 31 (7) TO BUY, SELL, OWN, MORTGAGE, OR LEASE PROPERTY;
- 32 (8) TO CONSENT TO OR REFUSE MEDICAL TREATMENT;
- 33 (9) TO DECIDE WHO SHALL PROVIDE CARE AND ASSISTANCE;
- 34 (10) TO MAKE DECISIONS REGARDING SOCIAL ASPECTS OF YOUR LIFE.

35 UNDER THE LAW, YOU HAVE CERTAIN RIGHTS.
36 YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER OF YOUR OWN CHOOSING.

1 THE COURT WILL APPOINT A LAWYER TO REPRESENT YOU IF YOU ARE UNABLE TO
2 PAY OR PAYMENT WOULD RESULT IN A SUBSTANTIAL HARDSHIP TO YOU.

3 YOU HAVE THE RIGHT TO ASK FOR A JURY TO DECIDE WHETHER OR NOT YOU NEED
4 A GUARDIAN TO HELP YOU.

5 YOU HAVE THE RIGHT TO BE PRESENT IN COURT AND TESTIFY WHEN THE HEARING
6 IS HELD TO DECIDE WHETHER OR NOT YOU NEED A GUARDIAN. IF A GUARDIAN AD
7 LITEM IS APPOINTED, YOU HAVE THE RIGHT TO REQUEST THE COURT TO REPLACE
8 THAT PERSON.

9 (5) All petitions filed under the provisions of this section shall
10 be heard within sixty days unless an extension of time is requested by
11 a party or the guardian ad litem within such sixty day period and
12 granted for good cause shown. If an extension is granted, the court
13 shall set a new hearing date.

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