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HOUSE BILL 1407

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State of Washington

64th Legislature

2015 Regular Session

By Representative Jenkins

Read first time 01/20/15. Referred to Committee on Judiciary.

1 AN ACT Relating to procedures for guardianship termination and  
2 modification; amending RCW 11.88.120; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that in a judicial  
5 proceeding to terminate a guardianship, to restore certain legal  
6 rights to a person who has been adjudicated to be incapacitated or  
7 partly incapacitated, or to further limit or revoke any retained  
8 legal rights of a person adjudicated to be partly incapacitated, an  
9 incapacitated person should have the same due process and procedural  
10 rights as an alleged incapacitated person would have in an initial  
11 guardianship proceeding.

12 **Sec. 2.** RCW 11.88.120 and 1991 c 289 s 7 are each amended to  
13 read as follows:

14 (1) At any time after establishment of a guardianship or  
15 appointment of a guardian, the court may, upon the death of the  
16 guardian or limited guardian, or, for other good reason, modify or  
17 terminate the guardianship or replace the guardian or limited  
18 guardian.

19 (2) Any person, including an incapacitated person, may apply to  
20 the court for an order to modify or terminate a guardianship or to

1 replace a guardian or limited guardian. If applicants are represented  
2 by counsel, counsel shall move for an order to show cause why the  
3 relief requested should not be granted. If applicants are not  
4 represented by counsel, they may move for an order to show cause, or  
5 they may deliver a written request to the clerk of the court.

6 (3) By the next judicial day after receipt of an unrepresented  
7 person's request to modify or terminate a guardianship order, or to  
8 replace a guardian or limited guardian, the clerk shall deliver the  
9 request to the court. The court may (a) direct the clerk to schedule  
10 a hearing, (b) appoint a guardian ad litem to investigate the issues  
11 raised by the application or to take any emergency action the court  
12 deems necessary to protect the incapacitated person until a hearing  
13 can be held, or (c) deny the application without scheduling a  
14 hearing, if it appears based on documents in the court file that the  
15 application is frivolous. Any denial of an application without a  
16 hearing shall be in writing with the reasons for the denial  
17 explained. A copy of the order shall be mailed by the clerk to the  
18 applicant, to the guardian, and to any other person entitled to  
19 receive notice of proceedings in the matter. Unless within thirty  
20 days after receiving the request from the clerk the court directs  
21 otherwise, the clerk shall schedule a hearing on the request and mail  
22 notice to the guardian, the incapacitated person, the applicant, all  
23 counsel of record, and any other person entitled to receive notice of  
24 proceedings in the matter.

25 (4) In a hearing on an application to modify or terminate a  
26 guardianship, or to replace a guardian or limited guardian, the court  
27 may grant such relief as it deems just and in the best interest of  
28 the incapacitated person. For a hearing on an application to  
29 terminate a guardianship or to modify the legal rights of a fully or  
30 partly incapacitated person, that person has the same due process and  
31 procedural rights that an alleged incapacitated person is afforded in  
32 an initial guardianship proceeding.

33 (5) 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

1 order. Disobedience of an order to deliver shall be punishable as  
2 contempt of court.

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