

Committee on Children, Families, And Elder Affairs

CS/CS/SB 994 — Guardianship

by Rules Committee; Judiciary Committee; and Senators Passidomo, Stewart, Thurston and Cruz

The bill revises the guardianship statutes to ensure that a ward's personal and property interests are carefully protected by and from a guardian. The bill requires a court, when appointing a guardian, to inquire into and consider potential disqualifications and conflicts of interest.

The bill specifies that a plenary or limited guardian must obtain court approval before consenting to or obtaining an order not to resuscitate a ward. When such request is made pursuant to an emergency, the bill requires a court to hold a hearing on a petition for the request within 72 hours. The court must then rule on the requested relief immediately after the preliminary hearing or conduct an evidentiary hearing no later than 4 days after the preliminary hearing and rule on the relief requested immediately after the evidentiary hearing.

The bill mandates that a petition for appointment of a guardian or professional guardian disclose certain background information about the guardian seeking appointment. The petition must consider whether a less restrictive arrangement, other than a guardianship, could meet the needs of the ward.

The bill defines the term "alternatives to guardianship" as an advance directive, a durable power of attorney, a representative payee, or a trust instrument.

The bill prohibits a professional guardian from petitioning for appointment unless the petitioner is a relative of the alleged incapacitated person or minor or the petitioner is a public guardian who seeks appointment for a person of limited financial means and the public guardian will be paid by the Office of Public and Professional Guardians or a local government.

The bill specifies that the initial guardianship plan and each annual plan must include a list of preexisting orders not to resuscitate or preexisting advance directives and certain information about those documents.

The bill requires that, in the annual guardianship report, a guardian report any payments or remuneration received from any source for services rendered for the ward.

The bill prohibits a guardian from offering, paying, soliciting, or receiving a commission, benefit, or split-fee arrangement in return for engaging in a transaction for goods or services on behalf of an alleged incapacitated person or minor or a ward.

The bill prohibits a guardian from having an interest in a business transaction or activity with certain individuals unless the court grants prior approval or the relationship existed before the guardian was appointed.

If approved by the Governor, these provisions take effect July 1, 2020.
Vote: Senate 39-0; House 117-0