

SB 501 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 3/1

WHAT THE MEASURE DOES:

Requires appointment of counsel for protected person when protected person requests counsel, any objection made in proceeding by any person, court visitor recommends counsel be appointed, or court determines protected person is in need of legal counsel. Specifies payment of attorney fees from estate of protected person, if sufficient funds exist, or through the Office of Public Defense Services.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

BACKGROUND:

Guardianship is a protective proceeding created by state law in which a court gives a person or entity the duty and power to make decisions for another. Conservatorship is a similar relationship, but is limited to financial oversight. The appointment of a guardian or conservator occurs after a petition is filed and a court finds that the person who is the subject of the proceedings lacks capacity to make decisions on his or her own behalf. Guardians are often family or friends, but may also be professionals. Appointment of a guardian may be appropriate or necessary in circumstances where an adult has significant developmental delays or illness, including dementia. Guardianship may be limited, but frequently removes significant decision making authority from the person and gives it to the guardian. The guardian may be making determinations on housing, daily activity, health care treatment, and finances. Under current Oregon law, a court may require a hearing be held in a guardianship proceeding when an objection is filed. Courts may, but are not required, to appoint counsel for the protected person.

Senate Bill 501 requires appointment of counsel for the protected person when the protected person requests counsel, an objection has been made by any person, the court deems counsel is appropriate, or the court visitor recommends appointment of counsel. The court is not required to appoint counsel if the person is already represented. The measure specifies that payment of attorney fees come from the estate of the protected person if there are sufficient funds to do so, otherwise the costs shall be paid by the Office of Public Defense Services.