

SB 376 STAFF MEASURE SUMMARY**Carrier:** Sen. Dembrow**Senate Committee On Judiciary**

Action Date: 03/27/19
Action: Do pass.
Vote: 7-0-0-0
Yeas: 7 - Bentz, Fagan, Gelser, Linthicum, Manning Jr, Prozanski, Thatcher
Fiscal: Has minimal fiscal impact
Revenue: No revenue impact
Prepared By: Channa Newell, Counsel
Meeting Dates: 2/5, 3/27

WHAT THE MEASURE DOES:

Requires a guardian to deliver a notice of the order of appointment of a guardian to the protected person, any person requesting notice, any other fiduciary who has been appointed, a representative of the U.S. Department of Veteran Affairs or the Attorney General and superintendent of a facility in which a person is confined, if appropriate, and any other person the court requires. Specifies that the notice must include the clerk's file number and court of the protective proceeding, the name of the protected person and attorney, if applicable, the name of the guardian and attorney for the guardian, the date of appointment of the guardian, a statement describing the authority of the guardian and any limitations, and a statement advising the protected person or other interested persons of the right to seek removal of the guardian or terminate the guardianship. Requires proof of notice no later than 30 days following appointment. Requires court to order a guardian to report or file a motion to terminate a protective proceeding if the guardian indicates in annual report that the guardianship is no longer necessary. Makes failure to comply grounds for removal. Requires copy of removal order and guardian report to be served on specified parties.

ISSUES DISCUSSED:

- Differences between guardianship and conservatorship
- Notices currently received by protected person
- Need for more information to courts of why guardianship is necessary ☐ Use of information-gathering process in annual guardian report

EFFECT OF AMENDMENT:

No 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. 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. 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. Current law requires notice of a petition for guardianship to be given to specific individuals.

Senate Bill 376 requires notice of the appointment of the guardian to be sent by the newly appointed guardian to a list of interested persons, including the protected person themselves. It also requires a guardian to initiate termination of the guardianship or explain to the court when the guardian indicates in the yearly report that the guardianship may not need to continue.