

STATEMENT OF PURPOSE

RS18422

Guardianships and conservatorships under the Idaho Probate Code have had extensive enactment of provisions to provide for temporary appointments of guardians or conservators when needed, and to provide clear definition of the duties and powers of the Guardian ad Litem, an attorney appointed by the Court to represent the incapacitated person. However, the Developmental Disability provisions in Chapter Four of Title 66 of the Code, have not had those same updates. This has led to problems, since there are no provisions in the Developmental Disability area to appoint temporary emergency guardians or conservators, which leaves the developmentally disabled person in limbo and without protection until a hearing can be held on the petition. Similarly, although the Code requires the appointment of a Guardian ad Litem in most cases, there is no definition of either the duties or of the powers of the Guardian ad Litem, which has led to disputes and delays in the proceedings, and sometimes to refusals by persons or entities to properly interact with the Guardian ad Litem. There has also been confusion in the Guardians ad Litem, and in the courts, as to their exact powers and duties.

This bill therefore takes the language of the Probate Code provisions in these two areas, changed to reference the developmentally disabled person as respondent instead of a ward or incapacitated person, and inserts that language into two new sections of Chapter Four of Title Sixty Six. Because Title 66, unlike the Probate Code, does not address appointment of guardians and conservators in separate sections, Section One provides for the appointment of a temporary guardian or conservator in a combined single section, but with the same provisions and protections as the Probate Code provisions. Section Two provides the duties, rights, and powers of a Guardian ad Litem by direct cross reference to the Probate Code provisions. Section Three declares an emergency and makes the bill effective upon passage.

This bill will provide needed clarification for Developmentally Disabled proceedings and will avoid delays and confusion.

FISCAL NOTE

This bill will have no fiscal impact.

Contact:

Name: Robert L. Aldridge

Office: Trust & Estate Professionals of Idaho, Inc.

Phone: (208) 336-9880