

Moved by Davis

Seconded by Werk

IN THE SENATE
SENATE AMENDMENT TO S.B. NO. 1250

AMENDMENT TO THE BILL

1
2 On page 2 of the printed bill, delete lines 6 through 49; and on page 3,
3 delete lines 1 through 6, and insert:

4 "SECTION 2. That Section 15-5-304, Idaho Code, be, and the same is
5 hereby amended to read as follows:

6 15-5-304. FINDINGS -- ORDER OF APPOINTMENT. (a) The court shall exer-
7 cise the authority conferred in this part so as to encourage the development
8 of maximum self-reliance and independence of the ~~incapacitated~~ person for
9 whom a guardian is sought and make appointive and other orders only to the ex-
10 tent necessitated by the ~~incapacitated~~ person's actual mental and adaptive
11 limitations or other conditions warranting the procedure.

12 (b) The court may appoint a guardian as requested if it is satisfied
13 that ~~the person for whom a guardian is sought is incapacitated and that the~~
14 ~~appointment is necessary or desirable as a means of providing continuing~~
15 ~~care and supervision of the person of the incapacitated person~~ for whom a
16 guardian is sought. The court, on appropriate findings, may:

17 (1) Treat the petition as one for a protective order under section 15-5-

18 401, Idaho Code, and proceed accordingly;

19 (2) Enter any other appropriate order; or

20 (3) Dismiss the proceedings.

21 (c) The court may, at the time of appointment or later, on its own motion
22 or on appropriate petition or motion of the ~~incapacitated~~ person for whom a
23 guardian has been appointed or other interested person, limit the powers of
24 a guardian otherwise conferred by this section and thereby create a limited
25 guardianship. Any limitations on the statutory power of a guardian of an ~~in-~~
26 ~~capacitated~~ person shall be endorsed on the guardian's letters, or in the
27 case of a guardian by testamentary appointment, shall be reflected in let-
28 ters that shall be issued at the time any limitation is imposed. Following
29 the same procedure, a limitation may be removed and appropriate letters is-
30 sued.

31 (d) An order made pursuant to this section determining that a basis for
32 appointment of a guardian or other protective order exists has no effect on
33 the capacity of the person for whom the appointment or other protective order
34 is made."

35 also on page 3, delete lines 23 through 43; and on page 4, delete lines 1
36 through 5, and insert:

1 "SECTION 4. That Chapter 1, Title 32, Idaho Code, be, and the same is
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
3 ignated as Section 32-109, Idaho Code, and to read as follows:

4 32-109. EFFECT OF APPOINTMENT OF A CONSERVATOR OR GUARDIAN. An order
5 made pursuant to the provisions of chapter 5, title 15, Idaho Code, for the
6 appointment of a guardian or conservator for a person shall not in and of it-
7 self be the basis for the application of section 32-106, 32-107 or 32-108,
8 Idaho Code."

9 CORRECTION TO TITLE

10 On page 1, in line 8, delete "AMENDING SECTION 15-5-408,"; delete lines
11 9 and 10; in line 11, delete "NICAL CORRECTION" and insert: "AMENDING SEC-
12 TION 15-5-304, IDAHO CODE, TO REVISE VERBIAGE RELATING TO THE APPOINTMENT OF
13 A GUARDIAN, TO PROVIDE THAT ORDERS DETERMINING THAT A BASIS FOR APPOINTMENT
14 OF A GUARDIAN OR OTHER PROTECTIVE ORDER EXISTS HAS NO EFFECT ON THE CAPAC-
15 ITY OF THE PERSON FOR WHOM THE APPOINTMENT OR PROTECTIVE ORDER IS MADE AND
16 TO MAKE A TECHNICAL CORRECTION"; and delete lines 15 through 23, and insert:
17 "AND AMENDING CHAPTER 1, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW SEC-
18 TION 32-109, IDAHO CODE, TO PROVIDE THAT AN ORDER FOR THE APPOINTMENT OF A
19 GUARDIAN OR CONSERVATOR FOR A PERSON SHALL NOT IN AND OF ITSELF BE THE BASIS
20 FOR THE APPLICATION OF SPECIFIED LAW."