

SB0110S01 compared with SB0110

~~{deleted text}~~ shows text that was in SB0110 but was deleted in SB0110S01.

inserted text shows text that was not in SB0110 but was inserted into SB0110S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Aaron Osmond proposes the following substitute bill:

GUARDIANSHIP ~~{COSTS}~~ FORMS FOR PARENTS OF DISABLED

ADULT CHILD

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Aaron Osmond

House Sponsor: _____

LONG TITLE

General Description:

This bill ~~{amends provisions related to guardianship of incapacitated adults}~~ requires the Administrative Office of the Courts to provide a listing of forms and proceedings available to pro se litigants on the Online Court Assistance Program website.

Highlighted Provisions:

This bill:

- ▶ ~~{provides for a biological parent seeking guardianship of an incapacitated adult child reduction or reimbursement of attorney fees and court costs depending on the court's discretion; and~~

—————▶ ~~allows a petitioner or incapacitated person a reduction or reimbursement of attorney~~

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~~fees and court costs under certain circumstances because of financial hardship}~~requires the Administrative Office of the Courts to provide a listing of forms and proceedings available to pro se litigants on the Online Court Assistance Program website.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

~~{75-5-303}~~78A-2-501, as ~~{last}~~renumbered and amended by Laws of Utah
~~{2013}~~2008, Chapter ~~{364}~~3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section ~~{75-5-303}~~78A-2-501 is amended to read:

~~{75-5-303. Procedure for court appointment of a guardian of an incapacitated person:~~

~~—— (1) The incapacitated person or any person interested in the incapacitated person's welfare may petition for a finding of incapacity and appointment of a guardian.~~

~~—— (2) Upon the filing of a petition, the court shall set a date for hearing on the issues of incapacity. Unless the allegedly incapacitated person has counsel of the person's own choice, the court shall appoint an attorney to represent the person in the proceeding the cost of which shall be paid by the person alleged to be incapacitated. If the court determines that the petition is without merit, the attorney fees and court costs shall be paid by the person filing the petition. If the court appoints the petitioner or the petitioner's nominee as guardian of the incapacitated person, regardless of whether the nominee is specified in the moving petition or nominated during the proceedings, the petitioner shall be entitled to receive from the incapacitated person reasonable attorney fees and court costs incurred in bringing, prosecuting, or defending the petition.~~

~~—— (3) The court may reduce or reimburse a petitioner's or incapacitated person's court costs and attorney fees described in Subsection (2), if the court determines that the petition has~~

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merit and:

~~— (a) the petitioner is a biological parent filing for guardianship of the parent's incapacitated child, who is 18 years of age or older; or~~

~~— (b) the petitioner or incapacitated person can demonstrate to the court evidence of financial hardship or limited financial resources.~~

~~— [(3)] (4) The legal representation of the incapacitated person by an attorney shall terminate upon the appointment of a guardian, unless:~~

~~— (a) there are separate conservatorship proceedings still pending before the~~

~~court;~~ **78A-2-501. Online court assistance program -- Purpose of program -- User's fee.**

(1) There is established an online court assistance program administered by the Administrative Office of the Courts to provide the public with information about civil procedures and to assist the public in preparing and filing civil pleadings and other papers in:

(a) uncontested divorces;

(b) enforcement of orders in the divorce decree;

(c) landlord and tenant actions; [and]

(d) guardianship actions; and

[(d)] (e) other types of proceedings approved by the Online Court Assistance Program

Policy Board.

(2) The purpose of the online court assistance program shall be to:

(a) minimize the costs of civil litigation;

(b) improve access to the courts; and

(c) provide for informed use of the courts and the law by pro se litigants.

(3) (a) An additional \$20 shall be added to the filing fee established by Section 78A-2-301 if a person files a complaint, petition, answer, or response prepared through the program. There shall be no fee for using the program or for papers filed subsequent to the

{appointment of a guardian;

~~— (b) there is a timely filed appeal of the appointment of the guardian or the determination of incapacity; or~~

~~— (c) upon an express finding of good cause, the court orders otherwise.~~

~~— [(4)] (5) The person alleged to be incapacitated may be examined by a physician appointed by the court who shall submit a report in writing to the court and may be interviewed~~

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~~by a visitor sent by the court. The visitor also may interview the person seeking appointment as guardian, visit the present place of abode of the person alleged to be incapacitated and the place it is proposed that the person will be detained or reside if the requested appointment is made, conduct other investigations or observations as directed by the court, and submit a report in writing to the court.~~

~~——— [(5)] (6) (a) The person alleged to be incapacitated shall be present at the hearing in person and see or hear all evidence bearing upon the person's condition. If the person seeking the guardianship requests a waiver of presence of the person alleged to be incapacitated, the court shall order an investigation by a court visitor, the costs of which shall be paid by the person seeking the guardianship.~~

~~——— (b) The investigation by a court visitor is not required if there is clear and convincing evidence from a physician that the person alleged to be incapacitated has:~~

~~——— (i) fourth stage Alzheimer's Disease;~~

~~——— (ii) extended comatosis; or~~

~~——— (iii) (A) an intellectual disability; and~~

~~——— (B) an intelligence quotient score under 20 to 25.~~

~~——— (c) The person alleged to be incapacitated is entitled to be represented by counsel, to present evidence, to cross-examine witnesses, including the court-appointed physician and the visitor, and to trial by jury. The issue may be determined at a closed hearing without a jury if the person alleged to be incapacitated or the person's counsel so requests.~~

Legislative Review Note

~~——— as of 11-20-13 5:44 PM~~

~~——— Office of Legislative Research and General Counsel; initial pleading.~~

~~(b) There is created within the General Fund a restricted account known as the Online Court Assistance Account. The fee collected under this Subsection (3) shall be deposited in the restricted account and appropriated by the Legislature to the Administrative Office of the~~

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Courts to develop, operate, and maintain the program and to support the use of the program through education of the public.

(4) The Administrative Office of the Courts shall provide on the front page of the Online Court Assistance Program website a listing of all forms and proceedings available to all pro se litigants within the program.