

JAN 17 2019

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# A BILL FOR AN ACT

RELATING TO GUARDIANSHIP.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 560:5-305, Hawaii Revised Statutes, is  
2 amended as follows:

3           1. By amending subsections (b) and (c) to read:

4           "(b) The court shall appoint a lawyer to represent the  
5 respondent in the proceeding [~~if:~~

6           ~~(1) Requested by the respondent;~~

7           ~~(2) Recommended by the kokua kanawai; or~~

8           ~~(3) The court determines that the respondent needs~~  
9           ~~representation].~~

10           The court-appointed lawyer shall meet with the respondent at  
11           least once prior to any hearing for a petition to establish  
12           guardianship.

13           (c) Unless otherwise ordered by the court for good cause  
14 shown, the kokua kanawai shall interview the respondent in  
15 person and, to the extent that the respondent is able to  
16 understand:



# S.B. NO. 3

- 1           (1) Explain to the respondent the substance of the  
2           petition, the nature, purpose, and effect of the  
3           proceeding, the respondent's rights at the hearing,  
4           and the general powers and duties of a guardian;
- 5           (2) Determine the respondent's views about the proposed  
6           guardian, the proposed guardian's powers and duties,  
7           and the scope and duration of the proposed  
8           guardianship; and
- 9           (3) Inform the respondent of the right to ~~[employ and~~  
10          ~~consult with a lawyer at the respondent's own expense~~  
11          ~~and the right to request]~~ a court-appointed lawyer[  
12          and
- 13          ~~(4) Inform the respondent that all costs and expenses of~~  
14          ~~the proceeding, including respondent's attorney's~~  
15          ~~fees, will be paid from the respondent's estate]."~~

16          2. By amending subsection (e) to read:

17          "(e) The kokua kanawai shall promptly file a report in  
18 writing with the court, which shall include:

- 19          ~~[-(1) A recommendation as to whether a lawyer should be~~  
20          ~~appointed to represent the respondent;~~



# S.B. NO. 3

- 1       ~~(2)~~ (1) A summary of daily functions the respondent can  
2                   manage without assistance, could manage with the  
3                   assistance of supportive services or benefits,  
4                   including use of appropriate technological assistance,  
5                   and cannot manage;
- 6       ~~(3)~~ (2) Recommendations regarding the appropriateness of  
7                   guardianship, including as to whether less restrictive  
8                   means of intervention are available, the type of  
9                   guardianship, and, if a limited guardianship, the  
10                  powers to be granted to the limited guardian;
- 11       ~~(4)~~ (3) A statement of the qualifications of the proposed  
12                  guardian, together with a statement as to whether the  
13                  respondent approves or disapproves of the proposed  
14                  guardian, and the powers and duties proposed or the  
15                  scope of the guardianship;
- 16       ~~(5)~~ (4) A statement as to whether the proposed dwelling  
17                  meets the respondent's individual needs;
- 18       ~~(6)~~ (5) A recommendation as to whether a professional  
19                  evaluation or further evaluation is necessary; and
- 20       ~~(7)~~ (6) Any other matters the court directs."

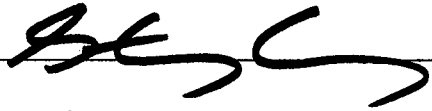
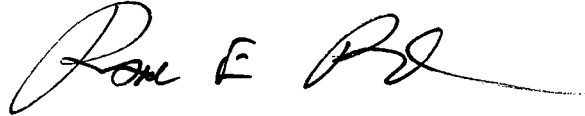


# S.B. NO. 3

1           SECTION 2. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3           SECTION 3. This Act shall take effect upon its approval.  
4

INTRODUCED BY:



# S.B. NO. 3

**Report Title:**

Guardianship; Incapacitated Persons; Petition Respondent; Court-Appointed Attorney

**Description:**

Requires the court to appoint an attorney to represent the respondent in a guardianship petition. Requires the court appointed attorney to meet with the respondent at least once prior to the guardianship petition hearing.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

