

NEW SECTION. Sec. 6. There is added to chapter 67.16 RCW a new section to read as follows:

(1) For race meets which have gross receipts of all parimutuel machines averaging more than five hundred thousand dollars for each authorized day of racing, the licensee shall pay to the commission daily four and one-half percent of the gross receipts up to the first five hundred thousand daily of all parimutuel machines at each race meet. All receipts in excess of five hundred thousand dollars shall be paid daily at the rate of five percent.

(2) For race meets which have gross receipts of all parimutuel machines averaging five hundred thousand dollars or less for each authorized day of racing, the licensee shall pay to the commission daily four percent of the gross receipts of all parimutuel machines at each race meet.

NEW SECTION. Sec. 7. There is added to chapter 67.16 RCW a new section to read as follows:

(1) Race meets of twenty-five days or less, which run sixty percent quarter horses and/or Appaloosa races, may retain fourteen percent from the gross receipts of any parimutuel machine.

(2) For race meets of twenty-five days or less, which run sixty percent quarter horses and/or Appaloosa races, the licensee shall pay to the commission daily one percent of the gross receipts of all parimutuel machines at each race meet. Such one percent shall be paid daily.

NEW SECTION. Sec. 8. This 1979 act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 8, 1979.

Passed the House March 8, 1979.

Approved by the Governor March 16, 1979

Filed in Office of Secretary of State March 16, 1979.

CHAPTER 32

[Engrossed Senate Bill No. 2178]

STANDBY GUARDIANS—INFORMED CONSENT TO MEDICAL PROCEDURES

AN ACT Relating to guardianship; amending section 6, chapter 95, Laws of 1975 1st ex. sess. as amended by section 10, chapter 309, Laws of 1977 ex. sess. and RCW 11.88.125; and amending section 11.92.040, chapter 145, Laws of 1965 as last amended by section 13, chapter 309, Laws of 1977 ex. sess. and RCW 11.92.040.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 6, chapter 95, Laws of 1975 1st ex. sess. as amended by section 10, chapter 309, Laws of 1977 ex. sess. and RCW 11.88.125 are each amended to read as follows:

(1) The person appointed by the court as either guardian or limited guardian of the person and/or estate of an incompetent or disabled person,

shall file in writing with the court, a designated standby limited guardian or guardian to serve as limited guardian or guardian at the death or legal incompetency or disability of the court-appointed guardian or limited guardian. Such standby guardian or limited guardian shall have all the powers, duties, and obligations of the regularly appointed guardian or limited guardian and in addition shall, within a period of thirty days from the death or adjudication of incompetency or disability of the regularly appointed guardian or limited guardian, file with the superior court in the county in which the guardianship or limited guardianship is then being administered, a petition for appointment of a substitute guardian or limited guardian. Upon the court's appointment of a new, substitute guardian or limited guardian, the standby guardian or limited guardian shall make an accounting and report to be approved by the court, and upon approval of the court, the standby guardian or limited guardian shall be released from all duties and obligations arising from or out of the guardianship or limited guardianship.

(2) Letters of guardianship shall be issued to the standby guardian or limited guardian upon filing an oath and posting a bond as required by RCW 11.88.100 as now or hereafter amended. The oath may be filed prior to the appointed guardian or limited guardian's death. The provisions of RCW 11.88.100 through 11.88.110 as now or hereafter amended shall apply to standby guardians and limited guardians.

(3) In addition to the powers of a standby limited guardian or guardian as noted in subsection (1) of this section, the standby limited guardian or guardian shall have the authority to provide timely, informed consent to necessary medical procedures, as authorized in RCW 11.92.040 as now or hereafter amended, if the guardian or limited guardian cannot be located within four hours after the need for such consent arises.

Sec. 2. Section 11.92.040, chapter 145, Laws of 1965 as last amended by section 13, chapter 309, Laws of 1977 ex. sess. and RCW 11.92.040 are each amended to read as follows:

It shall be the duty of the guardian or limited guardian:

(1) To make out and file within three months after his appointment a verified inventory of all the property of the incompetent or disabled person which shall come to his possession or knowledge, including a statement of all encumbrances, liens, and other secured charges on any item;

(2) To file annually, within thirty days after the anniversary date of his appointment, and also within thirty days after termination of his appointment, a written verified account of his administration: **PROVIDED**, That the court in its discretion may allow such reports at intervals of up to thirty-six months, with instruction to the guardian or limited guardian that any substantial increase in income or assets or substantial change in the incompetent's or disabled person's condition shall be reported within thirty days of such substantial increase or change;

(3) Consistent with the powers granted by the court, if he is a guardian or limited guardian of the person, to care for and maintain the incompetent or disabled person, assert his or her rights and best interests, and provide timely, informed consent to necessary medical procedures, and if the incompetent or disabled person is a minor, to see that the incompetent or disabled person is properly trained and educated and that the incompetent or disabled person has the opportunity to learn a trade, occupation, or profession. As provided in RCW 11.88.125 as now or hereafter amended, the standby guardian may provide timely, informed consent to necessary medical procedures if the guardian or limited guardian cannot be located within four hours after the need for such consent arises. The guardian or limited guardian of the person may be required to report the condition of his incompetent or disabled person to the court, at regular intervals or otherwise as the court may direct: PROVIDED, That no guardian ((or)), limited guardian, or standby guardian may involuntarily commit for mental health treatment, observation, or evaluation an alleged incompetent or disabled person who is, himself or herself, unable or unwilling to give informed consent to such commitment unless the procedures for involuntary commitment set forth in chapters 71.05 or 72.23 RCW are followed: PROVIDED FURTHER, That nothing in this section shall be construed to allow a guardian ((or)), limited guardian, or standby guardian to consent to:

- (a) Therapy or other procedure which induces convulsion;
- (b) Surgery solely for the purpose of psychosurgery;
- (c) Amputation;
- (d) Other psychiatric or mental health procedures which are intrusive on the person's body integrity, physical freedom of movement, or the rights set forth in RCW 71.05.370.

A guardian ((or)), limited guardian, or standby guardian who believes such procedures to be necessary for the proper care and maintenance of the incompetent or disabled person shall petition the court for an order unless the court has previously approved such procedure within thirty days immediately past. The court may make such order only after an attorney is appointed in accordance with RCW 11.88.045, as now or hereafter amended, if none has heretofore appeared, notice is given, and a hearing is held in accordance with RCW 11.88.040, as now or hereafter amended;

(4) If he is a guardian or limited guardian of the estate, to protect and preserve it, to apply it as provided in this chapter, to account for it faithfully, to perform all of the duties required of him by law, and at the termination of the guardianship or limited guardianship, to deliver the assets of the incompetent or disabled person to the persons entitled thereto. Except as provided to the contrary herein, the court may authorize a guardian or limited guardian to do anything that a trustee can do under the provisions of RCW 30.99.070 for a period not exceeding one year from the date of the order or for a period corresponding to the interval in which the guardian's

or limited guardian's report is required to be filed by the court pursuant to subsection (2) of this section, whichever period is longer;

(5) To invest and reinvest the property of the incompetent or disabled person in accordance with the rules applicable to investment of trust estates by trustees as provided in chapter 30.24 RCW, except that:

(a) No investments shall be made without prior order of the court in any property other than unconditional interest bearing obligations of this state or of the United States and in obligations the interest and principal of which are unconditionally guaranteed by the United States, and in share accounts or deposits which are insured by an agency of the United States government. Such prior order of the court may authorize specific investments, or, in the discretion of the court, may authorize the guardian or limited guardian during a period not exceeding one year following the date of the order or for a period corresponding to the interval in which the guardian's or limited guardian's report is required to be filed by the court pursuant to subsection (2) of this section, whichever period is longer, to invest and reinvest as provided in chapter 30.24 RCW without further order of the court;

(b) If it is for the best interests of the incompetent or disabled person that a specific property be used by the incompetent or disabled person rather than sold and the proceeds invested, the court may so order;

(6) To apply to the court for an order authorizing any disbursement on behalf of the incompetent or disabled person: PROVIDED, HOWEVER, That ~~((the))~~ the guardian or limited guardian of the estate, or the person, department, bureau, agency, or charitable organization having the care and custody of an incompetent or disabled person, may apply to the court for an order directing the guardian or limited guardian of the estate to pay to the person, department, bureau, agency, or charitable organization having the care and custody of an incompetent or disabled person, or if the guardian or limited guardian of the estate has the care and custody of the incompetent or disabled person, directing the guardian or limited guardian of the estate to apply an amount weekly, monthly, quarterly, semi-annually, or annually, as the court may direct, to be expended in the care, maintenance, and education of the incompetent or disabled person and of his dependents. In proper cases, the court may order payment of amounts directly to the incompetent or disabled person for his maintenance or incidental expenses. The amounts authorized under this section may be decreased or increased from time to time by direction of the court. If payments are made to another under such order of the court, the guardian or limited guardian of the estate is not bound to see to the application thereof.

Passed the Senate February 19, 1979.

Passed the House March 1, 1979.

Approved by the Governor March 16, 1979.

Filed in Office of Secretary of State March 16, 1979.