

HOUSE RESEARCH

Bill Summary

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Overview

This bill modifies several provision related to voting by individuals subject to a guardianship: it distinguishes between "guardianships" and "limited guardianships" for purposes of voting eligibility under the Minnesota Constitution, requires additional notices and recommendations related to a ward's voting eligibility status, and sets certain duties for residential facilities housing wards.

- 1** **Not eligible.** Modifies the statutory definition of individuals not eligible to vote. Strikes language in conformance with the new definitions of "guardianship" and "limited guardianship" under sections 5 and 6. (Under sections 5 and 6, new definitions are created to provide that an individual under "guardianship" would not be entitled to vote, and an individual under "limited guardianship" would be entitled to vote.)
- 2** **Restricted data.** Makes voter registration lists available to the courts for jury selection.
- 3** **Guardianships and incompetents.** Strikes language in conformance with the new definitions of "guardianship" and "limited guardianship." (This section relates to data that must be provided to the secretary of state from the state court administrator relating to individuals who have been placed under guardianship.)
- 4** **Permanent registration; verification of registration.** Modifies the form of oath appearing on the polling place roster by striking language in conformance with the new definitions of "guardianship" and "limited guardianship."
- 5** **Guardianship.** Defines "guardianship" as a ward under a court order that restricts the right to vote due to the ward lacking sufficient understanding or capacity to vote.
- 6** **Limited guardianship.** Defines "limited guardianship" as a ward under a court order that restricts some rights due to the ward lacking sufficient understanding or capacity but does not restrict the right to vote.
- 7** **Bill of rights for wards and protected persons.** Modifies language related to voting rights currently contained in the enumerated list of rights of individuals under guardianship. Provides that an

individual under guardianship is not entitled or permitted to vote.

- 8 Findings; order of appointment.** In paragraph (c), requires the court, in making an order appointing a guardian, to explicitly declare whether the order creates a guardianship or a limited guardianship and its effect on the right to vote.

This section also creates a new paragraph (h), which requires the appointed guardian to send, by certified mail, a copy of the order of appointment to the ward's current residential address, unless the guardian resides with the ward. A new copy of the order must be sent, along with any applicable modifications to the order, within 30 days of any change of address by the ward.

- 9 Powers and duties of guardian.** Modifies language related to voting rights currently contained in the enumerated list of the powers and duties of a guardian, specifying that those under a guardianship are not entitled or permitted to vote.

- 10 Annual report of the guardian.**

Subdivision 1. Annual report of guardian. In the guardian's annual well-being report to the court, requires the guardian to specifically recommend whether the ward's right to vote should be restored or continue unchanged. This recommendation is in addition to other information and recommendations required by current law.

Subd. 2. Annual review; ward's capacity to vote. Permits the court to issue a written order related to a ward's eligibility to vote, if the well-being report on an individual under a limited guardianship indicates a change in conditions affecting the ward's capacity to make independent voting decisions at an election. The court would be required to consider the recommendation of the guardian, any documents submitted in the well-being report, and previous court orders and records related to the ward's capacity as evidence in making a determination. An order revoking a ward's right to vote would not be permitted without a hearing.

A copy of an order made under this subdivision must be provided by the court to the guardian by standard mail within 30 days of its issuance. The guardian would be required to send, by certified mail, a copy of the order to the ward's current residential address, unless the guardian resides with the ward. A new copy of an order must be sent by certified mail within 30 days of any change of address by the ward.

- 11 Duties of facilities providing housing to a ward.** Establishes duties for residential facilities that house individuals under a guardianship. The facility would be required to:

- (1) maintain all documents submitted by the facility related to a ward's guardianship status and eligibility to vote;
- (2) maintain a written list of wards residing in the facility, and the voting eligibility status of each, based on court documents submitted by the guardian; and
- (3) ensure that staff directly assisting wards in the voting process only assist those who are eligible to vote.

"Residential facility" is a defined term, and includes transitional housing; a supervised living facility licensed by the commissioner of health; a nursing home; a residence registered with the commissioner of health as a housing with services establishment; a veterans home operated by the board of directors of the Minnesota Veterans Homes; a residence licensed by the commissioner of human services to provide a residential program; a residential facility for persons with a developmental disability licensed by the commissioner of human services; group residential housing; a shelter for battered women; and a supervised publicly or privately operated shelter or dwelling designed to provide temporary living accommodations for the homeless. (Each of these listed

facilities is further defined elsewhere in existing law).

This section is effective June 1, 2012.

- 12 Notification of voting eligibility status; current guardians.** Requires the state court administrator to notify, by standard mail, all guardians currently serving a ward with a notice restating the ward's current voting eligibility status, no later than August 1, 2012. Compliance with this notice provision does not require a court to formally reconsider any previous orders or issue new orders related to a ward's voting eligibility status.

This section is effective the day following final enactment.

- 13 Election materials; use of existing supply.** Authorizes the secretary of state, county auditors, and municipal clerks to exhaust existing supplies of voter registration applications and other election material before producing materials with modifications required by this act. Directs the secretary of state to make updates to guides in addendum form and distribute electronically.
- 14 Appropriations.** Appropriates \$13,600 from the general fund to the secretary of state for costs associated with this act. Appropriates a blank amount from the general fund to the supreme courts to provide notifications under section 12. These funds would be available starting June 1, 2012.
- 15 Effective date.** Provides that the bill is effective August 1, 2012, except where otherwise provided.