

Bill No. SB 472

Barcode 403066

CHAMBER ACTION

Senate

House

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Comm: RCS
03/08/2006 04:09 PM

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The Committee on Judiciary (Aronberg) recommended the following amendment:

Senate Amendment (with directory and title amendments)

On page 20, line 19, through page 22, line 2, delete those lines

and insert: ~~(f)(c)~~ The examination of the alleged incapacitated person must include a comprehensive examination, a report of which shall be filed by each ~~the~~ examining committee member as part of his or her ~~its~~ written report. The comprehensive examination report should be an essential element, but not necessarily the only element, used in making a capacity and guardianship decision. The comprehensive examination must include, if indicated:

- 1. A physical examination;
- 2. A mental health examination; and
- 3. A functional assessment.

If any of these three aspects of the examination is not indicated or cannot be accomplished for any reason, the

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1 written report must explain the reasons for its omission.

2 (g)(d) Each committee member's ~~The committee's~~ written
3 report must include:

4 1. To the extent possible, a diagnosis, prognosis, and
5 recommended course of treatment.

6 2. An evaluation of the alleged incapacitated person's
7 ability to retain her or his rights, including, without
8 limitation, the rights to marry; vote; contract; manage or
9 dispose of property; have a driver's license; determine her or
10 his residence; consent to medical treatment; and make
11 decisions affecting her or his social environment.

12 3. The results of the comprehensive examination and
13 the committee member's ~~members'~~ assessment of information
14 provided by the attending or family physician, if any.

15 4. A description of any matters with respect to which
16 the person lacks the capacity to exercise rights, the extent
17 of that incapacity, and the factual basis for the
18 determination that the person lacks that capacity.

19 5. The names of all persons present during the time
20 the committee member conducted his or her examination. If a
21 person other than the person who is the subject of the
22 examination supplies answers posed to the alleged
23 incapacitated person, the report must include the response and
24 the name of the person supplying the answer.

25 6.5. The signature of each member of the committee
26 member and the date and time the member conducted his or her
27 examination.

28 (h)(e) A copy of each committee member's ~~the~~ report
29 must be served on the petitioner and on the attorney for the
30 alleged incapacitated person within 3 days after the report is
31 filed and at least 5 days before the hearing on the petition.

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1 (4) DISMISSAL OF PETITION.--If a majority of the
 2 examining committee members conclude ~~concludes~~ that the
 3 alleged incapacitated person is not incapacitated in any
 4 respect, the court shall dismiss the petition.

5 (5) ADJUDICATORY HEARING.--

6 (a) Upon appointment of the examining committee, the
 7 court shall set the date upon which the petition will be
 8 heard. The date for the adjudicatory hearing must be set no
 9 more than 14 days after the filing of the reports ~~report~~ of
 10 the examining committee members, unless good cause is shown.
 11 The adjudicatory hearing must be conducted at the time and
 12 place specified in the notice of hearing and in a manner
 13 consistent with due process.

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16 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

17 And the directory clause is amended as follows:

18 On page 17, line 12, delete that line

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20 and insert: Section 10. Subsections (2), (3), (4), (5), and
 21 (7) of section

22
 23

24 ===== T I T L E A M E N D M E N T =====

25 And the title is amended as follows:

26 On page 2, lines 28 through 31, delete those lines

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28 and insert: to file a report regarding his or her examination
 29 of an alleged incapacitated person; providing for dismissal of
 30 a petition alleging incapacity based on the reports of the
 31 majority of the committee members;