



THE MISSOURI BAR

THE MISSOURI BAR CENTER
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DATE: February 2, 2009
TO: Senator Rita Days
FROM: The Missouri Bar
RE: Senate Bill 54

Recently, The Missouri Bar Executive Committee met to review legislation. The Executive Committee consists of the officers of the bar and three additional members annually elected by the Board of Governors. The members of this year's committee are Thomas M. Burke, President; H.A. "Skip" Walther, President-Elect; John S. Johnston, Vice-President; Charlie J. Harris, Jr., Immediate Past-President; Carol Chazen Friedman; Patrick B. Starke; and Deanna K. Scott. The committee has authority to act on behalf of the Board of Governors during the legislative session. In reviewing legislation, the Executive Committee considers comments received from various Missouri Bar legislative review subcommittees. All positions taken by the Executive Committee are communicated to the full Board as soon as possible after they are taken.

Senate Bill 54 is designed to authorize a court to appoint a standby guardian for a minor or an incapacitated adult. As you know, various versions of this bill have been proposed in the past several years.

As stated by Professor David English, "Standby guardianship can assure a dying parent that a guardian will already be in place upon the parent's death or earlier incapacity. Standby guardianship bills have been introduced in past sessions but issues have arisen on how well the particular bill fits with other parts of the probate code..."

In reviewing Senate Bill 54, past Probate and Trust Law Committee Chair Cliff Brown wrote "The Probate and Trust Committee has been fully involved in the drafting of this proposed legislation and has approved the same."

Some bar members reviewing the bill believe that adequate remedies exist in current law. One member suggested additional drafting changes. The Executive Committee believes that the current version of Senate Bill 54, which was arrived at after substantial input from the Probate and Trust Law, Family Law and Elder Law Committees, provides an additional tool to help lawyers address their clients' needs, especially clients of modest means.

Therefore, the Executive Committee voted to support Senate Bill 54.



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DATE: February 2, 2009
TO: Representative Tim Jones
FROM: The Missouri Bar
RE: House Bill 237

Recently, The Missouri Bar Executive Committee met to review legislation. The Executive Committee consists of the officers of the bar and three additional members annually elected by the Board of Governors. The members of this year's committee are Thomas M. Burke, President; H.A. "Skip" Walther, President-Elect; John S. Johnston, Vice-President; Charlie J. Harris, Jr., Immediate Past-President; Carol Chazen Friedman; Patrick B. Starke; and Deanna K. Scott. The committee has authority to act on behalf of the Board of Governors during the legislative session. In reviewing legislation, the Executive Committee considers comments received from various Missouri Bar legislative review subcommittees. All positions taken by the Executive Committee are communicated to the full Board as soon as possible after they are taken.

Initially, it was noted that the official summary of the bill disseminated by the House of Representatives is inaccurate. The summary suggests that the proposed change to Section 517.041.1 "requires a defendant to appear within 10 days." In fact, the bill eliminates the current deadline requiring a defendant to appear before an associate circuit judge "more than thirty days" from the date of service of the summons.

The Executive Committee believes that the change proposed by House Bill 237 would allow for more efficacious scheduling and service. For this reason, the Executive Committee voted to support the bill.

Thank you for your contribution to the administration of justice by proposing this constructive statutory change.