



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fifth Legislature
Second Regular Session

Senate: JUD DP 8-0-0-0 | 3rd Read: 29-0-1-0

SB 1075: incompetent defendant; guardian appointment; costs

Sponsor: Senator Barto, LD 15

Committee on Judiciary

Overview

Authorizes the court to appoint a guardian ad litem to investigate whether a defendant, who was found incompetent to stand trial, needs a guardian, conservator or any other protective order.

History

If the court finds that a defendant is incompetent to stand trial and that there is no substantial probability that the defendant will regain competency within 21 months after the date of the original finding of incompetency, any party may request that the court: 1) remand the defendant to an evaluating agency for the institution of civil commitment proceedings; 2) appoint a guardian; or 3) release the defendant from custody and dismiss the charges against the defendant without prejudice. The court may retain jurisdiction over the defendant until the defendant is committed for treatment or a guardian is appointed ([A.R.S. § 13-4517](#)).

The court may appoint a guardian ad litem to represent the interest of a minor, an incapacitated, unborn or unascertained person or a person whose identity or address is unknown, if the court determines that representation of the interest would otherwise be inadequate. If not precluded by a conflict of interests, the court may appoint a guardian ad litem to represent several persons or interests. In its order appointing the guardian ad litem, the court must state the basis for the appointment ([A.R.S. § 14-1408](#)).

Provisions

1. Allows the court to appoint a guardian ad litem to investigate whether a defendant, who was found incompetent to stand trial, needs a guardian, conservator or any other protective order. (Sec. 1)
2. Requires the guardian ad litem to initiate proceedings for the appointment of a guardian or conservator if the protective action was determined appropriate. (Sec. 1)
3. Specifies the court may order an independent evaluation of the defendant by a specified licensed medical professional to assess whether the defendant is an incapacitated person. (Sec. 1)
4. Entitles the guardian ad litem or any other evaluator to reasonable compensation, and if the defendant is indigent, specifies the court may order the compensation to be a county expense. (Sec. 1)

Prop 105 (45 votes) Prop 108 (40 votes) Emergency (40 votes) Fiscal Note