

RCW 11.130.140 Grievance or complaint against guardian or conservator.

(1) An individual who is subject to guardianship or conservatorship, or person interested in the welfare of an individual subject to guardianship or conservatorship, that reasonably believes the guardian or conservator is breaching the guardian's or conservator's fiduciary duty or otherwise acting in a manner inconsistent with this chapter may file a grievance in a record with the court.

(2) (a) An unrepresented person or entity may submit a complaint to the court. Complaints must be addressed to one of the following designees of the court: The clerk of the court having jurisdiction in the guardianship, the court administrator, or the guardianship monitoring program, and must identify the complainant and the person who is the subject of the guardianship or conservatorship. The complaint must also provide the complainant's address, the case number (if available), and the address of the person subject to a guardianship or conservatorship (if available). The complaint must state facts to support the claim.

(b) By the next judicial day after receipt of a complaint from an unrepresented person, the court's designee must ensure the original complaint is filed and deliver the complaint to the court.

(c) Within fourteen days of being presented with a complaint, the court must enter an order to do one or more of the following actions:

(i) To show cause, with fourteen days' notice, directing the guardian or conservator to appear at a hearing set by the court in order to respond to the complaint;

(ii) To appoint a court visitor or other court representative to investigate the issues raised by the complaint or to take any emergency action the court deems necessary to protect the person subject to a guardianship or conservatorship until a hearing can be held;

(iii) To dismiss the complaint without scheduling a hearing, if it appears to the court that the complaint: Is without merit on its face; is filed in other than good faith; is filed for an improper purpose; regards issues that have already been adjudicated; or is frivolous. In making a determination, the court may review the matter and consider previous behavior of the complainant that is documented in the guardianship or conservatorship record;

(iv) To direct the guardian or conservator to provide, in not less than fourteen days, a written report to the court on the issues raised in the complaint;

(v) To defer consideration of the complaint until the next regularly scheduled hearing in the guardianship or conservatorship, if the date of that hearing is within the next three months, provided that there is no indication that the person subject to a guardianship or conservatorship will suffer physical, emotional, financial, or other harm as a result of the court's deferral of consideration;

(vi) To order other action, in the court's discretion, in addition to doing one or more of the actions set out in this subsection.

(3) Subject to subsection (4) of this section, after receiving a grievance under subsection (1) of this section, the court:

(a) Shall promptly review the grievance against a guardian and shall act to protect the autonomy, values, preferences, and independence of the individual subject to guardianship or conservatorship;

(b) Shall schedule a hearing if the individual subject to guardianship or conservatorship is an adult and the grievance supports a reasonable belief that:

(i) Removal of the guardian and appointment of a successor may be appropriate under RCW 11.130.350;

(ii) Termination or modification of the guardianship may be appropriate under RCW 11.130.355;

(iii) Removal of the conservator and appointment of a successor may be appropriate under RCW 11.130.565;

(iv) Termination or modification of the conservatorship may be appropriate under RCW 11.130.570; or

(v) A hearing is necessary to resolve the allegations set forth in the grievance; and

(c) May take any action supported by the evidence, including:

(i) Ordering the guardian or conservator to provide the court a report, accounting, inventory, updated plan, or other information;

(ii) Appointing a court visitor;

(iii) Appointing an attorney for the individual subject to guardianship or conservatorship; or

(iv) Holding a hearing.

(4) The court may decline to act under subsection (3) of this section if a similar grievance was filed within the six months preceding the filing of the current grievance and the court followed the procedures of subsection (3) of this section in considering the earlier grievance; and may levy necessary sanctions, including but not limited to the imposition of reasonable attorney fees, costs, striking pleadings, or other appropriate relief, if after consideration the court finds that the grievance is made for reason to harass, delay, with malice, or other bad faith.

(5) In any court action under this section where the court finds the professional guardian or conservator breached a fiduciary duty, the court must direct the clerk of the court to send a copy of the order entered under this section to the certified professional guardianship board.

(6) A court shall not dismiss a grievance that has been filed against a guardian or conservator due to an inability to resolve the grievance in a timely manner. [2020 c 312 § 307; 2019 c 437 § 128.]

Effective dates—2020 c 312: See note following RCW 11.130.915.