

CERTIFICATION OF ENROLLMENT

**ENGROSSED SUBSTITUTE SENATE BILL 6287**

Chapter 312, Laws of 2020

66th Legislature  
2020 Regular Session

GUARDIANSHIPS AND CONSERVATORSHIPS--VARIOUS PROVISIONS

EFFECTIVE DATE: January 1, 2022—Except for sections 101 through 122, 301 through 307, 312, 313, 725, 801, 905, and 906, which become effective January 1, 2021; and sections 902 and 903, which become effective June 11, 2020.

Passed by the Senate March 9, 2020  
Yeas 48 Nays 0

CYRUS HABIB

**President of the Senate**

Passed by the House March 5, 2020  
Yeas 91 Nays 6

LURIE JINKINS

**Speaker of the House of  
Representatives**

Approved April 2, 2020 2:59 PM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6287** as passed by the Senate and the House of Representatives on the dates hereon set forth.

BRAD HENDRICKSON

**Secretary**

FILED

April 3, 2020

**Secretary of State  
State of Washington**

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**ENGROSSED SUBSTITUTE SENATE BILL 6287**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2020 Regular Session

**State of Washington                      66th Legislature                      2020 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senators Pedersen, Holy, Dhingra, Rivers, Kuderer, Salomon, Conway, Keiser, and Wilson, C.)

READ FIRST TIME 01/31/20.

1            AN ACT Relating to guardianships and conservatorships; amending  
2 RCW 11.130.185, 11.130.190, 11.130.195, 11.130.205, 11.130.210,  
3 11.130.215, 11.130.220, 11.130.225, 11.130.230, 11.130.240,  
4 11.130.245, 11.130.250, 13.34.062, 13.34.110, 13.34.136, 13.34.145,  
5 13.34.155, 13.34.210, 13.50.100, 11.130.275, 11.130.285, 11.130.290,  
6 11.130.320, 11.130.330, 11.130.335, 11.130.340, 11.130.345,  
7 11.130.360, 11.130.370, 11.130.385, 11.130.390, 11.130.410,  
8 11.130.415, 11.130.420, 11.130.425, 11.130.430, 11.130.435,  
9 11.130.505, 11.130.515, 11.130.520, 11.130.530, 11.130.550,  
10 11.130.670, 11.130.010, 11.130.035, 11.130.040, 11.130.100,  
11 11.130.105, 11.130.115, 11.130.140, 11.130.265, 11.130.280,  
12 11.130.380, 11.130.605, 11.130.080, 11.130.120, 11.130.295,  
13 11.130.585, 11.130.600, 11.130.625, 11.130.610, 11.130.615,  
14 11.125.080, 2.72.005, 2.72.020, 2.72.030, 11.28.120, 11.90.020,  
15 11.90.230, 11.90.250, 11.90.400, 11.90.410, 2.56.150, 4.16.190,  
16 7.28.090, 7.36.020, 9.35.005, 9A.44.010, 11.02.005, 11.28.185,  
17 11.76.080, 11.86.021, 11.90.210, 11.96A.050, 11.96A.080, 11.96A.120,  
18 11.96A.130, 11.96A.150, 11.96A.220, 11.103.030, 11.107.060,  
19 11.120.140, 11.125.400, 11.125.410, 13.32A.160, 13.34.270, 25.15.131,  
20 29A.08.515, 70.58A.010, 70.97.040, 71.05.360, 71.32.020, 71A.16.030,  
21 73.36.050, 74.34.020, 74.34.067, 74.34.135, 74.34.163, 74.42.430, and  
22 11.130.915; reenacting and amending RCW 13.34.030, 2.72.010,  
23 7.70.065, and 18.20.020; adding new sections to chapter 11.130 RCW;

1 repealing RCW 11.88.005, 11.88.008, 11.88.010, 11.88.020, 11.88.030,  
2 11.88.040, 11.88.045, 11.88.080, 11.88.090, 11.88.093, 11.88.095,  
3 11.88.097, 11.88.100, 11.88.105, 11.88.107, 11.88.110, 11.88.115,  
4 11.88.120, 11.88.125, 11.88.127, 11.88.130, 11.88.140, 11.88.150,  
5 11.88.160, 11.88.170, 11.88.900, 11.92.010, 11.92.035, 11.92.040,  
6 11.92.043, 11.92.050, 11.92.053, 11.92.056, 11.92.060, 11.92.090,  
7 11.92.096, 11.92.100, 11.92.110, 11.92.115, 11.92.120, 11.92.125,  
8 11.92.130, 11.92.140, 11.92.150, 11.92.160, 11.92.170, 11.92.180,  
9 11.92.185, 11.92.190, 11.92.195, 26.10.010, 26.10.015, 26.10.020,  
10 26.10.030, 26.10.032, 26.10.034, 26.10.040, 26.10.045, 26.10.050,  
11 26.10.060, 26.10.070, 26.10.080, 26.10.090, 26.10.100, 26.10.110,  
12 26.10.120, 26.10.130, 26.10.135, 26.10.140, 26.10.150, 26.10.160,  
13 26.10.170, 26.10.180, 26.10.190, 26.10.200, 26.10.210, 26.10.220, and  
14 26.10.910; repealing 2019 c 437 s 801 (uncodified); providing  
15 effective dates; and providing an expiration date.

16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

17 **Sec. 101.** RCW 11.130.185 and 2019 c 437 s 201 are each amended  
18 to read as follows:

19 (1) A person becomes a guardian for a minor only on appointment  
20 by the court.

21 (2) The court may appoint a guardian for a minor who does not  
22 have a guardian if the court finds the appointment is in the minor's  
23 best interest and:

24 (a) Each parent of the minor, after being fully informed of the  
25 nature and consequences of guardianship, consents;

26 (b) All parental rights have been terminated; or

27 (c) There is clear and convincing evidence that no parent of the  
28 minor is willing or able to exercise (~~the powers the court is~~  
29 ~~granting the guardian~~) parenting functions as defined in RCW  
30 26.09.004.

31 **Sec. 102.** RCW 11.130.190 and 2019 c 437 s 202 are each amended  
32 to read as follows:

33 (1) A person interested in the welfare of a minor, including the  
34 minor, may petition for appointment of a guardian for the minor.

35 (2) A petition under subsection (1) of this section must state  
36 the petitioner's name, principal residence, current street address,  
37 if different, relationship to the minor, interest in the appointment,

1 the name and address of any attorney representing the petitioner,  
2 and, to the extent known, the following:

3 (a) The minor's name, age, principal residence, current street  
4 address, if different, and, if different, address of the dwelling in  
5 which it is proposed the minor will reside if the appointment is  
6 made;

7 (b) The name and current street address of the minor's parents;

8 (c) The name and address, if known, of each person that had  
9 primary care or custody of the minor for at least sixty days during  
10 the two years immediately before the filing of the petition or for at  
11 least seven hundred thirty days during the five years immediately  
12 before the filing of the petition;

13 (d) The name and address of any attorney for the minor and any  
14 attorney for each parent of the minor;

15 (e) ~~((The reason guardianship is sought and would be in the best  
16 interest of the minor))~~ The legal basis for the guardianship. Factual  
17 reasons why the guardianship is sought and would be in the best  
18 interest of the minor shall be set out in a separate supplemental  
19 declaration;

20 (f) The name and address of any proposed guardian and the reason  
21 the proposed guardian should be selected;

22 (g) If the minor has property other than personal effects, a  
23 general statement of the minor's property with an estimate of its  
24 value;

25 (h) Whether the minor needs an interpreter, translator, or other  
26 form of support to communicate effectively with the court or  
27 understand court proceedings;

28 (i) Whether any parent of the minor needs an interpreter,  
29 translator, or other form of support to communicate effectively with  
30 the court or understand court proceedings; and

31 (j) Whether any other proceeding concerning the care or custody  
32 of the minor is pending in any court in this state or another  
33 jurisdiction.

34 (3) The court may, upon a showing of good cause, order that the  
35 information concerning the reasons for the guardianship contained in  
36 the supplemental declaration to the petition and all subsequently  
37 filed pleadings and evidence by any party not be served on the minor  
38 if the minor is unrepresented. A minor entitled to service under this  
39 subsection may request access to the court pleadings and evidence  
40 filed in the court record.

1 (4) Courts may develop forms for the purpose of filing petitions  
2 under subsection (1) of this section.

3 **Sec. 103.** RCW 11.130.195 and 2019 c 437 s 203 are each amended  
4 to read as follows:

5 (1) If a petition is filed under RCW 11.130.190, the court shall  
6 schedule a hearing and the petitioner shall:

7 (a) Serve notice of the date, time, and place of the hearing,  
8 together with a copy of the petition and supplemental declaration,  
9 personally on each of the following that is not the petitioner:

10 (i) The minor, if the minor ((will be)) is twelve years of age or  
11 older ((at the time of the hearing)). The court may, upon a showing  
12 of good cause, order that information concerning the reasons for the  
13 guardianship contained in the petition, the supplemental declaration,  
14 and all subsequently filed pleadings and evidence by any party, not  
15 be served on the minor if the minor is unrepresented. A minor  
16 entitled to service under this subsection may request access to the  
17 court pleadings and evidence filed in the court record;

18 (ii) Each parent of the minor or, if there is none, the adult  
19 nearest in kinship who can be found with reasonable diligence;

20 (iii) ~~((Any adult with whom the minor resides;~~

21 ~~(iv) Each person that had primary care or custody of the minor~~  
22 ~~for at least sixty days during the two years immediately before the~~  
23 ~~filing of the petition or for at least seven hundred thirty days~~  
24 ~~during the five years immediately before the filing of the petition;~~  
25 ~~and~~

26 ~~(v))~~ Any guardian or person with nonparental custody of the  
27 minor issued under chapter 26.10 RCW; and

28 (iv) Any other person the court determines should receive  
29 personal service of notice; and

30 (b) (i) Give notice by mail or other action reasonably calculated  
31 to give notice under RCW 11.130.065 of the date, time, and place of  
32 the hearing, together with a copy of the petition, to:

33 ~~((i))~~ (A) Any adult with primary care and custody of the minor  
34 who is not a parent, guardian, or person with nonparental custody  
35 issued under chapter 26.10 RCW;

36 (B) Each person that had primary care or custody of the minor for  
37 at least sixty days during the two years immediately before the  
38 filing of the petition or for at least seven hundred thirty days

1 during the five years immediately before the filing of the petition,  
2 if known;

3 (C) Any person nominated as guardian by the minor, if the minor  
4 is twelve years of age or older;

5 ~~((iii))~~ (D) Any nominee of a parent;

6 ~~((iii))~~ (E) Each grandparent and adult sibling of the minor, if  
7 known;

8 ~~((iv))~~ (F) Any ~~((guardian or))~~ conservator acting for the minor  
9 in any jurisdiction; and

10 ~~((v))~~ (G) Any other person the court determines.

11 (ii) The court may waive notice to persons listed under (b)(i) of  
12 this subsection for good cause. Good cause includes an allegation  
13 that giving notice may risk harm to the minor.

14 (2) Notice required by subsection (1) of this section must  
15 include a statement of the right to request appointment of an  
16 attorney for the minor or object to appointment of a guardian and a  
17 description of the nature, purpose, and consequences of appointment  
18 of a guardian. Notice for the minor must specifically state all  
19 rights retained by the minor including the right to request counsel,  
20 the right to attend, and the right to participate and communicate  
21 with the court. Notice for the minor must also state whether the  
22 court has entered any prior order limiting information served upon  
23 the minor, and that the minor may ask the court to reconsider the  
24 court's order at any time. Notice for the minor must include  
25 information on how the minor can respond to the petition.

26 (3) The court may not grant a petition for guardianship of a  
27 minor if notice substantially complying with subsection (1)(a) of  
28 this section is not served on:

29 (a) The minor, if the minor is twelve years of age or older; and

30 (b) Each parent of the minor, unless the court finds by clear and  
31 convincing evidence that the parent cannot with due diligence be  
32 located and served or the parent waived, in a record, the right to  
33 notice.

34 (4) If a petitioner is unable to serve notice under subsection  
35 (1)(a) of this section on a parent of a minor or alleges that the  
36 parent waived, in a record, the right to notice under this section,  
37 and in all cases involving a minor twelve years of age and older when  
38 the minor is unrepresented, the court shall appoint a court visitor  
39 who shall:

40 (a) Interview the petitioner and the minor;

1       (b) Meet with the minor and explain the rights retained by the  
2 minor as outlined in the notice requirements under this section. The  
3 court visitor shall ascertain the minor's views or positions  
4 regarding the guardianship and shall file a report with the court  
5 regarding the minor's views or positions. If the minor wishes the  
6 court to reconsider any prior order limiting information served upon  
7 the minor, the court visitor shall inform the court of the minor's  
8 request;

9       (c) If the petitioner alleges the parent cannot be located,  
10 ascertain whether the parent cannot be located with due diligence;

11       ~~((e))~~ (d) Investigate any other matter relating to the petition  
12 the court directs; and

13       ~~((d))~~ (e) Ascertain whether the parent consents to the guardian  
14 for the minor.

15       **Sec. 104.** RCW 11.130.205 and 2019 c 437 s 205 are each amended  
16 to read as follows:

17       (1) The court shall allow a minor who is the subject of a hearing  
18 under RCW 11.130.195 to attend the hearing and allow the minor to  
19 participate in the hearing unless the court determines ~~((, by clear~~  
20 ~~and convincing evidence presented at the hearing or a separate~~  
21 ~~hearing,))~~ that:

22       (a) The minor lacks the ability or maturity to participate  
23 meaningfully in the hearing; or

24       (b) Attendance would be harmful to the minor.

25       (2) Unless excused by the court for good cause, the person  
26 proposed to be appointed as guardian for a minor shall attend a  
27 hearing under RCW 11.130.195.

28       (3) Each parent of a minor who is the subject of a hearing under  
29 RCW 11.130.195 has the right to attend the hearing.

30       (4) A person may request permission to participate in a hearing  
31 under RCW 11.130.195. The court may grant the request, with or  
32 without hearing, on determining that it is in the best interest of  
33 the minor who is the subject of the hearing. The court may impose  
34 appropriate conditions on the person's participation.

35       **Sec. 105.** RCW 11.130.210 and 2019 c 437 s 206 are each amended  
36 to read as follows:

37       (1) Before granting any order ~~((regarding the custody of a~~  
38 ~~child))~~ under this chapter, the court must consult the judicial

1 information system, if available, to determine the existence of any  
2 information and proceedings that are relevant to the placement of the  
3 child.

4 (2) Before entering a final order, the court must:

5 (a) Direct the department of children, youth, and families to  
6 release information as provided under RCW 13.50.100; and

7 (b) Require the petitioner to provide the results of an  
8 examination of state and national criminal identification data  
9 provided by the Washington state patrol criminal identification  
10 system as described in chapter 43.43 RCW for the petitioner and adult  
11 members of the petitioner's household.

12 **Sec. 106.** RCW 11.130.215 and 2019 c 437 s 207 are each amended  
13 to read as follows:

14 (1) After a hearing under RCW 11.130.195, the court may appoint a  
15 guardian for a minor, if appointment is proper under RCW 11.130.185,  
16 dismiss the proceeding, or take other appropriate action consistent  
17 with this chapter or law of this state other than this chapter.

18 (2) In appointing a guardian under subsection (1) of this  
19 section, the following rules apply:

20 (a) The court shall appoint a person nominated as guardian by a  
21 parent of the minor in a will or other record unless the court finds  
22 the appointment is contrary to the best interest of the minor.

23 (b) If multiple parents have nominated different persons to serve  
24 as guardian, the court shall appoint the nominee whose appointment is  
25 in the best interest of the minor, unless the court finds that  
26 appointment of none of the nominees is in the best interest of the  
27 minor.

28 (c) If a guardian is not appointed under (a) or (b) of this  
29 subsection, the court shall appoint the person nominated by the minor  
30 if the minor is twelve years of age or older unless the court finds  
31 that appointment is contrary to the best interest of the minor. In  
32 that case, the court shall appoint as guardian a person whose  
33 appointment is in the best interest of the minor.

34 (3) In the interest of maintaining or encouraging involvement by  
35 a minor's parent in the minor's life, developing self-reliance of the  
36 minor, or for other good cause, the court, at the time of appointment  
37 of a guardian for the minor or later, on its own or on motion of the  
38 minor or other interested person, may create a limited guardianship  
39 by limiting the powers otherwise granted by this article to the

1 guardian. Following the same procedure, the court may grant  
2 additional powers or withdraw powers previously granted.

3 (4) The court, as part of an order appointing a guardian for a  
4 minor, shall state rights retained by any parent of the minor, which  
5 shall preserve the parent-child relationship through an order for  
6 parent-child visitation and other contact, unless the court finds the  
7 relationship should be limited or restricted under RCW 26.09.191; and  
8 which may include (~~contact or visitation with the minor,~~) decision  
9 making regarding the minor's health care, education, or other matter,  
10 or access to a record regarding the minor.

11 (5) An order granting a guardianship for a minor must state that  
12 each parent of the minor is entitled to notice that:

13 (a) The guardian has delegated custody of the minor subject to  
14 guardianship;

15 (b) The court has modified or limited the powers of the guardian;  
16 or

17 (c) The court has removed the guardian.

18 (6) An order granting a guardianship for a minor must identify  
19 any person in addition to a parent of the minor which is entitled to  
20 notice of the events listed in subsection (5) of this section.

21 (7) An order granting guardianship for a minor must direct the  
22 clerk of the court to issue letters of office to the guardian  
23 containing an expiration date which should be the minor's eighteenth  
24 birthday.

25 **Sec. 107.** RCW 11.130.220 and 2019 c 437 s 208 are each amended  
26 to read as follows:

27 (1) A standby guardian appointed under this section may act as  
28 guardian, with all duties and powers of a guardian under RCW  
29 11.130.230 and 11.130.235, when no parent of the minor is willing or  
30 able to exercise the duties and powers granted to the guardian.

31 (2) A parent of a minor, in a signed record, may nominate a  
32 person to be appointed by the court as standby guardian for the  
33 minor. The parent, in a signed record, may state desired limitations  
34 on the powers to be granted the standby guardian. The parent, in a  
35 signed record, may revoke or amend the nomination at any time before  
36 the court appoints a standby guardian.

37 (3) The court may appoint a standby guardian for a minor on:

38 (a) Petition by a parent of the minor or a person nominated under  
39 subsection (2) of this section; and

1 (b) Finding that, within two years after the appointment, no  
2 parent of the minor likely will be able or willing to (~~care for or~~  
3 ~~make decisions with respect to the minor not later than two years~~  
4 ~~after the appointment~~) perform parenting functions as defined in RCW  
5 26.09.004.

6 (4) A petition under subsection (3)(a) of this section must  
7 include the same information required under RCW 11.130.190 for the  
8 appointment of a guardian for a minor.

9 (5) On filing a petition under subsection (3)(a) of this section,  
10 the petitioner shall:

11 (a) Serve a copy of the petition personally on:

12 (i) The minor, if the minor is twelve years of age or older, and  
13 the minor's attorney, if any;

14 (ii) Each parent of the minor;

15 (iii) The person nominated as standby guardian; and

16 (iv) Any other person the court determines; and

17 (b) Include with the copy of the petition served under (a) of  
18 this subsection a statement of the right to request appointment of an  
19 attorney for the minor or to object to appointment of the standby  
20 guardian, and a description of the nature, purpose, and consequences  
21 of appointment of a standby guardian.

22 (6) The court may, upon a showing of good cause, order that the  
23 information concerning the reasons for the standby guardianship  
24 contained in the petition and all subsequently filed pleadings and  
25 evidence by any party not be served on the minor if the minor is  
26 unrepresented. A minor entitled to service under this subsection may  
27 request access to the court pleadings and evidence filed in the court  
28 record.

29 (7) A person entitled to notice under subsection (5) of this  
30 section, not later than sixty days after service of the petition and  
31 statement, may object to appointment of the standby guardian by  
32 filing an objection with the court and giving notice of the objection  
33 to each other person entitled to notice under subsection (5) of this  
34 section.

35 ~~((+7))~~ (8) If an objection is filed under subsection ~~((+6))~~ (7)  
36 of this section, the court shall hold a hearing to determine whether  
37 a standby guardian should be appointed and, if so, the person that  
38 should be appointed. If no objection is filed, the court may make the  
39 appointment.

1       (~~(8)~~) (9) The court may not grant a petition for a standby  
2 guardian of the minor if notice substantially complying with  
3 subsection (5) of this section is not served on:

4       (a) The minor, if the minor is twelve years of age or older; and

5       (b) Each parent of the minor, unless the court finds by clear and  
6 convincing evidence that the parent, in a record, waived the right to  
7 notice or cannot be located and served with due diligence.

8       (~~(9)~~) (10) If a petitioner is unable to serve notice under  
9 subsection (5) of this section on a parent of the minor or alleges  
10 that a parent of the minor waived the right to notice under this  
11 section, the court shall appoint a court visitor who shall:

12       (a) Interview the petitioner and the minor;

13       (b) If the petitioner alleges the parent cannot be located and  
14 served, ascertain whether the parent cannot be located with due  
15 diligence; and

16       (c) Investigate any other matter relating to the petition the  
17 court directs.

18       (~~(10)~~) (11) If the court finds under subsection (3) of this  
19 section that a standby guardian should be appointed, the following  
20 rules apply:

21       (a) The court shall appoint the person nominated under subsection  
22 (2) of this section unless the court finds the appointment is  
23 contrary to the best interest of the minor.

24       (b) If the parents have nominated different persons to serve as  
25 standby guardian, the court shall appoint the nominee whose  
26 appointment is in the best interest of the minor, unless the court  
27 finds that appointment of none of the nominees is in the best  
28 interest of the minor.

29       (~~(11)~~) (12) An order appointing a standby guardian under this  
30 section must state that each parent of the minor is entitled to  
31 notice, and identify any other person entitled to notice, if:

32       (a) The standby guardian assumes the duties and powers of the  
33 guardian;

34       (b) The guardian delegates custody of the minor;

35       (c) The court modifies or limits the powers of the guardian; or

36       (d) The court removes the guardian.

37       (~~(12)~~) (13) Before assuming the duties and powers of a  
38 guardian, a standby guardian must file with the court an acceptance  
39 of appointment as guardian and give notice of the acceptance to:

1 (a) Each parent of the minor, unless the parent, in a record,  
2 waived the right to notice or cannot be located and served with due  
3 diligence;

4 (b) The minor, if the minor is twelve years of age or older; and

5 (c) Any person, other than the parent, having care or custody of  
6 the minor.

7 (~~((13))~~) (14) A person that receives notice under subsection  
8 (~~((12))~~) (13) of this section or any other person interested in the  
9 welfare of the minor may file with the court an objection to the  
10 standby guardian's assumption of duties and powers of a guardian. The  
11 court shall hold a hearing if the objection supports a reasonable  
12 belief that the conditions for assumption of duties and powers have  
13 not been satisfied.

14 **Sec. 108.** RCW 11.130.225 and 2019 c 437 s 209 are each amended  
15 to read as follows:

16 (1) On its own, or on petition by a person interested in a  
17 minor's welfare, including the minor, the court may appoint an  
18 emergency guardian for the minor if the court finds:

19 (a) Appointment of an emergency guardian is likely to prevent  
20 substantial harm to the minor's health, safety, or welfare; and

21 (b) No other person appears to have authority and willingness to  
22 act in the circumstances.

23 (2) The duration of authority of an emergency guardian for a  
24 minor may not exceed sixty days and the emergency guardian may  
25 exercise only the powers specified in the order of appointment. The  
26 emergency guardian's authority may be extended once for not more than  
27 sixty days if the court finds that the conditions for appointment of  
28 an emergency guardian in subsection (1) of this section continue.

29 (3) Except as otherwise provided in subsection (4) of this  
30 section, reasonable notice of the date, time, and place of a hearing  
31 on a petition for appointment of an emergency guardian for a minor  
32 must be given to:

33 (a) The minor, if the minor is twelve years of age or older;

34 (b) Any attorney appointed under RCW 11.130.200;

35 (c) Each parent of the minor;

36 (d) Any person, other than a parent, having care or custody of  
37 the minor; and

38 (e) Any other person the court determines.

1 (4) The court may appoint an emergency guardian for a minor  
2 without notice under subsection (3) of this section and a hearing  
3 only if the court finds from an affidavit or testimony that the  
4 minor's health, safety, or welfare will be substantially harmed  
5 before a hearing with notice on the appointment can be held. If the  
6 court appoints an emergency guardian without notice to an  
7 unrepresented minor or the attorney for a represented minor, notice  
8 of the appointment must be given not later than forty-eight hours  
9 after the appointment to the individuals listed in subsection (3) of  
10 this section. Not later than five days after the appointment, the  
11 court shall hold a hearing on the appropriateness of the appointment.

12 (5) Appointment of an emergency guardian under this section, with  
13 or without notice, is not a determination that a basis exists for  
14 appointment of a guardian under RCW 11.130.185.

15 (6) The court may remove an emergency guardian appointed under  
16 this section at any time. The emergency guardian shall make any  
17 report the court requires.

18 (7) Notwithstanding subsection (2) of this section, the court may  
19 extend an emergency guardianship pending the outcome of a full  
20 hearing under RCW 11.130.190 or 11.130.220.

21 (8) If a petition for guardianship under RCW 11.130.215 is  
22 pending, or is subsequently filed after a petition under this  
23 section, the cases shall be linked or consolidated.

24 **Sec. 109.** RCW 11.130.230 and 2019 c 437 s 210 are each amended  
25 to read as follows:

26 (1) A guardian for a minor is a fiduciary. Except as otherwise  
27 limited by the court, a guardian for a minor has the duties and  
28 responsibilities of a parent regarding the minor's support, care,  
29 education, health, safety, and welfare. A guardian shall act in the  
30 minor's best interest and exercise reasonable care, diligence, and  
31 prudence.

32 (2) A guardian for a minor shall:

33 (a) Be personally acquainted with the minor and maintain  
34 sufficient contact with the minor to know the minor's abilities,  
35 limitations, needs, opportunities, and physical and mental health;

36 (b) Take reasonable care of the minor's personal effects and  
37 bring a proceeding for a conservatorship or protective arrangement  
38 instead of conservatorship if necessary to protect other property of  
39 the minor;

1 (c) Expend funds of the minor which have been received by the  
2 guardian for the minor's current needs for support, care, education,  
3 health, safety, and welfare;

4 (d) Conserve any funds of the minor not expended under (c) of  
5 this subsection for the minor's future needs, but if a conservator is  
6 appointed for the minor, pay the funds at least quarterly to the  
7 conservator to be conserved for the minor's future needs;

8 (e) Report the condition of the minor and account for funds and  
9 other property of the minor in the guardian's possession or subject  
10 to the guardian's control, (~~as required by court rule or~~) if  
11 ordered by the court on its own motion or on application of a person  
12 interested in the minor's welfare;

13 (f) Inform the court of any change in the minor's dwelling or  
14 address; and

15 (g) In determining what is in the minor's best interest, take  
16 into account the minor's preferences to the extent actually known or  
17 reasonably ascertainable by the guardian.

18 **Sec. 110.** RCW 11.130.240 and 2019 c 437 s 212 are each amended  
19 to read as follows:

20 (1) Guardianship under this chapter for a minor terminates:

21 (a) On the minor's death, adoption, emancipation, or attainment  
22 of majority; or

23 (b) When the court finds that the (~~standard~~) basis in RCW  
24 11.130.185 for appointment of a guardian (~~is not satisfied~~) no  
25 longer exists, unless the court finds that:

26 (i) Termination of the guardianship would be harmful to the  
27 minor; and

28 (ii) The minor's interest in the continuation of the guardianship  
29 outweighs the interest of any parent of the minor in restoration of  
30 the parent's right to make decisions for the minor.

31 (2) A minor subject to guardianship or a person interested in the  
32 welfare of the minor, including a parent, may petition the court to  
33 terminate the guardianship, modify the guardianship, remove the  
34 guardian and appoint a successor guardian, or remove a standby  
35 guardian and appoint a different standby guardian.

36 (3) A petitioner under subsection (2) of this section shall give  
37 notice of the hearing on the petition to the minor, if the minor is  
38 twelve years of age or older and is not the petitioner, the guardian,  
39 each parent of the minor, and any other person the court determines.

1 (4) The court shall follow the priorities in RCW 11.130.215(2)  
2 when selecting a successor guardian for a minor.

3 (5) Not later than thirty days after appointment of a successor  
4 guardian for a minor, the court shall give notice of the appointment  
5 to the minor subject to guardianship, if the minor is twelve years of  
6 age or older, each parent of the minor, and any other person the  
7 court determines.

8 (6) When terminating a guardianship for a minor under this  
9 section, the court may issue an order providing for transitional  
10 arrangements that will assist the minor with a transition of custody  
11 and is in the best interest of the minor.

12 (7) A guardian for a minor that is removed shall cooperate with a  
13 successor guardian to facilitate transition of the guardian's  
14 responsibilities and protect the best interest of the minor.

15 **Sec. 111.** RCW 11.130.245 and 2019 c 437 s 213 are each amended  
16 to read as follows:

17 (1) This chapter does not affect the validity of any court order  
18 issued under chapter 26.10 RCW prior to January 1, 2021. Orders  
19 issued under chapter 26.10 RCW prior to January 1, 2021, remain in  
20 effect and do not need to be reissued in a new order under this  
21 chapter.

22 (2) All orders issued under chapter 26.10 RCW prior to the  
23 effective date of chapter 437, Laws of 2019 remain operative after  
24 the effective date of chapter 437, Laws of 2019. After the effective  
25 date of chapter 437, Laws of 2019, if an order issued under chapter  
26 26.10 RCW is modified, the modification is subject to the  
27 requirements of this chapter.

28 NEW SECTION. **Sec. 112.** A new section is added to chapter 11.130  
29 RCW to read as follows:

30 (1) In a proceeding under this chapter either party may file a  
31 motion for temporary support of children entitled to support. The  
32 motion shall be accompanied by an affidavit setting forth the factual  
33 basis for the motion and the amount requested.

34 (2) In a proceeding under this chapter either party may file a  
35 motion for a temporary restraining order or preliminary injunction,  
36 providing relief proper in the circumstances, and restraining or  
37 enjoining another party from:

1 (a) Molesting or disturbing the peace of the other party or of  
2 any child;

3 (b) Entering the family home or the home of the other party upon  
4 a showing of the necessity therefor;

5 (c) Knowingly coming within, or knowingly remaining within, a  
6 specified distance from a specified location; and

7 (d) Removing a child from the jurisdiction of the court.

8 (3) Either party may request a domestic violence protection order  
9 under chapter 26.50 RCW or an antiharassment protection order under  
10 chapter 10.14 RCW on a temporary basis by filing an appropriate  
11 separate civil cause of action. The petitioner shall inform the court  
12 of the existence of the action under this title. The court shall set  
13 all future protection hearings on the guardianship calendar to be  
14 heard concurrent with the action under this title and the clerk shall  
15 relate the cases in the case management system. The court may grant  
16 any of the relief provided in RCW 26.50.060 except relief pertaining  
17 to residential provisions for the children which provisions shall be  
18 provided for under this chapter, and any of the relief provided in  
19 RCW 10.14.080. Ex parte orders issued under this subsection shall be  
20 effective for a fixed period not to exceed fourteen days, or upon  
21 court order, not to exceed twenty-four days if necessary to ensure  
22 that all temporary motions in the case can be heard at the same time.

23 (4) In issuing the order, the court shall consider the provisions  
24 of RCW 9.41.800, and shall order the respondent to surrender, and  
25 prohibit the respondent from possessing, all firearms, dangerous  
26 weapons, and any concealed pistol license as required in RCW  
27 9.41.800. Such orders may only be made in the civil protection case  
28 related to the action under this title.

29 (5) The court may issue a temporary restraining order without  
30 requiring notice to the other party only if it finds on the basis of  
31 the moving affidavit or other evidence that irreparable injury could  
32 result if an order is not issued until the time for responding has  
33 elapsed.

34 (6) The court may issue a temporary restraining order or  
35 preliminary injunction and an order for temporary support in such  
36 amounts and on such terms as are just and proper in the  
37 circumstances.

38 (7) A temporary order, temporary restraining order, or  
39 preliminary injunction:

1 (a) Does not prejudice the rights of a party or any child which  
2 are to be adjudicated at subsequent hearings in the proceeding;

3 (b) May be revoked or modified;

4 (c) Terminates when the final order is entered or when the motion  
5 is dismissed;

6 (d) May be entered in a proceeding for the modification of an  
7 existing order.

8 (8) A support debt owed to the state for public assistance  
9 expenditures which has been charged against a party pursuant to RCW  
10 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise  
11 extinguished by, the final decree or order, unless the office of  
12 support enforcement has been given notice of the final proceeding and  
13 an opportunity to present its claim for the support debt to the court  
14 and has failed to file an affidavit as provided in this subsection.  
15 Notice of the proceeding shall be served upon the office of support  
16 enforcement personally, or by certified mail, and shall be given no  
17 fewer than thirty days prior to the date of the final proceeding. An  
18 original copy of the notice shall be filed with the court either  
19 before service or within a reasonable time thereafter. The office of  
20 support enforcement may present its claim, and thereby preserve the  
21 support debt, by filing an affidavit setting forth the amount of the  
22 debt with the court, and by mailing a copy of the affidavit to the  
23 parties or their attorney prior to the date of the final proceeding.

24 **Sec. 113.** RCW 11.130.250 and 2019 c 437 s 214 are each amended  
25 to read as follows:

26 (1) Every petition filed in proceedings under this chapter shall  
27 contain a statement alleging whether the child is or may be an Indian  
28 child as defined in RCW 13.38.040. If the child is an Indian child,  
29 chapter 13.38 RCW shall apply.

30 (2) Every order or decree entered in any proceeding under this  
31 chapter shall contain a finding that the federal Indian child welfare  
32 act or chapter 13.38 RCW does or does not apply. Where there is a  
33 finding that the federal Indian child welfare act or chapter 13.38  
34 RCW does apply, the decree or order must also contain a finding that  
35 all notice ~~((and))~~, evidentiary requirements, and placement  
36 preferences under the federal Indian child welfare act and chapter  
37 13.38 RCW have been satisfied.

1       **Sec. 114.** RCW 13.34.030 and 2019 c 172 s 2 and 2019 c 46 s 5016  
2 are each reenacted and amended to read as follows:

3       The definitions in this section apply throughout this chapter  
4 unless the context clearly requires otherwise.

5       (1) "Abandoned" means when the child's parent, guardian, or other  
6 custodian has expressed, either by statement or conduct, an intent to  
7 forego, for an extended period, parental rights or responsibilities  
8 despite an ability to exercise such rights and responsibilities. If  
9 the court finds that the petitioner has exercised due diligence in  
10 attempting to locate the parent, no contact between the child and the  
11 child's parent, guardian, or other custodian for a period of three  
12 months creates a rebuttable presumption of abandonment, even if there  
13 is no expressed intent to abandon.

14       (2) "Child," "juvenile," and "youth" mean:

15       (a) Any individual under the age of eighteen years; or

16       (b) Any individual age eighteen to twenty-one years who is  
17 eligible to receive and who elects to receive the extended foster  
18 care services authorized under RCW 74.13.031. A youth who remains  
19 dependent and who receives extended foster care services under RCW  
20 74.13.031 shall not be considered a "child" under any other statute  
21 or for any other purpose.

22       (3) "Current placement episode" means the period of time that  
23 begins with the most recent date that the child was removed from the  
24 home of the parent, guardian, or legal custodian for purposes of  
25 placement in out-of-home care and continues until: (a) The child  
26 returns home; (b) an adoption decree, a permanent custody order, or  
27 guardianship order is entered; or (c) the dependency is dismissed,  
28 whichever occurs first.

29       (4) "Department" means the department of children, youth, and  
30 families.

31       (5) "Dependency guardian" means the person, nonprofit  
32 corporation, or Indian tribe appointed by the court pursuant to this  
33 chapter for the limited purpose of assisting the court in the  
34 supervision of the dependency.

35       (6) "Dependent child" means any child who:

36       (a) Has been abandoned;

37       (b) Is abused or neglected as defined in chapter 26.44 RCW by a  
38 person legally responsible for the care of the child;

39       (c) Has no parent, guardian, or custodian capable of adequately  
40 caring for the child, such that the child is in circumstances which

1 constitute a danger of substantial damage to the child's  
2 psychological or physical development; or

3 (d) Is receiving extended foster care services, as authorized by  
4 RCW 74.13.031.

5 (7) "Developmental disability" means a disability attributable to  
6 intellectual disability, cerebral palsy, epilepsy, autism, or another  
7 neurological or other condition of an individual found by the  
8 secretary of the department of social and health services to be  
9 closely related to an intellectual disability or to require treatment  
10 similar to that required for individuals with intellectual  
11 disabilities, which disability originates before the individual  
12 attains age eighteen, which has continued or can be expected to  
13 continue indefinitely, and which constitutes a substantial limitation  
14 to the individual.

15 (8) "Educational liaison" means a person who has been appointed  
16 by the court to fulfill responsibilities outlined in RCW 13.34.046.

17 (9) "Extended foster care services" means residential and other  
18 support services the department is authorized to provide under RCW  
19 74.13.031. These services may include placement in licensed,  
20 relative, or otherwise approved care, or supervised independent  
21 living settings; assistance in meeting basic needs; independent  
22 living services; medical assistance; and counseling or treatment.

23 (10) "Guardian" means the person or agency that: (a) Has been  
24 appointed as the guardian of a child in a legal proceeding, including  
25 a guardian appointed pursuant to chapter 13.36 RCW; and (b) has the  
26 legal right to custody of the child pursuant to such appointment. The  
27 term "guardian" does not include a "dependency guardian" appointed  
28 pursuant to a proceeding under this chapter.

29 (11) "Guardian ad litem" means a person, appointed by the court  
30 to represent the best interests of a child in a proceeding under this  
31 chapter, or in any matter which may be consolidated with a proceeding  
32 under this chapter. A "court-appointed special advocate" appointed by  
33 the court to be the guardian ad litem for the child, or to perform  
34 substantially the same duties and functions as a guardian ad litem,  
35 shall be deemed to be guardian ad litem for all purposes and uses of  
36 this chapter.

37 (12) "Guardian ad litem program" means a court-authorized  
38 volunteer program, which is or may be established by the superior  
39 court of the county in which such proceeding is filed, to manage all  
40 aspects of volunteer guardian ad litem representation for children

1 alleged or found to be dependent. Such management shall include but  
2 is not limited to: Recruitment, screening, training, supervision,  
3 assignment, and discharge of volunteers.

4 (13) "Guardianship" means a guardianship pursuant to chapter  
5 13.36 RCW or a limited guardianship of a minor pursuant to RCW  
6 11.130.215 or equivalent laws of another state or a federally  
7 recognized Indian tribe.

8 (14) "Housing assistance" means appropriate referrals by the  
9 department or other agencies to federal, state, local, or private  
10 agencies or organizations, assistance with forms, applications, or  
11 financial subsidies or other monetary assistance for housing. For  
12 purposes of this chapter, "housing assistance" is not a remedial  
13 service or family reunification service as described in RCW  
14 13.34.025(2).

15 (~~(14)~~) (15) "Indigent" means a person who, at any stage of a  
16 court proceeding, is:

17 (a) Receiving one of the following types of public assistance:  
18 Temporary assistance for needy families, aged, blind, or disabled  
19 assistance benefits, medical care services under RCW 74.09.035,  
20 pregnant women assistance benefits, poverty-related veterans'  
21 benefits, food stamps or food stamp benefits transferred  
22 electronically, refugee resettlement benefits, medicaid, or  
23 supplemental security income; or

24 (b) Involuntarily committed to a public mental health facility;  
25 or

26 (c) Receiving an annual income, after taxes, of one hundred  
27 twenty-five percent or less of the federally established poverty  
28 level; or

29 (d) Unable to pay the anticipated cost of counsel for the matter  
30 before the court because his or her available funds are insufficient  
31 to pay any amount for the retention of counsel.

32 (~~(15)~~) (16) "Nonminor dependent" means any individual age  
33 eighteen to twenty-one years who is participating in extended foster  
34 care services authorized under RCW 74.13.031.

35 (~~(16)~~) (17) "Out-of-home care" means placement in a foster  
36 family home or group care facility licensed pursuant to chapter 74.15  
37 RCW or placement in a home, other than that of the child's parent,  
38 guardian, or legal custodian, not required to be licensed pursuant to  
39 chapter 74.15 RCW.

1       (~~(17)~~) (18) "Parent" means the biological or adoptive parents  
2 of a child, or an individual who has established a parent-child  
3 relationship under RCW 26.26A.100, unless the legal rights of that  
4 person have been terminated by a judicial proceeding pursuant to this  
5 chapter, chapter 26.33 RCW, or the equivalent laws of another state  
6 or a federally recognized Indian tribe.

7       (~~(18)~~) (19) "Prevention and family services and programs" means  
8 specific mental health prevention and treatment services, substance  
9 abuse prevention and treatment services, and in-home parent skill-  
10 based programs that qualify for federal funding under the federal  
11 family first prevention services act, P.L. 115-123. For purposes of  
12 this chapter, prevention and family services and programs are not  
13 remedial services or family reunification services as described in  
14 RCW 13.34.025(2).

15       (~~(19)~~) (20) "Prevention services" means preservation services,  
16 as defined in chapter 74.14C RCW, and other reasonably available  
17 services, including housing assistance, capable of preventing the  
18 need for out-of-home placement while protecting the child. Prevention  
19 services include, but are not limited to, prevention and family  
20 services and programs as defined in this section.

21       (~~(20)~~) (21) "Qualified residential treatment program" means a  
22 program licensed as a group care facility under chapter 74.15 RCW  
23 that also qualifies for funding under the federal family first  
24 prevention services act under 42 U.S.C. Sec. 672(k) and meets the  
25 requirements provided in RCW 13.34.420.

26       (~~(21)~~) (22) "Relative" includes persons related to a child in  
27 the following ways:

28       (a) Any blood relative, including those of half-blood, and  
29 including first cousins, second cousins, nephews or nieces, and  
30 persons of preceding generations as denoted by prefixes of grand,  
31 great, or great-great;

32       (b) Stepfather, stepmother, stepbrother, and stepsister;

33       (c) A person who legally adopts a child or the child's parent as  
34 well as the natural and other legally adopted children of such  
35 persons, and other relatives of the adoptive parents in accordance  
36 with state law;

37       (d) Spouses of any persons named in (a), (b), or (c) of this  
38 subsection, even after the marriage is terminated;

39       (e) Relatives, as named in (a), (b), (c), or (d) of this  
40 subsection, of any half sibling of the child; or

1 (f) Extended family members, as defined by the law or custom of  
2 the Indian child's tribe or, in the absence of such law or custom, a  
3 person who has reached the age of eighteen and who is the Indian  
4 child's grandparent, aunt or uncle, brother or sister, brother-in-law  
5 or sister-in-law, niece or nephew, first or second cousin, or  
6 stepparent who provides care in the family abode on a twenty-four  
7 hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);

8 ~~((22))~~ (23) "Shelter care" means temporary physical care in a  
9 facility licensed pursuant to RCW 74.15.030 or in a home not required  
10 to be licensed pursuant to RCW 74.15.030.

11 ~~((23))~~ (24) "Sibling" means a child's birth brother, birth  
12 sister, adoptive brother, adoptive sister, half-brother, or half-  
13 sister, or as defined by the law or custom of the Indian child's  
14 tribe for an Indian child as defined in RCW 13.38.040.

15 ~~((24))~~ (25) "Social study" means a written evaluation of  
16 matters relevant to the disposition of the case that contains the  
17 information required by RCW 13.34.430.

18 ~~((25))~~ (26) "Supervised independent living" includes, but is  
19 not limited to, apartment living, room and board arrangements,  
20 college or university dormitories, and shared roommate settings.  
21 Supervised independent living settings must be approved by the  
22 department or the court.

23 ~~((26))~~ (27) "Voluntary placement agreement" means, for the  
24 purposes of extended foster care services, a written voluntary  
25 agreement between a nonminor dependent who agrees to submit to the  
26 care and authority of the department for the purposes of  
27 participating in the extended foster care program.

28 **Sec. 115.** RCW 13.34.062 and 2018 c 58 s 71 are each amended to  
29 read as follows:

30 (1)(a) Whenever a child is taken into custody by child protective  
31 services pursuant to a court order issued under RCW 13.34.050 or when  
32 child protective services is notified that a child has been taken  
33 into custody pursuant to RCW 26.44.050 or 26.44.056, child protective  
34 services shall make reasonable efforts to inform the parent,  
35 guardian, or legal custodian of the fact that the child has been  
36 taken into custody, the reasons why the child was taken into custody,  
37 and their legal rights under this title, including the right to a  
38 shelter care hearing, as soon as possible. Notice must be provided in  
39 an understandable manner and take into consideration the parent's,

1 guardian's, or legal custodian's primary language, level of  
2 education, and cultural issues.

3 (b) In no event shall the notice required by this section be  
4 provided to the parent, guardian, or legal custodian more than  
5 twenty-four hours after the child has been taken into custody or  
6 twenty-four hours after child protective services has been notified  
7 that the child has been taken into custody.

8 (2) (a) The notice of custody and rights may be given by any means  
9 reasonably certain of notifying the parents including, but not  
10 limited to, written, telephone, or in person oral notification. If  
11 the initial notification is provided by a means other than writing,  
12 child protective services shall make reasonable efforts to also  
13 provide written notification.

14 (b) The written notice of custody and rights required by this  
15 section shall be in substantially the following form:

16 "NOTICE

17 Your child has been placed in temporary custody under the  
18 supervision of Child Protective Services (or other person or agency).  
19 You have important legal rights and you must take steps to protect  
20 your interests.

21 1. A court hearing will be held before a judge within 72 hours of  
22 the time your child is taken into custody excluding Saturdays,  
23 Sundays, and holidays. You should call the court at (~~\_\_\_\_\_ (insert~~  
24 ~~appropriate phone number here) \_\_\_\_\_~~) . . . (insert appropriate phone  
25 number here) for specific information about the date, time, and  
26 location of the court hearing.

27 2. You have the right to have a lawyer represent you at the  
28 hearing. Your right to representation continues after the shelter  
29 care hearing. You have the right to records the department intends to  
30 rely upon. A lawyer can look at the files in your case, talk to child  
31 protective services and other agencies, tell you about the law, help  
32 you understand your rights, and help you at hearings. If you cannot  
33 afford a lawyer, the court will appoint one to represent you. To get  
34 a court-appointed lawyer you must contact: (~~\_\_\_\_\_ (explain local~~  
35 ~~procedure) \_\_\_\_\_~~) . . . (explain local procedure).

36 3. At the hearing, you have the right to speak on your own  
37 behalf, to introduce evidence, to examine witnesses, and to receive a  
38 decision based solely on the evidence presented to the judge.

1 4. If your hearing occurs before a court commissioner, you have  
2 the right to have the decision of the court commissioner reviewed by  
3 a superior court judge. To obtain that review, you must, within ten  
4 days after the entry of the decision of the court commissioner, file  
5 with the court a motion for revision of the decision, as provided in  
6 RCW 2.24.050.

7 You should be present at any shelter care hearing. If you do not  
8 come, the judge will not hear what you have to say.

9 You may call the Child Protective Services' caseworker for more  
10 information about your child. The caseworker's name and telephone  
11 number are: (~~(insert name and telephone number)~~) . . .  
12 (insert name and telephone number).

13 5. You have a right to a case conference to develop a written  
14 service agreement following the shelter care hearing. The service  
15 agreement may not conflict with the court's order of shelter care.  
16 You may request that a multidisciplinary team, family group  
17 conference, or prognostic staffing be convened for your child's case.  
18 You may participate in these processes with your counsel present.

19 6. If your child is placed in the custody of the department of  
20 children, youth, and families or other supervising agency,  
21 immediately following the shelter care hearing, the court will enter  
22 an order granting the department or other supervising agency the  
23 right to inspect and copy all health, medical, mental health, and  
24 education records of the child, directing health care providers to  
25 release such information without your further consent, and granting  
26 the department or supervising agency or its designee the authority  
27 and responsibility, where applicable, to:

- 28 (1) Notify the child's school that the child is in out-of-home  
29 placement;
- 30 (2) Enroll the child in school;
- 31 (3) Request the school transfer records;
- 32 (4) Request and authorize evaluation of special needs;
- 33 (5) Attend parent or teacher conferences;
- 34 (6) Excuse absences;
- 35 (7) Grant permission for extracurricular activities;
- 36 (8) Authorize medications which need to be administered during  
37 school hours and sign for medical needs that arise during school  
38 hours; and
- 39 (9) Complete or update school emergency records.

1           7. If the court decides to place your child in the custody of the  
2 department of children, youth, and families or other supervising  
3 agency, the department or agency will create a permanency plan for  
4 your child, including a primary placement goal and secondary  
5 placement goal. The department or agency also will recommend that the  
6 court order services for your child and for you, if needed. The  
7 department or agency is required to make reasonable efforts to  
8 provide you with services to address your parenting problems, and to  
9 provide you with visitation with your child according to court  
10 orders. Failure to promptly engage in services or to maintain contact  
11 with your child may lead to the filing of a petition to terminate  
12 your parental rights.

13           8. Primary and secondary permanency plans are intended to run at  
14 the same time so that your child will have a permanent home as  
15 quickly as possible. Absent good cause, and when appropriate, the  
16 department or other supervising agency must follow the wishes of a  
17 natural parent regarding placement of a child. You should tell your  
18 lawyer and the court where you wish your child placed immediately,  
19 including whether you want your child placed with you, with a  
20 relative, or with another suitable person. You also should tell your  
21 lawyer and the court what services you feel are necessary and your  
22 wishes regarding visitation with your child. Even if you want another  
23 parent or person to be the primary placement choice for your child,  
24 you should tell your lawyer, the department or other supervising  
25 agency, and the court if you want to be a secondary placement option,  
26 and you should comply with court orders for services and participate  
27 in visitation with your child. Early and consistent involvement in  
28 your child's case plan is important for the well-being of your child.

29           9. A dependency petition begins a judicial process, which, if the  
30 court finds your child dependent, could result in substantial  
31 restrictions including, the entry or modification of a parenting plan  
32 or residential schedule, previously existing nonparental custody  
33 order or decree, guardianship order, or permanent loss of your  
34 parental rights."

35           Upon receipt of the written notice, the parent, guardian, or  
36 legal custodian shall acknowledge such notice by signing a receipt  
37 prepared by child protective services. If the parent, guardian, or  
38 legal custodian does not sign the receipt, the reason for lack of a

1 signature shall be written on the receipt. The receipt shall be made  
2 a part of the court's file in the dependency action.

3 If after making reasonable efforts to provide notification, child  
4 protective services is unable to determine the whereabouts of the  
5 parents, guardian, or legal custodian, the notice shall be delivered  
6 or sent to the last known address of the parent, guardian, or legal  
7 custodian.

8 (3) If child protective services is not required to give notice  
9 under this section, the juvenile court counselor assigned to the  
10 matter shall make all reasonable efforts to advise the parents,  
11 guardian, or legal custodian of the time and place of any shelter  
12 care hearing, request that they be present, and inform them of their  
13 basic rights as provided in RCW 13.34.090.

14 (4) Reasonable efforts to advise and to give notice, as required  
15 in this section, shall include, at a minimum, investigation of the  
16 whereabouts of the parent, guardian, or legal custodian. If such  
17 reasonable efforts are not successful, or the parent, guardian, or  
18 legal custodian does not appear at the shelter care hearing, the  
19 petitioner shall testify at the hearing or state in a declaration:

20 (a) The efforts made to investigate the whereabouts of, and to  
21 advise, the parent, guardian, or custodian; and

22 (b) Whether actual advice of rights was made, to whom it was  
23 made, and how it was made, including the substance of any oral  
24 communication or copies of written materials used.

25 **Sec. 116.** RCW 13.34.110 and 2017 3rd sp.s. c 6 s 305 are each  
26 amended to read as follows:

27 (1) The court shall hold a fact-finding hearing on the petition  
28 and, unless the court dismisses the petition, shall make written  
29 findings of fact, stating the reasons therefor. The rules of evidence  
30 shall apply at the fact-finding hearing and the parent, guardian, or  
31 legal custodian of the child shall have all of the rights provided in  
32 RCW 13.34.090(1). The petitioner shall have the burden of  
33 establishing by a preponderance of the evidence that the child is  
34 dependent within the meaning of RCW 13.34.030.

35 (2) The court in a fact-finding hearing may consider the history  
36 of past involvement of child protective services or law enforcement  
37 agencies with the family for the purpose of establishing a pattern of  
38 conduct, behavior, or inaction with regard to the health, safety, or  
39 welfare of the child on the part of the child's parent, guardian, or

1 legal custodian, or for the purpose of establishing that reasonable  
2 efforts have been made by the department to prevent or eliminate the  
3 need for removal of the child from the child's home. No report of  
4 child abuse or neglect that has been destroyed or expunged under RCW  
5 26.44.031 may be used for such purposes.

6 (3) (a) The parent, guardian, or legal custodian of the child may  
7 waive his or her right to a fact-finding hearing by stipulating or  
8 agreeing to the entry of an order of dependency establishing that the  
9 child is dependent within the meaning of RCW 13.34.030. The parent,  
10 guardian, or legal custodian may also stipulate or agree to an order  
11 of disposition pursuant to RCW 13.34.130 at the same time. Any  
12 stipulated or agreed order of dependency or disposition must be  
13 signed by the parent, guardian, or legal custodian and his or her  
14 attorney, unless the parent, guardian, or legal custodian has waived  
15 his or her right to an attorney in open court, and by the petitioner  
16 and the attorney, guardian ad litem, or court-appointed special  
17 advocate for the child, if any. If the department is not the  
18 petitioner and is required by the order to supervise the placement of  
19 the child or provide services to any party, the department must also  
20 agree to and sign the order.

21 (b) Entry of any stipulated or agreed order of dependency or  
22 disposition is subject to approval by the court. The court shall  
23 receive and review a social study before entering a stipulated or  
24 agreed order and shall consider whether the order is consistent with  
25 the allegations of the dependency petition and the problems that  
26 necessitated the child's placement in out-of-home care. No social  
27 file or social study may be considered by the court in connection  
28 with the fact-finding hearing or prior to factual determination,  
29 except as otherwise admissible under the rules of evidence.

30 (c) Prior to the entry of any stipulated or agreed order of  
31 dependency, the parent, guardian, or legal custodian of the child and  
32 his or her attorney must appear before the court and the court within  
33 available resources must inquire and establish on the record that:

34 (i) The parent, guardian, or legal custodian understands the  
35 terms of the order or orders he or she has signed, including his or  
36 her responsibility to participate in remedial services as provided in  
37 any disposition order;

38 (ii) The parent, guardian, or legal custodian understands that  
39 entry of the order starts a process that could result in the filing  
40 of a petition to terminate his or her relationship with the child

1 within the time frames required by state and federal law if he or she  
2 fails to comply with the terms of the dependency or disposition  
3 orders or fails to substantially remedy the problems that  
4 necessitated the child's placement in out-of-home care;

5 (iii) The parent, guardian, or legal custodian understands that  
6 the entry of the stipulated or agreed order of dependency is an  
7 admission that the child is dependent within the meaning of RCW  
8 13.34.030 and shall have the same legal effect as a finding by the  
9 court that the child is dependent by at least a preponderance of the  
10 evidence, and that the parent, guardian, or legal custodian shall not  
11 have the right in any subsequent proceeding for termination of  
12 parental rights (~~(or dependency guardianship)~~) pursuant to this  
13 chapter or (~~(nonparental custody)~~) guardianship pursuant to (~~(chapter~~  
14 ~~26.10)~~) chapters 13.36 or 11.130 RCW to challenge or dispute the fact  
15 that the child was found to be dependent; and

16 (iv) The parent, guardian, or legal custodian knowingly and  
17 willingly stipulated and agreed to and signed the order or orders,  
18 without duress, and without misrepresentation or fraud by any other  
19 party.

20 If a parent, guardian, or legal custodian fails to appear before  
21 the court after stipulating or agreeing to entry of an order of  
22 dependency, the court may enter the order upon a finding that the  
23 parent, guardian, or legal custodian had actual notice of the right  
24 to appear before the court and chose not to do so. The court may  
25 require other parties to the order, including the attorney for the  
26 parent, guardian, or legal custodian, to appear and advise the court  
27 of the parent's, guardian's, or legal custodian's notice of the right  
28 to appear and understanding of the factors specified in this  
29 subsection. A parent, guardian, or legal custodian may choose to  
30 waive his or her presence at the in-court hearing for entry of the  
31 stipulated or agreed order of dependency by submitting to the court  
32 through counsel a completed stipulated or agreed dependency fact-  
33 finding/disposition statement in a form determined by the Washington  
34 state supreme court pursuant to General Rule GR 9.

35 (4) Immediately after the entry of the findings of fact, the  
36 court shall hold a disposition hearing, unless there is good cause  
37 for continuing the matter for up to fourteen days. If good cause is  
38 shown, the case may be continued for longer than fourteen days.  
39 Notice of the time and place of the continued hearing may be given in  
40 open court. If notice in open court is not given to a party, that

1 party shall be notified by certified mail of the time and place of  
2 any continued hearing. Unless there is reasonable cause to believe  
3 the health, safety, or welfare of the child would be jeopardized or  
4 efforts to reunite the parent and child would be hindered, the court  
5 shall direct the department to notify those adult persons who: (a)  
6 Are related by blood or marriage to the child in the following  
7 degrees: Parent, grandparent, brother, sister, stepparent,  
8 stepbrother, stepsister, uncle, or aunt; (b) are known to the  
9 department as having been in contact with the family or child within  
10 the past twelve months; and (c) would be an appropriate placement for  
11 the child. Reasonable cause to dispense with notification to a parent  
12 under this section must be proved by clear, cogent, and convincing  
13 evidence.

14 The parties need not appear at the fact-finding or dispositional  
15 hearing if the parties, their attorneys, the guardian ad litem, and  
16 court-appointed special advocates, if any, are all in agreement.

17 **Sec. 117.** RCW 13.34.136 and 2018 c 284 s 13 are each amended to  
18 read as follows:

19 (1) Whenever a child is ordered removed from the home, a  
20 permanency plan shall be developed no later than sixty days from the  
21 time the department assumes responsibility for providing services,  
22 including placing the child, or at the time of a hearing under RCW  
23 13.34.130, whichever occurs first. The permanency planning process  
24 continues until a permanency planning goal is achieved or dependency  
25 is dismissed. The planning process shall include reasonable efforts  
26 to return the child to the parent's home.

27 (2) The department shall submit a written permanency plan to all  
28 parties and the court not less than fourteen days prior to the  
29 scheduled hearing. Responsive reports of parties not in agreement  
30 with the department's proposed permanency plan must be provided to  
31 the department, all other parties, and the court at least seven days  
32 prior to the hearing.

33 The permanency plan shall include:

34 (a) A permanency plan of care that shall identify one of the  
35 following outcomes as a primary goal and may identify additional  
36 outcomes as alternative goals: Return of the child to the home of the  
37 child's parent, guardian, or legal custodian; adoption, including a  
38 tribal customary adoption as defined in RCW 13.38.040; guardianship  
39 pursuant to chapter 13.36 RCW; guardianship of a minor pursuant to

1 RCW 11.130.215; (~~permanent legal custody~~) long-term relative or  
2 foster care, if the child is between ages sixteen and eighteen, with  
3 a written agreement between the parties and the care provider;  
4 successful completion of a responsible living skills program; or  
5 independent living, if appropriate and if the child is age sixteen or  
6 older. Although a permanency plan of care may only identify long-term  
7 relative or foster care for children between ages sixteen and  
8 eighteen, children under sixteen may remain placed with relatives or  
9 in foster care. The department shall not discharge a child to an  
10 independent living situation before the child is eighteen years of  
11 age unless the child becomes emancipated pursuant to chapter 13.64  
12 RCW;

13 (b) Unless the court has ordered, pursuant to RCW 13.34.130(8),  
14 that a termination petition be filed, a specific plan as to where the  
15 child will be placed, what steps will be taken to return the child  
16 home, what steps the department will take to promote existing  
17 appropriate sibling relationships and/or facilitate placement  
18 together or contact in accordance with the best interests of each  
19 child, and what actions the department will take to maintain parent-  
20 child ties. All aspects of the plan shall include the goal of  
21 achieving permanence for the child.

22 (i) The department's plan shall specify what services the parents  
23 will be offered to enable them to resume custody, what requirements  
24 the parents must meet to resume custody, and a time limit for each  
25 service plan and parental requirement.

26 (A) If the parent is incarcerated, the plan must address how the  
27 parent will participate in the case conference and permanency  
28 planning meetings and, where possible, must include treatment that  
29 reflects the resources available at the facility where the parent is  
30 confined. The plan must provide for visitation opportunities, unless  
31 visitation is not in the best interests of the child.

32 (B) If a parent has a developmental disability according to the  
33 definition provided in RCW 71A.10.020, and that individual is  
34 eligible for services provided by the department of social and health  
35 services developmental disabilities administration, the department  
36 shall make reasonable efforts to consult with the department of  
37 social and health services developmental disabilities administration  
38 to create an appropriate plan for services. For individuals who meet  
39 the definition of developmental disability provided in RCW 71A.10.020  
40 and who are eligible for services through the developmental

1 disabilities administration, the plan for services must be tailored  
2 to correct the parental deficiency taking into consideration the  
3 parent's disability and the department shall also determine an  
4 appropriate method to offer those services based on the parent's  
5 disability.

6 (ii)(A) Visitation is the right of the family, including the  
7 child and the parent, in cases in which visitation is in the best  
8 interest of the child. Early, consistent, and frequent visitation is  
9 crucial for maintaining parent-child relationships and making it  
10 possible for parents and children to safely reunify. The department  
11 shall encourage the maximum parent and child and sibling contact  
12 possible, when it is in the best interest of the child, including  
13 regular visitation and participation by the parents in the care of  
14 the child while the child is in placement.

15 (B) Visitation shall not be limited as a sanction for a parent's  
16 failure to comply with court orders or services where the health,  
17 safety, or welfare of the child is not at risk as a result of the  
18 visitation.

19 (C) Visitation may be limited or denied only if the court  
20 determines that such limitation or denial is necessary to protect the  
21 child's health, safety, or welfare. When a parent or sibling has been  
22 identified as a suspect in an active criminal investigation for a  
23 violent crime that, if the allegations are true, would impact the  
24 safety of the child, the department shall make a concerted effort to  
25 consult with the assigned law enforcement officer in the criminal  
26 case before recommending any changes in parent/child or child/sibling  
27 contact. In the event that the law enforcement officer has  
28 information pertaining to the criminal case that may have serious  
29 implications for child safety or well-being, the law enforcement  
30 officer shall provide this information to the department during the  
31 consultation. The department may only use the information provided by  
32 law enforcement during the consultation to inform family visitation  
33 plans and may not share or otherwise distribute the information to  
34 any person or entity. Any information provided to the department by  
35 law enforcement during the consultation is considered investigative  
36 information and is exempt from public inspection pursuant to RCW  
37 42.56.240. The results of the consultation shall be communicated to  
38 the court.

39 (D) The court and the department should rely upon community  
40 resources, relatives, foster parents, and other appropriate persons

1 to provide transportation and supervision for visitation to the  
2 extent that such resources are available, and appropriate, and the  
3 child's safety would not be compromised.

4 (iii)(A) The department, court, or caregiver in the out-of-home  
5 placement may not limit visitation or contact between a child and  
6 sibling as a sanction for a child's behavior or as an incentive to  
7 the child to change his or her behavior.

8 (B) Any exceptions, limitation, or denial of contacts or  
9 visitation must be approved by the supervisor of the department  
10 caseworker and documented. The child, parent, department, guardian ad  
11 litem, or court-appointed special advocate may challenge the denial  
12 of visits in court.

13 (iv) A child shall be placed as close to the child's home as  
14 possible, preferably in the child's own neighborhood, unless the  
15 court finds that placement at a greater distance is necessary to  
16 promote the child's or parents' well-being.

17 (v) The plan shall state whether both in-state and, where  
18 appropriate, out-of-state placement options have been considered by  
19 the department.

20 (vi) Unless it is not in the best interests of the child,  
21 whenever practical, the plan should ensure the child remains enrolled  
22 in the school the child was attending at the time the child entered  
23 foster care.

24 (vii) The department shall provide all reasonable services that  
25 are available within the department, or within the community, or  
26 those services which the department has existing contracts to  
27 purchase. It shall report to the court if it is unable to provide  
28 such services; and

29 (c) If the court has ordered, pursuant to RCW 13.34.130(~~(+8)~~)  
30 (9), that a termination petition be filed, a specific plan as to  
31 where the child will be placed, what steps will be taken to achieve  
32 permanency for the child, services to be offered or provided to the  
33 child, and, if visitation would be in the best interests of the  
34 child, a recommendation to the court regarding visitation between  
35 parent and child pending a fact-finding hearing on the termination  
36 petition. The department shall not be required to develop a plan of  
37 services for the parents or provide services to the parents if the  
38 court orders a termination petition be filed. However, reasonable  
39 efforts to ensure visitation and contact between siblings shall be

1 made unless there is reasonable cause to believe the best interests  
2 of the child or siblings would be jeopardized.

3 (3) Permanency planning goals should be achieved at the earliest  
4 possible date. If the child has been in out-of-home care for fifteen  
5 of the most recent twenty-two months, and the court has not made a  
6 good cause exception, the court shall require the department to file  
7 a petition seeking termination of parental rights in accordance with  
8 RCW 13.34.145(4)(b)(vi). In cases where parental rights have been  
9 terminated, the child is legally free for adoption, and adoption has  
10 been identified as the primary permanency planning goal, it shall be  
11 a goal to complete the adoption within six months following entry of  
12 the termination order.

13 (4) If the court determines that the continuation of reasonable  
14 efforts to prevent or eliminate the need to remove the child from his  
15 or her home or to safely return the child home should not be part of  
16 the permanency plan of care for the child, reasonable efforts shall  
17 be made to place the child in a timely manner and to complete  
18 whatever steps are necessary to finalize the permanent placement of  
19 the child.

20 (5) The identified outcomes and goals of the permanency plan may  
21 change over time based upon the circumstances of the particular case.

22 (6) The court shall consider the child's relationships with the  
23 child's siblings in accordance with RCW 13.34.130(~~(+6)~~) (7).  
24 Whenever the permanency plan for a child is adoption, the court shall  
25 encourage the prospective adoptive parents, birth parents, foster  
26 parents, kinship caregivers, and the department or other agency to  
27 seriously consider the long-term benefits to the child adoptee and  
28 his or her siblings of providing for and facilitating continuing  
29 postadoption contact between the siblings. To the extent that it is  
30 feasible, and when it is in the best interests of the child adoptee  
31 and his or her siblings, contact between the siblings should be  
32 frequent and of a similar nature as that which existed prior to the  
33 adoption. If the child adoptee or his or her siblings are represented  
34 by an attorney or guardian ad litem in a proceeding under this  
35 chapter or in any other child custody proceeding, the court shall  
36 inquire of each attorney and guardian ad litem regarding the  
37 potential benefits of continuing contact between the siblings and the  
38 potential detriments of severing contact. This section does not  
39 require the department or other agency to agree to any specific  
40 provisions in an open adoption agreement and does not create a new

1 obligation for the department to provide supervision or  
2 transportation for visits between siblings separated by adoption from  
3 foster care.

4 (7) For purposes related to permanency planning(~~(+~~  
5 ~~(a) "Guardianship")~~), "guardianship" means a ~~((dependency~~  
6 ~~guardianship or a legal))~~ guardianship pursuant to chapter ~~((11.88))~~  
7 13.36 RCW or a guardianship of a minor pursuant to RCW 11.130.215, or  
8 equivalent laws of another state or a federally recognized Indian  
9 tribe.

10 ~~((b) "Permanent custody order" means a custody order entered~~  
11 ~~pursuant to chapter 26.10 RCW.~~

12 ~~(c) "Permanent legal custody" means legal custody pursuant to~~  
13 ~~chapter 26.10 RCW or equivalent laws of another state or a federally~~  
14 ~~recognized Indian tribe.)~~

15 **Sec. 118.** RCW 13.34.145 and 2019 c 172 s 15 are each amended to  
16 read as follows:

17 (1) The purpose of a permanency planning hearing is to review the  
18 permanency plan for the child, inquire into the welfare of the child  
19 and progress of the case, and reach decisions regarding the permanent  
20 placement of the child.

21 (a) A permanency planning hearing shall be held in all cases  
22 where the child has remained in out-of-home care for at least nine  
23 months and an adoption decree, guardianship order, or permanent  
24 custody order has not previously been entered. The hearing shall take  
25 place no later than twelve months following commencement of the  
26 current placement episode.

27 (b) Whenever a child is removed from the home of a dependency  
28 guardian or long-term relative or foster care provider, and the child  
29 is not returned to the home of the parent, guardian, or legal  
30 custodian but is placed in out-of-home care, a permanency planning  
31 hearing shall take place no later than twelve months, as provided in  
32 this section, following the date of removal unless, prior to the  
33 hearing, the child returns to the home of the dependency guardian or  
34 long-term care provider, the child is placed in the home of the  
35 parent, guardian, or legal custodian, an adoption decree,  
36 guardianship order, or a permanent custody order is entered, or the  
37 dependency is dismissed. Every effort shall be made to provide  
38 stability in long-term placement, and to avoid disruption of

1 placement, unless the child is being returned home or it is in the  
2 best interest of the child.

3 (c) Permanency planning goals should be achieved at the earliest  
4 possible date, preferably before the child has been in out-of-home  
5 care for fifteen months. In cases where parental rights have been  
6 terminated, the child is legally free for adoption, and adoption has  
7 been identified as the primary permanency planning goal, it shall be  
8 a goal to complete the adoption within six months following entry of  
9 the termination order.

10 (2) No later than ten working days prior to the permanency  
11 planning hearing, the agency having custody of the child shall submit  
12 a written permanency plan to the court and shall mail a copy of the  
13 plan to all parties and their legal counsel, if any.

14 (3) When the youth is at least age seventeen years but not older  
15 than seventeen years and six months, the department shall provide the  
16 youth with written documentation which explains the availability of  
17 extended foster care services and detailed instructions regarding how  
18 the youth may access such services after he or she reaches age  
19 eighteen years.

20 (4) At the permanency planning hearing, the court shall conduct  
21 the following inquiry:

22 (a) If a goal of long-term foster or relative care has been  
23 achieved prior to the permanency planning hearing, the court shall  
24 review the child's status to determine whether the placement and the  
25 plan for the child's care remain appropriate. The court shall find,  
26 as of the date of the hearing, that the child's placement and plan of  
27 care is the best permanency plan for the child and provide compelling  
28 reasons why it continues to not be in the child's best interest to  
29 (i) return home; (ii) be placed for adoption; (iii) be placed with a  
30 legal guardian; or (iv) be placed with a fit and willing relative. If  
31 the child is present at the hearing, the court should ask the child  
32 about his or her desired permanency outcome.

33 (b) In cases where the primary permanency planning goal has not  
34 been achieved, the court shall inquire regarding the reasons why the  
35 primary goal has not been achieved and determine what needs to be  
36 done to make it possible to achieve the primary goal. The court shall  
37 review the permanency plan prepared by the agency and make explicit  
38 findings regarding each of the following:

39 (i) The continuing necessity for, and the safety and  
40 appropriateness of, the placement;

1 (ii) The extent of compliance with the permanency plan by the  
2 department and any other service providers, the child's parents, the  
3 child, and the child's guardian, if any;

4 (iii) The extent of any efforts to involve appropriate service  
5 providers in addition to department staff in planning to meet the  
6 special needs of the child and the child's parents;

7 (iv) The progress toward eliminating the causes for the child's  
8 placement outside of his or her home and toward returning the child  
9 safely to his or her home or obtaining a permanent placement for the  
10 child;

11 (v) The date by which it is likely that the child will be  
12 returned to his or her home or placed for adoption, with a guardian  
13 or in some other alternative permanent placement; and

14 (vi) If the child has been placed outside of his or her home for  
15 fifteen of the most recent twenty-two months, not including any  
16 period during which the child was a runaway from the out-of-home  
17 placement or the first six months of any period during which the  
18 child was returned to his or her home for a trial home visit, the  
19 appropriateness of the permanency plan, whether reasonable efforts  
20 were made by the department to achieve the goal of the permanency  
21 plan, and the circumstances which prevent the child from any of the  
22 following:

23 (A) Being returned safely to his or her home;

24 (B) Having a petition for the involuntary termination of parental  
25 rights filed on behalf of the child;

26 (C) Being placed for adoption;

27 (D) Being placed with a guardian;

28 (E) Being placed in the home of a fit and willing relative of the  
29 child; or

30 (F) Being placed in some other alternative permanent placement,  
31 including independent living or long-term foster care.

32 (c) Regardless of whether the primary permanency planning goal  
33 has been achieved, for a child who remains placed in a qualified  
34 residential treatment program as defined in this chapter for at least  
35 sixty days, and remains placed there at subsequent permanency  
36 planning hearings, the court shall establish in writing:

37 (i) Whether ongoing assessment of the child's strengths and needs  
38 continues to support the determination that the child's needs cannot  
39 be met through placement in a foster family home;

1 (ii) Whether the child's placement provides the most effective  
2 and appropriate level of care in the least restrictive environment;

3 (iii) Whether the placement is consistent with the child's short  
4 and long-term goals as stated in the child's permanency plan;

5 (iv) What specific treatment or service needs will be met in the  
6 placement, and how long the child is expected to need the treatment  
7 or services; and

8 (v) What efforts the department has made to prepare the child to  
9 return home or be placed with a fit and willing relative as defined  
10 in RCW 13.34.030, a Title 13 RCW (~~legal~~) guardian, a guardian  
11 pursuant to RCW 11.130.215, an adoptive parent, or in a foster family  
12 home.

13 (5) Following this inquiry, at the permanency planning hearing,  
14 the court shall order the department to file a petition seeking  
15 termination of parental rights if the child has been in out-of-home  
16 care for fifteen of the last twenty-two months since the date the  
17 dependency petition was filed unless the court makes a good cause  
18 exception as to why the filing of a termination of parental rights  
19 petition is not appropriate. Any good cause finding shall be reviewed  
20 at all subsequent hearings pertaining to the child.

21 (a) For purposes of this subsection, "good cause exception"  
22 includes but is not limited to the following:

23 (i) The child is being cared for by a relative;

24 (ii) The department has not provided to the child's family such  
25 services as the court and the department have deemed necessary for  
26 the child's safe return home;

27 (iii) The department has documented in the case plan a compelling  
28 reason for determining that filing a petition to terminate parental  
29 rights would not be in the child's best interests;

30 (iv) The parent is incarcerated, or the parent's prior  
31 incarceration is a significant factor in why the child has been in  
32 foster care for fifteen of the last twenty-two months, the parent  
33 maintains a meaningful role in the child's life, and the department  
34 has not documented another reason why it would be otherwise  
35 appropriate to file a petition pursuant to this section;

36 (v) Where a parent has been accepted into a dependency treatment  
37 court program or long-term substance abuse or dual diagnoses  
38 treatment program and is demonstrating compliance with treatment  
39 goals; or

1 (vi) Where a parent who has been court ordered to complete  
2 services necessary for the child's safe return home files a  
3 declaration under penalty of perjury stating the parent's financial  
4 inability to pay for the same court-ordered services, and also  
5 declares the department was unwilling or unable to pay for the same  
6 services necessary for the child's safe return home.

7 (b) The court's assessment of whether a parent who is  
8 incarcerated maintains a meaningful role in the child's life may  
9 include consideration of the following:

10 (i) The parent's expressions or acts of manifesting concern for  
11 the child, such as letters, telephone calls, visits, and other forms  
12 of communication with the child;

13 (ii) The parent's efforts to communicate and work with the  
14 department or other individuals for the purpose of complying with the  
15 service plan and repairing, maintaining, or building the parent-child  
16 relationship;

17 (iii) A positive response by the parent to the reasonable efforts  
18 of the department;

19 (iv) Information provided by individuals or agencies in a  
20 reasonable position to assist the court in making this assessment,  
21 including but not limited to the parent's attorney, correctional and  
22 mental health personnel, or other individuals providing services to  
23 the parent;

24 (v) Limitations in the parent's access to family support  
25 programs, therapeutic services, and visiting opportunities,  
26 restrictions to telephone and mail services, inability to participate  
27 in foster care planning meetings, and difficulty accessing lawyers  
28 and participating meaningfully in court proceedings; and

29 (vi) Whether the continued involvement of the parent in the  
30 child's life is in the child's best interest.

31 (c) The constraints of a parent's current or prior incarceration  
32 and associated delays or barriers to accessing court-mandated  
33 services may be considered in rebuttal to a claim of aggravated  
34 circumstances under RCW 13.34.132(4)(h) for a parent's failure to  
35 complete available treatment.

36 (6)(a) If the permanency plan identifies independent living as a  
37 goal, the court at the permanency planning hearing shall make a  
38 finding that the provision of services to assist the child in making  
39 a transition from foster care to independent living will allow the  
40 child to manage his or her financial, personal, social, educational,

1 and nonfinancial affairs prior to approving independent living as a  
2 permanency plan of care. The court will inquire whether the child has  
3 been provided information about extended foster care services.

4 (b) The permanency plan shall also specifically identify the  
5 services, including extended foster care services, where appropriate,  
6 that will be provided to assist the child to make a successful  
7 transition from foster care to independent living.

8 (c) The department shall not discharge a child to an independent  
9 living situation before the child is eighteen years of age unless the  
10 child becomes emancipated pursuant to chapter 13.64 RCW.

11 (7) If the child has resided in the home of a foster parent or  
12 relative for more than six months prior to the permanency planning  
13 hearing, the court shall:

14 (a) Enter a finding regarding whether the foster parent or  
15 relative was informed of the hearing as required in RCW 74.13.280,  
16 13.34.215(6), and 13.34.096; and

17 (b) If the department is recommending a placement other than the  
18 child's current placement with a foster parent, relative, or other  
19 suitable person, enter a finding as to the reasons for the  
20 recommendation for a change in placement.

21 (8) In all cases, at the permanency planning hearing, the court  
22 shall:

23 (a) (i) Order the permanency plan prepared by the department to be  
24 implemented; or

25 (ii) Modify the permanency plan, and order implementation of the  
26 modified plan; and

27 (b) (i) Order the child returned home only if the court finds that  
28 a reason for removal as set forth in RCW 13.34.130 no longer exists;  
29 or

30 (ii) Order the child to remain in out-of-home care for a limited  
31 specified time period while efforts are made to implement the  
32 permanency plan.

33 (9) Following the first permanency planning hearing, the court  
34 shall hold a further permanency planning hearing in accordance with  
35 this section at least once every twelve months until a permanency  
36 planning goal is achieved or the dependency is dismissed, whichever  
37 occurs first.

38 (10) Prior to the second permanency planning hearing, the agency  
39 that has custody of the child shall consider whether to file a  
40 petition for termination of parental rights.

1 (11) If the court orders the child returned home, casework  
2 supervision by the department shall continue for at least six months,  
3 at which time a review hearing shall be held pursuant to RCW  
4 13.34.138, and the court shall determine the need for continued  
5 intervention.

6 (12) The juvenile court may hear a petition for permanent legal  
7 custody when: (a) The court has ordered implementation of a  
8 permanency plan that includes permanent legal custody; and (b) the  
9 party pursuing the permanent legal custody is the party identified in  
10 the permanency plan as the prospective legal custodian. During the  
11 pendency of such proceeding, the court shall conduct review hearings  
12 and further permanency planning hearings as provided in this chapter.  
13 At the conclusion of the legal guardianship or permanent legal  
14 custody proceeding, a juvenile court hearing shall be held for the  
15 purpose of determining whether dependency should be dismissed. If a  
16 guardianship or permanent custody order has been entered, the  
17 dependency shall be dismissed.

18 (13) Continued juvenile court jurisdiction under this chapter  
19 shall not be a barrier to the entry of an order establishing a legal  
20 guardianship or permanent legal custody when the requirements of  
21 subsection (12) of this section are met.

22 (14) Nothing in this chapter may be construed to limit the  
23 ability of the agency that has custody of the child to file a  
24 petition for termination of parental rights or a guardianship  
25 petition at any time following the establishment of dependency. Upon  
26 the filing of such a petition, a fact-finding hearing shall be  
27 scheduled and held in accordance with this chapter unless the  
28 department requests dismissal of the petition prior to the hearing or  
29 unless the parties enter an agreed order terminating parental rights,  
30 establishing guardianship, or otherwise resolving the matter.

31 (15) The approval of a permanency plan that does not contemplate  
32 return of the child to the parent does not relieve the department of  
33 its obligation to provide reasonable services, under this chapter,  
34 intended to effectuate the return of the child to the parent,  
35 including but not limited to, visitation rights. The court shall  
36 consider the child's relationships with siblings in accordance with  
37 RCW 13.34.130.

38 (16) Nothing in this chapter may be construed to limit the  
39 procedural due process rights of any party in a termination or  
40 guardianship proceeding filed under this chapter.

1       **Sec. 119.** RCW 13.34.155 and 2019 c 46 s 5017 are each amended to  
2 read as follows:

3       (1) The court hearing the dependency petition may hear and  
4 determine issues related to (~~chapter 26.10 RCW~~) a guardianship of a  
5 minor under RCW 11.130.215 in a dependency proceeding as necessary to  
6 facilitate a permanency plan for the child or children as part of the  
7 dependency disposition order or a dependency review order or as  
8 otherwise necessary to implement a permanency plan of care for a  
9 child. Any modification or establishment of a guardianship of a minor  
10 must be made in conformity with the standards in chapter 11.130 RCW.  
11 The parents, guardians, or legal custodian of the child must agree,  
12 subject to court approval, to establish or modify a (~~permanent~~  
13 ~~custody order~~) guardianship of a minor, but the court may decide any  
14 contested issues implementing the guardianship. This agreed (~~order~~)  
15 guardianship of a minor may have the concurrence of the other parties  
16 to the dependency, the guardian ad litem of the child, and the child  
17 if age twelve or older, and must also be in the best interests of the  
18 child. If the petitioner for a (~~custody~~) guardianship of a minor  
19 order under (~~chapter 26.10~~) RCW 11.130.215 is not a party to the  
20 dependency proceeding, he or she must agree on the record or by the  
21 filing of a declaration to the entry of a (~~custody order~~)  
22 guardianship of a minor. Once (~~a~~) a guardianship of a minor order  
23 is entered under (~~chapter 26.10~~) RCW 11.130.215, and the dependency  
24 petition dismissed, the department shall not continue to supervise  
25 the placement.

26       (2)(a) The court hearing the dependency petition may establish or  
27 modify a parenting plan under chapter 26.09, 26.26A, or 26.26B RCW as  
28 part of a disposition order or at a review hearing when doing so will  
29 implement a permanent plan of care for the child and result in  
30 dismissal of the dependency.

31       (b) The dependency court shall adhere to procedural requirements  
32 under chapter 26.09 RCW and must make a written finding that the  
33 parenting plan established or modified by the dependency court under  
34 this section is in the child's best interests.

35       (c) Unless the whereabouts of one of the parents is unknown to  
36 either the department or the court, the parents must agree, subject  
37 to court approval, to establish the parenting plan or modify an  
38 existing parenting plan.

39       (d) Whenever the court is asked to establish or modify a  
40 parenting plan, the child's residential schedule, the allocation of

1 decision-making authority, and dispute resolution under this section,  
2 the dependency court may:

3 (i) Appoint a guardian ad litem to represent the interests of the  
4 child when the court believes the appointment is necessary to protect  
5 the best interests of the child; and

6 (ii) Appoint an attorney to represent the interests of the child  
7 with respect to provisions for the parenting plan.

8 (e) The dependency court must make a written finding that the  
9 parenting plan established or modified by the dependency court under  
10 this section is in the child's best interests.

11 (f) The dependency court may interview the child in chambers to  
12 ascertain the child's wishes as to the child's residential schedule  
13 in a proceeding for the entry or modification of a parenting plan  
14 under this section. The court may permit counsel to be present at the  
15 interview. The court shall cause a record of the interview to be made  
16 and to become part of the court record of the dependency case and the  
17 case under chapter 26.09, 26.26A, or 26.26B RCW.

18 (g) In the absence of agreement by a parent, guardian, or legal  
19 custodian of the child to allow the juvenile court to hear and  
20 determine issues related to the establishment or modification of a  
21 parenting plan under chapter 26.09, 26.26A, or 26.26B RCW, a party  
22 may move the court to transfer such issues to the family law  
23 department of the superior court for further resolution. The court  
24 may only grant the motion upon entry of a written finding that it is  
25 in the best interests of the child.

26 (h) In any parenting plan agreed to by the parents and entered or  
27 modified in juvenile court under this section, all issues pertaining  
28 to child support and the division of marital property shall be  
29 referred to or retained by the family law department of the superior  
30 court.

31 ~~(3) ((Any court order determining issues under chapter 26.10 RCW~~  
32 ~~is subject to modification upon the same showing and standards as a~~  
33 ~~court order determining Title 26 RCW issues.~~

34 ~~(4))~~ Any order entered in the dependency court establishing or  
35 modifying a ~~((permanent legal custody order))~~ guardianship of a minor  
36 under RCW 11.130.215, parenting plan, or residential schedule under  
37 chapter 26.09, ~~((26.10,))~~ 26.26A, or 26.26B RCW shall also be filed  
38 in the chapter 11.130, 26.09, ~~((26.10,))~~ 26.26A, or 26.26B RCW action  
39 by the moving or prevailing party. If the petitioning or moving party  
40 has been found indigent and appointed counsel at public expense in

1 the dependency proceeding, no filing fees shall be imposed by the  
2 clerk. Once filed, any guardianship of a minor order, parenting plan,  
3 or residential schedule establishing or modifying permanent legal  
4 custody of a child shall survive dismissal of the dependency  
5 proceeding.

6 **Sec. 120.** RCW 13.34.210 and 2018 c 284 s 21 are each amended to  
7 read as follows:

8 If, upon entering an order terminating the parental rights of a  
9 parent, there remains no parent having parental rights, the court  
10 shall commit the child to the custody of the department willing to  
11 accept custody for the purpose of placing the child for adoption. If  
12 an adoptive home has not been identified, the department shall place  
13 the child in a licensed foster home, or take other suitable measures  
14 for the care and welfare of the child. The custodian shall have  
15 authority to consent to the adoption of the child consistent with  
16 chapter 26.33 RCW, the marriage of the child, the enlistment of the  
17 child in the armed forces of the United States, necessary surgical  
18 and other medical treatment for the child, and to consent to such  
19 other matters as might normally be required of the parent of the  
20 child.

21 If a child has not been adopted within six months after the date  
22 of the order and a guardianship of the child under chapter 13.36 RCW  
23 or (~~chapter 11.88 RCW, or a permanent custody order under chapter~~  
24 ~~26.10 RCW,~~) a guardianship of a minor under RCW 11.130.215 has not  
25 been entered by the court, the court shall review the case every six  
26 months until a decree of adoption is entered. The department shall  
27 take reasonable steps to ensure that the child maintains  
28 relationships with siblings as provided in RCW 13.34.130(~~((+6))~~) (7)  
29 and shall report to the court the status and extent of such  
30 relationships.

31 **Sec. 121.** RCW 13.50.100 and 2019 c 470 s 21 are each amended to  
32 read as follows:

33 (1) This section governs records not covered by RCW 13.50.050,  
34 13.50.260, and 13.50.270.

35 (2) Records covered by this section shall be confidential and  
36 shall be released only pursuant to this section and RCW 13.50.010.

37 (3) Records retained or produced by any juvenile justice or care  
38 agency may be released to other participants in the juvenile justice

1 or care system only when an investigation or case involving the  
2 juvenile in question is being pursued by the other participant or  
3 when that other participant is assigned the responsibility of  
4 supervising the juvenile. Records covered under this section and  
5 maintained by the juvenile courts which relate to the official  
6 actions of the agency may be entered in the statewide judicial  
7 information system. However, truancy records associated with a  
8 juvenile who has no other case history, and records of a juvenile's  
9 parents who have no other case history, shall be removed from the  
10 judicial information system when the juvenile is no longer subject to  
11 the compulsory attendance laws in chapter 28A.225 RCW. A county clerk  
12 is not liable for unauthorized release of this data by persons or  
13 agencies not in his or her employ or otherwise subject to his or her  
14 control, nor is the county clerk liable for inaccurate or incomplete  
15 information collected from litigants or other persons required to  
16 provide identifying data pursuant to this section.

17 (4) Subject to (a) of this subsection, the department of  
18 children, youth, and families may release information retained in the  
19 course of conducting child protective services investigations to a  
20 family or juvenile court hearing a petition for custody of a minor  
21 under chapter ((26.10)) 11.130 RCW.

22 (a) Information that may be released shall be limited to  
23 information regarding investigations in which: (i) The juvenile was  
24 an alleged victim of abandonment or abuse or neglect; or (ii) the  
25 petitioner for custody of the juvenile, or any individual aged  
26 sixteen or older residing in the petitioner's household, is the  
27 subject of a founded or currently pending child protective services  
28 investigation made by the department of social and health services or  
29 the department of children, youth, and families subsequent to October  
30 1, 1998.

31 (b) Additional information may only be released with the written  
32 consent of the subject of the investigation and the juvenile alleged  
33 to be the victim of abandonment or abuse and neglect, or the parent,  
34 custodian, guardian, or personal representative of the juvenile, or  
35 by court order obtained with notice to all interested parties.

36 (5) Any disclosure of records or information by the department of  
37 social and health services or the department of children, youth, and  
38 families, pursuant to this section shall not be deemed a waiver of  
39 any confidentiality or privilege attached to the records or  
40 information by operation of any state or federal statute or

1 regulation, and any recipient of such records or information shall  
2 maintain it in such a manner as to comply with such state and federal  
3 statutes and regulations and to protect against unauthorized  
4 disclosure.

5 (6) A contracting agency or service provider of the department of  
6 social and health services or the department of children, youth, and  
7 families, that provides counseling, psychological, psychiatric, or  
8 medical services may release to the office of the family and  
9 children's ombuds information or records relating to services  
10 provided to a juvenile who is dependent under chapter 13.34 RCW  
11 without the consent of the parent or guardian of the juvenile, or of  
12 the juvenile if the juvenile is under the age of thirteen years,  
13 unless such release is otherwise specifically prohibited by law.

14 (7) A juvenile, his or her parents, the juvenile's attorney, and  
15 the juvenile's parent's attorney, shall, upon request, be given  
16 access to all records and information collected or retained by a  
17 juvenile justice or care agency which pertain to the juvenile except:

18 (a) If it is determined by the agency that release of this  
19 information is likely to cause severe psychological or physical harm  
20 to the juvenile or his or her parents the agency may withhold the  
21 information subject to other order of the court: PROVIDED, That if  
22 the court determines that limited release of the information is  
23 appropriate, the court may specify terms and conditions for the  
24 release of the information; or

25 (b) If the information or record has been obtained by a juvenile  
26 justice or care agency in connection with the provision of  
27 counseling, psychological, psychiatric, or medical services to the  
28 juvenile, when the services have been sought voluntarily by the  
29 juvenile, and the juvenile has a legal right to receive those  
30 services without the consent of any person or agency, then the  
31 information or record may not be disclosed to the juvenile's parents  
32 without the informed consent of the juvenile unless otherwise  
33 authorized by law; or

34 (c) That the department of children, youth, and families or the  
35 department of social and health services may delete the name and  
36 identifying information regarding persons or organizations who have  
37 reported alleged child abuse or neglect.

38 (8) A juvenile or his or her parent denied access to any records  
39 following an agency determination under subsection (7) of this  
40 section may file a motion in juvenile court requesting access to the

1 records. The court shall grant the motion unless it finds access may  
2 not be permitted according to the standards found in subsection  
3 (7)(a) and (b) of this section.

4 (9) The person making a motion under subsection (8) of this  
5 section shall give reasonable notice of the motion to all parties to  
6 the original action and to any agency whose records will be affected  
7 by the motion.

8 (10) Subject to the rules of discovery in civil cases, any party  
9 to a proceeding seeking a declaration of dependency or a termination  
10 of the parent-child relationship and any party's counsel and the  
11 guardian ad litem of any party, shall have access to the records of  
12 any natural or adoptive child of the parent, subject to the  
13 limitations in subsection (7) of this section. A party denied access  
14 to records may request judicial review of the denial. If the party  
15 prevails, he or she shall be awarded attorneys' fees, costs, and an  
16 amount not less than five dollars and not more than one hundred  
17 dollars for each day the records were wrongfully denied.

18 (11) No unfounded allegation of child abuse or neglect as defined  
19 in RCW 26.44.020(1) may be disclosed to a child-placing agency,  
20 private adoption agency, or any other licensed provider.

21 NEW SECTION. **Sec. 122.** A new section is added to chapter 11.130  
22 RCW to read as follows:

23 Any order for the relocation of a minor under a guardianship must  
24 comply with the notice requirements of RCW 26.09.430 through  
25 26.09.490.

26 **PART II**  
27 **GUARDIANSHIPS OF ADULTS**

28 **Sec. 201.** RCW 11.130.275 and 2019 c 437 s 303 are each amended  
29 to read as follows:

30 (1) All petitions filed under RCW 11.130.270 for appointment of a  
31 guardian for an adult shall be heard within sixty-days unless an  
32 extension of time is requested by a party or the court visitor within  
33 such sixty-day period and granted for good cause shown. If an  
34 extension is granted, the court shall set a new hearing date.

35 (2) (a) A copy of a petition under RCW 11.130.270 and notice of a  
36 hearing on the petition must be served personally on the respondent  
37 and the court visitor appointed under RCW 11.130.280 not more than

1 five court days after the petition under RCW 11.130.270 has been  
2 filed. (~~The notice must inform the respondent of the respondent's~~  
3 ~~rights at the hearing, including the right to an attorney and to~~  
4 ~~attend the hearing. The notice must include a description of the~~  
5 ~~nature, purpose, and consequences of granting the petition.~~)

6 (b) Notice under this subsection shall include a clear and easily  
7 readable statement of the legal rights of the respondent that could  
8 be restricted or transferred to a guardian by a guardianship order as  
9 well as the right to counsel of choice and to a jury trial on whether  
10 a basis exists under RCW 11.130.265 for the appointment of a guardian  
11 and the issue of the respondent's rights that will be retained or  
12 restricted if a guardian is appointed. Such notice must be in  
13 substantially the same form as set forth in section 321 of this act  
14 and must be double-spaced and in a type size not smaller than sixteen  
15 point font. The court may not grant the petition if notice  
16 substantially complying with this subsection is not served on the  
17 respondent.

18 (3) In a proceeding on a petition under RCW 11.130.270, the  
19 notice required under subsection (2) of this section must be given to  
20 the persons required to be listed in the petition under RCW  
21 11.130.270(2) (a) through (c) and any other (~~person interested in~~  
22 ~~the respondent's welfare the court determines~~) notice party. Failure  
23 to give notice under this subsection does not preclude the court from  
24 appointing a guardian.

25 (4) After the appointment of a guardian, notice of a hearing on a  
26 petition for an order under this article, together with a copy of the  
27 petition, must be given to:

28 (a) The adult subject to guardianship;

29 (b) The guardian; and

30 (c) Any other notice party or person the court determines  
31 pursuant to RCW 11.130.310(5) or a subsequent court order.

32 **Sec. 202.** RCW 11.130.285 and 2019 c 437 s 305 are each amended  
33 to read as follows:

34 (1)(a) The respondent shall have the right to be represented by a  
35 willing attorney of their choosing at any stage in guardianship  
36 proceedings. Any attorney purporting to represent a respondent or  
37 person subject to guardianship shall petition the court to be  
38 appointed to represent the respondent or person subject to  
39 guardianship.

1 (b) Unless the respondent in a proceeding for appointment of a  
2 guardian for an adult is represented by an attorney, the court is not  
3 required, but may appoint an attorney to represent the respondent,  
4 regardless of the respondent's ability to pay, except as provided  
5 otherwise in (c) of this subsection.

6 (c) (i) The court must appoint an attorney to represent the  
7 respondent at public expense when either:

8 (A) The respondent is unable to afford an attorney;

9 (B) The expense of an attorney would result in substantial  
10 hardship to the respondent; or

11 (C) The respondent does not have practical access to funds with  
12 which to pay an attorney. If the respondent can afford an attorney  
13 but lacks practical access to funds, the court must provide an  
14 attorney and may impose a reimbursement requirement as part of a  
15 final order.

16 (ii) When, in the opinion of the court, the rights and interests  
17 of the respondent cannot otherwise be adequately protected and  
18 represented, the court on its own motion must appoint an attorney at  
19 any time to represent the respondent.

20 (iii) An attorney must be provided under this subsection (1)(c)  
21 as soon as practicable after a petition is filed and long enough  
22 before any final hearing to allow adequate time for consultation and  
23 preparation. Absent a convincing showing in the record to the  
24 contrary, a period of less than three weeks is presumed by a  
25 reviewing court to be inadequate time for consultation and  
26 preparation.

27 (2) An attorney representing the respondent in a proceeding for  
28 appointment of a guardian for an adult shall:

29 (a) Make reasonable efforts to ascertain the respondent's wishes;

30 (b) Advocate for the respondent's wishes to the extent reasonably  
31 ascertainable; and

32 (c) If the respondent's wishes are not reasonably ascertainable,  
33 advocate for the result that is the least restrictive in type,  
34 duration, and scope, consistent with the respondent's interests.

35 **Sec. 203.** RCW 11.130.290 and 2019 c 437 s 306 are each amended  
36 to read as follows:

37 (1) ~~((At or before a hearing on a petition for a guardianship for~~  
38 ~~an adult, the court shall order a professional evaluation of the~~  
39 ~~respondent:~~

1 ~~(a) If the respondent requests the evaluation; or~~  
2 ~~(b) In other cases, unless the court finds that it has sufficient~~  
3 ~~information to determine the respondent's needs and abilities without~~  
4 ~~the evaluation.)) On receipt of a petition under RCW 11.130.270 and~~  
5 ~~at the time the court appoints a court visitor under RCW 11.130.280,~~  
6 ~~the court shall order a professional evaluation of the respondent.~~

7 ~~(2) ((If the court orders an evaluation under subsection (1) of~~  
8 ~~this section, the)) The respondent must be examined by a physician~~  
9 ~~licensed to practice under chapter 18.71 or 18.57 RCW, psychologist~~  
10 ~~licensed under chapter 18.83 RCW, ((~~or~~)) advanced registered nurse~~  
11 ~~practitioner licensed under chapter 18.79 RCW, or physician assistant~~  
12 ~~licensed under chapter 18.71A RCW selected by the court visitor who~~  
13 ~~is qualified to evaluate the respondent's alleged cognitive and~~  
14 ~~functional abilities and limitations and will not be advantaged or~~  
15 ~~disadvantaged by a decision to grant the petition or otherwise have a~~  
16 ~~conflict of interest. ((The individual conducting the evaluation~~  
17 ~~promptly shall file [a] report in a record with the court.)) If the~~  
18 ~~respondent opposes the professional selected by the court visitor,~~  
19 ~~the court visitor shall obtain a professional evaluation from the~~  
20 ~~professional selected by the respondent. The court visitor, after~~  
21 ~~receiving a professional evaluation from the individual selected by~~  
22 ~~the respondent, may obtain a supplemental evaluation from a different~~  
23 ~~professional.~~

24 ~~(3) The individual conducting the evaluation shall provide the~~  
25 ~~completed evaluation report to the court visitor within thirty days~~  
26 ~~of the examination of the respondent. The court visitor shall file~~  
27 ~~the report in a sealed record with the court. Unless otherwise~~  
28 ~~directed by the court, the report must contain:~~

- 29 ~~(a) The professional's name, address, education, and experience;~~  
30 ~~(b) A description of the nature, type, and extent of the~~  
31 ~~respondent's cognitive and functional abilities and limitations;~~  
32 ~~((~~b~~)) (c) An evaluation of the respondent's mental and physical~~  
33 ~~condition and, if appropriate, educational potential, adaptive~~  
34 ~~behavior, and social skills;~~  
35 ~~((~~e~~)) (d) A prognosis for improvement and recommendation for~~  
36 ~~the appropriate treatment, support, or habilitation plan; ((~~and~~~~  
37 ~~~~d~~)) (e) A description of the respondent's current medications,~~  
38 ~~and the effect of the medications on the respondent's cognitive and~~  
39 ~~functional abilities;~~

1 (f) Identification or persons with whom the professional has met  
2 or spoken with regarding the respondent; and

3 (g) The date of the examination on which the report is based.

4 ((~~(3) The~~) (4) If the respondent ((~~may decline~~)) declines to  
5 participate in an evaluation ordered under subsection (1) of this  
6 section, the court may proceed with the hearing under RCW 11.130.275  
7 if the court finds that it has sufficient information to determine  
8 the respondent's needs and abilities without the professional  
9 evaluation.

10 **Sec. 204.** RCW 11.130.320 and 2019 c 437 s 312 are each amended  
11 to read as follows:

12 (1) A person interested in an adult's welfare, including the  
13 adult for whom the order is sought, may petition for appointment of  
14 an emergency guardian for the adult.

15 (2) An emergency petition under subsection (1) of this section  
16 must state the petitioner's name, principal residence, and current  
17 street address, if different, and to the extent known, the following:

18 (a) The respondent's name, age, principal residence and current  
19 street address, if different;

20 (b) The name and address of the respondent's:

21 (i) Spouse or domestic partner or, if the respondent has none, an  
22 adult with whom the respondent has shared household responsibilities  
23 for more than six months in the twelve-month period immediately  
24 before the filing of the emergency petition;

25 (ii) Adult children or, if none, each parent and adult sibling of  
26 the respondent, or, if none, at least one adult nearest in kinship to  
27 the respondent who can be found with reasonable diligence; and

28 (iii) Adult stepchildren whom the respondent actively parented  
29 during the stepchildren's minor years and with whom the respondent  
30 had an ongoing relationship in the two-year period immediately before  
31 the filing of the emergency petition;

32 (c) The name and current address of each of the following, if  
33 applicable:

34 (i) A person responsible for care of the respondent;

35 (ii) Any attorney currently representing the respondent;

36 (iii) Any representative payee appointed by the social security  
37 administration for the respondent;

38 (iv) A guardian or conservator acting for the respondent in this  
39 state or in another jurisdiction;

1 (v) A trustee or custodian of a trust or custodianship of which  
2 the respondent is a beneficiary;

3 (vi) Any fiduciary for the respondent appointed by the department  
4 of veterans affairs;

5 (vii) Any representative payee or authorized representative or  
6 protective payee;

7 (viii) An agent designated under a power of attorney for health  
8 care in which the respondent is identified as the principal;

9 (ix) An agent designated under a power of attorney for finances  
10 in which the respondent is identified as the principal;

11 (x) A person nominated as guardian by the respondent;

12 (xi) A person nominated as guardian by the respondent's parent or  
13 spouse or domestic partner in a will or other signed record;

14 (xii) A proposed emergency guardian, and the reason the proposed  
15 emergency guardian should be selected; and

16 (xiii) A person known to have routinely assisted the respondent  
17 with decision making during the six months immediately before the  
18 filing of the emergency petition;

19 (d) The reason an emergency guardianship is necessary, including  
20 a specific description of:

21 (i) The nature and extent of the emergency situation;

22 (ii) The nature and extent of the respondent's alleged emergency  
23 need that arose because of the emergency situation;

24 (iii) The substantial and irreparable harm to the respondent's  
25 health, safety, welfare, or rights that is likely to be prevented by  
26 the appointment of an emergency guardian;

27 (iv) All protective arrangements or other less restrictive  
28 alternatives that have been considered or implemented to meet the  
29 respondent's alleged emergency need instead of emergency  
30 guardianship;

31 (v) If no protective arrangements or other less restrictive  
32 alternatives have been considered or implemented instead of emergency  
33 guardianship, the reason they have not been considered or  
34 implemented; and

35 (vi) The reason a protective arrangement or other less  
36 restrictive alternative instead of emergency guardianship is  
37 insufficient to meet the respondent's alleged emergency need;

38 (e) The reason the petitioner believes that a basis for  
39 appointment of a guardian under RCW 11.130.265 exists;

1 (f) Whether the petitioner intends to also seek guardianship for  
2 an adult under RCW 11.130.270;

3 (g) The reason the petitioner believes that no other person  
4 appears to have authority and willingness to act to address the  
5 respondent's identified needs caused by the emergency circumstances;

6 (h) The specific powers to be granted to the proposed emergency  
7 guardian and a description of how those powers will be used to meet  
8 the respondent's alleged emergency need;

9 (i) If the respondent has property other than personal effects, a  
10 general statement of the respondent's property, with an estimate of  
11 its value, including any insurance or pension, and the source and  
12 amount of other anticipated income or receipts; and

13 (j) Whether the respondent needs an interpreter, translator, or  
14 other form of support to communicate effectively with the court or  
15 understand court proceedings.

16 (3) The requirements of RCW 11.130.090 apply to an emergency  
17 guardian appointed for an adult with the following exceptions for any  
18 proposed emergency guardian required to complete the training under  
19 RCW 11.130.090:

20 (a) The proposed emergency guardian shall present evidence of the  
21 successful completion of the required training video or web cast to  
22 the court no later than the hearing on the petition for appointment  
23 of an emergency guardian for an adult; and

24 (b) The superior court may defer the completion of the training  
25 requirement to a date no later than fourteen days after appointment  
26 if the petitioner requests an extension of time to complete the  
27 training due to emergent circumstances beyond the control of  
28 petitioner.

29 (4) On its own after a petition has been filed under RCW  
30 11.130.270, or on petition (~~by a person interested in an adult's~~  
31 welfare)) for appointment of an emergency guardian for an adult, the  
32 court may appoint an emergency guardian for the adult if the court  
33 (~~finds~~) makes specific findings based on clear and convincing  
34 evidence that:

35 (a) (~~Appointment~~) An emergency exists such that appointment of  
36 an emergency guardian is likely to prevent substantial and  
37 irreparable harm to the adult's physical health, safety, or welfare;

38 (b) The respondent's identified needs caused by the emergency  
39 cannot be met by a protective arrangement or other less restrictive  
40 alternative instead of emergency guardianship;

1 (c) No other person appears to have authority and willingness to  
2 act ((in the)) to address the respondent's identified needs caused by  
3 the emergency circumstances; and

4 ((e)) (d) There is reason to believe that a basis for  
5 appointment of a guardian under RCW 11.130.265 exists.

6 ((2)) (5) If the court acts on its own to appoint an emergency  
7 guardian after a petition has been filed under RCW 11.130.270, all  
8 requirements of this section shall be met.

9 (6) A court order appointing an emergency guardian for an adult  
10 shall:

11 (a) Grant only the specific powers necessary to meet the adult's  
12 identified emergency need and to prevent substantial and irreparable  
13 harm to the adult's physical health, safety, or welfare;

14 (b) Include a specific finding that clear and convincing evidence  
15 established that an emergency exists such that appointment of an  
16 emergency guardian is likely to prevent substantial and irreparable  
17 harm to the respondent's health, safety, or welfare;

18 (c) Include a specific finding that the identified emergency need  
19 of the respondent cannot be met by a protective arrangement instead  
20 of guardianship or other less restrictive alternative, including any  
21 relief available under chapter 74.34 RCW or use of appropriate  
22 supportive services, technological assistance, or supported decision  
23 making;

24 (d) Include a specific finding that clear and convincing evidence  
25 established the respondent was given proper notice of the hearing on  
26 the petition;

27 (e) State that the adult subject to emergency guardianship  
28 retains all rights the adult enjoyed prior to the emergency  
29 guardianship with the exception of the rights not retained during the  
30 period of emergency guardianship;

31 (f) Include the date that the sixty-day period of emergency  
32 guardianship ends, and the date the emergency guardian's report,  
33 required by this section, is due to the court; and

34 (g) Identify any person or notice party that subsequently is  
35 entitled to:

36 (i) Notice of the rights of the adult;

37 (ii) Notice of a change in the primary dwelling of the adult;

38 (iii) Notice of the removal of the guardian;

39 (iv) A copy of the emergency guardian's plan and the emergency  
40 guardian's report under this section;

1 (v) Access to court records relating to the emergency  
2 guardianship;

3 (vi) Notice of the death or significant change in the condition  
4 of the adult;

5 (vii) Notice that the court has limited or modified the powers of  
6 the emergency guardian; and

7 (viii) Notice of the removal of the emergency guardian.

8 (7) A spouse, a domestic partner, and adult children of an adult  
9 subject to emergency guardianship are entitled to notice under this  
10 section unless the court orders otherwise based on good cause. Good  
11 cause includes the court's determination that notice would be  
12 contrary to the preferences or prior directions of the adult subject  
13 to emergency guardianship or not in the best interest of the adult  
14 subject to the emergency guardianship.

15 (8) The duration of authority of an emergency guardian for an  
16 adult may not exceed sixty days, and the emergency guardian may  
17 exercise only the powers specified in the order of appointment.  
18 ((The)) Upon a motion by the petitioner, adult subject to emergency  
19 guardianship, court visitor, or the emergency guardian, with notice  
20 served upon all applicable notice parties, the emergency guardian's  
21 authority may be extended once for not more than sixty days if the  
22 court finds that the conditions for appointment of an emergency  
23 guardian in subsection ((1+)) (4) of this section continue.

24 ((+3)) (9) Immediately on filing of a petition for appointment  
25 of an emergency guardian for an adult, the court shall appoint an  
26 attorney to represent the respondent in the proceeding. Except as  
27 otherwise provided in subsection ((+4)) (10) of this section,  
28 ((reasonable)) an order appointing an emergency guardian for the  
29 respondent may not be entered unless the respondent, the respondent's  
30 attorney, and the court visitor appointed under subsection (11) of  
31 this section have received a minimum of fourteen days' notice of the  
32 date, time, and place of a hearing on the petition ((must be given to  
33 the respondent, the respondent's attorney, and any other person the  
34 court determines)). A copy of the emergency petition and notice of a  
35 hearing on the petition must be served personally on the respondent,  
36 the respondent's attorney, and the court visitor not more than two  
37 court days after the petition has been filed. The notice must inform  
38 the respondent of the respondent's rights at the hearing, including  
39 the right to an attorney and to attend the hearing. The notice must  
40 include a description of the nature, purpose, and consequences of

1 granting the emergency petition. The court shall not grant the  
2 emergency petition if notice substantially complying with this  
3 subsection is not served on the respondent.

4 ~~((4))~~ (10) The court may appoint an emergency guardian for an  
5 adult without notice to the adult and any attorney for the adult only  
6 if the court finds from an affidavit or testimony that the  
7 respondent's physical health, safety, or welfare will be  
8 substantially harmed before a hearing with notice on the appointment  
9 can be held. If the court appoints an emergency guardian without  
10 giving notice under subsection ~~((3))~~ (9) of this section, the court  
11 must:

12 (a) Give notice of the appointment not later than forty-eight  
13 hours after the appointment to:

14 (i) The respondent;

15 (ii) The respondent's attorney; and

16 (iii) Any other person the court determines; and

17 (b) Hold a hearing on the appropriateness of the appointment not  
18 later than five days after the appointment.

19 ~~((5))~~ (11) On receipt of a petition for appointment of  
20 emergency guardian for an adult, the court shall appoint a court  
21 visitor. Notice of appointment of the court visitor must be served  
22 upon the court visitor within two days of appointment. The court  
23 visitor must be an individual with training or experience in the type  
24 of abilities, limitations, and needs alleged in the emergency  
25 petition. The court, in the order appointing a court visitor, shall  
26 specify the hourly rate the visitor may charge for his or her  
27 services, and shall specify the maximum amount the court visitor may  
28 charge without additional court review and approval.

29 (a) The court visitor shall within two days of service of notice  
30 of appointment file with the court and serve, either personally or by  
31 certified mail with return receipt, the respondent or the  
32 respondent's legal counsel, the petitioner or the petitioner's legal  
33 counsel, and any notice party with a statement including the court  
34 visitor's: Training relating to the duties as a court visitor;  
35 criminal history as defined in RCW 9.94A.030 for the period covering  
36 ten years prior to the appointment; hourly rate, if compensated;  
37 contact, if any, with a party to the proceeding prior to appointment;  
38 and apparent or actual conflicts of interest.

1 (b) A court visitor appointed under this section shall use due  
2 diligence to attempt to interview the respondent in person and, in a  
3 manner the respondent is best able to understand:

4 (i) Explain to the respondent the substance of the emergency  
5 petition, the nature, purpose, and effect of the proceeding, the  
6 respondent's rights at the hearing on the petition, and the proposed  
7 specific powers and duties of the proposed guardian as stated in the  
8 emergency petition;

9 (ii) Determine the respondent's views about the emergency  
10 appointment sought by the petitioner, including views about a  
11 proposed emergency guardian, the emergency guardian's proposed powers  
12 and duties, and the scope and duration of the proposed emergency  
13 guardianship; and

14 (iii) Inform the respondent that all costs and expenses of the  
15 proceeding, including but not limited to the respondent's attorneys'  
16 fees, the appointed guardian's fees, and the appointed guardian's  
17 attorneys' fees, will be paid from the respondent's assets upon  
18 approval by the court.

19 (c) The court visitor appointed under this section shall:

20 (i) Interview the petitioner and proposed emergency guardian;

21 (ii) Use due diligence to attempt to visit the respondent's  
22 present dwelling;

23 (iii) Use due diligence to attempt to obtain information from any  
24 physician or other person known to have treated, advised, or assessed  
25 the respondent's relevant physical or mental condition; and

26 (iv) Investigate the allegations in the emergency petition and  
27 any other matter relating to the emergency petition the court  
28 directs.

29 (d) A court visitor appointed under this section shall file a  
30 report in a record with the court and provide a copy of the report to  
31 the respondent, petitioner, and any notice party at least seven days  
32 prior to the hearing on the emergency petition, which must include:

33 (i) A summary of self-care and independent living tasks the  
34 respondent can manage without assistance or with existing supports,  
35 could manage with the assistance of appropriate supportive services,  
36 technological assistance, or supported decision making, and cannot  
37 manage;

38 (ii) A recommendation regarding the appropriateness of emergency  
39 guardianship, including whether a protective arrangement instead of  
40 guardianship or other less restrictive alternative for meeting the

1 respondent's needs is available, and if an emergency guardianship is  
2 recommended;

3 (iii) A detailed summary of the alleged emergency and the  
4 substantial and irreparable harm to the respondent's health, safety,  
5 welfare, or rights that is likely to be prevented by the appointment  
6 of an emergency guardian;

7 (iv) A statement as to whether the alleged emergency and the  
8 respondent's alleged needs are likely to require an extension of  
9 sixty days as authorized under this section;

10 (v) The specific powers to be granted to the emergency guardian  
11 and how the specific powers will address the alleged emergency and  
12 the respondent's alleged need;

13 (vi) A recommendation regarding the appropriateness of an ongoing  
14 guardianship for an adult, including whether a protective arrangement  
15 instead of guardianship or other less restrictive alternative for  
16 meeting the respondent's needs is available;

17 (vii) A statement of the qualifications of the proposed emergency  
18 guardian and whether the respondent approves or disapproves of the  
19 proposed emergency guardian, and the reasons for such approval or  
20 disapproval;

21 (viii) A recommendation whether a professional evaluation under  
22 RCW 11.130.290 is necessary;

23 (ix) A statement whether the respondent is able to attend a  
24 hearing at the location court proceedings typically are held;

25 (x) A statement whether the respondent is able to participate in  
26 a hearing which identifies any technology or other form of support  
27 that would enhance the respondent's ability to participate;

28 (xi) A statement, as needed when the petition seeks emergency  
29 authority to change the respondent's place of dwelling, as to whether  
30 the proposed dwelling meets the respondent's needs and whether the  
31 respondent has expressed a preference as to residence; and

32 (xii) Any other matter the court directs.

33 (12) An emergency guardian shall:

34 (a) Comply with the requirements of RCW 11.130.325, the  
35 requirements regarding the adult's right to association under RCW  
36 11.130.335, and the requirements of this chapter that pertain to the  
37 rights of an adult subject to guardianship;

38 (b) Not have authority to make decisions or take actions that a  
39 guardian for an adult is prohibited by law from having; and

1 (c) Be subject to the same special limitations on a guardian's  
2 power that apply to a guardian for an adult.

3 (13) Appointment of an emergency guardian under this section is  
4 not a determination that a basis exists for appointment of a guardian  
5 under RCW 11.130.265.

6 ~~((+6))~~ (14) The court may remove an emergency guardian appointed  
7 under this section at any time.

8 (15) The emergency guardian shall file a report in a record with  
9 the court and provide a copy of the report to the adult subject to  
10 emergency guardianship, and any notice party no later than forty-five  
11 days after appointment. The report shall include specific and updated  
12 information regarding the emergency alleged in the emergency  
13 petition, the adult's emergency needs, all actions and decisions by  
14 the emergency guardian, and a recommendation as to whether a guardian  
15 for an adult should be appointed. If the appointment of the emergency  
16 guardian is extended for an additional sixty days, the emergency  
17 guardian shall file a second report in a record with the court and  
18 provide a copy of the report to the adult subject to emergency  
19 guardianship, and any notice party no later than forty-five days  
20 after extension of the appointment is granted by the court, which  
21 shall include the same information required for the first report. The  
22 emergency guardian shall make any other report the court requires.

23 (16) The court shall issue letters of emergency guardianship to  
24 the emergency guardian in compliance with RCW 11.130.040. Such  
25 letters shall be issued on an expedited basis.

26 **Sec. 205.** RCW 11.130.330 and 2019 c 437 s 314 are each amended  
27 to read as follows:

28 (1) Except as limited by court order, a guardian for an adult  
29 may:

30 (a) Apply for and receive funds and benefits as a representative  
31 payee or an authorized representative or protective payee for the  
32 support of the adult, unless a conservator is appointed for the adult  
33 and the application or receipt is within the powers of the  
34 conservator;

35 (b) Unless inconsistent with a court order, establish the adult's  
36 place of dwelling;

37 (c) Consent to health or other care, treatment, or service for  
38 the adult;

1 (d) If a conservator for the adult has not been appointed,  
2 commence a proceeding, including an administrative proceeding, or  
3 take other appropriate action to compel another person to support the  
4 adult or pay funds for the adult's benefit;

5 (e) To the extent reasonable, delegate to the adult  
6 responsibility for a decision affecting the adult's well-being; and

7 (f) Receive personally identifiable health care information  
8 regarding the adult.

9 (2) The court by specific order may authorize a guardian for an  
10 adult to consent to the adoption of the adult.

11 (3) The court by specific order may authorize a guardian for an  
12 adult to:

13 (a) Consent or withhold consent to the marriage of the adult if  
14 the adult's right to marry has been removed under RCW 11.130.310;

15 (b) Petition for divorce, dissolution, or annulment of marriage  
16 of the adult or a declaration of invalidity of the adult's marriage;  
17 or

18 (c) Support or oppose a petition for divorce, dissolution, or  
19 annulment of marriage of the adult or a declaration of invalidity of  
20 the adult's marriage.

21 (4) In determining whether to authorize a power under subsection  
22 (2) or (3) of this section, the court shall consider whether the  
23 underlying act would be in accordance with the adult's preferences,  
24 values, and prior directions and whether the underlying act would be  
25 in the adult's best interest.

26 (5) In exercising a guardian's power under subsection (1)(b) of  
27 this section to establish the adult's place of dwelling, the guardian  
28 shall:

29 (a) Select a residential setting the guardian believes the adult  
30 would select if the adult were able, in accordance with the decision-  
31 making standard in RCW 11.130.325 (4) and (5). If the guardian does  
32 not know and cannot reasonably determine what setting the adult  
33 subject to guardianship probably would choose if able, or the  
34 guardian reasonably believes the decision the adult would make would  
35 unreasonably harm or endanger the welfare or personal or financial  
36 interests of the adult, the guardian shall choose in accordance with  
37 RCW 11.130.325(5) a residential setting that is consistent with the  
38 adult's best interest;

39 (b) In selecting among residential settings, give priority to a  
40 residential setting in a location that will allow the adult to

1 interact with persons important to the adult and meet the adult's  
2 needs in the least restrictive manner reasonably feasible unless to  
3 do so would be inconsistent with the decision-making standard in RCW  
4 11.130.325 (4) and (5);

5 (c) Not later than thirty days after a change in the dwelling of  
6 the adult:

7 (i) Give notice of the change to the court, the adult, and any  
8 (~~person identified as entitled to the notice in the court order~~  
9 ~~appointing the guardian or a subsequent order~~) other notice party;  
10 and

11 (ii) Include in the notice the address and nature of the new  
12 dwelling and state whether the adult received advance notice of the  
13 change and whether the adult objected to the change;

14 (d) Establish or move the permanent place of dwelling of the  
15 adult to a (~~nursing home, mental health facility, or other~~  
16 ~~facility~~) care setting that places restrictions on the adult's  
17 ability to leave or have visitors only if:

18 (i) The establishment or move is in the guardian's plan under RCW  
19 11.130.340;

20 (ii) The court authorizes the establishment or move; or

21 (iii) The guardian gives notice of the establishment or move at  
22 least fourteen days before the establishment or move to the adult and  
23 all persons entitled to notice under RCW 11.130.310(5)(b) or a  
24 subsequent order, and no objection is filed;

25 (e) Establish or move the place of dwelling of the adult outside  
26 this state only if consistent with the guardian's plan and authorized  
27 by the court by specific order; and

28 (f) Take action that would result in the sale of or surrender of  
29 the lease to the primary dwelling of the adult only if:

30 (i) The action is specifically included in the guardian's plan  
31 under RCW 11.130.340;

32 (ii) The court authorizes the action by specific order; or

33 (iii) Notice of the action was given at least fourteen days  
34 before the action to the adult and all persons entitled to the notice  
35 under RCW 11.130.310(5)(b) or a subsequent order and no objection has  
36 been filed.

37 (6) In exercising a guardian's power under subsection (1)(c) of  
38 this section to make health care decisions, the guardian shall:

39 (a) Involve the adult in decision making to the extent reasonably  
40 feasible, including, when practicable, by encouraging and supporting

1 the adult in understanding the risks and benefits of health care  
2 options;

3 (b) Defer to a decision by an agent under a power of attorney for  
4 health care executed by the adult and cooperate to the extent  
5 feasible with the agent making the decision; and

6 (c) Take into account:

7 (i) The risks and benefits of treatment options; and

8 (ii) The current and previous wishes and values of the adult, if  
9 known or reasonably ascertainable by the guardian.

10 (7) Notwithstanding subsection (1)(b) of this section no  
11 (~~residential treatment facility~~) care setting which provides  
12 nursing or other care may detain a person within such facility  
13 against their will. Any court order, other than an order issued in  
14 accordance with the involuntary treatment provisions of  
15 chapters 10.77, 71.05, and 72.23 RCW, which purports to authorize  
16 such involuntary detention or purports to authorize a guardian or  
17 limited guardian to consent to such involuntary detention on behalf  
18 of an individual subject to a guardianship shall be void and of no  
19 force or effect. (~~This section does not apply to the detention of a  
20 minor as provided in chapter 71.34 RCW.~~)

21 (8) Nothing in this section shall be construed to require a court  
22 order authorizing placement of an incapacitated person in a  
23 (~~residential treatment facility~~) care setting if such order is not  
24 otherwise required by law: PROVIDED, That notice of any residential  
25 placement of an individual subject to a guardianship shall be served,  
26 either before or after placement, by the guardian or limited guardian  
27 on such individual, any court visitor of record, any guardian ad  
28 litem of record, and any attorney of record.

29 **Sec. 206.** RCW 11.130.335 and 2019 c 437 s 315 are each amended  
30 to read as follows:

31 (1) (~~Unless authorized by the court by specific order, a~~) A  
32 guardian for an adult does not have the power to revoke or amend a  
33 power of attorney for health care or power of attorney for finances  
34 executed by the adult. If a power of attorney for health care is in  
35 effect, unless there is a court order to the contrary, a health care  
36 decision of an agent takes precedence over that of the guardian and  
37 the guardian shall cooperate with the agent to the extent feasible.  
38 If a power of attorney for finances is in effect, unless there is a  
39 court order to the contrary, a decision by the agent which the agent

1 is authorized to make under the power of attorney for finances takes  
2 precedence over that of the guardian and the guardian shall cooperate  
3 with the agent to the extent feasible. The court has authority to  
4 revoke or amend any power of attorney executed by the adult.

5 (2) A guardian for an adult (~~may~~) shall not initiate the  
6 commitment of the adult to an evaluation and treatment facility  
7 except in accordance with the (~~state's procedure for involuntary~~  
8 ~~civil commitment~~) provisions of chapter 10.77, 71.05, or 72.23 RCW.

9 (3) Unless authorized by the court in accordance with subsection  
10 (4) of this section within the past thirty days, a guardian for an  
11 adult may not consent to any of the following procedures for the  
12 adult:

13 (a) Therapy or other procedure to induce convulsion;

14 (b) Surgery solely for the purpose of psychosurgery; or

15 (c) Other psychiatric or mental health procedures that restrict  
16 physical freedom of movement or the rights set forth in RCW  
17 71.05.217.

18 (4) The court may order a procedure listed in subsection (3) of  
19 this section only after giving notice to the adult's attorney and  
20 holding a hearing. If the adult does not have an attorney, the court  
21 must appoint an attorney for the adult prior to entering an order  
22 under this subsection.

23 (5) Persons under a guardianship, conservatorship, or other  
24 protective arrangements—Right to associate with persons of their  
25 choosing.

26 (a) Except as otherwise provided in this section, (~~a person~~  
27 ~~under a guardianship retains the right to associate with persons of~~  
28 ~~the person under a guardianship's choosing. This right includes, but~~  
29 ~~is not limited to, the right to freely communicate and interact with~~  
30 ~~other persons, whether through in-person visits, telephone calls,~~  
31 ~~electronic communication, personal mail, or other means. If the~~  
32 ~~person under a guardianship is unable to express consent for~~  
33 ~~communication, visitation, or interaction with another person, or is~~  
34 ~~otherwise unable to make a decision regarding association with~~  
35 ~~another person, a guardian of a person under a guardianship, whether~~  
36 ~~full or limited, must:~~

37 ~~(i) Personally inform the person under a guardianship of the~~  
38 ~~decision under consideration, using plain language, in a manner~~  
39 ~~calculated to maximize the understanding of the person under a~~  
40 ~~guardianship;~~

1 ~~(ii) Maximize the person under a guardianship's participation in~~  
2 ~~the decision-making process to the greatest extent possible,~~  
3 ~~consistent with the person under a guardianship's abilities; and~~

4 ~~(iii) Give substantial weight to the person under a~~  
5 ~~guardianship's preferences, both expressed and historical.~~

6 ~~(b) A guardian or limited guardian may not restrict a person~~  
7 ~~under a guardianship's right to communicate, visit, interact, or~~  
8 ~~otherwise associate with persons of the person under a guardianship's~~  
9 ~~choosing, unless:~~

10 ~~(i) The restriction is specifically authorized by the~~  
11 ~~guardianship court in the court order establishing or modifying the~~  
12 ~~guardianship or limited guardianship under chapter 11.130 RCW;~~

13 ~~(ii) The restriction is pursuant to a protection order issued~~  
14 ~~under chapter 74.34 RCW, chapter 26.50 RCW, or other law, that limits~~  
15 ~~contact between the person under a guardianship and other persons;~~

16 ~~(iii) (A) The guardian or limited guardian has good cause to~~  
17 ~~believe that there is an immediate need to restrict a person under a~~  
18 ~~guardianship's right to communicate, visit, interact, or otherwise~~  
19 ~~associate with persons of the person under a guardianship's choosing~~  
20 ~~in order to protect the person under a guardianship from abuse,~~  
21 ~~neglect, abandonment, or financial exploitation, as those terms are~~  
22 ~~defined in RCW 74.34.020, or to protect the person under a~~  
23 ~~guardianship from activities that unnecessarily impose significant~~  
24 ~~distress on the person under a guardianship; and~~

25 ~~(B) Within fourteen calendar days of imposing the restriction~~  
26 ~~under (b) (iii) (A) of this subsection, the guardian or limited~~  
27 ~~guardian files a petition for a protection order under chapter 74.34~~  
28 ~~RCW. The immediate need restriction may remain in place until the~~  
29 ~~court has heard and issued an order or decision on the petition; or~~

30 ~~(iv) The restriction is pursuant to participation in the~~  
31 ~~community protection program under chapter 71A.12 RCW.~~

32 ~~(6) A protection order under chapter 74.34 RCW issued to protect~~  
33 ~~the person under a guardianship) an adult subject to a guardianship,~~  
34 ~~conservatorship, or other protective arrangement retains the right to~~  
35 ~~associate with other persons of the adult's choosing. This right~~  
36 ~~includes, but is not limited to, the right to freely communicate and~~  
37 ~~interact with other persons, whether through in-person visits,~~  
38 ~~telephone calls, electronic communication, personal mail, or other~~  
39 ~~means. If the adult subject to a guardianship, conservatorship, or~~  
40 ~~other protective arrangement is unable to express consent for~~

1 communication, visitation, or interaction with another person, or is  
2 otherwise unable to make a decision regarding association with  
3 another person, the guardian, conservator, or person acting under a  
4 protective arrangement, whether full or limited, must:

5 (i) Personally inform the adult subject to a guardianship,  
6 conservatorship, or other protective arrangement of the decision  
7 under consideration, using plain language, in a manner calculated to  
8 maximize the understanding of the adult;

9 (ii) Maximize the adult's participation in the decision-making  
10 process to the greatest extent possible, consistent with the adult's  
11 abilities; and

12 (iii) Give substantial weight to the adult's preferences, both  
13 expressed and historical.

14 (b) A guardian or limited guardian, a conservator or limited  
15 conservator, or a person acting under a protective arrangement may  
16 not restrict an adult's right to communicate, visit, interact, or  
17 otherwise associate with persons of the adult's choosing, unless:

18 (i) The restriction is specifically authorized by the court in  
19 the court order establishing or modifying the guardianship or limited  
20 guardianship, the conservatorship or limited conservatorship, or the  
21 protective arrangement under this chapter;

22 (ii) The restriction is pursuant to a protection order issued  
23 under chapter 74.34 or 26.50 RCW, or other law, that limits contact  
24 between the adult under a guardianship, conservatorship, or other  
25 protective arrangement and other persons;

26 (iii) (A) The guardian or limited guardian, the conservator or  
27 limited conservator, or the person acting under the protective  
28 arrangement has good cause to believe that there is an immediate need  
29 to restrict the adult's right to communicate, visit, interact, or  
30 otherwise associate with persons of the adult's choosing in order to  
31 protect the adult from abuse, neglect, abandonment, or financial  
32 exploitation, as those terms are defined in RCW 74.34.020, or to  
33 protect the adult from activities that unnecessarily impose  
34 significant distress on the adult; and

35 (B) Within fourteen calendar days of imposing the restriction  
36 under (b) (iii) (A) of this subsection, the guardian or limited  
37 guardian, the conservator or limited conservator, or person acting  
38 under the protective arrangement files a petition for a protection  
39 order under chapter 74.34 RCW. The immediate need restriction may

1 remain in place until the court has heard and issued an order or  
2 decision on the petition; or

3 (iv) The restriction is pursuant to participation in the  
4 community protection program under chapter 71A.12 RCW.

5 (6) A protection order under chapter 74.34 RCW issued to protect  
6 the adult under a guardianship, conservatorship, or other protective  
7 arrangement as described in subsection (5)(b)(iii)(B) of this  
8 section:

9 (a) Must include written findings of fact and conclusions of law;

10 (b) May not be more restrictive than necessary to protect the  
11 ~~((person under a guardianship))~~ adult from abuse, neglect,  
12 abandonment, or financial exploitation as those terms are defined in  
13 RCW 74.34.020; and

14 (c) May not deny communication, visitation, interaction, or other  
15 association between the ~~((person under a guardianship))~~ adult and  
16 another person unless the court finds that placing reasonable time,  
17 place, or manner restrictions is unlikely to sufficiently protect the  
18 ~~((person under a guardianship))~~ adult from abuse, neglect,  
19 abandonment, or financial exploitation as those terms are defined in  
20 RCW 74.34.020.

21 **Sec. 207.** RCW 11.130.340 and 2019 c 437 s 317 are each amended  
22 to read as follows:

23 (1) A guardian for an adult, not later than ninety days after  
24 appointment, shall file with the court a plan for the care of the  
25 adult and shall provide a copy of the plan to the adult subject to  
26 guardianship(~~(, a person entitled to notice under RCW 11.130.310(5)~~  
27 ~~or a subsequent order,~~) and any other ~~((person the court~~  
28 ~~determines))~~ notice party. The plan must be based on the needs of the  
29 adult and take into account the best interest of the adult as well as  
30 the adult's preferences, values, and prior directions, to the extent  
31 known to or reasonably ascertainable by the guardian. The guardian  
32 shall include in the plan:

33 (a) The living arrangement, services, and supports the guardian  
34 expects to arrange, facilitate, or continue for the adult;

35 (b) Social and educational activities the guardian expects to  
36 facilitate on behalf of the adult;

37 (c) Any person with whom the adult has a close personal  
38 relationship or relationship involving regular visitation and any  
39 plan the guardian has for facilitating visits with the person;

1 (d) The anticipated nature and frequency of the guardian's visits  
2 and communication with the adult;

3 (e) Goals for the adult, including any goal related to the  
4 restoration of the adult's rights, and how the guardian anticipates  
5 achieving the goals;

6 (f) Whether the adult has an existing plan and, if so, whether  
7 the guardian's plan is consistent with the adult's plan; and

8 (g) A statement or list of the amount the guardian proposes to  
9 charge for each service the guardian anticipates providing to the  
10 adult.

11 (2) A guardian shall give notice of the filing of the guardian's  
12 plan under subsection (1) of this section, together with a copy of  
13 the plan, to the adult subject to guardianship(~~(, a person entitled~~  
14 ~~to notice under RCW 11.130.310(5) or a subsequent order,~~) and any  
15 other ((~~person the court determines~~)) notice party. The notice must  
16 include a statement of the right to object to the plan and be given  
17 not later than fourteen days after the filing.

18 (3) An adult subject to guardianship and any person entitled  
19 under subsection (2) of this section to receive notice and a copy of  
20 the guardian's plan may object to the plan.

21 (4) The court shall review the guardian's plan filed under  
22 subsection (1) of this section and determine whether to approve the  
23 plan or require a new plan. In deciding whether to approve the plan,  
24 the court shall consider an objection under subsection (3) of this  
25 section and whether the plan is consistent with the guardian's duties  
26 and powers under RCW 11.130.325 and 11.130.330. The court may not  
27 approve the plan until thirty days after its filing.

28 (5) After the guardian's plan filed under this section is  
29 approved by the court, the guardian shall provide a copy of the order  
30 approving the plan to the adult subject to guardianship(~~(, a person~~  
31 ~~entitled to notice under RCW 11.130.310(5) or a subsequent order,~~)  
32 and any other ((~~person the court determines~~)) notice party.

33 **Sec. 208.** RCW 11.130.345 and 2019 c 437 s 318 are each amended  
34 to read as follows:

35 (1) A guardian for an adult shall file with the court by the date  
36 established by the court a report in a record regarding the condition  
37 of the adult and accounting for funds and other property in the  
38 guardian's possession or subject to the guardian's control. The  
39 guardian shall provide a copy of the report to the adult subject to

1 guardianship (~~(, a person entitled to notice under RCW 11.130.310(5)~~  
2 ~~or a subsequent order,~~) and any other ((~~person the court~~  
3 ~~determines~~)) notice party.

4 (2) A report under subsection (1) of this section must state or  
5 contain:

6 (a) The mental, physical, and social condition of the adult;

7 (b) The living arrangements of the adult during the reporting  
8 period;

9 (c) A summary of the supported decision making, technological  
10 assistance, medical services, educational and vocational services,  
11 and other supports and services provided to the adult and the  
12 guardian's opinion as to the adequacy of the adult's care;

13 (d) A summary of the guardian's visits with the adult, including  
14 the dates of the visits;

15 (e) Action taken on behalf of the adult;

16 (f) The extent to which the adult has participated in decision  
17 making;

18 (g) If the adult is living in (~~(an evaluation and treatment~~  
19 ~~facility or living in a facility that provides the adult with health~~  
20 ~~care or other personal services)) a care setting, whether the  
21 guardian considers the facility's current plan for support, care,  
22 treatment, or habilitation consistent with the adult's preferences,  
23 values, prior directions, and best interests;~~

24 (h) Anything of more than de minimis value which the guardian,  
25 any individual who resides with the guardian, or the spouse, domestic  
26 partner, parent, child, or sibling of the guardian has received from  
27 an individual providing goods or services to the adult. A  
28 professional guardian must abide by the standards of practice  
29 regarding the acceptance of gifts;

30 (i) If the guardian delegated a power to an agent, the power  
31 delegated and the reason for the delegation;

32 (j) Any business relation the guardian has with a person the  
33 guardian has paid or that has benefited from the property of the  
34 adult;

35 (k) A copy of the guardian's most recently approved plan under  
36 RCW 11.130.340 and a statement whether the guardian has deviated from  
37 the plan and, if so, how the guardian has deviated and why;

38 (l) Plans for future care and support of the adult;

39 (m) A recommendation as to the need for continued guardianship  
40 and any recommended change in the scope of the guardianship; and

1 (n) Whether any co-guardian or successor guardian appointed to  
2 serve when a designated event occurs is alive and able to serve.

3 (3) The court may appoint a court visitor to review a report  
4 submitted under this section or a guardian's plan submitted under RCW  
5 11.130.340, interview the guardian or adult subject to guardianship,  
6 or investigate any other matter involving the guardianship.

7 (4) Notice of the filing under this section of a guardian's  
8 report, together with a copy of the report, must be given to the  
9 adult subject to guardianship(~~(, a person entitled to notice under~~  
10 ~~RCW 11.130.310(5) or a subsequent order,~~) and any other (~~(person the~~  
11 ~~court determines)~~) notice party. The notice and report must be given  
12 not later than fourteen days after the filing.

13 (5) The court shall establish procedures for monitoring a report  
14 submitted under this section and review each report to determine  
15 whether:

16 (a) The report provides sufficient information to establish the  
17 guardian has complied with the guardian's duties;

18 (b) The guardianship should continue; and

19 (c) The guardian's requested fees, if any, should be approved.

20 (6) If the court determines there is reason to believe a guardian  
21 for an adult has not complied with the guardian's duties or the  
22 guardianship should be modified or terminated, the court:

23 (a) Shall notify the adult, the guardian, and any other person  
24 entitled to notice under RCW 11.130.310(5) or a subsequent order;

25 (b) May require additional information from the guardian;

26 (c) May appoint a court visitor to interview the adult or  
27 guardian or investigate any matter involving the guardianship; and

28 (d) Consistent with this section and RCW 11.130.350, may hold a  
29 hearing to consider removal of the guardian, termination of the  
30 guardianship, or a change in the powers granted to the guardian or  
31 terms of the guardianship.

32 (7) If the court has reason to believe fees requested by a  
33 guardian for an adult are not reasonable, the court shall hold a  
34 hearing to determine whether to adjust the requested fees.

35 (8) A guardian for an adult must petition the court for approval  
36 of a report filed under this section. The court after review may  
37 approve the report. If the court approves the report, there is a  
38 rebuttable presumption the report is accurate as to a matter  
39 adequately disclosed in the report.

1 (9) If the court approves a report filed under this section, the  
2 order approving the report shall set the due date for the filing of  
3 the next report to be filed under this section. The court may set the  
4 review interval at annual, biennial, or triennial with the report due  
5 date to be within ninety days of the anniversary date of appointment.  
6 When determining the report interval, the court can consider: The  
7 length of time the guardian has been serving the person under  
8 guardianship; whether the guardian has timely filed all required  
9 reports with the court; whether the guardian is monitored by other  
10 state or local agencies; and whether there have been any allegations  
11 of abuse, neglect, or a breach of fiduciary duty against the  
12 guardian.

13 (10) If the court approves a report filed under this section, the  
14 order approving the report shall contain a guardianship summary or be  
15 accompanied by a guardianship summary in the form or substantially in  
16 the same form as set forth in RCW 11.130.665.

17 (11) If the court approves a report filed under this section, the  
18 order approving the report shall direct the clerk of the court to  
19 reissue letters of office in the form or substantially in the same  
20 form as set forth in RCW 11.130.660 to the guardian containing an  
21 expiration date which will be within one hundred twenty days after  
22 the date the court directs the guardian file its next report.

23 (12) Any requirement to establish a monitoring program under this  
24 section is subject to appropriation.

25 **Sec. 209.** RCW 11.130.360 and 2019 c 437 s 401 are each amended  
26 to read as follows:

27 (1) On petition and after notice and hearing, the court may  
28 appoint a conservator for the property or financial affairs of a  
29 minor if the court finds by a preponderance of evidence that  
30 appointment of a conservator is in the minor's best interest, and:

31 (a) If the minor has a parent, the court gives weight to any  
32 recommendation of the parent whether an appointment is in the minor's  
33 best interest; and

34 (b) Either:

35 (i) The minor owns funds or other property requiring management  
36 or protection that otherwise cannot be provided;

37 (ii) The minor has or may have financial affairs that may be put  
38 at unreasonable risk or hindered because of the minor's age; or

1 (iii) Appointment is necessary or desirable to obtain or provide  
2 funds or other property needed for the support, care, education,  
3 health, or welfare of the minor.

4 (2) On petition and after notice and hearing, the court may  
5 appoint a conservator for the property or financial affairs of an  
6 adult if the court finds by clear and convincing evidence that:

7 (a) The adult is unable to manage property or financial affairs  
8 because:

9 (i) Of a limitation in the adult's ability to receive and  
10 evaluate information or make or communicate decisions, even with the  
11 use of appropriate supportive services, technological assistance, or  
12 supported decision making; or

13 (ii) The adult is missing, detained, or unable to return to the  
14 United States;

15 (b) Appointment is necessary to:

16 (i) Avoid harm to the adult or significant dissipation of the  
17 property of the adult; or

18 (ii) Obtain or provide funds or other property needed for the  
19 support, care, education, health, or welfare of the adult or of an  
20 individual entitled to the adult's support; and

21 (c) The (~~respondent's~~) adult's identified needs cannot be met  
22 by a protective arrangement instead of conservatorship or other less  
23 restrictive alternatives.

24 (3) The court shall grant a conservator only those powers  
25 necessitated by demonstrated limitations and needs of the respondent  
26 and issue orders that will encourage development of the respondent's  
27 maximum self-determination and independence. The court may not  
28 establish a full conservatorship if a limited conservatorship,  
29 protective arrangement instead of conservatorship, or other less  
30 restrictive alternative would meet the needs of the respondent.

31 (4) A determination by the court that a basis under subsection  
32 (2) of this section exists for the appointment of a conservator for  
33 an adult and on the issue of the rights that will be retained or  
34 restricted by the appointment of a conservator is a legal, not a  
35 medical decision. The determination must be based on demonstrated  
36 management insufficiencies over time in the area of property or  
37 financial affairs. Age, eccentricity, poverty, or medical diagnosis  
38 alone are not a sufficient basis under subsection (2) of this section  
39 to justify a determination that a conservator should be appointed for  
40 the respondent.

1 (5) For purposes of subsection (2) of this section, an adult who  
2 resides in a long-term care facility, resides in another care  
3 setting, or is the subject of an involuntary commitment order is not  
4 considered missing or detained.

5 **Sec. 210.** RCW 11.130.370 and 2019 c 437 s 403 are each amended  
6 to read as follows:

7 (1) All petitions filed under RCW 11.130.365 for appointment of a  
8 conservator shall be heard within sixty days unless an extension of  
9 time is requested by a party or the court visitor within such sixty-  
10 day period and granted for good cause shown. If an extension is  
11 granted, the court shall set a new hearing date.

12 (2) (a) A copy of a petition under RCW 11.130.365 and notice of a  
13 hearing on the petition must be served personally on the respondent  
14 ~~((and)),~~ the court visitor appointed under RCW 11.130.380, and the  
15 appointed or proposed guardian not more than five court days after  
16 the petition under RCW 11.130.365 has been filed. If the respondent's  
17 whereabouts are unknown or personal service cannot be made, service  
18 on the respondent must be made by publication. ~~((The notice must~~  
19 ~~inform the respondent of the respondent's rights at the hearing,~~  
20 ~~including the right to an attorney and to attend the hearing. The~~  
21 ~~notice must include a description of the nature, purpose, and~~  
22 ~~consequences of granting the petition.))~~

23 (b) Notice under this subsection shall include a clear and easily  
24 readable statement of the legal rights of the respondent that could  
25 be restricted or transferred to a conservator by a conservatorship  
26 order as well as the right to counsel of choice and to a jury trial  
27 whether a basis exists under RCW 11.130.360(2) for the appointment of  
28 a conservator and the issue of the respondent's rights that will be  
29 retained or restricted if a conservator is appointed. Such notice  
30 must be in substantially the same form as set forth in section 321 of  
31 this act and must be double-spaced and in a type size not smaller  
32 than sixteen point font. The court may not grant ((a)) the petition  
33 ~~((for appointment of a conservator))~~ if notice substantially  
34 complying with this subsection is not served on the respondent.

35 (3) In a proceeding on a petition under RCW 11.130.365, the  
36 notice required under subsection (2) of this section must be ~~((given~~  
37 ~~to))~~ served upon the persons required to be listed in the petition  
38 under RCW 11.130.365(2) (a) through (c) and any other ~~((person~~  
39 ~~interested in the respondent's welfare the court determines))~~ notice

1 party. Failure to give notice under this subsection does not preclude  
2 the court from appointing a conservator.

3 (4) After the appointment of a conservator, notice of a hearing  
4 on a petition for an order under this article, together with a copy  
5 of the petition, must be given to:

6 (a) The individual subject to conservatorship, if the individual  
7 is twelve years of age or older and not missing, detained, or unable  
8 to return to the United States;

9 (b) The conservator; and

10 (c) Any other notice party or person the court determines  
11 pursuant to RCW 11.130.420(6) or a subsequent court order.

12 **Sec. 211.** RCW 11.130.385 and 2019 c 437 s 406 are each amended  
13 to read as follows:

14 (1)(a) The respondent shall have the right to be represented by a  
15 willing attorney of their choosing at any stage in conservatorship  
16 proceedings. Any attorney purporting to represent a respondent or  
17 person subject to conservatorship shall petition the court to be  
18 appointed to represent the respondent or person subject to  
19 conservatorship.

20 (b) Unless the respondent in a proceeding for appointment of a  
21 conservator is represented by an attorney, the court is not required,  
22 but may appoint an attorney to represent the respondent, regardless  
23 of the respondent's ability to pay, except as provided otherwise in  
24 (c) of this subsection.

25 (c)(i) The court must appoint an attorney to represent the  
26 respondent at public expense when either:

27 (A) The respondent is unable to afford an attorney;

28 (B) The expense of an attorney would result in substantial  
29 hardship to the respondent; or

30 (C) The respondent does not have practical access to funds with  
31 which to pay an attorney. If the respondent can afford an attorney  
32 but lacks practical access to funds, the court must provide an  
33 attorney and may impose a reimbursement requirement as part of a  
34 final order.

35 (ii) When, in the opinion of the court, the rights and interests  
36 of the respondent cannot otherwise be adequately protected and  
37 represented, the court on its own motion must appoint an attorney at  
38 any time to represent the respondent.

1 (iii) An attorney must be provided under this subsection (1)(c)  
2 as soon as practicable after a petition is filed and long enough  
3 before any final hearing to allow adequate time for consultation and  
4 preparation. Absent a convincing showing in the record to the  
5 contrary, a period of less than three weeks is presumed by a  
6 reviewing court to be inadequate time for consultation and  
7 preparation.

8 (2) An attorney representing the respondent in a proceeding for  
9 appointment of a conservator shall:

10 (a) Make reasonable efforts to ascertain the respondent's wishes;

11 (b) Advocate for the respondent's wishes to the extent reasonably  
12 ascertainable; and

13 (c) If the respondent's wishes are not reasonably ascertainable,  
14 advocate for the result that is the least restrictive in type,  
15 duration, and scope, consistent with the respondent's interests.

16 (3) The court is not required, but may appoint an attorney to  
17 represent a parent of a minor who is the subject of a proceeding  
18 under RCW 11.130.365 if:

19 (a) The parent objects to appointment of a conservator;

20 (b) The court determines that counsel is needed to ensure that  
21 consent to appointment of a conservator is informed; or

22 (c) The court otherwise determines the parent needs  
23 representation.

24 **Sec. 212.** RCW 11.130.390 and 2019 c 437 s 407 are each amended  
25 to read as follows:

26 (1) ~~((At or before a hearing on a petition for conservatorship  
27 for an adult, the court shall order a professional evaluation of the  
28 respondent:~~

29 ~~(a) If the respondent requests the evaluation; or~~

30 ~~(b) In other cases, unless the court finds it has sufficient  
31 information to determine the respondent's needs and abilities without  
32 the evaluation.)) On receipt of a petition under RCW 11.130.360 and  
33 at the time the court appoints a court visitor under RCW 11.130.380,  
34 the court shall order a professional evaluation of the respondent.~~

35 (2) ~~((If the court orders an evaluation under subsection (1) of  
36 this section, the)) The respondent must be examined by a physician  
37 licensed to practice under chapter 18.71 or 18.57 RCW, psychologist  
38 licensed under chapter 18.83 RCW, ~~((or))~~ advanced registered nurse  
39 practitioner licensed under chapter 18.79 RCW, or physician assistant~~

1 licensed under chapter 18.71A RCW, selected by the court visitor who  
2 is qualified to evaluate the respondent's alleged cognitive and  
3 functional abilities and limitations and will not be advantaged or  
4 disadvantaged by a decision to grant the petition or otherwise have a  
5 conflict of interest. If the respondent opposes the professional  
6 selected by the court visitor, the court visitor shall obtain a  
7 professional evaluation from the professional selected by the  
8 respondent. The court visitor, after receiving a professional  
9 evaluation from the individual selected by the respondent, may obtain  
10 a supplemental evaluation from a different professional.

11 (3) The individual conducting the evaluation (~~promptly~~) shall  
12 promptly provide the completed evaluation report to the court visitor  
13 who shall file ((a)) the report in a sealed record with the court.  
14 Unless otherwise directed by the court, the report must contain:

15 (a) The professional's name, address, education, and experience;

16 (b) A description of the nature, type, and extent of the  
17 respondent's cognitive and functional abilities and limitations with  
18 regard to the management of the respondent's property and financial  
19 affairs;

20 ~~((b))~~ (c) An evaluation of the respondent's mental and physical  
21 condition and, if appropriate, educational potential, adaptive  
22 behavior, and social skills;

23 ~~((e))~~ (d) A prognosis for improvement with regard to the  
24 ability to manage the respondent's property and financial affairs;  
25 ((and

26 ~~(d))~~ (e) A description of the respondent's current medications,  
27 and the effect of the medications on the respondent's cognitive and  
28 functional abilities;

29 (f) Identification or persons with whom the professional has met  
30 or spoken with regarding the respondent; and

31 (g) The date of the examination on which the report is based.

32 ~~((3) A)) (4) If the respondent ((may decline)) declines to~~  
33 participate in an evaluation ordered under subsection (1) of this  
34 section, the court may proceed with the hearing under RCW 11.130.370  
35 if the court finds that it has sufficient information to determine  
36 the respondent's needs and abilities without the professional  
37 evaluation.

38 (5) A professional evaluation is not required if a petition for  
39 appointment of a conservator under RCW 11.130.360 is for a

1 conservator for the property or financial affairs of a minor or for  
2 an adult missing, detained, or unable to return to the United States.

3 **Sec. 213.** RCW 11.130.410 and 2019 c 437 s 409 are each amended  
4 to read as follows:

5 (1) The existence of a proceeding for or the existence of  
6 conservatorship is a matter of public record unless the court seals  
7 the record after:

8 (a) The respondent, the individual subject to conservatorship, or  
9 the parent of a minor subject to conservatorship requests the record  
10 be sealed; and

11 (b) Either:

12 (i) The petition for conservatorship is dismissed; or

13 (ii) The conservatorship is terminated.

14 (2) An individual subject to a proceeding for a conservatorship,  
15 whether or not a conservator is appointed, an attorney designated by  
16 the individual, and a person entitled to notice under RCW  
17 11.130.420(6) or a subsequent order may access court records of the  
18 proceeding and resulting conservatorship, including the conservator's  
19 plan under RCW 11.130.510 and the conservator's report under RCW  
20 11.130.530. A person not otherwise entitled access to court records  
21 under this section for good cause may petition the court for access  
22 to court records of the conservatorship, including the conservator's  
23 plan and report. The court shall grant access if access is in the  
24 best interest of the respondent or individual subject to  
25 conservatorship or furthers the public interest and does not endanger  
26 the welfare or financial interests of the respondent or individual.

27 (3) A report under RCW 11.130.380 of a court visitor or  
28 professional evaluation under RCW 11.130.390 is confidential and must  
29 be sealed on filing, but is available to:

30 (a) The court;

31 (b) The individual who is the subject of the report or  
32 evaluation, without limitation as to use;

33 (c) The petitioner, court visitor, (~~and~~) petitioner's and  
34 respondent's attorneys, and proposed guardians, for purposes of the  
35 proceeding;

36 (d) Unless the court directs otherwise, an agent appointed under  
37 a power of attorney for finances in which the respondent is  
38 identified as the principal; and

1 (e) Any other person if it is in the public interest or for a  
2 purpose the court orders for good cause.

3 **Sec. 214.** RCW 11.130.415 and 2019 c 437 s 410 are each amended  
4 to read as follows:

5 (1) Except as otherwise provided in subsection (3) of this  
6 section, the court in appointing a conservator shall consider persons  
7 qualified to be a conservator in the following order of priority:

8 (a) A conservator, other than a temporary or emergency  
9 conservator, currently acting for the respondent in another  
10 jurisdiction;

11 (b) A person nominated as conservator by the respondent,  
12 including the respondent's most recent nomination made in a power of  
13 attorney for finances;

14 (c) An agent appointed by the respondent to manage the  
15 respondent's property under a power of attorney for finances;

16 (d) A spouse or domestic partner of the respondent;

17 (e) A relative or other individual who has shown special care and  
18 concern for the respondent; and

19 (f) A certified professional guardian or conservator or other  
20 entity the court determines is suitable.

21 (2) If two or more persons have equal priority under subsection  
22 (1) of this section, the court shall select as conservator the person  
23 the court considers best qualified. In determining the best qualified  
24 person, the court shall consider the person's relationship with the  
25 respondent, the person's skills, the expressed wishes of the  
26 respondent, the extent to which the person and the respondent have  
27 similar values and preferences, and the likelihood the person will be  
28 able to perform the duties of a conservator successfully.

29 (3) The court, acting in the best interest of the respondent, may  
30 decline to appoint as conservator a person having priority under  
31 subsection (1) of this section and appoint a person having a lower  
32 priority or no priority.

33 (4) A person that provides paid services to the respondent, or an  
34 individual who is employed by a person that provides paid services to  
35 the respondent or is the spouse, domestic partner, parent, or child  
36 of an individual who provides or is employed to provide paid services  
37 to the respondent, may not be appointed as conservator unless:

38 (a) The individual is related to the respondent by blood(~~(7~~  
39 ~~marriage, or adoption))~~ or law; or

1 (b) The court finds by clear and convincing evidence that the  
2 person is the best qualified person available for appointment and the  
3 appointment is in the best interest of the respondent.

4 (5) An owner, operator, or employee of a long-term care facility  
5 at which the respondent is receiving care may not be appointed as  
6 conservator unless the owner, operator, or employee is related to the  
7 respondent by blood(~~(, marriage, or adoption)~~) or law.

8 **Sec. 215.** RCW 11.130.420 and 2019 c 437 s 411 are each amended  
9 to read as follows:

10 (1) A court order appointing a conservator for a minor must  
11 include findings to support appointment of a conservator and, if a  
12 full conservatorship is granted, the reason a limited conservatorship  
13 would not meet the identified needs of the minor.

14 (2) A court order appointing a conservator for a minor may  
15 dispense with the requirement for the conservator to file reports  
16 with the court under RCW 11.130.530 if all the property of the minor  
17 subject to the conservatorship is protected by a verified receipt.

18 (3) A court order appointing a conservator for an adult must:

19 (a) Include a specific finding that clear and convincing evidence  
20 has established that the identified needs of the respondent cannot be  
21 met by a protective arrangement instead of conservatorship or other  
22 less restrictive alternatives, including use of appropriate  
23 supportive services, technological assistance, or supported decision  
24 making; and

25 (b) Include a specific finding that clear and convincing evidence  
26 established the respondent was given proper notice of the hearing on  
27 the petition.

28 (4) A court order establishing a full conservatorship for an  
29 adult must state the basis for granting a full conservatorship and  
30 include specific findings to support the conclusion that a limited  
31 conservatorship would not meet the functional needs of the adult.

32 (5) A court order establishing a limited conservatorship must  
33 state the specific property placed under the control of the  
34 conservator and the powers granted to the conservator.

35 (6) The court, as part of an order establishing a  
36 conservatorship, shall identify any person that subsequently is  
37 entitled to:

38 (a) Notice of the rights of the individual subject to  
39 conservatorship under RCW 11.130.425(2);

- 1 (b) Notice of a sale of or surrender of a lease to the primary  
2 dwelling of the individual;
- 3 (c) Notice that the conservator has delegated a power that  
4 requires court approval under RCW 11.130.435 or substantially all  
5 powers of the conservator;
- 6 (d) Notice that the conservator will be unavailable to perform  
7 the conservator's duties for more than one month;
- 8 (e) A copy of the conservator's plan under RCW 11.130.510 and the  
9 conservator's report under RCW 11.130.530;
- 10 (f) Access to court records relating to the conservatorship;
- 11 (g) Notice of a transaction involving a substantial conflict  
12 between the conservator's fiduciary duties and personal interests;
- 13 (h) Notice of the death or significant change in the condition of  
14 the individual;
- 15 (i) Notice that the court has limited or modified the powers of  
16 the conservator; and
- 17 (j) Notice of the removal of the conservator.
- 18 (7) If an individual subject to conservatorship is an adult, the  
19 spouse, domestic partner, and adult children of the adult subject to  
20 conservatorship are entitled under subsection (6) of this section to  
21 notice unless the court (~~determines~~) orders otherwise based on good  
22 cause. Good cause includes the court's determination that notice  
23 would be contrary to the preferences or prior directions of the adult  
24 subject to conservatorship (~~or not in the best interest of the~~  
25 ~~adult~~)).
- 26 (8) If an individual subject to conservatorship is a minor, each  
27 parent and adult sibling of the minor is entitled under subsection  
28 (6) of this section to notice unless the court determines notice  
29 would not be in the best interest of the minor.
- 30 (9) All orders establishing a conservatorship for an adult must  
31 contain:
- 32 (a) A conservatorship summary placed directly below the case  
33 caption or on a separate cover page in the form or substantially the  
34 same form as set forth in RCW 11.130.665;
- 35 (b) The date which the limited conservator or conservator must  
36 file the conservator's plan under RCW 11.130.510;
- 37 (c) The date which the limited conservator or conservator must  
38 file an inventory under RCW 11.130.515;
- 39 (d) The date by which the court will review the conservator's  
40 plan as required by RCW 11.130.510;

1 (e) The report interval which the conservator must file its  
2 report under RCW 11.130.530. The report interval may be annual,  
3 biennial, or triennial;

4 (f) The date the limited conservator or conservator must file its  
5 report under RCW 11.130.530. The due date of the filing of the report  
6 shall be within ninety days after the anniversary date of the  
7 appointment;

8 (g) The date for the court to review the report under RCW  
9 11.130.530 and enter its order. The court shall conduct the review  
10 within one hundred twenty days after the anniversary date of the  
11 appointment.

12 **Sec. 216.** RCW 11.130.425 and 2019 c 437 s 412 are each amended  
13 to read as follows:

14 (1) A conservator appointed under RCW 11.130.420 shall give to  
15 the individual subject to conservatorship and to all other persons  
16 (~~given~~) entitled to notice pursuant to an order under RCW  
17 (~~11.130.370~~) 11.130.420(6) or a subsequent order a copy of the  
18 order of appointment, together with notice of the right to request  
19 termination or modification. The order and notice must be given not  
20 later than fourteen days after the appointment.

21 (2) Not later than thirty days after appointment of a conservator  
22 under RCW 11.130.420, the conservator shall give to the individual  
23 subject to conservatorship and any other person entitled to notice  
24 under RCW 11.130.420(6) a statement of the rights of the individual  
25 subject to conservatorship and procedures to seek relief if the  
26 individual is denied those rights. The statement must be in plain  
27 language, in at least sixteen-point font, and to the extent feasible,  
28 in a language in which the individual subject to conservatorship is  
29 proficient. The statement must notify the individual subject to  
30 conservatorship of the right to:

31 (a) Seek termination or modification of the conservatorship, or  
32 removal of the conservator, and choose an attorney to represent the  
33 individual in these matters;

34 (b) Participate in decision making to the extent reasonably  
35 feasible;

36 (c) Receive a copy of the conservator's plan under RCW  
37 11.130.510, the conservator's inventory under RCW 11.130.515, and the  
38 conservator's report under RCW 11.130.530; and

39 (d) Object to the conservator's inventory, plan, or report.

1 (3) If a conservator is appointed for the reasons stated in RCW  
2 11.130.360(2)(a)(ii) and the individual subject to conservatorship is  
3 missing, notice under this section to the individual is not required.

4 **Sec. 217.** RCW 11.130.430 and 2019 c 437 s 413 are each amended  
5 to read as follows:

6 (1) A person interested in an individual's welfare, including the  
7 individual for whom the order is sought, may petition for appointment  
8 of an emergency conservator for the individual.

9 (2) An emergency petition under subsection (1) of this section  
10 must state the petitioner's name, principal residence, and current  
11 street address, if different, and to the extent known, the following:

12 (a) The respondent's name, age, principal residence and current  
13 street address, if different;

14 (b) The name and address of the respondent's:

15 (i) Spouse or domestic partner or, if the respondent has none, an  
16 adult with whom the respondent has shared household responsibilities  
17 for more than six months in the twelve-month period immediately  
18 before the filing of the emergency petition;

19 (ii) Adult children or, if none, each parent and adult sibling of  
20 the respondent, or, if none, at least one adult nearest in kinship to  
21 the respondent who can be found with reasonable diligence; and

22 (iii) Adult stepchildren whom the respondent actively parented  
23 during the stepchildren's minor years and with whom the respondent  
24 had an ongoing relationship in the two-year period immediately before  
25 the filing of the emergency petition;

26 (c) The name and current address of each of the following, if  
27 applicable:

28 (i) A person responsible for care of the respondent;

29 (ii) Any attorney currently representing the respondent;

30 (iii) Any representative payee appointed by the social security  
31 administration for the respondent;

32 (iv) A guardian or conservator acting for the respondent in this  
33 state or in another jurisdiction;

34 (v) A trustee or custodian of a trust or custodianship of which  
35 the respondent is a beneficiary;

36 (vi) Any fiduciary for the respondent appointed by the department  
37 of veterans affairs;

38 (vii) Any representative payee or authorized representative or  
39 protective payee;

1 (viii) An agent designated under a power of attorney for health  
2 care in which the respondent is identified as the principal;

3 (ix) An agent designated under a power of attorney for finances  
4 in which the respondent is identified as the principal;

5 (x) A person nominated as conservator by the respondent;

6 (xi) A person nominated as conservator by the respondent's parent  
7 or spouse or domestic partner in a will or other signed record;

8 (xii) A proposed emergency conservator, and the reason the  
9 proposed emergency conservator should be selected; and

10 (xiii) A person known to have routinely assisted the respondent  
11 with decision making during the six months immediately before the  
12 filing of the emergency petition;

13 (d) The reason an emergency conservatorship is necessary,  
14 including a specific description of:

15 (i) The nature and extent of the emergency situation;

16 (ii) The nature and extent of the individual's alleged emergency  
17 need that arose because of the emergency situation;

18 (iii) The substantial and irreparable harm to the individual's  
19 property or financial interests that is likely to be prevented by the  
20 appointment of an emergency conservator;

21 (iv) All protective arrangements or other less restrictive  
22 alternatives that have been considered or implemented to meet the  
23 individual's alleged emergency needs instead of emergency  
24 conservatorship;

25 (v) If no protective arrangements or other less restrictive  
26 alternatives have been considered or implemented instead of emergency  
27 conservatorship, the reason they have not been considered or  
28 implemented; and

29 (vi) The reason a protective arrangement or other less  
30 restrictive alternative instead of emergency conservatorship is  
31 insufficient to meet the individual's alleged emergency need;

32 (e) The reason the petitioner believes that a basis for  
33 appointment of a conservator under RCW 11.130.360 exists;

34 (f) Whether the petitioner intends to also seek conservatorship  
35 for an individual under RCW 11.130.365;

36 (g) The reason the petitioner believes that no other person  
37 appears to have authority and willingness to act to address the  
38 individual's identified needs caused by the emergency circumstances;

1 (h) The specific powers to be granted to the proposed emergency  
2 conservator and a description of how those powers will be used to  
3 meet the individual's alleged emergency need;

4 (i) If the individual has property other than personal effects, a  
5 general statement of the individual's property, with an estimate of  
6 its value, including any insurance or pension, and the source and  
7 amount of other anticipated income or receipts; and

8 (j) Whether the individual needs an interpreter, translator, or  
9 other form of support to communicate effectively with the court or  
10 understand court proceedings.

11 (3) The requirements of RCW 11.130.090 apply to an emergency  
12 conservator appointed for an individual with the following exceptions  
13 for any proposed emergency conservator required to complete the  
14 training under RCW 11.130.090:

15 (a) The proposed emergency conservator shall present evidence of  
16 the successful completion of the required training video or web cast  
17 to the court no later than the hearing on the petition for  
18 appointment of an emergency conservator for an individual; and

19 (b) The superior court may defer the completion of the training  
20 requirement to a date no later than fourteen days after appointment  
21 if the petitioner requests an extension of time to complete the  
22 training due to emergent circumstances beyond the control of  
23 petitioner.

24 (4) On its own or on petition (~~by a person interested in an~~  
25 individual's welfare)) for appointment of an emergency conservator  
26 for an individual after a petition has been filed under RCW  
27 11.130.365, the court may appoint an emergency conservator for the  
28 individual if the court (~~finds~~) makes specific findings based on  
29 clear and convincing evidence that:

30 (a) (~~Appointment~~) An emergency exists such that appointment  
31 of an emergency conservator is likely to prevent substantial and  
32 irreparable harm to the individual's property or financial interests;

33 (b) The individual's identified needs caused by the emergency  
34 cannot be met by a protective arrangement or other less restrictive  
35 alternative instead of emergency conservatorship;

36 (c) No other person appears to have authority and willingness to  
37 act (~~in the~~) to address the individual's identified needs caused by  
38 the emergency circumstances; and

39 (~~e~~) (d) There is reason to believe that a basis for  
40 appointment of a conservator under RCW 11.130.360 exists.

1        ~~((2))~~ (5) If the court acts on its own to appoint an emergency  
2 conservator after a petition has been filed under RCW 11.130.365, all  
3 requirements of this section shall be met.

4        (6) A court order appointing an emergency conservator for an  
5 individual shall:

6        (a) Grant only the specific powers necessary to meet the  
7 individual's identified emergency need and to prevent substantial and  
8 irreparable harm to the individual's property or financial interests;

9        (b) Include a specific finding that clear and convincing evidence  
10 established that an emergency exists such that appointment of an  
11 emergency conservator is likely to prevent substantial and  
12 irreparable harm to the individual's property or financial interests;

13        (c) Include a specific finding that the identified emergency need  
14 of the individual cannot be met by a protective arrangement instead  
15 of conservatorship or other less restrictive alternative, including  
16 any relief available under chapter 74.34 RCW or use of appropriate  
17 supportive services, technological assistance, or supported decision  
18 making;

19        (d) Include a specific finding that clear and convincing evidence  
20 established the adult respondent was given proper notice of the  
21 hearing on the petition;

22        (e) State that the individual subject to emergency  
23 conservatorship retains all rights the individual enjoyed prior to  
24 the emergency conservatorship with the exception of the rights not  
25 retained during the period of emergency conservatorship;

26        (f) Require the emergency conservator to furnish a bond or other  
27 security under RCW 11.130.445;

28        (g) Include the date that the sixty-day period of emergency  
29 conservatorship ends, and the date the emergency conservator's  
30 report, required by this section, is due to the court; and

31        (h) Identify any person or notice party that subsequently is  
32 entitled to:

33        (i) Notice of the rights of the individual;

34        (ii) Notice of a change in the primary dwelling of the  
35 individual;

36        (iii) Notice of the removal of the conservator;

37        (iv) A copy of the emergency conservator's plan and the emergency  
38 conservator's report under this section;

39        (v) Access to court records relating to the emergency  
40 conservatorship;

1 (vi) Notice of the death or significant change in the condition  
2 of the individual;

3 (vii) Notice that the court has limited or modified the powers of  
4 the emergency conservator; and

5 (viii) Notice of the removal of the emergency conservator.

6 (7) A spouse, a domestic partner, and adult children of an adult  
7 subject to emergency conservatorship are entitled to notice under  
8 this section unless the court orders otherwise based on good cause.  
9 Good cause includes the court's determination that notice would be  
10 contrary to the preferences or prior directions of the individual  
11 subject to emergency conservatorship or in the best interest of the  
12 individual.

13 (8) The duration of authority of an emergency conservator may not  
14 exceed sixty days and the emergency conservator may exercise only the  
15 powers specified in the order of appointment. ((The)) Upon a motion  
16 by the emergency conservator, with notice served upon all applicable  
17 notice parties, the emergency conservator's authority may be extended  
18 once for not more than sixty days if the court finds that the  
19 conditions for appointment of an emergency conservator under  
20 subsection ((+1)) (4) of this section continue.

21 ~~(((3)))~~ (9) Immediately on filing of a petition for an emergency  
22 conservator for an adult, the court shall appoint an attorney to  
23 represent the ((respondent)) adult in the proceeding. ((Except as  
24 otherwise provided in subsection (4) of this section, reasonable  
25 notice of the date, time, and place of a hearing on the petition must  
26 be given to the respondent, the respondent's attorney, and any other  
27 person the court determines)) An order appointing an emergency  
28 conservator for an adult may not be entered unless the adult  
29 respondent, the adult respondent's attorney, and the court visitor  
30 appointed under subsection (10) of this section have received a  
31 minimum of fourteen days' notice of the date, time, and place of a  
32 hearing on the petition. A copy of the emergency petition and notice  
33 of a hearing on the petition must be served personally on the adult  
34 respondent, the adult respondent's attorney, and the court visitor  
35 appointed under subsection (10) of this section not more than two  
36 court days after the petition has been filed. The notice must inform  
37 the respondent of the adult respondent's rights at the hearing,  
38 including the right to an attorney and to attend the hearing. The  
39 notice must include a description of the nature, purpose, and  
40 consequences of granting the emergency petition. The court shall not

1 grant the emergency petition if notice substantially complying with  
2 this subsection is not served on the respondent.

3 ~~((4) The court may appoint an emergency conservator without~~  
4 ~~notice to the respondent and any attorney for the respondent only if~~  
5 ~~the court finds from an affidavit or testimony that the respondent's~~  
6 ~~property or financial interests will be substantially and irreparably~~  
7 ~~harmed before a hearing with notice on the appointment can be held.~~  
8 ~~If the court appoints an emergency conservator without giving notice~~  
9 ~~under subsection (3) of this section, the court must give notice of~~  
10 ~~the appointment not later than forty-eight hours after the~~  
11 ~~appointment to:~~

12 ~~(a) The respondent;~~

13 ~~(b) The respondent's attorney; and~~

14 ~~(c) Any other person the court determines.~~

15 ~~(5) Not later than five days after the appointment, the court~~  
16 ~~shall hold a hearing on the appropriateness of the appointment.~~

17 ~~(6))~~ (10)(a) On receipt of a petition for appointment of  
18 emergency conservator for an individual, the court:

19 (i) Shall appoint a court visitor if an emergency conservator is  
20 sought for an adult; or

21 (ii) May appoint a court visitor if an emergency conservator is  
22 sought for a minor.

23 (b) Notice of appointment of the court visitor must be served  
24 upon the court visitor within two days of appointment. The court  
25 visitor must be an individual with training or experience in the type  
26 of abilities, limitations, and needs alleged in the emergency  
27 petition. The court, in the order appointing a court visitor, shall  
28 specify the hourly rate the visitor may charge for his or her  
29 services, and shall specify the maximum amount the court visitor may  
30 charge without additional court review and approval.

31 (c) The court visitor shall within two days of service of notice  
32 of appointment file with the court and serve, either personally or by  
33 certified mail with return receipt, the respondent or the  
34 respondent's legal counsel, the petitioner or the petitioner's legal  
35 counsel, and any notice party with a statement including the court  
36 visitor's: Training relating to the duties as a court visitor;  
37 criminal history as defined in RCW 9.94A.030 for the period covering  
38 ten years prior to the appointment; hourly rate, if compensated;  
39 contact, if any, with a party to the proceeding prior to appointment;  
40 and apparent or actual conflicts of interest.

1 (d) A court visitor appointed under this section shall use due  
2 diligence to attempt to interview the adult respondent in person and,  
3 in a manner the individual is best able to understand:

4 (i) Explain to the adult respondent the substance of the  
5 emergency petition, the nature, purpose, and effect of the  
6 proceeding, the respondent's rights at the hearing on the petition,  
7 and the proposed specific powers and duties of the proposed  
8 conservator as stated in the emergency petition;

9 (ii) Determine the adult respondent's views about the emergency  
10 appointment sought by the petitioner, including views about a  
11 proposed emergency conservator, the emergency conservator's proposed  
12 powers and duties, and the scope and duration of the proposed  
13 emergency conservatorship; and

14 (iii) Inform the adult respondent that all costs and expenses of  
15 the proceeding, including but not limited to the adult respondent's  
16 attorneys' fees, the appointed conservator's fees, and the appointed  
17 conservator's attorneys' fees, will be paid from the individual's  
18 assets upon approval by the court.

19 (e) The court visitor appointed under this section shall:

20 (i) Interview the petitioner and proposed emergency conservator;

21 (ii) Use due diligence to attempt to visit the adult respondent's  
22 present dwelling;

23 (iii) Use due diligence to attempt to obtain information from any  
24 physician or other person known to have treated, advised, or assessed  
25 the adult respondent's relevant physical or mental condition; and

26 (iv) Investigate the allegations in the emergency petition and  
27 any other matter relating to the emergency petition the court  
28 directs.

29 (f) A court visitor appointed under this section shall file a  
30 report in a record with the court and provide a copy of the report to  
31 the petitioner, the adult subject to the emergency conservatorship,  
32 and any notice party at least seven days prior to the hearing on the  
33 emergency petition, which must include:

34 (i) A recommendation regarding the appropriateness of emergency  
35 conservatorship, including whether a protective arrangement instead  
36 of conservatorship or other less restrictive alternative for meeting  
37 the respondent's needs is available, and if an emergency  
38 conservatorship is recommended;

39 (ii) A detailed summary of the alleged emergency and the  
40 substantial and irreparable harm to the individual's property or

1 finances that is likely to be prevented by the appointment of an  
2 emergency conservator;

3 (iii) A statement as to whether the alleged emergency and the  
4 respondent's alleged needs are likely to require an extension of  
5 sixty days as authorized under this section;

6 (iv) The specific powers to be granted to the emergency  
7 conservator and how the specific powers will address the alleged  
8 emergency and the respondent's alleged need;

9 (v) A recommendation regarding the appropriateness of an ongoing  
10 conservatorship for an individual, including whether a protective  
11 arrangement instead of conservatorship or other less restrictive  
12 alternative for meeting the respondent's needs is available;

13 (vi) A statement of the qualifications of the proposed emergency  
14 conservator and whether the respondent approves or disapproves of the  
15 proposed emergency conservator, and the reasons for such approval or  
16 disapproval;

17 (vii) A recommendation whether a professional evaluation under  
18 RCW 11.130.390 is necessary;

19 (viii) A statement whether the respondent is able to attend a  
20 hearing at the location court proceedings typically are held;

21 (ix) A statement whether the respondent is able to participate in  
22 a hearing which identifies any technology or other form of support  
23 that would enhance the respondent's ability to participate; and

24 (x) Any other matter the court directs.

25 (11) An emergency conservator shall:

26 (a) Comply with the requirements of RCW 11.130.505 and the  
27 requirements of this chapter that pertain to the rights of an  
28 individual subject to conservatorship;

29 (b) Not have authority to make decisions or take actions that a  
30 conservator for an individual is prohibited by law from having; and

31 (c) Be subject to the same special limitations on a conservator's  
32 power that apply to a conservator for an individual.

33 (12) Appointment of an emergency conservator under this section  
34 is not a determination that a basis exists for appointment of a  
35 conservator under RCW 11.130.360.

36 ((+7)) (13) The court may remove an emergency conservator  
37 appointed under this section at any time.

38 (14) The emergency conservator shall file a report in a record  
39 with the court and provide a copy of the report to the individual  
40 subject to emergency conservatorship, and any notice party no later

1 than forty-five days after appointment. The report shall include  
2 specific and updated information regarding the emergency alleged in  
3 the emergency petition, the individual's emergency needs, all actions  
4 and decisions by the emergency conservator, and a recommendation as  
5 to whether a conservator for an individual should be appointed. If  
6 the appointment of the emergency conservator is extended for an  
7 additional sixty days, the emergency conservator shall file a second  
8 report in a record with the court and provide a copy of the report to  
9 the individual subject to emergency conservatorship, and any notice  
10 party no later than forty-five days after the emergency  
11 conservatorship is extended by the court, which shall include the  
12 same information required for the first report. The emergency  
13 conservator shall make any other report the court requires.

14 (15) The court shall issue letters of emergency conservatorship  
15 to the emergency conservator in compliance with RCW 11.130.040.

16 **Sec. 218.** RCW 11.130.435 and 2019 c 437 s 414 are each amended  
17 to read as follows:

18 (1) Except as otherwise ordered by the court, a conservator must  
19 give notice to persons entitled to notice under RCW 11.130.370(4) and  
20 receive specific authorization by the court before the conservator  
21 may exercise with respect to the conservatorship the power to:

22 (a) Make a gift, except a gift of de minimis value;

23 (b) Sell, encumber an interest in, or surrender a lease to the  
24 primary dwelling of the individual subject to conservatorship;

25 (c) Sell, or encumber an interest in, any other real estate;

26 (d) Convey, release, or disclaim a contingent or expectant  
27 interest in property, including marital property and any right of  
28 survivorship incident to joint tenancy or tenancy by the entireties;

29 ~~((d))~~ (e) Exercise or release a power of appointment;

30 ~~((e))~~ (f) Create a revocable or irrevocable trust of property  
31 of the conservatorship estate, whether or not the trust extends  
32 beyond the duration of the conservatorship, or revoke or amend a  
33 trust revocable by the individual subject to conservatorship;

34 ~~((f))~~ (g) Exercise a right to elect an option or change a  
35 beneficiary under an insurance policy or annuity or surrender the  
36 policy or annuity for its cash value;

37 ~~((g))~~ (h) Exercise a right to a quasi-community property share  
38 under RCW 26.16.230 or a right to an elective share under other law  
39 in the estate of a deceased spouse or domestic partner of the

1 individual subject to conservatorship or renounce or disclaim a  
2 property interest;

3 ~~((h))~~ (i) Grant a creditor priority for payment over creditors  
4 of the same or higher class if the creditor is providing property or  
5 services used to meet the basic living and care needs of the  
6 individual subject to conservatorship and preferential treatment  
7 otherwise would be impermissible under RCW 11.130.555(5); ~~(and~~

8 ~~(i))~~ (j) Make, modify, amend, or revoke the will of the  
9 individual subject to conservatorship in compliance with chapter  
10 11.12 RCW;

11 (k) Acquire or dispose of property, including real property in  
12 another state, for cash or on credit, at public or private sale, and  
13 manage, develop, improve, exchange, partition, change the character  
14 of, or abandon property;

15 (l) Make ordinary or extraordinary repairs or alterations in a  
16 building or other structure, demolish any improvement, or raze an  
17 existing or erect a new party wall or building;

18 (m) Subdivide or develop land, dedicate land to public use, make  
19 or obtain the vacation of a plat and adjust a boundary, adjust a  
20 difference in valuation of land, exchange or partition land by giving  
21 or receiving consideration, and dedicate an easement to public use  
22 without consideration;

23 (n) Enter for any purpose into a lease of property as lessor or  
24 lessee, with or without an option to purchase or renew, for a term  
25 within or extending beyond the term of the conservatorship; and

26 (o) Structure the finances of the individual subject to  
27 conservatorship to establish eligibility for a public benefit  
28 including by making gifts consistent with the individual's  
29 preferences, values, and prior directions, if the conservator's  
30 action does not jeopardize the individual's welfare and otherwise is  
31 consistent with the conservator's duties.

32 (2) In approving a conservator's exercise of a power listed in  
33 subsection (1) of this section, the court shall consider primarily  
34 the decision the individual subject to conservatorship would make if  
35 able, to the extent the decision can be ascertained.

36 (3) To determine under subsection (2) of this section the  
37 decision the individual subject to conservatorship would make if  
38 able, the court shall consider the individual's prior or current  
39 directions, preferences, opinions, values, and actions, to the extent

1 actually known or reasonably ascertainable by the conservator. The  
2 court also shall consider:

3 (a) The financial needs of the individual subject to  
4 conservatorship and individuals who are in fact dependent on the  
5 individual subject to conservatorship for support, and the interests  
6 of creditors of the individual;

7 (b) Possible reduction of income, estate, inheritance, or other  
8 tax liabilities;

9 (c) Eligibility for governmental assistance;

10 (d) The previous pattern of giving or level of support provided  
11 by the individual;

12 (e) Any existing estate plan or lack of estate plan of the  
13 individual;

14 (f) The life expectancy of the individual and the probability the  
15 conservatorship will terminate before the individual's death; and

16 (g) Any other relevant factor.

17 (4) A conservator may not revoke or amend a power of attorney for  
18 finances executed by the individual subject to conservatorship. If a  
19 power of attorney for finances is in effect, a decision of the agent  
20 within the scope of the agent's authority takes precedence over that  
21 of the conservator, unless the court orders otherwise. The court has  
22 authority to revoke or amend any power of attorney executed by the  
23 adult.

24 **Sec. 219.** RCW 11.130.505 and 2019 c 437 s 418 are each amended  
25 to read as follows:

26 (1) A conservator is a fiduciary and has duties of prudence and  
27 loyalty to the individual subject to conservatorship.

28 (2) A conservator shall promote the self-determination of the  
29 individual subject to conservatorship and, to the extent feasible,  
30 encourage the individual to participate in decisions, act on the  
31 individual's own behalf, and develop or regain the capacity to manage  
32 the individual's personal affairs.

33 (3) In making a decision for an individual subject to  
34 conservatorship, the conservator shall make the decision the  
35 conservator reasonably believes the individual would make if able,  
36 unless doing so would fail to preserve the resources needed to  
37 maintain the individual's well-being and lifestyle or otherwise  
38 unreasonably harm or endanger the welfare or personal or financial  
39 interests of the individual. To determine the decision the individual

1 would make if able, the conservator shall consider the individual's  
2 prior or current directions, preferences, opinions, values, and  
3 actions, to the extent actually known or reasonably ascertainable by  
4 the conservator.

5 (4) If a conservator cannot make a decision under subsection (3)  
6 of this section because the conservator does not know and cannot  
7 reasonably determine the decision the individual subject to  
8 conservatorship probably would make if able, or the conservator  
9 reasonably believes the decision the individual would make would fail  
10 to preserve resources needed to maintain the individual's well-being  
11 and lifestyle or otherwise unreasonably harm or endanger the welfare  
12 or personal or financial interests of the individual, the conservator  
13 shall act in accordance with the best interests of the individual. In  
14 determining the best interests of the individual, the conservator  
15 shall consider:

16 (a) Information received from professionals and persons that  
17 demonstrate sufficient interest in the welfare of the individual;

18 (b) Other information the conservator believes the individual  
19 would have considered if the individual were able to act; and

20 (c) Other factors a reasonable person in the circumstances of the  
21 individual would consider, including consequences for others.

22 (5) Except when inconsistent with the conservator's duties under  
23 subsections (1) through (4) of this section, a conservator shall  
24 invest and manage the conservatorship estate as a prudent investor  
25 would, by considering:

26 (a) The circumstances of the individual subject to  
27 conservatorship and the conservatorship estate;

28 (b) General economic conditions;

29 (c) The possible effect of inflation or deflation;

30 (d) The expected tax consequences of an investment decision or  
31 strategy;

32 (e) The role of each investment or course of action in relation  
33 to the conservatorship estate as a whole;

34 (f) The expected total return from income and appreciation of  
35 capital;

36 (g) The need for liquidity, regularity of income, and  
37 preservation or appreciation of capital; and

38 (h) The special relationship or value, if any, of specific  
39 property to the individual subject to conservatorship.

1 (6) The propriety of a conservator's investment and management of  
2 the conservatorship estate is determined in light of the facts and  
3 circumstances existing when the conservator decides or acts and not  
4 by hindsight.

5 (7) A conservator shall make a reasonable effort to verify facts  
6 relevant to the investment and management of the conservatorship  
7 estate.

8 (8) A conservator that has special skills or expertise, or is  
9 named conservator in reliance on the conservator's representation of  
10 special skills or expertise, has a duty to use the special skills or  
11 expertise in carrying out the conservator's duties.

12 (9) In investing, selecting specific property for distribution,  
13 and invoking a power of revocation or withdrawal for the use or  
14 benefit of the individual subject to conservatorship, a conservator  
15 shall consider any estate plan of the individual known or reasonably  
16 ascertainable to the conservator and may examine the will or other  
17 donative, nominative, or appointive instrument of the individual.

18 (10) A conservator shall maintain insurance on the insurable real  
19 and personal property of the individual subject to conservatorship,  
20 unless the conservatorship estate lacks sufficient funds to pay for  
21 insurance or the court finds:

22 (a) The property lacks sufficient equity; or

23 (b) Insuring the property would unreasonably dissipate the  
24 conservatorship estate or otherwise not be in the best interest of  
25 the individual.

26 (11) If a power of attorney for finances is in effect, a  
27 conservator shall cooperate with the agent to the extent feasible.

28 (12) A conservator has access to and authority over a digital  
29 asset of the individual subject to conservatorship to the extent  
30 provided by the revised uniform fiduciary access to digital assets  
31 act (chapter 11.120 RCW) or court order.

32 (13) A conservator for an adult shall notify the court if the  
33 condition of the adult has changed so that the adult is capable of  
34 exercising rights previously removed. The notice must be given  
35 immediately on learning of the change.

36 (14) A conservator shall notify the court within thirty days of  
37 any substantial change in the value of the property of the person  
38 subject to conservatorship and shall provide a copy of the notice to  
39 the person subject to guardianship, a person entitled to notice under  
40 RCW (~~(11.130.370)~~) 11.130.420(6) or a subsequent court order, and any

1 other person the court has determined is entitled to notice and  
2 schedule a hearing for the court to review the adequacy of the bond  
3 or other verified receipt under RCW 11.130.445 and 11.130.500.

4 **Sec. 220.** RCW 11.130.515 and 2019 c 437 s 420 are each amended  
5 to read as follows:

6 (1) Not later than (~~sixty~~) ninety days after appointment, a  
7 conservator shall prepare and file with the appointing court a  
8 detailed inventory of the conservatorship estate, together with an  
9 oath or affirmation that the inventory is believed to be complete and  
10 accurate as far as information permits.

11 (2) A conservator shall give notice of the filing of an inventory  
12 to the individual subject to conservatorship, a person entitled to  
13 notice under RCW 11.130.420(6) or a subsequent order, and any other  
14 person the court determines. The notice must be given not later than  
15 fourteen days after the filing.

16 (3) A conservator shall keep records of the administration of the  
17 conservatorship estate and make them available for examination on  
18 reasonable request of the individual subject to conservatorship, a  
19 guardian for the individual, or any other person the conservator or  
20 the court determines.

21 **Sec. 221.** RCW 11.130.520 and 2019 c 437 s 421 are each amended  
22 to read as follows:

23 (1) Except as otherwise provided in RCW 11.130.435 or qualified  
24 or limited in the court's order of appointment and stated in the  
25 letters of office, a conservator has all powers granted in this  
26 section and any additional power granted to a trustee by law of this  
27 state other than this chapter.

28 (2) A conservator, acting reasonably and consistent with the  
29 fiduciary duties of the conservator to accomplish the purpose of the  
30 conservatorship, without specific court authorization or  
31 confirmation, may with respect to the conservatorship estate:

32 (a) Collect, hold, and retain property, including property in  
33 which the conservator has a personal interest and real property in  
34 another state, until the conservator determines disposition of the  
35 property should be made;

36 (b) Receive additions to the conservatorship estate;

37 (c) Continue or participate in the operation of a business or  
38 other enterprise;

- 1 (d) Acquire an undivided interest in property in which the  
2 conservator, in a fiduciary capacity, holds an undivided interest;
- 3 (e) Invest assets;
- 4 (f) Deposit funds or other property in a financial institution,  
5 including one operated by the conservator;
- 6 ~~(g) ((Acquire or dispose of property, including real property in  
7 another state, for cash or on credit, at public or private sale, and  
8 manage, develop, improve, exchange, partition, change the character  
9 of, or abandon property;~~
- 10 ~~(h) Make ordinary or extraordinary repairs or alterations in a  
11 building or other structure, demolish any improvement, or raze an  
12 existing or erect a new party wall or building;~~
- 13 ~~(i) Subdivide or develop land, dedicate land to public use, make  
14 or obtain the vacation of a plat and adjust a boundary, adjust a  
15 difference in valuation of land, exchange or partition land by giving  
16 or receiving consideration, and dedicate an easement to public use  
17 without consideration;~~
- 18 ~~(j) Enter for any purpose into a lease of property as lessor or  
19 lessee, with or without an option to purchase or renew, for a term  
20 within or extending beyond the term of the conservatorship;~~
- 21 ~~(k)) Enter into a lease or arrangement for exploration and  
22 removal of minerals or other natural resources or a pooling or  
23 unitization agreement;~~
- 24 ~~((l))~~ (h) Grant an option involving disposition of property or  
25 accept or exercise an option for the acquisition of property;
- 26 ~~((m))~~ (i) Vote a security, in person or by general or limited  
27 proxy;
- 28 ~~((n))~~ (j) Pay a call, assessment, or other sum chargeable or  
29 accruing against or on account of a security;
- 30 ~~((o))~~ (k) Sell or exercise a stock subscription or conversion  
31 right;
- 32 ~~((p))~~ (l) Consent, directly or through a committee or agent, to  
33 the reorganization, consolidation, merger, dissolution, or  
34 liquidation of a corporation or other business enterprise;
- 35 ~~((q))~~ (m) Hold a security in the name of a nominee or in other  
36 form without disclosure of the conservatorship so that title to the  
37 security may pass by delivery;
- 38 ~~((r))~~ (n) Insure:
- 39 (i) The conservatorship estate, in whole or in part, against  
40 damage or loss in accordance with RCW 11.130.505(10); and

1 (ii) The conservator against liability with respect to a third  
2 person;

3 ~~((s))~~ (o) Borrow funds, with or without security, to be repaid  
4 from the conservatorship estate or otherwise;

5 ~~((t))~~ (p) Advance funds for the protection of the  
6 conservatorship estate or the individual subject to conservatorship  
7 and all expenses, losses, and liability sustained in the  
8 administration of the conservatorship estate or because of holding  
9 any property for which the conservator has a lien on the  
10 conservatorship estate;

11 ~~((u))~~ (q) Pay or contest a claim, settle a claim by or against  
12 the conservatorship estate or the individual subject to  
13 conservatorship by compromise, arbitration, or otherwise, or release,  
14 in whole or in part, a claim belonging to the conservatorship estate  
15 to the extent the claim is uncollectible;

16 ~~((v))~~ (r) Pay a tax, assessment, compensation of the  
17 conservator or any guardian, and other expense incurred in the  
18 collection, care, administration, and protection of the  
19 conservatorship estate;

20 ~~((w))~~ (s) Pay a sum distributable to the individual subject to  
21 conservatorship or an individual who is in fact dependent on the  
22 individual subject to conservatorship by paying the sum to the  
23 distributee or for the use of the distributee:

24 (i) To the guardian for the distributee;

25 (ii) To the custodian of the distributee under the uniform  
26 transfers to minors act (chapter 11.114 RCW); or

27 (iii) If there is no guardian, custodian, or custodial trustee,  
28 to a relative or other person having physical custody of the  
29 distributee;

30 ~~((x))~~ (t) Bring or defend an action, claim, or proceeding in  
31 any jurisdiction for the protection of the conservatorship estate or  
32 the conservator in the performance of the conservator's duties; and

33 ~~((y) Structure the finances of the individual subject to  
34 conservatorship to establish eligibility for a public benefit,  
35 including by making gifts consistent with the individual's  
36 preferences, values, and prior directions, if the conservator's  
37 action does not jeopardize the individual's welfare and otherwise is  
38 consistent with the conservator's duties; and~~

39 ~~(z))~~ (u) Execute and deliver any instrument that will accomplish  
40 or facilitate the exercise of a power of the conservator.

1       **Sec. 222.** RCW 11.130.530 and 2019 c 437 s 423 are each amended  
2 to read as follows:

3       (1) A conservator shall file with the court by the date  
4 established by the court a report in a record regarding the  
5 administration of the conservatorship estate unless the court  
6 otherwise directs, on resignation or removal, on termination of the  
7 conservatorship, and at any other time the court directs.

8       (2) A report under subsection (1) of this section must state or  
9 contain:

10       (a) An accounting that lists property included in the  
11 conservatorship estate and the receipts, disbursements, liabilities,  
12 and distributions during the period for which the report is made;

13       (b) A list of the services provided to the individual subject to  
14 conservatorship;

15       (c) A copy of the conservator's most recently approved plan and a  
16 statement whether the conservator has deviated from the plan and, if  
17 so, how the conservator has deviated and why;

18       (d) A recommendation as to the need for continued conservatorship  
19 and any recommended change in the scope of the conservatorship;

20       (e) To the extent feasible, a copy of the most recent reasonably  
21 available financial statements evidencing the status of bank  
22 accounts, investment accounts, and mortgages or other debts of the  
23 individual subject to conservatorship with all but the last four  
24 digits of the account numbers and social security number redacted;

25       (f) Anything of more than de minimis value which the conservator,  
26 any individual who resides with the conservator, or the spouse,  
27 domestic partner, parent, child, or sibling of the conservator has  
28 received from a person providing goods or services to the individual  
29 subject to conservatorship;

30       (g) Any business relation the conservator has with a person the  
31 conservator has paid or that has benefited from the property of the  
32 individual subject to conservatorship; and

33       (h) Whether any co-conservator or successor conservator appointed  
34 to serve when a designated event occurs is alive and able to serve.

35       (3) The court may appoint a court visitor to review a report  
36 under this section or conservator's plan under RCW 11.130.510,  
37 interview the individual subject to conservatorship or conservator,  
38 or investigate any other matter involving the conservatorship. In  
39 connection with the report, the court may order the conservator to

1 submit the conservatorship estate to appropriate examination in a  
2 manner the court directs.

3 (4) Notice of the filing under this section of a conservator's  
4 report, together with a copy of the report, must be provided to the  
5 individual subject to conservatorship, a person entitled to notice  
6 under RCW 11.130.420(6) or a subsequent order, and other persons the  
7 court determines. The notice and report must be given not later than  
8 fourteen days after filing.

9 (5) The court shall establish procedures for monitoring a report  
10 submitted under this section and review each report at least annually  
11 to determine whether:

12 (a) The reports provide sufficient information to establish the  
13 conservator has complied with the conservator's duties;

14 (b) The conservatorship should continue; and

15 (c) The conservator's requested fees, if any, should be approved.

16 (6) If the court determines there is reason to believe a  
17 conservator has not complied with the conservator's duties or the  
18 conservatorship should not continue, the court:

19 (a) Shall notify the individual subject to conservatorship, the  
20 conservator, and any other person entitled to notice under RCW  
21 11.130.420(6) or a subsequent order;

22 (b) May require additional information from the conservator;

23 (c) May appoint a court visitor to interview the individual  
24 subject to conservatorship or conservator or investigate any matter  
25 involving the conservatorship; and

26 (d) Consistent with RCW 11.130.565 and 11.130.570, may hold a  
27 hearing to consider removal of the conservator, termination of the  
28 conservatorship, or a change in the powers granted to the conservator  
29 or terms of the conservatorship.

30 (7) If the court has reason to believe fees requested by a  
31 conservator are not reasonable, the court shall hold a hearing to  
32 determine whether to adjust the requested fees.

33 (8) A conservator must petition the court for approval of a  
34 report filed under this section. The court after review may approve  
35 the report. If the court approves the report, there is a rebuttable  
36 presumption the report is accurate as to a matter adequately  
37 disclosed in the report.

38 (9) An order, after notice and hearing, approving an interim  
39 report of a conservator filed under this section adjudicates

1 liabilities concerning a matter adequately disclosed in the report,  
2 as to a person given notice of the report or accounting.

3 (10) If the court approves a report filed under this section, the  
4 order approving the report shall set the due date for the filing of  
5 the next report to be filed under this section. The court may set the  
6 review at annual, biennial, or triennial intervals with the report  
7 due date to be within ninety days of the anniversary date of  
8 appointment. When determining the report interval, the court can  
9 consider: The length of time the conservator has been serving the  
10 person under conservatorship; whether the conservator has timely  
11 filed all required reports with the court; whether the conservator is  
12 monitored by other state or local agencies; the income of the person  
13 subject to conservatorship; the value of the property of the person  
14 subject to conservatorship; the adequacy of the bond and other  
15 verified receipt; and whether there have been any allegations of  
16 abuse, neglect, or a breach of fiduciary duty against the  
17 conservator.

18 (11) If the court approves a report filed under this section, the  
19 order approving the report shall contain a conservatorship summary or  
20 accompanied by a conservatorship summary in the form or substantially  
21 in the same form as set forth in RCW 11.130.665.

22 (12) If the court approves a report filed under this section, the  
23 order approving the report shall direct the clerk of the court to  
24 reissue letters of office in the form or substantially in the same  
25 form as set forth in RCW 11.130.660 to the conservator containing an  
26 expiration date which will be within one hundred (~~twenty~~) eighty  
27 days after the date the court directs the conservator file its next  
28 report.

29 (13) An order, after notice and hearing, approving a final report  
30 filed under this section discharges the conservator from all  
31 liabilities, claims, and causes of action by a person given notice of  
32 the report and the hearing as to a matter adequately disclosed in the  
33 report.

34 (14) Any requirement to establish a monitoring program under this  
35 section is subject to appropriation.

36 **Sec. 223.** RCW 11.130.550 and 2019 c 437 s 427 are each amended  
37 to read as follows:

1       (1) ~~((If an individual subject to conservatorship dies, the~~  
2 ~~conservator shall deliver))~~ Upon the death of an individual subject  
3 to conservatorship, a conservator shall:

4       (a) Have authority to disburse or commit those funds under the  
5 control of the conservator as are prudent and within the means of the  
6 estate for the disposition of the deceased individual subject to  
7 conservatorship's remains. Consent for such arrangement must be  
8 secured according to RCW 68.50.160. If no person authorized by RCW  
9 68.50.160 accepts responsibility for giving consent, the conservator  
10 may consent, subject to the provisions of this section and to the  
11 known directives of the deceased individual subject to  
12 conservatorship. Reasonable financial commitments made by a  
13 conservator pursuant to this section are binding against the estate  
14 of the deceased individual subject to conservatorship;

15       (b) Deliver to the court for safekeeping any will of the  
16 individual in the conservator's possession and inform the personal  
17 representative named in the will if feasible, or if not feasible, a  
18 beneficiary named in the will, of the delivery.

19       (2) If forty days after the death of an individual subject to  
20 conservatorship no personal representative has been appointed and no  
21 application or petition for appointment is before the court, the  
22 conservator may apply to exercise the powers and duties of a personal  
23 representative to administer and distribute the decedent's estate.  
24 The conservator shall give notice of his or her appointment and the  
25 pendency of any probate proceedings as provided in RCW 11.28.237 and  
26 shall also give notice to a person nominated as personal  
27 representative by a will of the decedent of which the conservator is  
28 aware. The court may grant the application if there is no objection  
29 and endorse the letters of office to note that the individual  
30 formerly subject to conservatorship is deceased and the conservator  
31 has acquired the powers and duties of a personal representative.

32       (3) On the death of an individual subject to conservatorship, the  
33 conservator shall conclude the administration of the conservatorship  
34 estate as provided in RCW 11.130.570.

35       NEW SECTION. Sec. 224. A new section is added to chapter 11.130  
36 RCW to read as follows:

37       CONSERVATOR ACCESS TO CERTAIN HELD ASSETS. (1) For purposes of  
38 this section, "institution" means all financial institutions as  
39 defined in RCW 30A.22.041, all insurance companies holding a

1 certificate of authority under chapter 48.05 RCW, or any agent who  
2 constitutes a salesperson or broker-dealer of securities under the  
3 definitions of RCW 21.20.005, individually and collectively.

4 (2) Institutions shall provide the conservator access and control  
5 over the assets described in (a)(vii) of this subsection, including  
6 but not limited to delivery of the asset to the conservator, upon  
7 receipt of the following:

8 (a) An affidavit containing as an attachment a true and correct  
9 copy of the conservator's letters of conservatorship and stating:

10 (i) That as of the date of the affidavit, the affiant is a duly  
11 appointed conservator with authority over assets held by the  
12 institution but owned or subject to withdrawal or delivery to a  
13 client or depositor of the institution;

14 (ii) The cause number of the conservatorship;

15 (iii) The name of the person under conservatorship and the name  
16 of the client or depositor, which names must be the same;

17 (iv) The account or the safety deposit box number or numbers;

18 (v) The address of the client or depositor;

19 (vi) The name and address of the affiant-conservator being  
20 provided assets or access to assets;

21 (vii) A description of and the value of the asset or assets, or,  
22 where the value cannot be readily ascertained, a reasonable estimate  
23 thereof, and a statement that the conservator receives delivery or  
24 control of each asset solely in its capacity as conservator;

25 (viii) The date the conservator assumed control over the assets;  
26 and

27 (ix) That a true and correct copy of the letters of  
28 conservatorship duly issued by a court to the conservator is attached  
29 to the affidavit; and

30 (b) An envelope, with postage prepaid, addressed to the clerk of  
31 the court issuing the letters of conservatorship. The affidavit must  
32 be sent in the envelope by the institution to the clerk of the court  
33 together with a statement signed by an agent of the institution that  
34 the description of the asset set forth in the affidavit appears to be  
35 accurate, and confirming in the case of cash assets, the value of the  
36 asset.

37 (3) Any conservator provided with access to a safe deposit box  
38 pursuant to subsection (1) of this section shall make an inventory of  
39 the contents of the box and attach this inventory to the affidavit  
40 before the affidavit is sent to the clerk of the court and before the

1 contents of the box are released to the conservator. Any inventory  
2 must be prepared in the presence of an employee of the institution  
3 and the statement of the institution required under subsection (1) of  
4 this section must include a statement executed by the employee that  
5 the inventory appears to be accurate. The institution may require  
6 payment by the conservator of any fees or charges then due in  
7 connection with the asset or account and of a reasonable fee for  
8 witnessing preparation of the inventory and preparing the statement  
9 required by this subsection or subsection (1) of this section.

10 (4) Any institution to which an affidavit complying with  
11 subsection (1) of this section is submitted may rely on the affidavit  
12 without inquiry and is not subject to any liability of any nature  
13 whatsoever to any person whatsoever, including but not limited to the  
14 institution's client or depositor or any other person with an  
15 ownership or other interest in or right to the asset, for the  
16 reliance or for providing the conservator access and control over the  
17 asset, including but not limited to delivery of the asset to the  
18 conservator.

19 **Sec. 225.** RCW 11.130.670 and 2019 c 437 s 701 are each amended  
20 to read as follows:

21 (1) The certified professional guardianship board must resolve  
22 grievances against professional guardians and/or conservators within  
23 a reasonable time for alleged violations of the certified  
24 professional guardianship board's standards of practice, statutes,  
25 regulations, or rules, that relate to the conduct of a certified  
26 professional guardian or conservator.

27 (a) All grievances must initially be reviewed within thirty days  
28 by certified professional guardianship board members, or a subset  
29 thereof, to determine if the grievance is complete, states facts that  
30 ~~((allege))~~ describe a violation of the standards of practice,  
31 statutes, regulations, or rules, and relates to the conduct of a  
32 professional guardian and/or conservator, before ~~((any investigation~~  
33 ~~or))~~ investigating, requesting a response ~~((is requested))~~ from the  
34 professional guardian or conservator, or forwarding to the superior  
35 courts. ~~((Grievances))~~ To be complete, grievances must provide  
36 sufficient details of the alleged conduct to demonstrate that a  
37 violation of the statute, regulation, standard of practice, or rule,  
38 relating to the conduct of a certified professional guardian or  
39 conservator could have occurred, the dates ~~((of))~~ the alleged

1 (~~violations~~) conduct occurred, and must be signed and dated by the  
2 person filing the grievance. Grievance investigations by the board  
3 are limited to the allegations contained in the grievance unless,  
4 after review by a majority of the members of the certified  
5 professional guardianship board, further investigation is justified.

6 (b) If the certified professional guardianship board determines  
7 the grievance is complete, states facts that allege a violation of  
8 the certified professional guardianship board's standards of  
9 practice, and relates to the conduct of a professional guardian  
10 and/or conservator, the certified professional guardianship board  
11 must forward that grievance within ten days to the superior court for  
12 that guardianship or conservatorship and to the professional guardian  
13 and/or conservator. The court must review the matter as set forth in  
14 RCW 11.130.140, and must direct the clerk of the court to send a copy  
15 of the order entered under this section to the certified professional  
16 guardianship board. The certified professional guardianship board  
17 must accept as facts any finding of fact contained in the order. The  
18 certified professional guardianship board must act consistently with  
19 any finding of fact issued in that order.

20 (2) Grievances received by the certified professional  
21 guardianship board must be (~~resolved~~) investigated and the  
22 resolution determined and in process within one hundred eighty days  
23 of receipt. The one hundred eighty days is tolled during any period  
24 of time when:

25 (a) The certified professional guardianship board has provided a  
26 certified professional guardian or conservator an opportunity to  
27 respond to a grievance against the certified professional guardian or  
28 conservator and the certified professional guardianship board is  
29 awaiting the certified professional guardian or conservator's  
30 response;

31 (b) The certified professional guardianship board has forwarded a  
32 grievance to the superior court for review under subsection (1)(b) of  
33 this section and is awaiting receipt of the court's entered order  
34 with findings; or

35 (c) A certified professional guardianship board disciplinary  
36 hearing has been requested or is in process and during the time of  
37 posthearing board review of the hearing officer's recommendations  
38 through issuance of a final certified professional guardianship  
39 board's order on the matter.

1 (3) If the grievance cannot be resolved within one hundred eighty  
2 days, the certified professional guardianship board must notify the  
3 professional guardian and/or conservator. The professional guardian  
4 or conservator may propose a resolution of the grievance with facts  
5 and/or arguments. The certified professional guardianship board may  
6 accept the proposed resolution or determine that an additional ninety  
7 days are needed to review the grievance. If the certified  
8 professional guardianship board has not resolved the grievance within  
9 the additional ninety days the professional guardian or conservator  
10 may:

11 (a) File a motion for a court order to compel the certified  
12 professional guardianship board to resolve the grievance within a  
13 reasonable time; or

14 (b) Move for the superior court to resolve the grievance instead  
15 of being resolved by the certified professional guardianship board.

16 (4) The superior court has authority to enforce the certified  
17 professional guardianship board's standards of practice in this  
18 article to the extent those standards are related to statutory or  
19 fiduciary duties of guardians and conservators.

20 (5) Any unresolved grievances filed with the certified  
21 professional guardianship board (~~at the time of~~) one year or more  
22 before January 1, 2021, must be forwarded to the superior court for  
23 that guardianship or conservatorship for review by the superior court  
24 as set forth in RCW 11.130.140 if the grievance is not in process of  
25 a hearing or final resolution.

26 NEW SECTION. Sec. 226. A new section is added to chapter 11.130  
27 RCW to read as follows:

28 For the purposes of this chapter, an adult is presumed to have  
29 legal capacity.

30 **PART III**  
31 **OTHER PROVISIONS**

32 **Sec. 301.** RCW 11.130.010 and 2019 c 437 s 102 are each amended  
33 to read as follows:

34 The definitions in this section apply throughout this chapter  
35 unless the context clearly requires otherwise.

36 (1) "Adult" means an individual at least eighteen years of age or  
37 an emancipated individual under eighteen years of age.

1 (2) "Adult subject to conservatorship" means an adult for whom a  
2 conservator has been appointed under this chapter.

3 (3) "Adult subject to guardianship" means an adult for whom a  
4 guardian has been appointed under this chapter.

5 (4) "Claim" includes a claim against an individual or  
6 conservatorship estate, whether arising in contract, tort, or  
7 otherwise.

8 (5) "Conservator" means a person appointed by a court to make  
9 decisions with respect to the property or financial affairs of an  
10 individual subject to conservatorship. The term includes a co-  
11 conservator.

12 (6) "Conservatorship estate" means the property subject to  
13 conservatorship under this chapter.

14 (7) "Court visitor" means the person appointed by the court  
15 pursuant to this chapter.

16 (8) "Evaluation and treatment facility" has the same meaning as  
17 provided in RCW 71.05.020.

18 ~~((+8))~~ (9) "Full conservatorship" means a conservatorship that  
19 grants the conservator all powers available under this chapter.

20 ~~((+9))~~ (10) "Full guardianship" means a guardianship that grants  
21 the guardian all powers available under this chapter.

22 ~~((+10))~~ (11) "Guardian" means a person appointed by the court to  
23 make decisions with respect to the personal affairs of an individual.  
24 The term includes a co-guardian but does not include a guardian ad  
25 litem.

26 ~~((+11))~~ (12) "Guardian ad litem" means a person appointed to  
27 inform the court about, and to represent, the needs and best  
28 interests of ~~((an individual))~~ a minor.

29 ~~((+12))~~ (13) "Individual subject to conservatorship" means an  
30 adult or minor for whom a conservator has been appointed under this  
31 chapter.

32 ~~((+13))~~ (14) "Individual subject to guardianship" means an adult  
33 or minor for whom a guardian has been appointed under this chapter.

34 ~~((+14))~~ (15) "Less restrictive alternative" means an approach to  
35 meeting an individual's needs which restricts fewer rights of the  
36 individual than would the appointment of a guardian or conservator.  
37 The term includes supported decision making, appropriate  
38 technological assistance, appointment of a representative payee, and  
39 appointment of an agent by the individual, including appointment

1 under a power of attorney for health care or power of attorney for  
2 finances.

3 ~~((15))~~ (16) "Letters of office" means a record issued by a  
4 court certifying a guardian's or conservator's authority to act.

5 ~~((16))~~ (17) "Limited conservatorship" means a conservatorship  
6 that grants the conservator less than all powers available under this  
7 chapter, grants powers over only certain property, or otherwise  
8 restricts the powers of the conservator.

9 ~~((17))~~ (18) "Limited guardianship" means a guardianship that  
10 grants the guardian less than all powers available under this chapter  
11 or otherwise restricts the powers of the guardian.

12 ~~((18))~~ (19) "Long-term care facility" has the same meaning as  
13 provided in RCW 70.129.010.

14 ~~((19))~~ (20) "Minor" means an unemancipated individual under  
15 eighteen years of age.

16 ~~((20))~~ (21) "Minor subject to conservatorship" means a minor  
17 for whom a conservator has been appointed under this chapter.

18 ~~((21))~~ (22) "Minor subject to guardianship" means a minor for  
19 whom a guardian has been appointed under this chapter.

20 ~~((22))~~ (23) "Notice party" means a person entitled to notice  
21 under this chapter or otherwise determined by the court to be  
22 entitled to notice.

23 (24) "Parent" does not include an individual whose parental  
24 rights have been terminated.

25 ~~((23))~~ (25) "Person" means an individual, estate, business or  
26 nonprofit entity, public corporation, government or governmental  
27 subdivision, agency, or instrumentality, or other legal entity.

28 ~~((24))~~ (26) "Professional guardian or conservator" means a  
29 guardian or conservator appointed under this chapter who is not a  
30 relative of the person subject to guardianship or conservatorship  
31 established under this chapter and who charges fees for carrying out  
32 the duties of court-appointed guardian or conservator for three or  
33 more persons.

34 ~~((25))~~ (27) "Property" includes tangible and intangible  
35 property.

36 ~~((26))~~ (28) "Protective arrangement instead of conservatorship"  
37 means a court order entered under RCW 11.130.590.

38 ~~((27))~~ (29) "Protective arrangement instead of guardianship"  
39 means a court order entered under RCW 11.130.585.

1        ~~((28))~~ (30) "Protective arrangement under Article 5 of this  
2 chapter" means a court order entered under RCW 11.130.585 or  
3 11.130.590.

4        ~~((29))~~ (31) "Record," used as a noun, means information that is  
5 inscribed on a tangible medium or that is stored in an electronic or  
6 other medium and is retrievable in perceivable form.

7        ~~((30))~~ (32) "Relative" means any person related by blood or by  
8 law to the person subject to guardianship, conservatorship, or other  
9 protective arrangements.

10       ~~((31))~~ (33) "Respondent" means an individual for whom  
11 appointment of a guardian or conservator or a protective arrangement  
12 instead of guardianship or conservatorship is sought.

13       ~~((32))~~ (34) "Sign" means, with present intent to authenticate  
14 or adopt a record:

15       (a) To execute or adopt a tangible symbol; or

16       (b) To attach to or logically associate with the record an  
17 electronic symbol, sound, or process.

18       ~~((33))~~ (35) "Special agent" means the person appointed by the  
19 court pursuant to RCW 11.130.375 or 11.130.635.

20       ~~((34))~~ (36) "Standby guardian" means a person appointed by the  
21 court under RCW 11.130.220.

22       ~~((35))~~ (37) "State" means a state of the United States, the  
23 District of Columbia, Puerto Rico, the United States Virgin Islands,  
24 or any territory or insular possession subject to the jurisdiction of  
25 the United States. The term includes a federally recognized Indian  
26 tribe.

27       ~~((36))~~ (38) "Supported decision making" means assistance from  
28 one or more persons of an individual's choosing in understanding the  
29 nature and consequences of potential personal and financial  
30 decisions, which enables the individual to make the decisions, and in  
31 communicating a decision once made if consistent with the  
32 individual's wishes.

33       ~~((37))~~ (39) "Verified receipt" is a verified receipt signed by  
34 the custodian of funds stating that a savings and loan association or  
35 bank, trust company, escrow corporation, or other corporations  
36 approved by the court hold the cash or securities of the individual  
37 subject to conservatorship subject to withdrawal only by order of the  
38 court.

39       ~~((38))~~ (40) "Visitor" means ~~((the person appointed by the court  
40 pursuant to RCW 11.130.280(1) or 11.130.380(1)))~~ a court visitor.

1       **Sec. 302.** RCW 11.130.035 and 2019 c 437 s 107 are each amended  
2 to read as follows:

3       (1) Except as otherwise provided in this chapter, the rules of  
4 evidence and civil procedure, including rules concerning appellate  
5 review, govern a proceeding under this chapter.

6       (2) If proceedings for a guardianship, conservatorship, or  
7 protective arrangement under Article 5 of this chapter for the same  
8 individual are commenced or pending in the same court, the  
9 proceedings may be consolidated.

10       (3) ((A)) An adult respondent may demand a jury trial in a  
11 proceeding under this chapter on the issue (~~whether a basis exists~~  
12 ~~for appointment of a guardian or conservator~~) of whether a basis  
13 exists for the appointment of a guardian under RCW 11.130.265 or a  
14 conservator under RCW 11.130.360(2) and on the rights to be retained  
15 or restricted if a guardian or conservator is appointed.

16       (4) Upon the motion of the respondent or the court visitor, prior  
17 to the appointment of a guardian or a conservator or the  
18 establishment of a protective arrangement for an adult, or upon the  
19 motion of the respondent, guardian, conservator, or any notice party  
20 subsequent to such appointment, whenever it appears that the adult  
21 respondent could benefit from mediation, the court may require the  
22 petitioner, adult respondent, guardian, conservator, and any notice  
23 party to participate in mediation pursuant to RCW 11.96A.300.

24       **Sec. 303.** RCW 11.130.040 and 2019 c 437 s 108 are each amended  
25 to read as follows:

26       (1) The court shall issue letters of guardianship to a guardian  
27 on filing by the guardian of an acceptance of appointment.

28       (2) The court shall issue letters of conservatorship to a  
29 conservator on filing by the conservator of an acceptance of  
30 appointment and filing of any required bond or compliance with any  
31 other verified receipt required by the court.

32       (3) Limitations on the powers of a guardian or conservator or on  
33 the property subject to conservatorship must be (~~stated on the~~  
34 ~~letters of office~~) included on the form prescribed by RCW  
35 11.130.660.

36       (4) The court at any time may limit the powers conferred on a  
37 guardian or conservator. The court shall issue new letters of office  
38 to reflect the limitation.

1 (5) A guardian or conservator may not act on behalf of a person  
2 under guardianship or conservatorship without valid letters of  
3 office.

4 (6) The clerk of the superior court shall issue letters of  
5 guardianship or conservatorship in or substantially in the same form  
6 as set forth in RCW 11.130.660.

7 (7) Letters of office issued to a guardian or conservator who is  
8 a nonresident of this state must include the name and contact  
9 information for the resident agent of the guardian or conservator,  
10 appointed pursuant to RCW 11.130.090(1)(c).

11 (8) This chapter does not affect the validity of letters of  
12 office issued under chapter 11.88 RCW prior to January 1, 2021.

13 **Sec. 304.** RCW 11.130.100 and 2019 c 437 s 120 are each amended  
14 to read as follows:

15 (1) Unless otherwise compensated or reimbursed, an attorney for a  
16 respondent in a proceeding under this chapter is entitled to  
17 reasonable compensation for services and reimbursement of reasonable  
18 expenses from the property of the respondent.

19 (2) Unless otherwise compensated or reimbursed, an attorney or  
20 other person whose services resulted in an order beneficial to an  
21 individual subject to guardianship or conservatorship or for whom a  
22 protective arrangement under Article 5 of this chapter was ordered is  
23 entitled to reasonable compensation for services and reimbursement of  
24 reasonable expenses from the property of the individual.

25 ~~(3) ((The court must approve compensation and expenses payable~~  
26 ~~under this section before payment. Approval is not required before a~~  
27 ~~service is provided or an expense is incurred.~~

28 ~~(4) If the court dismisses a petition under this chapter and~~  
29 ~~determines the petition was filed in bad faith, the court may assess~~  
30 ~~the cost of any court-ordered professional evaluation or visitor~~  
31 ~~against the petitioner.~~

32 ~~(5))~~ Where the person subject to guardianship or conservatorship  
33 is a department of social and health services client, or health care  
34 authority client, and is required to contribute a portion of their  
35 income towards the cost of long-term care services or room and board,  
36 the amount of compensation or reimbursement shall not exceed the  
37 amount allowed by the department of social and health services or  
38 health care authority by rule.

1       ~~((+6))~~ (4) Where the person subject to guardianship or  
2 conservatorship receives guardianship, conservatorships, or other  
3 protective services from the office of public guardianship, the  
4 amount of compensation or reimbursement shall not exceed the amount  
5 allowed by the office of public guardianship.

6       ~~((+7))~~ (5) The court must approve compensation and expenses  
7 payable under this section before payment. Approval is not required  
8 before a service is provided or an expense is incurred.

9       ~~((+8))~~ (6) If the court dismisses a petition under this chapter  
10 and determines the petition was filed in bad faith, the court may  
11 assess the cost of any court-ordered professional evaluation or court  
12 visitor against the petitioner.

13       **Sec. 305.** RCW 11.130.105 and 2019 c 437 s 121 are each amended  
14 to read as follows:

15       (1) Subject to court approval, a guardian is entitled to  
16 reasonable compensation for services as guardian and to reimbursement  
17 for room, board, clothing, and other appropriate expenses advanced  
18 for the benefit of the individual subject to guardianship. ~~((If a  
19 conservator, other than the guardian or a person affiliated with the  
20 guardian, is appointed for the individual, reasonable compensation  
21 and reimbursement to the guardian may be approved and paid by the  
22 conservator without court approval.))~~ The court shall determine if  
23 the fees charged by a guardian and conservator are just and  
24 reasonable.

25       (2) Subject to court approval, a conservator is entitled to  
26 reasonable compensation for services and reimbursement for  
27 appropriate expenses from the property of the individual subject to  
28 conservatorship.

29       (3) In determining reasonable compensation for a guardian or  
30 conservator, the court, or a conservator in determining reasonable  
31 compensation for a guardian as provided in subsection (1) of this  
32 section, shall approve compensation that shall not exceed the typical  
33 amounts paid for comparable services in the community, at a rate for  
34 which the service can be performed in the most efficient and cost-  
35 effective manner, considering:

36       (a) The necessity and quality of the services provided;

37       (b) The experience, training, professional standing, and skills  
38 of the guardian or conservator;

1 (c) The difficulty of the services performed, including the  
2 degree of skill and care required;

3 (d) The conditions and circumstances under which a service was  
4 performed, including whether the service was provided outside regular  
5 business hours or under dangerous or extraordinary conditions;

6 (e) The effect of the services on the individual subject to  
7 guardianship or conservatorship;

8 (f) The extent to which the services provided were or were not  
9 consistent with the guardian's plan under RCW 11.130.340 or  
10 conservator's plan under RCW 11.130.510; and

11 (g) The fees customarily paid to a person that performs a like  
12 service in the community.

13 (4) A guardian or conservator need not use personal funds of the  
14 guardian or conservator for the expenses of the individual subject to  
15 guardianship or conservatorship.

16 (5) Where the person subject to guardianship or conservatorship  
17 is a department of social and health services client, or health care  
18 authority client, and is required to contribute a portion of their  
19 income towards the cost of long-term care services or room and board,  
20 the amount of compensation or reimbursement shall not exceed the  
21 amount allowed by the department of social and health services or  
22 health care authority by rule.

23 (6) Where the person subject to guardianship or conservatorship  
24 receives guardianship, conservatorship, or other protective services  
25 from the office of public guardianship, the amount of compensation or  
26 reimbursement shall not exceed the amount allowed by the office of  
27 public guardianship.

28 (7) If an individual subject to guardianship or conservatorship  
29 seeks to modify or terminate the guardianship or conservatorship or  
30 remove the guardian or conservator, the court may order compensation  
31 to the guardian or conservator for time spent opposing modification,  
32 termination, or removal only to the extent the court determines the  
33 opposition was reasonably necessary to protect the interests of the  
34 individual subject to guardianship or conservatorship.

35 **Sec. 306.** RCW 11.130.115 and 2019 c 437 s 123 are each amended  
36 to read as follows:

37 (1) A guardian or conservator may petition the court for  
38 instruction concerning fiduciary responsibility or ratification of a  
39 particular act related to the guardianship or conservatorship.

1           (2) (~~On reasonable notice and hearing on~~) Fourteen days after  
2 notice of a petition under subsection (1) of this section, the court  
3 may give an instruction and issue an appropriate order.

4           (3) The petitioner must provide reasonable notice of the petition  
5 and hearing to the individual subject to a guardianship or  
6 conservatorship and any notice party.

7           **Sec. 307.** RCW 11.130.140 and 2019 c 437 s 128 are each amended  
8 to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (i) Ordering the guardian or conservator to provide the court a  
2 report, accounting, inventory, updated plan, or other information;  
3 (ii) Appointing a (~~guardian ad litem~~) court visitor;  
4 (iii) Appointing an attorney for the individual subject to  
5 guardianship or conservatorship; or  
6 (iv) Holding a hearing.

7 (~~(3)~~) (4) The court may decline to act under subsection (~~(2)~~)  
8 (3) of this section if a similar grievance was filed within the six  
9 months preceding the filing of the current grievance and the court  
10 followed the procedures of subsection (~~(2)~~) (3) of this section in  
11 considering the earlier grievance; and may levy necessary sanctions,  
12 including but not limited to the imposition of reasonable attorney  
13 fees, costs, striking pleadings, or other appropriate relief, if  
14 after consideration the court finds that the grievance is made for  
15 reason to harass, delay, with malice, or other bad faith.

16 (~~(4)~~) (5) In any court action under this section where the  
17 court finds the professional guardian or conservator breached a  
18 fiduciary duty, the court must direct the clerk of the court to send  
19 a copy of the order entered under this section to the certified  
20 professional guardianship board.

21 (~~(5)~~) (6) A court shall not dismiss a grievance that has been  
22 filed against a guardian or conservator due to an inability to  
23 resolve the grievance in a timely manner.

24 **Sec. 308.** RCW 11.130.265 and 2019 c 437 s 301 are each amended  
25 to read as follows:

26 (1) On petition and after notice and hearing, the court may:

27 (a) Appoint a guardian for an adult if the court finds by clear  
28 and convincing evidence that:

29 (i) The respondent lacks the ability to meet essential  
30 requirements for physical health, safety, or self-care because the  
31 respondent is unable to receive and evaluate information or make or  
32 communicate decisions, even with appropriate supportive services,  
33 technological assistance, or supported decision making; (~~and~~)

34 (ii) Appointment is necessary to prevent significant risk of harm  
35 to the adult respondent's physical health, safety, or self-care; and

36 (iii) The respondent's identified needs cannot be met by a  
37 protective arrangement instead of guardianship or other less  
38 restrictive alternative; or

1 (b) With appropriate findings, treat the petition as one for a  
2 conservatorship under Article 4 of this chapter or protective  
3 arrangement under Article 5 of this chapter, issue any appropriate  
4 order, or dismiss the proceeding.

5 (2) The court shall grant a guardian appointed under subsection  
6 (1) of this section only those powers necessitated by the  
7 demonstrated needs and limitations of the respondent and issue orders  
8 that will encourage development of the respondent's maximum self-  
9 determination and independence. The court may not establish a full  
10 guardianship if a limited guardianship, protective arrangement  
11 instead of guardianship, or other less restrictive alternative would  
12 meet the needs of the respondent.

13 (3) A determination by the court that a basis exists under  
14 subsection (1) of this section for the appointment of a guardian and  
15 on the issue of the rights that will be retained or restricted by the  
16 appointment of a guardian is a legal decision, not a medical  
17 decision. The determination must be based on a demonstration of  
18 management insufficiencies over time in the area of physical health,  
19 safety, or self-care. Age, eccentricity, poverty, or medical  
20 diagnosis alone are not sufficient basis under subsection (1) of this  
21 section to justify a determination that a guardian should be  
22 appointed for the respondent.

23 **Sec. 309.** RCW 11.130.280 and 2019 c 437 s 304 are each amended  
24 to read as follows:

25 (1) On receipt of a petition under RCW 11.130.270 for appointment  
26 of a guardian for an adult, the court shall appoint a court visitor.  
27 The court visitor must be an individual with training or experience  
28 in the type of abilities, limitations, and needs alleged in the  
29 petition.

30 (2) The court, in the order appointing a court visitor, shall  
31 specify the hourly rate the court visitor may charge for his or her  
32 services, and shall specify the maximum amount the court visitor may  
33 charge without additional court review and approval. The fee shall be  
34 charged to the person subject to a guardianship or conservatorship  
35 proceeding unless the court finds that such payment would result in  
36 substantial hardship upon such person, in which case the county shall  
37 be responsible for such costs: PROVIDED, That the court may charge  
38 such fee to the petitioner, the person subject to a guardianship or  
39 conservatorship proceeding, or any person who has appeared in the

1 action; or may allocate the fee, as it deems just. If the petition is  
2 found to be frivolous or not brought in good faith, the court visitor  
3 fee shall be charged to the petitioner. The court shall not be  
4 required to provide for the payment of a fee to any salaried employee  
5 of a public agency.

6 (3) (a) The court visitor appointed under subsection (1) of this  
7 section shall within five days of receipt of notice of appointment  
8 file with the court and serve, either personally or by certified mail  
9 with return receipt, the respondent or his or her legal counsel, the  
10 petitioner or his or her legal counsel, and any interested party  
11 entitled to notice under RCW 11.130.080 with a statement including:  
12 His or her training relating to the duties as a court visitor; his or  
13 her criminal history as defined in RCW 9.94A.030 for the period  
14 covering ten years prior to the appointment; his or her hourly rate,  
15 if compensated; whether the court visitor has had any contact with a  
16 party to the proceeding prior to his or her appointment; and whether  
17 he or she has an apparent conflict of interest. Within three days of  
18 the later of the actual service or filing of the court visitor's  
19 statement, any party may set a hearing and file and serve a motion  
20 for an order to show cause why the court visitor should not be  
21 removed for one of the following three reasons:

22 (i) Lack of expertise necessary for the proceeding;

23 (ii) An hourly rate higher than what is reasonable for the  
24 particular proceeding; or

25 (iii) A conflict of interest.

26 (b) Notice of the hearing shall be provided to the court visitor  
27 and all parties. If, after a hearing, the court enters an order  
28 replacing the court visitor, findings shall be included, expressly  
29 stating the reasons for the removal. If the court visitor is not  
30 removed, the court has the authority to assess to the moving party  
31 attorneys' fees and costs related to the motion. The court shall  
32 assess attorneys' fees and costs for frivolous motions.

33 (4) A court visitor appointed under subsection (1) of this  
34 section shall interview the respondent in person and, in a manner the  
35 respondent is best able to understand:

36 (a) Explain to the respondent the substance of the petition, the  
37 nature, purpose, and effect of the proceeding, the respondent's  
38 rights at the hearing on the petition, and the general powers and  
39 duties of a guardian;

1 (b) Determine the respondent's views about the appointment sought  
2 by the petitioner, including views about a proposed guardian, the  
3 guardian's proposed powers and duties, and the scope and duration of  
4 the proposed guardianship; and

5 (c) Inform the respondent that all costs and expenses of the  
6 proceeding, including the respondent's attorney's fees, may be paid  
7 from the respondent's assets.

8 (5) The court visitor appointed under subsection (1) of this  
9 section shall:

10 (a) Interview the petitioner and proposed guardian, if any;

11 (b) Visit the respondent's present dwelling and any dwelling in  
12 which it is reasonably believed the respondent will live if the  
13 appointment is made;

14 (c) Obtain information from any physician or other person known  
15 to have treated, advised, or assessed the respondent's relevant  
16 physical or mental condition; and

17 (d) Investigate the allegations in the petition and any other  
18 matter relating to the petition the court directs.

19 (6) A court visitor appointed under subsection (1) of this  
20 section shall file a report in a record with the court and provide a  
21 copy of the report to the respondent, petitioner, and any interested  
22 party entitled to notice under RCW 11.130.080 at least fifteen days  
23 prior to the hearing on the petition filed under RCW 11.130.270,  
24 which must include:

25 (a) A summary of self-care and independent living tasks the  
26 respondent can manage without assistance or with existing supports,  
27 could manage with the assistance of appropriate supportive services,  
28 technological assistance, or supported decision making, and cannot  
29 manage;

30 (b) A recommendation regarding the appropriateness of  
31 guardianship, including whether a protective arrangement instead of  
32 guardianship or other less restrictive alternative for meeting the  
33 respondent's needs is available and:

34 (i) If a guardianship is recommended, whether it should be full  
35 or limited; and

36 (ii) If a limited guardianship is recommended, the powers to be  
37 granted to the guardian;

38 (c) A statement of the qualifications of the proposed guardian  
39 and whether the respondent approves or disapproves of the proposed  
40 guardian;

1 (d) A statement whether the proposed dwelling meets the  
2 respondent's needs and whether the respondent has expressed a  
3 preference as to residence;

4 (e) A (~~recommendation whether~~) statement whether the respondent  
5 declined a professional evaluation under RCW 11.130.290 (~~is~~  
6 ~~necessary~~) and what other information is available to determine the  
7 respondent's needs and abilities without the professional evaluation;

8 (f) A statement whether the respondent is able to attend a  
9 hearing at the location court proceedings typically are held;

10 (g) A statement whether the respondent is able to participate in  
11 a hearing and which identifies any technology or other form of  
12 support that would enhance the respondent's ability to participate;  
13 and

14 (h) Any other matter the court directs.

15 (7) The appointment of a court visitor has no effect on the  
16 determination of the adult respondent's legal capacity and does not  
17 overcome the presumption of legal capacity or full legal and civil  
18 rights of the adult respondent.

19 **Sec. 310.** RCW 11.130.380 and 2019 c 437 s 405 are each amended  
20 to read as follows:

21 (1) If the respondent in a proceeding to appoint a conservator is  
22 a minor, the court may appoint a court visitor to investigate a  
23 matter related to the petition or inform the minor or a parent of the  
24 minor about the petition or a related matter.

25 (2) If the respondent in a proceeding to appoint a conservator is  
26 an adult, the court shall appoint a court visitor. The duties and  
27 reporting requirements of the court visitor are limited to the relief  
28 requested in the petition. The court visitor must be an individual  
29 with training or experience in the type of abilities, limitations,  
30 and needs alleged in the petition.

31 (3) The court, in the order appointing court visitor, shall  
32 specify the hourly rate the court visitor may charge for his or her  
33 services, and shall specify the maximum amount the court visitor may  
34 charge without additional court review and approval. The fee shall be  
35 charged to the person subject to a guardianship or conservatorship  
36 proceeding unless the court finds that such payment would result in  
37 substantial hardship upon such person, in which case the county shall  
38 be responsible for such costs: PROVIDED, That the court may charge  
39 such fee to the petitioner, the person subject to a guardianship or

1 conservatorship proceeding, or any person who has appeared in the  
2 action; or may allocate the fee, as it deems just. If the petition is  
3 found to be frivolous or not brought in good faith, the court visitor  
4 fee shall be charged to the petitioner. The court shall not be  
5 required to provide for the payment of a fee to any salaried employee  
6 of a public agency.

7 (4) (a) The court visitor appointed under subsection (1) or (2) of  
8 this section shall within five days of receipt of notice of  
9 appointment file with the court and serve, either personally or by  
10 certified mail with return receipt, the respondent or his or her  
11 legal counsel, the petitioner or his or her legal counsel, and any  
12 interested party entitled to notice under RCW 11.130.080 with a  
13 statement including: His or her training relating to the duties as a  
14 court visitor; his or her criminal history as defined in RCW  
15 9.94A.030 for the period covering ten years prior to the appointment;  
16 his or her hourly rate, if compensated; whether the (~~guardian-ad~~  
17 ~~litem~~) court visitor has had any contact with a party to the  
18 proceeding prior to his or her appointment; and whether he or she has  
19 an apparent conflict of interest. Within three days of the later of  
20 the actual service or filing of the court visitor's statement, any  
21 party may set a hearing and file and serve a motion for an order to  
22 show cause why the court visitor should not be removed for one of the  
23 following three reasons:

24 (i) Lack of expertise necessary for the proceeding;

25 (ii) An hourly rate higher than what is reasonable for the  
26 particular proceeding; or

27 (iii) A conflict of interest.

28 (b) Notice of the hearing shall be provided to the court visitor  
29 and all parties. If, after a hearing, the court enters an order  
30 replacing the court visitor, findings shall be included, expressly  
31 stating the reasons for the removal. If the court visitor is not  
32 removed, the court has the authority to assess to the moving party  
33 attorneys' fees and costs related to the motion. The court shall  
34 assess attorneys' fees and costs for frivolous motions.

35 (5) A court visitor appointed under subsection (2) of this  
36 section for an adult shall interview the respondent in person and in  
37 a manner the respondent is best able to understand:

38 (a) Explain to the respondent the substance of the petition, the  
39 nature, purpose, and effect of the proceeding, the respondent's

1 rights at the hearing on the petition, and the general powers and  
2 duties of a conservator;

3 (b) Determine the respondent's views about the appointment sought  
4 by the petitioner, including views about a proposed conservator, the  
5 conservator's proposed powers and duties, and the scope and duration  
6 of the proposed conservatorship; and

7 (c) Inform the respondent that all costs and expenses of the  
8 proceeding, including respondent's attorneys' fees, may be paid from  
9 the respondent's assets.

10 (6) A court visitor appointed under subsection (2) of this  
11 section for an adult shall:

12 (a) Interview the petitioner and proposed conservator, if any;

13 (b) Review financial records of the respondent, if relevant to  
14 the court visitor's recommendation under subsection (7)(b) of this  
15 section;

16 (c) Investigate whether the respondent's needs could be met by a  
17 protective arrangement instead of conservatorship or other less  
18 restrictive alternative and, if so, identify the arrangement or other  
19 less restrictive alternative; and

20 (d) Investigate the allegations in the petition and any other  
21 matter relating to the petition the court directs.

22 (7) A court visitor appointed under subsection (2) of this  
23 section for an adult shall file a report in a record with the court  
24 and provide a copy of the report to the respondent, petitioner, and  
25 any interested party entitled to notice under RCW 11.130.080 at least  
26 fifteen days prior to the hearing on the petition filed under RCW  
27 11.130.365, which must include:

28 (a) A recommendation:

29 (i) Regarding the appropriateness of conservatorship, or whether  
30 a protective arrangement instead of conservatorship or other less  
31 restrictive alternative for meeting the respondent's needs is  
32 available;

33 (ii) If a conservatorship is recommended, whether it should be  
34 full or limited;

35 (iii) If a limited conservatorship is recommended, the powers to  
36 be granted to the conservator, and the property that should be placed  
37 under the conservator's control; and

38 (iv) If a conservatorship is recommended, the amount of the bond  
39 or other verified receipt needed under RCW 11.130.445 and 11.130.500;

1 (b) A statement of the qualifications of the proposed conservator  
2 and whether the respondent approves or disapproves of the proposed  
3 conservator;

4 (c) A (~~recommendation whether~~) statement whether the respondent  
5 declined a professional evaluation under RCW 11.130.390 (~~is~~  
6 ~~necessary~~) and what other information is available to determine the  
7 respondent's needs and abilities without the professional evaluation;

8 (d) A statement whether the respondent is able to attend a  
9 hearing at the location court proceedings typically are held;

10 (e) A statement whether the respondent is able to participate in  
11 a hearing and which identifies any technology or other form of  
12 support that would enhance the respondent's ability to participate;  
13 and

14 (f) Any other matter the court directs.

15 (8) The appointment of a court visitor has no effect on the  
16 determination of the adult respondent's legal capacity and does not  
17 overcome the presumption of legal capacity or full legal and civil  
18 rights of the adult respondent.

19 **Sec. 311.** RCW 11.130.605 and 2019 c 437 s 506 are each amended  
20 to read as follows:

21 (1) On filing of a petition under RCW 11.130.580 for a protective  
22 arrangement instead of guardianship, the court shall appoint a court  
23 visitor. The court visitor must be an individual with training or  
24 experience in the type of abilities, limitations, and needs alleged  
25 in the petition.

26 (2) On filing of a petition under RCW 11.130.580 for a protective  
27 arrangement instead of conservatorship for a minor, the court may  
28 appoint a court visitor to investigate a matter related to the  
29 petition or inform the minor or a parent of the minor about the  
30 petition or a related matter.

31 (3) On filing of a petition under RCW 11.130.580 or a protective  
32 arrangement instead of conservatorship for an adult, the court shall  
33 appoint a court visitor unless the respondent is represented by an  
34 attorney appointed by the court. The court visitor must be an  
35 individual with training or experience in the types of abilities,  
36 limitations, and needs alleged in the petition.

37 (4) The court, in the order appointing a court visitor, shall  
38 specify the hourly rate the court visitor may charge for his or her  
39 services, and shall specify the maximum amount the court visitor may

1 charge without additional court review and approval. The fee shall be  
2 charged to the person subject to a guardianship, conservatorship, or  
3 other protective arrangement proceeding unless the court finds that  
4 such payment would result in substantial hardship upon such person,  
5 in which case the county shall be responsible for such costs:  
6 PROVIDED, That the court may charge such fee to the petitioner, the  
7 person subject to a guardianship or conservatorship proceeding, or  
8 any person who has appeared in the action; or may allocate the fee,  
9 as it deems just. If the petition is found to be frivolous or not  
10 brought in good faith, the court visitor fee shall be charged to the  
11 petitioner. The court shall not be required to provide for the  
12 payment of a fee to any salaried employee of a public agency.

13 (5) (a) The court visitor appointed under subsection (1) or (3) of  
14 this section shall within five days of receipt of notice of  
15 appointment file with the court and serve, either personally or by  
16 certified mail with return receipt, the respondent or his or her  
17 legal counsel, the petitioner or his or her legal counsel, and any  
18 interested party entitled to notice under RCW 11.130.080 with a  
19 statement including: His or her training relating to the duties as a  
20 court visitor; his or her criminal history as defined in RCW  
21 9.94A.030 for the period covering ten years prior to the appointment;  
22 his or her hourly rate, if compensated; whether the ((~~guardian-ad~~  
23 ~~litem~~)) court visitor has had any contact with a party to the  
24 proceeding prior to his or her appointment; and whether he or she has  
25 an apparent conflict of interest. Within three days of the later of  
26 the actual service or filing of the court visitor's statement, any  
27 party may set a hearing and file and serve a motion for an order to  
28 show cause why the court visitor should not be removed for one of the  
29 following three reasons:

- 30 (i) Lack of expertise necessary for the proceeding;  
31 (ii) An hourly rate higher than what is reasonable for the  
32 particular proceeding; or  
33 (iii) A conflict of interest.

34 (b) Notice of the hearing shall be provided to the court visitor  
35 and all parties. If, after a hearing, the court enters an order  
36 replacing the court visitor, findings shall be included, expressly  
37 stating the reasons for the removal. If the court visitor is not  
38 removed, the court has the authority to assess to the moving party  
39 attorneys' fees and costs related to the motion. The court shall  
40 assess attorneys' fees and costs for frivolous motions.

1 (6) A court visitor appointed under subsection (1) or (3) of this  
2 section shall interview the respondent in person and in a manner the  
3 respondent is best able to understand:

4 (a) Explain to the respondent the substance of the petition, the  
5 nature, purpose, and effect of the proceeding, and the respondent's  
6 rights at the hearing on the petition;

7 (b) Determine the respondent's views with respect to the order  
8 sought;

9 (c) Inform the respondent that all costs and expenses of the  
10 proceeding, including respondent's attorneys' fees, may be paid from  
11 the respondent's assets;

12 (d) If the petitioner seeks an order related to the dwelling of  
13 the respondent, visit the respondent's present dwelling and any  
14 dwelling in which it is reasonably believed the respondent will live  
15 if the order is granted;

16 (e) If a protective arrangement instead of guardianship is  
17 sought, obtain information from any physician or other person known  
18 to have treated, advised, or assessed the respondent's relevant  
19 physical or mental condition;

20 (f) If a protective arrangement instead of conservatorship is  
21 sought, review financial records of the respondent, if relevant to  
22 the court visitor's recommendation under subsection (7)(b) of this  
23 section; and

24 (g) Investigate the allegations in the petition and any other  
25 matter relating to the petition the court directs.

26 (7) A court visitor under subsection (1), (2), or (3) of this  
27 section promptly shall file a report in a record with the court and  
28 provide a copy of the report to the respondent, petitioner, and any  
29 interested party entitled to notice under RCW 11.130.580 (1) through  
30 (3), at least fifteen days prior to the hearing on the petition filed  
31 under RCW 11.130.585, 11.130.590, or 11.130.595, which must include:

32 (a) To the extent relevant to the order sought, a summary of  
33 self-care, independent living tasks, and financial management tasks  
34 the respondent:

35 (i) Can manage without assistance or with existing supports;

36 (ii) Could manage with the assistance of appropriate supportive  
37 services, technological assistance, or supported decision making; and

38 (iii) Cannot manage;

1 (b) A recommendation regarding the appropriateness of the  
2 protective arrangement sought and whether a less restrictive  
3 alternative for meeting the respondent's needs is available;

4 (c) If the petition seeks to change the physical location of the  
5 dwelling of the respondent, a statement whether the proposed dwelling  
6 meets the respondent's needs and whether the respondent has expressed  
7 a preference as to the respondent's dwelling;

8 (d) A (~~recommendation whether~~) statement whether the respondent  
9 declined a professional evaluation under RCW 11.130.615 (~~is~~  
10 ~~necessary~~) and what other information is available to determine the  
11 respondent's needs and abilities without the professional evaluation;

12 (e) A statement whether the respondent is able to attend a  
13 hearing at the location court proceedings typically are held;

14 (f) A statement whether the respondent is able to participate in  
15 a hearing and which identifies any technology or other form of  
16 support that would enhance the respondent's ability to participate;  
17 and

18 (g) Any other matter the court directs.

19 **Sec. 312.** RCW 11.130.080 and 2019 c 437 s 116 are each amended  
20 to read as follows:

21 (1) A person may file with the court a request for notice under  
22 this chapter if the person is:

23 (a) Not otherwise entitled to notice; and

24 (b) Interested in the welfare of a respondent, individual subject  
25 to guardianship or conservatorship, or individual subject to a  
26 protective arrangement under Article 5 of this chapter.

27 (2) A request under subsection (1) of this section must include a  
28 statement showing the interest of the person making the request and  
29 the address of the person or an attorney for the person to whom  
30 notice is to be given.

31 (3) If the court approves a request under subsection (1) of this  
32 section, the (~~court~~) approved individual shall give notice of the  
33 approval to the guardian or conservator, if one has been appointed,  
34 or the respondent if no guardian or conservator has been appointed.

35 **Sec. 313.** RCW 11.130.120 and 2019 c 437 s 124 are each amended  
36 to read as follows:

1 (1) A person must not recognize the authority of a guardian or  
2 conservator to act on behalf of an individual subject to guardianship  
3 or conservatorship if:

4 (a) The person has actual knowledge or a reasonable belief that  
5 the letters of office of the guardian or conservator are invalid or  
6 the conservator or guardian is exceeding or improperly exercising  
7 authority granted by the court; or

8 (b) The person has actual knowledge that the individual subject  
9 to guardianship or conservatorship is subject to physical or  
10 financial abuse, neglect, exploitation, or abandonment by the  
11 guardian or conservator or a person acting for or with the guardian  
12 or conservator.

13 (2) A person may refuse to recognize the authority of a guardian  
14 or conservator to act on behalf of an individual subject to  
15 guardianship or conservatorship if:

16 (a) The guardian's or conservator's proposed action would be  
17 inconsistent with this chapter; or

18 (b) The person makes, or has actual knowledge that another person  
19 has made, a report to the department of children, youth, and families  
20 or the department of social and health services stating a good-faith  
21 belief that the individual subject to guardianship or conservatorship  
22 is subject to physical or financial abuse, neglect, exploitation, or  
23 abandonment by the guardian or conservator or a person acting for or  
24 with the guardian or conservator.

25 (3) A person that refuses to accept the authority of a guardian  
26 or conservator in accordance with subsection (2) of this section may  
27 report the refusal and the reason for refusal to the court. The court  
28 on receiving the report shall consider whether removal of the  
29 guardian or conservator or other action is appropriate.

30 (4) A guardian or conservator may petition the court to require a  
31 third party to accept a decision made by the guardian or conservator  
32 on behalf of the individual subject to guardianship or  
33 conservatorship.

34 (5) If the court determines that a third party has failed to  
35 recognize the legitimate authority of a guardian or conservator, or  
36 requires a third party to accept a decision made by the guardian on  
37 behalf of the individual subject to guardianship, the court may order  
38 that third party to compensate the guardian or conservator, for the  
39 time spent only to the extent the court determines the opposition was

1 reasonably necessary to protect the interests of the individual  
2 subject to guardianship.

3 **Sec. 314.** RCW 11.130.295 and 2019 c 437 s 307 are each amended  
4 to read as follows:

5 (1) Except as otherwise provided in subsection (2) of this  
6 section, a hearing under RCW 11.130.275 may not proceed unless the  
7 respondent attends the hearing. If it is not reasonably feasible for  
8 the respondent to attend a hearing at the location court proceedings  
9 typically are held, the court shall make reasonable efforts to hold  
10 the hearing at an alternative location convenient to the respondent  
11 or allow the respondent to attend the hearing using real-time audio-  
12 visual technology.

13 (2) A hearing under RCW 11.130.275 may proceed without the  
14 respondent in attendance if the court finds by clear and convincing  
15 evidence that:

16 (a) The respondent (~~(consistently and repeatedly)~~) has refused to  
17 attend the hearing after having been fully informed of the right to  
18 attend and the potential consequences of failing to do so; or

19 (b) There is no practicable way for the respondent to attend and  
20 participate in the hearing even with appropriate supportive services  
21 and technological assistance.

22 (3) The respondent may be assisted in a hearing under RCW  
23 11.130.275 by a person or persons of the respondent's choosing,  
24 assistive technology, or an interpreter or translator, or a  
25 combination of these supports. If assistance would facilitate the  
26 respondent's participation in the hearing, but is not otherwise  
27 available to the respondent, the court shall make reasonable efforts  
28 to provide it.

29 (4) The respondent has a right to choose an attorney to represent  
30 the respondent at a hearing under RCW 11.130.275.

31 (5) At a hearing held under RCW 11.130.275, the respondent may:

32 (a) Present evidence and subpoena witnesses and documents;

33 (b) Examine witnesses, including any court-appointed evaluator  
34 and the court visitor; and

35 (c) Otherwise participate in the hearing.

36 (6) Unless excused by the court for good cause, a proposed  
37 guardian shall attend a hearing under RCW 11.130.275.

38 (7) A hearing under RCW 11.130.275 must be closed on request of  
39 the respondent and a showing of good cause.

1 (8) Any person may request to participate in a hearing under RCW  
2 11.130.275. The court may grant the request, with or without a  
3 hearing, on determining that the best interest of the respondent will  
4 be served. The court may impose appropriate conditions on the  
5 person's participation.

6 **Sec. 315.** RCW 11.130.585 and 2019 c 437 s 502 are each amended  
7 to read as follows:

8 (1) After the hearing on a petition under RCW 11.130.270 for a  
9 guardianship or under RCW 11.130.580(2) for a protective arrangement  
10 instead of guardianship, the court may issue an order under  
11 subsection (2) of this section for a protective arrangement instead  
12 of guardianship if the court finds by clear and convincing evidence  
13 that:

14 (a) The respondent lacks the ability to meet essential  
15 requirements for physical health, safety, or self-care because the  
16 respondent is unable to receive and evaluate information or make or  
17 communicate decisions, even with appropriate supportive services,  
18 technological assistance, or supported decision making; and

19 (b) The respondent's identified needs cannot be met by a less  
20 restrictive alternative.

21 (2) If the court makes the findings under subsection (1) of this  
22 section, the court, instead of appointing a guardian, may:

23 (a) Authorize or direct a transaction necessary to meet the  
24 respondent's need for health, safety, or care, including:

25 (i) A particular medical treatment or refusal of a particular  
26 medical treatment; or

27 (ii) ~~((A move to a specified place of dwelling; or~~  
28 ~~(iii)))~~ Visitation or supervised visitation between the  
29 respondent and another person;

30 (b) Restrict access to the respondent by a specified person whose  
31 access places the respondent at serious risk of physical,  
32 psychological, or financial harm; and

33 (c) Reorder other arrangements on a limited basis that are  
34 appropriate.

35 (3) In deciding whether to issue an order under this section, the  
36 court shall consider the factors under RCW 11.130.330 and 11.130.335  
37 that a guardian must consider when making a decision on behalf of an  
38 adult subject to guardianship.

1       **Sec. 316.** RCW 11.130.600 and 2019 c 437 s 505 are each amended  
2 to read as follows:

3       (1) All petitions filed under RCW 11.130.595 for (~~appointment of~~  
4 ~~a guardian for an adult~~) the establishment of a protective  
5 arrangement shall be heard within sixty days unless an extension of  
6 time is requested by a party or the court visitor within such sixty-  
7 day period and granted for good cause shown.

8       (2) (a) A copy of a petition under RCW 11.130.580 and notice of a  
9 hearing on the petition must be served personally on the respondent  
10 and the court visitor appointed under RCW 11.130.605 not more than  
11 five court days after the petition under RCW 11.130.595 has been  
12 filed.

13       (b) A copy of a petition under RCW 11.130.580 and notice of a  
14 hearing on the petition must be served personally on the respondent  
15 and the court visitor appointed under RCW 11.130.605 not more than  
16 five court days after the petition under RCW 11.130.595 has been  
17 filed. The notice must inform the respondent of the respondent's  
18 rights at the hearing, including the right to an attorney and to  
19 attend the hearing. The notice must include a description of the  
20 nature, purpose, and consequences of granting the petition for a  
21 protective arrangement. The court may not grant the petition if  
22 notice substantially complying with this subsection is not served on  
23 the respondent.

24       (3) In a proceeding on a petition under RCW 11.130.580, the  
25 notice required under subsection (2) of this section must be given to  
26 the persons required to be listed in the petition under RCW  
27 11.130.595 (1) through (3) and any other person interested in the  
28 respondent's welfare the court determines. Failure to give notice  
29 under this subsection does not preclude the court from granting the  
30 petition.

31       (4) After the court has ordered a protective arrangement under  
32 this article, notice of a hearing on a petition filed under this  
33 chapter, together with a copy of the petition, must be given to the  
34 respondent and any other person the court determines.

35       **Sec. 317.** RCW 11.130.625 and 2019 c 437 s 510 are each amended  
36 to read as follows:

37       The (~~court~~) petitioner shall give notice of an order under this  
38 article to the individual who is subject to the protective  
39 arrangement instead of guardianship or conservatorship, a person

1 whose access to the individual is restricted by the order, and any  
2 other person the court determines.

3 **Sec. 318.** RCW 11.130.610 and 2019 c 437 s 507 are each amended  
4 to read as follows:

5 (1)(a) The respondent shall have the right to be represented by a  
6 willing attorney of their choosing at any stage in protective  
7 arrangement proceedings. Any attorney purporting to represent a  
8 respondent or person subject to a protective arrangement shall  
9 petition the court to be appointed to represent the respondent or  
10 person subject to a protective arrangement.

11 (b) Unless the respondent in a proceeding under this article is  
12 represented by an attorney, the court is not required, but may  
13 appoint an attorney to represent the respondent, regardless of the  
14 respondent's ability to pay, except as provided otherwise in (c) of  
15 this subsection.

16 (c)(i) The court must appoint an attorney to represent the  
17 respondent at public expense when either:

18 (A) The respondent is unable to afford an attorney;

19 (B) The expense of an attorney would result in substantial  
20 hardship to the respondent; or

21 (C) The respondent does not have practical access to funds with  
22 which to pay an attorney. If the respondent can afford an attorney  
23 but lacks practical access to funds, the court must provide an  
24 attorney and may impose a reimbursement requirement as part of a  
25 final order.

26 (ii) When, in the opinion of the court, the rights and interests  
27 of the respondent cannot otherwise be adequately protected and  
28 represented, the court on its own motion must appoint an attorney at  
29 any time to represent the respondent.

30 (iii) An attorney must be provided under this subsection (1)(c)  
31 as soon as practicable after a petition is filed and long enough  
32 before any final hearing to allow adequate time for consultation and  
33 preparation. Absent a convincing showing in the record to the  
34 contrary, a period of less than three weeks is presumed by a  
35 reviewing court to be inadequate time for consultation and  
36 preparation.

37 (2) An attorney representing the respondent in a proceeding under  
38 this article shall:

39 (a) Make reasonable efforts to ascertain the respondent's wishes;

1 (b) Advocate for the respondent's wishes to the extent reasonably  
2 ascertainable; and

3 (c) If the respondent's wishes are not reasonably ascertainable,  
4 advocate for the result that is the least restrictive alternative in  
5 type, duration, and scope, consistent with the respondent's  
6 interests.

7 (3) The court is not required, but may appoint an attorney to  
8 represent a parent of a minor who is the subject of a proceeding  
9 under this article if:

10 (a) The parent objects to the entry of an order for a protective  
11 arrangement instead of guardianship or conservatorship;

12 (b) The court determines that counsel is needed to ensure that  
13 consent to the entry of an order for a protective arrangement is  
14 informed; or

15 (c) The court otherwise determines the parent needs  
16 representation.

17 **Sec. 319.** RCW 11.130.615 and 2019 c 437 s 508 are each amended  
18 to read as follows:

19 ~~(1) ((At or before a hearing on a petition under this article for~~  
20 ~~a protective arrangement, the court shall order a professional~~  
21 ~~evaluation of the respondent:~~

22 ~~(a) If the respondent requests the evaluation; or~~

23 ~~(b) In other cases, unless the court finds that it has sufficient~~  
24 ~~information to determine the respondent's needs and abilities without~~  
25 ~~the evaluation.~~

26 ~~(2) If the court orders an evaluation under subsection (1) of~~  
27 ~~this section, the respondent must be examined by a licensed~~  
28 ~~physician, psychologist, social worker, or other individual appointed~~  
29 ~~by the court who is qualified to evaluate the respondent's alleged~~  
30 ~~cognitive and functional abilities and limitations and will not be~~  
31 ~~advantaged or disadvantaged by a decision to grant the petition or~~  
32 ~~otherwise have a conflict of interest. The individual conducting the~~  
33 ~~evaluation promptly shall file a report in a record with the court.~~  
34 ~~Unless otherwise directed by the court, the report must contain:~~

35 ~~(a) A description of the nature, type, and extent of the~~  
36 ~~respondent's cognitive and functional abilities and limitations;~~

37 ~~(b) An evaluation of the respondent's mental and physical~~  
38 ~~condition and, if appropriate, educational potential, adaptive~~  
39 ~~behavior, and social skills;~~

1 ~~(c) A prognosis for improvement, including with regard to the~~  
2 ~~ability to manage the respondent's property and financial affairs if~~  
3 ~~a limitation in that ability is alleged, and recommendation for the~~  
4 ~~appropriate treatment, support, or habilitation plan; and~~

5 ~~(d) The date of the examination on which the report is based.~~

6 ~~(3) The respondent may decline))~~ On receipt of a petition under  
7 RCW 11.130.595 and at the time the court appoints a court visitor  
8 under RCW 11.130.605, the court shall order a professional evaluation  
9 of the respondent.

10 (2) The respondent must be examined by a physician licensed to  
11 practice under chapter 18.71 or 18.57 RCW, psychologist licensed  
12 under chapter 18.83 RCW, advanced registered nurse practitioner  
13 licensed under chapter 18.79 RCW, or physician assistant licensed  
14 under chapter 18.71A RCW selected by the court visitor who is  
15 qualified to evaluate the respondent's alleged cognitive and  
16 functional abilities and limitations and will not be advantaged or  
17 disadvantaged by a decision to grant the petition or otherwise have a  
18 conflict of interest. If the respondent opposes the professional  
19 selected by the court visitor, the court visitor shall obtain a  
20 professional evaluation from the professional selected by the  
21 respondent. The court visitor, after receiving a professional  
22 evaluation from the individual selected by the respondent, may obtain  
23 a supplemental evaluation from a different professional.

24 (3) The individual conducting the evaluation shall provide the  
25 completed evaluation report to the court visitor within thirty days  
26 of the examination of the respondent. The court visitor shall file  
27 the report in a sealed record with the court. Unless otherwise  
28 directed by the court, the report must contain:

29 (a) The professional's name, address, education, and experience;

30 (b) A description of the nature, type, and extent of the  
31 respondent's cognitive and functional abilities and limitations;

32 (c) An evaluation of the respondent's mental and physical  
33 condition and, if appropriate, education potential, adaptive  
34 behavior, and social skills;

35 (d) A prognosis for improvement and recommendation for the  
36 appropriate treatment, support, or habilitation plan;

37 (e) A description of the respondent's current medications, and  
38 the effect of the medications on the respondent's cognitive and  
39 functional abilities;

1 (f) Identification or persons with whom the professional has met  
2 or spoken with regarding the respondent; and

3 (g) The date of the examination on which the report is based.

4 (4) If the respondent declines to participate in an evaluation  
5 ordered under subsection (1) of this section, the court may proceed  
6 with the hearing under RCW 11.130.600 if the court finds that it has  
7 sufficient information to determine the respondent's needs and  
8 abilities without the professional evaluation.

9 **Sec. 320.** RCW 11.125.080 and 2019 c 437 s 316 are each amended  
10 to read as follows:

11 (1) In a power of attorney, a principal may nominate a  
12 ~~((guardian))~~ conservator of the ~~((principal's))~~ estate or guardian of  
13 the ~~((principal's))~~ person for consideration by the court if  
14 protective proceedings for the principal's estate or person are begun  
15 after the principal executes the power of attorney. Except for good  
16 cause shown or disqualification, the court shall make its appointment  
17 in accordance with the principal's most recent nomination.

18 (2) If, after a principal executes a power of attorney, a court  
19 appoints a ~~((guardian of the principal's estate or other fiduciary~~  
20 ~~charged with the management of all of the principal's property, the~~  
21 ~~power of attorney remains in effect subject to the provisions of RCW~~  
22 ~~11.130.335(1).))~~ conservator of the estate or other fiduciary charged  
23 with the management of some or all of the principal's property, the  
24 agent is accountable to the fiduciary as well as to the principal.  
25 The power of attorney is not terminated and the agent's authority  
26 continues, subject to the provisions of RCW 11.130.335(1) and  
27 11.130.435(4), unless limited, suspended, or terminated by the court.

28 (3) If, after a principal executes a power of attorney ~~((, a court~~  
29 ~~appoints a guardian of the principal's estate or other fiduciary~~  
30 ~~charged with the management of some but not all of the principal's~~  
31 ~~property, the power of attorney shall not terminate or be modified,~~  
32 ~~except to the extent ordered by the court.))~~ that includes health  
33 care decisions, a court appoints a guardian of the person, the agent  
34 is accountable to the fiduciary as well as to the principal. The  
35 power of attorney is not terminated and the agent's authority  
36 continues, subject to the provisions of RCW 11.130.335(1) and  
37 11.130.435(4), unless limited, suspended, or terminated by the court.



1       **Sec. 401.** RCW 2.72.005 and 2019 c 215 s 1 are each amended to  
2 read as follows:

3       (1) In establishing an office of public guardianship and  
4 conservatorship, the legislature intends to promote the availability  
5 of guardianship, conservatorship, and alternate services that provide  
6 support for decision making for individuals who need them and for  
7 whom adequate services may otherwise be unavailable. The legislature  
8 reaffirms its commitment to treat liberty and autonomy as paramount  
9 values for all Washington residents and to authorize public  
10 guardianship and conservatorship only to the minimum extent necessary  
11 to provide for health or safety, or to manage financial affairs, when  
12 the legal conditions for appointment of a guardian or conservator are  
13 met. It does not intend to alter those legal conditions or to expand  
14 judicial authority to determine that any individual (~~is~~  
15 ~~incapacitated~~) may be subject to guardianship or conservatorship.

16       (2) The legislature further recognizes that (~~services that~~  
17 ~~support~~) decision making assistance for people who have limited  
18 capacity can preserve individual liberty and provide effective  
19 support responsive to individual needs and wishes. The legislature  
20 also recognizes that these services may be less expensive than  
21 guardianship and conservatorship for the state, the courts, and for  
22 individuals with limited capacity and their families.

23       **Sec. 402.** RCW 2.72.010 and 2019 c 215 s 2 are each reenacted and  
24 amended to read as follows:

25       The definitions in this section apply throughout this chapter  
26 unless the context clearly requires otherwise.

27       (1) (~~"Attorney-in-fact" means an agent authorized by an~~  
28 ~~individual to act on his or her behalf pursuant to a power of~~  
29 ~~attorney.~~) "Agent" means a person granted authority to act for a  
30 principal under a power of attorney.

31       (2) "Contract service provider" means a public guardian or public  
32 conservator providing services under contract with the office of  
33 public guardianship and conservatorship. Any public guardian or  
34 public conservator providing such services must be certified by the  
35 certified professional guardian board established by the supreme  
36 court.

37       (3) "Estate administration" means services provided for a fee to  
38 the estate of an individual who died at age eighteen or older, in

1 circumstances where a contract service provider is granted letters  
2 under RCW 11.28.120(7).

3 (4) "Long-term care services" means services provided through the  
4 department of social and health services either in a hospital or  
5 skilled nursing facility, or in another setting under a home and  
6 community-based waiver authorized under 42 U.S.C. Sec. 1396n.

7 ~~((3))~~ (5) "Office" means the office of public guardianship and  
8 conservatorship.

9 ~~((4))~~ (6) "Public conservator" means an individual or entity  
10 appointed by a court to make decisions with respect to property or  
11 financial affairs of an individual subject to conservatorship, and  
12 who provides these services under contract with the office of public  
13 guardianship and conservatorship.

14 (7) "Public guardian" means an individual or entity ~~((providing~~  
15 ~~public guardianship services))~~ appointed by the court to make  
16 decisions with respect to the personal affairs of an individual, and  
17 who provides these services under contract with the office of public  
18 guardianship and conservatorship.

19 ~~((5) "Public guardianship services" means the services provided~~  
20 ~~by a guardian or limited guardian appointed under chapters 11.88 and~~  
21 ~~11.92 RCW, who is compensated under a contract with the office of~~  
22 ~~public guardianship.~~

23 ~~(6))~~ (8) "Representative payee" means the designated agent for a  
24 recipient of government benefits whom a government agency has  
25 determined to be incapable of managing his or her benefits.

26 ~~((7) "Supported decision-making))~~ (9) "Decision-making  
27 assistance" means support for an individual with diminished decision-  
28 making ability in making decisions affecting health or safety or to  
29 manage financial affairs. Assistance includes, without limitation,  
30 acting as a representative payee, an ~~((attorney-in-fact))~~ agent, a  
31 trustee, ~~((or))~~ a public guardian, or a public conservator.

32 ~~((8))~~ (10) "Trustee" means a person or organization named in a  
33 trust agreement to handle trust property for the benefit of one or  
34 more beneficiaries in accordance with the terms of the agreement.

35 **Sec. 403.** RCW 2.72.020 and 2019 c 215 s 3 are each amended to  
36 read as follows:

37 (1) There is created an office of public guardianship and  
38 conservatorship within the administrative office of the courts.

1 (2) The supreme court shall appoint a public guardianship and  
2 conservatorship administrator to establish and administer a public  
3 guardianship, public conservatorship, (~~supported~~) decision-making  
4 assistance, and estate administration program in the office of public  
5 guardianship and conservatorship. The public guardianship and  
6 conservatorship administrator serves at the pleasure of the supreme  
7 court.

8 **Sec. 404.** RCW 2.72.030 and 2019 c 215 s 4 are each amended to  
9 read as follows:

10 The public guardianship and conservatorship administrator is  
11 authorized to establish and administer a public guardianship, public  
12 conservatorship, (~~supported~~) decision-making assistance, and estate  
13 administration program as follows:

14 (1)(a) The office shall contract with (~~public or private~~  
15 ~~entities or individuals to provide:~~

16 ~~(i) Public guardianship, supported decision-making assistance,~~  
17 ~~and estate administration services to)) certified professional  
18 guardians and conservators or certified professional guardian and  
19 conservator agencies to provide public guardianship, public  
20 conservatorship, decision-making assistance, and estate  
21 administration services to persons age eighteen or older whose income  
22 does not exceed two hundred percent of the federal poverty level  
23 determined annually by the United States department of health and  
24 human services or who are receiving long-term care services through  
25 the Washington state department of social and health services(~~+~~~~

26 ~~(ii) Supported decision-making services for a fee to persons age~~  
27 ~~eighteen or older)), when there is no one else qualified who is~~  
28 ~~willing and able to serve~~(~~+~~ and

29 ~~(iii) Estate administration services for a fee to the estate of~~  
30 ~~an individual who died at age eighteen or older, in circumstances~~  
31 ~~where a service provider under contract with the office of public~~  
32 ~~guardianship is granted letters under RCW 11.28.120(7))).~~

33 (b) Neither the public guardianship and conservatorship  
34 administrator nor the office may act as public guardian or (~~limited~~  
35 ~~guardian~~) conservator or act in any other representative capacity  
36 for any individual.

37 (c) The primary function of the office is to contract for public  
38 guardianship, public conservatorship, (~~supported~~) decision-making  
39 assistance, and estate administration services that are provided in a

1 manner consistent with the requirements of this chapter. The office  
2 is subject to audit by the state auditor.

3 (d) Public guardianship, public conservatorship, ~~((supported))~~  
4 decision-making assistance, and estate administration service  
5 contracts are dependent upon legislative appropriation. This chapter  
6 does not create an entitlement.

7 (2) The office shall adopt and maintain eligibility criteria to  
8 enable it to serve individuals with the greatest need when the number  
9 of cases in which courts propose to appoint a public guardian or  
10 conservator exceeds the number of cases in which ~~((public~~  
11 ~~guardianship and supported decision-making assistance))~~ services can  
12 be provided. In adopting such criteria, the office may consider  
13 factors including, but not limited to, the following: Whether an  
14 individual with diminished decision-making ability is at significant  
15 risk of harm from abuse, exploitation, abandonment, neglect, or self-  
16 neglect; and whether an individual with diminished decision-making  
17 ability is in imminent danger of loss or significant reduction in  
18 public services that are necessary for the individual to live  
19 successfully in the most integrated and least restrictive environment  
20 that is appropriate in light of the individual's needs and values.

21 (3) The office shall adopt minimum standards of practice for  
22 public guardians, public conservators, and other contract service  
23 providers providing public guardianship, public conservatorship,  
24 ~~((supported))~~ decision-making assistance, and estate administration  
25 services. ~~((Any public guardian providing such public guardianship~~  
26 ~~services must be certified by the certified professional guardian~~  
27 ~~board established by the supreme court.))~~

28 (4) The office shall require a public guardian or conservator to  
29 visit each ~~((incapacitated person))~~ individual subject to  
30 guardianship or conservatorship for which public guardianship or  
31 conservatorship services are provided no less than monthly to be  
32 eligible for compensation.

33 (5) The office shall not petition for appointment of a public  
34 guardian or conservator for any individual. It may develop a proposal  
35 for the legislature to make affordable legal assistance available to  
36 petition for guardianships or conservatorships.

37 (6) The office shall develop and adopt a case-weighting system  
38 designed to balance the increasing need for access to guardianship  
39 and conservatorship services, while effectively managing public

1 guardian and conservator caseloads and providing appropriate supports  
2 for individuals on that caseload.

3 (a) The standard caseload limit for a contract service provider  
4 must be no more than twenty (~~(incapacitated)~~) persons placed under a  
5 guardianship per certified professional guardian or conservator. The  
6 office may authorize adjustments to the standard caseload limit on a  
7 case-by-case basis, and payment for services to a contract service  
8 provider that serves more than twenty (~~(incapacitated)~~) persons  
9 placed under a guardianship per professional guardian or conservator  
10 is subject to review by the office. In evaluating caseload size, the  
11 office shall consider the expected activities, time, and demands  
12 involved, as well as the available support for each case.

13 (b) (~~(Caseload)~~) Adjusted caseload limits must not exceed thirty-  
14 six cases. The office shall not authorize payment for services for  
15 any contract service provider that fails to comply with the  
16 (~~(standard)~~) adjusted caseload limit guidelines.

17 (c) The office shall develop case-weighting guidelines to include  
18 a process for adjusting caseload limits, relevant policies and  
19 procedures, and recommendations for changes in court rules which may  
20 be appropriate for the implementation of the system.

21 (d) By December 1, 2019, the office must submit to the  
22 legislature a report detailing the final case-weighting system and  
23 guidelines, and implementation progress and recommendations. The  
24 report must be made available to the public.

25 (e) The administrative office of the courts shall notify the  
26 superior courts of the policies contained in the final case-weighting  
27 system.

28 (7) The office shall monitor and oversee the use of state funding  
29 to ensure compliance with this chapter.

30 (8) The office shall collect uniform and consistent basic data  
31 elements regarding service delivery. This data shall be made  
32 available to the legislature and supreme court in a format that is  
33 not identifiable by individual (~~(incapacitated person)~~) subject to  
34 guardianship or conservatorship to protect confidentiality.

35 (9) The office shall require contract service providers to seek  
36 reimbursement of fees from program clients who are receiving long-  
37 term care services through the department of social and health  
38 services to the extent, and only to the extent, that such  
39 reimbursement may be paid, consistent with an order of the superior  
40 court, from income that would otherwise be required by the department

1 to be paid toward the cost of the client's care. Fees reimbursed  
2 shall be remitted by the contract service provider to the office  
3 unless a different disposition is directed by the public guardianship  
4 and conservatorship administrator.

5 (10) Fees may be collected from the estate when the  
6 (~~decedant's~~) decedent's income prior to death exceeded two hundred  
7 percent of the federal poverty level, determined annually by the  
8 United States department of health and human services, based on a fee  
9 schedule established by the office that must be published annually.

10 (11) The office shall require public (~~guardianship providers~~)  
11 guardians or conservators to certify annually that for each  
12 individual served they have reviewed the need for continued public  
13 guardianship (~~services~~) or conservatorship and the appropriateness  
14 of limiting, or further limiting, the authority of the public  
15 guardian or conservator under the applicable (~~guardianship~~) order,  
16 and that where termination or modification of a guardianship or  
17 conservatorship order appears warranted, the superior court has been  
18 asked to take the corresponding action.

19 (12) The office shall adopt a process for receipt and  
20 consideration of and response to complaints against the office and  
21 (~~contracted~~) contract service providers of public guardianship,  
22 public conservatorship, (~~supported~~) decision-making assistance, and  
23 estate administration (~~services~~). The process shall include  
24 investigation in cases in which investigation appears warranted in  
25 the judgment of the administrator.

26 (13) The office shall develop standardized forms and reporting  
27 instruments that may include, but are not limited to, intake, initial  
28 assessment, guardianship care plan, decisional accounting, staff time  
29 logs, changes in condition or abilities of an (~~incapacitated~~  
30 ~~person~~) individual subject to guardianship or conservatorship, and  
31 values history. The office shall collect and analyze the data  
32 gathered from these reports.

33 (14) The office shall identify training needs for contract  
34 service providers it contracts with, and shall make recommendations  
35 to the supreme court, the certified professional guardian board, and  
36 the legislature for improvements in training. The office may offer  
37 training to individuals providing services pursuant to this chapter,  
38 to individuals who, in the judgment of the administrator or the  
39 administrator's designee, are likely to provide such services in the

1 future, to lay guardians or conservators, and to the family and  
2 friends of individuals subject to guardianship or conservatorship.

3 (15) The office shall establish a system for monitoring the  
4 performance of contract service providers, and office staff shall  
5 make in-home visits to a randomly selected sample of public  
6 guardianship, public conservatorship, and (~~supported~~) decision-  
7 making assistance clients. The office may conduct further monitoring,  
8 including in-home visits, as the administrator deems appropriate. For  
9 monitoring purposes, office staff shall have access to any  
10 information relating to a public guardianship, public  
11 conservatorship, (~~supported~~) decision-making assistance, and estate  
12 administration client that is available to the guardian or  
13 conservator.

14 **Sec. 405.** RCW 11.28.120 and 2019 c 215 s 5 are each amended to  
15 read as follows:

16 Administration of an estate if the decedent died intestate or if  
17 the personal representative or representatives named in the will  
18 declined or were unable to serve shall be granted to some one or more  
19 of the persons hereinafter mentioned, and they shall be respectively  
20 entitled in the following order:

21 (1) The surviving spouse or state registered domestic partner, or  
22 such person as he or she may request to have appointed.

23 (2) The next of kin in the following order: (a) Child or  
24 children; (b) father or mother; (c) brothers or sisters; (d)  
25 grandchildren; (e) nephews or nieces.

26 (3) The trustee named by the decedent in an inter vivos trust  
27 instrument, testamentary trustee named in the will, guardian (~~of the~~  
28 ~~person or estate~~) of the decedent, conservator of the decedent, or  
29 (~~attorney-in-fact~~) an agent named in a durable power of attorney  
30 appointed by the decedent, if any such a fiduciary controlled or  
31 potentially controlled substantially all of the decedent's probate  
32 and nonprobate assets.

33 (4) One or more of the beneficiaries or transferees of the  
34 decedent's probate or nonprobate assets.

35 (5) (a) The director of revenue, or the director's designee, for  
36 those estates having property subject to the provisions of chapter  
37 11.08 RCW; however, the director may waive this right.

1 (b) The secretary of the department of social and health services  
2 for those estates owing debts for long-term care services as defined  
3 in RCW 74.39A.008; however the secretary may waive this right.

4 (6) One or more of the principal creditors.

5 (7) If the persons so entitled shall fail for more than forty  
6 days after the death of the decedent to present a petition for  
7 letters of administration, or if it appears to the satisfaction of  
8 the court that there is no next of kin, as above specified eligible  
9 to appointment, or they waive their right, and there are no principal  
10 creditor or creditors, or such creditor or creditors waive their  
11 right, then the court may appoint a contract service provider (~~under~~  
12 ~~contract~~) with the office of public guardianship and conservatorship  
13 under chapter 2.72 RCW or any suitable person to administer such  
14 estate.

## 15 PART V

### 16 UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS ACT

17 **Sec. 501.** RCW 11.90.020 and 2009 c 81 s 2 are each amended to  
18 read as follows:

19 In this chapter:

20 (1) "Adult" means an individual who has attained eighteen years  
21 of age.

22 (2) (~~"Guardian of the estate"~~) "Conservator" means a person  
23 appointed by the court to administer the property of an adult,  
24 including a person appointed under chapter 11.130 RCW, and includes a  
25 conservator appointed by the court in another state.

26 (3) (~~"Guardian of the person" or "guardian"~~) "Guardian" means a  
27 person appointed by the court to make decisions regarding the person  
28 of an adult, including a person appointed under chapter 11.130 RCW,  
29 and includes a guardian appointed by the court in another state.

30 (4) "Guardianship order" means an order appointing a guardian  
31 (~~(of the person or guardian of the estate)~~).

32 (5) "Guardianship proceeding" means a judicial proceeding in  
33 which an order for the appointment of a guardian (~~(of the person or~~  
34 ~~guardian of the estate)~~) is sought or has been issued.

35 (6) (~~"Incapacitated person" means an adult for whom a guardian~~  
36 ~~of the person or guardian of the estate has been appointed.~~

37 (~~7~~)) "Party" means the respondent, petitioner, guardian (~~(of the~~  
38 ~~person or guardian of the estate)~~), conservator, or any other person

1 allowed by the court to participate in a guardianship or protective  
2 proceeding.

3 ~~((8))~~ (7) "Person," except in the term ~~((incapacitated))~~ person  
4 under a guardianship, person under a conservatorship, or protected  
5 person, means an individual, corporation, business trust, estate,  
6 trust, partnership, limited liability company, association, joint  
7 venture, public corporation, government or governmental subdivision,  
8 agency, or instrumentality, or any other legal or commercial entity.

9 (8) "Person subject to a guardianship" means an adult for whom a  
10 guardian has been appointed.

11 (9) "Protected person" means an adult for whom a protective order  
12 has been issued.

13 (10) "Protective order" means an order appointing a ~~((guardian of~~  
14 ~~the estate))~~ conservator or other order related to management of an  
15 adult's property ~~(, including an order issued by a court in another~~  
16 ~~state appointing a conservator)).~~

17 (11) "Protective proceeding" means a judicial proceeding in which  
18 a protective order is sought or has been issued.

19 (12) "Record" means information that is inscribed on a tangible  
20 medium or that is stored in an electronic or other medium and is  
21 retrievable in perceivable form.

22 (13) "Respondent" means an adult for whom a protective order or  
23 the appointment of a guardian ~~((of the person))~~ is sought.

24 (14) "State" means a state of the United States, the District of  
25 Columbia, Puerto Rico, the United States Virgin Islands, a federally  
26 recognized Indian tribe, or any territory or insular possession  
27 subject to the jurisdiction of the United States.

28 **Sec. 502.** RCW 11.90.230 and 2009 c 81 s 10 are each amended to  
29 read as follows:

30 (1) A court of this state lacking jurisdiction under RCW  
31 11.90.220 has special jurisdiction to do any of the following:

32 ~~((In an emergency, process a petition under RCW 11.88.090 for~~  
33 ~~appointment of a guardian for a respondent who is physically present~~  
34 ~~in this state, for a term not exceeding ninety days;))~~ Appoint a  
35 guardian in an emergency for a term not exceeding sixty days for a  
36 respondent who is physically present in this state;

37 (b) Issue a protective order with respect to ~~((a respondent's))~~  
38 real or tangible personal property located in this state if a

1 petition for appointment of a guardian or a conservator for the  
2 respondent is pending or has been approved in another state;

3 (c) Appoint a guardian (~~(of the person or guardian of the~~  
4 ~~estate))~~ or conservator for (~~(an incapacitated))~~ a person under a  
5 guardianship, person under a conservatorship, or protected person for  
6 whom a provisional order to transfer the proceeding from another  
7 state has been issued under procedures similar to RCW 11.90.400.

8 (2) If a petition for the appointment of a guardian in an  
9 emergency is brought in this state and this state was not the  
10 respondent's home state on the date the petition was filed, the court  
11 shall dismiss the proceeding at the request of the court of the home  
12 state, if any, whether dismissal is requested before or after the  
13 emergency appointment.

14 **Sec. 503.** RCW 11.90.250 and 2009 c 81 s 12 are each amended to  
15 read as follows:

16 (1) A court of this state having jurisdiction under RCW 11.90.220  
17 to appoint a guardian or issue a protective order may decline to  
18 exercise its jurisdiction if it determines at any time that a court  
19 of another state is a more appropriate forum.

20 (2) If a court of this state declines to exercise its  
21 jurisdiction under subsection (1) of this section, it shall either  
22 dismiss or stay the proceeding. The court may impose any condition  
23 the court considers just and proper, including the condition that a  
24 petition for the appointment of a guardian or issuance of a  
25 protective order be filed promptly in another state.

26 (3) In determining whether it is an appropriate forum, the court  
27 shall consider all relevant factors, including:

28 (a) Any expressed preference of the respondent;

29 (b) Whether abuse, neglect, or exploitation of the respondent has  
30 occurred or is likely to occur and which state could best protect the  
31 respondent from the abuse, neglect, or exploitation;

32 (c) The length of time the respondent was physically present in  
33 or was a legal resident of this or another state;

34 (d) The distance of the respondent from the court in each state;

35 (e) The financial circumstances of the respondent's estate;

36 (f) The nature and location of the evidence;

37 (g) The ability of the court in each state to decide the issue  
38 expeditiously and the procedures necessary to present evidence;

1 (h) The familiarity of the court of each state with the facts and  
2 issues in the proceeding; and

3 (i) If an appointment were made, the court's ability to monitor  
4 the conduct of the guardian (~~(of the person or guardian of the~~  
5 ~~estate)) or conservator.~~

6 **Sec. 504.** RCW 11.90.400 and 2009 c 81 s 16 are each amended to  
7 read as follows:

8 (1) A guardian (~~(of the person or guardian of the estate)) or  
9 conservator appointed in this state may petition the court to  
10 transfer the guardianship or conservatorship to another state.~~

11 (2) Notice of a petition under subsection (1) of this section  
12 must be given to the persons that would be entitled to notice of a  
13 petition in this state for the appointment of a guardian (~~(of the~~  
14 ~~person or guardian of the estate)) or conservator.~~

15 (3) On the court's own motion or on request of the guardian (~~(of~~  
16 ~~the person or guardian of the estate)) or conservator, the  
17 (~~(incapacitated)) person under a guardianship, person under a  
18 conservatorship, or protected person, or other person required to be  
19 notified of the petition, the court shall hold a hearing on a  
20 petition filed pursuant to subsection (1) of this section.~~~~

21 (4) The court shall issue an order provisionally granting a  
22 petition to transfer a guardianship and shall direct the guardian  
23 (~~(of the person or guardian of the estate)) to petition for  
24 guardianship in the other state if the court is satisfied that the  
25 guardianship will be accepted by the court in the other state and the  
26 court finds that:~~

27 (a) The (~~(incapacitated)) person under a guardianship is  
28 physically present in or is reasonably expected to move permanently  
29 to the other state;~~

30 (b) An objection to the transfer has not been made or, if an  
31 objection has been made, the objector has not established that the  
32 transfer would be contrary to the interests of the (~~(incapacitated))  
33 person under a guardianship; and~~

34 (c) Plans for care and services for the (~~(incapacitated)) person  
35 under a guardianship in the other state are reasonable and  
36 sufficient.~~

37 (5) The court shall issue a provisional order granting a petition  
38 to transfer a (~~(guardianship of the estate)) conservatorship and  
39 shall direct the (~~(guardian of the estate)) conservator to petition~~~~

1 for (~~guardianship of the estate or~~) conservatorship in the other  
2 state if the court is satisfied that the (~~guardianship of the~~  
3 ~~estate~~) conservatorship will be accepted by the court of the other  
4 state and the court finds that:

5 (a) The protected person is physically present in or is  
6 reasonably expected to move permanently to the other state, or the  
7 protected person has a significant connection to the other state  
8 considering the factors in RCW 11.90.200(2);

9 (b) An objection to the transfer has not been made or, if an  
10 objection has been made, the objector has not established that the  
11 transfer would be contrary to the interests of the protected person;  
12 and

13 (c) Adequate arrangements will be made for management of the  
14 protected person's property.

15 (6) The court shall issue a final order confirming the transfer  
16 and terminating the guardianship (~~of the person or guardianship of~~  
17 ~~the estate~~) or conservatorship upon its receipt of:

18 (a) A provisional order accepting the proceeding from the court  
19 to which the proceeding is to be transferred which is issued under  
20 provisions similar to RCW 11.90.410; and

21 (b) The documents required to terminate a guardianship (~~of the~~  
22 ~~person or guardianship of the estate~~) or conservatorship in this  
23 state.

24 **Sec. 505.** RCW 11.90.410 and 2009 c 81 s 17 are each amended to  
25 read as follows:

26 (1) To confirm transfer of a guardianship or conservatorship  
27 transferred to this state under provisions similar to RCW 11.90.400,  
28 the guardian or conservator must petition the court in this state to  
29 accept the guardianship or conservatorship. The petition must include  
30 a certified copy of the other state's provisional order of transfer.

31 (2) Notice of a petition under subsection (1) of this section  
32 must be given to those persons that would be entitled to notice if  
33 the petition were a petition for the appointment of a guardian or  
34 issuance of a protective order in both the transferring state and  
35 this state. The notice must be given in the same manner as notice is  
36 required to be given in this state.

37 (3) On the court's own motion or on request of the guardian or  
38 conservator, the (~~incapacitated~~) person under a guardianship,  
39 person under a conservatorship, or protected person, or other person

1 required to be notified of the proceeding, the court shall hold a  
2 hearing on a petition filed pursuant to subsection (1) of this  
3 section.

4 (4) The court shall issue an order provisionally granting a  
5 petition filed under subsection (1) of this section unless:

6 (a) An objection is made and the objector establishes that  
7 transfer of the proceeding would be contrary to the interests of the  
8 ~~((incapacitated))~~ person under a guardianship, person under a  
9 conservatorship, or protected person; or

10 (b) The guardian or conservator is ineligible for appointment in  
11 this state.

12 (5) The court shall issue a final order accepting the proceeding  
13 and appointing the guardian or conservator as guardian ~~((of the~~  
14 ~~person or guardian of the estate))~~ or conservator in this state upon  
15 its receipt from the court from which the proceeding is being  
16 transferred of a final order issued under provisions similar to RCW  
17 11.90.400 transferring the proceeding to this state.

18 (6) Not later than ninety days after issuance of a final order  
19 accepting transfer of a guardianship or conservatorship, the court  
20 shall determine whether the guardianship ~~((of the person or~~  
21 ~~guardianship of the estate))~~ or conservatorship needs to be modified  
22 to conform to the law of this state.

23 (7) In granting a petition under this section, the court shall  
24 recognize a guardianship or conservatorship order from the other  
25 state, including the determination of the ~~((incapacitated))~~ person  
26 under a guardianship, person under a conservatorship, or protected  
27 person's incapacity and the appointment of the guardian or  
28 conservator.

29 (8) The denial by a court of this state of a petition to accept a  
30 guardianship or conservatorship transferred from another state does  
31 not affect the ability of the guardian or conservator to seek  
32 appointment as guardian or ~~((guardian of the estate))~~ conservator in  
33 this state if the court has jurisdiction to make an appointment other  
34 than by reason of the provisional order of transfer.

35 **PART VI**

36 **SUPPORTED DECISION-MAKING AGREEMENTS**

1        NEW SECTION.    **Sec. 601.**    DEFINITIONS. The definitions in this  
2 section apply throughout this section and sections 602 through 612 of  
3 this act unless the context clearly requires otherwise.

4        (1) "Disability" means, with respect to an individual, a physical  
5 or mental impairment that substantially limits one or more major life  
6 activities.

7        (2) "Supported decision-making agreement" is an agreement between  
8 an adult with a disability and one or more supporters entered into  
9 under this chapter.

10       (3) "Supporter" means an adult who has entered into a supported  
11 decision-making agreement with an adult with a disability.

12       NEW SECTION.    **Sec. 602.**    PURPOSE. The purpose of sections 601  
13 through 612 of this act is to recognize a less restrictive  
14 alternative to guardianship for adults with disabilities who need  
15 assistance with decisions regarding daily living.

16       NEW SECTION.    **Sec. 603.**    PRESUMPTION OF CAPACITY. (1) All adults  
17 are presumed to be capable of managing their affairs.

18       (2) The manner in which an adult communicates with others is not  
19 grounds for deciding that the adult is incapable of managing the  
20 adult's affairs.

21       (3) Execution of a supported decision-making agreement may not be  
22 used as evidence for the petition or appointment of a guardianship or  
23 conservatorship under this chapter, and does not preclude the ability  
24 of the adult who has entered into such an agreement to act  
25 independently of the agreement.

26       NEW SECTION.    **Sec. 604.**    SCOPE OF SUPPORTED DECISION-MAKING  
27 AGREEMENT. An adult with a disability may voluntarily, without undue  
28 influence or coercion, enter into a supported decision-making  
29 agreement with a supporter under which the adult with a disability  
30 authorizes the supporter to do any or all of the following:

31       (1) Provide supported decision-making, including assistance in  
32 understanding the options, responsibilities, and consequences of the  
33 adult's life decisions, without making those decisions on behalf of  
34 the adult with a disability;

35       (2) Assist the adult in accessing, collecting, and obtaining  
36 information that is relevant to a given life decision, including

1 medical, psychological, financial, educational, or treatment records,  
2 from any person;

3 (3) Assist the adult with a disability in understanding the  
4 information described in subsection (2) of this section; and

5 (4) Assist the adult in communicating the adult's decisions to  
6 appropriate persons.

7 NEW SECTION. **Sec. 605.** AUTHORITY OF SUPPORTER. A supporter may  
8 exercise the authority granted to the supporter in the supported  
9 decision-making agreement.

10 NEW SECTION. **Sec. 606.** TERM OF AGREEMENT. (1) Except as  
11 provided by subsection (2) of this section, the supported decision-  
12 making agreement extends until terminated by either party or by the  
13 terms of the agreement.

14 (2) The supported decision-making agreement is terminated if:

15 (a) The department of social and health services finds that the  
16 adult with a disability has been abused, neglected, or exploited by  
17 the supporter;

18 (b) The supporter is found criminally liable for conduct  
19 described in (a) of this subsection;

20 (c) The person with a disability gives notice to the supporter  
21 orally, in writing, through an assistive technology device, or by any  
22 other means or act showing a specific intent to terminate the  
23 agreement; or

24 (d) The supporter provides written notice of the supporter's  
25 resignation to the person with a disability. If a supported decision-  
26 making agreement includes more than one supporter, each supporter can  
27 terminate the agreement only as to that supporter.

28 NEW SECTION. **Sec. 607.** DISQUALIFICATION OF SUPPORTER. The  
29 following are disqualified from acting as a supporter:

30 (1) A person who is an employer or employee of the adult with a  
31 disability, unless the person is an immediate family member of the  
32 adult with a disability;

33 (2) A person directly providing paid support services to the  
34 adult with a disability, unless the person is an immediate family  
35 member of the adult with a disability; and

36 (3) An individual against whom the person with a disability has  
37 obtained an order of protection from abuse, or an individual who is

1 the subject of a civil or criminal order prohibiting contact with the  
2 adult with a disability.

3 NEW SECTION. **Sec. 608.** ACCESS TO PERSONAL INFORMATION. (1) A  
4 supporter is only authorized to assist the adult with a disability in  
5 accessing, collecting, or obtaining information that is relevant to a  
6 decision authorized under the supported decision-making agreement.

7 (2) If a supporter assists an adult with a disability in  
8 accessing, collecting, or obtaining personal information, including  
9 protected health information under the federal health insurance  
10 portability and accountability act of 1996, P.L. 104-191, or  
11 educational records under the federal family educational rights and  
12 privacy act of 1974, 20 U.S.C. Sec. 1232g, the supporter shall ensure  
13 the information is kept privileged and confidential, as applicable,  
14 and is not subject to unauthorized access, use, or disclosure.

15 (3) The existence of a supported decision-making agreement does  
16 not preclude an adult with a disability from seeking personal  
17 information without the assistance of a supporter.

18 NEW SECTION. **Sec. 609.** AUTHORIZING AND WITNESSING OF SUPPORTED  
19 DECISION-MAKING AGREEMENT. (1) A supported decision-making agreement  
20 must be in writing, dated, and signed voluntarily, without coercion  
21 or undue influence, by the adult with a disability and the supporter  
22 in the presence of two or more subscribing witnesses or a notary  
23 public.

24 (2) If signed before two witnesses, the attesting witnesses must  
25 be at least eighteen years of age.

26 (3) The witnesses required by subsection (1) of this section may  
27 not be any of the following:

28 (a) A supporter for the person with a disability;

29 (b) An employee or agent of a supporter named in the supported  
30 decision-making agreement;

31 (c) A paid provider of services to the person with a disability;  
32 or

33 (d) Any person who does not understand the type of communication  
34 the person with a disability uses, unless an individual who  
35 understands the person with a disability's means of communication is  
36 present to assist during the execution of the supported decision-  
37 making agreement.

1        NEW SECTION.        **Sec. 610.**        FORM OF SUPPORTED DECISION-MAKING  
2 AGREEMENT. (1) Subject to subsection (2) of this section, a supported  
3 decision-making agreement is valid only if it is in substantially the  
4 following form:

5                                SUPPORTED DECISION-MAKING AGREEMENT

6    Appointment of Supporter

7        I, ..... (name of supported adult), make this agreement of my  
8 own free will.

9        I agree and designate that:

10            Name: ..... (name of supporter)

11            Address: ..... (address of supporter)

12            Phone Number: ..... (phone number of supporter)

13            Email Address: ..... (email address of supporter)

14        is my supporter.

15        My supporter may help me with making everyday life decisions  
16 relating to the following:

17            (Y/N) Obtaining food, clothing, and shelter.

18            (Y/N) Taking care of my health.

19            (Y/N) Managing my financial affairs.

20            (Y/N) Other matters: ..... (specify).

21        My supporter is not allowed to make decisions for me. To help  
22 me with my decisions, my supporter may:

23            1. Help me access, collect, or obtain information  
24 that is relevant to a decision, including medical,  
25 psychological, financial, educational, or treatment  
26 records;

27            2. Help me understand my options so I can make an  
28 informed decision; and

29            3. Help me communicate my decision to appropriate  
30 persons.

31            (Y/N) A release allowing my supporter to see  
32 protected health information under the Health Insurance  
33 Portability and Accountability Act of 1996, P.L. 104-191,  
34 is attached.

35            (Y/N) A release allowing my supporter to see  
36 educational records under the Family Educational Rights  
37 and Privacy Act of 1974, 20 U.S.C. Sec. 1232g, is  
38 attached.

1 Effective Date of Supported Decision-Making Agreement

2 This supported decision-making agreement is effective  
3 immediately and will continue until ..... (insert date) or  
4 until the agreement is terminated by my supporter or me or by  
5 operation of law.

6 Signed this ..... (day) day of ..... (month), ..... (year)

7 Consent of Supporter

8 I, ..... (name of supporter), acknowledge my responsibilities  
9 and consent to act as a supporter under this agreement.

10 (Signature of supporter)  
11 (Printed name of supporter)  
12 Supporter

13 (Signature of supported adult)  
14 (Printed name of supported adult)  
15 Supported Adult

16 (Signature of witness 1)  
17 (Printed name of witness 1)  
18 Witness 1

19 (Signature of witness 2)  
20 (Printed name of witness 2)  
21 Witness 2

22 State of .....  
23 County of .....

24 This record was acknowledged before me on ..... (date)  
25 by ..... (name(s) of individuals).

26 .....  
27 (Signature of notary  
28 public)

29 (Stamp)

30 .....  
31 (Title of office)  
32 My commission expires:  
33 .....

(Date)

WARNING: PROTECTION FOR VULNERABLE ADULTS AS DEFINED UNDER CHAPTER  
74.34 RCW.

IF A PERSON WHO RECEIVES A COPY OF THIS AGREEMENT OR IS AWARE OF THE EXISTENCE OF THIS AGREEMENT HAS CAUSE TO BELIEVE THAT A VULNERABLE ADULT IS BEING ABUSED, ABANDONED, NEGLECTED (INCLUDING SELF-NEGLECT), OR PERSONALLY OR FINANCIALLY EXPLOITED BY THE SUPPORTER, THE PERSON SHALL REPORT THE ALLEGED ABUSE, ABANDONMENT, NEGLECT, SELF-NEGLECT, OR PERSONAL OR FINANCIAL EXPLOITATION TO THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES BY CALLING THE ABUSE HOTLINE AT 1-800-END-HARM.

(2) A supported decision-making agreement may be in any form not inconsistent with subsection (1) of this section and the other requirements of this chapter.

NEW SECTION. **Sec. 611.** RELIANCE ON AGREEMENT—LIMITATION OF LIABILITY. (1) A person who receives the original or a copy of a supported decision-making agreement shall rely on the agreement.

(2) A person is not subject to criminal or civil liability and has not engaged in professional misconduct for an act or omission if the act or omission is done in good faith and in reliance on a supported decision-making agreement.

NEW SECTION. **Sec. 612.** REPORTING OF SUSPECTED ABUSE, ABANDONMENT, NEGLECT (INCLUDING SELF-NEGLECT), OR PERSONAL OR FINANCIAL EXPLOITATION. If a person who receives a copy of a supported decision-making agreement or is aware of the existence of a supported decision-making agreement has cause to believe that a vulnerable adult as defined in RCW 74.34.020 is being abused, abandoned, neglected (including self-neglect), or personally or financially exploited by the supporter, the person shall make a report to the department of social and health services, except where the person is exempted from the requirements to report abuse due to a confidential relationship recognized in statute, regulation, or professional standards.

**PART VII**

**TECHNICAL CORRECTIONS**

1       **Sec. 701.** RCW 2.56.150 and 2005 c 282 s 9 are each amended to  
2 read as follows:

3       (1) The administrator for the courts shall review the  
4 advisability and feasibility of the statewide mandatory use of court-  
5 appointed special advocates as described in RCW 26.12.175 to act as  
6 guardians ad litem in appropriate cases under Titles 13 and 26 RCW.  
7 The review must explore the feasibility of obtaining various sources  
8 of private and public funding to implement statewide mandatory use of  
9 court-appointed special advocates, such as grants and donations,  
10 instead of or in combination with raising court fees or assessments.

11       (2) The administrator shall also conduct a study on the  
12 feasibility and desirability of requiring all persons who act as  
13 guardians ad litem or court visitors under Titles 11, 13, and 26 RCW  
14 to be certified as qualified guardians ad litem or court visitors  
15 prior to their eligibility for appointment.

16       (3) In conducting the review and study the administrator shall  
17 consult with: (a) The presidents or directors of all public benefit  
18 nonprofit corporations that are eligible to receive state funds under  
19 RCW 43.330.135; (b) the attorney general, or a designee; (c) the  
20 secretary of the department of social and health services, or a  
21 designee; (d) the superior court judges' association; (e) the  
22 Washington state bar association; (f) public defenders who represent  
23 children under Title 13 or 26 RCW; (g) private attorneys who  
24 represent parents under Title 13 or 26 RCW; (h) professionals who  
25 evaluate families for the purposes of determining the custody or  
26 placement decisions of children; (i) the office of financial  
27 management; (j) persons who act as volunteer or compensated guardians  
28 ad litem; and (k) parents who have dealt with guardians ad litem or  
29 court visitors in court cases. For the purposes of studying the  
30 feasibility of a certification requirement for guardians ad litem  
31 acting under Title 11 RCW the administrator shall consult with the  
32 advisory group formed under RCW (~~41.88.090~~) 11.130.155.

33       (4) The administrator shall also conduct a review of problems and  
34 concerns about the role of guardians ad litem in actions under Titles  
35 11, 13, and 26 RCW and recommend alternatives to strengthen judicial  
36 oversight of guardians ad litem or court visitors and ensure fairness  
37 and impartiality of the process. The administrator must accept and  
38 obtain comments from parties designated in subsection (3) of this  
39 section.

1           **Sec. 702.** RCW 4.16.190 and 2006 c 8 s 303 are each amended to  
2 read as follows:

3           (1) Unless otherwise provided in this section, if a person  
4 entitled to bring an action mentioned in this chapter, except for a  
5 penalty or forfeiture, or against a sheriff or other officer, for an  
6 escape, be at the time the cause of action accrued either under the  
7 age of eighteen years, or incompetent or disabled to such a degree  
8 that he or she cannot understand the nature of the proceedings, such  
9 incompetency or disability as determined according to chapter  
10 ~~((11.88))~~ 11.130 RCW, or imprisoned on a criminal charge prior to  
11 sentencing, the time of such disability shall not be a part of the  
12 time limited for the commencement of action.

13           (2) Subsection (1) of this section with respect to a person under  
14 the age of eighteen years does not apply to the time limited for the  
15 commencement of an action under RCW 4.16.350.

16           **Sec. 703.** RCW 7.28.090 and 1977 ex.s. c 80 s 7 are each amended  
17 to read as follows:

18           RCW 7.28.070 and 7.28.080 shall not extend to lands or tenements  
19 owned by the United States or this state, nor to school lands, nor to  
20 lands held for any public purpose. Nor shall they extend to lands or  
21 tenements when there shall be an adverse title to such lands or  
22 tenements, and the holder of such adverse title is a person under  
23 eighteen years of age, or ~~((incompetent within the meaning of RCW~~  
24 ~~11.88.010: PROVIDED, Such))~~ has been placed under a guardianship  
25 under RCW 11.130.265 or has been placed under a conservatorship under  
26 RCW 11.130.360. However, such persons as aforesaid shall commence an  
27 action to recover such lands or tenements so possessed as aforesaid,  
28 within three years after the several disabilities herein enumerated  
29 shall cease to exist, and shall prosecute such action to judgment, or  
30 in case of vacant and unoccupied land shall, within the time last  
31 aforesaid, pay to the person or persons who have paid the same for  
32 his or her betterments, and the taxes, with interest on said taxes at  
33 the legal rate per annum that have been paid on said vacant and  
34 unimproved land.

35           **Sec. 704.** RCW 7.36.020 and 2008 c 6 s 801 are each amended to  
36 read as follows:

37           Writs of habeas corpus shall be granted in favor of parents,  
38 guardians, limited guardians where appropriate, spouses or domestic

1 partners, and next of kin, and to enforce the rights, and for the  
2 protection of (~~infants and incompetent or disabled persons within~~  
3 ~~the meaning of RCW 11.88.010~~) minors and persons who have been  
4 placed under a guardianship under RCW 11.130.265 or under a  
5 conservatorship under RCW 11.130.360; and the proceedings shall in  
6 all cases conform to the provisions of this chapter.

7 **Sec. 705.** RCW 7.70.065 and 2019 c 232 s 8 and 2019 c 209 s 1 are  
8 each reenacted and amended to read as follows:

9 (1) Informed consent for health care for a patient who is (~~not~~  
10 ~~competent, as defined in RCW 11.88.010(1)(e)~~) a minor or, to consent  
11 may be obtained from a person authorized to consent on behalf of such  
12 patient.

13 (a) Persons authorized to provide informed consent to health care  
14 on behalf of a patient who (~~is not competent to consent, based upon~~  
15 ~~a reason other than incapacity as defined in RCW 11.88.010(1)(d)~~)  
16 has been placed under a guardianship under RCW 11.130.265 a minor or,  
17 shall be a member of one of the following classes of persons in the  
18 following order of priority:

19 (i) The appointed guardian of the patient, if any;

20 (ii) The individual, if any, to whom the patient has given a  
21 durable power of attorney that encompasses the authority to make  
22 health care decisions;

23 (iii) The patient's spouse or state registered domestic partner;

24 (iv) Children of the patient who are at least eighteen years of  
25 age;

26 (v) Parents of the patient;

27 (vi) Adult brothers and sisters of the patient;

28 (vii) Adult grandchildren of the patient who are familiar with  
29 the patient;

30 (viii) Adult nieces and nephews of the patient who are familiar  
31 with the patient;

32 (ix) Adult aunts and uncles of the patient who are familiar with  
33 the patient; and

34 (x) (A) An adult who:

35 (I) Has exhibited special care and concern for the patient;

36 (II) Is familiar with the patient's personal values;

37 (III) Is reasonably available to make health care decisions;

38 (IV) Is not any of the following: A physician to the patient or  
39 an employee of the physician; the owner, administrator, or employee

1 of a health care facility, nursing home, or long-term care facility  
2 where the patient resides or receives care; or a person who receives  
3 compensation to provide care to the patient; and

4 (V) Provides a declaration under (a)(x)(B) of this subsection.

5 (B) An adult who meets the requirements of (a)(x)(A) of this  
6 subsection shall provide a declaration, which is effective for up to  
7 six months from the date of the declaration, signed and dated under  
8 penalty of perjury pursuant to (~~RCW 9A.72.085~~) chapter 5.50 RCW,  
9 that recites facts and circumstances demonstrating that he or she is  
10 familiar with the patient and that he or she:

11 (I) Meets the requirements of (a)(x)(A) of this subsection;

12 (II) Is a close friend of the patient;

13 (III) Is willing and able to become involved in the patient's  
14 health care;

15 (IV) Has maintained such regular contact with the patient as to  
16 be familiar with the patient's activities, health, personal values,  
17 and morals; and

18 (V) Is not aware of a person in a higher priority class willing  
19 and able to provide informed consent to health care on behalf of the  
20 patient.

21 (C) A health care provider may, but is not required to, rely on a  
22 declaration provided under (a)(x)(B) of this subsection. The health  
23 care provider or health care facility where services are rendered is  
24 immune from suit in any action, civil or criminal, or from  
25 professional or other disciplinary action when such reliance is based  
26 on a declaration provided in compliance with (a)(x)(B) of this  
27 subsection.

28 (b) If the health care provider seeking informed consent for  
29 proposed health care of the patient who (~~is not competent to consent~~  
30 ~~under RCW 11.88.010(1)(c), other than a person determined to be~~  
31 ~~incapacitated because he or she is under the age of majority and who~~  
32 ~~is not otherwise authorized to provide informed consent)) has been  
33 placed under a guardianship under RCW 11.130.265, makes reasonable  
34 efforts to locate and secure authorization from a competent person in  
35 the first or succeeding class and finds no such person available,  
36 authorization may be given by any person in the next class in the  
37 order of descending priority. However, no person under this section  
38 may provide informed consent to health care:~~

39 (i) If a person of higher priority under this section has refused  
40 to give such authorization; or

1 (ii) If there are two or more individuals in the same class and  
2 the decision is not unanimous among all available members of that  
3 class.

4 (c) Before any person authorized to provide informed consent on  
5 behalf of a patient (~~(not competent to consent under RCW~~  
6 ~~11.88.010(1)(e), other than a person determined to be incapacitated~~  
7 ~~because he or she is under the age of majority and who is not~~  
8 ~~otherwise authorized to provide informed consent)) who has been  
9 placed under a guardianship under RCW 11.130.265, exercises that  
10 authority, the person must first determine in good faith that that  
11 patient, if competent, would consent to the proposed health care. If  
12 such a determination cannot be made, the decision to consent to the  
13 proposed health care may be made only after determining that the  
14 proposed health care is in the patient's best interests.~~

15 (d) No rights under Washington's death with dignity act, chapter  
16 70.245 RCW, may be exercised through a person authorized to provide  
17 informed consent to health care on behalf of a patient (~~(not~~  
18 ~~competent to consent under RCW 11.88.010(1)(e))~~) who is a minor or  
19 has been placed under a guardianship under RCW 11.130.265.

20 (2) Informed consent for health care, including mental health  
21 care, for a patient who (~~(is not competent, as defined in RCW~~  
22 ~~11.88.010(1)(e), because he or she)) is under the age of majority and  
23 who is not otherwise authorized to provide informed consent, may be  
24 obtained from a person authorized to consent on behalf of such a  
25 patient.~~

26 (a) Persons authorized to provide informed consent to health  
27 care, including mental health care, on behalf of a patient who (~~(is~~  
28 ~~incapacitated, as defined in RCW 11.88.010(1)(e), because he or she))  
29 is under the age of majority and who is not otherwise authorized to  
30 provide informed consent, shall be a member of one of the following  
31 classes of persons in the following order of priority:~~

32 (i) The appointed guardian, or legal custodian authorized  
33 pursuant to Title 26 RCW, of the minor patient, if any;

34 (ii) A person authorized by the court to consent to medical care  
35 for a child in out-of-home placement pursuant to chapter 13.32A or  
36 13.34 RCW, if any;

37 (iii) Parents of the minor patient;

38 (iv) The individual, if any, to whom the minor's parent has given  
39 a signed authorization to make health care decisions for the minor  
40 patient; and

1 (v) A competent adult representing himself or herself to be a  
2 relative responsible for the health care of such minor patient or a  
3 competent adult who has signed and dated a declaration under penalty  
4 of perjury pursuant to chapter 5.50 RCW stating that the adult person  
5 is a relative responsible for the health care of the minor patient.  
6 Such declaration shall be effective for up to six months from the  
7 date of the declaration.

8 (b) (i) Informed consent for health care on behalf of a patient  
9 who (~~is incapacitated, as defined in RCW 11.88.010(1)(e), because he~~  
10 ~~or she~~)) is under the age of majority and who is not otherwise  
11 authorized to provide informed consent may be obtained from a school  
12 nurse, school counselor, or homeless student liaison when:

13 (A) Consent is necessary for nonemergency, outpatient, primary  
14 care services, including physical examinations, vision examinations  
15 and eyeglasses, dental examinations, hearing examinations and hearing  
16 aids, immunizations, treatments for illnesses and conditions, and  
17 routine follow-up care customarily provided by a health care provider  
18 in an outpatient setting, excluding elective surgeries;

19 (B) The minor patient meets the definition of a "homeless child  
20 or youth" under the federal McKinney-Vento homeless education  
21 assistance improvements act of 2001, P.L. 107-110, January 8, 2002,  
22 115 Stat. 2005; and

23 (C) The minor patient is not under the supervision or control of  
24 a parent, custodian, or legal guardian, and is not in the care and  
25 custody of the department of social and health services.

26 (ii) A person authorized to consent to care under this subsection  
27 (2)(b) and the person's employing school or school district are not  
28 subject to administrative sanctions or civil damages resulting from  
29 the consent or nonconsent for care, any care, or payment for any  
30 care, rendered pursuant to this section. Nothing in this section  
31 prevents a health care facility or a health care provider from  
32 seeking reimbursement from other sources for care provided to a minor  
33 patient under this subsection (2)(b).

34 (iii) Upon request by a health care facility or a health care  
35 provider, a person authorized to consent to care under this  
36 subsection (2)(b) must provide to the person rendering care a  
37 declaration signed and dated under penalty of perjury pursuant to  
38 chapter 5.50 RCW stating that the person is a school nurse, school  
39 counselor, or homeless student liaison and that the minor patient  
40 meets the elements under (b)(i) of this subsection. The declaration

1 must also include written notice of the exemption from liability  
2 under (b)(ii) of this subsection.

3 (c) A health care provider may, but is not required to, rely on  
4 the representations or declaration of a person claiming to be a  
5 relative responsible for the care of the minor patient, under (a)(v)  
6 of this subsection, or a person claiming to be authorized to consent  
7 to the health care of the minor patient under (b) of this subsection,  
8 if the health care provider does not have actual notice of the  
9 falsity of any of the statements made by the person claiming to be a  
10 relative responsible for the health care of the minor patient, or  
11 person claiming to be authorized to consent to the health care of the  
12 minor patient.

13 (d) A health care facility or a health care provider may, in its  
14 discretion, require documentation of a person's claimed status as  
15 being a relative responsible for the health care of the minor  
16 patient, or a person claiming to be authorized to consent to the  
17 health care of the minor patient under (b) of this subsection.  
18 However, there is no obligation to require such documentation.

19 (e) The health care provider or health care facility where  
20 services are rendered shall be immune from suit in any action, civil  
21 or criminal, or from professional or other disciplinary action when  
22 such reliance is based on a declaration signed under penalty of  
23 perjury pursuant to chapter 5.50 RCW stating that the adult person is  
24 a relative responsible for the health care of the minor patient under  
25 (a)(v) of this subsection, or a person claiming to be authorized to  
26 consent to the health care of the minor patient under (b) of this  
27 subsection.

28 (3) For the purposes of this section, "health care," "health care  
29 provider," and "health care facility" shall be defined as established  
30 in RCW 70.02.010.

31 (4) A person who knowingly provides a false declaration under  
32 this section shall be subject to criminal penalties under chapter  
33 9A.72 RCW.

34 **Sec. 706.** RCW 9.35.005 and 2017 c 4 s 3 are each amended to read  
35 as follows:

36 The definitions in this section apply throughout this chapter  
37 unless the context clearly requires otherwise.

1 (1) "Financial information" means any of the following  
2 information identifiable to the individual that concerns the amount  
3 and conditions of an individual's assets, liabilities, or credit:

4 (a) Account numbers and balances;

5 (b) Transactional information concerning an account; and

6 (c) Codes, passwords, social security numbers, tax identification  
7 numbers, driver's license or permit numbers, state identicard numbers  
8 issued by the department of licensing, and other information held for  
9 the purpose of account access or transaction initiation.

10 (2) "Financial information repository" means a person engaged in  
11 the business of providing services to customers who have a credit,  
12 deposit, trust, stock, or other financial account or relationship  
13 with the person.

14 (3) "Means of identification" means information or an item that  
15 is not describing finances or credit but is personal to or  
16 identifiable with an individual or other person, including: A current  
17 or former name of the person, telephone number, an electronic  
18 address, or identifier of the individual or a member of his or her  
19 family, including the ancestor of the person; information relating to  
20 a change in name, address, telephone number, or electronic address or  
21 identifier of the individual or his or her family; a social security,  
22 driver's license, or tax identification number of the individual or a  
23 member of his or her family; and other information that could be used  
24 to identify the person, including unique biometric data.

25 (4) "Person" means a person as defined in RCW 9A.04.110.

26 (5) "Senior" means a person over the age of sixty-five.

27 (6) "Victim" means a person whose means of identification or  
28 financial information has been used or transferred with the intent to  
29 commit, or to aid or abet, any unlawful activity.

30 (7) "Vulnerable individual" means a person:

31 (~~(i)~~ [(a)]) (a) Sixty years of age or older who has the  
32 functional, mental, or physical inability to care for himself or  
33 herself;

34 (~~(ii)~~ [(b)] ~~Found incapacitated under chapter 11.88~~) (b) Who  
35 has been placed under a guardianship under RCW 11.130.265 or has been  
36 placed under a conservatorship under RCW 11.130.360 RCW;

37 (~~(iii)~~ [(c)]) (c) Who has a developmental disability as defined  
38 under RCW 71A.10.020;

39 (~~(iv)~~ [(d)]) (d) Admitted to any facility;

1       (~~(v)~~—~~(e)~~) (e) Receiving services from home health, hospice,  
2 or home care agencies licensed or required to be licensed under  
3 chapter 70.127 RCW;

4       (~~(vi)~~—~~(f)~~) (f) Receiving services from an individual provider  
5 as defined in RCW 74.39A.240; or

6       (~~(vii)~~—~~(g)~~) (g) Who self-directs his or her own care and  
7 receives services from a personal aide under chapter 74.39 RCW.

8       **Sec. 707.** RCW 9A.44.010 and 2007 c 20 s 3 are each amended to  
9 read as follows:

10       As used in this chapter:

11       (1) "Sexual intercourse" (a) has its ordinary meaning and occurs  
12 upon any penetration, however slight, and

13       (b) Also means any penetration of the vagina or anus however  
14 slight, by an object, when committed on one person by another,  
15 whether such persons are of the same or opposite sex, except when  
16 such penetration is accomplished for medically recognized treatment  
17 or diagnostic purposes, and

18       (c) Also means any act of sexual contact between persons  
19 involving the sex organs of one person and the mouth or anus of  
20 another whether such persons are of the same or opposite sex.

21       (2) "Sexual contact" means any touching of the sexual or other  
22 intimate parts of a person done for the purpose of gratifying sexual  
23 desire of either party or a third party.

24       (3) "Married" means one who is legally married to another, but  
25 does not include a person who is living separate and apart from his  
26 or her spouse and who has filed in an appropriate court for legal  
27 separation or for dissolution of his or her marriage.

28       (4) "Mental incapacity" is that condition existing at the time of  
29 the offense which prevents a person from understanding the nature or  
30 consequences of the act of sexual intercourse whether that condition  
31 is produced by illness, defect, the influence of a substance or from  
32 some other cause.

33       (5) "Physically helpless" means a person who is unconscious or  
34 for any other reason is physically unable to communicate  
35 unwillingness to an act.

36       (6) "Forcible compulsion" means physical force which overcomes  
37 resistance, or a threat, express or implied, that places a person in  
38 fear of death or physical injury to herself or himself or another

1 person, or in fear that she or he or another person will be  
2 kidnapped.

3 (7) "Consent" means that at the time of the act of sexual  
4 intercourse or sexual contact there are actual words or conduct  
5 indicating freely given agreement to have sexual intercourse or  
6 sexual contact.

7 (8) "Significant relationship" means a situation in which the  
8 perpetrator is:

9 (a) A person who undertakes the responsibility, professionally or  
10 voluntarily, to provide education, health, welfare, or organized  
11 recreational activities principally for minors;

12 (b) A person who in the course of his or her employment  
13 supervises minors; or

14 (c) A person who provides welfare, health or residential  
15 assistance, personal care, or organized recreational activities to  
16 frail elders or vulnerable adults, including a provider, employee,  
17 temporary employee, volunteer, or independent contractor who supplies  
18 services to long-term care facilities licensed or required to be  
19 licensed under chapter 18.20, 18.51, 72.36, or 70.128 RCW, and home  
20 health, hospice, or home care agencies licensed or required to be  
21 licensed under chapter 70.127 RCW, but not including a consensual  
22 sexual partner.

23 (9) "Abuse of a supervisory position" means:

24 (a) To use a direct or indirect threat or promise to exercise  
25 authority to the detriment or benefit of a minor; or

26 (b) To exploit a significant relationship in order to obtain the  
27 consent of a minor.

28 (10) "Person with a developmental disability," for purposes of  
29 RCW 9A.44.050(1)(c) and 9A.44.100(1)(c), means a person with a  
30 developmental disability as defined in RCW 71A.10.020.

31 (11) "Person with supervisory authority," for purposes of RCW  
32 9A.44.050(1)(c) or (e) and 9A.44.100(1)(c) or (e), means any  
33 proprietor or employee of any public or private care or treatment  
34 facility who directly supervises developmentally disabled, mentally  
35 disordered, or chemically dependent persons at the facility.

36 (12) "Person with a mental disorder" for the purposes of RCW  
37 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person with a "mental  
38 disorder" as defined in RCW 71.05.020.

1 (13) "Person with a chemical dependency" for purposes of RCW  
2 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person who is "chemically  
3 dependent" as defined in RCW 70.96A.020(~~(4)~~).

4 (14) "Health care provider" for purposes of RCW 9A.44.050 and  
5 9A.44.100 means a person who is, holds himself or herself out to be,  
6 or provides services as if he or she were: (a) A member of a health  
7 care profession under chapter 18.130 RCW; or (b) registered under  
8 chapter 18.19 RCW or licensed under chapter 18.225 RCW, regardless of  
9 whether the health care provider is licensed, certified, or  
10 registered by the state.

11 (15) "Treatment" for purposes of RCW 9A.44.050 and 9A.44.100  
12 means the active delivery of professional services by a health care  
13 provider which the health care provider holds himself or herself out  
14 to be qualified to provide.

15 (16) "Frail elder or vulnerable adult" means a person sixty years  
16 of age or older who has the functional, mental, or physical inability  
17 to care for himself or herself. "Frail elder or vulnerable adult"  
18 also includes a person (~~found incapacitated under chapter 11.88~~  
19 RCW) who has been placed under a guardianship under RCW 11.130.265  
20 or a conservatorship under RCW 11.130.360, a person over eighteen  
21 years of age who has a developmental disability under chapter 71A.10  
22 RCW, a person admitted to a long-term care facility that is licensed  
23 or required to be licensed under chapter 18.20, 18.51, 72.36, or  
24 70.128 RCW, and a person receiving services from a home health,  
25 hospice, or home care agency licensed or required to be licensed  
26 under chapter 70.127 RCW.

27 **Sec. 708.** RCW 11.02.005 and 2018 c 22 s 6 are each amended to  
28 read as follows:

29 When used in this title, unless otherwise required from the  
30 context:

31 (1) "Administrator" means a personal representative of the estate  
32 of a decedent and the term may be used in lieu of "personal  
33 representative" wherever required by context.

34 (2) "Codicil" means a will that modifies or partially revokes an  
35 existing earlier will. A codicil need not refer to or be attached to  
36 the earlier will.

37 (3) "Degree of kinship" means the degree of kinship as computed  
38 according to the rules of the civil law; that is, by counting upward  
39 from the intestate to the nearest common ancestor and then downward

1 to the relative, the degree of kinship being the sum of these two  
2 counts.

3 (4) "Executor" means a personal representative of the estate of a  
4 decedent appointed by will and the term may be used in lieu of  
5 "personal representative" wherever required by context.

6 (5) "Guardian," ~~((or))~~ "limited guardian," "conservator," or  
7 "limited conservator" means a personal representative of the person  
8 or estate of ~~((an incompetent or disabled))~~ a person ((as defined in  
9 RCW 11.88.010)) who has been placed under a guardianship under RCW  
10 11.130.265 or who has been placed under a conservatorship under RCW  
11 11.130.360 and the term may be used in lieu of "personal  
12 representative" wherever required by context.

13 (6) "Heirs" denotes those persons, including the surviving spouse  
14 or surviving domestic partner, who are entitled under the statutes of  
15 intestate succession to the real and personal property of a decedent  
16 on the decedent's death intestate.

17 (7) "Internal revenue code" means the United States internal  
18 revenue code of 1986, as amended or renumbered as of January 1, 2001.

19 (8) "Issue" means all the lineal descendants of an individual. An  
20 adopted individual is a lineal descendant of each of his or her  
21 adoptive parents and of all individuals with regard to which each  
22 adoptive parent is a lineal descendant. A child conceived prior to  
23 the death of a parent but born after the death of the deceased parent  
24 is considered to be the surviving issue of the deceased parent for  
25 purposes of this title.

26 (9) "Net estate" refers to the real and personal property of a  
27 decedent exclusive of homestead rights, exempt property, the family  
28 allowance and enforceable claims against, and debts of, the deceased  
29 or the estate.

30 (10) "Nonprobate asset" means those rights and interests of a  
31 person having beneficial ownership of an asset that pass on the  
32 person's death under a written instrument or arrangement other than  
33 the person's will. "Nonprobate asset" includes, but is not limited  
34 to, a right or interest passing under a joint tenancy with right of  
35 survivorship, joint bank account with right of survivorship, transfer  
36 on death deed, payable on death or trust bank account, transfer on  
37 death security or security account, deed or conveyance if possession  
38 has been postponed until the death of the person, trust of which the  
39 person is grantor and that becomes effective or irrevocable only upon  
40 the person's death, community property agreement, individual

1 retirement account or bond, or note or other contract the payment or  
2 performance of which is affected by the death of the person.  
3 "Nonprobate asset" does not include: A payable-on-death provision of  
4 a life insurance policy, annuity, or other similar contract, or of an  
5 employee benefit plan; a right or interest passing by descent and  
6 distribution under chapter 11.04 RCW; a right or interest if, before  
7 death, the person has irrevocably transferred the right or interest,  
8 the person has waived the power to transfer it or, in the case of  
9 contractual arrangement, the person has waived the unilateral right  
10 to rescind or modify the arrangement; or a right or interest held by  
11 the person solely in a fiduciary capacity. For the definition of  
12 "nonprobate asset" relating to revocation of a provision for a former  
13 spouse upon dissolution of marriage or declaration of invalidity of  
14 marriage, RCW 11.07.010(5) applies. For the definition of "nonprobate  
15 asset" relating to testamentary disposition of nonprobate assets, see  
16 RCW 11.11.010(7).

17 (11) "Personal representative" includes executor, administrator,  
18 special administrator, and (~~(guardian)~~) conservator or limited  
19 (~~(guardian)~~) conservator and special representative.

20 (12) "Real estate" includes, except as otherwise specifically  
21 provided herein, all lands, tenements, and hereditaments, and all  
22 rights thereto, and all interest therein possessed and claimed in fee  
23 simple, or for the life of a third person.

24 (13) "Representation" refers to a method of determining  
25 distribution in which the takers are in unequal degrees of kinship  
26 with respect to a decedent, and is accomplished as follows: After  
27 first determining who, of those entitled to share in the estate, are  
28 in the nearest degree of kinship, the estate is divided into equal  
29 shares, the number of shares being the sum of the number of persons  
30 who survive the decedent who are in the nearest degree of kinship and  
31 the number of persons in the same degree of kinship who died before  
32 the decedent but who left issue surviving the decedent; each share of  
33 a deceased person in the nearest degree must be divided among those  
34 of the deceased person's issue who survive the decedent and have no  
35 ancestor then living who is in the line of relationship between them  
36 and the decedent, those more remote in degree taking together the  
37 share which their ancestor would have taken had he or she survived  
38 the decedent.

39 (14) References to "section 2033A" of the internal revenue code  
40 in wills, trust agreements, powers of appointment, beneficiary

1 designations, and other instruments governed by or subject to this  
2 title are deemed to refer to the comparable or corresponding  
3 provisions of section 2057 of the internal revenue code, as added by  
4 section 6006(b) of the internal revenue service restructuring act of  
5 1998 (H.R. 2676, P.L. 105-206); and references to the section 2033A  
6 "exclusion" are deemed to mean the section 2057 deduction.

7 (15) "Settlor" has the same meaning as provided for "trustor" in  
8 this section.

9 (16) "Special administrator" means a personal representative of  
10 the estate of a decedent appointed for limited purposes and the term  
11 may be used in lieu of "personal representative" wherever required by  
12 context.

13 (17) "Surviving spouse" or "surviving domestic partner" does not  
14 include an individual whose marriage to or state registered domestic  
15 partnership with the decedent has been terminated, dissolved, or  
16 invalidated unless, by virtue of a subsequent marriage or state  
17 registered domestic partnership, he or she is married to or in a  
18 domestic partnership with the decedent at the time of death. A decree  
19 of separation that does not terminate the status of spouses or  
20 domestic partners is not a dissolution or invalidation for purposes  
21 of this subsection.

22 (18) "Trustee" means an original, added, or successor trustee and  
23 includes the state, or any agency thereof, when it is acting as the  
24 trustee of a trust to which chapter 11.98 RCW applies.

25 (19) "Trustor" means a person, including a testator, who creates,  
26 or contributes property to, a trust.

27 (20) "Will" means an instrument validly executed as required by  
28 RCW 11.12.020.

29 Words that import the singular number may also be applied to the  
30 plural of persons and things.

31 Words importing the masculine gender only may be extended to  
32 females also.

33 **Sec. 709.** RCW 11.28.185 and 2008 c 6 s 915 are each amended to  
34 read as follows:

35 When the terms of the decedent's will manifest an intent that the  
36 personal representative appointed to administer the estate shall not  
37 be required to furnish bond or other security, or when the personal  
38 representative is the surviving spouse or surviving domestic partner  
39 of the decedent and it appears to the court that the entire estate,

1 after provision for expenses and claims of creditors, will be  
2 distributable to such spouse or surviving domestic partner, then such  
3 personal representative shall not be required to give bond or other  
4 security as a condition of appointment. In all cases where a bank or  
5 trust company authorized to act as personal representative is  
6 appointed as personal representative, no bond shall be required. In  
7 all other cases, unless waived by the court, the personal  
8 representative shall give such bond or other security, in such amount  
9 and with such surety or sureties, as the court may direct.

10 Every person required to furnish bond must, before receiving  
11 letters testamentary or of administration, execute a bond to the  
12 state of Washington conditioned that the personal representative  
13 shall faithfully execute the duty of the trust according to law.

14 The court may at any time after appointment of the personal  
15 representative require said personal representative to give a bond or  
16 additional bond, the same to be conditioned and to be approved as  
17 provided in this section; or the court may allow a reduction of the  
18 bond upon a proper showing.

19 In lieu of bond, the court may in its discretion, substitute  
20 other security or financial arrangements, such as provided under RCW  
21 (~~11.88.105~~) 11.130.445, or as the court may deem adequate to  
22 protect the assets of the estate.

23 **Sec. 710.** RCW 11.76.080 and 2008 c 6 s 806 are each amended to  
24 read as follows:

25 If there be any alleged incapacitated person (~~as defined in RCW~~  
26 ~~11.88.010~~) interested in the estate who has no legally appointed  
27 (~~guardian or limited guardian~~) conservator or limited conservator  
28 under RCW 11.130.360, the court:

29 (1) At any stage of the proceeding in its discretion and for such  
30 purpose or purposes as it shall indicate, may appoint; and

31 (2) For hearings held under RCW 11.54.010, 11.68.041, 11.68.100,  
32 and 11.76.050 or for entry of an order adjudicating testacy or  
33 intestacy and heirship when no personal representative is appointed  
34 to administer the estate of the decedent, shall appoint some  
35 disinterested person as guardian ad litem to represent the allegedly  
36 incapacitated person with reference to any petition, proceeding  
37 report, or adjudication of testacy or intestacy without the  
38 appointment of a personal representative to administer the estate of  
39 decedent in which the alleged incapacitated person may have an

1 interest, who, on behalf of the alleged incapacitated person, may  
2 contest the same as any other person interested might contest it, and  
3 who shall be allowed by the court reasonable compensation for his or  
4 her services: PROVIDED, HOWEVER, That where a surviving spouse or  
5 surviving domestic partner is the sole beneficiary under the terms of  
6 a will, the court may grant a motion by the personal representative  
7 to waive the appointment of a guardian ad litem for a person who is  
8 the minor child of the surviving spouse or surviving domestic partner  
9 and the decedent and who is incapacitated solely for the reason of  
10 his or her being under eighteen years of age.

11 **Sec. 711.** RCW 11.86.021 and 2016 c 209 s 402 are each amended to  
12 read as follows:

13 (1) A beneficiary may disclaim an interest in whole or in part,  
14 or with reference to specific parts, shares or assets, in the manner  
15 provided in RCW 11.86.031.

16 (2) Likewise, a beneficiary may so disclaim through an agent or  
17 attorney so authorized by written instrument.

18 (3) A personal representative, guardian, attorney-in-fact if  
19 authorized under a durable power of attorney under chapter 11.125  
20 RCW, or other legal representative of the estate of a minor,  
21 incompetent, or deceased beneficiary, may so disclaim on behalf of  
22 the beneficiary, with or without court order, if:

23 (a) The legal representative deems the disclaimer to be in the  
24 best interests of those interested in the estate of the beneficiary  
25 and of those who take the disclaimed interest because of the  
26 disclaimer, and not detrimental to the best interests of the  
27 beneficiary; and

28 (b) In the case of a (~~guardian~~) conservatorship, no order has  
29 been issued under (~~RCW 11.92.140~~) RCW 11.130.435 determining that  
30 the disclaimer is not in the best interests of the beneficiary.

31 **Sec. 712.** RCW 11.90.210 and 2009 c 81 s 8 are each amended to  
32 read as follows:

33 This chapter provides the exclusive jurisdictional basis for a  
34 court of this state to appoint a guardian or issue a protective order  
35 for an adult under (~~chapters 11.88 and 11.92~~) chapter 11.130 RCW.

36 **Sec. 713.** RCW 11.96A.050 and 2013 c 272 s 3 are each amended to  
37 read as follows:

1 (1) Venue for proceedings pertaining to trusts is:

2 (a) For testamentary trusts established under wills probated in  
3 the state of Washington, in the superior court of the county where  
4 the probate of the will is being administered or was completed or, in  
5 the alternative, the superior court of the county where any qualified  
6 beneficiary of the trust as defined in RCW 11.98.002 resides, the  
7 county where any trustee resides or has a place of business, or the  
8 county where any real property that is an asset of the trust is  
9 located; and

10 (b) For all other trusts, in the superior court of the county  
11 where any qualified beneficiary of the trust as defined in RCW  
12 11.98.002 resides, the county where any trustee resides or has a  
13 place of business, or the county where any real property that is an  
14 asset of the trust is located. If no county has venue for proceedings  
15 pertaining to a trust under the preceding sentence, then in any  
16 county.

17 (2) A party to a proceeding pertaining to a trust may request  
18 that venue be changed. If the request is made within four months of  
19 the giving of the first notice of a proceeding pertaining to the  
20 trust, except for good cause shown, venue must be moved to the county  
21 with the strongest connection to the trust as determined by the  
22 court, considering such factors as the residence of a qualified  
23 beneficiary of the trust as defined in RCW 11.98.002, the residence  
24 or place of business of a trustee, and the location of any real  
25 property that is an asset of the trust.

26 (3) Venue for proceedings subject to chapter (~~11.88 or 11.92~~)  
27 11.130 RCW must be determined under the provisions of those chapters.

28 (4) Venue for proceedings pertaining to the probate of wills, the  
29 administration and disposition of a decedent's property, including  
30 nonprobate assets, and any other matter not identified in subsection  
31 (1), (2), or (3) of this section, must be in any county in the state  
32 of Washington that the petitioner selects. A party to a proceeding  
33 may request that venue be changed if the request is made within four  
34 months of the mailing of the notice of appointment and pendency of  
35 probate required by RCW 11.28.237, and except for good cause shown,  
36 venue must be moved as follows:

37 (a) If the decedent was a resident of the state of Washington at  
38 the time of death, to the county of the decedent's residence; or

39 (b) If the decedent was not a resident of the state of Washington  
40 at the time of death, to any of the following:

- 1 (i) Any county in which any part of the probate estate might be;  
2 (ii) If there are no probate assets, any county where any  
3 nonprobate asset might be; or  
4 (iii) The county in which the decedent died.

5 (5) Once letters testamentary or of administration have been  
6 granted in the state of Washington, all orders, settlements, trials,  
7 and other proceedings under this title must be had or made in the  
8 county in which such letters have been granted unless venue is moved  
9 as provided in subsection (4) of this section.

10 (6) Venue for proceedings pertaining to powers of attorney must  
11 be in the superior court of the county of the principal's residence,  
12 except for good cause shown.

13 (7) If venue is moved, an action taken before venue is changed is  
14 not invalid because of the venue.

15 (8) Any request to change venue that is made more than four  
16 months after the commencement of the action may be granted in the  
17 discretion of the court.

18 **Sec. 714.** RCW 11.96A.080 and 1999 c 42 s 301 are each amended to  
19 read as follows:

20 (1) Subject to the provisions of RCW 11.96A.260 through  
21 11.96A.320, any party may have a judicial proceeding for the  
22 declaration of rights or legal relations with respect to any matter,  
23 as defined by RCW 11.96A.030; the resolution of any other case or  
24 controversy that arises under the Revised Code of Washington and  
25 references judicial proceedings under this title; or the  
26 determination of the persons entitled to notice under RCW 11.96A.110  
27 or 11.96A.120.

28 (2) The provisions of this chapter apply to disputes arising in  
29 connection with estates of (~~incapacitated persons~~) individuals  
30 subject to conservatorship under RCW 11.130.360 unless otherwise  
31 covered by (~~chapters 11.88 and 11.92~~) chapter 11.130 RCW. The  
32 provisions of this chapter shall not supersede, but shall supplement,  
33 any otherwise applicable provisions and procedures contained in this  
34 title, including without limitation those contained in chapter 11.20,  
35 11.24, 11.28, 11.40, 11.42, or 11.56 RCW. The provisions of this  
36 chapter shall not apply to actions for wrongful death under chapter  
37 4.20 RCW.

1       **Sec. 715.** RCW 11.96A.120 and 2013 c 272 s 5 are each amended to  
2 read as follows:

3       (1) Notice to a person who may represent and bind another person  
4 under this section has the same effect as if notice were given  
5 directly to the other person.

6       (2) The consent of a person who may represent and bind another  
7 person under this section is binding on the person represented unless  
8 the person represented objects to the representation before the  
9 consent would otherwise have become effective.

10       (3) The following limitations on the ability to serve as a  
11 virtual representative apply:

12       (a) A trustor may not represent and bind a beneficiary under this  
13 section with respect to the termination and modification of an  
14 irrevocable trust; and

15       (b) Representation of an incapacitated trustor with respect to  
16 his or her powers over a trust is subject to the provisions of RCW  
17 11.103.030, and chapters 11.96A(~~(, 11.88, and 11.92)~~) and 11.130 RCW.

18       (4) To the extent there is no conflict of interest between the  
19 representative and the person represented or among those being  
20 represented with respect to the particular question or dispute:

21       (a) A guardian may represent and bind the estate that the  
22 guardian controls, subject to chapters 11.96A(~~(, 11.88, and 11.92)~~)  
23 and 11.130 RCW;

24       (b) A guardian of the person may represent and bind the  
25 incapacitated person if a guardian of the incapacitated person's  
26 estate has not been appointed;

27       (c) An agent having authority to act with respect to the  
28 particular question or dispute may represent and bind the principal;

29       (d) A trustee may represent and bind the beneficiaries of the  
30 trust;

31       (e) A personal representative of a decedent's estate may  
32 represent and bind persons interested in the estate; and

33       (f) A parent may represent and bind the parent's minor or unborn  
34 child or children if a guardian for the child or children has not  
35 been appointed.

36       (5) Unless otherwise represented, a minor, incapacitated, or  
37 unborn individual, or a person whose identity or location is unknown  
38 and not reasonably ascertainable, may be represented by and bound by  
39 another having a substantially identical interest with respect to the  
40 particular question or dispute, but only to the extent there is no

1 conflict of interest between the representative and the person  
2 represented with regard to the particular question or dispute.

3 (6) Where an interest has been given to persons who comprise a  
4 certain class upon the happening of a certain event, the living  
5 persons who would constitute the class as of the date the  
6 representation is to be determined may virtually represent all other  
7 members of the class as of that date, but only to the extent that  
8 there is no conflict of interest between the representative and the  
9 person(s) represented with regard to the particular question or  
10 dispute.

11 (7) Where an interest has been given to a living person, and the  
12 same interest, or a share in it, is to pass to the surviving spouse  
13 or surviving domestic partner or to persons who are, or might be, the  
14 heirs, issue, or other kindred of that living person or the  
15 distributees of the estate of that living person upon the happening  
16 of a future event, that living person may virtually represent the  
17 surviving spouse or surviving domestic partner, heirs, issue, or  
18 other kindred of the person, and the distributees of the estate of  
19 the person, but only to the extent that there is no conflict of  
20 interest between the representative and the person(s) represented  
21 with regard to the particular question or dispute.

22 (8) Except as otherwise provided in subsection (7) of this  
23 section, where an interest has been given to a person or a class of  
24 persons, or both, upon the happening of any future event, and the  
25 same interest or a share of the interest is to pass to another person  
26 or class of persons, or both, upon the happening of an additional  
27 future event, the living person or persons who would take the  
28 interest upon the happening of the first event may virtually  
29 represent the persons and classes of persons who might take on the  
30 happening of the additional future event, but only to the extent that  
31 there is no conflict of interest between the representative and the  
32 person(s) represented with regard to the particular question or  
33 dispute.

34 (9) To the extent there is no conflict of interest between the  
35 holder of the power of appointment and the persons represented with  
36 respect to the particular question or dispute, the holder of a  
37 lifetime or testamentary power of appointment may virtually represent  
38 and bind persons who are permissible appointees or takers in default  
39 (but only to the extent that they are permissible appointees in the

1 case of a limited power of appointment) under the power, and who are  
2 not permissible distributees as defined in RCW 11.98.002.

3 (10) The attorney general may virtually represent and bind a  
4 charitable organization if:

5 (a) The charitable organization is not a qualified beneficiary as  
6 defined in RCW 11.98.002 specified in the trust instrument or acting  
7 as trustee; or

8 (b) The charitable organization is a qualified beneficiary, but  
9 is not a permissible distributee, as those terms are defined in RCW  
10 11.98.002, and its beneficial interest in the trust is subject to  
11 change by the trustor or by a person designated by the trustor.

12 (11) An action taken by the court is conclusive and binding upon  
13 each person receiving actual or constructive notice or who is  
14 otherwise represented under this section.

15 (12) This section is intended to adopt the common law concept of  
16 virtual representation. This section supplements the common law  
17 relating to the doctrine of virtual representation and may not be  
18 construed as limiting the application of that common law doctrine.

19 **Sec. 716.** RCW 11.96A.130 and 1999 c 42 s 306 are each amended to  
20 read as follows:

21 Nothing in this chapter eliminates the requirement to give notice  
22 to a person who has requested special notice under RCW 11.28.240 or  
23 (~~11.92.150~~) notice under RCW 11.130.080.

24 **Sec. 717.** RCW 11.96A.150 and 2007 c 475 s 5 are each amended to  
25 read as follows:

26 (1) Either the superior court or any court on an appeal may, in  
27 its discretion, order costs, including reasonable attorneys' fees, to  
28 be awarded to any party: (a) From any party to the proceedings; (b)  
29 from the assets of the estate or trust involved in the proceedings;  
30 or (c) from any nonprobate asset that is the subject of the  
31 proceedings. The court may order the costs, including reasonable  
32 attorneys' fees, to be paid in such amount and in such manner as the  
33 court determines to be equitable. In exercising its discretion under  
34 this section, the court may consider any and all factors that it  
35 deems to be relevant and appropriate, which factors may but need not  
36 include whether the litigation benefits the estate or trust involved.

37 (2) This section applies to all proceedings governed by this  
38 title, including but not limited to proceedings involving trusts,

1 decedent's estates and properties, and guardianship matters. This  
2 section shall not be construed as being limited by any other specific  
3 statutory provision providing for the payment of costs, including RCW  
4 11.68.070 and 11.24.050, unless such statute specifically provides  
5 otherwise. This section shall apply to matters involving guardians  
6 and guardians ad litem (~~and shall not be limited or controlled by~~  
7 ~~the provisions of RCW 11.88.090(10)~~).

8       **Sec. 718.** RCW 11.96A.220 and 1999 c 42 s 402 are each amended to  
9 read as follows:

10       RCW 11.96A.210 through 11.96A.250 shall be applicable to the  
11 resolution of any matter, as defined by RCW 11.96A.030, other than  
12 matters subject to chapter (~~11.88 or 11.92~~) 11.130 RCW, or a trust  
13 for a minor or other incapacitated person created at its inception by  
14 the judgment or decree of a court unless the judgment or decree  
15 provides that RCW 11.96A.210 through 11.96A.250 shall be applicable.  
16 If all parties agree to a resolution of any such matter, then the  
17 agreement shall be evidenced by a written agreement signed by all  
18 parties. Subject to the provisions of RCW 11.96A.240, the written  
19 agreement shall be binding and conclusive on all persons interested  
20 in the estate or trust. The agreement shall identify the subject  
21 matter of the dispute and the parties. If the agreement or a  
22 memorandum of the agreement is to be filed with the court under RCW  
23 11.96A.230, the agreement may, but need not, include provisions  
24 specifically addressing jurisdiction, governing law, the waiver of  
25 notice of the filing as provided in RCW 11.96A.230, and the discharge  
26 of any special representative who has acted with respect to the  
27 agreement.

28       If a party who virtually represents another under RCW 11.96A.120  
29 signs the agreement, then the party's signature constitutes the  
30 signature of all persons whom the party virtually represents, and all  
31 the virtually represented persons shall be bound by the agreement.

32       **Sec. 719.** RCW 11.103.030 and 2016 c 209 s 404 are each amended  
33 to read as follows:

34       (1) Unless the terms of a trust expressly provide that the trust  
35 is revocable, the trustor may not revoke or amend the trust.

36       (2) If a revocable trust is created or funded by more than one  
37 trustor and unless the trust agreement provides otherwise:

1 (a) To the extent the trust consists of community property, the  
2 trust may be revoked by either spouse or either domestic partner  
3 acting alone but may be amended only by joint action of both spouses  
4 or both domestic partners;

5 (b) To the extent the trust consists of property other than  
6 community property, each trustor may revoke or amend the trust with  
7 regard to the portion of the trust property attributable to that  
8 trustor's contribution;

9 (c) The character of community property or separate property is  
10 unaffected by its transfer to and from a revocable trust; and

11 (d) Upon the revocation or amendment of the trust by fewer than  
12 all of the trustors, the trustee must promptly notify the other  
13 trustors of the revocation or amendment.

14 (3) The trustor may revoke or amend a revocable trust:

15 (a) By substantial compliance with a method provided in the terms  
16 of the trust; or

17 (b) (i) If the terms of the trust do not provide a method or the  
18 method provided in the terms is not expressly made exclusive, by:

19 (A) A later will or codicil that expressly refers to the trust or  
20 specifically devises property that would otherwise have passed  
21 according to the terms of the trust; or

22 (B) A written instrument signed by the trustor evidencing intent  
23 to revoke or amend.

24 (ii) The requirements of chapter 11.11 RCW do not apply to  
25 revocation or amendment of a revocable trust under (b) (i) of this  
26 subsection.

27 (4) Upon revocation of a revocable trust, the trustee must  
28 deliver the trust property as the trustor directs.

29 (5) A trustor's powers with respect to the revocation or  
30 amendment of a trust or distribution of the property of a trust may  
31 be exercised by the trustor's agent under a power of attorney only to  
32 the extent specified in the power of attorney document, as provided  
33 in RCW 11.125.240 and to the extent consistent with or expressly  
34 authorized by the trust agreement.

35 (6) A (~~guardian~~) conservator of the trustor may exercise a  
36 trustor's powers with respect to revocation, amendment, or  
37 distribution of trust property only with the approval of the court  
38 supervising the guardianship pursuant to (~~RCW 11.92.140~~) chapter  
39 11.130 RCW.

1 (7) A trustee who does not know that a trust has been revoked or  
2 amended is not liable to the trustor or trustor's successors in  
3 interest for distributions made and other actions taken on the  
4 assumption that the trust had not been amended or revoked.

5 (8) This section does not limit or affect operation of RCW  
6 11.96A.220 through 11.96A.240.

7 **Sec. 720.** RCW 11.107.060 and 2017 c 29 s 6 are each amended to  
8 read as follows:

9 (1) The definitions in this subsection apply throughout this  
10 section unless the context clearly requires otherwise.

11 (a) "Beneficiary with a disability" means a beneficiary of the  
12 first trust who the trustee believes may qualify for governmental  
13 benefits based on disability, whether or not the beneficiary  
14 currently receives those benefits or is an individual who (~~is~~  
15 ~~incapacitated within the meaning of RCW 11.88.010~~) has been placed  
16 under a guardianship or conservatorship under chapter 11.130 RCW.

17 (b) "Governmental benefits" means financial aid or services from  
18 a state, federal, or other public agency.

19 (c) "Special needs trust" means a trust the trustee believes  
20 would not be considered a resource for purposes of determining  
21 whether the beneficiary with a disability is eligible for  
22 governmental benefits.

23 (2) A trustee may exercise the decanting power under RCW  
24 11.107.020 and 11.107.030 over the property of the first trust as if  
25 the trustee had authority to distribute principal to a beneficiary  
26 with a disability subject to expanded discretion if:

27 (a) The second trust is a special needs trust that benefits the  
28 beneficiary with a disability; and

29 (b) The trustee determines that exercise of the decanting power  
30 will further the purposes of the first trust.

31 (3) In an exercise of the decanting power under this section, the  
32 following rules apply:

33 (a) The provisions of the second trust for a beneficiary with a  
34 disability may:

35 (i) Meet the medicaid law requirements for an account in a pooled  
36 trust for a beneficiary with a disability under 42 U.S.C. Sec.  
37 1369p(d)(4)(C), as amended, including requiring a payback to the  
38 state of medicaid expenditures of funds not retained by the pooled  
39 trust; or

1 (ii) Meet the medicaid law requirements for a trust for the sole  
2 benefit of a beneficiary with a disability under age sixty-five under  
3 42 U.S.C. Sec. 1369(d)(4)(A), as amended, including requiring a  
4 payback to the state of medicaid expenditures.

5 (b) RCW 11.107.020(1)(a)(iii) does not apply to the interests of  
6 the beneficiary with a disability.

7 (c) Except as affected by any change to the interests of the  
8 beneficiary with a disability, the second trusts, in the aggregate,  
9 must grant each other beneficiary of the first trust beneficial  
10 interests in the second trusts which are substantially similar to the  
11 beneficiary's beneficial interests in the first trust unless  
12 inconsistent with (a)(i) or (ii) of this subsection (3).

13 **Sec. 721.** RCW 11.120.140 and 2016 c 140 s 14 are each amended to  
14 read as follows:

15 (1) Unless otherwise ordered by the court, a guardian or  
16 conservator appointed (~~(due to a finding of incapacity under RCW~~  
17 ~~11.88.010(1))~~) under chapter 11.130 RCW has the right to access an  
18 incapacitated person's digital assets other than the content of  
19 electronic communications.

20 (2) Unless otherwise ordered by the court or directed by the  
21 user, a custodian shall disclose to a guardian the catalogue of  
22 electronic communications sent or received by an incapacitated person  
23 and any digital assets, other than the content of electronic  
24 communications, if the guardian gives the custodian:

25 (a) A written request for disclosure in physical or electronic  
26 form;

27 (b) Certified copies of letters of guardianship and the court  
28 order appointing the guardian; and

29 (c) If requested by the custodian:

30 (i) A number, user name, address, or other unique subscriber or  
31 account identifier assigned by the custodian to identify the account  
32 of the person; or

33 (ii) Evidence linking the account to the incapacitated person.

34 (3) A guardian may request a custodian of the incapacitated  
35 person's digital assets to suspend or terminate an account of the  
36 incapacitated person for good cause. A request made under this  
37 section must be accompanied by certified copies of letters of  
38 guardianship and the court order appointing the guardian.

1       **Sec. 722.** RCW 11.125.400 and 2016 c 209 s 217 are each amended  
2 to read as follows:

3       Unless the power of attorney otherwise provides, where language  
4 in a power of attorney grants general authority with respect to  
5 health care matters:

6       (1) The agent shall be authorized to act as the principal's  
7 personal representative pursuant to the health insurance portability  
8 and accountability act, sections 1171 through 1179 of the social  
9 security act, 42 U.S.C. Sec. 1320d, as amended, and applicable  
10 regulations for all purposes thereunder, including but not limited to  
11 accessing and acquiring the principal's health care related  
12 information.

13       (2) The agent shall be authorized to provide informed consent for  
14 health care decisions on the principal's behalf. If a principal has  
15 appointed more than one agent with authority to make mental health  
16 treatment decisions in accordance with a directive under chapter  
17 71.32 RCW, to the extent of any conflict, the most recently appointed  
18 agent shall be treated as the principal's agent for mental health  
19 treatment decisions unless provided otherwise in either appointment.

20       (3) Unless he or she is the spouse, state registered domestic  
21 partner, father or mother, or adult child or brother or sister of the  
22 principal, none of the following persons may act as the agent for the  
23 principal: Any of the principal's physicians, the physicians'  
24 employees, or the owners, administrators, or employees of the health  
25 care facility or long-term care facility as defined in RCW 43.190.020  
26 where the principal resides or receives care. Except when the  
27 principal has consented in a mental health advance directive executed  
28 under chapter 71.32 RCW to inpatient admission or electroconvulsive  
29 therapy, this authorization is subject to the same limitations as  
30 those that apply to a guardian under (~~RCW 11.92.043(5) (a) through~~  
31 ~~(e) and 11.92.190~~) chapter 11.130 RCW.

32       **Sec. 723.** RCW 11.125.410 and 2016 c 209 s 218 are each amended  
33 to read as follows:

34       Unless the power of attorney otherwise provides, the following  
35 general provisions shall apply to any power of attorney making  
36 reference to the care of the principal's minor children:

37       (1) A parent or guardian, through a power of attorney, may  
38 authorize an agent to make health care decisions on behalf of one or  
39 more of his or her children, or children for whom he or she is the

1 legal guardian, who are under the age of majority as defined in RCW  
2 26.28.015, to be effective if the child has no other parent or legal  
3 representative readily available and authorized to give such consent.

4 (2) A principal may further nominate a guardian or guardians of  
5 the person, or of the estate or both, of a minor child, whether born  
6 at the time of making the durable power of attorney or afterwards, to  
7 continue during the disability of the principal, during the minority  
8 of the child or for any less time by including such a provision in  
9 his or her power of attorney.

10 (3) The authority of any guardian of the person of any minor  
11 child shall supersede the authority of a designated agent to make  
12 health care decisions for the minor only after such designated  
13 guardian has been appointed by the court.

14 (4) In the event a conflict between the provisions of a will  
15 nominating a testamentary guardian under (~~the authority of RCW~~  
16 ~~11.88.080~~) chapter 11.130 RCW and the nomination of a guardian under  
17 the authority of this statute, the most recent designation shall  
18 control.

19 **Sec. 724.** RCW 13.32A.160 and 2019 c 124 s 1 are each amended to  
20 read as follows:

21 (1) When a proper child in need of services petition to approve  
22 an out-of-home placement is filed under RCW 13.32A.120, 13.32A.140,  
23 or 13.32A.150 the juvenile court shall: (a)(i) Schedule a fact-  
24 finding hearing to be held: (A) For a child who resides in a place  
25 other than his or her parent's home and other than an out-of-home  
26 placement, within five calendar days unless the last calendar day is  
27 a Saturday, Sunday, or holiday, in which case the hearing shall be  
28 held on the preceding judicial day; or (B) for a child living at home  
29 or in an out-of-home placement, within ten days; and (ii) notify the  
30 parent, child, and the department of such date; (b) notify the parent  
31 of the right to be represented by counsel and, if indigent, to have  
32 counsel appointed for him or her by the court; (c) appoint legal  
33 counsel for the child; (d) inform the child and his or her parent of  
34 the legal consequences of the court approving or disapproving a child  
35 in need of services petition; (e) notify the parents of their rights  
36 under this chapter and chapters (~~11.88~~) 11.130, 13.34, and 71.34  
37 RCW, including the right to file an at-risk youth petition, the right  
38 to submit an application for admission of their child to a treatment  
39 facility for alcohol, chemical dependency, or mental health

1 treatment, and the right to file a guardianship petition; and (f)  
2 notify all parties, including the department, of their right to  
3 present evidence at the fact-finding hearing.

4 (2) Upon filing of a child in need of services petition, the  
5 child may be placed, if not already placed, by the department in a  
6 crisis residential center, HOPE center, foster family home, group  
7 home facility licensed under chapter 74.15 RCW, or any other suitable  
8 residence to be determined by the department. The court may place a  
9 child in a crisis residential center for a temporary out-of-home  
10 placement as long as the requirements of RCW 13.32A.125 are met.

11 (3) If the child has been placed in a foster family home or group  
12 care facility under chapter 74.15 RCW, the child shall remain there,  
13 or in any other suitable residence as determined by the department,  
14 pending resolution of the petition by the court. Any placement may be  
15 reviewed by the court within three judicial days upon the request of  
16 the juvenile or the juvenile's parent.

17 **Sec. 725.** RCW 13.34.270 and 2019 c 470 s 1 are each amended to  
18 read as follows:

19 (1) Whenever the department of social and health services places  
20 a child with a developmental disability in out-of-home care pursuant  
21 to RCW 74.13.350, the department shall obtain a judicial  
22 determination within one hundred eighty days of the placement that  
23 continued placement is in the best interests of the child. If the  
24 child's out-of-home placement ends before one hundred eighty days  
25 have elapsed, no judicial determination is required.

26 (2) To obtain the judicial determination, the department shall  
27 file a petition alleging that there is located or residing within the  
28 county a child who has a developmental disability and that the child  
29 has been placed in out-of-home care pursuant to RCW 74.13.350. The  
30 petition shall request that the court review the child's placement,  
31 make a determination whether continued placement is in the best  
32 interests of the child, and take other necessary action as provided  
33 in this section. The petition shall contain the name, date of birth,  
34 and residence of the child and the names and residences of the  
35 child's parent or legal guardian who has agreed to the child's  
36 placement in out-of-home care. Reasonable attempts shall be made by  
37 the department to ascertain and set forth in the petition the  
38 identity, location, and custodial status of any parent who is not a

1 party to the placement agreement and why that parent cannot assume  
2 custody of the child.

3 (3) Upon filing of the petition, the clerk of the court shall  
4 schedule the petition for a hearing to be held no later than fourteen  
5 calendar days after the petition has been filed. The department shall  
6 provide notification of the time, date, and purpose of the hearing to  
7 the parent or legal guardian who has agreed to the child's placement  
8 in out-of-home care. The department shall also make reasonable  
9 attempts to notify any parent who is not a party to the placement  
10 agreement, if the parent's identity and location is known.  
11 Notification under this section may be given by the most expedient  
12 means, including but not limited to, mail, personal service, and  
13 telephone.

14 (4) The court shall appoint a guardian ad litem for the child as  
15 provided in RCW 13.34.100, unless the court for good cause finds the  
16 appointment unnecessary.

17 (5) Permanency planning hearings shall be held as provided in  
18 this section. At the hearing, the court shall review whether the  
19 child's best interests are served by continued out-of-home placement  
20 and determine the future legal status of the child.

21 (a) For children age ten and under, a permanency planning hearing  
22 shall be held in all cases where the child has remained in out-of-  
23 home care for at least nine months and an adoption decree or  
24 guardianship order under chapter (~~11.88~~) 11.130 RCW has not  
25 previously been entered. The hearing shall take place no later than  
26 twelve months following commencement of the child's current placement  
27 episode.

28 (b) For children over age ten, a permanency planning hearing  
29 shall be held in all cases where the child has remained in out-of-  
30 home care for at least fifteen months and an adoption decree or  
31 guardianship order under chapter (~~11.88~~) 11.130 RCW has not  
32 previously been entered. The hearing shall take place no later than  
33 eighteen months following commencement of the current placement  
34 episode.

35 (c) No later than ten working days before the permanency planning  
36 hearing, the department shall submit a written permanency plan to the  
37 court and shall mail a copy of the plan to all parties. The plan  
38 shall be directed toward securing a safe, stable, and permanent home  
39 for the child as soon as possible. The plan shall identify one of the  
40 following outcomes as the primary goal and may also identify

1 additional outcomes as alternative goals: Return of the child to the  
2 home of the child's parent or legal guardian; adoption; guardianship;  
3 or long-term out-of-home care, until the child is age eighteen, with  
4 a written agreement between the parties and the child's care  
5 provider.

6 (d) If a goal of long-term out-of-home care has been achieved  
7 before the permanency planning hearing, the court shall review the  
8 child's status to determine whether the placement and the plan for  
9 the child's care remains appropriate. In cases where the primary  
10 permanency planning goal has not been achieved, the court shall  
11 inquire regarding the reasons why the primary goal has not been  
12 achieved and determine what needs to be done to make it possible to  
13 achieve the primary goal.

14 (e) Following the first permanency planning hearing, the court  
15 shall hold a further permanency planning hearing in accordance with  
16 this section at least once every twelve months until a permanency  
17 planning goal is achieved or the voluntary placement agreement is  
18 terminated.

19 (6) Any party to the voluntary placement agreement may terminate  
20 the agreement at any time. Upon termination of the agreement, the  
21 child shall be returned to the care of the child's parent or legal  
22 guardian, unless the child has been taken into custody pursuant to  
23 RCW 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW  
24 13.34.060, or placed in foster care pursuant to RCW 13.34.130. The  
25 department shall notify the court upon termination of the voluntary  
26 placement agreement and return of the child to the care of the  
27 child's parent or legal guardian. Whenever a voluntary placement  
28 agreement is terminated, an action under this section shall be  
29 dismissed.

30 (7) When state or federal funds are expended for the care and  
31 maintenance of a child with a developmental disability, placed in  
32 care as a result of an action under this chapter, the department  
33 shall refer the case to the division of child support, unless the  
34 department finds that there is good cause not to pursue collection of  
35 child support against the parent or parents of the child.

36 (8) This section does not prevent the department of children,  
37 youth, and families from filing a dependency petition if there is  
38 reason to believe that the child is a dependent child as defined in  
39 RCW 13.34.030. An action filed under this section shall be dismissed

1 upon the filing of a dependency petition regarding a child who is the  
2 subject of the action under this section.

3 (9) For purposes of this section, unless the context clearly  
4 requires otherwise, "department" means the department of social and  
5 health services.

6 **Sec. 726.** RCW 18.20.020 and 2012 c 10 s 2 are each reenacted and  
7 amended to read as follows:

8 The definitions in this section apply throughout this chapter  
9 unless the context clearly requires otherwise.

10 (1) "Adult day services" means care and services provided to a  
11 nonresident individual by the assisted living facility on the  
12 assisted living facility premises, for a period of time not to exceed  
13 ten continuous hours, and does not involve an overnight stay.

14 (2) "Assisted living facility" means any home or other  
15 institution, however named, which is advertised, announced, or  
16 maintained for the express or implied purpose of providing housing,  
17 basic services, and assuming general responsibility for the safety  
18 and well-being of the residents, and may also provide domiciliary  
19 care, consistent with chapter 142, Laws of 2004, to seven or more  
20 residents after July 1, 2000. However, an assisted living facility  
21 that is licensed for three to six residents prior to or on July 1,  
22 2000, may maintain its assisted living facility license as long as it  
23 is continually licensed as an assisted living facility. "Assisted  
24 living facility" shall not include facilities certified as group  
25 training homes pursuant to RCW 71A.22.040, nor any home, institution  
26 or section thereof which is otherwise licensed and regulated under  
27 the provisions of state law providing specifically for the licensing  
28 and regulation of such home, institution or section thereof. Nor  
29 shall it include any independent senior housing, independent living  
30 units in continuing care retirement communities, or other similar  
31 living situations including those subsidized by the department of  
32 housing and urban development.

33 (3) "Basic services" means housekeeping services, meals,  
34 nutritious snacks, laundry, and activities.

35 (4) "Department" means the state department of social and health  
36 services.

37 (5) "Domiciliary care" means: Assistance with activities of daily  
38 living provided by the assisted living facility either directly or  
39 indirectly; or health support services, if provided directly or

1 indirectly by the assisted living facility; or intermittent nursing  
2 services, if provided directly or indirectly by the assisted living  
3 facility.

4 (6) "General responsibility for the safety and well-being of the  
5 resident" means the provision of the following: Prescribed general  
6 low sodium diets; prescribed general diabetic diets; prescribed  
7 mechanical soft foods; emergency assistance; monitoring of the  
8 resident; arranging health care appointments with outside health care  
9 providers and reminding residents of such appointments as necessary;  
10 coordinating health care services with outside health care providers  
11 consistent with RCW 18.20.380; assisting the resident to obtain and  
12 maintain glasses, hearing aids, dentures, canes, crutches, walkers,  
13 wheelchairs, and assistive communication devices; observation of the  
14 resident for changes in overall functioning; blood pressure checks as  
15 scheduled; responding appropriately when there are observable or  
16 reported changes in the resident's physical, mental, or emotional  
17 functioning; or medication assistance as permitted under RCW  
18 69.41.085 and as defined in RCW 69.41.010.

19 (7) "Legal representative" means a person or persons identified  
20 in RCW 7.70.065 who may act on behalf of the resident pursuant to the  
21 scope of their legal authority. The legal representative shall not be  
22 affiliated with the licensee, assisted living facility, or management  
23 company, unless the affiliated person is a family member of the  
24 resident.

25 (8) "Nonresident individual" means a person who resides in  
26 independent senior housing, independent living units in continuing  
27 care retirement communities, or in other similar living environments  
28 or in an unlicensed room located within an assisted living facility.  
29 Nothing in this chapter prohibits nonresidents from receiving one or  
30 more of the services listed in RCW 18.20.030(5) or requires licensure  
31 as an assisted living facility when one or more of the services  
32 listed in RCW 18.20.030(5) are provided to nonresidents. A  
33 nonresident individual may not receive domiciliary care, as defined  
34 in this chapter, directly or indirectly by the assisted living  
35 facility and may not receive the items and services listed in  
36 subsection (6) of this section, except during the time the person is  
37 receiving adult day services as defined in this section.

38 (9) "Person" means any individual, firm, partnership,  
39 corporation, company, association, or joint stock association, and  
40 the legal successor thereof.

1 (10) "Resident" means an individual who is not related by blood  
2 or marriage to the operator of the assisted living facility, and by  
3 reason of age or disability, chooses to reside in the assisted living  
4 facility and receives basic services and one or more of the services  
5 listed under general responsibility for the safety and well-being of  
6 the resident and may receive domiciliary care or respite care  
7 provided directly or indirectly by the assisted living facility and  
8 shall be permitted to receive hospice care through an outside service  
9 provider when arranged by the resident or the resident's legal  
10 representative under RCW 18.20.380.

11 (11) "Resident applicant" means an individual who is seeking  
12 admission to a licensed assisted living facility and who has  
13 completed and signed an application for admission, or such  
14 application for admission has been completed and signed in their  
15 behalf by their legal representative if any, and if not, then the  
16 designated representative if any.

17 (12) "Resident's representative" means a person designated  
18 voluntarily by a competent resident, in writing, to act in the  
19 resident's behalf concerning the care and services provided by the  
20 assisted living facility and to receive information from the assisted  
21 living facility, if there is no legal representative. The resident's  
22 competence shall be determined using the criteria in ((RCW  
23 ~~11.88.010(1)(e)~~) chapter 11.130 RCW. The resident's representative  
24 may not be affiliated with the licensee, assisted living facility, or  
25 management company, unless the affiliated person is a family member  
26 of the resident. The resident's representative shall not have  
27 authority to act on behalf of the resident once the resident is no  
28 longer competent.

29 (13) "Secretary" means the secretary of social and health  
30 services.

31 **Sec. 727.** RCW 25.15.131 and 2015 c 188 s 28 are each amended to  
32 read as follows:

33 (1) A person is dissociated as a member of a limited liability  
34 company upon the occurrence of one or more of the following events:

35 (a) The member dies or withdraws by voluntary act from the  
36 limited liability company as provided in subsection (2) of this  
37 section;

38 (b) The transfer of all of the member's transferable interest in  
39 the limited liability company;

1 (c) The member is removed as a member in accordance with the  
2 limited liability company agreement;

3 (d) The occurrence of an event upon which the member ceases to be  
4 a member under the limited liability company agreement;

5 (e) The person is a corporation, limited liability company,  
6 general partnership, or limited partnership, and the person is  
7 removed as a member by the unanimous consent of the other members,  
8 which may be done under this subsection (1)(e) only if:

9 (i) The person has filed articles of dissolution, a certificate  
10 of dissolution or the equivalent, or the person has been  
11 administratively or judicially dissolved, or its right to conduct  
12 business has been suspended or revoked by the jurisdiction of its  
13 incorporation, or the person has otherwise been dissolved; and

14 (ii) The dissolution has not been revoked or the person or its  
15 right to conduct business has not been reinstated within ninety days  
16 after the limited liability company notifies the person that it will  
17 be removed as a member for any reason identified in (e)(i) of this  
18 subsection;

19 (f) Unless all other members otherwise agree at the time, the  
20 member (i) makes a general assignment for the benefit of creditors;

21 (ii) files a voluntary petition in bankruptcy; (iii) becomes the  
22 subject of an order for relief in bankruptcy proceedings; (iv) files  
23 a petition or answer seeking for the member any reorganization,  
24 arrangement, composition, readjustment, liquidation, dissolution, or  
25 similar relief under any statute, law, or regulation; (v) files an  
26 answer or other pleading admitting or failing to contest the material  
27 allegations of a petition filed against the member in any proceeding  
28 of the nature described in (f)(i) through (iv) of this subsection; or  
29 (vi) seeks, consents to, or acquiesces in the appointment of a  
30 trustee, receiver, or liquidator of the member or of all or any  
31 substantial part of the member's properties;

32 (g) Unless all other members otherwise agree at the time, if  
33 within one hundred twenty days after the commencement of any  
34 proceeding against the member seeking reorganization, arrangement,  
35 composition, readjustment, liquidation, dissolution, or similar  
36 relief under any statute, law, or regulation, the proceeding has not  
37 been dismissed, or if within ninety days after the appointment  
38 without his or her consent or acquiescence of a trustee, receiver, or  
39 liquidator of the member or of all or any substantial part of the  
40 member's properties, the appointment is not vacated or stayed, or

1 within ninety days after the expiration of any stay, the appointment  
2 is not vacated; or

3 (h) Unless all other members otherwise agree at the time, in the  
4 case of a member who is an individual, the entry of an order by a  
5 court of competent jurisdiction adjudicating the member  
6 (~~incapacitated, as used and defined under chapter 11.88 RCW, as to~~  
7 ~~his or her estate~~) as being subject to a conservatorship under RCW  
8 11.130.360.

9 (2) A member may withdraw from a limited liability company at the  
10 time or upon the happening of events specified in and in accordance  
11 with the limited liability company agreement. If the limited  
12 liability company agreement does not specify the time or the events  
13 upon the happening of which a member may withdraw, a member may not  
14 withdraw from the limited liability company without the written  
15 consent of all other members.

16 (3) When a person is dissociated as a member of a limited  
17 liability company:

18 (a) The person's right to participate as a member in the  
19 management and conduct of the limited liability company's activities  
20 terminates;

21 (b) If the limited liability company is member-managed, the  
22 person's fiduciary duties as a member end with regard to matters  
23 arising and events occurring after the person's dissociation; and

24 (c) Subject to subsection (5) of this section, any transferable  
25 interest owned by the person immediately before dissociation in the  
26 person's capacity as a member is owned by the person solely as a  
27 transferee.

28 (4) A person's dissociation as a member of a limited liability  
29 company does not of itself discharge the person from any debt,  
30 obligation, or other liability to the limited liability company or  
31 the other members which the person incurred while a member.

32 (5) If a member dies, the deceased member's personal  
33 representative or other legal representative may exercise the rights  
34 of a transferee provided in RCW 25.15.251 and, for the purposes of  
35 settling the estate, the rights of a current member under RCW  
36 25.15.136.

37 **Sec. 728.** RCW 29A.08.515 and 2004 c 267 s 125 are each amended  
38 to read as follows:

1       Upon receiving official notice that a court has imposed a  
2 guardianship for (~~an incapacitated~~) a person under RCW 11.130.265  
3 and has determined that the person is incompetent for the purpose of  
4 rationally exercising the right to vote, (~~under chapter 11.88 RCW,~~)  
5 if the (~~incapacitated~~) person subject to guardianship is a  
6 registered voter in the county, the county auditor shall cancel (~~the~~  
7 ~~incapacitated~~) that person's voter registration.

8       **Sec. 729.** RCW 70.58A.010 and 2019 c 148 s 2 are each amended to  
9 read as follows:

10       The definitions in this section apply throughout this chapter  
11 unless the context clearly requires otherwise.

12       (1) "Adult" means a person who is at least eighteen years of age,  
13 or an emancipated minor under chapter 13.64 RCW.

14       (2) "Amendment" means a change to a certification item on the  
15 vital record.

16       (3) "Authorized representative" means a person permitted to  
17 receive a certification who is:

18       (a) Identified in a notarized statement signed by a qualified  
19 applicant; or

20       (b) An agent identified in a power of attorney as defined in  
21 chapter 11.125 RCW.

22       (4) "Certification" means the document, in either paper or  
23 electronic format, containing all or part of the information  
24 contained in the original vital record from which the document is  
25 derived, and is issued from the central vital records system. A  
26 certification includes an attestation by the state or local registrar  
27 to the accuracy of information, and has the full force and effect of  
28 the original vital record.

29       (5) "Certification item" means any item of information that  
30 appears on certifications.

31       (6) "Coroner" means the person elected or appointed in a county  
32 under chapter 36.16 RCW to serve as the county coroner and fulfill  
33 the responsibilities established under chapter 36.24 RCW.

34       (7) "Cremated remains" has the same meaning as "cremated human  
35 remains" in chapter 68.04 RCW.

36       (8) "Delayed report of live birth" means the report submitted to  
37 the department for the purpose of registering the live birth of a  
38 person born in state that was not registered within one year of the  
39 date of live birth.

1 (9) "Department" means the department of health.

2 (10) "Domestic partner" means a party to a state registered  
3 domestic partnership established under chapter 26.60 RCW.

4 (11) "Facility" means any licensed establishment, public or  
5 private, located in state, which provides inpatient or outpatient  
6 medical, surgical, or diagnostic care or treatment; or nursing,  
7 custodial, or domiciliary care. The term also includes establishments  
8 to which persons are committed by law including, but not limited to:

9 (a) Mental illness detention facilities designated to assess,  
10 diagnose, and treat individuals detained or committed, under chapter  
11 71.05 RCW;

12 (b) City and county jails;

13 (c) State department of corrections facilities; and

14 (d) Juvenile correction centers governed by Title 72 RCW.

15 (12) "Fetal death" means any product of conception that shows no  
16 evidence of life, such as breathing, beating of the heart, pulsation  
17 of the umbilical cord, or definite movement of voluntary muscles  
18 after complete expulsion or extraction from the individual who gave  
19 birth that is not an induced termination of pregnancy and:

20 (a) Has completed twenty or more weeks of gestation as calculated  
21 from the date the last menstrual period of the individual who gave  
22 birth began, to the date of expulsion or extraction; or

23 (b) Weighs three hundred fifty grams or more, if weeks of  
24 gestation are not known.

25 (13) "Final disposition" means the burial, interment, entombment,  
26 cremation, removal from the state, or other manner of disposing of  
27 human remains as authorized under chapter 68.50 RCW.

28 (14) "Funeral director" means a person licensed under chapter  
29 18.39 RCW as a funeral director.

30 (15) "Funeral establishment" means a place of business licensed  
31 under chapter 18.39 RCW as a funeral establishment.

32 (16) "Government agencies" include state boards, commissions,  
33 committees, departments, educational institutions, or other state  
34 agencies which are created by or pursuant to statute, other than  
35 courts and the legislature; county or city agencies, United States  
36 federal agencies, and federally recognized tribes and tribal  
37 organizations.

38 (17) "Human remains" means the body of a deceased person,  
39 includes the body in any stage of decomposition, and includes  
40 cremated human remains, but does not include human remains that are

1 or were at any time under the jurisdiction of the state physical  
2 anthropologist under chapter 27.44 RCW.

3 (18) "Individual" means a natural person.

4 (19) "Induced termination of pregnancy" means the purposeful  
5 interruption of an intrauterine pregnancy with an intention other  
6 than to produce a live-born infant, and which does not result in a  
7 live birth.

8 (20) "Informational copy" means a birth or death record issued  
9 from the central vital records system, containing all or part of the  
10 information contained in the original vital record from which the  
11 document is derived, and indicating it cannot be used for legal  
12 purposes on its face.

13 (21) "Legal guardian" means a person who serves as a guardian for  
14 the purpose of either legal or custodial matters, or both, relating  
15 to the person for whom the guardian is appointed. The term legal  
16 guardian includes, but is not limited to, guardians appointed  
17 pursuant to chapters (~~11.88~~) 11.130 and 13.36 RCW.

18 (22) "Legal representative" means a licensed attorney  
19 representing either the subject of the record or qualified applicant.

20 (23) "Live birth" means the complete expulsion or extraction of a  
21 product of human conception from the individual who gave birth,  
22 irrespective of the duration of pregnancy, which, after such  
23 expulsion or extraction, breathes or shows any other evidence of  
24 life, such as beating of the heart, pulsation of the umbilical cord,  
25 or definite movement of voluntary muscles.

26 (24) "Local health officer" has the same meaning as in chapter  
27 70.05 RCW.

28 (25) "Medical certifier" for a death or fetal death means an  
29 individual required to attest to the cause of death information  
30 provided on a report of death or fetal death. Each individual  
31 certifying cause of death or fetal death may certify cause of death  
32 only as permitted by that individual's professional scope of  
33 practice. These individuals include:

34 (a) A physician, physician's assistant, or an advanced registered  
35 nurse practitioner last in attendance at death or who treated the  
36 decedent through examination, medical advice, or medications within  
37 the twelve months preceding the death;

38 (b) A midwife, only in cases of fetal death; and

1 (c) A physician performing an autopsy, when the decedent was not  
2 treated within the last twelve months and the person died a natural  
3 death.

4 (26) "Medical examiner" means the person appointed under chapter  
5 36.24 RCW to fulfill the responsibilities established under chapter  
6 36.24 RCW.

7 (27) "Midwife" means a person licensed to practice midwifery  
8 pursuant to chapter 18.50 RCW.

9 (28) "Physician" means a person licensed to practice medicine,  
10 naturopathy, or osteopathy pursuant to Title 18 RCW.

11 (29) "Registration" or "register" means the process by which a  
12 report is approved and incorporated as a vital record into the vital  
13 records system.

14 (30) "Registration date" means the month, day, and year a report  
15 is incorporated into the vital records system.

16 (31) "Report" means an electronic or paper document containing  
17 information related to a vital life event for the purpose of  
18 registering the vital life event.

19 (32) "Sealed record" means the original record of a vital life  
20 event and the evidence submitted to support a change to the original  
21 record.

22 (33) "Secretary" means the secretary of the department of health.

23 (34) "State" means Washington state unless otherwise specified.

24 (35) "State registrar" means the person appointed by the  
25 secretary to administer the vital records system under RCW  
26 70.58A.030.

27 (36) "Territory of the United States" means American Samoa, the  
28 Commonwealth of the Northern Mariana Islands, the Commonwealth of  
29 Puerto Rico, Guam, and the United States Virgin Islands.

30 (37) "Vital life event" means a birth, death, fetal death,  
31 marriage, dissolution of marriage, dissolution of domestic  
32 partnership, declaration of invalidity of marriage, declaration of  
33 invalidity of domestic partnership, and legal separation.

34 (38) "Vital record" or "record" means a report of a vital life  
35 event that has been registered and supporting documentation.

36 (39) "Vital records system" means the statewide system created,  
37 operated, and maintained by the department under this chapter.

38 (40) "Vital statistics" means the aggregated data derived from  
39 vital records, including related reports, and supporting  
40 documentation.

1           **Sec. 730.** RCW 70.97.040 and 2013 c 23 s 179 are each amended to  
2 read as follows:

3           (1) (a) Every person who is a resident of an enhanced services  
4 facility shall be entitled to all the rights set forth in this  
5 chapter, and chapters 71.05 and 70.96A RCW, and shall retain all  
6 rights not denied him or her under these chapters.

7           (b) No person shall be presumed incompetent as a consequence of  
8 receiving an evaluation or voluntary or involuntary treatment for a  
9 mental disorder, chemical dependency disorder, or both, under this  
10 chapter, or chapter 71.05 or 70.96A RCW, or any prior laws of this  
11 state dealing with mental illness. Competency shall not be determined  
12 or withdrawn except under the provisions of chapter 10.77 or  
13 (~~11.88~~) 11.130 RCW.

14           (c) At the time of his or her treatment planning meeting, every  
15 resident of an enhanced services facility shall be given a written  
16 statement setting forth the substance of this section. The department  
17 shall by rule develop a statement and process for informing residents  
18 of their rights in a manner that is likely to be understood by the  
19 resident.

20           (2) Every resident of an enhanced services facility shall have  
21 the right to adequate care and individualized treatment.

22           (3) The provisions of this chapter shall not be construed to deny  
23 to any person treatment by spiritual means through prayer in  
24 accordance with the tenets and practices of a church or religious  
25 denomination.

26           (4) Persons receiving evaluation or treatment under this chapter  
27 shall be given a reasonable choice of an available physician or other  
28 professional person qualified to provide such services.

29           (5) The physician-patient privilege or the psychologist-client  
30 privilege shall be deemed waived in proceedings under this chapter  
31 relating to the administration of antipsychotic medications. As to  
32 other proceedings under chapter 10.77, 70.96A, or 71.05 RCW, the  
33 privileges shall be waived when a court of competent jurisdiction in  
34 its discretion determines that such waiver is necessary to protect  
35 either the detained person or the public.

36           (6) Insofar as danger to the person or others is not created,  
37 each resident of an enhanced services facility shall have, in  
38 addition to other rights not specifically withheld by law, the  
39 following rights, a list of which shall be prominently posted in all  
40 facilities, institutions, and hospitals providing such services:

1 (a) To wear his or her own clothes and to keep and use his or her  
2 own personal possessions, except when deprivation of same is  
3 essential to protect the safety of the resident or other persons;

4 (b) To keep and be allowed to spend a reasonable sum of his or  
5 her own money for canteen expenses and small purchases;

6 (c) To have access to individual storage space for his or her  
7 private use;

8 (d) To have visitors at reasonable times;

9 (e) To have reasonable access to a telephone, both to make and  
10 receive confidential calls, consistent with an effective treatment  
11 program;

12 (f) To have ready access to letter writing materials, including  
13 stamps, and to send and receive uncensored correspondence through the  
14 mails;

15 (g) Not to consent to the administration of antipsychotic  
16 medications beyond the hearing conducted pursuant to RCW 71.05.215 or  
17 71.05.217, or the performance of electroconvulsant therapy, or  
18 surgery, except emergency lifesaving surgery, unless ordered by a  
19 court under RCW 71.05.217;

20 (h) To discuss and actively participate in treatment plans and  
21 decisions with professional persons;

22 (i) Not to have psychosurgery performed on him or her under any  
23 circumstances;

24 (j) To dispose of property and sign contracts unless such person  
25 has been adjudicated an incompetent in a court proceeding directed to  
26 that particular issue; and

27 (k) To complain about rights violations or conditions and request  
28 the assistance of a mental health ombuds or representative of  
29 Washington protection and advocacy. The facility may not prohibit or  
30 interfere with a resident's decision to consult with an advocate of  
31 his or her choice.

32 (7) Nothing contained in this chapter shall prohibit a resident  
33 from petitioning by writ of habeas corpus for release.

34 (8) Nothing in this section permits any person to knowingly  
35 violate a no-contact order or a condition of an active judgment and  
36 sentence or active supervision by the department of corrections.

37 (9) A person has a right to refuse placement, except where  
38 subject to commitment, in an enhanced services facility. No person  
39 shall be denied other department services solely on the grounds that  
40 he or she has made such a refusal.

1 (10) A person has a right to appeal the decision of the  
2 department that he or she is eligible for placement at an enhanced  
3 services facility, and shall be given notice of the right to appeal  
4 in a format that is accessible to the person with instructions  
5 regarding what to do if the person wants to appeal.

6 **Sec. 731.** RCW 71.05.360 and 2019 c 446 s 13 are each amended to  
7 read as follows:

8 (1)(a) Every person involuntarily detained or committed under the  
9 provisions of this chapter shall be entitled to all the rights set  
10 forth in this chapter, which shall be prominently posted in the  
11 facility, and shall retain all rights not denied him or her under  
12 this chapter except as chapter 9.41 RCW may limit the right of a  
13 person to purchase or possess a firearm or to qualify for a concealed  
14 pistol license if the person is committed under RCW 71.05.240 or  
15 71.05.320 for mental health treatment.

16 (b) No person shall be presumed incompetent as a consequence of  
17 receiving an evaluation or voluntary or involuntary treatment for a  
18 mental disorder or substance use disorder, under this chapter or any  
19 prior laws of this state dealing with mental illness or substance use  
20 disorders. Competency shall not be determined or withdrawn except  
21 under the provisions of chapter 10.77 or (~~11.88~~) 11.130 RCW.

22 (c) Any person who leaves a public or private agency following  
23 evaluation or treatment for a mental disorder or substance use  
24 disorder shall be given a written statement setting forth the  
25 substance of this section.

26 (2) Each person involuntarily detained or committed pursuant to  
27 this chapter shall have the right to adequate care and individualized  
28 treatment.

29 (3) The provisions of this chapter shall not be construed to deny  
30 to any person treatment by spiritual means through prayer in  
31 accordance with the tenets and practices of a church or religious  
32 denomination.

33 (4) Persons receiving evaluation or treatment under this chapter  
34 shall be given a reasonable choice of an available physician,  
35 physician assistant, psychiatric advanced registered nurse  
36 practitioner, or other professional person qualified to provide such  
37 services.

38 (5) Whenever any person is detained for evaluation and treatment  
39 pursuant to this chapter, both the person and, if possible, a

1 responsible member of his or her immediate family, personal  
2 representative, guardian, or conservator, if any, shall be advised as  
3 soon as possible in writing or orally, by the officer or person  
4 taking him or her into custody or by personnel of the evaluation and  
5 treatment facility, secure withdrawal management and stabilization  
6 facility, or approved substance use disorder treatment program where  
7 the person is detained that unless the person is released or  
8 voluntarily admits himself or herself for treatment within seventy-  
9 two hours of the initial detention:

10 (a) A judicial hearing in a superior court, either by a judge or  
11 court commissioner thereof, shall be held not more than seventy-two  
12 hours after the initial detention to determine whether there is  
13 probable cause to detain the person after the seventy-two hours have  
14 expired for up to an additional fourteen days without further  
15 automatic hearing for the reason that the person is a person whose  
16 mental disorder or substance use disorder presents a likelihood of  
17 serious harm or that the person is gravely disabled;

18 (b) The person has a right to communicate immediately with an  
19 attorney; has a right to have an attorney appointed to represent him  
20 or her before and at the probable cause hearing if he or she is  
21 indigent; and has the right to be told the name and address of the  
22 attorney that the mental health professional has designated pursuant  
23 to this chapter;

24 (c) The person has the right to remain silent and that any  
25 statement he or she makes may be used against him or her;

26 (d) The person has the right to present evidence and to cross-  
27 examine witnesses who testify against him or her at the probable  
28 cause hearing; and

29 (e) The person has the right to refuse psychiatric medications,  
30 including antipsychotic medication beginning twenty-four hours prior  
31 to the probable cause hearing.

32 (6) When proceedings are initiated under RCW 71.05.153, no later  
33 than twelve hours after such person is admitted to the evaluation and  
34 treatment facility, secure withdrawal management and stabilization  
35 facility, or approved substance use disorder treatment program the  
36 personnel of the facility or the designated crisis responder shall  
37 serve on such person a copy of the petition for initial detention and  
38 the name, business address, and phone number of the designated  
39 attorney and shall forthwith commence service of a copy of the  
40 petition for initial detention on the designated attorney.

1 (7) The judicial hearing described in subsection (5) of this  
2 section is hereby authorized, and shall be held according to the  
3 provisions of subsection (5) of this section and rules promulgated by  
4 the supreme court.

5 (8) At the probable cause hearing the detained person shall have  
6 the following rights in addition to the rights previously specified:

7 (a) To present evidence on his or her behalf;

8 (b) To cross-examine witnesses who testify against him or her;

9 (c) To be proceeded against by the rules of evidence;

10 (d) To remain silent;

11 (e) To view and copy all petitions and reports in the court file.

12 (9) Privileges between patients and physicians, physician  
13 assistants, psychologists, or psychiatric advanced registered nurse  
14 practitioners are deemed waived in proceedings under this chapter  
15 relating to the administration of antipsychotic medications. As to  
16 other proceedings under this chapter, the privileges shall be waived  
17 when a court of competent jurisdiction in its discretion determines  
18 that such waiver is necessary to protect either the detained person  
19 or the public.

20 The waiver of a privilege under this section is limited to  
21 records or testimony relevant to evaluation of the detained person  
22 for purposes of a proceeding under this chapter. Upon motion by the  
23 detained person or on its own motion, the court shall examine a  
24 record or testimony sought by a petitioner to determine whether it is  
25 within the scope of the waiver.

26 The record maker shall not be required to testify in order to  
27 introduce medical or psychological records of the detained person so  
28 long as the requirements of RCW 5.45.020 are met except that portions  
29 of the record which contain opinions as to the detained person's  
30 mental state must be deleted from such records unless the person  
31 making such conclusions is available for cross-examination.

32 (10) Insofar as danger to the person or others is not created,  
33 each person involuntarily detained, treated in a less restrictive  
34 alternative course of treatment, or committed for treatment and  
35 evaluation pursuant to this chapter shall have, in addition to other  
36 rights not specifically withheld by law, the following rights:

37 (a) To wear his or her own clothes and to keep and use his or her  
38 own personal possessions, except when deprivation of same is  
39 essential to protect the safety of the resident or other persons;

1 (b) To keep and be allowed to spend a reasonable sum of his or  
2 her own money for canteen expenses and small purchases;

3 (c) To have access to individual storage space for his or her  
4 private use;

5 (d) To have visitors at reasonable times;

6 (e) To have reasonable access to a telephone, both to make and  
7 receive confidential calls, consistent with an effective treatment  
8 program;

9 (f) To have ready access to letter writing materials, including  
10 stamps, and to send and receive uncensored correspondence through the  
11 mails;

12 (g) To discuss treatment plans and decisions with professional  
13 persons;

14 (h) Not to consent to the administration of antipsychotic  
15 medications and not to thereafter be administered antipsychotic  
16 medications unless ordered by a court under RCW 71.05.217 or pursuant  
17 to an administrative hearing under RCW 71.05.215;

18 (i) Not to consent to the performance of electroconvulsant  
19 therapy or surgery, except emergency lifesaving surgery, unless  
20 ordered by a court under RCW 71.05.217;

21 (j) Not to have psychosurgery performed on him or her under any  
22 circumstances;

23 (k) To dispose of property and sign contracts unless such person  
24 has been adjudicated an incompetent in a court proceeding directed to  
25 that particular issue.

26 (11) Every person involuntarily detained shall immediately be  
27 informed of his or her right to a hearing to review the legality of  
28 his or her detention and of his or her right to counsel, by the  
29 professional person in charge of the facility providing evaluation  
30 and treatment, or his or her designee, and, when appropriate, by the  
31 court. If the person so elects, the court shall immediately appoint  
32 an attorney to assist him or her.

33 (12) A person challenging his or her detention or his or her  
34 attorney shall have the right to designate and have the court appoint  
35 a reasonably available independent physician, physician assistant,  
36 psychiatric advanced registered nurse practitioner, or other  
37 professional person to examine the person detained, the results of  
38 which examination may be used in the proceeding. The person shall, if  
39 he or she is financially able, bear the cost of such expert

1 examination, otherwise such expert examination shall be at public  
2 expense.

3 (13) Nothing contained in this chapter shall prohibit the patient  
4 from petitioning by writ of habeas corpus for release.

5 (14) Nothing in this chapter shall prohibit a person committed on  
6 or prior to January 1, 1974, from exercising a right available to him  
7 or her at or prior to January 1, 1974, for obtaining release from  
8 confinement.

9 (15) Nothing in this section permits any person to knowingly  
10 violate a no-contact order or a condition of an active judgment and  
11 sentence or an active condition of supervision by the department of  
12 corrections.

13 **Sec. 732.** RCW 71.32.020 and 2016 c 209 s 407 are each amended to  
14 read as follows:

15 The definitions in this section apply throughout this chapter  
16 unless the context clearly requires otherwise.

17 (1) "Adult" means any individual who has attained the age of  
18 majority or is an emancipated minor.

19 (2) "Agent" has the same meaning as an attorney-in-fact or agent  
20 as provided in chapter 11.125 RCW.

21 (3) "Capacity" means that an adult has not been found to be  
22 incapacitated pursuant to this chapter or ~~((RCW 11.88.010(1)(e)))~~  
23 subject to a guardianship under RCW 11.130.265.

24 (4) "Court" means a superior court under chapter 2.08 RCW.

25 (5) "Health care facility" means a hospital, as defined in RCW  
26 70.41.020; an institution, as defined in RCW 71.12.455; a state  
27 hospital, as defined in RCW 72.23.010; a nursing home, as defined in  
28 RCW 18.51.010; or a clinic that is part of a community mental health  
29 service delivery system, as defined in RCW 71.24.025.

30 (6) "Health care provider" means an osteopathic physician or  
31 osteopathic physician's assistant licensed under chapter 18.57 or  
32 18.57A RCW, a physician or physician's assistant licensed under  
33 chapter 18.71 or 18.71A RCW, or an advanced registered nurse  
34 practitioner licensed under RCW 18.79.050.

35 (7) "Incapacitated" means an adult who: (a) Is unable to  
36 understand the nature, character, and anticipated results of proposed  
37 treatment or alternatives; understand the recognized serious possible  
38 risks, complications, and anticipated benefits in treatments and  
39 alternatives, including nontreatment; or communicate his or her

1 understanding or treatment decisions; or (b) has been found to be  
2 (~~incompetent pursuant to RCW 11.88.010(1)(e))~~) subject to a  
3 guardianship under RCW 11.130.265.

4 (8) "Informed consent" means consent that is given after the  
5 person: (a) Is provided with a description of the nature, character,  
6 and anticipated results of proposed treatments and alternatives, and  
7 the recognized serious possible risks, complications, and anticipated  
8 benefits in the treatments and alternatives, including nontreatment,  
9 in language that the person can reasonably be expected to understand;  
10 or (b) elects not to be given the information included in (a) of this  
11 subsection.

12 (9) "Long-term care facility" has the same meaning as defined in  
13 RCW 43.190.020.

14 (10) "Mental disorder" means any organic, mental, or emotional  
15 impairment which has substantial adverse effects on an individual's  
16 cognitive or volitional functions.

17 (11) "Mental health advance directive" or "directive" means a  
18 written document in which the principal makes a declaration of  
19 instructions or preferences or appoints an agent to make decisions on  
20 behalf of the principal regarding the principal's mental health  
21 treatment, or both, and that is consistent with the provisions of  
22 this chapter.

23 (12) "Mental health professional" means a psychiatrist,  
24 psychologist, psychiatric nurse, or social worker, and such other  
25 mental health professionals as may be defined by rules adopted by the  
26 secretary pursuant to the provisions of chapter 71.05 RCW.

27 (13) "Principal" means an adult who has executed a mental health  
28 advance directive.

29 (14) "Professional person" means a mental health professional and  
30 shall also mean a physician, registered nurse, and such others as may  
31 be defined by rules adopted by the secretary pursuant to the  
32 provisions of chapter 71.05 RCW.

33 (15) "Social worker" means a person with a master's or further  
34 advanced degree from a social work educational program accredited and  
35 approved as provided in RCW 18.320.010.

36 **Sec. 733.** RCW 71A.16.030 and 1998 c 216 s 4 are each amended to  
37 read as follows:

38 (1) (~~The department will develop an outreach program to ensure~~  
39 ~~that any eligible person with developmental disabilities services in~~

1 ~~homes, the community, and residential habilitation centers will be~~  
2 ~~made aware of these services. This subsection (1) expires June 30,~~  
3 ~~2003.~~

4 ~~(2))~~ The secretary shall establish a single procedure for  
5 persons to apply for a determination of eligibility for services  
6 provided to persons with developmental disabilities.

7 ~~((3) Until June 30, 2003, the procedure set out under subsection~~  
8 ~~(1) of this section must require that all applicants and all persons~~  
9 ~~with developmental disabilities currently receiving services from the~~  
10 ~~division of developmental disabilities within the department be given~~  
11 ~~notice of the existence and availability of residential habilitation~~  
12 ~~center and community support services. For genuine choice to exist,~~  
13 ~~people must know what the options are. Available options must be~~  
14 ~~clearly explained, with services customized to fit the unique needs~~  
15 ~~and circumstances of developmentally disabled clients and their~~  
16 ~~families. Choice of providers and design of services and supports~~  
17 ~~will be determined by the individual in conjunction with the~~  
18 ~~department. When the person cannot make these choices, the person's~~  
19 ~~legal guardian may make them, consistent with chapter 11.88 or 11.92~~  
20 ~~RCW. This subsection expires June 30, 2003.~~

21 ~~(4))~~ (2) An application may be submitted by a person with a  
22 developmental disability, by the legal representative of a person  
23 with a developmental disability, or by any other person who is  
24 authorized by rule of the secretary to submit an application.

25 **Sec. 734.** RCW 73.36.050 and 1994 c 147 s 4 are each amended to  
26 read as follows:

27 (1) A petition for the appointment of a guardian may be filed by  
28 any relative or friend of the ward or by any person who is authorized  
29 by law to file such a petition. If there is no person so authorized  
30 or if the person so authorized refuses or fails to file such a  
31 petition within thirty days after mailing of notice by the veterans  
32 administration to the last known address of the person, if any,  
33 indicating the necessity for the same, a petition for appointment may  
34 be filed by any resident of this state.

35 (2) The petition for appointment shall set forth the name, age,  
36 place of residence of the ward, the name and place of residence of  
37 the nearest relative, if known, and the fact that the ward is  
38 entitled to receive benefits payable by or through the veterans

1 administration and shall set forth the amount of moneys then due and  
2 the amount of probable future payments.

3 (3) The petition shall also set forth the name and address of the  
4 person or institution, if any, having actual custody of the ward and  
5 the name, age, relationship, if any, occupation and address of the  
6 proposed guardian and if the nominee is a natural person, the number  
7 of wards for whom the nominee is presently acting as guardian.  
8 Notwithstanding any law as to priority of persons entitled to  
9 appointment, or the nomination in the petition, the court may appoint  
10 some other individual or a bank or trust company as guardian, if the  
11 court determines it is for the best interest of the ward.

12 (4) In the case of a mentally incompetent ward the petition shall  
13 show that such ward has been rated incompetent by the veterans  
14 administration on examination in accordance with the laws and  
15 regulations governing the veterans administration.

16 (5) All proceedings under this chapter shall be governed by the  
17 provisions of (~~chapters 11.88 and 11.92~~) chapter 11.130 RCW which  
18 shall prevail over any conflicting provisions of this chapter.

19 **Sec. 735.** RCW 74.34.020 and 2019 c 325 s 5030 are each amended  
20 to read as follows:

21 The definitions in this section apply throughout this chapter  
22 unless the context clearly requires otherwise.

23 (1) "Abandonment" means action or inaction by a person or entity  
24 with a duty of care for a vulnerable adult that leaves the vulnerable  
25 person without the means or ability to obtain necessary food,  
26 clothing, shelter, or health care.

27 (2) "Abuse" means the willful action or inaction that inflicts  
28 injury, unreasonable confinement, intimidation, or punishment on a  
29 vulnerable adult. In instances of abuse of a vulnerable adult who is  
30 unable to express or demonstrate physical harm, pain, or mental  
31 anguish, the abuse is presumed to cause physical harm, pain, or  
32 mental anguish. Abuse includes sexual abuse, mental abuse, physical  
33 abuse, and personal exploitation of a vulnerable adult, and improper  
34 use of restraint against a vulnerable adult which have the following  
35 meanings:

36 (a) "Sexual abuse" means any form of nonconsensual sexual  
37 conduct, including but not limited to unwanted or inappropriate  
38 touching, rape, sodomy, sexual coercion, sexually explicit  
39 photographing, and sexual harassment. Sexual abuse also includes any

1 sexual conduct between a staff person, who is not also a resident or  
2 client, of a facility or a staff person of a program authorized under  
3 chapter 71A.12 RCW, and a vulnerable adult living in that facility or  
4 receiving service from a program authorized under chapter 71A.12 RCW,  
5 whether or not it is consensual.

6 (b) "Physical abuse" means the willful action of inflicting  
7 bodily injury or physical mistreatment. Physical abuse includes, but  
8 is not limited to, striking with or without an object, slapping,  
9 pinching, choking, kicking, shoving, or prodding.

10 (c) "Mental abuse" means a willful verbal or nonverbal action  
11 that threatens, humiliates, harasses, coerces, intimidates, isolates,  
12 unreasonably confines, or punishes a vulnerable adult. Mental abuse  
13 may include ridiculing, yelling, or swearing.

14 (d) "Personal exploitation" means an act of forcing, compelling,  
15 or exerting undue influence over a vulnerable adult causing the  
16 vulnerable adult to act in a way that is inconsistent with relevant  
17 past behavior, or causing the vulnerable adult to perform services  
18 for the benefit of another.

19 (e) "Improper use of restraint" means the inappropriate use of  
20 chemical, physical, or mechanical restraints for convenience or  
21 discipline or in a manner that: (i) Is inconsistent with federal or  
22 state licensing or certification requirements for facilities,  
23 hospitals, or programs authorized under chapter 71A.12 RCW; (ii) is  
24 not medically authorized; or (iii) otherwise constitutes abuse under  
25 this section.

26 (3) "Chemical restraint" means the administration of any drug to  
27 manage a vulnerable adult's behavior in a way that reduces the safety  
28 risk to the vulnerable adult or others, has the temporary effect of  
29 restricting the vulnerable adult's freedom of movement, and is not  
30 standard treatment for the vulnerable adult's medical or psychiatric  
31 condition.

32 (4) "Consent" means express written consent granted after the  
33 vulnerable adult or his or her legal representative has been fully  
34 informed of the nature of the services to be offered and that the  
35 receipt of services is voluntary.

36 (5) "Department" means the department of social and health  
37 services.

38 (6) "Facility" means a residence licensed or required to be  
39 licensed under chapter 18.20 RCW, assisted living facilities; chapter  
40 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes;

1 chapter 72.36 RCW, soldiers' homes; chapter 71A.20 RCW, residential  
2 habilitation centers; or any other facility licensed or certified by  
3 the department.

4 (7) "Financial exploitation" means the illegal or improper use,  
5 control over, or withholding of the property, income, resources, or  
6 trust funds of the vulnerable adult by any person or entity for any  
7 person's or entity's profit or advantage other than for the  
8 vulnerable adult's profit or advantage. "Financial exploitation"  
9 includes, but is not limited to:

10 (a) The use of deception, intimidation, or undue influence by a  
11 person or entity in a position of trust and confidence with a  
12 vulnerable adult to obtain or use the property, income, resources, or  
13 trust funds of the vulnerable adult for the benefit of a person or  
14 entity other than the vulnerable adult;

15 (b) The breach of a fiduciary duty, including, but not limited  
16 to, the misuse of a power of attorney, trust, or a guardianship  
17 appointment, that results in the unauthorized appropriation, sale, or  
18 transfer of the property, income, resources, or trust funds of the  
19 vulnerable adult for the benefit of a person or entity other than the  
20 vulnerable adult; or

21 (c) Obtaining or using a vulnerable adult's property, income,  
22 resources, or trust funds without lawful authority, by a person or  
23 entity who knows or clearly should know that the vulnerable adult  
24 lacks the capacity to consent to the release or use of his or her  
25 property, income, resources, or trust funds.

26 (8) "Financial institution" has the same meaning as in RCW  
27 30A.22.040 and 30A.22.041. For purposes of this chapter only,  
28 "financial institution" also means a "broker-dealer" or "investment  
29 adviser" as defined in RCW 21.20.005.

30 (9) "Hospital" means a facility licensed under chapter 70.41 or  
31 71.12 RCW or a state hospital defined in chapter 72.23 RCW and any  
32 employee, agent, officer, director, or independent contractor  
33 thereof.

34 (~~(10) ("Incapacitated person" means a person who is at a  
35 significant risk of personal or financial harm under RCW 11.88.010(1)  
36 (a), (b), (c), or (d).~~

37 ~~(11))~~ "Individual provider" means a person under contract with  
38 the department to provide services in the home under chapter 74.09 or  
39 74.39A RCW.

1       (~~(12)~~) (11) "Interested person" means a person who demonstrates  
2 to the court's satisfaction that the person is interested in the  
3 welfare of the vulnerable adult, that the person has a good faith  
4 belief that the court's intervention is necessary, and that the  
5 vulnerable adult is unable, due to incapacity, undue influence, or  
6 duress at the time the petition is filed, to protect his or her own  
7 interests.

8       (~~(13)~~) (12)(a) "Isolate" or "isolation" means to restrict a  
9 vulnerable adult's ability to communicate, visit, interact, or  
10 otherwise associate with persons of his or her choosing. Isolation  
11 may be evidenced by acts including but not limited to:

12       (i) Acts that prevent a vulnerable adult from sending, making, or  
13 receiving his or her personal mail, electronic communications, or  
14 telephone calls; or

15       (ii) Acts that prevent or obstruct the vulnerable adult from  
16 meeting with others, such as telling a prospective visitor or caller  
17 that a vulnerable adult is not present, or does not wish contact,  
18 where the statement is contrary to the express wishes of the  
19 vulnerable adult.

20       (b) The term "isolate" or "isolation" may not be construed in a  
21 manner that prevents a guardian or limited guardian from performing  
22 his or her fiduciary obligations under chapter (~~(11.92)~~) 11.130 RCW  
23 or prevents a hospital or facility from providing treatment  
24 consistent with the standard of care for delivery of health services.

25       (~~(14)~~) (13) "Mandated reporter" is an employee of the  
26 department; law enforcement officer; social worker; professional  
27 school personnel; individual provider; an employee of a facility; an  
28 operator of a facility; an employee of a social service, welfare,  
29 mental health, adult day health, adult day care, home health, home  
30 care, or hospice agency; county coroner or medical examiner;  
31 Christian Science practitioner; or health care provider subject to  
32 chapter 18.130 RCW.

33       (~~(15)~~) (14) "Mechanical restraint" means any device attached or  
34 adjacent to the vulnerable adult's body that he or she cannot easily  
35 remove that restricts freedom of movement or normal access to his or  
36 her body. "Mechanical restraint" does not include the use of devices,  
37 materials, or equipment that are (a) medically authorized, as  
38 required, and (b) used in a manner that is consistent with federal or  
39 state licensing or certification requirements for facilities,  
40 hospitals, or programs authorized under chapter 71A.12 RCW.

1       (~~(16)~~) (15) "Neglect" means (a) a pattern of conduct or  
2 inaction by a person or entity with a duty of care that fails to  
3 provide the goods and services that maintain physical or mental  
4 health of a vulnerable adult, or that fails to avoid or prevent  
5 physical or mental harm or pain to a vulnerable adult; or (b) an act  
6 or omission by a person or entity with a duty of care that  
7 demonstrates a serious disregard of consequences of such a magnitude  
8 as to constitute a clear and present danger to the vulnerable adult's  
9 health, welfare, or safety, including but not limited to conduct  
10 prohibited under RCW 9A.42.100.

11       (~~(17)~~) (16) "Permissive reporter" means any person, including,  
12 but not limited to, an employee of a financial institution, attorney,  
13 or volunteer in a facility or program providing services for  
14 vulnerable adults.

15       (~~(18)~~) (17) "Physical restraint" means the application of  
16 physical force without the use of any device, for the purpose of  
17 restraining the free movement of a vulnerable adult's body. "Physical  
18 restraint" does not include (a) briefly holding without undue force a  
19 vulnerable adult in order to calm or comfort him or her, or (b)  
20 holding a vulnerable adult's hand to safely escort him or her from  
21 one area to another.

22       (~~(19)~~) (18) "Protective services" means any services provided  
23 by the department to a vulnerable adult with the consent of the  
24 vulnerable adult, or the legal representative of the vulnerable  
25 adult, who has been abandoned, abused, financially exploited,  
26 neglected, or in a state of self-neglect. These services may include,  
27 but are not limited to case management, social casework, home care,  
28 placement, arranging for medical evaluations, psychological  
29 evaluations, day care, or referral for legal assistance.

30       (~~(20)~~) (19) "Self-neglect" means the failure of a vulnerable  
31 adult, not living in a facility, to provide for himself or herself  
32 the goods and services necessary for the vulnerable adult's physical  
33 or mental health, and the absence of which impairs or threatens the  
34 vulnerable adult's well-being. This definition may include a  
35 vulnerable adult who is receiving services through home health,  
36 hospice, or a home care agency, or an individual provider when the  
37 neglect is not a result of inaction by that agency or individual  
38 provider.

39       (~~(21)~~) (20) "Social worker" means:

40       (a) A social worker as defined in RCW 18.320.010(2); or

1 (b) Anyone engaged in a professional capacity during the regular  
2 course of employment in encouraging or promoting the health, welfare,  
3 support, or education of vulnerable adults, or providing social  
4 services to vulnerable adults, whether in an individual capacity or  
5 as an employee or agent of any public or private organization or  
6 institution.

7 ((+22)) (21) "Vulnerable adult" includes a person:

8 (a) Sixty years of age or older who has the functional, mental,  
9 or physical inability to care for himself or herself; or

10 (b) (~~Found incapacitated under chapter 11.88 RCW~~) Subject to a  
11 guardianship under RCW 11.130.265 or adult subject to conservatorship  
12 under RCW 11.130.360; or

13 (c) Who has a developmental disability as defined under RCW  
14 71A.10.020; or

15 (d) Admitted to any facility; or

16 (e) Receiving services from home health, hospice, or home care  
17 agencies licensed or required to be licensed under chapter 70.127  
18 RCW; or

19 (f) Receiving services from an individual provider; or

20 (g) Who self-directs his or her own care and receives services  
21 from a personal aide under chapter 74.39 RCW.

22 ((+23)) (22) "Vulnerable adult advocacy team" means a team of  
23 three or more persons who coordinate a multidisciplinary process, in  
24 compliance with chapter 266, Laws of 2017 and the protocol governed  
25 by RCW 74.34.320, for preventing, identifying, investigating,  
26 prosecuting, and providing services related to abuse, neglect, or  
27 financial exploitation of vulnerable adults.

28 **Sec. 736.** RCW 74.34.067 and 2013 c 263 s 3 are each amended to  
29 read as follows:

30 (1) Where appropriate, an investigation by the department may  
31 include a private interview with the vulnerable adult regarding the  
32 alleged abandonment, abuse, financial exploitation, neglect, or self-  
33 neglect.

34 (2) In conducting the investigation, the department shall  
35 interview the complainant, unless anonymous, and shall use its best  
36 efforts to interview the vulnerable adult or adults harmed, and,  
37 consistent with the protection of the vulnerable adult shall  
38 interview facility staff, any available independent sources of

1 relevant information, including if appropriate the family members of  
2 the vulnerable adult.

3 (3) The department may conduct ongoing case planning and  
4 consultation with: (a) Those persons or agencies required to report  
5 under this chapter or submit a report under this chapter; (b)  
6 consultants designated by the department; and (c) designated  
7 representatives of Washington Indian tribes if client information  
8 exchanged is pertinent to cases under investigation or the provision  
9 of protective services. Information considered privileged by statute  
10 and not directly related to reports required by this chapter must not  
11 be divulged without a valid written waiver of the privilege.

12 (4) The department shall prepare and keep on file a report of  
13 each investigation conducted by the department for a period of time  
14 in accordance with policies established by the department.

15 (5) If the department has reason to believe that the vulnerable  
16 adult has suffered from abandonment, abuse, financial exploitation,  
17 neglect, or self-neglect, and lacks the ability or capacity to  
18 consent, and needs the protection of a guardian, the department may  
19 bring a guardianship (~~(action)~~), conservatorship, or other protective  
20 proceedings under chapter (~~(11.88)~~) 11.130 RCW.

21 (6) For purposes consistent with this chapter, the department,  
22 the certified professional guardian board, and the office of public  
23 guardianship may share information contained in reports and  
24 investigations of the abuse, abandonment, neglect, self-neglect, and  
25 financial exploitation of vulnerable adults. This information may be  
26 used solely for (a) recruiting or appointing appropriate guardians  
27 and (b) monitoring, or when appropriate, disciplining certified  
28 professional or public guardians. Reports of abuse, abandonment,  
29 neglect, self-neglect, and financial exploitation are confidential  
30 under RCW 74.34.095 and other laws, and secondary disclosure of  
31 information shared under this section is prohibited.

32 (7) When the investigation is completed and the department  
33 determines that an incident of abandonment, abuse, financial  
34 exploitation, neglect, or self-neglect has occurred, the department  
35 shall inform the vulnerable adult of their right to refuse protective  
36 services, and ensure that, if necessary, appropriate protective  
37 services are provided to the vulnerable adult, with the consent of  
38 the vulnerable adult. The vulnerable adult has the right to withdraw  
39 or refuse protective services.

1 (8) The department's adult protective services division may enter  
2 into agreements with federally recognized tribes to investigate  
3 reports of abandonment, abuse, financial exploitation, neglect, or  
4 self-neglect of vulnerable adults on property over which a federally  
5 recognized tribe has exclusive jurisdiction. If the department has  
6 information that abandonment, abuse, financial exploitation, or  
7 neglect is criminal or is placing a vulnerable adult on tribal  
8 property at potential risk of personal or financial harm, the  
9 department may notify tribal law enforcement or another tribal  
10 representative specified by the tribe. Upon receipt of the  
11 notification, the tribe may assume jurisdiction of the matter.  
12 Neither the department nor its employees may participate in the  
13 investigation after the tribe assumes jurisdiction. The department,  
14 its officers, and its employees are not liable for any action or  
15 inaction of the tribe or for any harm to the alleged victim, the  
16 person against whom the allegations were made, or other parties that  
17 occurs after the tribe assumes jurisdiction. Nothing in this section  
18 limits the department's jurisdiction and authority over facilities or  
19 entities that the department licenses or certifies under federal or  
20 state law.

21 (9) The department may photograph a vulnerable adult or their  
22 environment for the purpose of providing documentary evidence of the  
23 physical condition of the vulnerable adult or his or her environment.  
24 When photographing the vulnerable adult, the department shall obtain  
25 permission from the vulnerable adult or his or her legal  
26 representative unless immediate photographing is necessary to  
27 preserve evidence. However, if the legal representative is alleged to  
28 have abused, neglected, abandoned, or exploited the vulnerable adult,  
29 consent from the legal representative is not necessary. No such  
30 consent is necessary when photographing the physical environment.

31 (10) When the investigation is complete and the department  
32 determines that the incident of abandonment, abuse, financial  
33 exploitation, or neglect has occurred, the department shall inform  
34 the facility in which the incident occurred, consistent with  
35 confidentiality requirements concerning the vulnerable adult,  
36 witnesses, and complainants.

37 **Sec. 737.** RCW 74.34.135 and 2007 c 312 s 9 are each amended to  
38 read as follows:

1 (1) When a petition for protection under RCW 74.34.110 is filed  
2 by someone other than the vulnerable adult or the vulnerable adult's  
3 ((full)) guardian ((~~ever either the person or the estate~~)),  
4 conservator, or person acting under a protective arrangement, or  
5 both, and the vulnerable adult for whom protection is sought advises  
6 the court at the hearing that he or she does not want all or part of  
7 the protection sought in the petition, then the court may dismiss the  
8 petition or the provisions that the vulnerable adult objects to and  
9 any protection order issued under RCW 74.34.120 or 74.34.130, or the  
10 court may take additional testimony or evidence, or order additional  
11 evidentiary hearings to determine whether the vulnerable adult is  
12 unable, due to incapacity, undue influence, or duress, to protect his  
13 or her person or estate in connection with the issues raised in the  
14 petition or order. If an additional evidentiary hearing is ordered  
15 and the court determines that there is reason to believe that there  
16 is a genuine issue about whether the vulnerable adult is unable to  
17 protect his or her person or estate in connection with the issues  
18 raised in the petition or order, the court may issue a temporary  
19 order for protection of the vulnerable adult pending a decision after  
20 the evidentiary hearing.

21 (2) An evidentiary hearing on the issue of whether the vulnerable  
22 adult is unable, due to incapacity, undue influence, or duress, to  
23 protect his or her person or estate in connection with the issues  
24 raised in the petition or order, shall be held within fourteen days  
25 of entry of the temporary order for protection under subsection (1)  
26 of this section. If the court did not enter a temporary order for  
27 protection, the evidentiary hearing shall be held within fourteen  
28 days of the prior hearing on the petition. Notice of the time and  
29 place of the evidentiary hearing shall be personally served upon the  
30 vulnerable adult and the respondent not less than six court days  
31 before the hearing. When good faith attempts to personally serve the  
32 vulnerable adult and the respondent have been unsuccessful, the court  
33 shall permit service by mail, or by publication if the court  
34 determines that personal service and service by mail cannot be  
35 obtained. If timely service cannot be made, the court may set a new  
36 hearing date. A hearing under this subsection is not necessary if the  
37 vulnerable adult has been determined to be ((~~fully incapacitated over~~  
38 ~~either the person or the estate, or both, under the guardianship~~  
39 ~~laws,~~)) subject to a guardianship, conservatorship, or other  
40 protective arrangement under chapter ((~~11.88~~)) 11.130 RCW. If a

1 hearing is scheduled under this subsection, the protection order  
2 shall remain in effect pending the court's decision at the subsequent  
3 hearing.

4 (3) At the hearing scheduled by the court, the court shall give  
5 the vulnerable adult, the respondent, the petitioner, and in the  
6 court's discretion other interested persons, the opportunity to  
7 testify and submit relevant evidence.

8 (4) If the court determines that the vulnerable adult is capable  
9 of protecting his or her person or estate in connection with the  
10 issues raised in the petition, and the individual continues to object  
11 to the protection order, the court shall dismiss the order or may  
12 modify the order if agreed to by the vulnerable adult. If the court  
13 determines that the vulnerable adult is not capable of protecting his  
14 or her person or estate in connection with the issues raised in the  
15 petition or order, and that the individual continues to need  
16 protection, the court shall order relief consistent with RCW  
17 74.34.130 as it deems necessary for the protection of the vulnerable  
18 adult. In the entry of any order that is inconsistent with the  
19 expressed wishes of the vulnerable adult, the court's order shall be  
20 governed by the legislative findings contained in RCW 74.34.005.

21 **Sec. 738.** RCW 74.34.163 and 2007 c 312 s 10 are each amended to  
22 read as follows:

23 Any vulnerable adult who (~~has not been adjudicated fully~~  
24 ~~incapacitated under chapter 11.88 RCW, or the vulnerable adult's~~  
25 ~~guardian,)) is subject to a limited guardianship, limited  
26 conservatorship, or other protective arrangement under chapter 11.130  
27 RCW, or the vulnerable adult's guardian, conservator, or person  
28 acting on behalf of the vulnerable adult under a protective  
29 arrangement may at any time subsequent to entry of a permanent  
30 protection order under this chapter, (~~may~~)) apply to the court for  
31 an order to modify or vacate the order. In a hearing on an  
32 application to dismiss or modify the protection order, the court  
33 shall grant such relief consistent with RCW 74.34.110 as it deems  
34 necessary for the protection of the vulnerable adult, including  
35 dismissal or modification of the protection order.~~

36 **Sec. 739.** RCW 74.42.430 and 1980 c 184 s 12 are each amended to  
37 read as follows:

38 The facility shall develop written guidelines governing:

- 1 (1) All services provided by the facility;
  - 2 (2) Admission, transfer or discharge;
  - 3 (3) The use of chemical and physical restraints, the personnel  
4 authorized to administer restraints in an emergency, and procedures  
5 for monitoring and controlling the use of the restraints;
  - 6 (4) Procedures for receiving and responding to residents'  
7 complaints and recommendations;
  - 8 (5) Access to, duplication of, and dissemination of information  
9 from the resident's record;
  - 10 (6) Residents' rights, privileges, and duties;
  - 11 (7) Procedures if the resident is adjudicated incompetent or  
12 incapable of understanding his or her rights and responsibilities;
  - 13 (8) When to recommend initiation of guardianship,  
14 conservatorship, or other protective arrangement proceedings under  
15 chapter (~~11.88~~) 11.130 RCW; (~~and~~)
  - 16 (9) Emergencies;
  - 17 (10) Procedures for isolation of residents with infectious  
18 diseases; and
  - 19 (11) Procedures for residents to refuse treatment and for the  
20 facility to document informed refusal.
- 21 The written guidelines shall be made available to the staff,  
22 residents, members of residents' families, and the public.

## 23 PART VIII

### 24 INTENT

25 NEW SECTION. **Sec. 801.** A new section is added to chapter 11.130  
26 RCW to read as follows:

27 It is the intent of the legislature to protect the liberty and  
28 autonomy of all people of this state, and to enable them to exercise  
29 their rights under the law to the maximum extent, consistent with the  
30 capacity of each person. The legislature recognizes that people with  
31 incapacities have unique abilities and needs, and that some people  
32 with incapacities cannot exercise their rights or provide for their  
33 basic needs without the help of a guardian. However, their liberty  
34 and autonomy should be restricted through guardianship,  
35 conservatorship, emergency guardianship, emergency conservatorship,  
36 and other protective arrangements only to the minimum extent  
37 necessary to adequately provide for their own health or safety, or to  
38 adequately manage their financial affairs.



1 122 s 5, 1984 c 149 s 177, 1977 ex.s. c 309 s 4, 1975 1st ex.s. c 95  
2 s 5, 1969 c 70 s 1, & 1965 c 145 s 11.88.040;

3 (7) RCW 11.88.045 (Legal counsel and jury trial—Proof—Medical  
4 report—Examinations—Waiver) and 2001 c 148 s 1, 1996 c 249 s 9, 1995  
5 c 297 s 3, 1991 c 289 s 4, 1990 c 122 s 6, 1977 ex.s. c 309 s 5, &  
6 1975 1st ex.s. c 95 s 7;

7 (8) RCW 11.88.080 (Guardians nominated by will or durable power  
8 of attorney) and 2016 c 209 s 401, 2005 c 97 s 11, 1990 c 122 s 7, &  
9 1965 c 145 s 11.88.080;

10 (9) RCW 11.88.090 (Guardian ad litem—Mediation—Appointment—  
11 Qualifications—Notice of and statement by guardian ad litem—Hearing  
12 and notice—Attorneys' fees and costs—Registry—Duties—Report—  
13 Responses—Fee) and 2008 c 6 s 804, 2000 c 124 s 1, 1999 c 360 s 1,  
14 1996 c 249 s 10, 1995 c 297 s 4, 1991 c 289 s 5, 1990 c 122 s 8, 1977  
15 ex.s. c 309 s 6, 1975 1st ex.s. c 95 s 9, & 1965 c 145 s 11.88.090;

16 (10) RCW 11.88.093 (Ex parte communications—Removal) and 2000 c  
17 124 s 10;

18 (11) RCW 11.88.095 (Disposition of guardianship petition) and  
19 2011 c 329 s 4, 1995 c 297 s 5, 1991 c 289 s 6, & 1990 c 122 s 9;

20 (12) RCW 11.88.097 (Guardian ad litem—Fees) and 2000 c 124 s 13;

21 (13) RCW 11.88.100 (Oath and bond of guardian or limited  
22 guardian) and 2010 c 8 s 2088, 1990 c 122 s 10, 1983 c 271 s 1, 1977  
23 ex.s. c 309 s 7, 1975 1st ex.s. c 95 s 10, & 1965 c 145 s 11.88.100;

24 (14) RCW 11.88.105 (Reduction in amount of bond) and 1990 c 122 s  
25 11, 1975 1st ex.s. c 95 s 11, & 1965 c 145 s 11.88.105;

26 (15) RCW 11.88.107 (When bond not required) and 1990 c 122 s 12,  
27 1977 ex.s. c 309 s 8, 1975 1st ex.s. c 95 s 12, & 1965 c 145 s  
28 11.88.107;

29 (16) RCW 11.88.110 (Law on executors' and administrators' bonds  
30 applicable) and 1975 1st ex.s. c 95 s 13 & 1965 c 145 s 11.88.110;

31 (17) RCW 11.88.115 (Notice to department of revenue);

32 (18) RCW 11.88.120 (Modification or termination of guardianship—  
33 Procedure) and 2017 c 271 s 2, 2015 c 293 s 1, 1991 c 289 s 7, 1990 c  
34 122 s 14, 1977 ex.s. c 309 s 9, 1975 1st ex.s. c 95 s 14, & 1965 c  
35 145 s 11.88.120;

36 (19) RCW 11.88.125 (Standby limited guardian or limited guardian)  
37 and 2013 c 304 s 1, 2011 c 329 s 5, 2008 c 6 s 805, 1991 c 289 s 8,  
38 1990 c 122 s 15, 1979 c 32 s 1, 1977 ex.s. c 309 s 10, & 1975 1st  
39 ex.s. c 95 s 6;

1 (20) RCW 11.88.127 (Guardianship—Incapacitated person—Letters of  
2 guardianship) and 2011 c 329 s 6;

3 (21) RCW 11.88.130 (Transfer of jurisdiction and venue) and 1990  
4 c 122 s 16, 1975 1st ex.s. c 95 s 15, & 1965 c 145 s 11.88.130;

5 (22) RCW 11.88.140 (Termination of guardianship or limited  
6 guardianship) and 2016 c 202 s 9, 2011 c 329 s 7, 1991 c 289 s 9,  
7 1990 c 122 s 17, 1977 ex.s. c 309 s 11, 1975 1st ex.s. c 95 s 16, &  
8 1965 c 145 s 11.88.140;

9 (23) RCW 11.88.150 (Administration of deceased incapacitated  
10 person's estate) and 2010 c 8 s 2089, 1990 c 122 s 18, 1977 ex.s. c  
11 309 s 12, 1975 1st ex.s. c 95 s 17, & 1965 c 145 s 11.88.150;

12 (24) RCW 11.88.160 (Guardianships involving veterans) and 1990 c  
13 122 s 13;

14 (25) RCW 11.88.170 (Guardianship courthouse facilitator program)  
15 and 2015 c 295 s 1;

16 (26) RCW 11.88.900 (Construction—Chapter applicable to state  
17 registered domestic partnerships—2009 c 521) and 2009 c 521 s 35;

18 (27) RCW 11.92.010 (Guardians or limited guardians under court  
19 control—Legal age) and 1975 1st ex.s. c 95 s 18, 1971 c 28 s 5, &  
20 1965 c 145 s 11.92.010;

21 (28) RCW 11.92.035 (Claims) and 1990 c 122 s 19, 1975 1st ex.s. c  
22 95 s 19, & 1965 c 145 s 11.92.035;

23 (29) RCW 11.92.040 (Duties of guardian or limited guardian in  
24 general) and 2011 c 329 s 9, 1991 c 289 s 10, 1990 c 122 s 20, & 1985  
25 c 30 s 9;

26 (30) RCW 11.92.043 (Additional duties) and 2017 c 268 s 3, 2011 c  
27 329 s 3, 1991 c 289 s 11, & 1990 c 122 s 21;

28 (31) RCW 11.92.050 (Intermediate accounts or reports—Hearing—  
29 Order) and 2011 c 329 s 10, 1995 c 297 s 6, 1990 c 122 s 23, 1975 1st  
30 ex.s. c 95 s 21, & 1965 c 145 s 11.92.050;

31 (32) RCW 11.92.053 (Settlement of estate upon termination) and  
32 2011 c 329 s 8, 1995 c 297 s 7, 1990 c 122 s 24, & 1965 c 145 s  
33 11.92.053;

34 (33) RCW 11.92.056 (Citation of surety on bond) and 1990 c 122 s  
35 25, 1975 1st ex.s. c 95 s 22, & 1965 c 145 s 11.92.056;

36 (34) RCW 11.92.060 (Guardian to represent incapacitated person—  
37 Compromise of claims—Service of process) and 1990 c 122 s 26, 1975  
38 1st ex.s. c 95 s 23, & 1965 c 145 s 11.92.060;

1 (35) RCW 11.92.090 (Sale, exchange, lease, or mortgage of  
2 property) and 1990 c 122 s 27, 1975 1st ex.s. c 95 s 24, & 1965 c 145  
3 s 11.92.090;

4 (36) RCW 11.92.096 (Guardian access to certain held assets) and  
5 1991 c 289 s 13;

6 (37) RCW 11.92.100 (Petition—Contents) and 1990 c 122 s 28, 1975  
7 1st ex.s. c 95 s 25, & 1965 c 145 s 11.92.100;

8 (38) RCW 11.92.110 (Sale of real estate) and 1990 c 122 s 29,  
9 1975 1st ex.s. c 95 s 26, & 1965 c 145 s 11.92.110;

10 (39) RCW 11.92.115 (Return and confirmation of sale) and 2010 c 8  
11 s 2090, 1990 c 122 s 30, 1975 1st ex.s. c 95 s 27, & 1965 c 145 s  
12 11.92.115;

13 (40) RCW 11.92.120 (Confirmation conclusive) and 1975 1st ex.s. c  
14 95 s 28 & 1965 c 145 s 11.92.120;

15 (41) RCW 11.92.125 (Broker's fee and closing expenses—Sale,  
16 exchange, mortgage, or lease of real estate) and 1977 ex.s. c 309 s  
17 15 & 1965 c 145 s 11.92.125;

18 (42) RCW 11.92.130 (Performance of contracts) and 1990 c 122 s  
19 31, 1975 1st ex.s. c 95 s 29, & 1965 c 145 s 11.92.130;

20 (43) RCW 11.92.140 (Court authorization for actions regarding  
21 guardianship funds) and 2008 c 6 s 807, 1999 c 42 s 616, 1991 c 193 s  
22 32, 1990 c 122 s 32, & 1985 c 30 s 10;

23 (44) RCW 11.92.150 (Request for special notice of proceedings)  
24 and 1990 c 122 s 33 & 1985 c 30 s 11;

25 (45) RCW 11.92.160 (Citation for failure to file account or  
26 report) and 1990 c 122 s 34, 1975 1st ex.s. c 95 s 31, & 1965 c 145 s  
27 11.92.160;

28 (46) RCW 11.92.170 (Removal of property of nonresident  
29 incapacitated person) and 1990 c 122 s 35, 1977 ex.s. c 309 s 16,  
30 1975 1st ex.s. c 95 s 32, & 1965 c 145 s 11.92.170;

31 (47) RCW 11.92.180 (Compensation and expenses of guardian or  
32 limited guardian—Attorney's fees—Department of social and health  
33 services clients paying part of costs—Rules) and 1995 c 297 s 8, 1994  
34 c 68 s 1, 1991 c 289 s 12, 1990 c 122 s 36, 1975 1st ex.s. c 95 s 33,  
35 & 1965 c 145 s 11.92.180;

36 (48) RCW 11.92.185 (Concealed or embezzled property) and 1990 c  
37 122 s 37, 1975 1st ex.s. c 95 s 34, & 1965 c 145 s 11.92.185;

38 (49) RCW 11.92.190 (Detention of person in residential placement  
39 facility against will prohibited—Effect of court order—Service of

1 notice of residential placement) and 2016 sp.s. c 29 s 412, 1996 c  
2 249 s 11, & 1977 ex.s. c 309 s 14; and

3 (50) RCW 11.92.195 (Incapacitated persons—Right to associate with  
4 persons of their choosing) and 2017 c 268 s 1.

5 NEW SECTION. **Sec. 905.** The following acts or parts of acts are  
6 each repealed:

7 (1) RCW 26.10.010 (Intent) and 1987 c 460 s 25;

8 (2) RCW 26.10.015 (Mandatory use of approved forms) and 1992 c  
9 229 s 4 & 1990 1st ex.s. c 2 s 27;

10 (3) RCW 26.10.020 (Civil practice to govern—Designation of  
11 proceedings—Decrees) and 1987 c 460 s 26;

12 (4) RCW 26.10.030 (Child custody proceeding—Commencement—Notice  
13 —Intervention) and 2003 c 105 s 3, 2000 c 135 s 3, 1998 c 130 s 4, &  
14 1987 c 460 s 27;

15 (5) RCW 26.10.032 (Child custody motion—Affidavit required—  
16 Notice—Denial of motion—Show cause hearing) and 2003 c 105 s 6;

17 (6) RCW 26.10.034 (Petitions—Indian child statement—Application  
18 of federal Indian child welfare act) and 2011 c 309 s 31, 2004 c 64 s  
19 1, & 2003 c 105 s 7;

20 (7) RCW 26.10.040 (Provisions for child support, custody, and  
21 visitation—Federal tax exemption—Continuing restraining orders—  
22 Domestic violence or antiharassment protection orders—Notice of  
23 modification or termination of restraining order) and 2000 c 119 s 8,  
24 1995 c 93 s 3, 1994 sp.s. c 7 s 453, 1989 c 375 s 31, & 1987 c 460 s  
25 28;

26 (8) RCW 26.10.045 (Child support schedule) and 1988 c 275 s 12;

27 (9) RCW 26.10.050 (Child support by parents—Apportionment of  
28 expense) and 2008 c 6 s 1023 & 1987 c 460 s 29;

29 (10) RCW 26.10.060 (Health insurance coverage—Conditions) and  
30 1989 c 375 s 19 & 1987 c 460 s 30;

31 (11) RCW 26.10.070 (Minor or dependent child—Court appointed  
32 attorney to represent—Payment of costs, fees, and disbursements) and  
33 1989 c 375 s 20 & 1987 c 460 s 31;

34 (12) RCW 26.10.080 (Payment of costs, attorney's fees, etc.) and  
35 1987 c 460 s 35;

36 (13) RCW 26.10.090 (Failure to comply with decree or temporary  
37 injunction—Obligation to make support payments or permit visitation  
38 not suspended—Motion) and 1987 c 460 s 36;

- 1 (14) RCW 26.10.100 (Determination of custody—Child's best  
2 interests) and 1987 c 460 s 38;
- 3 (15) RCW 26.10.110 (Temporary custody order—Vacation of order)  
4 and 1987 c 460 s 39;
- 5 (16) RCW 26.10.120 (Interview with child by court—Advice of  
6 professional personnel) and 1987 c 460 s 40;
- 7 (17) RCW 26.10.130 (Investigation and report) and 1993 c 289 s 2  
8 & 1987 c 460 s 41;
- 9 (18) RCW 26.10.135 (Custody orders—Background information to be  
10 consulted) and 2017 3rd sp.s. c 6 s 333 & 2003 c 105 s 1;
- 11 (19) RCW 26.10.140 (Hearing—Record—Expenses of witnesses) and  
12 1987 c 460 s 42;
- 13 (20) RCW 26.10.150 (Access to child's education and medical  
14 records) and 1987 c 460 s 43;
- 15 (21) RCW 26.10.160 (Visitation rights—Limitations) and 2018 c 183  
16 s 7, 2011 c 89 s 7, 2004 c 38 s 13, 1996 c 303 s 2, 1994 c 267 s 2,  
17 1989 c 326 s 2, & 1987 c 460 s 44;
- 18 (22) RCW 26.10.170 (Powers and duties of custodian—Supervision by  
19 appropriate agency when necessary) and 1987 c 460 s 45;
- 20 (23) RCW 26.10.180 (Remedies when a child is taken, enticed, or  
21 concealed) and 2008 c 6 s 1024, 1989 c 375 s 21, & 1987 c 460 s 46;
- 22 (24) RCW 26.10.190 (Petitions for modification and proceedings  
23 concerning relocation of child—Assessment of attorneys' fees) and  
24 2000 c 21 s 21, 1989 c 375 s 24, & 1987 c 460 s 47;
- 25 (25) RCW 26.10.200 (Temporary custody order or modification of  
26 custody decree—Affidavits required) and 1987 c 460 s 48;
- 27 (26) RCW 26.10.210 (Venue) and 1987 c 460 s 49;
- 28 (27) RCW 26.10.220 (Restraining orders—Notice—Refusal to comply  
29 —Arrest—Penalty—Defense—Peace officers, immunity) and 2000 c 119 s  
30 22, 1999 c 184 s 11, 1996 c 248 s 10, 1995 c 246 s 30, & 1987 c 460 s  
31 50; and
- 32 (28) RCW 26.10.910 (Short title—1987 c 460).

33 NEW SECTION. **Sec. 906.** A new section is added to chapter 11.130  
34 RCW to read as follows:

35 (1) To the extent of a conflict between this chapter and chapter  
36 11.88 or 11.92 RCW, chapter 11.88 or 11.92 RCW prevails.

37 (2) This section expires January 1, 2022.

1        NEW SECTION.    **Sec. 907.**    (1) Except for sections 101 through 122,  
2    301 through 307, 312, 313, 725, 801, 902, 903, 905, and 906 of this  
3    act, this act takes effect January 1, 2022.

4        (2) Sections 101 through 122, 301 through 307, 312, 313, 725,  
5    801, 905, and 906 of this act take effect January 1, 2021.

Passed by the Senate March 9, 2020.

Passed by the House March 5, 2020.

Approved by the Governor April 2, 2020.

Filed in Office of Secretary of State April 3, 2020.

--- **END** ---