

CERTIFICATION OF ENROLLMENT

SECOND SUBSTITUTE SENATE BILL 5604

Chapter 437, Laws of 2019

66th Legislature
2019 Regular Session

UNIFORM GUARDIANSHIP, CONSERVATORSHIP, AND OTHER PROTECTIVE
ARRANGEMENTS ACT

EFFECTIVE DATE: January 1, 2021

Passed by the Senate April 26, 2019
Yeas 43 Nays 6

CYRUS HABIB

President of the Senate

Passed by the House April 25, 2019
Yeas 91 Nays 7

FRANK CHOPP

Speaker of the House of Representatives

Approved May 21, 2019 11:25 AM

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 **SECOND SUBSTITUTE SENATE BILL 5604** as passed by the Senate and the House of Representatives on the dates hereon set forth.

BRAD HENDRICKSON

Secretary

FILED

May 21, 2019

**Secretary of State
State of Washington**

1 NEW SECTION. **Sec. 101.** SHORT TITLE. This chapter may be cited
2 as the uniform guardianship, conservatorship, and other protective
3 arrangements act.

4 NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this
5 section apply throughout this chapter unless the context clearly
6 requires otherwise.

7 (1) "Adult" means an individual at least eighteen years of age or
8 an emancipated individual under eighteen years of age.

9 (2) "Adult subject to conservatorship" means an adult for whom a
10 conservator has been appointed under this chapter.

11 (3) "Adult subject to guardianship" means an adult for whom a
12 guardian has been appointed under this chapter.

13 (4) "Claim" includes a claim against an individual or
14 conservatorship estate, whether arising in contract, tort, or
15 otherwise.

16 (5) "Conservator" means a person appointed by a court to make
17 decisions with respect to the property or financial affairs of an
18 individual subject to conservatorship. The term includes a co-
19 conservator.

20 (6) "Conservatorship estate" means the property subject to
21 conservatorship under this chapter.

22 (7) "Evaluation and treatment facility" has the same meaning as
23 provided in RCW 71.05.020.

24 (8) "Full conservatorship" means a conservatorship that grants
25 the conservator all powers available under this chapter.

26 (9) "Full guardianship" means a guardianship that grants the
27 guardian all powers available under this chapter.

28 (10) "Guardian" means a person appointed by the court to make
29 decisions with respect to the personal affairs of an individual. The
30 term includes a co-guardian but does not include a guardian ad litem.

31 (11) "Guardian ad litem" means a person appointed to inform the
32 court about, and to represent, the needs and best interests of an
33 individual.

34 (12) "Individual subject to conservatorship" means an adult or
35 minor for whom a conservator has been appointed under this chapter.

36 (13) "Individual subject to guardianship" means an adult or minor
37 for whom a guardian has been appointed under this chapter.

38 (14) "Less restrictive alternative" means an approach to meeting
39 an individual's needs which restricts fewer rights of the individual

1 than would the appointment of a guardian or conservator. The term
2 includes supported decision making, appropriate technological
3 assistance, appointment of a representative payee, and appointment of
4 an agent by the individual, including appointment under a power of
5 attorney for health care or power of attorney for finances.

6 (15) "Letters of office" means a record issued by a court
7 certifying a guardian's or conservator's authority to act.

8 (16) "Limited conservatorship" means a conservatorship that
9 grants the conservator less than all powers available under this
10 chapter, grants powers over only certain property, or otherwise
11 restricts the powers of the conservator.

12 (17) "Limited guardianship" means a guardianship that grants the
13 guardian less than all powers available under this chapter or
14 otherwise restricts the powers of the guardian.

15 (18) "Long-term care facility" has the same meaning as provided
16 in RCW 70.129.010.

17 (19) "Minor" means an unemancipated individual under eighteen
18 years of age.

19 (20) "Minor subject to conservatorship" means a minor for whom a
20 conservator has been appointed under this chapter.

21 (21) "Minor subject to guardianship" means a minor for whom a
22 guardian has been appointed under this chapter.

23 (22) "Parent" does not include an individual whose parental
24 rights have been terminated.

25 (23) "Person" means an individual, estate, business or nonprofit
26 entity, public corporation, government or governmental subdivision,
27 agency, or instrumentality, or other legal entity.

28 (24) "Professional guardian or conservator" means a guardian or
29 conservator appointed under this chapter who is not a relative of the
30 person subject to guardianship or conservatorship established under
31 this chapter and who charges fees for carrying out the duties of
32 court-appointed guardian or conservator for three or more persons.

33 (25) "Property" includes tangible and intangible property.

34 (26) "Protective arrangement instead of conservatorship" means a
35 court order entered under section 503 of this act.

36 (27) "Protective arrangement instead of guardianship" means a
37 court order entered under section 502 of this act.

38 (28) "Protective arrangement under article 5 of this chapter"
39 means a court order entered under section 502 or 503 of this act.

1 (29) "Record," used as a noun, means information that is
2 inscribed on a tangible medium or that is stored in an electronic or
3 other medium and is retrievable in perceivable form.

4 (30) "Relative" means any person related by blood or by law to
5 the person subject to guardianship, conservatorship, or other
6 protective arrangements.

7 (31) "Respondent" means an individual for whom appointment of a
8 guardian or conservator or a protective arrangement instead of
9 guardianship or conservatorship is sought.

10 (32) "Sign" means, with present intent to authenticate or adopt a
11 record:

12 (a) To execute or adopt a tangible symbol; or

13 (b) To attach to or logically associate with the record an
14 electronic symbol, sound, or process.

15 (33) "Special agent" means the person appointed by the court
16 pursuant to section 404 or 512 of this act.

17 (34) "Standby guardian" means a person appointed by the court
18 under section 208 of this act.

19 (35) "State" means a state of the United States, the District of
20 Columbia, Puerto Rico, the United States Virgin Islands, or any
21 territory or insular possession subject to the jurisdiction of the
22 United States. The term includes a federally recognized Indian tribe.

23 (36) "Supported decision making" means assistance from one or
24 more persons of an individual's choosing in understanding the nature
25 and consequences of potential personal and financial decisions, which
26 enables the individual to make the decisions, and in communicating a
27 decision once made if consistent with the individual's wishes.

28 (37) "Verified receipt" is a verified receipt signed by the
29 custodian of funds stating that a savings and loan association or
30 bank, trust company, escrow corporation, or other corporations
31 approved by the court hold the cash or securities of the individual
32 subject to conservatorship subject to withdrawal only by order of the
33 court.

34 (38) "Visitor" means the person appointed by the court pursuant
35 to section 304(1) or 405(1) of this act.

36 NEW SECTION. **Sec. 103.** SUPPLEMENTAL PRINCIPLES OF LAW AND
37 EQUITY APPLICABLE. Unless displaced by a particular provision of this
38 chapter, the principles of law and equity supplement its provisions.

1 NEW SECTION. **Sec. 104.** SUBJECT MATTER JURISDICTION. (1) Except
2 to the extent jurisdiction is precluded by the uniform child custody
3 jurisdiction and enforcement act (chapter 26.27 RCW), the superior
4 court of each county has jurisdiction over a guardianship for a minor
5 domiciled or present in this state. The court has jurisdiction over a
6 conservatorship or protective arrangement instead of conservatorship
7 for a minor domiciled or having property in this state.

8 (2) The superior court of each county has jurisdiction over a
9 guardianship, conservatorship, or protective arrangement under
10 article 5 of this chapter for an adult as provided in the uniform
11 adult guardianship and protective proceedings jurisdiction act
12 (chapter 11.90 RCW).

13 (3) After notice is given in a proceeding for a guardianship,
14 conservatorship, or protective arrangement under article 5 of this
15 chapter and until termination of the proceeding, the court in which
16 the petition is filed has:

17 (a) Exclusive jurisdiction to determine the need for the
18 guardianship, conservatorship, or protective arrangement;

19 (b) Exclusive jurisdiction to determine how property of the
20 respondent must be managed, expended, or distributed to or for the
21 use of the respondent, an individual who is dependent in fact on the
22 respondent, or other claimant;

23 (c) Nonexclusive jurisdiction to determine the validity of a
24 claim against the respondent or property of the respondent or a
25 question of title concerning the property; and

26 (d) If a guardian or conservator is appointed, exclusive
27 jurisdiction over issues related to administration of the
28 guardianship or conservatorship.

29 (4) A court that appoints a guardian or conservator, or
30 authorizes a protective arrangement under article 5 of this chapter,
31 has exclusive and continuing jurisdiction over the proceeding until
32 the court terminates the proceeding or the appointment or protective
33 arrangement expires by its terms.

34 NEW SECTION. **Sec. 105.** TRANSFER OF PROCEEDING. (1) This section
35 does not apply to a guardianship or conservatorship for an adult that
36 is subject to the transfer provisions of the uniform adult
37 guardianship and protective proceedings jurisdiction act (chapter
38 11.90 RCW).

1 (2) After appointment of a guardian or conservator, the court
2 that made the appointment may transfer the proceeding to a court in
3 another county in this state or another state if transfer is in the
4 best interest of the individual subject to the guardianship or
5 conservatorship.

6 (3) If a proceeding for a guardianship or conservatorship is
7 pending in another state or a foreign country and a petition for
8 guardianship or conservatorship for the same individual is filed in a
9 court in this state, the court shall notify the court in the other
10 state or foreign country and, after consultation with that court,
11 assume or decline jurisdiction, whichever is in the best interest of
12 the respondent.

13 (4) A guardian or conservator appointed in another state or
14 country may petition the court for appointment as a guardian or
15 conservator in this state for the same individual if jurisdiction in
16 this state is or will be established. The appointment may be made on
17 proof of appointment in the other state or foreign country and
18 presentation of a certified copy of the part of the court record in
19 the other state or country specified by the court in this state.

20 (5) Notice of hearing on a petition under subsection (4) of this
21 section, together with a copy of the petition, must be given to the
22 respondent, if the respondent is at least twelve years of age at the
23 time of the hearing, and to the persons that would be entitled to
24 notice if the procedures for appointment of a guardian or conservator
25 under this chapter were applicable. The court shall make the
26 appointment unless it determines the appointment would not be in the
27 best interest of the respondent.

28 (6) Not later than fourteen days after appointment under
29 subsection (5) of this section, the guardian or conservator shall
30 give a copy of the order of appointment to the individual subject to
31 guardianship or conservatorship, if the individual is at least twelve
32 years of age, and to all persons given notice of the hearing on the
33 petition.

34 NEW SECTION. **Sec. 106.** VENUE. (1) Venue for a guardianship
35 proceeding for a minor is in:

36 (a) The county in which the minor resides or is present at the
37 time the proceeding commences; or

38 (b) The county in which another proceeding concerning the custody
39 or parental rights of the minor is pending.

1 (2) Venue for a guardianship proceeding or protective arrangement
2 instead of guardianship for an adult is in:

3 (a) The county in which the respondent resides;

4 (b) If the respondent has been admitted to an institution by
5 court order, the county in which the court is located; or

6 (c) If the proceeding is for appointment of an emergency guardian
7 for an adult, the county in which the respondent is present.

8 (3) Venue for a conservatorship proceeding or protective
9 arrangement instead of conservatorship is in:

10 (a) The county in which the respondent resides, whether or not a
11 guardian has been appointed in another county or other jurisdiction;
12 or

13 (b) If the respondent does not reside in this state, in any
14 county in which property of the respondent is located.

15 (4) If proceedings under this chapter are brought in more than
16 one county, the court of the county in which the first proceeding is
17 brought has the exclusive right to proceed unless the court
18 determines venue is properly in another court or the interest of
19 justice otherwise requires transfer of the proceeding.

20 NEW SECTION. **Sec. 107.** PRACTICE IN COURT. (1) Except as
21 otherwise provided in this chapter, the rules of evidence and civil
22 procedure, including rules concerning appellate review, govern a
23 proceeding under this chapter.

24 (2) If proceedings for a guardianship, conservatorship, or
25 protective arrangement under article 5 of this chapter for the same
26 individual are commenced or pending in the same court, the
27 proceedings may be consolidated.

28 (3) A respondent may demand a jury trial in a proceeding under
29 this chapter on the issue whether a basis exists for appointment of a
30 guardian or conservator.

31 NEW SECTION. **Sec. 108.** LETTERS OF OFFICE. (1) The court shall
32 issue letters of guardianship to a guardian on filing by the guardian
33 of an acceptance of appointment.

34 (2) The court shall issue letters of conservatorship to a
35 conservator on filing by the conservator of an acceptance of
36 appointment and filing of any required bond or compliance with any
37 other verified receipt required by the court.

1 (3) Limitations on the powers of a guardian or conservator or on
2 the property subject to conservatorship must be stated on the letters
3 of office.

4 (4) The court at any time may limit the powers conferred on a
5 guardian or conservator. The court shall issue new letters of office
6 to reflect the limitation.

7 (5) A guardian or conservator may not act on behalf of a person
8 under guardianship or conservatorship without valid letters of
9 office.

10 (6) The clerk of the superior court shall issue letters of
11 guardianship or conservatorship in or substantially in the same form
12 as set forth in section 605 of this act.

13 (7) This chapter does not affect the validity of letters of
14 office issued under chapter 11.88 RCW prior to the effective date of
15 this section.

16 NEW SECTION. **Sec. 109.** EFFECT OF ACCEPTANCE OF APPOINTMENT. On
17 acceptance of appointment, a guardian or conservator submits to
18 personal jurisdiction of the court in this state in any proceeding
19 relating to the guardianship or conservatorship.

20 NEW SECTION. **Sec. 110.** CO-GUARDIAN—CO-CONSERVATOR. (1) The
21 court at any time may appoint a co-guardian or co-conservator to
22 serve immediately or when a designated event occurs.

23 (2) A co-guardian or co-conservator appointed to serve
24 immediately may act when that co-guardian or co-conservator complies
25 with section 108 of this act.

26 (3) A co-guardian or co-conservator appointed to serve when a
27 designated event occurs may act when:

28 (a) The event occurs; and

29 (b) That co-guardian or co-conservator complies with section 108
30 of this act.

31 (4) Unless an order of appointment under subsection (1) of this
32 section or subsequent order states otherwise, co-guardians or co-
33 conservators shall make decisions jointly.

34 NEW SECTION. **Sec. 111.** JUDICIAL APPOINTMENT OF SUCCESSOR
35 GUARDIAN OR SUCCESSOR CONSERVATOR. (1) The court at any time may
36 appoint a successor guardian or successor conservator to serve
37 immediately or when a designated event occurs.

1 (2) A person entitled under section 202 or 302 of this act to
2 petition the court to appoint a guardian may petition the court to
3 appoint a successor guardian. A person entitled under section 402 of
4 this act to petition the court to appoint a conservator may petition
5 the court to appoint a successor conservator.

6 (3) A successor guardian or successor conservator appointed to
7 serve when a designated event occurs may act as guardian or
8 conservator when:

9 (a) The event occurs; and

10 (b) The successor complies with section 108 of this act.

11 (4) A successor guardian or successor conservator has the
12 predecessor's powers unless otherwise provided by the court.

13 NEW SECTION. **Sec. 112.** EFFECT OF DEATH, REMOVAL, OR RESIGNATION
14 OF GUARDIAN OR CONSERVATOR. (1) Appointment of a guardian or
15 conservator terminates on the death or removal of the guardian or
16 conservator, or when the court under subsection (2) of this section
17 approves a resignation of the guardian or conservator.

18 (2) A guardian or conservator must petition the court to resign.
19 The petition may include a request that the court appoint a
20 successor. Resignation of a guardian or conservator is effective on
21 the date the resignation is approved by the court.

22 (3) Death, removal, or resignation of a guardian or conservator
23 does not affect liability for a previous act or the obligation to
24 account for:

25 (a) An action taken on behalf of the individual subject to
26 guardianship or conservatorship; or

27 (b) The individual's funds or other property.

28 NEW SECTION. **Sec. 113.** NOTICE OF HEARING GENERALLY. (1) Except
29 as otherwise provided in sections 203, 208, 303, 403, and 505 of this
30 act, if notice of a hearing under this chapter is required, the
31 movant shall give notice of the date, time, and place of the hearing
32 to the person to be notified unless otherwise ordered by the court
33 for good cause. Except as otherwise provided in this chapter, notice
34 must be given in compliance with the local superior court's rule of
35 civil procedure at least fourteen days before the hearing.

36 (2) Proof of notice of a hearing under this chapter must be made
37 before or at the hearing and filed in the proceeding.

1 (3) Notice of a hearing under this chapter must be in at least
2 sixteen-point font, in plain language, and, to the extent feasible,
3 in a language in which the person to be notified is proficient.

4 NEW SECTION. **Sec. 114.** WAIVER OF NOTICE. (1) Except as
5 otherwise provided in subsection (2) of this section, a person may
6 waive notice under this chapter in a record signed by the person or
7 person's attorney and filed in the proceeding.

8 (2) A respondent, individual subject to guardianship, individual
9 subject to conservatorship, or individual subject to a protective
10 arrangement under article 5 of this chapter may not waive notice
11 under this chapter.

12 NEW SECTION. **Sec. 115.** GUARDIAN AD LITEM. The court at any time
13 may appoint a guardian ad litem for an individual if the court
14 determines the individual's interest otherwise would not be
15 adequately represented. If no conflict of interest exists, a guardian
16 ad litem may be appointed to represent multiple individuals or
17 interests. The guardian ad litem may not be the same individual as
18 the attorney representing the respondent. The court shall state the
19 duties of the guardian ad litem and the reasons for the appointment.

20 NEW SECTION. **Sec. 116.** REQUEST FOR NOTICE. (1) A person may
21 file with the court a request for notice under this chapter if the
22 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 shall give notice of the approval to the guardian
33 or conservator, if one has been appointed, or the respondent if no
34 guardian or conservator has been appointed.

1 NEW SECTION. **Sec. 117.** DISCLOSURE OF BANKRUPTCY OR CRIMINAL
2 HISTORY. (1) Before accepting appointment as a guardian or
3 conservator, a person shall disclose to the court whether the person:

4 (a) Is or has been a debtor in a bankruptcy, insolvency, or
5 receivership proceeding;

6 (b) Has been convicted of:

7 (i) A felony;

8 (ii) A crime involving dishonesty, neglect, violence, or use of
9 physical force; or

10 (iii) Other crimes relevant to the functions the individual would
11 assume as guardian or conservator; or

12 (c) Has any court finding of a breach of fiduciary duty or a
13 violation of any state's consumer protection act, or violation of any
14 other statute proscribing unfair or deceptive acts or practices in
15 the conduct of any business.

16 (2) A guardian or conservator that engages or anticipates
17 engaging an agent the guardian or conservator knows has been
18 convicted of a felony, a crime involving dishonesty, neglect,
19 violence, or use of physical force, or other crimes relevant to the
20 functions the agent is being engaged to perform promptly shall
21 disclose that knowledge to the court.

22 (3) If a conservator engages or anticipates engaging an agent to
23 manage finances of the individual subject to conservatorship and
24 knows the agent is or has been a debtor in a bankruptcy, insolvency,
25 or receivership proceeding, the conservator promptly shall disclose
26 that knowledge to the court.

27 (4) If a guardian or conservator that engages or anticipates
28 engaging an agent and knows the agent has any court finding of a
29 breach of fiduciary duty or a violation of any state's consumer
30 protection act, or violation of any other statute proscribing unfair
31 or deceptive acts or practices in the conduct of any business, the
32 guardian or conservator promptly shall disclose that knowledge to the
33 court.

34 NEW SECTION. **Sec. 118.** QUALIFICATIONS. (1) Any suitable person
35 over the age of twenty-one years, or any parent under the age of
36 twenty-one years or, if the petition is for appointment of a
37 professional guardian or conservator, any individual or guardianship
38 or conservatorship service that meets any certification requirements
39 established by the administrator for the courts, may, if not

1 otherwise disqualified, be appointed guardian or conservator of a
2 person subject to guardianship, conservatorship, or both. A financial
3 institution subject to the jurisdiction of the department of
4 financial institutions and authorized to exercise trust powers, and a
5 federally chartered financial institution when authorized to do so,
6 may be appointed to act as a guardian or conservator of a person
7 subject to guardianship, conservatorship, or both without having to
8 meet the certification requirements established by the administrator
9 for the courts. No person is qualified to serve as a guardian or
10 conservator who is:

11 (a) Under eighteen years of age except as otherwise provided
12 herein;

13 (b) (i) Except as provided otherwise in (b) (ii) of this
14 subsection, convicted of a crime involving dishonesty, neglect, or
15 use of physical force or other crime relevant to the functions the
16 individual would assume as guardian;

17 (ii) A court may, upon consideration of the facts, find that a
18 relative convicted of a crime is qualified to serve as a guardian or
19 conservator;

20 (c) A nonresident of this state who has not appointed a resident
21 agent to accept service of process in all actions or proceedings with
22 respect to the estate and caused such appointment to be filed with
23 the court;

24 (d) A corporation not authorized to act as a fiduciary, guardian,
25 or conservator in the state;

26 (e) A person whom the court finds unsuitable.

27 (2) If a guardian, or conservator is not a certified professional
28 guardian, conservator, or financial institution authorized under this
29 section, the guardian or conservator must complete any standardized
30 training video or web cast for lay guardians or conservators made
31 available by the administrative office of the courts and the superior
32 court where the petition is filed unless granted a waiver by the
33 court. The training video or web cast must be provided at no cost to
34 the guardian, or conservator.

35 (a) If a petitioner requests the appointment of a specific
36 individual to act as a guardian or conservator, the petition for
37 guardianship or conservatorship must include evidence of the
38 successful completion of the required training video or web cast by
39 the proposed guardian or conservator. The superior court may defer
40 the completion of the training requirement to a date no later than

1 ninety days after appointment if the petitioner requests expedited
2 appointment due to emergent circumstances.

3 (b) If no person is identified to be appointed guardian or
4 conservator at the time the petition is filed, then the court must
5 require that the petitioner identify within fourteen days from the
6 filing of the petition a specific individual to act as guardian
7 subject to the training requirements set forth herein.

8 NEW SECTION. **Sec. 119.** MULTIPLE NOMINATIONS. If a respondent or
9 other person makes more than one nomination of a guardian or
10 conservator, the latest in time governs.

11 NEW SECTION. **Sec. 120.** COMPENSATION AND EXPENSES—IN GENERAL.

12 (1) Unless otherwise compensated or reimbursed, an attorney for a
13 respondent in a proceeding under this chapter is entitled to
14 reasonable compensation for services and reimbursement of reasonable
15 expenses from the property of the respondent.

16 (2) Unless otherwise compensated or reimbursed, an attorney or
17 other person whose services resulted in an order beneficial to an
18 individual subject to guardianship or conservatorship or for whom a
19 protective arrangement under article 5 of this chapter was ordered is
20 entitled to reasonable compensation for services and reimbursement of
21 reasonable expenses from the property of the individual.

22 (3) The court must approve compensation and expenses payable
23 under this section before payment. Approval is not required before a
24 service is provided or an expense is incurred.

25 (4) If the court dismisses a petition under this act and
26 determines the petition was filed in bad faith, the court may assess
27 the cost of any court-ordered professional evaluation or visitor
28 against the petitioner.

29 (5) Where the person subject to guardianship or conservatorship
30 is a department of social and health services client, or health care
31 authority client, and is required to contribute a portion of their
32 income towards the cost of long-term care services or room and board,
33 the amount of compensation or reimbursement shall not exceed the
34 amount allowed by the department of social and health services or
35 health care authority by rule.

36 (6) Where the person subject to guardianship or conservatorship
37 receives guardianship, conservatorships, or other protective services
38 from the office of public guardianship, the amount of compensation or

1 reimbursement shall not exceed the amount allowed by the office of
2 public guardianship.

3 (7) The court must approve compensation and expenses payable
4 under this section before payment. Approval is not required before a
5 service is provided or an expense is incurred.

6 (8) If the court dismisses a petition under this chapter and
7 determines the petition was filed in bad faith, the court may assess
8 the cost of any court-ordered professional evaluation or visitor
9 against the petitioner.

10 NEW SECTION. **Sec. 121.** COMPENSATION OF GUARDIAN OR CONSERVATOR.

11 (1) Subject to court approval, a guardian is entitled to reasonable
12 compensation for services as guardian and to reimbursement for room,
13 board, clothing, and other appropriate expenses advanced for the
14 benefit of the individual subject to guardianship. If a conservator,
15 other than the guardian or a person affiliated with the guardian, is
16 appointed for the individual, reasonable compensation and
17 reimbursement to the guardian may be approved and paid by the
18 conservator without court approval.

19 (2) Subject to court approval, a conservator is entitled to
20 reasonable compensation for services and reimbursement for
21 appropriate expenses from the property of the individual subject to
22 conservatorship.

23 (3) In determining reasonable compensation for a guardian or
24 conservator, the court, or a conservator in determining reasonable
25 compensation for a guardian as provided in subsection (1) of this
26 section, shall approve compensation that shall not exceed the typical
27 amounts paid for comparable services in the community, at a rate for
28 which the service can be performed in the most efficient and cost-
29 effective manner, considering:

- 30 (a) The necessity and quality of the services provided;
- 31 (b) The experience, training, professional standing, and skills
32 of the guardian or conservator;
- 33 (c) The difficulty of the services performed, including the
34 degree of skill and care required;
- 35 (d) The conditions and circumstances under which a service was
36 performed, including whether the service was provided outside regular
37 business hours or under dangerous or extraordinary conditions;
- 38 (e) The effect of the services on the individual subject to
39 guardianship or conservatorship;

1 (f) The extent to which the services provided were or were not
2 consistent with the guardian's plan under section 317 of this act or
3 conservator's plan under section 419 of this act; and

4 (g) The fees customarily paid to a person that performs a like
5 service in the community.

6 (4) A guardian or conservator need not use personal funds of the
7 guardian or conservator for the expenses of the individual subject to
8 guardianship or conservatorship.

9 (5) Where the person subject to guardianship or conservatorship
10 is a department of social and health services client, or health care
11 authority client, and is required to contribute a portion of their
12 income towards the cost of long-term care services or room and board,
13 the amount of compensation or reimbursement shall not exceed the
14 amount allowed by the department of social and health services or
15 health care authority by rule.

16 (6) Where the person subject to guardianship or conservatorship
17 receives guardianship, conservatorship, or other protective services
18 from the office of public guardianship, the amount of compensation or
19 reimbursement shall not exceed the amount allowed by the office of
20 public guardianship.

21 (7) If an individual subject to guardianship or conservatorship
22 seeks to modify or terminate the guardianship or conservatorship or
23 remove the guardian or conservator, the court may order compensation
24 to the guardian or conservator for time spent opposing modification,
25 termination, or removal only to the extent the court determines the
26 opposition was reasonably necessary to protect the interests of the
27 individual subject to guardianship or conservatorship.

28 NEW SECTION. **Sec. 122.** LIABILITY OF GUARDIAN OR CONSERVATOR FOR
29 ACT OF INDIVIDUAL SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP. A
30 guardian or conservator is not personally liable to another person
31 solely because of the guardianship or conservatorship for an act or
32 omission of the individual subject to guardianship or
33 conservatorship.

34 NEW SECTION. **Sec. 123.** PETITION AFTER APPOINTMENT FOR
35 INSTRUCTION OR RATIFICATION. (1) A guardian or conservator may
36 petition the court for instruction concerning fiduciary
37 responsibility or ratification of a particular act related to the
38 guardianship or conservatorship.

1 (2) On reasonable notice and hearing on a petition under
2 subsection (1) of this section, the court may give an instruction and
3 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.

7 NEW SECTION. **Sec. 124.** THIRD-PARTY ACCEPTANCE OF AUTHORITY OF
8 GUARDIAN OR CONSERVATOR. (1) A person must not recognize the
9 authority of a guardian or conservator to act on behalf of an
10 individual subject to guardianship or conservatorship if:

11 (a) The person has actual knowledge or a reasonable belief that
12 the letters of office of the guardian or conservator are invalid or
13 the conservator or guardian is exceeding or improperly exercising
14 authority granted by the court; or

15 (b) The person has actual knowledge that the individual subject
16 to guardianship or conservatorship is subject to physical or
17 financial abuse, neglect, exploitation, or abandonment by the
18 guardian or conservator or a person acting for or with the guardian
19 or conservator.

20 (2) A person may refuse to recognize the authority of a guardian
21 or conservator to act on behalf of an individual subject to
22 guardianship or conservatorship if:

23 (a) The guardian's or conservator's proposed action would be
24 inconsistent with this chapter; or

25 (b) The person makes, or has actual knowledge that another person
26 has made, a report to the department of children, youth, and families
27 or the department of social and health services stating a good-faith
28 belief that the individual subject to guardianship or conservatorship
29 is subject to physical or financial abuse, neglect, exploitation, or
30 abandonment by the guardian or conservator or a person acting for or
31 with the guardian or conservator.

32 (3) A person that refuses to accept the authority of a guardian
33 or conservator in accordance with subsection (2) of this section may
34 report the refusal and the reason for refusal to the court. The court
35 on receiving the report shall consider whether removal of the
36 guardian or conservator or other action is appropriate.

37 (4) A guardian or conservator may petition the court to require a
38 third party to accept a decision made by the guardian or conservator

1 on behalf of the individual subject to guardianship or
2 conservatorship.

3 (5) If the court determines that a third party has failed to
4 recognize the legitimate authority of a guardian or requires a third
5 party to accept a decision made by the guardian on behalf of the
6 individual subject to guardianship, the court may order that third
7 party to compensate the guardian for the time spent only to the
8 extent the court determines the opposition was reasonably necessary
9 to protect the interests of the individual subject to guardianship.

10 NEW SECTION. **Sec. 125.** USE OF AGENT BY GUARDIAN OR CONSERVATOR.

11 (1) Except as otherwise provided in subsection (3) of this section, a
12 guardian or conservator may delegate a power to an agent which a
13 prudent guardian or conservator of comparable skills could delegate
14 prudently under the circumstances if the delegation is consistent
15 with the guardian's or conservator's fiduciary duties and the
16 guardian's plan under section 317 of this act or the conservator's
17 plan under section 419 of this act.

18 (2) In delegating a power under subsection (1) of this section,
19 the guardian or conservator shall exercise reasonable care, skill,
20 and caution in:

21 (a) Selecting the agent;

22 (b) Establishing the scope and terms of the agent's work in
23 accordance with the guardian's plan under section 317 of this act or
24 the conservator's plan under section 419 of this act;

25 (c) Monitoring the agent's performance and compliance with the
26 delegation;

27 (d) Redressing an act or omission of the agent which would
28 constitute a breach of the guardian's or conservator's duties if done
29 by the guardian or conservator; and

30 (e) Ensuring a background check is conducted on the agent, or
31 conducted on persons employed by the agent when those persons are
32 providing services to the individual subject to a guardianship or
33 conservatorship.

34 (3) A guardian or conservator may not delegate all powers to an
35 agent.

36 (4) In performing a power delegated under this section, an agent
37 shall:

1 (a) Exercise reasonable care to comply with the terms of the
2 delegation and use reasonable care in the performance of the power;
3 and

4 (b) If the guardian or conservator has delegated to the agent the
5 power to make a decision on behalf of the individual subject to
6 guardianship or conservatorship, use the same decision-making
7 standard the guardian or conservator would be required to use.

8 (5) By accepting a delegation of a power under subsection (1) of
9 this section from a guardian or conservator, an agent submits to the
10 personal jurisdiction of the courts of this state in an action
11 involving the agent's performance as agent.

12 (6) A guardian or conservator that delegates and monitors a power
13 in compliance with this section is not liable for the decision, act,
14 or omission of the agent.

15 NEW SECTION. **Sec. 126.** TEMPORARY SUBSTITUTE GUARDIAN OR
16 CONSERVATOR. (1) The court may appoint a temporary substitute
17 guardian for an individual subject to guardianship for a period not
18 exceeding six months if:

19 (a) A proceeding to remove a guardian for the individual is
20 pending; or

21 (b) The court finds a guardian is not effectively performing the
22 guardian's duties and the welfare of the individual requires
23 immediate action.

24 (2) The court may appoint a temporary substitute conservator for
25 an individual subject to conservatorship for a period not exceeding
26 six months if:

27 (a) A proceeding to remove a conservator for the individual is
28 pending; or

29 (b) The court finds that a conservator for the individual is not
30 effectively performing the conservator's duties and the welfare of
31 the individual or the conservatorship estate requires immediate
32 action.

33 (3) The court shall hold a hearing to appoint a temporary
34 substitute guardian pursuant to subsection (1)(a) or (b) of this
35 section, or to appoint a temporary substitute conservator pursuant to
36 subsection (2)(a) or (b) of this section. The court shall give notice
37 under section 113 of this act to the adult subject to guardianship or
38 conservatorship and to any other person the court determines should
39 receive notice. The adult subject to guardianship or conservatorship

1 shall have the right to attend the hearing and to be represented by
2 counsel of the adult subject to guardianship or conservatorship's
3 choosing.

4 (4) Except as otherwise ordered by the court, a temporary
5 substitute guardian or temporary substitute conservator appointed
6 under this section has the powers stated in the order of appointment
7 of the guardian or conservator. The authority of the existing
8 guardian or conservator is suspended for as long as the temporary
9 substitute guardian or conservator has authority.

10 (5) The court shall give notice of appointment of a temporary
11 substitute guardian or temporary substitute conservator, not later
12 than five days after the appointment, to:

13 (a) The individual subject to guardianship or conservatorship;

14 (b) The affected guardian or conservator; and

15 (c) In the case of a minor, each parent of the minor and any
16 person currently having care or custody of the minor.

17 (6) The court may remove a temporary substitute guardian or
18 temporary substitute conservator at any time. The temporary
19 substitute guardian or temporary substitute conservator shall make
20 any report the court requires.

21 NEW SECTION. **Sec. 127.** REGISTRATION OF ORDER—EFFECT. (1) If a
22 guardian has been appointed in another state for an individual, and a
23 petition for guardianship for the individual is not pending in this
24 state, the guardian appointed in the other state, after giving notice
25 to the appointing court, may register the guardianship order in this
26 state by filing as a foreign judgment, in a court of an appropriate
27 county of this state, certified copies of the order and letters of
28 office.

29 (2) If a conservator has been appointed in another state for an
30 individual, and a petition for conservatorship for the individual is
31 not pending in this state, the conservator appointed for the
32 individual in the other state, after giving notice to the appointing
33 court, may register the conservatorship in this state by filing as a
34 foreign judgment, in a court of a county in which property belonging
35 to the individual subject to conservatorship is located, certified
36 copies of the order of conservatorship, letters of office, and any
37 bond or other verified receipt required by the court.

38 (3) On registration under this section of a guardianship or
39 conservatorship order from another state, the guardian or conservator

1 may exercise in this state all powers authorized in the order except
2 as prohibited by this chapter and law of this state other than this
3 chapter. If the guardian or conservator is not a resident of this
4 state, the guardian or conservator may maintain an action or
5 proceeding in this state subject to any condition imposed by this
6 state on an action or proceeding by a nonresident party.

7 (4) The court may grant any relief available under this chapter
8 and law of this state other than this chapter to enforce an order
9 registered under this section.

10 NEW SECTION. **Sec. 128.** GRIEVANCE AGAINST GUARDIAN OR
11 CONSERVATOR. (1) An individual who is subject to guardianship or
12 conservatorship, or person interested in the welfare of an individual
13 subject to guardianship or conservatorship, that reasonably believes
14 the guardian or conservator is breaching the guardian's or
15 conservator's fiduciary duty or otherwise acting in a manner
16 inconsistent with this chapter may file a grievance in a record with
17 the court.

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

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

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

27 (i) Removal of the guardian and appointment of a successor may be
28 appropriate under section 319 of this act;

29 (ii) Termination or modification of the guardianship may be
30 appropriate under section 320 of this act;

31 (iii) Removal of the conservator and appointment of a successor
32 may be appropriate under section 430 of this act;

33 (iv) Termination or modification of the conservatorship may be
34 appropriate under section 431 of this act; or

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

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

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

1 (ii) Appointing a guardian ad litem;

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

4 (iv) Holding a hearing.

5 (3) The court may decline to act under subsection (2) of this
6 section if a similar grievance was filed within the six months
7 preceding the filing of the current grievance and the court followed
8 the procedures of subsection (2) of this section in considering the
9 earlier grievance; and may levy necessary sanctions, including but
10 not limited to the imposition of reasonable attorney fees, costs,
11 striking pleadings, or other appropriate relief, if after
12 consideration the court finds that the grievance is made for reason
13 to harass, delay, with malice, or other bad faith.

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

19 (5) A court shall not dismiss a grievance that has been filed
20 against a guardian or conservator due to an inability to resolve the
21 grievance in a timely manner.

22 NEW SECTION. **Sec. 129.** DELEGATION BY PARENT. Except as
23 otherwise provided in RCW 11.125.410, a parent of a minor, by a power
24 of attorney, may delegate to another person for a period not
25 exceeding twenty-four months any of the parent's powers regarding
26 care, custody, or property of the minor, other than power to consent
27 to marriage or adoption.

28 NEW SECTION. **Sec. 130.** EX PARTE COMMUNICATIONS—REMOVAL. A
29 guardian ad litem or visitor shall not engage in ex parte
30 communications with any judicial officer involved in the matter for
31 which he or she is appointed during the pendency of the proceeding,
32 except as permitted by court rule or statute for ex parte motions. Ex
33 parte motions shall be heard in open court on the record. The record
34 may be preserved in a manner deemed appropriate by the county where
35 the matter is heard. The court, upon its own motion, or upon the
36 motion of a party, may consider the removal of any guardian ad litem
37 or visitor who violates this section from any pending case or from

1 any court-authorized registry, and if so removed may require
2 forfeiture of any fees for professional services on the pending case.

3 NEW SECTION. **Sec. 131.** REGISTRY FOR GUARDIANS AD LITEM AND
4 VISITORS. (1) The superior court of each county shall develop and
5 maintain a registry of persons who are willing and qualified to serve
6 as guardians ad litem and visitors in guardianship and
7 conservatorship matters. The court shall choose as guardian ad litem
8 or visitor a person whose name appears on the registry in a system of
9 consistent rotation, except in extraordinary circumstances such as
10 the need for particular expertise. The court shall develop procedures
11 for periodic review of the persons on the registry and for probation,
12 suspension, or removal of persons on the registry for failure to
13 perform properly their duties as guardian ad litem or visitor. In the
14 event the court does not select the person next on the list, it shall
15 include in the order of appointment a written reason for its
16 decision.

17 (2) To be eligible for the registry a person shall:

18 (a) Present a written statement outlining his or her background
19 and qualifications. The background statement shall include, but is
20 not limited to, the following information:

21 (i) Level of formal education;

22 (ii) Training related to the duties of a guardian ad litem or
23 visitor;

24 (iii) Number of years' experience as a guardian ad litem or
25 visitor;

26 (iv) Number of appointments as a guardian ad litem or visitor and
27 the county or counties of appointment;

28 (v) Criminal history, as defined in RCW 9.94A.030; and

29 (vi) Evidence of the person's knowledge, training, and experience
30 in each of the following: Needs of impaired elderly people, physical
31 disabilities, mental illness, developmental disabilities, and other
32 areas relevant to the needs of persons subject to guardianship or
33 conservatorship, legal procedure, and the requirements of this
34 chapter.

35 The written statement of qualifications shall include the names
36 of any counties in which the person was removed from a guardian ad
37 litem or visitor registry pursuant to a grievance action, and the
38 name of the court and the cause number of any case in which the court
39 has removed the person for cause; and

1 (b) Complete the training as described in subsection (5) of this
2 section. The training is not applicable to guardians ad litem
3 appointed pursuant to special proceeding rule 98.16W.

4 (3) The superior court shall remove any person from the guardian
5 ad litem or visitor registry who misrepresents his or her
6 qualifications pursuant to a grievance procedure established by the
7 court.

8 (4) The background and qualification information shall be updated
9 annually.

10 (5) The department of social and health services shall convene an
11 advisory group to develop a model lay guardian, guardian ad litem,
12 and visitor training program and shall update the program biennially.
13 The advisory group shall consist of representatives from consumer,
14 advocacy, and professional groups knowledgeable in developmental
15 disabilities, neurological impairment, physical disabilities, mental
16 illness, domestic violence, aging, legal, court administration, the
17 Washington state bar association, and other interested parties.

18 (6) The superior court shall require utilization of the model
19 program developed by the advisory group as described in subsection
20 (5) of this section to assure that candidates applying for
21 registration as a qualified guardian ad litem or visitor shall have
22 satisfactorily completed training to attain these essential minimum
23 qualifications to act as guardian ad litem or visitor.

24 NEW SECTION. **Sec. 132.** GUARDIANSHIP/CONSERVATORSHIP SUMMARY.
25 Every order appointing a guardian or conservator and every court
26 order approving accounts or reports filed by a guardian or
27 conservator must include a guardianship/conservatorship summary
28 placed directly below the case caption or on a separate cover page in
29 or substantially in the same form as set forth in section 606 of this
30 act.

31 NEW SECTION. **Sec. 133.** GUARDIANSHIP/CONSERVATORSHIP COURTHOUSE
32 FACILITATOR PROGRAM. A county may create a guardianship/
33 conservatorship courthouse facilitator program to provide basic
34 services to pro se litigants in guardianship and conservatorship
35 cases. The legislative authority of any county may impose user fees
36 or may impose a surcharge of up to twenty dollars, or both, on
37 superior court cases filed under this chapter, chapter 11.90 RCW, and
38 chapter 73.36 RCW to pay for the expenses of the guardianship/

1 conservatorship courthouse facilitator program. Fees collected under
2 this section shall be collected and deposited in the same manner as
3 other county funds are collected and deposited, and shall be
4 maintained in a separate guardianship/conservatorship courthouse
5 facilitator account to be used as provided in this section.

6 NEW SECTION. **Sec. 134.** FILING FEE. (1)(a) The attorney general
7 may petition for the appointment of a guardian, conservator, or other
8 protective arrangement under sections 302, 402, and 504 of this act
9 in which there is cause to believe that a guardianship,
10 conservatorship, or protective arrangement is necessary and no
11 private party is able and willing to petition.

12 (b) Prepayment of a filing fee shall not be required in any
13 guardianship, conservatorship, or protective arrangement proceeding
14 brought by the attorney general. Payment of the filing fee shall be
15 ordered from the estate of the respondent person at the hearing on
16 the merits of the petition, unless in the judgment of the court, such
17 payment would impose a hardship upon the respondent, in which case
18 the filing shall be waived.

19 (2) No filing fee shall be charged by the court for filing a
20 petition for guardianship, conservatorship, or other protective
21 arrangement filed under sections 302, 402, and 504 of this act if the
22 petition alleges that the respondent has total assets of a value of
23 less than three thousand dollars.

24 (3) No filing fee shall be charged by the court for filing a
25 petition for guardianship or conservatorship filed under article 2 of
26 this act, where the potential guardian is a relative and not a
27 professional guardian or conservator.

28 NEW SECTION. **Sec. 135.** GUARDIANSHIPS INVOLVING VETERANS. For
29 guardianships involving veterans see chapter 73.36 RCW.

30 NEW SECTION. **Sec. 136.** CONSTRUCTION—CHAPTER APPLICABLE TO STATE
31 REGISTERED DOMESTIC PARTNERSHIPS—2009 c 521. For the purposes of this
32 chapter, the terms spouse, marriage, marital, husband, wife, widow,
33 widower, next of kin, and relative shall be interpreted as applying
34 equally to state registered domestic partnerships or individuals in
35 state registered domestic partnerships as well as to marital
36 relationships and married persons, and references to dissolution of
37 marriage shall apply equally to state registered domestic

1 partnerships that have been terminated, dissolved, or invalidated, to
2 the extent that such interpretation does not conflict with federal
3 law. Where necessary to implement chapter 521, Laws of 2009, gender-
4 specific terms such as husband and wife used in any statute, rule, or
5 other law shall be construed to be gender neutral, and applicable to
6 individuals in state registered domestic partnerships.

7 **ARTICLE 2**
8 **GUARDIANSHIP OF MINOR**

9 NEW SECTION. **Sec. 201.** BASIS FOR APPOINTMENT OF GUARDIAN FOR
10 MINOR. (1) A person becomes a guardian for a minor only on
11 appointment by the court.

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

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

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

18 (c) There is clear and convincing evidence that no parent of the
19 minor is willing or able to exercise the powers the court is granting
20 the guardian.

21 NEW SECTION. **Sec. 202.** PETITION FOR APPOINTMENT OF GUARDIAN FOR
22 MINOR. (1) A person interested in the welfare of a minor, including
23 the minor, may petition for appointment of a guardian for the minor.

24 (2) A petition under subsection (1) of this section must state
25 the petitioner's name, principal residence, current street address,
26 if different, relationship to the minor, interest in the appointment,
27 the name and address of any attorney representing the petitioner,
28 and, to the extent known, the following:

29 (a) The minor's name, age, principal residence, current street
30 address, if different, and, if different, address of the dwelling in
31 which it is proposed the minor will reside if the appointment is
32 made;

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

34 (c) The name and address, if known, of each person that had
35 primary care or custody of the minor for at least sixty days during
36 the two years immediately before the filing of the petition or for at

1 least seven hundred thirty days during the five years immediately
2 before the filing of the petition;

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

5 (e) The reason guardianship is sought and would be in the best
6 interest of the minor;

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

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

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

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

18 (j) Whether any other proceeding concerning the care or custody
19 of the minor is pending in any court in this state or another
20 jurisdiction.

21 NEW SECTION. **Sec. 203.** NOTICE OF HEARING FOR APPOINTMENT OF
22 GUARDIAN FOR MINOR. (1) If a petition is filed under section 202 of
23 this act, the court shall schedule a hearing and the petitioner
24 shall:

25 (a) Serve notice of the date, time, and place of the hearing,
26 together with a copy of the petition, personally on each of the
27 following that is not the petitioner:

28 (i) The minor, if the minor will be twelve years of age or older
29 at the time of the hearing;

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

32 (iii) Any adult with whom the minor resides;

33 (iv) Each person that had primary care or custody of the minor
34 for at least sixty days during the two years immediately before the
35 filing of the petition or for at least seven hundred thirty days
36 during the five years immediately before the filing of the petition;
37 and

38 (v) Any other person the court determines should receive personal
39 service of notice; and

1 (b) Give notice under section 113 of this act of the date, time,
2 and place of the hearing, together with a copy of the petition, to:

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

5 (ii) Any nominee of a parent;

6 (iii) Each grandparent and adult sibling of the minor;

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

9 (v) Any other person the court determines.

10 (2) Notice required by subsection (1) of this section must
11 include a statement of the right to request appointment of an
12 attorney for the minor or object to appointment of a guardian and a
13 description of the nature, purpose, and consequences of appointment
14 of a guardian.

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

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

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

23 (4) If a petitioner is unable to serve notice under subsection
24 (1)(a) of this section on a parent of a minor or alleges that the
25 parent waived, in a record, the right to notice under this section,
26 the court shall appoint a visitor who shall:

27 (a) Interview the petitioner and the minor;

28 (b) If the petitioner alleges the parent cannot be located,
29 ascertain whether the parent cannot be located with due diligence;

30 (c) Investigate any other matter relating to the petition the
31 court directs; and

32 (d) Ascertain whether the parent consents to the guardian for the
33 minor.

34 NEW SECTION. **Sec. 204.** ATTORNEY FOR MINOR OR PARENT. (1) The
35 court is not required, but may appoint an attorney to represent a
36 minor who is the subject of a proceeding under section 202 of this
37 act if:

38 (a) Requested by the minor and the minor is twelve years of age
39 or older;

1 (b) Recommended by a guardian ad litem; or
2 (c) The court determines the minor needs representation.

3 (2) An attorney appointed under subsection (1) of this section
4 shall:

5 (a) Make a reasonable effort to ascertain the minor's wishes;
6 (b) Advocate for the minor's wishes to the extent reasonably
7 ascertainable; and
8 (c) If the minor's wishes are not reasonably ascertainable,
9 advocate for the minor's legal rights.

10 (3) A minor who is the subject of a proceeding under section 202
11 of this act may retain an attorney to represent the minor in the
12 proceeding.

13 (4) A parent of a minor who is the subject of a proceeding under
14 section 202 of this act may retain an attorney to represent the
15 parent in the proceeding.

16 (5) The court must appoint an attorney to represent a parent of a
17 minor who is the subject of a proceeding under section 202 of this
18 act if:

19 (a) The parent has appeared in the proceeding;
20 (b) The parent is indigent; and
21 (c) Any of the following is true:
22 (i) The parent objects to appointment of a guardian for the
23 minor; or
24 (ii) The court determines that counsel is needed to ensure that
25 consent to appointment of a guardian is informed; or
26 (iii) The court otherwise determines the parent needs
27 representation.

28 (6) The court must inquire about whether a parent is indigent to
29 ensure that counsel is appointed in a timely manner. For purposes of
30 this section, "indigent" has the same meaning as under RCW
31 10.101.010.

32 (7) The court is not required, but may appoint an attorney to
33 represent a parent of a minor who is the subject of a proceeding
34 under section 202 of this act, even if the parent is not indigent,
35 if:

36 (a) The parent objects to appointment of a guardian for the
37 minor;
38 (b) The court determines that counsel is needed to ensure that
39 consent to appointment of a guardian is informed; or

1 (c) The court otherwise determines that the parent needs
2 representation.

3 (8) A party represented by an attorney in proceedings under this
4 article has the right to introduce evidence, to be heard in his or
5 her own behalf, and to examine witnesses. If a party to an action
6 under this article is represented by counsel, no order may be
7 provided to that party for signature without prior notice and
8 provision of the order to counsel.

9 NEW SECTION. **Sec. 205.** ATTENDANCE AND PARTICIPATION AT HEARING
10 FOR APPOINTMENT OF GUARDIAN FOR MINOR. (1) The court shall allow a
11 minor who is the subject of a hearing under section 203 of this act
12 to attend the hearing and allow the minor to participate in the
13 hearing unless the court determines, by clear and convincing evidence
14 presented at the hearing or a separate hearing, that:

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

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

18 (2) Unless excused by the court for good cause, the person
19 proposed to be appointed as guardian for a minor shall attend a
20 hearing under section 203 of this act.

21 (3) Each parent of a minor who is the subject of a hearing under
22 section 203 of this act has the right to attend the hearing.

23 (4) A person may request permission to participate in a hearing
24 under section 203 of this act. The court may grant the request, with
25 or without hearing, on determining that it is in the best interest of
26 the minor who is the subject of the hearing. The court may impose
27 appropriate conditions on the person's participation.

28 NEW SECTION. **Sec. 206.** CUSTODY ORDERS—BACKGROUND INFORMATION TO
29 BE CONSULTED. (1) Before granting any order regarding the custody of
30 a child under this chapter, the court must consult the judicial
31 information system, if available, to determine the existence of any
32 information and proceedings that are relevant to the placement of the
33 child.

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

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

37 (b) Require the petitioner to provide the results of an
38 examination of state and national criminal identification data

1 provided by the Washington state patrol criminal identification
2 system as described in chapter 43.43 RCW for the petitioner and adult
3 members of the petitioner's household.

4 NEW SECTION. **Sec. 207.** ORDER OF APPOINTMENT—PRIORITY OF NOMINEE
5 —LIMITED GUARDIANSHIP FOR MINOR. (1) After a hearing under section
6 203 of this act, the court may appoint a guardian for a minor, if
7 appointment is proper under section 201 of this act, dismiss the
8 proceeding, or take other appropriate action consistent with this
9 chapter or law of this state other than this chapter.

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

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

15 (b) If multiple parents have nominated different persons to serve
16 as guardian, the court shall appoint the nominee whose appointment is
17 in the best interest of the minor, unless the court finds that
18 appointment of none of the nominees is in the best interest of the
19 minor.

20 (c) If a guardian is not appointed under (a) or (b) of this
21 subsection, the court shall appoint the person nominated by the minor
22 if the minor is twelve years of age or older unless the court finds
23 that appointment is contrary to the best interest of the minor. In
24 that case, the court shall appoint as guardian a person whose
25 appointment is in the best interest of the minor.

26 (3) In the interest of maintaining or encouraging involvement by
27 a minor's parent in the minor's life, developing self-reliance of the
28 minor, or for other good cause, the court, at the time of appointment
29 of a guardian for the minor or later, on its own or on motion of the
30 minor or other interested person, may create a limited guardianship
31 by limiting the powers otherwise granted by this article to the
32 guardian. Following the same procedure, the court may grant
33 additional powers or withdraw powers previously granted.

34 (4) The court, as part of an order appointing a guardian for a
35 minor, shall state rights retained by any parent of the minor, which
36 may include contact or visitation with the minor, decision making
37 regarding the minor's health care, education, or other matter, or
38 access to a record regarding the minor.

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

3 (a) The guardian has delegated custody of the minor subject to
4 guardianship;

5 (b) The court has modified or limited the powers of the guardian;
6 or

7 (c) The court has removed the guardian.

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

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

15 NEW SECTION. **Sec. 208.** STANDBY GUARDIAN FOR MINOR. (1) A
16 standby guardian appointed under this section may act as guardian,
17 with all duties and powers of a guardian under sections 210 and 211
18 of this act, when no parent of the minor is willing or able to
19 exercise the duties and powers granted to the guardian.

20 (2) A parent of a minor, in a signed record, may nominate a
21 person to be appointed by the court as standby guardian for the
22 minor. The parent, in a signed record, may state desired limitations
23 on the powers to be granted the standby guardian. The parent, in a
24 signed record, may revoke or amend the nomination at any time before
25 the court appoints a standby guardian.

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

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

29 (b) Finding that no parent of the minor likely will be able or
30 willing to care for or make decisions with respect to the minor not
31 later than two years after the appointment.

32 (4) A petition under subsection (3)(a) of this section must
33 include the same information required under section 202 of this act
34 for the appointment of a guardian for a minor.

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

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

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

- 1 (ii) Each parent of the minor;
- 2 (iii) The person nominated as standby guardian; and
- 3 (iv) Any other person the court determines; and

4 (b) Include with the copy of the petition served under (a) of
5 this subsection a statement of the right to request appointment of an
6 attorney for the minor or to object to appointment of the standby
7 guardian, and a description of the nature, purpose, and consequences
8 of appointment of a standby guardian.

9 (6) A person entitled to notice under subsection (5) of this
10 section, not later than sixty days after service of the petition and
11 statement, may object to appointment of the standby guardian by
12 filing an objection with the court and giving notice of the objection
13 to each other person entitled to notice under subsection (5) of this
14 section.

15 (7) If an objection is filed under subsection (6) of this
16 section, the court shall hold a hearing to determine whether a
17 standby guardian should be appointed and, if so, the person that
18 should be appointed. If no objection is filed, the court may make the
19 appointment.

20 (8) The court may not grant a petition for a standby guardian of
21 the minor if notice substantially complying with subsection (5) of
22 this section is not served on:

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

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

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

31 (a) Interview the petitioner and the minor;

32 (b) If the petitioner alleges the parent cannot be located and
33 served, ascertain whether the parent cannot be located with due
34 diligence; and

35 (c) Investigate any other matter relating to the petition the
36 court directs.

37 (10) If the court finds under subsection (3) of this section that
38 a standby guardian should be appointed, the following rules apply:

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

4 (b) If the parents have nominated different persons to serve as
5 standby guardian, the court shall appoint the nominee whose
6 appointment is in the best interest of the minor, unless the court
7 finds that appointment of none of the nominees is in the best
8 interest of the minor.

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

12 (a) The standby guardian assumes the duties and powers of the
13 guardian;

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

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

16 (d) The court removes the guardian.

17 (12) Before assuming the duties and powers of a guardian, a
18 standby guardian must file with the court an acceptance of
19 appointment as guardian and give notice of the acceptance to:

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

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

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

26 (13) A person that receives notice under subsection (12) of this
27 section or any other person interested in the welfare of the minor
28 may file with the court an objection to the standby guardian's
29 assumption of duties and powers of a guardian. The court shall hold a
30 hearing if the objection supports a reasonable belief that the
31 conditions for assumption of duties and powers have not been
32 satisfied.

33 NEW SECTION. **Sec. 209.** EMERGENCY GUARDIAN FOR MINOR. (1) On its
34 own, or on petition by a person interested in a minor's welfare, the
35 court may appoint an emergency guardian for the minor if the court
36 finds:

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

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

3 (2) The duration of authority of an emergency guardian for a
4 minor may not exceed sixty days and the emergency guardian may
5 exercise only the powers specified in the order of appointment. The
6 emergency guardian's authority may be extended once for not more than
7 sixty days if the court finds that the conditions for appointment of
8 an emergency guardian in subsection (1) of this section continue.

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

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

14 (b) Any attorney appointed under section 204 of this act;

15 (c) Each parent of the minor;

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

18 (e) Any other person the court determines.

19 (4) The court may appoint an emergency guardian for a minor
20 without notice under subsection (3) of this section and a hearing
21 only if the court finds from an affidavit or testimony that the
22 minor's health, safety, or welfare will be substantially harmed
23 before a hearing with notice on the appointment can be held. If the
24 court appoints an emergency guardian without notice to an
25 unrepresented minor or the attorney for a represented minor, notice
26 of the appointment must be given not later than forty-eight hours
27 after the appointment to the individuals listed in subsection (3) of
28 this section. Not later than five days after the appointment, the
29 court shall hold a hearing on the appropriateness of the appointment.

30 (5) Appointment of an emergency guardian under this section, with
31 or without notice, is not a determination that a basis exists for
32 appointment of a guardian under section 201 of this act.

33 (6) The court may remove an emergency guardian appointed under
34 this section at any time. The emergency guardian shall make any
35 report the court requires.

36 (7) Notwithstanding subsection (2) of this section, the court may
37 extend an emergency guardianship pending the outcome of a full
38 hearing under section 202 or 208 of this act.

1 NEW SECTION. **Sec. 210.** DUTIES OF GUARDIAN FOR MINOR. (1) A
2 guardian for a minor is a fiduciary. Except as otherwise limited by
3 the court, a guardian for a minor has the duties and responsibilities
4 of a parent regarding the minor's support, care, education, health,
5 safety, and welfare. A guardian shall act in the minor's best
6 interest and exercise reasonable care, diligence, and prudence.

7 (2) A guardian for a minor shall:

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

11 (b) Take reasonable care of the minor's personal effects and
12 bring a proceeding for a conservatorship or protective arrangement
13 instead of conservatorship if necessary to protect other property of
14 the minor;

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

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

22 (e) Report the condition of the minor and account for funds and
23 other property of the minor in the guardian's possession or subject
24 to the guardian's control, as required by court rule or ordered by
25 the court on application of a person interested in the minor's
26 welfare;

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

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

32 NEW SECTION. **Sec. 211.** POWERS OF GUARDIAN FOR MINOR. (1) Except
33 as otherwise limited by court order, a guardian of a minor has the
34 powers a parent otherwise would have regarding the minor's support,
35 care, education, health, safety, and welfare.

36 (2) Except as otherwise limited by court order, a guardian for a
37 minor may:

38 (a) Apply for and receive funds and benefits otherwise payable
39 for the support of the minor to the minor's parent, guardian, or

1 custodian under a statutory system of benefits or insurance or any
2 private contract, devise, trust, conservatorship, or custodianship;

3 (b) Unless inconsistent with a court order entitled to
4 recognition in this state, take custody of the minor and establish
5 the minor's place of dwelling in this state and, after following the
6 process in RCW 26.09.405 through 26.09.560 and on authorization of
7 the court, establish or move the minor's dwelling outside this state;

8 (c) If the minor is not subject to conservatorship, commence a
9 proceeding, including an administrative proceeding, or take other
10 appropriate action to compel a person to support the minor, pay child
11 support, or make other payments for the benefit of the minor;

12 (d) Consent to health or other care, treatment, or service for
13 the minor; or

14 (e) To the extent reasonable, delegate to the minor
15 responsibility for a decision affecting the minor's well-being.

16 (3) The court may authorize a guardian for a minor to consent to
17 the adoption of the minor if the minor does not have a parent.

18 NEW SECTION. **Sec. 212.** REMOVAL OF GUARDIAN FOR MINOR—
19 TERMINATION OF GUARDIANSHIP—APPOINTMENT OF SUCCESSOR. (1)
20 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 in section 201 of this
24 act for appointment of a guardian is not satisfied, unless the court
25 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 section 207(2) of
2 this act 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 NEW SECTION. **Sec. 213.** PRIOR COURT ORDER VALIDITY. This chapter
16 does not affect the validity of any court order issued under chapter
17 26.10 RCW prior to the effective date of this section. Orders issued
18 under chapter 26.10 RCW prior to the effective date of this section
19 remain in effect and do not need to be reissued in a new order under
20 this chapter.

21 NEW SECTION. **Sec. 214.** APPLICATION OF THE INDIAN CHILD WELFARE
22 ACT. (1) Every petition filed in proceedings under this chapter shall
23 contain a statement alleging whether the child is or may be an Indian
24 child as defined in RCW 13.38.040. If the child is an Indian child,
25 chapter 13.38 RCW shall apply.

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

33 NEW SECTION. **Sec. 215.** CHILD SUPPORT. In entering or modifying
34 an order under this chapter, the court may order one or more parents
35 of the child to pay an amount reasonable or necessary for the child's
36 support pursuant to chapter 26.19 RCW.

1 (2) The court shall grant a guardian appointed under subsection
2 (1) of this section only those powers necessitated by the
3 demonstrated needs and limitations of the respondent and issue orders
4 that will encourage development of the respondent's maximum self-
5 determination and independence. The court may not establish a full
6 guardianship if a limited guardianship, protective arrangement
7 instead of guardianship, or other less restrictive alternative would
8 meet the needs of the respondent.

9 NEW SECTION. Sec. 302. PETITION FOR APPOINTMENT OF GUARDIAN FOR
10 ADULT. (1) A person interested in an adult's welfare, including the
11 adult for whom the order is sought, may petition for appointment of a
12 guardian for the adult.

13 (2) A petition under subsection (1) of this section must state
14 the petitioner's name, principal residence, current street address,
15 if different, relationship to the respondent, interest in the
16 appointment, the name and address of any attorney representing the
17 petitioner, and, to the extent known, the following:

18 (a) The respondent's name, age, principal residence, current
19 street address, if different, and, if different, address of the
20 dwelling in which it is proposed the respondent will reside if the
21 petition is granted;

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

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

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

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

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

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

37 (ii) Any attorney currently representing the respondent;

38 (iii) Any representative payee appointed by the social security
39 administration for the respondent;

- 1 (iv) A guardian or conservator acting for the respondent in this
2 state or in another jurisdiction;
- 3 (v) A trustee or custodian of a trust or custodianship of which
4 the respondent is a beneficiary;
- 5 (vi) Any fiduciary for the respondent appointed by the department
6 of veterans affairs;
- 7 (vii) An agent designated under a power of attorney for health
8 care in which the respondent is identified as the principal;
- 9 (viii) An agent designated under a power of attorney for finances
10 in which the respondent is identified as the principal;
- 11 (ix) A person nominated as guardian by the respondent;
- 12 (x) A person nominated as guardian by the respondent's parent or
13 spouse or domestic partner in a will or other signed record;
- 14 (xi) A proposed guardian and the reason the proposed guardian
15 should be selected; and
- 16 (xii) A person known to have routinely assisted the respondent
17 with decision making during the six months immediately before the
18 filing of the petition;
- 19 (d) The reason a guardianship is necessary, including a brief
20 description of:
- 21 (i) The nature and extent of the respondent's alleged need;
- 22 (ii) Any protective arrangement instead of guardianship or other
23 less restrictive alternatives for meeting the respondent's alleged
24 need which have been considered or implemented;
- 25 (iii) If no protective arrangement instead of guardianship or
26 other less restrictive alternatives have been considered or
27 implemented, the reason they have not been considered or implemented;
28 and
- 29 (iv) The reason a protective arrangement instead of guardianship
30 or other less restrictive alternative is insufficient to meet the
31 respondent's alleged need;
- 32 (e) Whether the petitioner seeks a limited guardianship or full
33 guardianship;
- 34 (f) If the petitioner seeks a full guardianship, the reason a
35 limited guardianship or protective arrangement instead of
36 guardianship is not appropriate;
- 37 (g) If a limited guardianship is requested, the powers to be
38 granted to the guardian;
- 39 (h) The name and current address, if known, of any person with
40 whom the petitioner seeks to limit the respondent's contact;

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

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

8 NEW SECTION. **Sec. 303.** NOTICE OF HEARING FOR APPOINTMENT OF
9 GUARDIAN FOR ADULT. (1) All petitions filed under section 302 of this
10 act for appointment of a guardian for an adult shall be heard within
11 sixty-days unless an extension of time is requested by a party or the
12 visitor within such sixty-day period and granted for good cause
13 shown. If an extension is granted, the court shall set a new hearing
14 date.

15 (2) A copy of a petition under section 302 of this act and notice
16 of a hearing on the petition must be served personally on the
17 respondent and the visitor appointed under section 304 of this act
18 not more than five court days after the petition under section 302 of
19 this act has been filed. The notice must inform the respondent of the
20 respondent's rights at the hearing, including the right to an
21 attorney and to attend the hearing. The notice must include a
22 description of the nature, purpose, and consequences of granting the
23 petition. The court may not grant the petition if notice
24 substantially complying with this subsection is not served on the
25 respondent.

26 (3) In a proceeding on a petition under section 302 of this act,
27 the notice required under subsection (2) of this section must be
28 given to the persons required to be listed in the petition under
29 section 302(2) (a) through (c) of this act and any other person
30 interested in the respondent's welfare the court determines. Failure
31 to give notice under this subsection does not preclude the court from
32 appointing a guardian.

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

- 36 (a) The adult subject to guardianship;
37 (b) The guardian; and
38 (c) Any other person the court determines.

1 NEW SECTION. **Sec. 304.** APPOINTMENT AND ROLE OF VISITOR. (1) On

2 receipt of a petition under section 302 of this act for appointment
3 of a guardian for an adult, the court shall appoint a visitor. The
4 visitor must be an individual with training or experience in the type
5 of abilities, limitations, and needs alleged in the petition.

6 (2) The court, in the order appointing a visitor, shall specify
7 the hourly rate the visitor may charge for his or her services, and
8 shall specify the maximum amount the visitor may charge without
9 additional court review and approval.

10 (3) (a) The visitor appointed under subsection (1) of this section
11 shall within five days of receipt of notice of appointment file with
12 the court and serve, either personally or by certified mail with
13 return receipt, the respondent or his or her legal counsel, the
14 petitioner or his or her legal counsel, and any interested party
15 entitled to notice under section 116 of this act with a statement
16 including: His or her training relating to the duties as a visitor;
17 his or her criminal history as defined in RCW 9.94A.030 for the
18 period covering ten years prior to the appointment; his or her hourly
19 rate, if compensated; whether the visitor has had any contact with a
20 party to the proceeding prior to his or her appointment; and whether
21 he or she has an apparent conflict of interest. Within three days of
22 the later of the actual service or filing of the visitor's statement,
23 any party may set a hearing and file and serve a motion for an order
24 to show cause why the visitor should not be removed for one of the
25 following three reasons:

26 (i) Lack of expertise necessary for the proceeding;

27 (ii) An hourly rate higher than what is reasonable for the
28 particular proceeding; or

29 (iii) A conflict of interest.

30 (b) Notice of the hearing shall be provided to the visitor and
31 all parties. If, after a hearing, the court enters an order replacing
32 the visitor, findings shall be included, expressly stating the
33 reasons for the removal. If the visitor is not removed, the court has
34 the authority to assess to the moving party attorneys' fees and costs
35 related to the motion. The court shall assess attorneys' fees and
36 costs for frivolous motions.

37 (4) A visitor appointed under subsection (1) of this section
38 shall interview the respondent in person and, in a manner the
39 respondent is best able to understand:

1 (a) Explain to the respondent the substance of the petition, the
2 nature, purpose, and effect of the proceeding, the respondent's
3 rights at the hearing on the petition, and the general powers and
4 duties of a guardian;

5 (b) Determine the respondent's views about the appointment sought
6 by the petitioner, including views about a proposed guardian, the
7 guardian's proposed powers and duties, and the scope and duration of
8 the proposed guardianship; and

9 (c) Inform the respondent that all costs and expenses of the
10 proceeding, including the respondent's attorney's fees, may be paid
11 from the respondent's assets.

12 (5) The visitor appointed under subsection (1) of this section
13 shall:

14 (a) Interview the petitioner and proposed guardian, if any;

15 (b) Visit the respondent's present dwelling and any dwelling in
16 which it is reasonably believed the respondent will live if the
17 appointment is made;

18 (c) Obtain information from any physician or other person known
19 to have treated, advised, or assessed the respondent's relevant
20 physical or mental condition; and

21 (d) Investigate the allegations in the petition and any other
22 matter relating to the petition the court directs.

23 (6) A visitor appointed under subsection (1) of this section
24 shall file a report in a record with the court and provide a copy of
25 the report to the respondent, petitioner, and any interested party
26 entitled to notice under section 116 of this act at least fifteen
27 days prior to the hearing on the petition filed under section 302 of
28 this act, which must include:

29 (a) A summary of self-care and independent living tasks the
30 respondent can manage without assistance or with existing supports,
31 could manage with the assistance of appropriate supportive services,
32 technological assistance, or supported decision making, and cannot
33 manage;

34 (b) A recommendation regarding the appropriateness of
35 guardianship, including whether a protective arrangement instead of
36 guardianship or other less restrictive alternative for meeting the
37 respondent's needs is available and:

38 (i) If a guardianship is recommended, whether it should be full
39 or limited; and

1 (ii) If a limited guardianship is recommended, the powers to be
2 granted to the guardian;

3 (c) A statement of the qualifications of the proposed guardian
4 and whether the respondent approves or disapproves of the proposed
5 guardian;

6 (d) A statement whether the proposed dwelling meets the
7 respondent's needs and whether the respondent has expressed a
8 preference as to residence;

9 (e) A recommendation whether a professional evaluation under
10 section 306 of this act is necessary;

11 (f) A statement whether the respondent is able to attend a
12 hearing at the location court proceedings typically are held;

13 (g) A statement whether the respondent is able to participate in
14 a hearing and which identifies any technology or other form of
15 support that would enhance the respondent's ability to participate;
16 and

17 (h) Any other matter the court directs.

18 NEW SECTION. **Sec. 305.** APPOINTMENT AND ROLE OF ATTORNEY FOR
19 ADULT. (1)(a) The respondent shall have the right to be represented
20 by a willing attorney of their choosing at any stage in guardianship
21 proceedings.

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

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

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

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

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

37 (ii) When, in the opinion of the court, the rights and interests
38 of the respondent cannot otherwise be adequately protected and

1 represented, the court on its own motion must appoint an attorney at
2 any time to represent the respondent.

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

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

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

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

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

18 NEW SECTION. **Sec. 306.** PROFESSIONAL EVALUATION. (1) At or
19 before a hearing on a petition for a guardianship for an adult, the
20 court shall order a professional evaluation of the respondent:

21 (a) If the respondent requests the evaluation; or

22 (b) In other cases, unless the court finds that it has sufficient
23 information to determine the respondent's needs and abilities without
24 the evaluation.

25 (2) If the court orders an evaluation under subsection (1) of
26 this section, the respondent must be examined by a physician licensed
27 to practice under chapter 18.71 or 18.57 RCW, psychologist licensed
28 under chapter 18.83 RCW, or advanced registered nurse practitioner
29 licensed under chapter 18.79 RCW selected by the visitor who is
30 qualified to evaluate the respondent's alleged cognitive and
31 functional abilities and limitations and will not be advantaged or
32 disadvantaged by a decision to grant the petition or otherwise have a
33 conflict of interest. The individual conducting the evaluation
34 promptly shall file report in a record with the court. Unless
35 otherwise directed by the court, the report must contain:

36 (a) A description of the nature, type, and extent of the
37 respondent's cognitive and functional abilities and limitations;

1 (b) An evaluation of the respondent's mental and physical
2 condition and, if appropriate, educational potential, adaptive
3 behavior, and social skills;

4 (c) A prognosis for improvement and recommendation for the
5 appropriate treatment, support, or habilitation plan; and

6 (d) The date of the examination on which the report is based.

7 (3) The respondent may decline to participate in an evaluation
8 ordered under subsection (1) of this section.

9 NEW SECTION. **Sec. 307.** ATTENDANCE AND RIGHTS AT HEARING. (1)

10 Except as otherwise provided in subsection (2) of this section, a
11 hearing under section 303 of this act may not proceed unless the
12 respondent attends the hearing. If it is not reasonably feasible for
13 the respondent to attend a hearing at the location court proceedings
14 typically are held, the court shall make reasonable efforts to hold
15 the hearing at an alternative location convenient to the respondent
16 or allow the respondent to attend the hearing using real-time audio-
17 visual technology.

18 (2) A hearing under section 303 of this act may proceed without
19 the respondent in attendance if the court finds by clear and
20 convincing evidence that:

21 (a) The respondent consistently and repeatedly has refused to
22 attend the hearing after having been fully informed of the right to
23 attend and the potential consequences of failing to do so; or

24 (b) There is no practicable way for the respondent to attend and
25 participate in the hearing even with appropriate supportive services
26 and technological assistance.

27 (3) The respondent may be assisted in a hearing under section 303
28 of this act by a person or persons of the respondent's choosing,
29 assistive technology, or an interpreter or translator, or a
30 combination of these supports. If assistance would facilitate the
31 respondent's participation in the hearing, but is not otherwise
32 available to the respondent, the court shall make reasonable efforts
33 to provide it.

34 (4) The respondent has a right to choose an attorney to represent
35 the respondent at a hearing under section 303 of this act.

36 (5) At a hearing held under section 303 of this act, the
37 respondent may:

38 (a) Present evidence and subpoena witnesses and documents;

1 (b) Examine witnesses, including any court-appointed evaluator
2 and the visitor; and

3 (c) Otherwise participate in the hearing.

4 (6) Unless excused by the court for good cause, a proposed
5 guardian shall attend a hearing under section 303 of this act.

6 (7) A hearing under section 303 of this act must be closed on
7 request of the respondent and a showing of good cause.

8 (8) Any person may request to participate in a hearing under
9 section 303 of this act. The court may grant the request, with or
10 without a hearing, on determining that the best interest of the
11 respondent will be served. The court may impose appropriate
12 conditions on the person's participation.

13 NEW SECTION. **Sec. 308.** CONFIDENTIALITY OF RECORDS. (1) The
14 existence of a proceeding for or the existence of a guardianship for
15 an adult is a matter of public record unless the court seals the
16 record after:

17 (a) The respondent or individual subject to guardianship requests
18 the record be sealed; and

19 (b) Either:

20 (i) The petition for guardianship is dismissed; or

21 (ii) The guardianship is terminated.

22 (2) An adult subject to a proceeding for a guardianship, whether
23 or not a guardian is appointed, an attorney designated by the adult,
24 and a person entitled to notice under section 310(5) of this act or a
25 subsequent order are entitled to access court records of the
26 proceeding and resulting guardianship, including the guardian's plan
27 under section 317 of this act and report under section 318 of this
28 act. A person not otherwise entitled to access court records under
29 this subsection for good cause may petition the court for access to
30 court records of the guardianship, including the guardian's report
31 and plan. The court shall grant access if access is in the best
32 interest of the respondent or adult subject to guardianship or
33 furthers the public interest and does not endanger the welfare or
34 financial interests of the adult.

35 (3) A report under section 304 of this act of a visitor or a
36 professional evaluation under section 306 of this act is confidential
37 and must be sealed on filing, but is available to:

38 (a) The court;

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

3 (c) The petitioner, visitor, and petitioner's and respondent's
4 attorneys, for purposes of the proceeding;

5 (d) Unless the court orders otherwise, an agent appointed under a
6 power of attorney for health care or power of attorney for finances
7 in which the respondent is the principal; and

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

10 NEW SECTION. **Sec. 309.** WHO MAY BE GUARDIAN FOR ADULT—ORDER OF
11 PRIORITY. (1) Except as otherwise provided in subsection (3) of this
12 section, the court in appointing a guardian for an adult shall
13 consider persons qualified to be guardian in the following order of
14 priority:

15 (a) A guardian, other than a temporary or emergency guardian,
16 currently acting for the respondent in another jurisdiction;

17 (b) A person nominated as guardian by the respondent, including
18 the respondent's most recent nomination made in a power of attorney;

19 (c) An agent appointed by the respondent under a power of
20 attorney for health care;

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

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

24 (f) A certified professional guardian or conservator.

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

33 (3) The court, acting in the best interest of the respondent, may
34 decline to appoint as guardian a person having priority under
35 subsection (1) of this section and appoint a person having a lower
36 priority or no priority.

37 (4) A person that provides paid services to the respondent, or an
38 individual who is employed by a person that provides paid services to
39 the respondent or is the spouse, domestic partner, parent, or child

1 of an individual who provides or is employed to provide paid services
2 to the respondent, may not be appointed as guardian unless:

3 (a) The individual is related to the respondent by blood,
4 marriage, or adoption; or

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

8 (5) An owner, operator, or employee of a long-term care facility
9 at which the respondent is receiving care may not be appointed as
10 guardian unless the owner, operator, or employee is related to the
11 respondent by blood, marriage, or adoption.

12 NEW SECTION. **Sec. 310.** ORDER OF APPOINTMENT FOR GUARDIAN. (1) A
13 court order appointing a guardian for an adult must:

14 (a) Include a specific finding that clear and convincing evidence
15 established that the identified needs of the respondent cannot be met
16 by a protective arrangement instead of guardianship or other less
17 restrictive alternative, including use of appropriate supportive
18 services, technological assistance, or supported decision making;

19 (b) Include a specific finding that clear and convincing evidence
20 established the respondent was given proper notice of the hearing on
21 the petition;

22 (c) State whether the adult subject to guardianship retains the
23 right to vote and, if the adult does not retain the right to vote,
24 include findings that support removing that right which must include
25 a finding that the adult cannot communicate, with or without support,
26 a specific desire to participate in the voting process; and

27 (d) State whether the adult subject to guardianship retains the
28 right to marry and, if the adult does not retain the right to marry,
29 include findings that support removing that right.

30 (2) An adult subject to guardianship retains the right to vote
31 unless the order under subsection (1) of this section includes the
32 statement required by subsection (1)(c) of this section. An adult
33 subject to guardianship retains the right to marry unless the order
34 under subsection (1) of this section includes the findings required
35 by subsection (1)(d) of this section.

36 (3) A court order establishing a full guardianship for an adult
37 must state the basis for granting a full guardianship and include
38 specific findings that support the conclusion that a limited

1 guardianship would not meet the functional needs of the adult subject
2 to guardianship.

3 (4) A court order establishing a limited guardianship for an
4 adult must state the specific powers granted to the guardian.

5 (5) The court, as part of an order establishing a guardianship
6 for an adult, shall identify any person that subsequently is entitled
7 to:

8 (a) Notice of the rights of the adult under section 311(2) of
9 this act;

10 (b) Notice of a change in the primary dwelling of the adult;

11 (c) Notice that the guardian has delegated:

12 (i) The power to manage the care of the adult;

13 (ii) The power to make decisions about where the adult lives;

14 (iii) The power to make major medical decisions on behalf of the
15 adult;

16 (iv) A power that requires court approval under section 315 of
17 this act; or

18 (v) Substantially all powers of the guardian;

19 (d) Notice that the guardian will be unavailable to visit the
20 adult for more than two months or unavailable to perform the
21 guardian's duties for more than one month;

22 (e) A copy of the guardian's plan under section 317 of this act
23 and the guardian's report under section 318 of this act;

24 (f) Access to court records relating to the guardianship;

25 (g) Notice of the death or significant change in the condition of
26 the adult;

27 (h) Notice that the court has limited or modified the powers of
28 the guardian; and

29 (i) Notice of the removal of the guardian.

30 (6) A spouse, domestic partner, and adult children of an adult
31 subject to guardianship are entitled to notice under subsection (5)
32 of this section unless the court determines notice would be contrary
33 to the preferences or prior directions of the adult subject to
34 guardianship or not in the best interest of the adult.

35 (7) All orders establishing a guardianship for an adult must
36 contain:

37 (a) A guardianship summary placed directly below the case caption
38 or on a separate cover page in the form or substantially the same
39 form as set forth in section 606 of this act;

1 (b) The date which the limited guardian or guardian must file the
2 guardian's plan under section 317(1) of this act;

3 (c) The date by which the court will review the guardian's plan
4 as required by section 317(4) of this act;

5 (d) The report interval which the guardian shall file its
6 guardian's plan under section 318 of this act. The report interval
7 may be annual, biennial, or triennial;

8 (e) The date the limited guardian or guardian must file its
9 guardian's plan under section 318 of this act. The due date of the
10 filing of the report shall be within ninety days after the
11 anniversary date of the appointment;

12 (f) The date for the court to review the guardian's plan under
13 section 318 of this act and enter its order. The court shall conduct
14 the review within one hundred twenty days after the anniversary date
15 of the appointment.

16 NEW SECTION. **Sec. 311.** NOTICE OF ORDER OF APPOINTMENT—RIGHTS.

17 (1) A guardian appointed under section 309 of this act shall give the
18 adult subject to guardianship and all other persons given notice
19 under section 303 of this act a copy of the order of appointment,
20 together with notice of the right to request termination or
21 modification. The order and notice must be given not later than
22 fourteen days after the appointment.

23 (2) Not later than thirty days after appointment of a guardian
24 under section 309 of this act, the guardian shall give to the adult
25 subject to guardianship and any other person entitled to notice under
26 section 310(5) of this act or a subsequent order a statement of the
27 rights of the adult subject to guardianship and procedures to seek
28 relief if the adult is denied those rights. The statement must be in
29 at least sixteen-point font, in plain language, and, to the extent
30 feasible, in a language in which the adult subject to guardianship is
31 proficient. The statement must notify the adult subject to
32 guardianship of the right to:

33 (a) Seek termination or modification of the guardianship, or
34 removal of the guardian, and choose an attorney to represent the
35 adult in these matters;

36 (b) Be involved in decisions affecting the adult, including
37 decisions about the adult's care, dwelling, activities, or social
38 interactions, to the extent reasonably feasible;

1 (c) Be involved in health care decision making to the extent
2 reasonably feasible and supported in understanding the risks and
3 benefits of health care options to the extent reasonably feasible;

4 (d) Be notified at least fourteen days before a change in the
5 adult's primary dwelling or permanent move to a nursing home, mental
6 health facility, or other facility that places restrictions on the
7 individual's ability to leave or have visitors unless the change or
8 move is proposed in the guardian's plan under section 317 of this act
9 or authorized by the court by specific order;

10 (e) Object to a change or move described in (d) of this
11 subsection and the process for objecting;

12 (f) Communicate, visit, or interact with others, including
13 receiving visitors, and making or receiving telephone calls, personal
14 mail, or electronic communications, including through social media,
15 unless:

16 (i) The guardian has been authorized by the court by specific
17 order to restrict communications, visits, or interactions;

18 (ii) A protective order or protective arrangement instead of
19 guardianship is in effect that limits contact between the adult and a
20 person; or

21 (iii) The guardian has good cause to believe restriction is
22 necessary because interaction with a specified person poses a risk of
23 significant physical, psychological, or financial harm to the adult,
24 and the restriction is:

25 (A) For a period of not more than seven business days if the
26 person has a relative or preexisting social relationship with the
27 adult; or

28 (B) For a period of not more than sixty days if the person does
29 not have a relative or preexisting social relationship with the
30 adult;

31 (g) Receive a copy of the guardian's plan under section 317 of
32 this act and the guardian's report under section 318 of this act;

33 (h) Object to the guardian's plan or report; and

34 (i) Associate with persons of their choosing as provided in
35 section 315(5) of this act.

36 NEW SECTION. **Sec. 312.** EMERGENCY GUARDIAN FOR ADULT. (1) On its
37 own after a petition has been filed under section 302 of this act, or
38 on petition by a person interested in an adult's welfare, the court
39 may appoint an emergency guardian for the adult if the court finds:

1 (a) Appointment of an emergency guardian is likely to prevent
2 substantial harm to the adult's physical health, safety, or welfare;

3 (b) No other person appears to have authority and willingness to
4 act in the circumstances; and

5 (c) There is reason to believe that a basis for appointment of a
6 guardian under section 301 of this act exists.

7 (2) The duration of authority of an emergency guardian for an
8 adult may not exceed sixty days, and the emergency guardian may
9 exercise only the powers specified in the order of appointment. The
10 emergency guardian's authority may be extended once for not more than
11 sixty days if the court finds that the conditions for appointment of
12 an emergency guardian in subsection (1) of this section continue.

13 (3) Immediately on filing of a petition for appointment of an
14 emergency guardian for an adult, the court shall appoint an attorney
15 to represent the respondent in the proceeding. Except as otherwise
16 provided in subsection (4) of this section, reasonable notice of the
17 date, time, and place of a hearing on the petition must be given to
18 the respondent, the respondent's attorney, and any other person the
19 court determines.

20 (4) The court may appoint an emergency guardian for an adult
21 without notice to the adult and any attorney for the adult only if
22 the court finds from an affidavit or testimony that the respondent's
23 physical health, safety, or welfare will be substantially harmed
24 before a hearing with notice on the appointment can be held. If the
25 court appoints an emergency guardian without giving notice under
26 subsection (3) of this section, the court must:

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

29 (i) The respondent;

30 (ii) The respondent's attorney; and

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

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

34 (5) Appointment of an emergency guardian under this section is
35 not a determination that a basis exists for appointment of a guardian
36 under section 301 of this act.

37 (6) The court may remove an emergency guardian appointed under
38 this section at any time. The emergency guardian shall make any
39 report the court requires.

1 NEW SECTION.

2 **Sec. 313.**

3 DUTIES OF GUARDIAN FOR ADULT. (1) A

4 guardian for an adult is a fiduciary and owes the highest duty of
5 good faith and care to the person under a guardianship. The guardian
6 shall not substitute his or her moral or religious values, opinions,
7 or philosophical beliefs for those of the person under a
8 guardianship. Except as otherwise limited by the court, a guardian
9 for an adult shall make decisions regarding the support, care,
10 education, health, and welfare of the adult subject to guardianship
11 to the extent necessitated by the adult's limitations.

12 (2) A guardian for an adult shall promote the self-determination
13 of the adult and, to the extent reasonably feasible, encourage the
14 adult to participate in decisions, act on the adult's own behalf, and
15 develop or regain the capacity to manage the adult's personal
16 affairs. In furtherance of this duty, the guardian shall:

17 (a) Become or remain personally acquainted with the adult and
18 maintain sufficient contact with the adult, including through regular
19 visitation, to know the adult's abilities, limitations, needs,
20 opportunities, and physical and mental health;

21 (b) To the extent reasonably feasible, identify the values and
22 preferences of the adult and involve the adult in decisions affecting
23 the adult, including decisions about the adult's care, dwelling,
24 activities, or social interactions; and

25 (c) Make reasonable efforts to identify and facilitate supportive
26 relationships and services for the adult.

27 (3) A guardian for an adult at all times shall exercise
28 reasonable care, diligence, and prudence when acting on behalf of or
29 making decisions for the adult. In furtherance of this duty, the
30 guardian shall:

31 (a) Take reasonable care of the personal effects, pets, and
32 service or support animals of the adult and bring a proceeding for a
33 conservatorship or protective arrangement instead of conservatorship
34 if necessary to protect the adult's property;

35 (b) Expend funds and other property of the adult received by the
36 guardian for the adult's current needs for support, care, education,
37 health, and welfare;

38 (c) Conserve any funds and other property of the adult not
39 expended under (b) of this subsection for the adult's future needs,
40 but if a conservator has been appointed for the adult, pay the funds
and other property at least quarterly to the conservator to be
conserved for the adult's future needs; and

1 (d) Monitor the quality of services, including long-term care
2 services, provided to the adult.

3 (4) In making a decision for an adult subject to guardianship,
4 the guardian shall make the decision the guardian reasonably believes
5 the adult would make if the adult were able unless doing so would
6 unreasonably harm or endanger the welfare or personal or financial
7 interests of the adult. To determine the decision the adult subject
8 to guardianship would make if able, the guardian shall consider the
9 adult's previous or current directions, preferences, opinions,
10 values, and actions, to the extent actually known or reasonably
11 ascertainable by the guardian.

12 (5) If a guardian for an adult cannot make a decision under
13 subsection (4) of this section because the guardian does not know and
14 cannot reasonably determine the decision the adult probably would
15 make if able, or the guardian reasonably believes the decision the
16 adult would make would unreasonably harm or endanger the welfare or
17 personal or financial interests of the adult, the guardian shall act
18 in accordance with the best interests of the adult. In determining
19 the best interests of the adult, the guardian shall consider:

20 (a) Information received from professionals and persons that
21 demonstrate sufficient interest in the welfare of the adult;

22 (b) Other information the guardian believes the adult would have
23 considered if the adult were able to act; and

24 (c) Other factors a reasonable person in the circumstances of the
25 adult would consider, including consequences for others.

26 (6) A guardian for an adult immediately shall notify the court if
27 the condition of the adult has changed so that the adult is capable
28 of exercising rights previously removed.

29 (7) The guardian shall file with the court within thirty days of
30 any substantial change in the condition of the person under
31 guardianship or any changes in the residence of the person under
32 guardianship and shall provide a copy of the notice to the adult
33 subject to guardianship, a person entitled to notice under section
34 310(5) of this act or a subsequent order, and any other person the
35 court has determined is entitled to notice.

36 (8) To inform any person entitled to notice under section 310(5)
37 of this act or a subsequent order, and any other person the court has
38 determined is entitled to notice, but in no case more than five
39 business days, after the person subject to guardianship:

- 1 (a) Makes a change in residence that is intended or likely to
2 last more than fourteen calendar days;
- 3 (b) Has been admitted to a medical facility for acute care in
4 response to a life-threatening injury or medical condition that
5 requires inpatient care;
- 6 (c) Has been treated in an emergency room setting or kept for
7 hospital observation for more than twenty-four hours; or
- 8 (d) Dies, in which case the notification must be made in person,
9 by telephone, or by certified mail.

10 NEW SECTION. **Sec. 314.** POWERS OF GUARDIAN FOR ADULT. (1) Except
11 as limited by court order, a guardian for an adult may:

12 (a) Apply for and receive funds and benefits for the support of
13 the adult, unless a conservator is appointed for the adult and the
14 application or receipt is within the powers of the conservator;

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

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

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

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

25 (f) Receive personally identifiable health care information
26 regarding the adult.

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

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

31 (a) Consent or withhold consent to the marriage of the adult if
32 the adult's right to marry has been removed under section 310 of this
33 act;

34 (b) Petition for divorce, dissolution, or annulment of marriage
35 of the adult or a declaration of invalidity of the adult's marriage;
36 or

37 (c) Support or oppose a petition for divorce, dissolution, or
38 annulment of marriage of the adult or a declaration of invalidity of
39 the adult's marriage.

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

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

9 (a) Select a residential setting the guardian believes the adult
10 would select if the adult were able, in accordance with the decision-
11 making standard in section 313 (4) and (5) of this act. If the
12 guardian does not know and cannot reasonably determine what setting
13 the adult subject to guardianship probably would choose if able, or
14 the guardian reasonably believes the decision the adult would make
15 would unreasonably harm or endanger the welfare or personal or
16 financial interests of the adult, the guardian shall choose in
17 accordance with section 313(5) of this act a residential setting that
18 is consistent with the adult's best interest;

19 (b) In selecting among residential settings, give priority to a
20 residential setting in a location that will allow the adult to
21 interact with persons important to the adult and meet the adult's
22 needs in the least restrictive manner reasonably feasible unless to
23 do so would be inconsistent with the decision-making standard in
24 section 313 (4) and (5) of this act;

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

27 (i) Give notice of the change to the court, the adult, and any
28 person identified as entitled to the notice in the court order
29 appointing the guardian or a subsequent order; and

30 (ii) Include in the notice the address and nature of the new
31 dwelling and state whether the adult received advance notice of the
32 change and whether the adult objected to the change;

33 (d) Establish or move the permanent place of dwelling of the
34 adult to a nursing home, mental health facility, or other facility
35 that places restrictions on the adult's ability to leave or have
36 visitors only if:

37 (i) The establishment or move is in the guardian's plan under
38 section 317 of this act;

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

1 (iii) The guardian gives notice of the establishment or move at
2 least fourteen days before the establishment or move to the adult and
3 all persons entitled to notice under section 310(5)(b) of this act or
4 a subsequent order, and no objection is filed;

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

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

10 (i) The action is specifically included in the guardian's plan
11 under section 317 of this act;

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

13 (iii) Notice of the action was given at least fourteen days
14 before the action to the adult and all persons entitled to the notice
15 under section 310(5)(b) of this act or a subsequent order and no
16 objection has been filed.

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

19 (a) Involve the adult in decision making to the extent reasonably
20 feasible, including, when practicable, by encouraging and supporting
21 the adult in understanding the risks and benefits of health care
22 options;

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

26 (c) Take into account:

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

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

30 (7) Notwithstanding subsection (1)(b) of this section no
31 residential treatment facility which provides nursing or other care
32 may detain a person within such facility against their will. Any
33 court order, other than an order issued in accordance with the
34 involuntary treatment provisions of chapters 10.77, 71.05,
35 and 72.23 RCW, which purports to authorize such involuntary detention
36 or purports to authorize a guardian or limited guardian to consent to
37 such involuntary detention on behalf of an individual subject to a
38 guardianship shall be void and of no force or effect. This section
39 does not apply to the detention of a minor as provided in chapter
40 71.34 RCW.

1 (8) Nothing in this section shall be construed to require a court
2 order authorizing placement of an incapacitated person in a
3 residential treatment facility if such order is not otherwise
4 required by law: PROVIDED, That notice of any residential placement
5 of an individual subject to a guardianship shall be served, either
6 before or after placement, by the guardian or limited guardian on
7 such individual, any visitor of record, any guardian ad litem of
8 record, and any attorney of record.

9 NEW SECTION. **Sec. 315.** SPECIAL LIMITATIONS ON GUARDIAN'S POWER.

10 (1) Unless authorized by the court by specific order, a guardian for
11 an adult does not have the power to revoke or amend a power of
12 attorney for health care or power of attorney for finances executed
13 by the adult. If a power of attorney for health care is in effect,
14 unless there is a court order to the contrary, a health care decision
15 of an agent takes precedence over that of the guardian and the
16 guardian shall cooperate with the agent to the extent feasible. If a
17 power of attorney for finances is in effect, unless there is a court
18 order to the contrary, a decision by the agent which the agent is
19 authorized to make under the power of attorney for finances takes
20 precedence over that of the guardian and the guardian shall cooperate
21 with the agent to the extent feasible.

22 (2) A guardian for an adult may not initiate the commitment of
23 the adult to an evaluation and treatment facility except in
24 accordance with the state's procedure for involuntary civil
25 commitment.

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

- 30 (a) Therapy or other procedure to induce convulsion;
- 31 (b) Surgery solely for the purpose of psychosurgery; or
- 32 (c) Other psychiatric or mental health procedures that restrict
33 physical freedom of movement or the rights set forth in RCW
34 71.05.217.

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

1 (5) PERSONS UNDER A GUARDIANSHIP, CONSERVATORSHIP, OR OTHER
2 PROTECTIVE ARRANGEMENTS—RIGHT TO ASSOCIATE WITH PERSONS OF THEIR
3 CHOOSING.

4 (a) Except as otherwise provided in this section, a person under
5 a guardianship retains the right to associate with persons of the
6 person under a guardianship's choosing. This right includes, but is
7 not limited to, the right to freely communicate and interact with
8 other persons, whether through in-person visits, telephone calls,
9 electronic communication, personal mail, or other means. If the
10 person under a guardianship is unable to express consent for
11 communication, visitation, or interaction with another person, or is
12 otherwise unable to make a decision regarding association with
13 another person, a guardian of a person under a guardianship, whether
14 full or limited, must:

15 (i) Personally inform the person under a guardianship of the
16 decision under consideration, using plain language, in a manner
17 calculated to maximize the understanding of the person under a
18 guardianship;

19 (ii) Maximize the person under a guardianship's participation in
20 the decision-making process to the greatest extent possible,
21 consistent with the person under a guardianship's abilities; and

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

24 (b) A guardian or limited guardian may not restrict a person
25 under a guardianship's right to communicate, visit, interact, or
26 otherwise associate with persons of the person under a guardianship's
27 choosing, unless:

28 (i) The restriction is specifically authorized by the
29 guardianship court in the court order establishing or modifying the
30 guardianship or limited guardianship under chapter 11.--- RCW (the
31 new chapter created in section 806 of this act);

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

35 (iii)(A) The guardian or limited guardian has good cause to
36 believe that there is an immediate need to restrict a person under a
37 guardianship's right to communicate, visit, interact, or otherwise
38 associate with persons of the person under a guardianship's choosing
39 in order to protect the person under a guardianship from abuse,
40 neglect, abandonment, or financial exploitation, as those terms are

1 defined in RCW 74.34.020, or to protect the person under a
2 guardianship from activities that unnecessarily impose significant
3 distress on the person under a guardianship; and

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

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

11 (6) A protection order under chapter 74.34 RCW issued to protect
12 the person under a guardianship as described in subsection
13 (5)(b)(iii)(B) of this section:

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

15 (b) May not be more restrictive than necessary to protect the
16 person under a guardianship from abuse, neglect, abandonment, or
17 financial exploitation as those terms are defined in RCW 74.34.020;
18 and

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

25 **Sec. 316.** RCW 11.125.080 and 2016 c 209 s 108 are each amended
26 to read as follows:

27 (1) In a power of attorney, a principal may nominate a guardian
28 of the principal's estate or guardian of the principal's person for
29 consideration by the court if protective proceedings for the
30 principal's estate or person are begun after the principal executes
31 the power of attorney. Except for good cause shown or
32 disqualification, the court shall make its appointment in accordance
33 with the principal's most recent nomination.

34 (2) If, after a principal executes a power of attorney, a court
35 appoints a guardian of the principal's estate or other fiduciary
36 charged with the management of all of the principal's property, the
37 power of attorney (~~is terminated and the agent's authority does not~~
38 ~~continue unless continued by the court~~) remains in effect subject to
39 the provisions of section 315(1) of this act.

1 (3) If, after a principal executes a power of attorney, a court
2 appoints a guardian of the principal's estate or other fiduciary
3 charged with the management of some but not all of the principal's
4 property, the power of attorney shall not terminate or be modified,
5 except to the extent ordered by the court.

6 NEW SECTION. **Sec. 317.** GUARDIAN'S PLAN. (1) A guardian for an
7 adult, not later than ninety days after appointment, shall file with
8 the court a plan for the care of the adult and shall provide a copy
9 of the plan to the adult subject to guardianship, a person entitled
10 to notice under section 310(5) of this act or a subsequent order, and
11 any other person the court determines. The plan must be based on the
12 needs of the adult and take into account the best interest of the
13 adult as well as the adult's preferences, values, and prior
14 directions, to the extent known to or reasonably ascertainable by the
15 guardian. The guardian shall include in the plan:

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

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

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

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

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

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

30 (g) A statement or list of the amount the guardian proposes to
31 charge for each service the guardian anticipates providing to the
32 adult.

33 (2) A guardian shall give notice of the filing of the guardian's
34 plan under subsection (1) of this section, together with a copy of
35 the plan, to the adult subject to guardianship, a person entitled to
36 notice under section 310(5) of this act or a subsequent order, and
37 any other person the court determines. The notice must include a
38 statement of the right to object to the plan and be given not later
39 than fourteen days after the filing.

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

4 (4) The court shall review the guardian's plan filed under
5 subsection (1) of this section and determine whether to approve the
6 plan or require a new plan. In deciding whether to approve the plan,
7 the court shall consider an objection under subsection (3) of this
8 section and whether the plan is consistent with the guardian's duties
9 and powers under sections 313 and 314 of this act. The court may not
10 approve the plan until thirty days after its filing.

11 (5) After the guardian's plan filed under this section is
12 approved by the court, the guardian shall provide a copy of the order
13 approving the plan to the adult subject to guardianship, a person
14 entitled to notice under section 310(5) of this act or a subsequent
15 order, and any other person the court determines.

16 NEW SECTION. **Sec. 318.** GUARDIAN'S REPORT—MONITORING OF
17 GUARDIANSHIP. (1) A guardian for an adult shall file with the court
18 by the date established by the court a report in a record regarding
19 the condition of the adult and accounting for funds and other
20 property in the guardian's possession or subject to the guardian's
21 control. The guardian shall provide a copy of the report to the adult
22 subject to guardianship, a person entitled to notice under section
23 310(5) of this act or a subsequent order, and any other person the
24 court determines.

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

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

28 (b) The living arrangements of the adult during the reporting
29 period;

30 (c) A summary of the supported decision making, technological
31 assistance, medical services, educational and vocational services,
32 and other supports and services provided to the adult and the
33 guardian's opinion as to the adequacy of the adult's care;

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

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

37 (f) The extent to which the adult has participated in decision
38 making;

1 (g) If the adult is living in an evaluation and treatment
2 facility or living in a facility that provides the adult with health
3 care or other personal services, whether the guardian considers the
4 facility's current plan for support, care, treatment, or habilitation
5 consistent with the adult's preferences, values, prior directions,
6 and best interests;

7 (h) Anything of more than de minimis value which the guardian,
8 any individual who resides with the guardian, or the spouse, domestic
9 partner, parent, child, or sibling of the guardian has received from
10 an individual providing goods or services to the adult. A
11 professional guardian must abide by the standards of practice
12 regarding the acceptance of gifts;

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

15 (j) Any business relation the guardian has with a person the
16 guardian has paid or that has benefited from the property of the
17 adult;

18 (k) A copy of the guardian's most recently approved plan under
19 section 317 of this act and a statement whether the guardian has
20 deviated from the plan and, if so, how the guardian has deviated and
21 why;

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

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

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

27 (3) The court may appoint a visitor to review a report submitted
28 under this section or a guardian's plan submitted under section 317
29 of this act, interview the guardian or adult subject to guardianship,
30 or investigate any other matter involving the guardianship.

31 (4) Notice of the filing under this section of a guardian's
32 report, together with a copy of the report, must be given to the
33 adult subject to guardianship, a person entitled to notice under
34 section 310(5) of this act or a subsequent order, and any other
35 person the court determines. The notice and report must be given not
36 later than fourteen days after the filing.

37 (5) The court shall establish procedures for monitoring a report
38 submitted under this section and review each report to determine
39 whether:

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

3 (b) The guardianship should continue; and

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

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

8 (a) Shall notify the adult, the guardian, and any other person
9 entitled to notice under section 310(5) of this act or a subsequent
10 order;

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

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

14 (d) Consistent with sections 318 and 319 of this act, may hold a
15 hearing to consider removal of the guardian, termination of the
16 guardianship, or a change in the powers granted to the guardian or
17 terms of the guardianship.

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

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

26 (9) If the court approves a report filed under this section, the
27 order approving the report shall set the due date for the filing of
28 the next report to be filed under this section. The court may set the
29 review interval at annual, biennial, or triennial with the report due
30 date to be within ninety days of the anniversary date of appointment.
31 When determining the report interval, the court can consider: The
32 length of time the guardian has been serving the person under
33 guardianship; whether the guardian has timely filed all required
34 reports with the court; whether the guardian is monitored by other
35 state or local agencies; and whether there have been any allegations
36 of abuse, neglect, or a breach of fiduciary duty against the
37 guardian.

38 (10) If the court approves a report filed under this section, the
39 order approving the report shall contain a guardianship summary or be

1 accompanied by a guardianship summary in the form or substantially in
2 the same form as set forth in section 606 of this act.

3 (11) If the court approves a report filed under this section, the
4 order approving the report shall direct the clerk of the court to
5 reissue letters of office in the form or substantially in the same
6 form as set forth in section 605 of this act to the guardian
7 containing an expiration date which will be within one hundred twenty
8 days after the date the court directs the guardian file its next
9 report.

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

12 NEW SECTION. **Sec. 319.** REMOVAL OF GUARDIAN FOR ADULT—
13 APPOINTMENT OF SUCCESSOR. (1) The court may remove a guardian for an
14 adult for failure to perform the guardian's duties or for other good
15 cause and appoint a successor guardian to assume the duties of
16 guardian.

17 (2) The court shall hold a hearing to determine whether to remove
18 a guardian for an adult and appoint a successor guardian on:

19 (a) Petition of the adult, guardian, or person interested in the
20 welfare of the adult, which contains allegations that, if true, would
21 support a reasonable belief that removal of the guardian and
22 appointment of a successor guardian may be appropriate, but the court
23 may decline to hold a hearing if a petition based on the same or
24 substantially similar facts was filed during the preceding six
25 months;

26 (b) Communication from the adult, guardian, or person interested
27 in the welfare of the adult which supports a reasonable belief that
28 removal of the guardian and appointment of a successor guardian may
29 be appropriate; or

30 (c) Determination by the court that a hearing would be in the
31 best interest of the adult.

32 (3) Notice of a hearing under subsection (2)(a) of this section
33 and notice of the adult subject to guardianship's right to be
34 represented at the hearing by counsel of the individual's choosing
35 must be given to the adult subject to guardianship, the guardian, and
36 any other person the court determines.

37 (4) An adult subject to guardianship who seeks to remove the
38 guardian and have a successor guardian appointed has the right to
39 choose an attorney to represent the adult in this matter. The court

1 shall award reasonable attorneys' fees to the attorney for the adult
2 as provided in section 120 of this act.

3 (5) In selecting a successor guardian for an adult, the court
4 shall follow the priorities under section 309 of this act.

5 (6) Not later than fourteen days after appointing a successor
6 guardian, the successor guardian shall give notice of the appointment
7 to the adult subject to guardianship and any person entitled to
8 notice under section 310(5) of this act or a subsequent order.

9 NEW SECTION. **Sec. 320.** TERMINATION OR MODIFICATION OF
10 GUARDIANSHIP FOR ADULT. (1) An adult subject to guardianship, the
11 guardian for the adult, or a person interested in the welfare of the
12 adult may petition for:

13 (a) Termination of the guardianship on the ground that a basis
14 for appointment under section 301 of this act does not exist or
15 termination would be in the best interest of the adult or for other
16 good cause; or

17 (b) Modification of the guardianship on the ground that the
18 extent of protection or assistance granted is not appropriate or for
19 other good cause.

20 (2) The court shall hold a hearing to determine whether
21 termination or modification of a guardianship for an adult is
22 appropriate on:

23 (a) Petition under subsection (1) of this section that contains
24 allegations that, if true, would support a reasonable belief that
25 termination or modification of the guardianship may be appropriate,
26 but the court may decline to hold a hearing if a petition based on
27 the same or substantially similar facts was filed during the
28 preceding six months;

29 (b) Communication from the adult, guardian, or person interested
30 in the welfare of the adult which supports a reasonable belief that
31 termination or modification of the guardianship may be appropriate,
32 including because the functional needs of the adult or supports or
33 services available to the adult have changed;

34 (c) A report from a guardian or conservator which indicates that
35 termination or modification may be appropriate because the functional
36 needs of the adult or supports or services available to the adult
37 have changed or a protective arrangement instead of guardianship or
38 other less restrictive alternative for meeting the adult's needs is
39 available; or

1 (d) A determination by the court that a hearing would be in the
2 best interest of the adult.

3 (3) Notice of a petition under subsection (2)(a) of this section
4 must be given to the adult subject to guardianship, the guardian, and
5 any other person the court determines.

6 (4) On presentation of prima facie evidence for termination of a
7 guardianship for an adult, the court shall order termination unless
8 it is proven that a basis for appointment of a guardian under section
9 301 of this act exists.

10 (5) The court shall modify the powers granted to a guardian for
11 an adult if the powers are excessive or inadequate due to a change in
12 the abilities or limitations of the adult, the adult's supports, or
13 other circumstances.

14 (6) Unless the court otherwise orders for good cause, before
15 terminating or modifying a guardianship for an adult, the court shall
16 follow the same procedures to safeguard the rights of the adult which
17 apply to a petition for guardianship.

18 (7) An adult subject to guardianship who seeks to terminate or
19 modify the terms of the guardianship has the right to choose an
20 attorney to represent the adult in the matter. The court shall award
21 reasonable attorneys' fees to the attorney for the adult as provided
22 in section 120 of this act.

23 **ARTICLE 4**
24 **CONSERVATORSHIP**

25 NEW SECTION. **Sec. 401.** BASIS FOR APPOINTMENT OF CONSERVATOR.

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

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

33 (b) Either:

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

36 (ii) The minor has or may have financial affairs that may be put
37 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 identified needs cannot be met by a
22 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 NEW SECTION. **Sec. 402.** PETITION FOR APPOINTMENT OF CONSERVATOR.

32 (1) The following may petition for the appointment of a conservator:

33 (a) The individual for whom the order is sought;

34 (b) A person interested in the estate, financial affairs, or
35 welfare of the individual, including a person that would be adversely
36 affected by lack of effective management of property or financial
37 affairs of the individual; or

38 (c) The guardian for the individual.

1 (2) A petition under subsection (1) of this section must state
2 the petitioner's name, principal residence, current street address,
3 if different, relationship to the respondent, interest in the
4 appointment, the name and address of any attorney representing the
5 petitioner, and, to the extent known, the following:

6 (a) The respondent's name, age, principal residence, current
7 street address, if different, and, if different, address of the
8 dwelling in which it is proposed the respondent will reside if the
9 petition is granted;

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

11 (i) Spouse or domestic partner or, if the respondent has none, an
12 adult with whom the respondent has shared household responsibilities
13 for more than six months in the twelve-month period before the filing
14 of the petition;

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

18 (iii) Adult stepchildren whom the respondent actively parented
19 during the stepchildren's minor years and with whom the respondent
20 had an ongoing relationship during the two years immediately before
21 the filing of the petition;

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

24 (i) A person responsible for the care or custody of the
25 respondent;

26 (ii) Any attorney currently representing the respondent;

27 (iii) The representative payee appointed by the social security
28 administration for the respondent;

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

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

33 (vi) The fiduciary appointed for the respondent by the department
34 of veterans affairs;

35 (vii) An agent designated under a power of attorney for health
36 care in which the respondent is identified as the principal;

37 (viii) An agent designated under a power of attorney for finances
38 in which the respondent is identified as the principal;

1 (ix) A person known to have routinely assisted the respondent
2 with decision making in the six-month period immediately before the
3 filing of the petition;

4 (x) Any proposed conservator, including a person nominated by the
5 respondent, if the respondent is twelve years of age or older; and

6 (xi) If the individual for whom a conservator is sought is a
7 minor:

8 (A) An adult not otherwise listed with whom the minor resides;
9 and

10 (B) Each person not otherwise listed that had primary care or
11 custody of the minor for at least sixty days during the two years
12 immediately before the filing of the petition or for at least seven
13 hundred thirty days during the five years immediately before the
14 filing of the petition;

15 (d) A general statement of the respondent's property with an
16 estimate of its value, including any insurance or pension, and the
17 source and amount of other anticipated income or receipts;

18 (e) The reason conservatorship is necessary, including a brief
19 description of:

20 (i) The nature and extent of the respondent's alleged need;

21 (ii) If the petition alleges the respondent is missing, detained,
22 or unable to return to the United States, the relevant circumstances,
23 including the time and nature of the disappearance or detention and
24 any search or inquiry concerning the respondent's whereabouts;

25 (iii) Any protective arrangement instead of conservatorship or
26 other less restrictive alternative for meeting the respondent's
27 alleged need which has been considered or implemented;

28 (iv) If no protective arrangement or other less restrictive
29 alternatives have been considered or implemented, the reason it has
30 not been considered or implemented; and

31 (v) The reason a protective arrangement or other less restrictive
32 alternative is insufficient to meet the respondent's need;

33 (f) Whether the petitioner seeks a limited conservatorship or a
34 full conservatorship;

35 (g) If the petitioner seeks a full conservatorship, the reason a
36 limited conservatorship or protective arrangement instead of
37 conservatorship is not appropriate;

38 (h) If the petition includes the name of a proposed conservator,
39 the reason the proposed conservator should be appointed;

1 (i) If the petition is for a limited conservatorship, a
2 description of the property to be placed under the conservator's
3 control and any requested limitation on the authority of the
4 conservator;

5 (j) Whether the respondent needs an interpreter, translator, or
6 other form of support to communicate effectively with the court or
7 understand court proceedings; and

8 (k) The name and address of an attorney representing the
9 petitioner, if any.

10 NEW SECTION. **Sec. 403.** NOTICE AND HEARING FOR APPOINTMENT OF
11 CONSERVATOR. (1) All petitions filed under section 402 of this act
12 for appointment of a conservator shall be heard within sixty days
13 unless an extension of time is requested by a party or the visitor
14 within such sixty-day period and granted for good cause shown. If an
15 extension is granted, the court shall set a new hearing date.

16 (2) A copy of a petition under section 402 of this act and notice
17 of a hearing on the petition must be served personally on the
18 respondent and the visitor appointed under section 405 of this act
19 not more than five court days after the petition under section 402 of
20 this act has been filed. If the respondent's whereabouts are unknown
21 or personal service cannot be made, service on the respondent must be
22 made by publication. The notice must inform the respondent of the
23 respondent's rights at the hearing, including the right to an
24 attorney and to attend the hearing. The notice must include a
25 description of the nature, purpose, and consequences of granting the
26 petition. The court may not grant a petition for appointment of a
27 conservator if notice substantially complying with this subsection is
28 not served on the respondent.

29 (3) In a proceeding on a petition under section 402 of this act,
30 the notice required under subsection (2) of this section must be
31 given to the persons required to be listed in the petition under
32 section 402(2) (a) through (c) of this act and any other person
33 interested in the respondent's welfare the court determines. Failure
34 to give notice under this subsection does not preclude the court from
35 appointing a conservator.

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

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

4 (b) The conservator; and

5 (c) Any other person the court determines.

6 NEW SECTION. **Sec. 404.** ORDER TO PRESERVE OR APPLY PROPERTY
7 WHILE PROCEEDING PENDING. While a petition under section 402 of this
8 act is pending, after preliminary hearing and without notice to
9 others, the court may issue an order to preserve and apply property
10 of the respondent as required for the support of the respondent or an
11 individual who is in fact dependent on the respondent. The court may
12 appoint a special agent to assist in implementing the order.

13 NEW SECTION. **Sec. 405.** APPOINTMENT AND ROLE OF VISITOR. (1) If
14 the respondent in a proceeding to appoint a conservator is a minor,
15 the court may appoint a visitor to investigate a matter related to
16 the petition or inform the minor or a parent of the minor about the
17 petition or a related matter.

18 (2) If the respondent in a proceeding to appoint a conservator is
19 an adult, the court shall appoint a visitor. The duties and reporting
20 requirements of the visitor are limited to the relief requested in
21 the petition. The visitor must be an individual with training or
22 experience in the type of abilities, limitations, and needs alleged
23 in the petition.

24 (3) The court, in the order appointing visitor, shall specify the
25 hourly rate the visitor may charge for his or her services, and shall
26 specify the maximum amount the visitor may charge without additional
27 court review and approval.

28 (4) (a) The visitor appointed under subsection (1) or (2) of this
29 section shall within five days of receipt of notice of appointment
30 file with the court and serve, either personally or by certified mail
31 with return receipt, the respondent or his or her legal counsel, the
32 petitioner or his or her legal counsel, and any interested party
33 entitled to notice under section 116 of this act with a statement
34 including: His or her training relating to the duties as a visitor;
35 his or her criminal history as defined in RCW 9.94A.030 for the
36 period covering ten years prior to the appointment; his or her hourly
37 rate, if compensated; whether the guardian ad litem has had any
38 contact with a party to the proceeding prior to his or her

1 appointment; and whether he or she has an apparent conflict of
2 interest. Within three days of the later of the actual service or
3 filing of the visitor's statement, any party may set a hearing and
4 file and serve a motion for an order to show cause why the visitor
5 should not be removed for one of the following three reasons:

6 (i) Lack of expertise necessary for the proceeding;

7 (ii) An hourly rate higher than what is reasonable for the
8 particular proceeding; or

9 (iii) A conflict of interest.

10 (b) Notice of the hearing shall be provided to the visitor and
11 all parties. If, after a hearing, the court enters an order replacing
12 the visitor, findings shall be included, expressly stating the
13 reasons for the removal. If the visitor is not removed, the court has
14 the authority to assess to the moving party attorneys' fees and costs
15 related to the motion. The court shall assess attorneys' fees and
16 costs for frivolous motions.

17 (5) A visitor appointed under subsection (2) of this section for
18 an adult shall interview the respondent in person and in a manner the
19 respondent is best able to understand:

20 (a) Explain to the respondent the substance of the petition, the
21 nature, purpose, and effect of the proceeding, the respondent's
22 rights at the hearing on the petition, and the general powers and
23 duties of a conservator;

24 (b) Determine the respondent's views about the appointment sought
25 by the petitioner, including views about a proposed conservator, the
26 conservator's proposed powers and duties, and the scope and duration
27 of the proposed conservatorship; and

28 (c) Inform the respondent that all costs and expenses of the
29 proceeding, including respondent's attorneys' fees, may be paid from
30 the respondent's assets.

31 (6) A visitor appointed under subsection (2) of this section for
32 an adult shall:

33 (a) Interview the petitioner and proposed conservator, if any;

34 (b) Review financial records of the respondent, if relevant to
35 the visitor's recommendation under subsection (7)(b) of this section;

36 (c) Investigate whether the respondent's needs could be met by a
37 protective arrangement instead of conservatorship or other less
38 restrictive alternative and, if so, identify the arrangement or other
39 less restrictive alternative; and

1 (d) Investigate the allegations in the petition and any other
2 matter relating to the petition the court directs.

3 (7) A visitor appointed under subsection (2) of this section for
4 an adult shall file a report in a record with the court and provide a
5 copy of the report to the respondent, petitioner, and any interested
6 party entitled to notice under section 116 of this act at least
7 fifteen days prior to the hearing on the petition filed under section
8 402 of this act, which must include:

9 (a) A recommendation:

10 (i) Regarding the appropriateness of conservatorship, or whether
11 a protective arrangement instead of conservatorship or other less
12 restrictive alternative for meeting the respondent's needs is
13 available;

14 (ii) If a conservatorship is recommended, whether it should be
15 full or limited;

16 (iii) If a limited conservatorship is recommended, the powers to
17 be granted to the conservator, and the property that should be placed
18 under the conservator's control; and

19 (iv) If a conservatorship is recommended, the amount of the bond
20 or other verified receipt needed under sections 416 and 417 of this
21 act;

22 (b) A statement of the qualifications of the proposed conservator
23 and whether the respondent approves or disapproves of the proposed
24 conservator;

25 (c) A recommendation whether a professional evaluation under
26 section 407 of this act is necessary;

27 (d) A statement whether the respondent is able to attend a
28 hearing at the location court proceedings typically are held;

29 (e) A statement whether the respondent is able to participate in
30 a hearing and which identifies any technology or other form of
31 support that would enhance the respondent's ability to participate;
32 and

33 (f) Any other matter the court directs.

34 NEW SECTION. **Sec. 406.** APPOINTMENT AND ROLE OF ATTORNEY. (1) (a)
35 The respondent shall have the right to be represented by a willing
36 attorney of their choosing at any stage in conservatorship
37 proceedings.

38 (b) Unless the respondent in a proceeding for appointment of a
39 conservator is represented by an attorney, the court is not required,

1 but may appoint an attorney to represent the respondent, regardless
2 of the respondent's ability to pay, except as provided otherwise in
3 (c) of this subsection.

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

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

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

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

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

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

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

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

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

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

33 (3) The court is not required, but may appoint an attorney to
34 represent a parent of a minor who is the subject of a proceeding
35 under section 402 of this act if:

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

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

39 (c) The court otherwise determines the parent needs
40 representation.

1 NEW SECTION. **Sec. 407.** PROFESSIONAL EVALUATION. (1) At or
2 before a hearing on a petition for conservatorship for an adult, the
3 court shall order a professional evaluation of the respondent:

4 (a) If the respondent requests the evaluation; or

5 (b) In other cases, unless the court finds it has sufficient
6 information to determine the respondent's needs and abilities without
7 the evaluation.

8 (2) If the court orders an evaluation under subsection (1) of
9 this section, the respondent must be examined by a physician licensed
10 to practice under chapter 18.71 or 18.57 RCW, psychologist licensed
11 under chapter 18.83 RCW, or advanced registered nurse practitioner
12 licensed under chapter 18.79 RCW selected by the visitor who is
13 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. Unless
18 otherwise directed by the court, the report must contain:

19 (a) A description of the nature, type, and extent of the
20 respondent's cognitive and functional abilities and limitations with
21 regard to the management of the respondent's property and financial
22 affairs;

23 (b) An evaluation of the respondent's mental and physical
24 condition and, if appropriate, educational potential, adaptive
25 behavior, and social skills;

26 (c) A prognosis for improvement with regard to the ability to
27 manage the respondent's property and financial affairs; and

28 (d) The date of the examination on which the report is based.

29 (3) A respondent may decline to participate in an evaluation
30 ordered under subsection (1) of this section.

31 NEW SECTION. **Sec. 408.** ATTENDANCE AND RIGHTS AT HEARING. (1)
32 Except as otherwise provided in subsection (2) of this section, a
33 hearing under section 403 of this act may not proceed unless the
34 respondent attends the hearing. If it is not reasonably feasible for
35 the respondent to attend a hearing at the location court proceedings
36 typically are held, the court shall make reasonable efforts to hold
37 the hearing at an alternative location convenient to the respondent
38 or allow the respondent to attend the hearing using real-time audio-
39 visual technology.

1 (2) A hearing under section 403 of this act may proceed without
2 the respondent in attendance if the court finds by clear and
3 convincing evidence that:

4 (a) The respondent consistently and repeatedly has refused to
5 attend the hearing after having been fully informed of the right to
6 attend and the potential consequences of failing to do so;

7 (b) There is no practicable way for the respondent to attend and
8 participate in the hearing even with appropriate supportive services
9 or technological assistance; or

10 (c) The respondent is a minor who has received proper notice and
11 attendance would be harmful to the minor.

12 (3) The respondent may be assisted in a hearing under section 403
13 of this act by a person or persons of the respondent's choosing,
14 assistive technology, or an interpreter or translator, or a
15 combination of these supports. If assistance would facilitate the
16 respondent's participation in the hearing, but is not otherwise
17 available to the respondent, the court shall make reasonable efforts
18 to provide it.

19 (4) The respondent has a right to choose an attorney to represent
20 the respondent at a hearing under section 403 of this act.

21 (5) At a hearing under section 403 of this act, the respondent
22 may:

23 (a) Present evidence and subpoena witnesses and documents;

24 (b) Examine witnesses, including any court-appointed evaluator
25 and the visitor; and

26 (c) Otherwise participate in the hearing.

27 (6) Unless excused by the court for good cause, a proposed
28 conservator shall attend a hearing under section 403 of this act.

29 (7) A hearing under section 403 of this act must be closed on
30 request of the respondent and a showing of good cause.

31 (8) Any person may request to participate in a hearing under
32 section 403 of this act. The court may grant the request, with or
33 without a hearing, on determining that the best interest of the
34 respondent will be served. The court may impose appropriate
35 conditions on the person's participation.

36 NEW SECTION. **Sec. 409.** CONFIDENTIALITY OF RECORDS. (1) The
37 existence of a proceeding for or the existence of conservatorship is
38 a matter of public record unless the court seals the record after:

1 (a) The respondent, the individual subject to conservatorship, or
2 the parent of a minor subject to conservatorship requests the record
3 be sealed; and

4 (b) Either:

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

6 (ii) The conservatorship is terminated.

7 (2) An individual subject to a proceeding for a conservatorship,
8 whether or not a conservator is appointed, an attorney designated by
9 the individual, and a person entitled to notice under section 411(6)
10 of this act or a subsequent order may access court records of the
11 proceeding and resulting conservatorship, including the conservator's
12 plan under section 419 of this act and the conservator's report under
13 section 423 of this act. A person not otherwise entitled access to
14 court records under this section for good cause may petition the
15 court for access to court records of the conservatorship, including
16 the conservator's plan and report. The court shall grant access if
17 access is in the best interest of the respondent or individual
18 subject to conservatorship or furthers the public interest and does
19 not endanger the welfare or financial interests of the respondent or
20 individual.

21 (3) A report under section 405 of this act of a visitor or
22 professional evaluation under section 407 of this act is confidential
23 and must be sealed on filing, but is available to:

24 (a) The court;

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

27 (c) The petitioner, visitor, and petitioner's and respondent's
28 attorneys, for purposes of the proceeding;

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

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

34 NEW SECTION. **Sec. 410.** WHO MAY BE CONSERVATOR—ORDER OF
35 PRIORITY. (1) Except as otherwise provided in subsection (3) of this
36 section, the court in appointing a conservator shall consider persons
37 qualified to be a conservator in the following order of priority:

1 (a) A conservator, other than a temporary or emergency
2 conservator, currently acting for the respondent in another
3 jurisdiction;

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

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

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

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

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

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

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

26 (4) A person that provides paid services to the respondent, or an
27 individual who is employed by a person that provides paid services to
28 the respondent or is the spouse, domestic partner, parent, or child
29 of an individual who provides or is employed to provide paid services
30 to the respondent, may not be appointed as conservator unless:

31 (a) The individual is related to the respondent by blood,
32 marriage, or adoption; or

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

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

1 NEW SECTION. **Sec. 411.** ORDER OF APPOINTMENT OF CONSERVATOR. (1)

2 A court order appointing a conservator for a minor must include
3 findings to support appointment of a conservator and, if a full
4 conservatorship is granted, the reason a limited conservatorship
5 would not meet the identified needs of the minor.

6 (2) A court order appointing a conservator for a minor may
7 dispense with the requirement for the conservator to file reports
8 with the court under section 423 of this act if all the property of
9 the minor subject to the conservatorship is protected by a verified
10 receipt.

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

12 (a) Include a specific finding that clear and convincing evidence
13 has established that the identified needs of the respondent cannot be
14 met by a protective arrangement instead of conservatorship or other
15 less restrictive alternatives, including use of appropriate
16 supportive services, technological assistance, or supported decision
17 making; and

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

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

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

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

31 (a) Notice of the rights of the individual subject to
32 conservatorship under section 412(2) of this act;

33 (b) Notice of a sale of or surrender of a lease to the primary
34 dwelling of the individual;

35 (c) Notice that the conservator has delegated a power that
36 requires court approval under section 414 of this act or
37 substantially all powers of the conservator;

38 (d) Notice that the conservator will be unavailable to perform
39 the conservator's duties for more than one month;

1 (e) A copy of the conservator's plan under section 419 of this
2 act and the conservator's report under section 423 of this act;
3 (f) Access to court records relating to the conservatorship;
4 (g) Notice of a transaction involving a substantial conflict
5 between the conservator's fiduciary duties and personal interests;
6 (h) Notice of the death or significant change in the condition of
7 the individual;
8 (i) Notice that the court has limited or modified the powers of
9 the conservator; and
10 (j) Notice of the removal of the conservator.
11 (7) If an individual subject to conservatorship is an adult, the
12 spouse, domestic partner, and adult children of the adult subject to
13 conservatorship are entitled under subsection (6) of this section to
14 notice unless the court determines notice would be contrary to the
15 preferences or prior directions of the adult subject to
16 conservatorship or not in the best interest of the adult.
17 (8) If an individual subject to conservatorship is a minor, each
18 parent and adult sibling of the minor is entitled under subsection
19 (6) of this section to notice unless the court determines notice
20 would not be in the best interest of the minor.
21 (9) All orders establishing a conservatorship for an adult must
22 contain:
23 (a) A conservatorship summary placed directly below the case
24 caption or on a separate cover page in the form or substantially the
25 same form as set forth in section 606 of this act;
26 (b) The date which the limited conservator or conservator must
27 file the conservator's plan under section 419 of this act;
28 (c) The date which the limited conservator or conservator must
29 file an inventory under section 420 of this act;
30 (d) The date by which the court will review the conservator's
31 plan as required by section 419 of this act;
32 (e) The report interval which the conservator must file its
33 report under section 423 of this act. The report interval may be
34 annual, biennial, or triennial;
35 (f) The date the limited conservator or conservator must file its
36 report under section 423 of this act. The due date of the filing of
37 the report shall be within ninety days after the anniversary date of
38 the appointment;
39 (g) The date for the court to review the report under section 423
40 of this act and enter its order. The court shall conduct the review

1 within one hundred twenty days after the anniversary date of the
2 appointment.

3 NEW SECTION. **Sec. 412.** NOTICE OF ORDER OF APPOINTMENT—RIGHTS.

4 (1) A conservator appointed under section 411 of this act shall give
5 to the individual subject to conservatorship and to all other persons
6 given notice under section 403 of this act a copy of the order of
7 appointment, together with notice of the right to request termination
8 or modification. The order and notice must be given not later than
9 fourteen days after the appointment.

10 (2) Not later than thirty days after appointment of a conservator
11 under section 411 of this act, the conservator shall give to the
12 individual subject to conservatorship and any other person entitled
13 to notice under section 411(6) of this act a statement of the rights
14 of the individual subject to conservatorship and procedures to seek
15 relief if the individual is denied those rights. The statement must
16 be in plain language, in at least sixteen-point font, and to the
17 extent feasible, in a language in which the individual subject to
18 conservatorship is proficient. The statement must notify the
19 individual subject to conservatorship of the right to:

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

23 (b) Participate in decision making to the extent reasonably
24 feasible;

25 (c) Receive a copy of the conservator's plan under section 419 of
26 this act, the conservator's inventory under section 420 of this act,
27 and the conservator's report under section 423 of this act; and

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

29 (3) If a conservator is appointed for the reasons stated in
30 section 401(2)(a)(ii) of this act and the individual subject to
31 conservatorship is missing, notice under this section to the
32 individual is not required.

33 NEW SECTION. **Sec. 413.** EMERGENCY CONSERVATOR. (1) On its own or
34 on petition by a person interested in an individual's welfare after a
35 petition has been filed under section 402 of this act, the court may
36 appoint an emergency conservator for the individual if the court
37 finds:

1 (a) Appointment of an emergency conservator is likely to prevent
2 substantial and irreparable harm to the individual's property or
3 financial interests;

4 (b) No other person appears to have authority and willingness to
5 act in the circumstances; and

6 (c) There is reason to believe that a basis for appointment of a
7 conservator under section 401 of this act exists.

8 (2) The duration of authority of an emergency conservator may not
9 exceed sixty days and the emergency conservator may exercise only the
10 powers specified in the order of appointment. The emergency
11 conservator's authority may be extended once for not more than sixty
12 days if the court finds that the conditions for appointment of an
13 emergency conservator under subsection (1) of this section continue.

14 (3) Immediately on filing of a petition for an emergency
15 conservator, the court shall appoint an attorney to represent the
16 respondent in the proceeding. Except as otherwise provided in
17 subsection (4) of this section, reasonable notice of the date, time,
18 and place of a hearing on the petition must be given to the
19 respondent, the respondent's attorney, and any other person the court
20 determines.

21 (4) The court may appoint an emergency conservator without notice
22 to the respondent and any attorney for the respondent only if the
23 court finds from an affidavit or testimony that the respondent's
24 property or financial interests will be substantially and irreparably
25 harmed before a hearing with notice on the appointment can be held.
26 If the court appoints an emergency conservator without giving notice
27 under subsection (3) of this section, the court must give notice of
28 the appointment not later than forty-eight hours after the
29 appointment to:

30 (a) The respondent;

31 (b) The respondent's attorney; and

32 (c) Any other person the court determines.

33 (5) Not later than five days after the appointment, the court
34 shall hold a hearing on the appropriateness of the appointment.

35 (6) Appointment of an emergency conservator under this section is
36 not a determination that a basis exists for appointment of a
37 conservator under section 401 of this act.

38 (7) The court may remove an emergency conservator appointed under
39 this section at any time. The emergency conservator shall make any
40 report the court requires.

1 NEW SECTION. **Sec. 414.** POWERS OF CONSERVATOR REQUIRING COURT

2 APPROVAL. (1) Except as otherwise ordered by the court, a conservator
3 must give notice to persons entitled to notice under section 403(4)
4 of this act and receive specific authorization by the court before
5 the conservator may exercise with respect to the conservatorship the
6 power to:

7 (a) Make a gift, except a gift of de minimis value;

8 (b) Sell, encumber an interest in, or surrender a lease to the
9 primary dwelling of the individual subject to conservatorship;

10 (c) Convey, release, or disclaim a contingent or expectant
11 interest in property, including marital property and any right of
12 survivorship incident to joint tenancy or tenancy by the entireties;

13 (d) Exercise or release a power of appointment;

14 (e) Create a revocable or irrevocable trust of property of the
15 conservatorship estate, whether or not the trust extends beyond the
16 duration of the conservatorship, or revoke or amend a trust revocable
17 by the individual subject to conservatorship;

18 (f) Exercise a right to elect an option or change a beneficiary
19 under an insurance policy or annuity or surrender the policy or
20 annuity for its cash value;

21 (g) Exercise a right to an elective share in the estate of a
22 deceased spouse or domestic partner of the individual subject to
23 conservatorship or renounce or disclaim a property interest;

24 (h) Grant a creditor priority for payment over creditors of the
25 same or higher class if the creditor is providing property or
26 services used to meet the basic living and care needs of the
27 individual subject to conservatorship and preferential treatment
28 otherwise would be impermissible under section 428(5) of this act;
29 and

30 (i) Make, modify, amend, or revoke the will of the individual
31 subject to conservatorship in compliance with chapter 11.12 RCW.

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 takes precedence over that of the conservator, unless the court
21 orders otherwise.

22 NEW SECTION. **Sec. 415.** PETITION FOR ORDER AFTER APPOINTMENT. An
23 individual subject to conservatorship or a person interested in the
24 welfare of the individual may petition for an order:

25 (1) Requiring the conservator to furnish a bond or collateral or
26 additional bond or collateral or allowing a reduction in a bond or
27 collateral previously furnished;

28 (2) Requiring an accounting for the administration of the
29 conservatorship estate;

30 (3) Directing distribution;

31 (4) Removing the conservator and appointing a temporary or
32 successor conservator;

33 (5) Modifying the type of appointment or powers granted to the
34 conservator, if the extent of protection or management previously
35 granted is excessive or insufficient to meet the individual's needs,
36 including because the individual's abilities or supports have
37 changed;

38 (6) Rejecting or modifying the conservator's plan under section
39 419 of this act, the conservator's inventory under section 420 of

1 this act, or the conservator's report under section 423 of this act;
2 or

3 (7) Granting other appropriate relief.

4 NEW SECTION. **Sec. 416.** BOND—ALTERNATIVE VERIFIED RECEIPT. (1)
5 Except as otherwise provided in subsections (3) and (4) of this
6 section, the court shall require a conservator to furnish a bond with
7 a surety the court specifies, or require a verified receipt,
8 conditioned on faithful discharge of all duties of the conservator.
9 The court may waive the requirement only if the court finds that a
10 bond or other verified receipt is not necessary to protect the
11 interests of the individual subject to conservatorship. Except as
12 otherwise provided in subsections (3) and (4) of this section, the
13 court may not waive the requirement if the conservator is in the
14 business of serving as a conservator and is being paid for the
15 conservator's service.

16 (2) Unless the court directs otherwise, the bond required under
17 this section must be in the amount of the aggregate capital value of
18 the conservatorship estate, plus the estimated income for the
19 accounting and report review interval, less the value of property
20 deposited under a verified receipt requiring a court order for its
21 removal and real property the conservator lacks power to sell or
22 convey without specific court authorization. The court, in place of
23 surety on a bond, may accept collateral for the performance of the
24 bond, including a pledge of securities or a mortgage of real
25 property.

26 (3) A regulated financial institution qualified to do trust
27 business in this state is not required to give a bond under this
28 section.

29 (4) In all conservatorships where the person subject to
30 conservatorship has total assets of a value of less than three
31 thousand dollars, the court may dispense with the requirement of a
32 bond: PROVIDED, That the conservator swears to report to the court
33 any changes in the total assets of the person subject to
34 conservatorship increasing their value to over three thousand
35 dollars: PROVIDED FURTHER, That the conservator files a yearly
36 statement showing the monthly income of the person subject to
37 conservatorship if such monthly income, excluding moneys from state
38 or federal benefits, is over the sum of five hundred dollars per
39 month for any three consecutive months.

1 NEW SECTION. **Sec. 417.** TERMS AND REQUIREMENTS OF BOND. (1) The
2 following rules apply to the bond required under section 416 of this
3 act:

4 (a) Except as otherwise provided by the bond, the surety and the
5 conservator are jointly and severally liable.

6 (b) By executing a bond provided by a conservator, the surety
7 submits to the personal jurisdiction of the court that issued letters
8 of office to the conservator in a proceeding relating to the duties
9 of the conservator in which the surety is named as a party. Notice of
10 the proceeding must be given to the surety at the address shown in
11 the records of the court in which the bond is filed and any other
12 address of the surety then known to the person required to provide
13 the notice.

14 (c) On petition of a successor conservator or person affected by
15 a breach of the obligation of the bond, a proceeding may be brought
16 against the surety for breach of the obligation of the bond.

17 (d) A proceeding against the bond may be brought until liability
18 under the bond is exhausted.

19 (2) A proceeding may not be brought under this section against a
20 surety of a bond on a matter as to which a proceeding against the
21 conservator is barred.

22 (3) If a bond under section 416 of this act is not renewed by the
23 conservator, the surety or sureties immediately shall give notice to
24 the court and the individual subject to conservatorship.

25 NEW SECTION. **Sec. 418.** DUTIES OF CONSERVATOR. (1) A conservator
26 is a fiduciary and has duties of prudence and loyalty to the
27 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 section 403 of this act or a subsequent order, and any other person

1 the court has determined is entitled to notice and schedule a hearing
2 for the court to review the adequacy of the bond or other verified
3 receipt under sections 416 and 417 of this act.

4 NEW SECTION. **Sec. 419.** CONSERVATOR'S PLAN. (1) A conservator,
5 not later than ninety days after appointment, shall file with the
6 court a plan for protecting, managing, expending, and distributing
7 the assets of the conservatorship estate. The plan must be based on
8 the needs of the individual subject to conservatorship and take into
9 account the best interest of the individual as well as the
10 individual's preferences, values, and prior directions, to the extent
11 known to or reasonably ascertainable by the conservator. The
12 conservator shall include in the plan:

13 (a) A budget containing projected expenses and resources,
14 including an estimate of the total amount of fees the conservator
15 anticipates charging per year and a statement or list of the amount
16 the conservator proposes to charge for each service the conservator
17 anticipates providing to the individual;

18 (b) How the conservator will involve the individual in decisions
19 about management of the conservatorship estate;

20 (c) Any step the conservator plans to take to develop or restore
21 the ability of the individual to manage the conservatorship estate;
22 and

23 (d) An estimate of the duration of the conservatorship.

24 (2) A conservator shall give notice of the filing of the
25 conservator's plan under subsection (1) of this section, together
26 with a copy of the plan, to the individual subject to
27 conservatorship, a person entitled to notice under section 411(6) of
28 this act or a subsequent order, and any other person the court
29 determines. The notice must include a statement of the right to
30 object to the plan and be given not later than fourteen days after
31 the filing.

32 (3) An individual subject to conservatorship and any person
33 entitled under subsection (2) of this section to receive notice and a
34 copy of the conservator's plan may object to the plan.

35 (4) The court shall review the conservator's plan filed under
36 subsection (1) of this section and determine whether to approve the
37 plan or require a new plan. In deciding whether to approve the plan,
38 the court shall consider an objection under subsection (3) of this
39 section and whether the plan is consistent with the conservator's

1 duties and powers. The court may not approve the plan until thirty
2 days after its filing.

3 (5) After a conservator's plan under this section is approved by
4 the court, the conservator shall provide a copy of the plan to the
5 individual subject to conservatorship, a person entitled to notice
6 under section 411(6) of this act or a subsequent order, and any other
7 person the court determines.

8 NEW SECTION. **Sec. 420.** INVENTORY—RECORDS. (1) Not later than
9 sixty days after appointment, a conservator shall prepare and file
10 with the appointing court a detailed inventory of the conservatorship
11 estate, together with an oath or affirmation that the inventory is
12 believed to be complete and accurate as far as information permits.

13 (2) A conservator shall give notice of the filing of an inventory
14 to the individual subject to conservatorship, a person entitled to
15 notice under section 411(6) of this act or a subsequent order, and
16 any other person the court determines. The notice must be given not
17 later than fourteen days after the filing.

18 (3) A conservator shall keep records of the administration of the
19 conservatorship estate and make them available for examination on
20 reasonable request of the individual subject to conservatorship, a
21 guardian for the individual, or any other person the conservator or
22 the court determines.

23 NEW SECTION. **Sec. 421.** ADMINISTRATIVE POWERS OF CONSERVATOR NOT
24 REQUIRING COURT APPROVAL. (1) Except as otherwise provided in section
25 414 of this act or qualified or limited in the court's order of
26 appointment and stated in the letters of office, a conservator has
27 all powers granted in this section and any additional power granted
28 to a trustee by law of this state other than this chapter.

29 (2) A conservator, acting reasonably and consistent with the
30 fiduciary duties of the conservator to accomplish the purpose of the
31 conservatorship, without specific court authorization or
32 confirmation, may with respect to the conservatorship estate:

33 (a) Collect, hold, and retain property, including property in
34 which the conservator has a personal interest and real property in
35 another state, until the conservator determines disposition of the
36 property should be made;

37 (b) Receive additions to the conservatorship estate;

- 1 (c) Continue or participate in the operation of a business or
2 other enterprise;
- 3 (d) Acquire an undivided interest in property in which the
4 conservator, in a fiduciary capacity, holds an undivided interest;
- 5 (e) Invest assets;
- 6 (f) Deposit funds or other property in a financial institution,
7 including one operated by the conservator;
- 8 (g) Acquire or dispose of property, including real property in
9 another state, for cash or on credit, at public or private sale, and
10 manage, develop, improve, exchange, partition, change the character
11 of, or abandon property;
- 12 (h) Make ordinary or extraordinary repairs or alterations in a
13 building or other structure, demolish any improvement, or raze an
14 existing or erect a new party wall or building;
- 15 (i) Subdivide or develop land, dedicate land to public use, make
16 or obtain the vacation of a plat and adjust a boundary, adjust a
17 difference in valuation of land, exchange or partition land by giving
18 or receiving consideration, and dedicate an easement to public use
19 without consideration;
- 20 (j) Enter for any purpose into a lease of property as lessor or
21 lessee, with or without an option to purchase or renew, for a term
22 within or extending beyond the term of the conservatorship;
- 23 (k) Enter into a lease or arrangement for exploration and removal
24 of minerals or other natural resources or a pooling or unitization
25 agreement;
- 26 (l) Grant an option involving disposition of property or accept
27 or exercise an option for the acquisition of property;
- 28 (m) Vote a security, in person or by general or limited proxy;
- 29 (n) Pay a call, assessment, or other sum chargeable or accruing
30 against or on account of a security;
- 31 (o) Sell or exercise a stock subscription or conversion right;
- 32 (p) Consent, directly or through a committee or agent, to the
33 reorganization, consolidation, merger, dissolution, or liquidation of
34 a corporation or other business enterprise;
- 35 (q) Hold a security in the name of a nominee or in other form
36 without disclosure of the conservatorship so that title to the
37 security may pass by delivery;
- 38 (r) Insure:
- 39 (i) The conservatorship estate, in whole or in part, against
40 damage or loss in accordance with section 418(10) of this act; and

1 (ii) The conservator against liability with respect to a third
2 person;

3 (s) Borrow funds, with or without security, to be repaid from the
4 conservatorship estate or otherwise;

5 (t) Advance funds for the protection of the conservatorship
6 estate or the individual subject to conservatorship and all expenses,
7 losses, and liability sustained in the administration of the
8 conservatorship estate or because of holding any property for which
9 the conservator has a lien on the conservatorship estate;

10 (u) Pay or contest a claim, settle a claim by or against the
11 conservatorship estate or the individual subject to conservatorship
12 by compromise, arbitration, or otherwise, or release, in whole or in
13 part, a claim belonging to the conservatorship estate to the extent
14 the claim is uncollectible;

15 (v) Pay a tax, assessment, compensation of the conservator or any
16 guardian, and other expense incurred in the collection, care,
17 administration, and protection of the conservatorship estate;

18 (w) Pay a sum distributable to the individual subject to
19 conservatorship or an individual who is in fact dependent on the
20 individual subject to conservatorship by paying the sum to the
21 distributee or for the use of the distributee:

22 (i) To the guardian for the distributee;

23 (ii) To the custodian of the distributee under the uniform
24 transfers to minors act (chapter 11.114 RCW); or

25 (iii) If there is no guardian, custodian, or custodial trustee,
26 to a relative or other person having physical custody of the
27 distributee;

28 (x) Bring or defend an action, claim, or proceeding in any
29 jurisdiction for the protection of the conservatorship estate or the
30 conservator in the performance of the conservator's duties;

31 (y) Structure the finances of the individual subject to
32 conservatorship to establish eligibility for a public benefit,
33 including by making gifts consistent with the individual's
34 preferences, values, and prior directions, if the conservator's
35 action does not jeopardize the individual's welfare and otherwise is
36 consistent with the conservator's duties; and

37 (z) Execute and deliver any instrument that will accomplish or
38 facilitate the exercise of a power of the conservator.

1 NEW SECTION. **Sec. 422.** DISTRIBUTION FROM CONSERVATORSHIP

2 ESTATE. Except as otherwise provided in section 414 of this act or
3 qualified or limited in the court's order of appointment and stated
4 in the letters of office, and unless contrary to a conservator's plan
5 under section 419 of this act, the conservator may expend or
6 distribute income or principal of the conservatorship estate without
7 specific court authorization or confirmation for the support, care,
8 education, health, or welfare of the individual subject to
9 conservatorship or an individual who is in fact dependent on the
10 individual subject to conservatorship, including the payment of child
11 or spousal support, in accordance with the following rules:

12 (1) The conservator shall consider a recommendation relating to
13 the appropriate standard of support, care, education, health, or
14 welfare for the individual subject to conservatorship or individual
15 who is dependent on the individual subject to conservatorship, made
16 by a guardian for the individual subject to conservatorship, if any,
17 and, if the individual subject to conservatorship is a minor, a
18 recommendation made by a parent of the minor.

19 (2) The conservator acting in compliance with the conservator's
20 duties under section 418 of this act is not liable for an expenditure
21 or distribution made based on a recommendation under subsection (1)
22 of this section unless the conservator knows the expenditure or
23 distribution is not in the best interest of the individual subject to
24 conservatorship.

25 (3) In making an expenditure or distribution under this section,
26 the conservator shall consider:

27 (a) The size of the conservatorship estate, the estimated
28 duration of the conservatorship, and the likelihood the individual
29 subject to conservatorship, at some future time, may be fully self-
30 sufficient and able to manage the individual's financial affairs and
31 the conservatorship estate;

32 (b) The accustomed standard of living of the individual subject
33 to conservatorship and individual who is dependent on the individual
34 subject to conservatorship;

35 (c) Other funds or source used for the support of the individual
36 subject to conservatorship; and

37 (d) The preferences, values, and prior directions of the
38 individual subject to conservatorship.

39 (4) Funds expended or distributed under this section may be paid
40 by the conservator to any person, including the individual subject to

1 conservatorship, as reimbursement for expenditures the conservator
2 might have made, or in advance for services to be provided to the
3 individual subject to conservatorship or individual who is dependent
4 on the individual subject to conservatorship if it is reasonable to
5 expect the services will be performed and advance payment is
6 customary or reasonably necessary under the circumstances.

7 NEW SECTION. **Sec. 423.** CONSERVATOR'S REPORT AND ACCOUNTING—
8 MONITORING. (1) A conservator shall file with the court by the date
9 established by the court a report in a record regarding the
10 administration of the conservatorship estate unless the court
11 otherwise directs, on resignation or removal, on termination of the
12 conservatorship, and at any other time the court directs.

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

15 (a) An accounting that lists property included in the
16 conservatorship estate and the receipts, disbursements, liabilities,
17 and distributions during the period for which the report is made;

18 (b) A list of the services provided to the individual subject to
19 conservatorship;

20 (c) A copy of the conservator's most recently approved plan and a
21 statement whether the conservator has deviated from the plan and, if
22 so, how the conservator has deviated and why;

23 (d) A recommendation as to the need for continued conservatorship
24 and any recommended change in the scope of the conservatorship;

25 (e) To the extent feasible, a copy of the most recent reasonably
26 available financial statements evidencing the status of bank
27 accounts, investment accounts, and mortgages or other debts of the
28 individual subject to conservatorship with all but the last four
29 digits of the account numbers and social security number redacted;

30 (f) Anything of more than de minimis value which the conservator,
31 any individual who resides with the conservator, or the spouse,
32 domestic partner, parent, child, or sibling of the conservator has
33 received from a person providing goods or services to the individual
34 subject to conservatorship;

35 (g) Any business relation the conservator has with a person the
36 conservator has paid or that has benefited from the property of the
37 individual subject to conservatorship; and

38 (h) Whether any co-conservator or successor conservator appointed
39 to serve when a designated event occurs is alive and able to serve.

1 (3) The court may appoint a visitor to review a report under this
2 section or conservator's plan under section 419 of this act,
3 interview the individual subject to conservatorship or conservator,
4 or investigate any other matter involving the conservatorship. In
5 connection with the report, the court may order the conservator to
6 submit the conservatorship estate to appropriate examination in a
7 manner the court directs.

8 (4) Notice of the filing under this section of a conservator's
9 report, together with a copy of the report, must be provided to the
10 individual subject to conservatorship, a person entitled to notice
11 under section 411(6) of this act or a subsequent order, and other
12 persons the court determines. The notice and report must be given not
13 later than fourteen days after filing.

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

17 (a) The reports provide sufficient information to establish the
18 conservator has complied with the conservator's duties;

19 (b) The conservatorship should continue; and

20 (c) The conservator's requested fees, if any, should be approved.

21 (6) If the court determines there is reason to believe a
22 conservator has not complied with the conservator's duties or the
23 conservatorship should not continue, the court:

24 (a) Shall notify the individual subject to conservatorship, the
25 conservator, and any other person entitled to notice under section
26 411(6) of this act or a subsequent order;

27 (b) May require additional information from the conservator;

28 (c) May appoint a visitor to interview the individual subject to
29 conservatorship or conservator or investigate any matter involving
30 the conservatorship; and

31 (d) Consistent with sections 430 and 431 of this act, may hold a
32 hearing to consider removal of the conservator, termination of the
33 conservatorship, or a change in the powers granted to the conservator
34 or terms of the conservatorship.

35 (7) If the court has reason to believe fees requested by a
36 conservator are not reasonable, the court shall hold a hearing to
37 determine whether to adjust the requested fees.

38 (8) A conservator must petition the court for approval of a
39 report filed under this section. The court after review may approve
40 the report. If the court approves the report, there is a rebuttable

1 presumption the report is accurate as to a matter adequately
2 disclosed in the report.

3 (9) An order, after notice and hearing, approving an interim
4 report of a conservator filed under this section adjudicates
5 liabilities concerning a matter adequately disclosed in the report,
6 as to a person given notice of the report or accounting.

7 (10) If the court approves a report filed under this section, the
8 order approving the report shall set the due date for the filing of
9 the next report to be filed under this section. The court may set the
10 review at annual, biennial, or triennial intervals with the report
11 due date to be within ninety days of the anniversary date of
12 appointment. When determining the report interval, the court can
13 consider: The length of time the conservator has been serving the
14 person under conservatorship; whether the conservator has timely
15 filed all required reports with the court; whether the conservator is
16 monitored by other state or local agencies; the income of the person
17 subject to conservatorship; the value of the property of the person
18 subject to conservatorship; the adequacy of the bond and other
19 verified receipt; and whether there have been any allegations of
20 abuse, neglect, or a breach of fiduciary duty against the
21 conservator.

22 (11) If the court approves a report filed under this section, the
23 order approving the report shall contain a conservatorship summary or
24 accompanied by a conservatorship summary in the form or substantially
25 in the same form as set forth in section 606 of this act.

26 (12) If the court approves a report filed under this section, the
27 order approving the report shall direct the clerk of the court to
28 reissue letters of office in the form or substantially in the same
29 form as set forth in section 605 of this act to the conservator
30 containing an expiration date which will be within one hundred twenty
31 days after the date the court directs the conservator file its next
32 report.

33 (13) An order, after notice and hearing, approving a final report
34 filed under this section discharges the conservator from all
35 liabilities, claims, and causes of action by a person given notice of
36 the report and the hearing as to a matter adequately disclosed in the
37 report.

38 (14) Any requirement to establish a monitoring program under this
39 section is subject to appropriation.

1 NEW SECTION. **Sec. 424.** ATTEMPTED TRANSFER OF PROPERTY BY
2 INDIVIDUAL SUBJECT TO CONSERVATORSHIP. (1) The interest of an
3 individual subject to conservatorship in property included in the
4 conservatorship estate is not transferable or assignable by the
5 individual and is not subject to levy, garnishment, or similar
6 process for claims against the individual unless allowed under
7 section 428 of this act.

8 (2) If an individual subject to conservatorship enters into a
9 contract after having the right to enter the contract removed by the
10 court, the contract is void against the individual and the
11 individual's property but is enforceable against the person that
12 contracted with the individual.

13 (3) A person other than the conservator that deals with an
14 individual subject to conservatorship with respect to property
15 included in the conservatorship estate is entitled to protection
16 provided by law of this state other than this chapter.

17 NEW SECTION. **Sec. 425.** TRANSACTION INVOLVING CONFLICT OF
18 INTEREST. A transaction involving a conservatorship estate which is
19 affected by a substantial conflict between the conservator's
20 fiduciary duties and personal interests is voidable unless the
21 transaction is authorized by court order after notice to persons
22 entitled to notice under section 411(6) of this act or a subsequent
23 order. A transaction affected by a substantial conflict includes a
24 sale, encumbrance, or other transaction involving the conservatorship
25 estate entered into by the conservator, an individual with whom the
26 conservator resides, the spouse, domestic partner, descendant,
27 sibling, agent, or attorney of the conservator, or a corporation or
28 other enterprise in which the conservator has a substantial
29 beneficial interest.

30 NEW SECTION. **Sec. 426.** PROTECTION OF PERSON DEALING WITH
31 CONSERVATOR. (1) A person that assists or deals with a conservator in
32 good faith and for value in any transaction, other than a transaction
33 requiring a court order under section 414 of this act, is protected
34 as though the conservator properly exercised any power in question.
35 Knowledge by a person that the person is dealing with a conservator
36 alone does not require the person to inquire into the existence of
37 authority of the conservator or the propriety of the conservator's
38 exercise of authority, but restrictions on authority stated in

1 letters of office, or otherwise provided by law, are effective as to
2 the person. A person that pays or delivers property to a conservator
3 is not responsible for proper application of the property.

4 (2) Protection under subsection (1) of this section extends to a
5 procedural irregularity or jurisdictional defect in the proceeding
6 leading to the issuance of letters of office and does not substitute
7 for protection for a person that assists or deals with a conservator
8 provided by comparable provisions in law of this state other than
9 this chapter relating to a commercial transaction or simplifying a
10 transfer of securities by a fiduciary.

11 NEW SECTION. **Sec. 427.** DEATH OF INDIVIDUAL SUBJECT TO
12 CONSERVATORSHIP. (1) If an individual subject to conservatorship
13 dies, the conservator shall deliver to the court for safekeeping any
14 will of the individual in the conservator's possession and inform the
15 personal representative named in the will if feasible, or if not
16 feasible, a beneficiary named in the will, of the delivery.

17 (2) If forty days after the death of an individual subject to
18 conservatorship no personal representative has been appointed and no
19 application or petition for appointment is before the court, the
20 conservator may apply to exercise the powers and duties of a personal
21 representative to administer and distribute the decedent's estate.
22 The conservator shall give notice of his or her appointment and the
23 pendency of any probate proceedings as provided in RCW 11.28.237 and
24 shall also give notice to a person nominated as personal
25 representative by a will of the decedent of which the conservator is
26 aware. The court may grant the application if there is no objection
27 and endorse the letters of office to note that the individual
28 formerly subject to conservatorship is deceased and the conservator
29 has acquired the powers and duties of a personal representative.

30 (3) On the death of an individual subject to conservatorship, the
31 conservator shall conclude the administration of the conservatorship
32 estate as provided in section 431 of this act.

33 NEW SECTION. **Sec. 428.** PRESENTATION AND ALLOWANCE OF CLAIM. (1)
34 A conservator may pay, or secure by encumbering property included in
35 the conservatorship estate, a claim against the conservatorship
36 estate or the individual subject to conservatorship arising before or
37 during the conservatorship, on presentation and allowance in

1 accordance with the priorities under subsection (4) of this section.

2 A claimant may present a claim by:

3 (a) Sending or delivering to the conservator a statement in a
4 record of the claim, indicating its basis, the name and address of
5 the claimant, and the amount claimed; or

6 (b) Filing the claim with the court, in a form acceptable to the
7 court, and sending or delivering a copy of the claim to the
8 conservator.

9 (2) A claim under subsection (1) of this section is presented on
10 receipt by the conservator of the statement of the claim or the
11 filing with the court of the claim, whichever first occurs. A
12 presented claim is allowed if it is not disallowed in whole or in
13 part by the conservator in a record sent or delivered to the claimant
14 not later than sixty days after its presentation. Before payment, the
15 conservator may change an allowance of the claim to a disallowance in
16 whole or in part, but not after allowance under a court order or
17 order directing payment of the claim. Presentation of a claim tolls
18 until thirty days after disallowance of the claim the running of a
19 statute of limitations that has not expired relating to the claim.

20 (3) A claimant whose claim under subsection (1) of this section
21 has not been paid may petition the court to determine the claim at
22 any time before it is barred by a statute of limitations, and the
23 court may order its allowance, payment, or security by encumbering
24 property included in the conservatorship estate. If a proceeding is
25 pending against the individual subject to conservatorship at the time
26 of appointment of the conservator or is initiated thereafter, the
27 moving party shall give the conservator notice of the proceeding if
28 it could result in creating a claim against the conservatorship
29 estate.

30 (4) If a conservatorship estate is likely to be exhausted before
31 all existing claims are paid, the conservator shall distribute the
32 estate in money or in kind in payment of claims in the following
33 order:

34 (a) Costs and expenses of administration;

35 (b) A claim of the federal or state government having priority
36 under law other than this chapter;

37 (c) A claim incurred by the conservator for support, care,
38 education, health, or welfare previously provided to the individual
39 subject to conservatorship or an individual who is in fact dependent
40 on the individual subject to conservatorship;

1 (d) A claim arising before the conservatorship; and

2 (e) All other claims.

3 (5) Preference may not be given in the payment of a claim under
4 subsection (4) of this section over another claim of the same class.
5 A claim due and payable may not be preferred over a claim not due
6 unless:

7 (a) Doing so would leave the conservatorship estate without
8 sufficient funds to pay the basic living and health care expenses of
9 the individual subject to conservatorship; and

10 (b) The court authorizes the preference under section 414(1)(h)
11 of this act.

12 (6) If assets of a conservatorship estate are adequate to meet
13 all existing claims, the court, acting in the best interest of the
14 individual subject to conservatorship, may order the conservator to
15 grant a security interest in the conservatorship estate for payment
16 of a claim at a future date.

17 NEW SECTION. **Sec. 429.** PERSONAL LIABILITY OF CONSERVATOR. (1)

18 Except as otherwise agreed by a conservator, the conservator is not
19 personally liable on a contract properly entered into in a fiduciary
20 capacity in the course of administration of the conservatorship
21 estate unless the conservator fails to reveal the conservator's
22 representative capacity in the contract or before entering into the
23 contract.

24 (2) A conservator is personally liable for an obligation arising
25 from control of property of the conservatorship estate or an act or
26 omission occurring in the course of administration of the
27 conservatorship estate only if the conservator is personally at
28 fault.

29 (3) A claim based on a contract entered into by a conservator in
30 a fiduciary capacity, an obligation arising from control of property
31 included in the conservatorship estate, or a tort committed in the
32 course of administration of the conservatorship estate may be
33 asserted against the conservatorship estate in a proceeding against
34 the conservator in a fiduciary capacity, whether or not the
35 conservator is personally liable for the claim.

36 (4) A question of liability between a conservatorship estate and
37 the conservator personally may be determined in a proceeding for
38 accounting, surcharge, or indemnification or another appropriate
39 proceeding or action.

1 NEW SECTION. **Sec. 430.** REMOVAL OF CONSERVATOR—APPOINTMENT OF
2 SUCCESSOR. (1) The court may remove a conservator for failure to
3 perform the conservator's duties or other good cause and appoint a
4 successor conservator to assume the duties of the conservator.

5 (2) The court shall hold a hearing to determine whether to remove
6 a conservator and appoint a successor on:

7 (a) Petition of the individual subject to conservatorship,
8 conservator, or person interested in the welfare of the individual
9 which contains allegations that, if true, would support a reasonable
10 belief that removal of the conservator and appointment of a successor
11 may be appropriate, but the court may decline to hold a hearing if a
12 petition based on the same or substantially similar facts was filed
13 during the preceding six months;

14 (b) Communication from the individual subject to conservatorship,
15 conservator, or person interested in the welfare of the individual
16 which supports a reasonable belief that removal of the conservator
17 and appointment of a successor may be appropriate; or

18 (c) Determination by the court that a hearing would be in the
19 best interest of the individual subject to conservatorship.

20 (3) Notice of a hearing under subsection (2)(a) of this section
21 and notice of the individual's right to be represented at the hearing
22 by counsel of the individual's choosing must be given to the
23 individual subject to conservatorship, the conservator, and any other
24 person the court determines.

25 (4) An individual subject to conservatorship who seeks to remove
26 the conservator and have a successor appointed has the right to
27 choose an attorney to represent the individual in this matter. The
28 court shall award reasonable attorneys' fees to the attorney as
29 provided in section 120 of this act.

30 (5) In selecting a successor conservator, the court shall follow
31 the priorities under section 410 of this act.

32 (6) Not later than fourteen days after appointing a successor
33 conservator, the successor conservator shall give notice of the
34 appointment to the individual subject to conservatorship and any
35 person entitled to notice under section 411(6) of this act or a
36 subsequent order.

37 NEW SECTION. **Sec. 431.** TERMINATION OR MODIFICATION OF
38 CONSERVATORSHIP. (1) A conservatorship for a minor terminates on the
39 earliest of:

1 (a) A court order terminating the conservatorship;
2 (b) The minor becoming an adult or, if the minor consents or the
3 court finds by clear and convincing evidence that substantial harm to
4 the minor's interests is otherwise likely, attaining twenty-one years
5 of age;
6 (c) Emancipation of the minor; or
7 (d) Death of the minor.
8 (2) A conservatorship for an adult terminates on order of the
9 court or when the adult dies.
10 (3) An individual subject to conservatorship, the conservator, or
11 a person interested in the welfare of the individual may petition
12 for:
13 (a) Termination of the conservatorship on the ground that a basis
14 for appointment under section 401 of this act does not exist or
15 termination would be in the best interest of the individual or for
16 other good cause; or
17 (b) Modification of the conservatorship on the ground that the
18 extent of protection or assistance granted is not appropriate or for
19 other good cause.
20 (4) The court shall hold a hearing to determine whether
21 termination or modification of a conservatorship is appropriate on:
22 (a) Petition under subsection (3) of this section that contains
23 allegations that, if true, would support a reasonable belief that
24 termination or modification of the conservatorship may be
25 appropriate, but the court may decline to hold a hearing if a
26 petition based on the same or substantially similar facts was filed
27 within the preceding six months;
28 (b) A communication from the individual subject to
29 conservatorship, conservator, or person interested in the welfare of
30 the individual which supports a reasonable belief that termination or
31 modification of the conservatorship may be appropriate, including
32 because the functional needs of the individual or supports or
33 services available to the individual have changed;
34 (c) A report from a guardian or conservator which indicates that
35 termination or modification may be appropriate because the functional
36 needs or supports or services available to the individual have
37 changed or a protective arrangement instead of conservatorship or
38 other less restrictive alternative is available; or
39 (d) A determination by the court that a hearing would be in the
40 best interest of the individual.

1 (5) Notice of a petition under subsection (3) of this section
2 must be given to the individual subject to conservatorship, the
3 conservator, and any such other person the court determines.

4 (6) On presentation of prima facie evidence for termination of a
5 conservatorship, the court shall order termination unless it is
6 proven that a basis for appointment of a conservator under section
7 401 of this act exists.

8 (7) The court shall modify the powers granted to a conservator if
9 the powers are excessive or inadequate due to a change in the
10 abilities or limitations of the individual subject to
11 conservatorship, the individual's supports, or other circumstances.

12 (8) Unless the court otherwise orders for good cause, before
13 terminating a conservatorship, the court shall follow the same
14 procedures to safeguard the rights of the individual subject to
15 conservatorship which apply to a petition for conservatorship.

16 (9) An individual subject to conservatorship who seeks to
17 terminate or modify the terms of the conservatorship has the right to
18 choose an attorney to represent the individual in this matter. The
19 court shall award reasonable attorneys' fees to the attorney as
20 provided in section 120 of this act.

21 (10) On termination of a conservatorship other than by reason of
22 the death of the individual subject to conservatorship, property of
23 the conservatorship estate passes to the individual. The order of
24 termination must direct the conservator to file a final report and
25 petition for discharge on approval by the court of the final report.

26 (11) On termination of a conservatorship by reason of the death
27 of the individual subject to conservatorship, the conservator shall
28 file a final report and petition for discharge on approval by the
29 court of the final report within ninety days of death of the person
30 subject to conservatorship. On approval of the final report, the
31 conservator shall proceed expeditiously to distribute the
32 conservatorship estate to the individual's estate or as otherwise
33 ordered by the court. The conservator may take reasonable measures
34 necessary to preserve the conservatorship estate until distribution
35 can be made.

36 (12) The court shall issue a final order of discharge on the
37 approval by the court of the final report and satisfaction by the
38 conservator of any other condition the court imposed on the
39 conservator's discharge.

1 (3) The following persons may petition under this article for a
2 protective arrangement instead of conservatorship:

3 (a) The individual for whom the protective arrangement is sought;

4 (b) A person interested in the property, financial affairs, or
5 welfare of the individual, including a person that would be affected
6 adversely by lack of effective management of property or financial
7 affairs of the individual; and

8 (c) The guardian for the individual.

9 NEW SECTION. Sec. 502. BASIS FOR PROTECTIVE ARRANGEMENT INSTEAD
10 OF GUARDIANSHIP FOR ADULT. (1) After the hearing on a petition under
11 section 302 of this act for a guardianship or under section 501(2) of
12 this act for a protective arrangement instead of guardianship, the
13 court may issue an order under subsection (2) of this section for a
14 protective arrangement instead of guardianship if the court finds by
15 clear and convincing evidence that:

16 (a) The respondent lacks the ability to meet essential
17 requirements for physical health, safety, or self-care because the
18 respondent is unable to receive and evaluate information or make or
19 communicate decisions, even with appropriate supportive services,
20 technological assistance, or supported decision making; and

21 (b) The respondent's identified needs cannot be met by a less
22 restrictive alternative.

23 (2) If the court makes the findings under subsection (1) of this
24 section, the court, instead of appointing a guardian, may:

25 (a) Authorize or direct a transaction necessary to meet the
26 respondent's need for health, safety, or care, including:

27 (i) A particular medical treatment or refusal of a particular
28 medical treatment;

29 (ii) A move to a specified place of dwelling; or

30 (iii) Visitation or supervised visitation between the respondent
31 and another person;

32 (b) Restrict access to the respondent by a specified person whose
33 access places the respondent at serious risk of physical,
34 psychological, or financial harm; and

35 (c) Reorder other arrangements on a limited basis that are
36 appropriate.

37 (3) In deciding whether to issue an order under this section, the
38 court shall consider the factors under sections 314 and 315 of this

1 act that a guardian must consider when making a decision on behalf of
2 an adult subject to guardianship.

3 NEW SECTION. **Sec. 503.** BASIS FOR PROTECTIVE ARRANGEMENT INSTEAD
4 OF CONSERVATORSHIP FOR ADULT OR MINOR. (1) After the hearing on a
5 petition under section 402 of this act for conservatorship for an
6 adult or under section 501(3) of this act for a protective
7 arrangement instead of a conservatorship for an adult, the court may
8 issue an order under subsection (3) of this section for a protective
9 arrangement instead of conservatorship for the adult if the court
10 finds by clear and convincing evidence that:

11 (a) The adult is unable to manage property or financial affairs
12 because:

13 (i) Of a limitation in the ability to receive and evaluate
14 information or make or communicate decisions, even with appropriate
15 supportive services, technological assistance, or supported decision
16 making; or

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

19 (b) An order under subsection (3) of this section is necessary
20 to:

21 (i) Avoid harm to the adult or significant dissipation of the
22 property of the adult; or

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

26 (c) The respondent's identified needs cannot be met by a less
27 restrictive alternative.

28 (2) After the hearing on a petition under section 402 of this act
29 for conservatorship for a minor or under section 501(3) of this act
30 for a protective arrangement instead of conservatorship for a minor,
31 the court may issue an order under subsection (3) of this section for
32 a protective arrangement instead of conservatorship for the
33 respondent if the court finds by a preponderance of the evidence that
34 the arrangement is in the minor's best interest, and:

35 (a) If the minor has a parent, the court gives weight to any
36 recommendation of the parent whether an arrangement is in the minor's
37 best interest;

38 (b) Either:

1 (i) The minor owns money or property requiring management or
2 protection that otherwise cannot be provided;

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

5 (iii) The arrangement is necessary or desirable to obtain or
6 provide funds or other property needed for the support, care,
7 education, health, or welfare of the minor; and

8 (iv) The order under subsection (3) of this section is necessary
9 or desirable to obtain or provide money needed for the support, care,
10 education, health, or welfare of the minor.

11 (3) If the court makes the findings under subsection (1) or (2)
12 of this section, the court, instead of appointing a conservator, may:

13 (a) Authorize or direct a transaction necessary to protect the
14 financial interest or property of the respondent, including:

15 (i) An action to establish eligibility for benefits;

16 (ii) Payment, delivery, deposit, or retention of funds or
17 property;

18 (iii) Sale, mortgage, lease, or other transfer of property;

19 (iv) Purchase of an annuity;

20 (v) Entry into a contractual relationship, including a contract
21 to provide for personal care, supportive services, education,
22 training, or employment;

23 (vi) Addition to or establishment of a trust;

24 (vii) Ratification or invalidation of a contract, trust, will, or
25 other transaction, including a transaction related to the property or
26 business affairs of the respondent; or

27 (viii) Settlement of a claim; or

28 (b) Restrict access to the respondent's property by a specified
29 person whose access to the property places the respondent at serious
30 risk of financial harm.

31 (4) After the hearing on a petition under section 501 (1)(b) or
32 (3) of this act, whether or not the court makes the findings under
33 subsection (1) or (2) of this section, the court may issue an order
34 to restrict access to the respondent or the respondent's property by
35 a specified person that the court finds by clear and convincing
36 evidence:

37 (a) Through fraud, coercion, duress, or the use of deception and
38 control caused or attempted to cause an action that would have
39 resulted in financial harm to the respondent or the respondent's
40 property; and

1 (b) Poses a serious risk of substantial financial harm to the
2 respondent or the respondent's property.

3 (5) Before issuing an order under subsection (3) or (4) of this
4 section, the court shall consider the factors under section 418 of
5 this act a conservator must consider when making a decision on behalf
6 of an individual subject to conservatorship.

7 (6) Before issuing an order under subsection (3) or (4) of this
8 section for a respondent who is a minor, the court also shall
9 consider the best interest of the minor, the preference of the
10 parents of the minor, and the preference of the minor, if the minor
11 is twelve years of age or older.

12 NEW SECTION. **Sec. 504.** PETITION FOR PROTECTIVE ARRANGEMENT. A
13 petition for a protective arrangement instead of guardianship or
14 conservatorship must state the petitioner's name, principal
15 residence, current street address, if different, relationship to the
16 respondent, interest in the protective arrangement, the name and
17 address of any attorney representing the petitioner, and, to the
18 extent known, the following:

19 (1) The respondent's name, age, principal residence, current
20 street address, if different, and, if different, address of the
21 dwelling in which it is proposed the respondent will reside if the
22 petition is granted;

23 (2) The name and address of the respondent's:

24 (a) Spouse or domestic partner or, if the respondent has none, an
25 adult with whom the respondent has shared household responsibilities
26 for more than six months in the twelve-month period before the filing
27 of the petition;

28 (b) Adult children or, if none, each parent and adult sibling of
29 the respondent, or, if none, at least one adult nearest in kinship to
30 the respondent who can be found with reasonable diligence; and

31 (c) Adult stepchildren whom the respondent actively parented
32 during the stepchildren's minor years and with whom the respondent
33 had an ongoing relationship in the two-year period immediately before
34 the filing of the petition;

35 (3) The name and current address of each of the following, if
36 applicable:

37 (a) A person responsible for the care or custody of the
38 respondent;

39 (b) Any attorney currently representing the respondent;

1 (c) The representative payee appointed by the social security
2 administration for the respondent;

3 (d) A guardian or conservator acting for the respondent in this
4 state or another jurisdiction;

5 (e) A trustee or custodian of a trust or custodianship of which
6 the respondent is a beneficiary;

7 (f) The fiduciary appointed for the respondent by the department
8 of veterans affairs;

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

11 (h) An agent designated under a power of attorney for finances in
12 which the respondent is identified as the principal;

13 (i) A person nominated as guardian or conservator by the
14 respondent if the respondent is twelve years of age or older;

15 (j) A person nominated as guardian by the respondent's parent,
16 spouse, or domestic partner in a will or other signed record;

17 (k) A person known to have routinely assisted the respondent with
18 decision making in the six-month period immediately before the filing
19 of the petition; and

20 (l) If the respondent is a minor:

21 (i) An adult not otherwise listed with whom the respondent
22 resides; and

23 (ii) Each person not otherwise listed that had primary care or
24 custody of the respondent for at least sixty days during the two
25 years immediately before the filing of the petition or for at least
26 seven hundred thirty days during the five years immediately before
27 the filing of the petition;

28 (4) The nature of the protective arrangement sought;

29 (5) The reason the protective arrangement sought is necessary,
30 including a brief description of:

31 (a) The nature and extent of the respondent's alleged need;

32 (b) Any less restrictive alternative for meeting the respondent's
33 alleged need which has been considered or implemented;

34 (c) If no less restrictive alternative has been considered or
35 implemented, the reason less restrictive alternatives have not been
36 considered or implemented; and

37 (d) The reason other less restrictive alternatives are
38 insufficient to meet the respondent's alleged need;

39 (6) The name and current address, if known, of any person with
40 whom the petitioner seeks to limit the respondent's contact;

1 (7) Whether the respondent needs an interpreter, translator, or
2 other form of support to communicate effectively with the court or
3 understand court proceedings;

4 (8) If a protective arrangement instead of guardianship is sought
5 and the respondent has property other than personal effects, a
6 general statement of the respondent's property with an estimate of
7 its value, including any insurance or pension, and the source and
8 amount of any other anticipated income or receipts; and

9 (9) If a protective arrangement instead of conservatorship is
10 sought, a general statement of the respondent's property with an
11 estimate of its value, including any insurance or pension, and the
12 source and amount of other anticipated income or receipts.

13 NEW SECTION. **Sec. 505.** NOTICE AND HEARING. (1) All petitions
14 filed under section 504 of this act for appointment of a guardian for
15 an adult shall be heard within sixty days unless an extension of time
16 is requested by a party or the visitor within such sixty-day period
17 and granted for good cause shown.

18 (2) A copy of a petition under section 501 of this act and notice
19 of a hearing on the petition must be served personally on the
20 respondent and the visitor appointed under section 506 of this act
21 not more than five court days after the petition under section 504 of
22 this act has been filed. The notice must inform the respondent of the
23 respondent's rights at the hearing, including the right to an
24 attorney and to attend the hearing. The notice must include a
25 description of the nature, purpose, and consequences of granting the
26 petition. The court may not grant the petition if notice
27 substantially complying with this subsection is not served on the
28 respondent.

29 (3) In a proceeding on a petition under section 501 of this act,
30 the notice required under subsection (2) of this section must be
31 given to the persons required to be listed in the petition under
32 section 504 (1) through (3) of this act and any other person
33 interested in the respondent's welfare the court determines. Failure
34 to give notice under this subsection does not preclude the court from
35 granting the petition.

36 (4) After the court has ordered a protective arrangement under
37 this article, notice of a hearing on a petition filed under this
38 chapter, together with a copy of the petition, must be given to the
39 respondent and any other person the court determines.

1 NEW SECTION. **Sec. 506.** APPOINTMENT AND ROLE OF VISITOR. (1) On

2 filing of a petition under section 501 of this act for a protective
3 arrangement instead of guardianship, the court shall appoint a
4 visitor. The visitor must be an individual with training or
5 experience in the type of abilities, limitations, and needs alleged
6 in the petition.

7 (2) On filing of a petition under section 501 of this act for a
8 protective arrangement instead of conservatorship for a minor, the
9 court may appoint a visitor to investigate a matter related to the
10 petition or inform the minor or a parent of the minor about the
11 petition or a related matter.

12 (3) On filing of a petition under section 501 of this act or a
13 protective arrangement instead of conservatorship for an adult, the
14 court shall appoint a visitor unless the respondent is represented by
15 an attorney appointed by the court. The visitor must be an individual
16 with training or experience in the types of abilities, limitations,
17 and needs alleged in the petition.

18 (4) The court, in the order appointing visitor, shall specify the
19 hourly rate the visitor may charge for his or her services, and shall
20 specify the maximum amount the visitor may charge without additional
21 court review and approval.

22 (5) (a) The visitor appointed under subsection (1) or (3) of this
23 section shall within five days of receipt of notice of appointment
24 file with the court and serve, either personally or by certified mail
25 with return receipt, the respondent or his or her legal counsel, the
26 petitioner or his or her legal counsel, and any interested party
27 entitled to notice under section 116 of this act with a statement
28 including: His or her training relating to the duties as a visitor;
29 his or her criminal history as defined in RCW 9.94A.030 for the
30 period covering ten years prior to the appointment; his or her hourly
31 rate, if compensated; whether the guardian ad litem has had any
32 contact with a party to the proceeding prior to his or her
33 appointment; and whether he or she has an apparent conflict of
34 interest. Within three days of the later of the actual service or
35 filing of the visitor's statement, any party may set a hearing and
36 file and serve a motion for an order to show cause why the visitor
37 should not be removed for one of the following three reasons:

38 (i) Lack of expertise necessary for the proceeding;

39 (ii) An hourly rate higher than what is reasonable for the
40 particular proceeding; or

1 (iii) A conflict of interest.

2 (b) Notice of the hearing shall be provided to the visitor and
3 all parties. If, after a hearing, the court enters an order replacing
4 the visitor, findings shall be included, expressly stating the
5 reasons for the removal. If the visitor is not removed, the court has
6 the authority to assess to the moving party attorneys' fees and costs
7 related to the motion. The court shall assess attorneys' fees and
8 costs for frivolous motions.

9 (6) A visitor appointed under subsection (1) or (3) of this
10 section shall interview the respondent in person and in a manner the
11 respondent is best able to understand:

12 (a) Explain to the respondent the substance of the petition, the
13 nature, purpose, and effect of the proceeding, and the respondent's
14 rights at the hearing on the petition;

15 (b) Determine the respondent's views with respect to the order
16 sought;

17 (c) Inform the respondent that all costs and expenses of the
18 proceeding, including respondent's attorneys' fees, may be paid from
19 the respondent's assets;

20 (d) If the petitioner seeks an order related to the dwelling of
21 the respondent, visit the respondent's present dwelling and any
22 dwelling in which it is reasonably believed the respondent will live
23 if the order is granted;

24 (e) If a protective arrangement instead of guardianship is
25 sought, obtain information from any physician or other person known
26 to have treated, advised, or assessed the respondent's relevant
27 physical or mental condition;

28 (f) If a protective arrangement instead of conservatorship is
29 sought, review financial records of the respondent, if relevant to
30 the visitor's recommendation under subsection (7)(b) of this section;
31 and

32 (g) Investigate the allegations in the petition and any other
33 matter relating to the petition the court directs.

34 (7) A visitor under this section promptly shall file a report in
35 a record with the court, which must include:

36 (a) To the extent relevant to the order sought, a summary of
37 self-care, independent living tasks, and financial management tasks
38 the respondent:

39 (i) Can manage without assistance or with existing supports;

1 (ii) Could manage with the assistance of appropriate supportive
2 services, technological assistance, or supported decision making; and

3 (iii) Cannot manage;

4 (b) A recommendation regarding the appropriateness of the
5 protective arrangement sought and whether a less restrictive
6 alternative for meeting the respondent's needs is available;

7 (c) If the petition seeks to change the physical location of the
8 dwelling of the respondent, a statement whether the proposed dwelling
9 meets the respondent's needs and whether the respondent has expressed
10 a preference as to the respondent's dwelling;

11 (d) A recommendation whether a professional evaluation under
12 section 508 of this act is necessary;

13 (e) A statement whether the respondent is able to attend a
14 hearing at the location court proceedings typically are held;

15 (f) A statement whether the respondent is able to participate in
16 a hearing and which identifies any technology or other form of
17 support that would enhance the respondent's ability to participate;
18 and

19 (g) Any other matter the court directs.

20 NEW SECTION. **Sec. 507.** APPOINTMENT AND ROLE OF ATTORNEY. (1) (a)

21 The respondent shall have the right to be represented by a willing
22 attorney of their choosing at any stage in protective arrangement
23 proceedings.

24 (b) Unless the respondent in a proceeding under this article is
25 represented by an attorney, the court is not required, but may
26 appoint an attorney to represent the respondent, regardless of the
27 respondent's ability to pay, except as provided otherwise in (c) of
28 this subsection.

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

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

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

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

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

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

12 (2) An attorney representing the respondent in a proceeding under
13 this article shall:

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

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

17 (c) If the respondent's wishes are not reasonably ascertainable,
18 advocate for the result that is the least restrictive alternative in
19 type, duration, and scope, consistent with the respondent's
20 interests.

21 (3) The court is not required, but may appoint an attorney to
22 represent a parent of a minor who is the subject of a proceeding
23 under this article if:

24 (a) The parent objects to the entry of an order for a protective
25 arrangement instead of guardianship or conservatorship;

26 (b) The court determines that counsel is needed to ensure that
27 consent to the entry of an order for a protective arrangement is
28 informed; or

29 (c) The court otherwise determines the parent needs
30 representation.

31 NEW SECTION. **Sec. 508.** PROFESSIONAL EVALUATION. (1) At or
32 before a hearing on a petition under this article for a protective
33 arrangement, the court shall order a professional evaluation of the
34 respondent:

35 (a) If the respondent requests the evaluation; or

36 (b) In other cases, unless the court finds that it has sufficient
37 information to determine the respondent's needs and abilities without
38 the evaluation.

1 (2) If the court orders an evaluation under subsection (1) of
2 this section, the respondent must be examined by a licensed
3 physician, psychologist, social worker, or other individual appointed
4 by the court who is qualified to evaluate the respondent's alleged
5 cognitive and functional abilities and limitations and will not be
6 advantaged or disadvantaged by a decision to grant the petition or
7 otherwise have a conflict of interest. The individual conducting the
8 evaluation promptly shall file a report in a record with the court.
9 Unless otherwise directed by the court, the report must contain:

10 (a) A description of the nature, type, and extent of the
11 respondent's cognitive and functional abilities and limitations;

12 (b) An evaluation of the respondent's mental and physical
13 condition and, if appropriate, educational potential, adaptive
14 behavior, and social skills;

15 (c) A prognosis for improvement, including with regard to the
16 ability to manage the respondent's property and financial affairs if
17 a limitation in that ability is alleged, and recommendation for the
18 appropriate treatment, support, or habilitation plan; and

19 (d) The date of the examination on which the report is based.

20 (3) The respondent may decline to participate in an evaluation
21 ordered under subsection (1) of this section.

22 NEW SECTION. **Sec. 509.** ATTENDANCE AND RIGHTS AT HEARING. (1)

23 Except as otherwise provided in subsection (2) of this section, a
24 hearing under this article may not proceed unless the respondent
25 attends the hearing. If it is not reasonably feasible for the
26 respondent to attend a hearing at the location court proceedings
27 typically are held, the court shall make reasonable efforts to hold
28 the hearing at an alternative location convenient to the respondent
29 or allow the respondent to attend the hearing using real-time audio-
30 visual technology.

31 (2) A hearing under this article may proceed without the
32 respondent in attendance if the court finds by clear and convincing
33 evidence that:

34 (a) The respondent consistently and repeatedly has refused to
35 attend the hearing after having been fully informed of the right to
36 attend and the potential consequences of failing to do so;

37 (b) There is no practicable way for the respondent to attend and
38 participate in the hearing even with appropriate supportive services
39 and technological assistance; or

1 (c) The respondent is a minor who has received proper notice and
2 attendance would be harmful to the minor.

3 (3) The respondent may be assisted in a hearing under this
4 article by a person or persons of the respondent's choosing,
5 assistive technology, or an interpreter or translator, or a
6 combination of these supports. If assistance would facilitate the
7 respondent's participation in the hearing, but is not otherwise
8 available to the respondent, the court shall make reasonable efforts
9 to provide it.

10 (4) The respondent has a right to choose an attorney to represent
11 the respondent at a hearing under this article.

12 (5) At a hearing under this article, the respondent may:

13 (a) Present evidence and subpoena witnesses and documents;

14 (b) Examine witnesses, including any court-appointed evaluator
15 and the visitor; and

16 (c) Otherwise participate in the hearing.

17 (6) A hearing under this article must be closed on request of the
18 respondent and a showing of good cause.

19 (7) Any person may request to participate in a hearing under this
20 article. The court may grant the request, with or without a hearing,
21 on determining that the best interests of the respondent will be
22 served. The court may impose appropriate conditions on the person's
23 participation.

24 NEW SECTION. **Sec. 510.** NOTICE OF ORDER. The court shall give
25 notice of an order under this article to the individual who is
26 subject to the protective arrangement instead of guardianship or
27 conservatorship, a person whose access to the individual is
28 restricted by the order, and any other person the court determines.

29 NEW SECTION. **Sec. 511.** CONFIDENTIALITY OF RECORDS. (1) The
30 existence of a proceeding for or the existence of a protective
31 arrangement instead of guardianship or conservatorship is a matter of
32 public record unless the court seals the record after:

33 (a) The respondent, the individual subject to the protective
34 arrangement, or the parent of a minor subject to the protective
35 arrangement requests the record be sealed; and

36 (b) Either:

37 (i) The proceeding is dismissed;

38 (ii) The protective arrangement is no longer in effect; or

1 (iii) An act authorized by the order granting the protective
2 arrangement has been completed.

3 (2) A respondent, an individual subject to a protective
4 arrangement instead of guardianship or conservatorship, an attorney
5 designated by the respondent or individual, a parent of a minor
6 subject to a protective arrangement, and any other person the court
7 determines are entitled to access court records of the proceeding and
8 resulting protective arrangement. A person not otherwise entitled
9 access to court records under this subsection for good cause may
10 petition the court for access. The court shall grant access if access
11 is in the best interest of the respondent or individual subject to
12 the protective arrangement or furthers the public interest and does
13 not endanger the welfare or financial interests of the respondent or
14 individual.

15 (3) A report of a visitor or professional evaluation generated in
16 the course of a proceeding under this article must be sealed on
17 filing but is available to:

18 (a) The court;

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

21 (c) The petitioner, visitor, and petitioner's and respondent's
22 attorneys, for purposes of the proceeding;

23 (d) Unless the court orders otherwise, an agent appointed under a
24 power of attorney for finances in which the respondent is the
25 principal;

26 (e) If the order is for a protective arrangement instead of
27 guardianship and unless the court orders otherwise, an agent
28 appointed under a power of attorney for health care in which the
29 respondent is identified as the principal; and

30 (f) Any other person if it is in the public interest or for a
31 purpose the court orders for good cause.

32 NEW SECTION. **Sec. 512.** APPOINTMENT OF SPECIAL AGENT. The court
33 may appoint a special agent, to assist in implementing a protective
34 arrangement under this article. The special agent has the authority
35 conferred by the order of appointment and serves until discharged by
36 court order.

37 **ARTICLE 6**

38 **FORMS**

1 NEW SECTION. **Sec. 601.** USE OF FORMS. Unless otherwise provided
2 in this chapter, use of the forms contained in this article is
3 optional. Failure to use these forms does not prejudice any party.

4 NEW SECTION. **Sec. 602.** PETITION FOR GUARDIANSHIP FOR MINOR.
5 This form may be used to petition for guardianship for a minor.

6 Petition for Guardianship for Minor

7 State of:

8 County of:

9 Name and address of attorney representing petitioner, if
10 applicable:

11

12

13 Note to petitioner: This form can be used to petition for a
14 guardian for a minor. A court may appoint a guardian for a minor
15 who does not have a guardian if the court finds the appointment
16 is in the minor's best interest, and: The parents, after being
17 fully informed of the nature and consequences of guardianship,
18 consent; all parental rights have been terminated; or the court
19 finds by clear and convincing evidence that the parents are
20 unwilling or unable to exercise their parental rights.

21 (1) Information about the person filing this petition (the
22 petitioner.)

23 (a) Name:

24 (b) Principal residence:

25 (c) Current street address (if different):

26 (d) Relationship to minor:

27 (e) Interest in this petition:

28 (f) Telephone number (optional):

29 (g) Email address (optional):

30 (2) Information about the minor alleged to need a guardian.
31 Provide the following information to the extent known.

32 (a) Name:

33 (b) Age:

34 (c) Principal residence:

35 (d) Current street address (if different):

36 (e) If petitioner anticipates the minor moving, or seeks to
37 move the minor, proposed new address:

1 (f) Does the minor need an interpreter, translator, or other
2 form of support to communicate with the court or understand court
3 proceedings? If so, please explain:

4 (g) Telephone number (optional):

5 (h) Email address (optional):

6 (3) Information about the minor's parent(s).

7 (a) Name(s) of living parent(s):

8 (b) Current street address(es) of living parent(s):

9 (c) Does any parent need an interpreter, translator, or other
10 form of support to communicate with the court or understand court
11 proceedings? If so, please explain:

12

13

14 (4) People who are required to be notified of this petition.
15 State the name and current address of the people listed in
16 Appendix A.

17

18

19 (5) Appointment requested. State the name and address of any
20 proposed guardian and the reason the proposed guardian should be
21 selected.

22

23

24 (6) State why petitioner seeks the appointment. Include a
25 description of the nature and extent of the minor's alleged need.

26

27

28 (7) Property. If the minor has property other than personal
29 effects, state the minor's property with an estimate of its
30 value.

31

32

33 (8) Other proceedings. If there are any other proceedings
34 concerning the care or custody of the minor currently pending in
35 any court in this state or another jurisdiction, please describe
36 them.

37

38

1 (9) Attorney(s). If the minor or the minor's parent is
2 represented by an attorney in this matter, state the name,
3 telephone number, email address, and address of the attorney(s).

4
5

6 SIGNATURE

7
8 Signature of Petitioner Date
9
10 Signature of Petitioner's Attorney if Date
11 Petitioner is Represented by Counsel

12 APPENDIX A:

13 People whose name and address must be listed in subsection
14 (4) of this petition if they are not the petitioner:

15 The minor, if the minor is twelve years of age or older;

16 Each parent of the minor or, if there are none, the adult
17 nearest in kinship that can be found;

18 An adult with whom the minor resides;

19 Each person that had primary care or custody of the minor for
20 at least sixty days during the two years immediately before the
21 filing of the petition or for at least seven hundred thirty days
22 during the five years immediately before the filing of the
23 petition;

24 If the minor is twelve years of age or older, any person
25 nominated as guardian by the minor;

26 Any person nominated as guardian by a parent of the minor;

27 The grandparents of the minor;

28 Adult siblings of the minor; and

29 Any current guardian or conservator for the minor appointed
30 in this state or another jurisdiction.

31 NEW SECTION. **Sec. 603.** PETITION FOR GUARDIANSHIP,
32 CONSERVATORSHIP, OR PROTECTIVE ARRANGEMENT. This form may be used to
33 petition for:

34 Guardianship for an adult;

35 Conservatorship for an adult or minor;

36 A protective arrangement instead of guardianship for an
37 adult; or

1 A protective arrangement instead of conservatorship for an
2 adult or minor.

3 Petition for Guardianship, Conservatorship, or Protective
4 Arrangement

5 State of:

6 County of:

7 Name and address of attorney representing petitioner, if
8 applicable:
9
10

11 Note to petitioner: This form can be used to petition for a
12 guardian, conservator, or both, or for a protective arrangement
13 instead of either a guardianship or conservatorship. This form
14 should not be used to petition for guardianship for a minor.

15 The court may appoint a guardian or order a protective
16 arrangement instead of guardianship for an adult if the adult
17 lacks the ability to meet essential requirements for physical
18 health, safety, or self-care because (1) the adult is unable to
19 receive and evaluate information or make or communicate decisions
20 even with the use of supportive services, technological
21 assistance, and supported decision making, and (2) the adult's
22 identified needs cannot be met by a less restrictive alternative.

23 The court may appoint a conservator or order a protective
24 arrangement instead of conservatorship for an adult if (1) the
25 adult is unable to manage property and financial affairs because
26 of a limitation in the ability to receive and evaluate
27 information or make or communicate decisions even with the use of
28 supportive services, technological assistance, and supported
29 decision making or the adult is missing, detained, or unable to
30 return to the United States, and (2) appointment is necessary to
31 avoid harm to the adult or significant dissipation of the
32 property of the adult, or to obtain or provide funds or other
33 property needed for the support, care, education, health, or
34 welfare of the adult, or of an individual who is entitled to the
35 adult's support, and protection is necessary or desirable to
36 provide funds or other property for that purpose.

37 The court may appoint a conservator or order a protective
38 arrangement instead of conservatorship for a minor if: (1) The
39 minor owns funds or other property requiring management or
40 protection that cannot otherwise be provided; or (2) it would be

1 in the minor's best interests, and the minor has or may have
2 financial affairs that may be put at unreasonable risk or
3 hindered because of the minor's age, or appointment is necessary
4 or desirable to provide funds or other property needed for the
5 support, care, education, health, or welfare of the minor.

6 The court may also order a protective arrangement instead of
7 conservatorship that restricts access to an individual or an
8 individual's property by a person that the court finds: (1)
9 Through fraud, coercion, duress, or the use of deception and
10 control, caused, or attempted to cause, an action that would have
11 resulted in financial harm to the individual or the individual's
12 property; and (2) poses a serious risk of substantial financial
13 harm to the individual or the individual's property.

14 (1) Information about the person filing this petition (the
15 petitioner.)

- 16 (a) Name:
- 17 (b) Principal residence:
- 18 (c) Current street address (if different):
- 19 (d) Relationship to respondent:
- 20 (e) Interest in this petition:
- 21 (f) Telephone number (optional):
- 22 (g) Email address (optional):

23 (2) Information about the individual alleged to need
24 protection (the "respondent"). Provide the following information
25 to the extent known.

- 26 (a) Name:
- 27 (b) Age:
- 28 (c) Principal residence:
- 29 (d) Current street address (if different):
- 30 (e) If petitioner anticipates respondent moving, or seeks to
31 move respondent, proposed new address:

32 (f) Does respondent need an interpreter, translator, or other
33 form of support to communicate with the court or understand court
34 proceedings? If so, please explain:

- 35
- 36 (g) Telephone number (optional):
- 37 (h) Email address (optional):

38 (3) People who are required to be notified of this petition.
39 State the name and address of the people listed in Appendix A.

40

1
2 (4) Existing agents. State the name and address of any person
3 appointed as an agent under a power of attorney for finances or
4 power of attorney for health care, or who has been appointed as
5 the individual's representative for payment of benefits.

6
7
8 (5) Action requested. State whether petitioner is seeking
9 appointment of a guardian, a conservator, or a protective
10 arrangement instead of an appointment.

11
12
13 (6) Order requested or appointment requested. If seeking a
14 protective arrangement instead of a guardianship or
15 conservatorship, state the transaction or other action you want
16 the court to order. If seeking appointment of a guardian or
17 conservator, state the powers petitioner requests the court grant
18 to a guardian or conservator.

19
20
21 (7) State why the appointment or protective arrangement
22 sought is necessary. Include a description of the nature and
23 extent of respondent's alleged need.

24
25
26 (8) State all less restrictive alternatives to meeting
27 respondent's alleged need that have been considered or
28 implemented. Less restrictive alternatives could include
29 supported decision making, technological assistance, or the
30 appointment of an agent by respondent including appointment under
31 a power of attorney for health care or power of attorney for
32 finances. If no alternative has been considered or implemented,
33 state the reason why not.

34
35
36 (9) Explain why less restrictive alternatives will not meet
37 respondent's alleged need.

38
39

1 (10) Provide a general statement of respondent's property and
2 an estimate of its value. Include any real property such as a
3 house or land, insurance or pension, and the source and amount of
4 any other anticipated income or receipts. As part of this
5 statement, indicate, if known, how the property is titled (for
6 example, is it jointly owned?).

7
8
9 (11) For a petition seeking appointment of a conservator.
10 (Skip this section if not asking for appointment of a
11 conservator.)

12 (a) If seeking appointment of a conservator with all powers
13 permissible under this state's law, explain why appointment of a
14 conservator with fewer powers (i.e., a "limited conservatorship")
15 or other protective arrangement instead of conservatorship will
16 not meet the individual's alleged needs.

17
18
19 (b) If seeking a limited conservatorship, state the property
20 petitioner requests be placed under the conservator's control and
21 any proposed limitation on the conservator's powers and duties.

22
23
24 (c) State the name and address of any proposed conservator
25 and the reason the proposed conservator should be selected.

26
27
28 (d) If respondent is twelve years of age or older, state the
29 name and address of any person respondent nominates as
30 conservator.

31
32
33 (e) If alleging a limitation in respondent's ability to
34 receive and evaluate information, provide a brief description of
35 the nature and extent of respondent's alleged limitation.

36
37
38 (f) If alleging that respondent is missing, detained, or
39 unable to return to the United States, state the relevant
40 circumstances, including the time and nature of the disappearance

1 or detention and a description of any search or inquiry
2 concerning respondent's whereabouts.

3
4

5 (12) For a petition seeking appointment of a guardian. (Skip
6 this section if not asking for appointment of a guardian.)

7 (a) If seeking appointment of a guardian with all powers
8 permissible under this state's law, explain why appointment of a
9 guardian with fewer powers (i.e., a "limited guardianship") or
10 other protective arrangement instead of guardianship will not
11 meet the individual's alleged needs.

12
13

14 (b) If seeking a limited guardianship, state the powers
15 petitioner requests be granted to the guardian.

16
17

18 (c) State the name and address of any proposed guardian and
19 the reason the proposed guardian should be selected.

20
21

22 (d) State the name and address of any person nominated as
23 guardian by respondent, or, in a will or other signed writing or
24 other record, by respondent's parent or spouse or domestic
25 partner.

26
27

28 (13) Attorney. If petitioner, respondent, or, if respondent
29 is a minor, respondent's parent is represented by an attorney in
30 this matter, state the name, telephone number, email address, and
31 address of the attorney(s).

32
33

34 SIGNATURE

35
36 Signature of Petitioner Date

37
38 Signature of Petitioner's Attorney if Date
39 Petitioner is Represented by Counsel

APPENDIX A:

People whose name and address must be listed in subsection (3) of this petition, if they are not the petitioner.

Respondent's spouse or domestic partner, or if respondent has none, any adult with whom respondent has shared household responsibilities in the past six months;

Respondent's adult children, or, if respondent has none, respondent's parents and adult siblings, or if respondent has none, one or more adults nearest in kinship to respondent who can be found with reasonable diligence;

Respondent's adult stepchildren whom respondent actively parented during the stepchildren's minor years and with whom respondent had an ongoing relationship within two years of this petition;

Any person responsible for the care or custody of respondent;

Any attorney currently representing respondent;

Any representative payee for respondent appointed by the social security administration;

Any current guardian or conservator for respondent appointed in this state or another jurisdiction;

Any trustee or custodian of a trust or custodianship of which respondent is a beneficiary;

Any veterans administration fiduciary for respondent;

Any person respondent has designated as agent under a power of attorney for finances;

Any person respondent has designated as agent under a power of attorney for health care;

Any person known to have routinely assisted the individual with decision making in the previous six months;

Any person respondent nominates as guardian or conservator; and

Any person nominated as guardian by respondent's parent or spouse or domestic partner in a will or other signed writing or other record.

NEW SECTION. **Sec. 604.** NOTIFICATION OF RIGHTS FOR ADULT SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP. This form may be used to notify an adult subject to guardianship or conservatorship of the adult's rights under sections 311 and 412 of this act.

1 **Notification of Rights**

2 You are getting this notice because a guardian, conservator,
3 or both have been appointed for you. It tells you about some
4 important rights you have. It does not tell you about all your
5 rights. If you have questions about your rights, you can ask an
6 attorney or another person, including your guardian or
7 conservator, to help you understand your rights.

8 **General rights:**

9 You have the right to exercise any right the court has not
10 given to your guardian or conservator.

11 You also have the right to ask the court to:

12 End your guardianship, conservatorship, or both;

13 Increase or decrease the powers granted to your guardian,
14 conservator, or both;

15 Make other changes that affect what your guardian or
16 conservator can do or how they do it; and

17 Replace the person that was appointed with someone else.

18 You also have a right to hire an attorney to help you do any
19 of these things.

20 **Additional rights for persons for whom a guardian has been**
21 **appointed:**

22 As an adult subject to guardianship, you have a right to:

23 (1) Be involved in decisions affecting you, including
24 decisions about your care, where you live, your activities, and
25 your social interactions, to the extent reasonably feasible;

26 (2) Be involved in decisions about your health care to the
27 extent reasonably feasible, and to have other people help you
28 understand the risks and benefits of health care options;

29 (3) Be notified at least fourteen days in advance of a change
30 in where you live or a permanent move to a nursing home, mental
31 health facility, or other facility that places restrictions on
32 your ability to leave or have visitors, unless the guardian has
33 proposed this change in the guardian's plan or the court has
34 expressly authorized it;

35 (4) Ask the court to prevent your guardian from changing
36 where you live or selling or surrendering your primary dwelling
37 by following the appropriate process for objecting to such a move
38 in compliance with section 314(5) of this act;

1 (5) Vote and get married unless the court order appointing
2 your guardian states that you cannot do so;

3 (6) Receive a copy of your guardian's report and your
4 guardian's plan; and

5 (7) Communicate, visit, or interact with other people (this
6 includes the right to have visitors, to make and receive
7 telephone calls, personal mail, or electronic communications)
8 unless:

9 (a) Your guardian has been authorized by the court by
10 specific order to restrict these communications, visits, or
11 interactions;

12 (b) A protective order is in effect that limits contact
13 between you and other people; or

14 (c) Your guardian has good cause to believe the restriction
15 is needed to protect you from significant physical,
16 psychological, or financial harm and the restriction is for not
17 more than seven business days if the person has a relative or
18 preexisting social relationship with you or not more than sixty
19 days if the person does not have that kind of relationship with
20 you.

21 **Additional rights for persons for whom a conservator has been**
22 **appointed:**

23 As an adult subject to conservatorship, you have a right to:

24 Participate in decisions about how your property is managed
25 to the extent feasible; and

26 Receive a copy of your conservator's inventory, report, and
27 plan.

28 NEW SECTION. **Sec. 605.** LETTERS OF OFFICE. All letters of
29 guardianship/conservatorship must be in the following form or a
30 substantially similar form:

31 IN THE SUPERIOR COURT OF THE
32 STATE OF WASHINGTON IN AND FOR THE
33 COUNTY OF

34 IN THE MATTER OF THE Cause No.
35 GUARDIANSHIP/
36 CONSERVATORSHIP OF
37

1
2 LETTERS OF
3 GUARDIANSHIP/CONSERVATORSHIP
4

5 Date letters expire

6 THESE LETTERS OF GUARDIANSHIP/CONSERVATORSHIP PROVIDE OFFICIAL VERIFICATION OF THE
7 FOLLOWING:
8

9 On the day of, (year) the Court appointedto serve as:

- 10
11 Guardian of the Person Full Limited
12 Conservator of the Estate Full Limited
13

14 for, in the above referenced matter.
15

16 The Guardian/Conservator has fulfilled all legal requirements to serve including, but not limited to: Taking and filing
17 the oath; filing any bond consistent with the court's order; filing any blocked account agreement consistent with the court's
18 order; and appointing a resident agent for a nonresident guardian.
19

20 The Court, having found the Guardian/Conservator duly qualified, now makes it known is authorized as the
21 Guardian for designated in the Court's order as referenced above.
22

23 The next filing and reporting deadline in this matter is on the ... day of,

24 THESE LETTERS ARE NO LONGER VALID ON

25 These letters can only be renewed by a new court order. If the court grants an extension, new letters will be issued.

26 This matter is before the Honorable of Superior Court, the seal of the Court being affixed
27 this day of

28
29 State of Washington)
30) ss.
31 County of)
32

1 I,, Clerk of the Superior Court of said County and State, certify that this document represents true and correct
2 Letters of Guardianship/Conservatorship in the above entitled case, entered upon the record on this day
3 of,

4
5 These letters remain in full force and effect until the date of expiration set forth above.

6 The seal of Superior Court has been affixed and witnessed by my hand this day of,

7
8
9, Clerk of Superior Court

10
11 By, Deputy

12
13

14 (Signature of Deputy)

15 NEW SECTION. **Sec. 606.** GUARDIANSHIP/CONSERVATORSHIP SUMMARY.
16 The guardianship/conservatorship summary shall be in or substantially
17 similar form:

18 **GUARDIANSHIP/CONSERVATORSHIP SUMMARY**

19 Date Guardian/
20 Conservator Appointed:
21 Due Date for Report and
22 Accounting:
23 Date of Next Review:
24 Letters Expire On:
25 Bond Amount: \$.
26 Restricted Account
27 Agreements Required:
28 Due Date for Inventory, if
29 applicable:
30 Due Date for Guardian's
31 Plan, if applicable:
32

Person subject to Guardian/Conservator
 guardianship/
 conservatorship

Name:	Name:
Address:	Address:
Phone:	Phone:
Facsimile:	Facsimile:

Interested Parties	Address	Relation

ARTICLE 7

CERTIFIED PROFESSIONAL GUARDIANSHIP BOARD OF RESOLUTION GRIEVANCES

NEW SECTION. **Sec. 701.** CERTIFIED PROFESSIONAL GUARDIANSHIP BOARD RESOLUTION OF GRIEVANCES. (1) The certified professional guardianship board must resolve grievances against professional guardians and/or conservators within a reasonable time for alleged violations of the certified professional guardianship board's standards of practice.

(a) All grievances must initially be reviewed within thirty days by certified professional guardianship board members, or a subset thereof, to determine if the grievance is complete, states facts that allege a violation of the standards of practice, and relates to the conduct of a professional guardian and/or conservator, before any investigation or response is requested from the professional guardian or the superior court. Grievances must provide the dates of the alleged violations and must be signed and dated by the person filing the grievance. Grievance investigations by the board are limited to the allegations contained in the grievance unless, after review by a majority of the members of the certified professional guardianship board, further investigation is justified.

(b) If the certified professional guardianship board determines the grievance is complete, states facts that allege a violation of

1 the standards of practice, and relates to the conduct of a
2 professional guardian and/or conservator, the certified professional
3 guardianship board must forward that grievance within ten days to the
4 superior court for that guardianship or conservatorship and to the
5 professional guardian and/or conservator. The court must review the
6 matter as set forth in section 128 of this act, and must direct the
7 clerk of the court to send a copy of the order entered under this
8 section to the certified professional guardianship board. The
9 certified professional guardianship board must act consistently with
10 any finding of fact issued in that order.

11 (2) Grievances received by the certified professional
12 guardianship board must be resolved within one hundred eighty days of
13 receipt.

14 (3) If the grievance cannot be resolved within one hundred eighty
15 days, the certified professional guardianship board must notify the
16 professional guardian and/or conservator. The professional guardian
17 or conservator may propose a resolution of the grievance with facts
18 and/or arguments. The certified professional guardianship board may
19 accept the proposed resolution or determine that an additional ninety
20 days are needed to review the grievance. If the certified
21 professional guardianship board has not resolved the grievance within
22 the additional ninety days the professional guardian or conservator
23 may:

24 (a) File a motion for a court order to compel the certified
25 professional guardianship board to resolve the grievance within a
26 reasonable time; or

27 (b) Move for the court to resolve the grievance instead of being
28 resolved by the certified professional guardianship board.

29 (4) The court has authority to enforce the certified professional
30 guardianship board's standards of practice in this article to the
31 extent those standards are related to statutory or fiduciary duties
32 of guardians and conservators.

33 (5) Any unresolved grievances filed with the certified
34 professional guardianship board at the time of the effective date of
35 this section must be forwarded to the superior court for that
36 guardianship or conservatorship for review by the court as set forth
37 in section 128 of this act.

38

ARTICLE 8

39

MISCELLANEOUS PROVISIONS

1 NEW SECTION. **Sec. 801.** REPEALS. The following acts or parts of
2 acts are each repealed:

3 (1) RCW 11.88.005 (Legislative intent) and 1990 c 122 s 1, 1977
4 ex.s. c 309 s 1, & 1975 1st ex.s. c 95 s 1;

5 (2) RCW 11.88.008 ("Professional guardian" defined) and 1997 c
6 312 s 2;

7 (3) RCW 11.88.010 (Authority to appoint guardians—Definitions—
8 Venue—Nomination by principal) and 2016 c 209 s 403, 2008 c 6 s 802,
9 2005 c 236 s 3, (2005 c 236 s 2 expired January 1, 2006), 2004 c 267
10 s 139, 1991 c 289 s 1, 1990 c 122 s 2, 1984 c 149 s 176, 1977 ex.s. c
11 309 s 2, 1975 1st ex.s. c 95 s 2, & 1965 c 145 s 11.88.010;

12 (4) RCW 11.88.020 (Qualifications) and 2011 c 329 s 1, 1997 c 312
13 s 1, 1990 c 122 s 3, 1975 1st ex.s. c 95 s 3, 1971 c 28 s 4, & 1965 c
14 145 s 11.88.020;

15 (5) RCW 11.88.030 (Petition—Contents—Hearing) and 2011 c 329 s
16 2, 2009 c 521 s 36, 1996 c 249 s 8, 1995 c 297 s 1, 1991 c 289 s 2,
17 1990 c 122 s 4, 1977 ex.s. c 309 s 3, 1975 1st ex.s. c 95 s 4, & 1965
18 c 145 s 11.88.030;

19 (6) RCW 11.88.040 (Notice and hearing, when required—Service—
20 Procedure) and 2008 c 6 s 803, 1995 c 297 s 2, 1991 c 289 s 3, 1990 c
21 122 s 5, 1984 c 149 s 177, 1977 ex.s. c 309 s 4, 1975 1st ex.s. c 95
22 s 5, 1969 c 70 s 1, & 1965 c 145 s 11.88.040;

23 (7) RCW 11.88.045 (Legal counsel and jury trial—Proof—Medical
24 report—Examinations—Waiver) and 2001 c 148 s 1, 1996 c 249 s 9, 1995
25 c 297 s 3, 1991 c 289 s 4, 1990 c 122 s 6, 1977 ex.s. c 309 s 5, &
26 1975 1st ex.s. c 95 s 7;

27 (8) RCW 11.88.080 (Guardians nominated by will or durable power
28 of attorney) and 2016 c 209 s 401, 2005 c 97 s 11, 1990 c 122 s 7, &
29 1965 c 145 s 11.88.080;

30 (9) RCW 11.88.090 (Guardian ad litem—Mediation—Appointment—
31 Qualifications—Notice of and statement by guardian ad litem—Hearing
32 and notice—Attorneys' fees and costs—Registry—Duties—Report—
33 Responses—Fee) and 2008 c 6 s 804, 2000 c 124 s 1, 1999 c 360 s 1,
34 1996 c 249 s 10, 1995 c 297 s 4, 1991 c 289 s 5, 1990 c 122 s 8, 1977
35 ex.s. c 309 s 6, 1975 1st ex.s. c 95 s 9, & 1965 c 145 s 11.88.090;

36 (10) RCW 11.88.093 (Ex parte communications—Removal) and 2000 c
37 124 s 10;

38 (11) RCW 11.88.095 (Disposition of guardianship petition) and
39 2011 c 329 s 4, 1995 c 297 s 5, 1991 c 289 s 6, & 1990 c 122 s 9;

1 (12) RCW 11.88.097 (Guardian ad litem—Fees) and 2000 c 124 s 13;
2 (13) RCW 11.88.100 (Oath and bond of guardian or limited
3 guardian) and 2010 c 8 s 2088, 1990 c 122 s 10, 1983 c 271 s 1, 1977
4 ex.s. c 309 s 7, 1975 1st ex.s. c 95 s 10, & 1965 c 145 s 11.88.100;
5 (14) RCW 11.88.105 (Reduction in amount of bond) and 1990 c 122 s
6 11, 1975 1st ex.s. c 95 s 11, & 1965 c 145 s 11.88.105;
7 (15) RCW 11.88.107 (When bond not required) and 1990 c 122 s 12,
8 1977 ex.s. c 309 s 8, 1975 1st ex.s. c 95 s 12, & 1965 c 145 s
9 11.88.107;
10 (16) RCW 11.88.110 (Law on executors' and administrators' bonds
11 applicable) and 1975 1st ex.s. c 95 s 13 & 1965 c 145 s 11.88.110;
12 (17) RCW 11.88.120 (Modification or termination of guardianship—
13 Procedure) and 2017 c 271 s 2, 2015 c 293 s 1, 1991 c 289 s 7, 1990 c
14 122 s 14, 1977 ex.s. c 309 s 9, 1975 1st ex.s. c 95 s 14, & 1965 c
15 145 s 11.88.120;
16 (18) RCW 11.88.125 (Standby limited guardian or limited guardian)
17 and 2013 c 304 s 1, 2011 c 329 s 5, 2008 c 6 s 805, 1991 c 289 s 8,
18 1990 c 122 s 15, 1979 c 32 s 1, 1977 ex.s. c 309 s 10, & 1975 1st
19 ex.s. c 95 s 6;
20 (19) RCW 11.88.127 (Guardianship—Incapacitated person—Letters of
21 guardianship) and 2011 c 329 s 6;
22 (20) RCW 11.88.130 (Transfer of jurisdiction and venue) and 1990
23 c 122 s 16, 1975 1st ex.s. c 95 s 15, & 1965 c 145 s 11.88.130;
24 (21) RCW 11.88.140 (Termination of guardianship or limited
25 guardianship) and 2016 c 202 s 9, 2011 c 329 s 7, 1991 c 289 s 9,
26 1990 c 122 s 17, 1977 ex.s. c 309 s 11, 1975 1st ex.s. c 95 s 16, &
27 1965 c 145 s 11.88.140;
28 (22) RCW 11.88.150 (Administration of deceased incapacitated
29 person's estate) and 2010 c 8 s 2089, 1990 c 122 s 18, 1977 ex.s. c
30 309 s 12, 1975 1st ex.s. c 95 s 17, & 1965 c 145 s 11.88.150;
31 (23) RCW 11.88.160 (Guardianships involving veterans) and 1990 c
32 122 s 13;
33 (24) RCW 11.88.170 (Guardianship courthouse facilitator program)
34 and 2015 c 295 s 1;
35 (25) RCW 11.88.900 (Construction—Chapter applicable to state
36 registered domestic partnerships—2009 c 521) and 2009 c 521 s 35;
37 (26) RCW 11.92.010 (Guardians or limited guardians under court
38 control—Legal age) and 1975 1st ex.s. c 95 s 18, 1971 c 28 s 5, &
39 1965 c 145 s 11.92.010;

1 (27) RCW 11.92.035 (Claims) and 1990 c 122 s 19, 1975 1st ex.s. c
2 95 s 19, & 1965 c 145 s 11.92.035;

3 (28) RCW 11.92.040 (Duties of guardian or limited guardian in
4 general) and 2011 c 329 s 9, 1991 c 289 s 10, 1990 c 122 s 20, & 1985
5 c 30 s 9;

6 (29) RCW 11.92.043 (Additional duties) and 2017 c 268 s 3, 2011 c
7 329 s 3, 1991 c 289 s 11, & 1990 c 122 s 21;

8 (30) RCW 11.92.050 (Intermediate accounts or reports—Hearing—
9 Order) and 2011 c 329 s 10, 1995 c 297 s 6, 1990 c 122 s 23, 1975 1st
10 ex.s. c 95 s 21, & 1965 c 145 s 11.92.050;

11 (31) RCW 11.92.053 (Settlement of estate upon termination) and
12 2011 c 329 s 8, 1995 c 297 s 7, 1990 c 122 s 24, & 1965 c 145 s
13 11.92.053;

14 (32) RCW 11.92.056 (Citation of surety on bond) and 1990 c 122 s
15 25, 1975 1st ex.s. c 95 s 22, & 1965 c 145 s 11.92.056;

16 (33) RCW 11.92.060 (Guardian to represent incapacitated person—
17 Compromise of claims—Service of process) and 1990 c 122 s 26, 1975
18 1st ex.s. c 95 s 23, & 1965 c 145 s 11.92.060;

19 (34) RCW 11.92.090 (Sale, exchange, lease, or mortgage of
20 property) and 1990 c 122 s 27, 1975 1st ex.s. c 95 s 24, & 1965 c 145
21 s 11.92.090;

22 (35) RCW 11.92.096 (Guardian access to certain held assets) and
23 1991 c 289 s 13;

24 (36) RCW 11.92.100 (Petition—Contents) and 1990 c 122 s 28, 1975
25 1st ex.s. c 95 s 25, & 1965 c 145 s 11.92.100;

26 (37) RCW 11.92.110 (Sale of real estate) and 1990 c 122 s 29,
27 1975 1st ex.s. c 95 s 26, & 1965 c 145 s 11.92.110;

28 (38) RCW 11.92.115 (Return and confirmation of sale) and 2010 c 8
29 s 2090, 1990 c 122 s 30, 1975 1st ex.s. c 95 s 27, & 1965 c 145 s
30 11.92.115;

31 (39) RCW 11.92.120 (Confirmation conclusive) and 1975 1st ex.s. c
32 95 s 28 & 1965 c 145 s 11.92.120;

33 (40) RCW 11.92.125 (Broker's fee and closing expenses—Sale,
34 exchange, mortgage, or lease of real estate) and 1977 ex.s. c 309 s
35 15 & 1965 c 145 s 11.92.125;

36 (41) RCW 11.92.130 (Performance of contracts) and 1990 c 122 s
37 31, 1975 1st ex.s. c 95 s 29, & 1965 c 145 s 11.92.130;

1 (42) RCW 11.92.140 (Court authorization for actions regarding
2 guardianship funds) and 2008 c 6 s 807, 1999 c 42 s 616, 1991 c 193 s
3 32, 1990 c 122 s 32, & 1985 c 30 s 10;

4 (43) RCW 11.92.150 (Request for special notice of proceedings)
5 and 1990 c 122 s 33 & 1985 c 30 s 11;

6 (44) RCW 11.92.160 (Citation for failure to file account or
7 report) and 1990 c 122 s 34, 1975 1st ex.s. c 95 s 31, & 1965 c 145 s
8 11.92.160;

9 (45) RCW 11.92.170 (Removal of property of nonresident
10 incapacitated person) and 1990 c 122 s 35, 1977 ex.s. c 309 s 16,
11 1975 1st ex.s. c 95 s 32, & 1965 c 145 s 11.92.170;

12 (46) RCW 11.92.180 (Compensation and expenses of guardian or
13 limited guardian—Attorney's fees—Department of social and health
14 services clients paying part of costs—Rules) and 1995 c 297 s 8, 1994
15 c 68 s 1, 1991 c 289 s 12, 1990 c 122 s 36, 1975 1st ex.s. c 95 s 33,
16 & 1965 c 145 s 11.92.180;

17 (47) RCW 11.92.185 (Concealed or embezzled property) and 1990 c
18 122 s 37, 1975 1st ex.s. c 95 s 34, & 1965 c 145 s 11.92.185;

19 (48) RCW 11.92.190 (Detention of person in residential placement
20 facility against will prohibited—Effect of court order—Service of
21 notice of residential placement) and 2016 sp.s. c 29 s 412, 1996 c
22 249 s 11, & 1977 ex.s. c 309 s 14;

23 (49) RCW 11.92.195 (Incapacitated persons—Right to associate with
24 persons of their choosing) and 2017 c 268 s 1;

25 (50) RCW 26.10.010 (Intent) and 1987 c 460 s 25;

26 (51) RCW 26.10.015 (Mandatory use of approved forms) and 1992 c
27 229 s 4 & 1990 1st ex.s. c 2 s 27;

28 (52) RCW 26.10.020 (Civil practice to govern—Designation of
29 proceedings—Decrees) and 1987 c 460 s 26;

30 (53) RCW 26.10.030 (Child custody proceeding—Commencement—Notice
31 —Intervention) and 2003 c 105 s 3, 2000 c 135 s 3, 1998 c 130 s 4, &
32 1987 c 460 s 27;

33 (54) RCW 26.10.032 (Child custody motion—Affidavit required—
34 Notice—Denial of motion—Show cause hearing) and 2003 c 105 s 6;

35 (55) RCW 26.10.034 (Petitions—Indian child statement—Application
36 of federal Indian child welfare act) and 2011 c 309 s 31, 2004 c 64 s
37 1, & 2003 c 105 s 7;

38 (56) RCW 26.10.040 (Provisions for child support, custody, and
39 visitation—Federal tax exemption—Continuing restraining orders—

1 Domestic violence or antiharassment protection orders—Notice of
2 modification or termination of restraining order) and 2000 c 119 s 8,
3 1995 c 93 s 3, 1994 sp.s. c 7 s 453, 1989 c 375 s 31, & 1987 c 460 s
4 28;

5 (57) RCW 26.10.045 (Child support schedule) and 1988 c 275 s 12;

6 (58) RCW 26.10.050 (Child support by parents—Apportionment of
7 expense) and 2008 c 6 s 1023 & 1987 c 460 s 29;

8 (59) RCW 26.10.060 (Health insurance coverage—Conditions) and
9 1989 c 375 s 19 & 1987 c 460 s 30;

10 (60) RCW 26.10.070 (Minor or dependent child—Court appointed
11 attorney to represent—Payment of costs, fees, and disbursements) and
12 1989 c 375 s 20 & 1987 c 460 s 31;

13 (61) RCW 26.10.080 (Payment of costs, attorney's fees, etc) and
14 1987 c 460 s 35;

15 (62) RCW 26.10.090 (Failure to comply with decree or temporary
16 injunction—Obligation to make support payments or permit visitation
17 not suspended—Motion) and 1987 c 460 s 36;

18 (63) RCW 26.10.100 (Determination of custody—Child's best
19 interests) and 1987 c 460 s 38;

20 (64) RCW 26.10.110 (Temporary custody order—Vacation of order)
21 and 1987 c 460 s 39;

22 (65) RCW 26.10.115 (Temporary orders—Support—Restraining orders
23 —Domestic violence or antiharassment protection orders—Notice of
24 modification or termination of restraining order—Preservation of
25 support debt) and 2000 c 119 s 9, 1995 c 246 s 29, 1994 sp.s. c 7 s
26 454, & 1989 c 375 s 32;

27 (66) RCW 26.10.120 (Interview with child by court—Advice of
28 professional personnel) and 1987 c 460 s 40;

29 (67) RCW 26.10.130 (Investigation and report) and 1993 c 289 s 2
30 & 1987 c 460 s 41;

31 (68) RCW 26.10.135 (Custody orders—Background information to be
32 consulted) and 2017 3rd sp.s. c 6 s 333 & 2003 c 105 s 1;

33 (69) RCW 26.10.140 (Hearing—Record—Expenses of witnesses) and
34 1987 c 460 s 42;

35 (70) RCW 26.10.150 (Access to child's education and medical
36 records) and 1987 c 460 s 43;

37 (71) RCW 26.10.160 (Visitation rights—Limitations) and 2018 c 183
38 s 7, 2011 c 89 s 7, 2004 c 38 s 13, 1996 c 303 s 2, 1994 c 267 s 2,
39 1989 c 326 s 2, & 1987 c 460 s 44;

1 (72) RCW 26.10.170 (Powers and duties of custodian—Supervision by
2 appropriate agency when necessary) and 1987 c 460 s 45;

3 (73) RCW 26.10.180 (Remedies when a child is taken, enticed, or
4 concealed) and 2008 c 6 s 1024, 1989 c 375 s 21, & 1987 c 460 s 46;

5 (74) RCW 26.10.190 (Petitions for modification and proceedings
6 concerning relocation of child—Assessment of attorneys' fees) and
7 2000 c 21 s 21, 1989 c 375 s 24, & 1987 c 460 s 47;

8 (75) RCW 26.10.200 (Temporary custody order or modification of
9 custody decree—Affidavits required) and 1987 c 460 s 48;

10 (76) RCW 26.10.210 (Venue) and 1987 c 460 s 49;

11 (77) RCW 26.10.220 (Restraining orders—Notice—Refusal to comply
12 —Arrest—Penalty—Defense—Peace officers, immunity) and 2000 c 119 s
13 22, 1999 c 184 s 11, 1996 c 248 s 10, 1995 c 246 s 30, & 1987 c 460 s
14 50; and

15 (78) RCW 26.10.910 (Short title—1987 c 460).

16 NEW SECTION. **Sec. 802.** UNIFORMITY OF APPLICATION AND
17 CONSTRUCTION. In applying and construing this uniform act,
18 consideration must be given to the need to promote uniformity of the
19 law with respect to its subject matter among states that enact it.

20 NEW SECTION. **Sec. 803.** RELATION TO ELECTRONIC SIGNATURES IN
21 GLOBAL AND NATIONAL COMMERCE ACT. This act modifies, limits, or
22 supersedes the electronic signatures in global and national commerce
23 act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or
24 supersede section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or
25 authorize electronic delivery of any of the notices described in
26 section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

27 NEW SECTION. **Sec. 804.** APPLICABILITY. This chapter applies to:

28 (1) A proceeding for appointment of a guardian or conservator or
29 for a protective arrangement instead of guardianship or
30 conservatorship commenced after the effective date of this section;
31 and

32 (2) A guardianship, conservatorship, or protective arrangement
33 instead of a guardianship or conservatorship in existence on the
34 effective date of this section unless the court finds application of
35 a particular provision of this act would substantially interfere with
36 the effective conduct of the proceeding or prejudice the rights of a

1 party, in which case the particular provision of this act does not
2 apply and the superseded law applies.

3 NEW SECTION. **Sec. 805.** SEVERABILITY. If any provision of this
4 act or its application to any person or circumstance is held invalid,
5 the remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

7 NEW SECTION. **Sec. 806.** Articles I through VII and sections 802
8 through 804 and 807 of this act constitute a new chapter in Title 11
9 RCW.

10 NEW SECTION. **Sec. 807.** EFFECTIVE DATE. This act takes effect
11 January 1, 2021.

Passed by the Senate April 26, 2019.
Passed by the House April 25, 2019.
Approved by the Governor May 21, 2019.
Filed in Office of Secretary of State May 21, 2019.

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