
SUBSTITUTE SENATE BILL 5837

State of Washington

69th Legislature

2026 Regular Session

By Senate Law & Justice (originally sponsored by Senators Pedersen, Holy, Nobles, and C. Wilson)

READ FIRST TIME 01/23/26.

1 AN ACT Relating to guardianship, conservatorship, and other
2 protective arrangements for adults; and amending RCW 11.130.275,
3 11.130.280, 11.130.285, 11.130.300, 11.130.310, 11.130.380,
4 11.130.385, 11.130.400, 11.130.410, 11.130.420, 11.130.425,
5 11.130.605, 11.130.610, 11.130.620, 11.130.630, 11.130.730, and
6 11.130.750.

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

8 **Sec. 1.** RCW 11.130.275 and 2020 c 312 s 201 are each amended to
9 read as follows:

10 (1) All petitions filed under RCW 11.130.270 for appointment of a
11 guardian for an adult shall be heard within (~~sixty~~) 60 days unless
12 an extension of time is requested by a party or the court visitor
13 within such (~~sixty~~) 60-day period and granted for good cause shown.
14 If an extension is granted, the court shall set a new hearing date.

15 (2)(a) A copy of a petition under RCW 11.130.270 and notice of a
16 hearing on the petition must be served personally on the respondent
17 and the court visitor appointed under RCW 11.130.280 not more than
18 five court days after the petition under RCW 11.130.270 has been
19 filed.

20 (b) Notice under this subsection shall include a clear and easily
21 readable statement of the legal rights of the respondent that could

1 be restricted or transferred to a guardian by a guardianship order as
2 well as the right to counsel of choice and to a jury trial on whether
3 a basis exists under RCW 11.130.265 for the appointment of a guardian
4 and the issue of the respondent's rights that will be retained or
5 restricted if a guardian is appointed. Such notice must be in
6 substantially the same form as set forth in RCW 11.130.657 and must
7 be double-spaced and in a type size not smaller than (~~sixteen~~) 16
8 point font. The court may not grant the petition if notice
9 substantially complying with this subsection is not served on the
10 respondent.

11 (3) In a proceeding on a petition under RCW 11.130.270, the
12 notice required under subsection (2) of this section must be given to
13 the persons required to be listed in the petition under RCW
14 11.130.270(~~(2)~~) (3) (a) through (c) and any other notice party.
15 Failure to give notice under this subsection does not preclude the
16 court from appointing a guardian.

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

- 20 (a) The adult subject to guardianship;
21 (b) The guardian; and
22 (c) Any other notice party or person the court determines
23 pursuant to RCW 11.130.310(5) or a subsequent court order.

24 **Sec. 2.** RCW 11.130.280 and 2024 c 267 s 4 are each amended to
25 read as follows:

26 (1) On receipt of a petition under RCW 11.130.270 for appointment
27 of a guardian for an adult, the court shall appoint a court visitor.
28 The court visitor must be an individual with training or experience
29 in the type of abilities, limitations, and needs alleged in the
30 petition.

31 (2) The court, in the order appointing a court visitor, shall
32 specify the hourly rate the court visitor may charge for his or her
33 services, and shall specify the maximum amount the court visitor may
34 charge without additional court review and approval. The fee shall be
35 charged to the person subject to a guardianship or conservatorship
36 proceeding unless the court finds that such payment would result in
37 substantial hardship upon such person, in which case the county shall
38 be responsible for such costs: PROVIDED, That the court may charge
39 such fee to the petitioner, the person subject to a guardianship or

1 conservatorship proceeding, or any person who has appeared in the
2 action; or may allocate the fee, as it deems just. If the petition is
3 found to be frivolous or not brought in good faith, the court visitor
4 fee shall be charged to the petitioner. The court shall not be
5 required to provide for the payment of a fee to any salaried employee
6 of a public agency.

7 (3)(a) The court visitor appointed under subsection (1) of this
8 section shall within five days of receipt of notice of appointment
9 file with the court and serve, either personally or by (~~certified~~)
10 first-class mail (~~with return receipt~~), the respondent or his or
11 her legal counsel, the petitioner or his or her legal counsel, and
12 any interested party entitled to notice under RCW 11.130.080 with a
13 statement including: His or her training relating to the duties as a
14 court visitor; his or her criminal history as defined in RCW
15 9.94A.030 for the period covering 10 years prior to the appointment;
16 his or her hourly rate, if compensated; whether the court visitor has
17 had any contact with a party to the proceeding prior to his or her
18 appointment; and whether he or she has an apparent conflict of
19 interest. Within three days of the later of the actual service or
20 filing of the court visitor's statement, any party may set a hearing
21 and file and serve a motion for an order to show cause why the court
22 visitor should not be removed for one of the following three reasons:

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

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

26 (iii) A conflict of interest.

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

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

37 (a) Explain to the respondent the substance of the petition, the
38 nature, purpose, and effect of the proceeding, the respondent's
39 rights at the hearing on the petition, the right to counsel of choice
40 and to a jury trial, and the general powers and duties of a guardian;

1 (b) Determine whether the respondent would like to request the
2 appointment of an attorney, and determine the respondent's views
3 about the appointment sought by the petitioner, including views about
4 a proposed guardian, the guardian's proposed powers and duties, and
5 the scope and duration of the proposed guardianship; and

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

9 (5) If the respondent objects to the petition or requests
10 appointment of an attorney, the court visitor shall petition the
11 court to have an attorney appointed within five days of meeting the
12 respondent.

13 (6) The court visitor appointed under subsection (1) of this
14 section shall:

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

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

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

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

24 (7) A court visitor appointed under subsection (1) of this
25 section shall file a report in a record with the court and provide a
26 copy of the report to the respondent, petitioner, and any interested
27 party entitled to notice under RCW 11.130.080 at least 15 days prior
28 to the hearing on the petition filed under RCW 11.130.270, which must
29 include:

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

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

39 (i) If a guardianship is recommended, whether it should be full
40 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 statement whether the respondent declined a professional
10 evaluation under RCW 11.130.290 and what other information is
11 available to determine the respondent's needs and abilities without
12 the professional evaluation;

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

15 (g) 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 (h) Any other matter the court directs.

20 (8) The appointment of a court visitor has no effect on the
21 determination of the adult respondent's legal capacity and does not
22 overcome the presumption of legal capacity or full legal and civil
23 rights of the adult respondent.

24 **Sec. 3.** RCW 11.130.285 and 2020 c 312 s 202 are each amended to
25 read as follows:

26 (1)(a) The respondent shall have the right to be represented by a
27 willing attorney of their choosing at any stage in guardianship
28 proceedings. Any attorney purporting to represent a respondent or
29 person subject to guardianship shall petition the court to be
30 appointed to represent the respondent or person subject to
31 guardianship.

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

37 (c)(i) The court must appoint an attorney to represent the
38 respondent at public expense when (~~either~~) the respondent objects

1 to the petition or requests appointment of an attorney to the court
2 visitor, and:

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

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

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

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

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

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

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

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

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

30 **Sec. 4.** RCW 11.130.300 and 2019 c 437 s 308 are each amended to
31 read as follows:

32 (1) The existence of a proceeding for or the existence of a
33 guardianship for an adult is a matter of public record unless the
34 court seals the record after:

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

37 (b) Either:

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

39 (ii) The guardianship is terminated.

1 (2) An adult subject to a proceeding for a guardianship, whether
2 or not a guardian is appointed, an attorney designated by the adult,
3 and a person entitled to notice under RCW 11.130.310(5) or a
4 subsequent order are entitled to access court records of the
5 proceeding and resulting guardianship, including the guardian's plan
6 under RCW 11.130.340 and report under RCW 11.130.345. A person not
7 otherwise entitled to access court records under this subsection for
8 good cause may petition the court for access to court records of the
9 guardianship, including the guardian's report and plan. The court
10 shall grant access if access is in the best interest of the
11 respondent or adult subject to guardianship or furthers the public
12 interest and does not endanger the welfare or financial interests of
13 the adult.

14 (3) A report under RCW 11.130.280 of a visitor or a professional
15 evaluation under RCW 11.130.290 is confidential and must be sealed on
16 filing, but is available to:

17 (a) The court;

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

20 (c) The petitioner, visitor, ~~((and))~~ petitioner's and
21 respondent's attorneys, and proposed guardians and conservators and
22 their attorneys, for purposes of the proceeding;

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

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

28 **Sec. 5.** RCW 11.130.310 and 2019 c 437 s 310 are each amended to
29 read as follows:

30 (1) A court order appointing a guardian for an adult must:

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

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

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

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

9 (2) An adult subject to guardianship retains the right to vote
10 unless the order under subsection (1) of this section includes the
11 statement required by subsection (1)(c) of this section. An adult
12 subject to guardianship retains the right to marry unless the order
13 under subsection (1) of this section includes the findings required
14 by subsection (1)(d) of this section.

15 (3) A court order establishing a full guardianship for an adult
16 must state the basis for granting a full guardianship and include
17 specific findings that support the conclusion that a limited
18 guardianship would not meet the functional needs of the adult subject
19 to guardianship.

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

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

25 (a) Notice of the rights of the adult under RCW
26 11.130.315(~~(2)~~);

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

28 (c) Notice that the guardian has delegated:

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

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

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

33 (iv) A power that requires court approval under RCW 11.130.335;

34 or

35 (v) Substantially all powers of the guardian;

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

39 (e) A copy of the guardian's plan under RCW 11.130.340 and the
40 guardian's report under RCW 11.130.345;

1 (f) Access to court records relating to the guardianship;
2 (g) Notice of the death or significant change in the condition of
3 the adult;
4 (h) Notice that the court has limited or modified the powers of
5 the guardian; and
6 (i) Notice of the removal of the guardian.
7 (6) A spouse, domestic partner, and adult children of an adult
8 subject to guardianship are entitled to notice under subsection (5)
9 of this section unless the court determines notice would be contrary
10 to the preferences or prior directions of the adult subject to
11 guardianship or not in the best interest of the adult.
12 (7) All orders establishing a guardianship for an adult must
13 contain:
14 (a) A guardianship summary placed directly below the case caption
15 or on a separate cover page in the form or substantially the same
16 form as set forth in RCW 11.130.665;
17 (b) ~~((The date which the limited guardian or guardian must file~~
18 ~~the guardian's plan under RCW 11.130.340(1);~~
19 ~~(c) The date by which the court will review the guardian's plan~~
20 ~~as required by RCW 11.130.340(4);~~
21 ~~(d))~~ The report interval which the guardian shall file its
22 guardian's ~~((plan))~~ report under RCW 11.130.345. The report interval
23 may be annual, biennial, or triennial;
24 ~~((e))~~ (c) The date the limited guardian or guardian must file
25 its guardian's ~~((plan))~~ report under RCW 11.130.345. The due date of
26 the filing of the report shall be within ~~((ninety))~~ 90 days after the
27 anniversary date of the appointment;
28 ~~((f))~~ (d) The date for the court to review the guardian's
29 ~~((plan))~~ report under RCW 11.130.345 and enter its order. The court
30 shall conduct the review within ~~((one hundred twenty))~~ 120 days after
31 the anniversary date of the appointment; and
32 (e) The date on which the original letters of office shall
33 expire, which date shall be 180 days after the anniversary date of
34 appointment.

35 **Sec. 6.** RCW 11.130.380 and 2024 c 267 s 9 are each amended to
36 read as follows:

37 (1) If the respondent in a proceeding to appoint a conservator is
38 a minor, the court may appoint a court visitor to investigate a

1 matter related to the petition or inform the minor or a parent of the
2 minor about the petition or a related matter.

3 (2) If the respondent in a proceeding to appoint a conservator is
4 an adult, the court shall appoint a court visitor. The duties and
5 reporting requirements of the court visitor are limited to the relief
6 requested in the petition. The court visitor must be an individual
7 with training or experience in the type of abilities, limitations,
8 and needs alleged in the petition.

9 (3) The court, in the order appointing court visitor, shall
10 specify the hourly rate the court visitor may charge for his or her
11 services, and shall specify the maximum amount the court visitor may
12 charge without additional court review and approval. The fee shall be
13 charged to the person subject to a guardianship or conservatorship
14 proceeding unless the court finds that such payment would result in
15 substantial hardship upon such person, in which case the county shall
16 be responsible for such costs: PROVIDED, That the court may charge
17 such fee to the petitioner, the person subject to a guardianship or
18 conservatorship proceeding, or any person who has appeared in the
19 action; or may allocate the fee, as it deems just. If the petition is
20 found to be frivolous or not brought in good faith, the court visitor
21 fee shall be charged to the petitioner. The court shall not be
22 required to provide for the payment of a fee to any salaried employee
23 of a public agency.

24 (4) (a) The court visitor appointed under subsection (1) or (2) of
25 this section shall within five days of receipt of notice of
26 appointment file with the court and serve, either personally or by
27 (~~eertified~~) first-class mail (~~(with—return—receipt)~~), the
28 respondent or his or her legal counsel, the petitioner or his or her
29 legal counsel, and any interested party entitled to notice under RCW
30 11.130.080 with a statement including: His or her training relating
31 to the duties as a court visitor; his or her criminal history as
32 defined in RCW 9.94A.030 for the period covering (~~ten~~) 10 years
33 prior to the appointment; his or her hourly rate, if compensated;
34 whether the court visitor has had any contact with a party to the
35 proceeding prior to his or her appointment; and whether he or she has
36 an apparent conflict of interest. Within three days of the later of
37 the actual service or filing of the court visitor's statement, any
38 party may set a hearing and file and serve a motion for an order to
39 show cause why the court visitor should not be removed for one of the
40 following three reasons:

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

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

4 (iii) A conflict of interest.

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

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

15 (a) Explain to the respondent the substance of the petition, the
16 nature, purpose, and effect of the proceeding, the respondent's
17 rights at the hearing on the petition, the right to counsel of choice
18 and to a jury trial, and the general powers and duties of a
19 conservator;

20 (b) Determine whether the respondent would like to request the
21 appointment of an attorney, and determine the respondent's views
22 about the appointment sought by the petitioner, including views about
23 a proposed conservator, the conservator's proposed powers and duties,
24 and the scope and duration of the proposed conservatorship; and

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

28 (6) If the respondent objects to the petition or requests
29 appointment of an attorney, the court visitor shall petition the
30 court to have an attorney appointed within five days of meeting the
31 respondent.

32 (7) A court visitor appointed under subsection (2) of this
33 section for an adult shall:

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

35 (b) Review financial records of the respondent, if relevant to
36 the court visitor's recommendation under subsection (8)(b) of this
37 section;

38 (c) Investigate whether the respondent's needs could be met by a
39 protective arrangement instead of conservatorship or other less

1 restrictive alternative and, if so, identify the arrangement or other
2 less restrictive alternative; and

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

5 (8) A court visitor appointed under subsection (2) of this
6 section for an adult shall file a report in a record with the court
7 and provide a copy of the report to the respondent, petitioner, and
8 any interested party entitled to notice under RCW 11.130.080 at least
9 (~~fifteen~~) 15 days prior to the hearing on the petition filed under
10 RCW 11.130.365, which must include:

11 (a) A recommendation:

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

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

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

21 (iv) If a conservatorship is recommended, the amount of the bond
22 or other verified receipt needed under RCW 11.130.445 and 11.130.500;

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

26 (c) A statement whether the respondent declined a professional
27 evaluation under RCW 11.130.390 and what other information is
28 available to determine the respondent's needs and abilities without
29 the professional evaluation;

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

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

36 (f) Any other matter the court directs.

37 (9) The appointment of a court visitor has no effect on the
38 determination of the adult respondent's legal capacity and does not
39 overcome the presumption of legal capacity or full legal and civil
40 rights of the adult respondent.

1 **Sec. 7.** RCW 11.130.385 and 2020 c 312 s 211 are each amended to
2 read as follows:

3 (1) (a) The respondent shall have the right to be represented by a
4 willing attorney of their choosing at any stage in conservatorship
5 proceedings. Any attorney purporting to represent a respondent or
6 person subject to conservatorship shall petition the court to be
7 appointed to represent the respondent or person subject to
8 conservatorship.

9 (b) Unless the respondent in a proceeding for appointment of a
10 conservator is represented by an attorney, the court (~~(is not~~
11 ~~required, but may)~~) must appoint an attorney to represent the
12 respondent, regardless of the respondent's ability to pay, (~~except~~
13 ~~as provided otherwise in (c) of this subsection)~~) when:

14 (i) The respondent objects to the petition or requests
15 appointment of an attorney to the court visitor; or

16 (ii) In the opinion of the court, the rights and interests of the
17 respondent cannot otherwise be adequately protected and represented.

18 (c) (~~(i) The court must appoint an attorney to represent the~~
19 ~~respondent at public expense when either)~~) If an attorney is
20 appointed for the respondent pursuant to (b) of this subsection, the
21 attorney shall be appointed at public expense if:

22 (~~(A)~~) (i) The respondent is unable to afford an attorney;

23 (~~(B)~~) (ii) The expense of an attorney would result in
24 substantial hardship to the respondent; or

25 (~~(C)~~) (iii) The respondent does not have practical access to
26 funds with which to pay an attorney. If the respondent can afford an
27 attorney but lacks practical access to funds, the court must provide
28 an attorney and may impose a reimbursement requirement as part of a
29 final order.

30 (~~(ii) When, in the opinion of the court, the rights and~~
31 ~~interests of the respondent cannot otherwise be adequately protected~~
32 ~~and represented, the court on its own motion must appoint an attorney~~
33 ~~at any time to represent the respondent.~~

34 (~~(iii)~~) (d) If the respondent objects to the petition or requests
35 appointment of an attorney, the court visitor, under the requirements
36 of RCW 11.130.380(6), shall petition the court to have an attorney
37 appointed within five days of meeting the respondent.

38 (e) An attorney must be provided under (b) of this subsection
39 (~~(1)(e)~~) as soon as practicable after a petition is filed and long
40 enough before any final hearing to allow adequate time for

1 consultation and preparation. Absent a convincing showing in the
2 record to the contrary, a period of less than three weeks is presumed
3 by a reviewing court to be inadequate time for consultation and
4 preparation.

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

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

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

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

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

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

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

19 (c) The court otherwise determines the parent needs
20 representation.

21 **Sec. 8.** RCW 11.130.400 and 2019 c 437 s 408 are each amended to
22 read as follows:

23 (1) Except as otherwise provided in subsection (2) of this
24 section, a hearing under RCW 11.130.370 may not proceed unless the
25 respondent attends the hearing. If it is not reasonably feasible for
26 the 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
30 audiovisual technology.

31 (2) A hearing under RCW 11.130.370 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 or 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 RCW
4 11.130.370 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 RCW 11.130.370.

12 (5) At a hearing under RCW 11.130.370, 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) Unless excused by the court for good cause, a proposed
18 conservator shall attend a hearing under RCW 11.130.370.

19 (7) A hearing under RCW 11.130.370 must be closed on request of
20 the respondent and a showing of good cause.

21 (8) Any person may request to participate in a hearing under RCW
22 11.130.370. The court may grant the request, with or without a
23 hearing, on determining that the best interest of the respondent will
24 be served. The court may impose appropriate conditions on the
25 person's participation.

26 **Sec. 9.** RCW 11.130.410 and 2020 c 312 s 213 are each amended to
27 read as follows:

28 (1) The existence of a proceeding for or the existence of
29 conservatorship is a matter of public record unless the court seals
30 the record after:

31 (a) The respondent, the individual subject to conservatorship, or
32 the parent of a minor subject to conservatorship requests the record
33 be sealed; and

34 (b) Either:

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

36 (ii) The conservatorship is terminated.

37 (2) An individual subject to a proceeding for a conservatorship,
38 whether or not a conservator is appointed, an attorney designated by
39 the individual, and a person entitled to notice under RCW

1 11.130.420(6) or a subsequent order may access court records of the
2 proceeding and resulting conservatorship, including the conservator's
3 plan under RCW 11.130.510 and the conservator's report under RCW
4 11.130.530. A person not otherwise entitled access to court records
5 under this section for good cause may petition the court for access
6 to court records of the conservatorship, including the conservator's
7 plan and report. The court shall grant access if access is in the
8 best interest of the respondent or individual subject to
9 conservatorship or furthers the public interest and does not endanger
10 the welfare or financial interests of the respondent or individual.

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

14 (a) The court;

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

17 (c) The petitioner, court visitor, petitioner's and respondent's
18 attorneys, and proposed guardians and conservators and their
19 attorneys, for purposes of the proceeding;

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

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

25 **Sec. 10.** RCW 11.130.420 and 2020 c 312 s 215 are each amended to
26 read as follows:

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

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

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

36 (a) Include a specific finding that clear and convincing evidence
37 has established that the identified needs of the respondent cannot be
38 met by a protective arrangement instead of conservatorship or other
39 less restrictive alternatives, including use of appropriate

1 supportive services, technological assistance, or supported decision
2 making; and

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

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

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

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

16 (a) Notice of the rights of the individual subject to
17 conservatorship under RCW 11.130.425(~~(+2)~~) (1);

18 (b) Notice of a sale of or surrender of a lease to the primary
19 dwelling of the individual;

20 (c) Notice that the conservator has delegated a power that
21 requires court approval under RCW 11.130.435 or substantially all
22 powers of the conservator;

23 (d) Notice that the conservator will be unavailable to perform
24 the conservator's duties for more than one month;

25 (e) A copy of the conservator's plan under RCW 11.130.510 and the
26 conservator's report under RCW 11.130.530;

27 (f) Access to court records relating to the conservatorship;

28 (g) Notice of a transaction involving a substantial conflict
29 between the conservator's fiduciary duties and personal interests;

30 (h) Notice of the death or significant change in the condition of
31 the individual;

32 (i) Notice that the court has limited or modified the powers of
33 the conservator; and

34 (j) Notice of the removal of the conservator.

35 (7) If an individual subject to conservatorship is an adult, the
36 spouse, domestic partner, and adult children of the adult subject to
37 conservatorship are entitled under subsection (6) of this section to
38 notice unless the court orders otherwise based on good cause. Good
39 cause includes the court's determination that notice would be

1 contrary to the preferences or prior directions of the adult subject
2 to conservatorship.

3 (8) If an individual subject to conservatorship is a minor, each
4 parent and adult sibling of the minor is entitled under subsection
5 (6) of this section to notice unless the court determines notice
6 would not be in the best interest of the minor.

7 (9) All orders establishing a conservatorship for an adult must
8 contain:

9 (a) A conservatorship summary placed directly below the case
10 caption or on a separate cover page in the form or substantially the
11 same form as set forth in RCW 11.130.665;

12 ~~(b) ((The date which the limited conservator or conservator must
13 file the conservator's plan under RCW 11.130.510;~~

14 ~~(c) The date which the limited conservator or conservator must
15 file an inventory under RCW 11.130.515;~~

16 ~~(d) The date by which the court will review the conservator's
17 plan as required by RCW 11.130.510;~~

18 ~~(e))~~ The report interval which the conservator must file its
19 report under RCW 11.130.530. The report interval may be annual,
20 biennial, or triennial;

21 ~~((f))~~ (c) The date the limited conservator or conservator must
22 file its report under RCW 11.130.530. The due date of the filing of
23 the report shall be within ~~((ninety))~~ 90 days after the anniversary
24 date of the appointment;

25 ~~((g))~~ (d) The date for the court to review the report under RCW
26 11.130.530 and enter its order. The court shall conduct the review
27 within ~~((one hundred twenty))~~ 120 days after the anniversary date of
28 the appointment; and

29 (e) The date on which the original letters of office shall
30 expire, which date shall be 180 days after the anniversary date of
31 appointment.

32 **Sec. 11.** RCW 11.130.425 and 2024 c 267 s 10 are each amended to
33 read as follows:

34 (1) Not later than ~~((thirty))~~ 14 days after appointment of a
35 conservator under RCW 11.130.420, the conservator shall give to the
36 individual subject to conservatorship and any other person entitled
37 to notice under RCW 11.130.420 (6) and (7) a copy of the order of
38 appointment and a statement of the rights of the individual subject
39 to conservatorship and procedures to seek relief if the individual is

1 denied those rights. The statement must be in plain language, in at
2 least (~~sixteen~~) 16-point font, and to the extent feasible, in a
3 language in which the individual subject to conservatorship is
4 proficient. The statement must notify the individual subject to
5 conservatorship of the right to:

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

9 (b) Participate in decision making to the extent reasonably
10 feasible;

11 (c) Receive a copy of the conservator's plan under RCW
12 11.130.510, the conservator's inventory under RCW 11.130.515, and the
13 conservator's report under RCW 11.130.530; and

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

15 (2) If a conservator is appointed for the reasons stated in RCW
16 11.130.360(2)(a)(ii) and the individual subject to conservatorship is
17 missing, notice under this section to the individual is not required.

18 **Sec. 12.** RCW 11.130.605 and 2020 c 312 s 311 are each amended to
19 read as follows:

20 (1) On filing of a petition under RCW 11.130.580 for a protective
21 arrangement instead of guardianship, the court shall appoint a court
22 visitor. The court visitor must be an individual with training or
23 experience in the type of abilities, limitations, and needs alleged
24 in the petition.

25 (2) On filing of a petition under RCW 11.130.580 for a protective
26 arrangement instead of conservatorship for a minor, the court may
27 appoint a court visitor to investigate a matter related to the
28 petition or inform the minor or a parent of the minor about the
29 petition or a related matter.

30 (3) On filing of a petition under RCW 11.130.580 or a protective
31 arrangement instead of conservatorship for an adult, the court shall
32 appoint a court visitor unless the respondent is represented by an
33 attorney appointed by the court. The court visitor must be an
34 individual with training or experience in the types of abilities,
35 limitations, and needs alleged in the petition.

36 (4) The court, in the order appointing a court visitor, shall
37 specify the hourly rate the court visitor may charge for his or her
38 services, and shall specify the maximum amount the court visitor may
39 charge without additional court review and approval. The fee shall be

1 charged to the person subject to a guardianship, conservatorship, or
2 other protective arrangement proceeding unless the court finds that
3 such payment would result in substantial hardship upon such person,
4 in which case the county shall be responsible for such costs:
5 PROVIDED, That the court may charge such fee to the petitioner, the
6 person subject to a guardianship or conservatorship proceeding, or
7 any person who has appeared in the action; or may allocate the fee,
8 as it deems just. If the petition is found to be frivolous or not
9 brought in good faith, the court visitor fee shall be charged to the
10 petitioner. The court shall not be required to provide for the
11 payment of a fee to any salaried employee of a public agency.

12 (5) (a) The court visitor appointed under subsection (1) or (3) of
13 this section shall within five days of receipt of notice of
14 appointment file with the court and serve, either personally or by
15 (~~certified~~) first-class mail (~~with return receipt~~), the
16 respondent or his or her legal counsel, the petitioner or his or her
17 legal counsel, and any interested party entitled to notice under RCW
18 11.130.080 with a statement including: His or her training relating
19 to the duties as a court visitor; his or her criminal history as
20 defined in RCW 9.94A.030 for the period covering (~~ten~~) 10 years
21 prior to the appointment; his or her hourly rate, if compensated;
22 whether the court visitor has had any contact with a party to the
23 proceeding prior to his or her appointment; and whether he or she has
24 an apparent conflict of interest. Within three days of the later of
25 the actual service or filing of the court visitor's statement, any
26 party may set a hearing and file and serve a motion for an order to
27 show cause why the court visitor should not be removed for one of the
28 following three reasons:

- 29 (i) Lack of expertise necessary for the proceeding;
30 (ii) An hourly rate higher than what is reasonable for the
31 particular proceeding; or
32 (iii) A conflict of interest.

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

1 (6) A court visitor appointed under subsection (1) or (3) of this
2 section shall interview the respondent in person and in a manner the
3 respondent is best able to understand:

4 (a) Explain to the respondent the substance of the petition, the
5 nature, purpose, and effect of the proceeding, and the respondent's
6 rights at the hearing on the petition;

7 (b) Determine the respondent's views with respect to the order
8 sought;

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

12 (d) If the petitioner seeks an order related to the dwelling of
13 the respondent, visit the respondent's present dwelling and any
14 dwelling in which it is reasonably believed the respondent will live
15 if the order is granted;

16 (e) If a protective arrangement instead of guardianship is
17 sought, obtain information from any physician or other person known
18 to have treated, advised, or assessed the respondent's relevant
19 physical or mental condition;

20 (f) If a protective arrangement instead of conservatorship is
21 sought, review financial records of the respondent, if relevant to
22 the court visitor's recommendation under subsection (7)(b) of this
23 section; and

24 (g) Investigate the allegations in the petition and any other
25 matter relating to the petition the court directs.

26 (7) A court visitor under subsection (1), (2), or (3) of this
27 section promptly shall file a report in a record with the court and
28 provide a copy of the report to the respondent, petitioner, and any
29 interested party entitled to notice under RCW 11.130.580 (1) through
30 (3), at least (~~fifteen~~) 15 days prior to the hearing on the
31 petition filed under RCW 11.130.585, 11.130.590, or 11.130.595, which
32 must include:

33 (a) To the extent relevant to the order sought, a summary of
34 self-care, independent living tasks, and financial management tasks
35 the respondent:

36 (i) Can manage without assistance or with existing supports;

37 (ii) Could manage with the assistance of appropriate supportive
38 services, technological assistance, or supported decision making; and

39 (iii) Cannot manage;

1 (b) A recommendation regarding the appropriateness of the
2 protective arrangement sought and whether a less restrictive
3 alternative for meeting the respondent's needs is available;

4 (c) If the petition seeks to change the physical location of the
5 dwelling of the respondent, a statement whether the proposed dwelling
6 meets the respondent's needs and whether the respondent has expressed
7 a preference as to the respondent's dwelling;

8 (d) A statement whether the respondent declined a professional
9 evaluation under RCW 11.130.615 and what other information is
10 available to determine the respondent's needs and abilities without
11 the professional evaluation;

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

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

18 (g) Any other matter the court directs.

19 **Sec. 13.** RCW 11.130.610 and 2020 c 312 s 318 are each amended to
20 read as follows:

21 (1)(a) The respondent shall have the right to be represented by a
22 willing attorney of their choosing at any stage in protective
23 arrangement proceedings. Any attorney purporting to represent a
24 respondent or person subject to a protective arrangement shall
25 petition the court to be appointed to represent the respondent or
26 person subject to a protective arrangement.

27 (b) Unless the respondent in a proceeding under this article is
28 represented by an attorney, the court ~~((is not required, but may))~~
29 must appoint an attorney to represent the respondent, regardless of
30 the respondent's ability to pay, ~~((except as provided otherwise in~~
31 ~~(e) of this subsection))~~ when the respondent objects to the petition
32 or requests appointment of an attorney to the court visitor.

33 (c)(i) ~~((The court must appoint an attorney to represent the~~
34 ~~respondent at public expense when either))~~ If an attorney is
35 appointed for the respondent pursuant to (b) or (c)(ii) of this
36 subsection, the attorney shall be appointed at public expense when:

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

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

1 (C) The respondent does not have practical access to funds with
2 which to pay an attorney. If the respondent can afford an attorney
3 but lacks practical access to funds, the court must provide an
4 attorney and may impose a reimbursement requirement as part of a
5 final order.

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

10 (iii) The court visitor, under the requirements of RCW
11 11.130.280(5), will advise the court of the need for appointment of
12 counsel for the respondent within five court days after the meeting
13 with the respondent.

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

21 (2) An attorney representing the respondent in a proceeding under
22 this article shall:

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

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

26 (c) If the respondent's wishes are not reasonably ascertainable,
27 advocate for the result that is the least restrictive alternative in
28 type, duration, and scope, consistent with the respondent's
29 interests.

30 (3) The court is not required, but may appoint an attorney to
31 represent a parent of a minor who is the subject of a proceeding
32 under this article if:

33 (a) The parent objects to the entry of an order for a protective
34 arrangement instead of guardianship or conservatorship;

35 (b) The court determines that counsel is needed to ensure that
36 consent to the entry of an order for a protective arrangement is
37 informed; or

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

1 **Sec. 14.** RCW 11.130.620 and 2019 c 437 s 509 are each amended to
2 read as follows:

3 (1) Except as otherwise provided in subsection (2) of this
4 section, a hearing under this article may not proceed unless the
5 respondent attends the hearing. If it is not reasonably feasible for
6 the respondent to attend a hearing at the location court proceedings
7 typically are held, the court shall make reasonable efforts to hold
8 the hearing at an alternative location convenient to the respondent
9 or allow the respondent to attend the hearing using real-time
10 audiovisual technology.

11 (2) A hearing under this article may proceed without the
12 respondent in attendance if the court finds by clear and convincing
13 evidence that:

14 (a) The respondent (~~(consistently and repeatedly)~~) has refused to
15 attend the hearing after having been fully informed of the right to
16 attend and the potential consequences of failing to do so;

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

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

22 (3) The respondent may be assisted in a hearing under this
23 article by a person or persons of the respondent's choosing,
24 assistive technology, or an interpreter or translator, or a
25 combination of these supports. If assistance would facilitate the
26 respondent's participation in the hearing, but is not otherwise
27 available to the respondent, the court shall make reasonable efforts
28 to provide it.

29 (4) The respondent has a right to choose an attorney to represent
30 the respondent at a hearing under this article.

31 (5) At a hearing under this article, the respondent may:

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

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

35 (c) Otherwise participate in the hearing.

36 (6) A hearing under this article must be closed on request of the
37 respondent and a showing of good cause.

38 (7) Any person may request to participate in a hearing under this
39 article. The court may grant the request, with or without a hearing,
40 on determining that the best interests of the respondent will be

1 served. The court may impose appropriate conditions on the person's
2 participation.

3 **Sec. 15.** RCW 11.130.630 and 2019 c 437 s 511 are each amended to
4 read as follows:

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

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

11 (b) Either:

12 (i) The proceeding is dismissed;

13 (ii) The protective arrangement is no longer in effect; or

14 (iii) An act authorized by the order granting the protective
15 arrangement has been completed.

16 (2) A respondent, an individual subject to a protective
17 arrangement instead of guardianship or conservatorship, an attorney
18 designated by the respondent or individual, a parent of a minor
19 subject to a protective arrangement, and any other person the court
20 determines are entitled to access court records of the proceeding and
21 resulting protective arrangement. A person not otherwise entitled
22 access to court records under this subsection for good cause may
23 petition the court for access. The court shall grant access if access
24 is in the best interest of the respondent or individual subject to
25 the protective arrangement or furthers the public interest and does
26 not endanger the welfare or financial interests of the respondent or
27 individual.

28 (3) A report of a visitor or professional evaluation generated in
29 the course of a proceeding under this article must be sealed on
30 filing but is available to:

31 (a) The court;

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

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

37 (d) Unless the court orders otherwise, an agent appointed under a
38 power of attorney for finances in which the respondent is the
39 principal;

1 (e) If the order is for a protective arrangement instead of
2 guardianship and unless the court orders otherwise, an agent
3 appointed under a power of attorney for health care in which the
4 respondent is identified as the principal; and

5 (f) Any other person if it is in the public interest or for a
6 purpose the court orders for good cause.

7 **Sec. 16.** RCW 11.130.730 and 2020 c 312 s 607 are each amended to
8 read as follows:

9 The following are disqualified from acting as a supporter:

10 (1) A person who is an employer or employee of the adult with a
11 disability, unless the person is ~~((an))~~: (a) An immediate family
12 member of the adult with a disability; or (b) a certified
13 professional guardian and conservator or certified professional
14 guardian and conservator agency;

15 (2) A person directly providing paid support services to the
16 adult with a disability, unless the person is an immediate family
17 member of the adult with a disability; and

18 (3) An individual against whom the person with a disability has
19 obtained an order of protection from abuse, or an individual who is
20 the subject of a civil or criminal order prohibiting contact with the
21 adult with a disability.

22 **Sec. 17.** RCW 11.130.750 and 2020 c 312 s 611 are each amended to
23 read as follows:

24 (1) A person who receives the original or a copy of a supported
25 decision-making agreement shall rely on the agreement.

26 (2) A person is not subject to criminal or civil liability and
27 has not engaged in professional misconduct for an act or omission if
28 the act or omission is done in good faith and in reliance on a
29 supported decision-making agreement.

30 (3) A person who is asked to accept an acknowledged supported
31 decision-making agreement may request, and rely upon without further
32 investigation, a supporter's certification given under penalty of
33 perjury meeting the following requirements:

34 (a) The person presenting themselves as the supporter and signing
35 the affidavit or declaration is the person so named in the supported
36 decision-making agreement;

37 (b) To the best of the supporter's knowledge, the principal is
38 still alive;

1 (c) To the best of the supporter's knowledge, at the time the
2 supported decision-making agreement was signed, the principal was
3 competent to execute the document and was not under undue influence
4 to sign the document;

5 (d) The supporter does not have actual knowledge of the
6 revocation, termination, limitation, or modification of the supported
7 decision-making agreement or of the supporter's authority; and

8 (e) The supporter is acting in good faith pursuant to the
9 authority given under the supported decision-making agreement.

10 (4) Except as otherwise provided in subsection (5) of this
11 section:

12 (a) If a person requests a certification, the person shall accept
13 the supported decision-making agreement no later than five business
14 days after receipt of the certification; and

15 (b) A person may not require an additional or different form of
16 supported decision-making agreement for authority granted in the
17 supported decision-making agreement presented.

18 (5) A person is not required to accept an acknowledged supported
19 decision-making agreement if:

20 (a) The person is not otherwise required to engage in a
21 transaction with the principal in the same circumstances;

22 (b) Engaging in a transaction with the supporter or the principal
23 in the same circumstances would be inconsistent with federal law;

24 (c) The person has actual knowledge of the termination of the
25 supporter's authority or of the supported decision-making agreement
26 before exercise of the power;

27 (d) A request for a certification is refused;

28 (e) The person in good faith believes that the power is not valid
29 or that the supporter does not have the authority to perform the act
30 requested, whether or not a certification has been requested or
31 provided; or

32 (f) The person makes, or has actual knowledge that another person
33 has made, a report to the department of social and health services
34 stating a good faith belief that the principal may be subject to
35 physical or financial abuse, neglect, exploitation, or abandonment by
36 the supporter or a person acting for or with the supporter.

37 (6) A person who refuses in violation of this section to accept
38 an acknowledged supported decision-making agreement is subject to:

39 (a) A court order mandating acceptance of the supported decision-
40 making agreement; and

1 (b) Liability for reasonable attorneys' fees and costs incurred
2 in any action or proceeding that confirms the validity of the
3 supported decision-making agreement or mandates acceptance of the
4 supported decision-making agreement.

--- **END** ---