
SENATE BILL 6488

State of Washington

62nd Legislature

2012 Regular Session

By Senator Harper

Read first time 01/26/12. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to certain reporting and training requirements for
2 guardians; and amending RCW 11.88.127, 11.92.040, and 11.92.043.

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

4 **Sec. 1.** RCW 11.88.127 and 2011 c 329 s 6 are each amended to read
5 as follows:

6 (1) A guardian or limited guardian may not act on behalf of the
7 incapacitated person without valid letters of guardianship. Upon
8 appointment and fulfilling all legal requirements to serve, as set
9 forth in the court's order, the clerk shall issue letters of
10 guardianship to a guardian or limited guardian appointed by the court.
11 All letters of guardianship must be in the following form, or a
12 substantially similar form:

13 IN THE SUPERIOR COURT OF THE
14 STATE OF WASHINGTON IN AND FOR THE
15 COUNTY OF

1 IN THE MATTER OF Guardianship Cause No.
2 THE
3 GUARDIANSHIP OF
4
5 Incapacitated Person LETTERS OF
6 GUARDIANSHIP OR LIMITED
7 GUARDIANSHIP
8
9 Date letters expire

10 THESE LETTERS OF GUARDIANSHIP PROVIDE OFFICIAL VERIFICATION OF THE FOLLOWING:

11
12 On the day of, 20.... the Court appointed to serve as:

- 13
14 Guardian of the Person Full Limited
15 Guardian of the Estate Full Limited

16
17 for, the incapacitated person, in the above referenced matter.

18
19 The Guardian has fulfilled all legal requirements to serve, including, but not limited to: Taking and filing the oath;
20 filing any bond consistent with the court's order; filing any blocked account agreement consistent with the court's order;
21 and appointing a resident agent for a nonresident guardian.

22
23 The Court, having found the Guardian duly qualified, now makes it known is authorized as the Guardian
24 for designated in the Court's order as referenced above.

25
26 The next filing and reporting deadline in this matter is on the ... day of,

27 THESE LETTERS ARE NO LONGER VALID ON

28 These letters can only be renewed by a new court order. If the court grants an extension, new letters will be issued.

29 This matter is before the Honorable of Superior Court, the seal of the Court being affixed
30 this of

31
32 State of Washington)

33) ss.

34 County of)

35

1 I,, Clerk of the Superior Court of said County and State, certify that this document represents true and
2 correct Letters of Guardianship in the above entitled case, entered upon the record on this day of

3
4 These Letters remain in full force and effect until the date of expiration set forth above.

5 The seal of Superior Court has been affixed and witnessed by my hand this day of

6
7
8, Clerk of Superior Court

9
10 By, Deputy

11
12
13 (Signature of Deputy)

14 (2) The court shall order the clerk to issue letters of
15 guardianship that are valid for a period of up to (~~five~~) six years
16 from the anniversary date of the appointment. When determining the
17 time period for which the letters will be valid, the court must
18 consider: The length of time the guardian has been serving the
19 incapacitated person; whether the guardian has timely filed all
20 required reports with the court; whether the guardian is monitored by
21 other state or local agencies; and whether there have been any
22 allegations of abuse, neglect, or a breach of fiduciary duty against
23 the guardian.

24 **Sec. 2.** RCW 11.92.040 and 2011 c 329 s 9 are each amended to read
25 as follows:

26 (1) It (~~shall be~~) is the duty of the guardian or limited guardian
27 of an estate:

28 (~~(1)~~) (a) To file within three months after the guardian's
29 appointment a verified inventory of all the property of the
30 incapacitated person which comes into the guardian's possession or
31 knowledge, including a statement of all encumbrances, liens, and other
32 secured charges on any item;

33 (~~(2)~~) (b) To file annually, within ninety days after the
34 anniversary date of the guardian's or limited guardian's appointment,
35 and also within ninety days after termination of the appointment,
36 unless the court for good cause orders a different deadline to file

1 following termination, a written verified account of the administration
2 for court approval, which account (~~(shall)~~) must contain at least the
3 following information:

4 ~~((a))~~ (i) Identification of property of the guardianship estate
5 as of the date of the last account or, in the case of the initial
6 account, as of the date of inventory;

7 ~~((b))~~ (ii) Identification of all additional property received
8 into the guardianship, including income by source;

9 ~~((c))~~ (iii) Identification of all expenditures made during the
10 account period by major categories;

11 ~~((d))~~ (iv) Any adjustments to the guardianship estate required to
12 establish its present fair market value, including gains or losses on
13 sale or other disposition and any mortgages, deeds of trust or other
14 encumbrances against the guardianship estate; and

15 ~~((e))~~ (v) Identification of all property held in the guardianship
16 estate as of the date of account, the assessed value of any real
17 property and the guardian's estimate of the present fair market values
18 of other property (including the basis on which such estimate is made),
19 and the total net fair market value of the guardianship estate. In
20 addition, immediately following such statement of present fair market
21 value, the account (~~(shall)~~) must set forth a statement of current
22 amount of the guardian's bond and any other court-ordered protection
23 for the security of the guardianship assets(~~(+)~~).

24 ~~((3))~~ (2)(a) The court (~~(in its discretion)~~) may allow
25 ~~((reports))~~ guardians or limited guardians of the estate to report at
26 review hearings at intervals of up to ~~((thirty six months))~~:

27 (i) Three years for estates with assets (exclusive of real
28 property) having a value of not more than twice the homestead
29 exemption; and

30 (ii) Six years for estates with assets having a value of not more
31 than three thousand dollars.

32 (b) Notwithstanding contrary provisions of this section, the
33 guardian or limited guardian of an estate need not file an annual
34 report with the court if the funds of the guardianship are held for the
35 benefit of a minor in a blocked account unless the guardian requests a
36 withdrawal from such account, in which case the guardian shall provide
37 a written verified account of the administration of the guardianship
38 estate along with the guardian's petition for the withdrawal. The

1 guardian or limited guardian shall report any substantial change in
2 income or assets of the guardianship estate within thirty days of the
3 occurrence of the change. A hearing (~~shall~~) must be scheduled for
4 court review and determination of provision for increased bond or other
5 provision in accordance with RCW 11.88.100(~~(+)~~).

6 (~~(+4)~~) (3) All court orders approving accounts or reports filed by
7 a guardian or limited guardian must contain a guardianship summary
8 placed directly below the case caption or on a separate cover page in
9 the following form, or a substantially similar form, containing the
10 following information:

11 **GUARDIANSHIP SUMMARY**

12 Date Guardian Appointed:
13 Due Date for Report and
14 Accounting:
15 Date of Next Review:
16 Letters Expire On:
17 Bond Amount: \$.....
18 Restricted Account:
19 Agreements Required:

20 Incapacitated Person Guardian of: Estate Person

21 (IP)

Name:	Name:
Address:	Address:
Phone:	Phone:
Facsimile:	Facsimile:

Standby Guardian	Address	Relation to IP
Interested Parties	Address	Relation to IP

1
2
3
4
5

6 ~~((+5))~~ (4) It is the duty of the guardian or limited guardian of
7 an estate:

8 (a) To protect and preserve the guardianship estate, to apply it as
9 provided in this chapter, to account for it faithfully, to perform all
10 of the duties required by law, and at the termination of the
11 guardianship or limited guardianship, to deliver the assets of the
12 incapacitated person to the persons entitled thereto. Except as
13 provided to the contrary herein, the court may authorize a guardian or
14 limited guardian to do anything that a trustee can do under the
15 provisions of RCW 11.98.070 for a period not exceeding one year from
16 the date of the order or for a period corresponding to the interval in
17 which the guardian's or limited guardian's report is required to be
18 filed by the court pursuant to subsection ~~((+2))~~ (1)(b) of this
19 section, whichever period is longer;

20 ~~((+6))~~ (b) To invest and reinvest the property of the
21 incapacitated person in accordance with the rules applicable to
22 investment of trust estates by trustees as provided in chapter 11.100
23 RCW, except that:

24 ~~((+a))~~ (i) No investments ~~((shall))~~ may be made without prior
25 order of the court in any property other than unconditional interest
26 bearing obligations of this state or of the United States and in
27 obligations the interest and principal of which are unconditionally
28 guaranteed by the United States, and in share accounts or deposits
29 which are insured by an agency of the United States government. Such
30 prior order of the court may authorize specific investments, or, in the
31 discretion of the court, may authorize the guardian or limited guardian
32 to invest and reinvest as provided in chapter 11.100 RCW without
33 further order of the court;

34 ~~((+b))~~ (ii) If it is for the best interests of the incapacitated
35 person that a specific property be used by the incapacitated person
36 rather than sold and the proceeds invested, the court may so order;

1 ~~((7))~~ (c) To apply to the court no later than the filing of the
2 inventory for an order authorizing disbursements on behalf of the
3 incapacitated person. However, the guardian or limited guardian of the
4 estate, or the person, department, bureau, agency, or charitable
5 organization having the care and custody of an incapacitated person,
6 may apply to the court for an order directing the guardian or limited
7 guardian of the estate to pay to the person, department, bureau,
8 agency, or charitable organization having the care and custody of an
9 incapacitated person, or if the guardian or limited guardian of the
10 estate has the care and custody of the incapacitated person, directing
11 the guardian or limited guardian of the estate to apply an amount
12 weekly, monthly, quarterly, semi-annually, or annually, as the court
13 may direct, to be expended in the care, maintenance, and education of
14 the incapacitated person and of his or her dependents. In proper
15 cases, the court may order payment of amounts directly to the
16 incapacitated person for his or her maintenance or incidental expenses.
17 The amounts authorized under this section may be decreased or increased
18 from time to time by direction of the court. If payments are made to
19 another under an order of the court, the guardian or limited guardian
20 of the estate is not bound to see to the application thereof;

21 ~~((8))~~ (d) To provide evidence of the guardian or limited
22 guardian's successful completion of any standardized training video or
23 web cast for guardians or limited guardians made available by the
24 administrative office of the courts and the superior court when the
25 guardian or limited guardian: ~~((a))~~ (i) Was appointed prior to July
26 22, 2011; ~~((b))~~ (ii) is not a certified professional guardian or
27 financial institution authorized under RCW 11.88.020; and ~~((c))~~ (iii)
28 has not previously completed the requirements of RCW 11.88.020(3). The
29 training video or web cast must be provided at no cost to the guardian
30 or limited guardian. The superior court may, upon (i) petition by the
31 guardian or limited guardian; or (ii) any other method as provided by
32 local court rule: (A) For good cause, waive this requirement for
33 guardians appointed prior to July 22, 2011. Good cause shall require
34 evidence that the guardian already possesses the requisite knowledge to
35 serve as a guardian without completing the training. When determining
36 whether there is good cause to waive the training requirement, the
37 court shall consider, among other facts, the length of time the
38 guardian has been serving the incapacitated person; whether the

1 guardian has timely filed all required reports with the court; whether
2 the guardian is monitored by other state or local agencies; and whether
3 there have been any allegations of abuse, neglect, or a breach of
4 fiduciary duty against the guardian; or (B) extend the time period for
5 completion of the training requirement for ninety days; and

6 ((+9)) (e) To provide evidence of the guardian or limited
7 guardian's successful completion of any additional or updated training
8 video or web cast offered by the administrative office of the courts
9 and the superior court as is required at the discretion of the superior
10 court unless the guardian or limited guardian is a certified
11 professional guardian or financial institution authorized under RCW
12 11.88.020. The training video or web cast must be provided at no cost
13 to the guardian or limited guardian.

14 **Sec. 3.** RCW 11.92.043 and 2011 c 329 s 3 are each amended to read
15 as follows:

16 (1) It (~~(shall be)~~) is the duty of the guardian or limited guardian
17 of the person:

18 ((+1)) (a) To file within three months after appointment a
19 personal care plan for the incapacitated person which (~~(shall)~~) must
20 include ((+a));

21 (i) An assessment of the incapacitated person's physical, mental,
22 and emotional needs and of such person's ability to perform or assist
23 in activities of daily living((+7)); and

24 ((+b)) (ii) The guardian's specific plan for meeting the
25 identified and emerging personal care needs of the incapacitated
26 person.

27 ((+2)) (b) To file annually or, where a guardian of the estate has
28 been appointed, at the time an account is required to be filed under
29 RCW 11.92.040, a report on the status of the incapacitated person,
30 which (~~(shall)~~) must include:

31 ((+a)) (i) The address and name of the incapacitated person and
32 all residential changes during the period;

33 ((+b)) (ii) The services or programs which the incapacitated
34 person receives;

35 ((+c)) (iii) The medical status of the incapacitated person;

36 ((+d)) (iv) The mental status of the incapacitated person;

1 ~~((e))~~ (v) Changes in the functional abilities of the
2 incapacitated person;

3 ~~((f))~~ (vi) Activities of the guardian for the period;

4 ~~((g))~~ (vii) Any recommended changes in the scope of the authority
5 of the guardian;

6 ~~((h))~~ (viii) The identity of any professionals who have assisted
7 the incapacitated person during the period;

8 ~~((i)(i))~~ (ix)(A) Evidence of the guardian or limited guardian's
9 successful completion of any standardized training video or web cast
10 for guardians or limited guardians made available by the administrative
11 office of the courts and the superior court when the guardian or
12 limited guardian: ~~((A))~~ Was appointed prior to July 22, 2011;
13 ~~((B))~~ is not a certified professional guardian or financial
14 institution authorized under RCW 11.88.020; and ~~((C))~~ has not
15 previously completed the requirements of RCW 11.88.020(3). The
16 training video or web cast must be provided at no cost to the guardian
17 or limited guardian.

18 ~~((ii))~~ (B) The superior court may, upon ~~((A))~~ petition by the
19 guardian or limited guardian; or ~~((B))~~ any other method as provided
20 by local court rule:

21 (I) For good cause, waive this requirement for guardians appointed
22 prior to July 22, 2011. Good cause shall require evidence that the
23 guardian already possesses the requisite knowledge to serve as a
24 guardian without completing the training. When determining whether
25 there is good cause to waive the training requirement, the court shall
26 consider, among other facts, the length of time the guardian has been
27 serving the incapacitated person; whether the guardian has timely filed
28 all required reports with the court; whether the guardian is monitored
29 by other state or local agencies; and whether there have been any
30 allegations of abuse, neglect, or a breach of fiduciary duty against
31 the guardian; or

32 (II) Extend the time period for completion of the training
33 requirement for ninety days; and

34 ~~((j))~~ (x) Evidence of the guardian or limited guardian's
35 successful completion of any additional or updated training video or
36 web cast offered by the administrative office of the courts and the
37 superior court as is required at the discretion of the superior court
38 unless the guardian or limited guardian is a certified professional

1 guardian or financial institution authorized under RCW 11.88.020. The
2 training video or web cast must be provided at no cost to the guardian
3 or limited guardian.

4 (2) The court may allow guardians or limited guardians of the
5 person with corresponding estates having a value of not more than three
6 thousand dollars or guardians or limited guardians of the person where
7 there is no guardianship of the estate to report at review hearings at
8 intervals of up to six years if:

9 (a) The guardian or limited guardian files a declaration in lieu of
10 a report not more frequently than every three years stating there is no
11 substantial change of circumstances since the court's most recent
12 review hearing; and

13 (b) Attaches documentation of the court's most recent review
14 hearing to the declaration.

15 (3) To report to the court within thirty days any substantial
16 change in the incapacitated person's condition, or any changes in
17 residence of the incapacitated person.

18 (4) Consistent with the powers granted by the court, to care for
19 and maintain the incapacitated person in the setting least restrictive
20 to the incapacitated person's freedom and appropriate to the
21 incapacitated person's personal care needs, assert the incapacitated
22 person's rights and best interests, and if the incapacitated person is
23 a minor or where otherwise appropriate, to see that the incapacitated
24 person receives appropriate training and education and that the
25 incapacitated person has the opportunity to learn a trade, occupation,
26 or profession.

27 (5) Consistent with RCW 7.70.065, to provide timely, informed
28 consent for health care of the incapacitated person, except in the case
29 of a limited guardian where such power is not expressly provided for in
30 the order of appointment or subsequent modifying order as provided in
31 RCW 11.88.125 as now or hereafter amended, the standby guardian or
32 standby limited guardian may provide timely, informed consent to
33 necessary medical procedures if the guardian or limited guardian cannot
34 be located within four hours after the need for such consent arises.
35 No guardian, limited guardian, or standby guardian may involuntarily
36 commit for mental health treatment, observation, or evaluation an
37 alleged incapacitated person who is unable or unwilling to give
38 informed consent to such commitment unless the procedures for

1 involuntary commitment set forth in chapter 71.05 or 72.23 RCW are
2 followed. Nothing in this section (~~shall~~) may be construed to allow
3 a guardian, limited guardian, or standby guardian to consent to:

- 4 (a) Therapy or other procedure which induces convulsion;
- 5 (b) Surgery solely for the purpose of psychosurgery;
- 6 (c) Other psychiatric or mental health procedures that restrict
7 physical freedom of movement, or the rights set forth in RCW 71.05.217.

8 A guardian, limited guardian, or standby guardian who believes
9 these procedures are necessary for the proper care and maintenance of
10 the incapacitated person shall petition the court for an order unless
11 the court has previously approved the procedure within the past thirty
12 days. The court may order the procedure only after an attorney is
13 appointed in accordance with RCW 11.88.045 if no attorney has
14 previously appeared, notice is given, and a hearing is held in
15 accordance with RCW 11.88.040.

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