

1 1510-S.E AAS 4/12/91

2 **ESHB 1510** - S COMM AMD

3 By Committee on Children & Family Services

4 Adopted 4/12/91 - Voice Vote

5 On page 4, line 6, after "shall" strike "not"

6 On page 4, line 7, after "shall" strike "not"

7 On page 4, line 8, after "person is" strike "not"

8 On page 4, after line 13, insert the following:

9 "Sec. 2. RCW 11.88.030 and 1990 c 122 s 4 are each amended to read  
10 as follows:

11 (1) Any person or entity may petition for the appointment of a  
12 qualified person, trust company, national bank, or nonprofit  
13 corporation authorized in RCW 11.88.020 as now or hereafter amended as  
14 the guardian or limited guardian of an incapacitated person. No  
15 liability for filing a petition for guardianship or limited  
16 guardianship shall attach to a petitioner acting in good faith and upon  
17 reasonable basis. A petition for guardianship or limited guardianship  
18 shall state:

19 (a) The name, age, residence, and post office address of the  
20 alleged incapacitated person;

21 (b) The nature of the alleged incapacity in accordance with RCW  
22 11.88.010;

23 (c) The approximate value and description of property, including  
24 any compensation, pension, insurance, or allowance, to which the  
25 alleged incapacitated person may be entitled;

1 (d) Whether there is, in any state, a guardian or limited guardian,  
2 or pending guardianship action for the person or estate of the alleged  
3 incapacitated person;

4 (e) The residence and post office address of the person whom  
5 petitioner asks to be appointed guardian or limited guardian;

6 (f) The names and addresses, and nature of the relationship, so far  
7 as known or can be reasonably ascertained, of the persons most closely  
8 related by blood or marriage to the alleged incapacitated person;

9 (g) The name and address of the person or facility having the care  
10 and custody of the alleged incapacitated person;

11 (h) The reason why the appointment of a guardian or limited  
12 guardian is sought and the interest of the petitioner in the  
13 appointment, and whether the appointment is sought as guardian or  
14 limited guardian of the person, the estate, or both, and why no  
15 alternative to guardianship is appropriate;

16 (i) The nature and degree of the alleged incapacity and the  
17 specific areas of protection and assistance requested and the  
18 limitation of rights requested to be included in the court's order of  
19 appointment;

20 (j) The requested term of the limited guardianship to be included  
21 in the court's order of appointment;

22 (k) Whether the petitioner is proposing a specific individual to  
23 act as guardian ad litem and, if so, the individual's knowledge of or  
24 relationship to any of the parties, and why the individual is proposed.

25 (2)(a) The attorney general may petition for the appointment of a  
26 guardian or limited guardian in any case in which there is cause to  
27 believe that a guardianship is necessary and no private party is able  
28 and willing to petition.

29 (b) Prepayment of a filing fee shall not be required in any  
30 guardianship or limited guardianship brought by the attorney general.

1 Payment of the filing fee shall be ordered from the estate of the  
2 incapacitated person at the hearing on the merits of the petition,  
3 unless in the judgment of the court, such payment would impose a  
4 hardship upon the incapacitated person, in which case the filing shall  
5 be waived.

6 (3) No filing fee shall be charged by the court for filing either  
7 a petition for guardianship or a petition for limited guardianship if  
8 the petition alleges that the alleged incapacitated person has total  
9 assets of a value of less than three thousand dollars.

10 (4)(a) Notice that a guardianship proceeding has been commenced  
11 shall be personally served upon the alleged incapacitated person and  
12 the guardian ad litem along with a copy of the petition for appointment  
13 of a guardian. Such notice shall be served not more than (~~fifteen~~)  
14 five days after the petition has been filed.

15 (b) Notice under this subsection shall include a clear and easily  
16 readable statement of the legal rights of the alleged incapacitated  
17 person that could be restricted or transferred to a guardian by a  
18 guardianship order as well as the right to counsel of choice and to a  
19 jury trial on the issue of incapacity. Such notice shall be in  
20 substantially the following form and shall be in capital letters,  
21 double-spaced, and in a type size not smaller than ten-point type:

22 IMPORTANT NOTICE

23 PLEASE READ CAREFULLY

24 A PETITION TO HAVE A GUARDIAN APPOINTED FOR YOU HAS BEEN FILED IN THE  
25 ... COUNTY SUPERIOR COURT BY ..... . IF A GUARDIAN IS APPOINTED,  
26 YOU COULD LOSE ONE OR MORE OF THE FOLLOWING RIGHTS:

27 (1) TO MARRY OR DIVORCE;

28 (2) TO VOTE OR HOLD AN ELECTED OFFICE;

- 1 (3) TO ENTER INTO A CONTRACT OR MAKE OR REVOKE A WILL;
- 2 (4) TO APPOINT SOMEONE TO ACT ON YOUR BEHALF;
- 3 (5) TO SUE AND BE SUED OTHER THAN THROUGH A GUARDIAN;
- 4 (6) TO POSSESS A LICENSE TO DRIVE;
- 5 (7) TO BUY, SELL, OWN, MORTGAGE, OR LEASE PROPERTY;
- 6 (8) TO CONSENT TO OR REFUSE MEDICAL TREATMENT;
- 7 (9) TO DECIDE WHO SHALL PROVIDE CARE AND ASSISTANCE;
- 8 (10) TO MAKE DECISIONS REGARDING SOCIAL ASPECTS OF YOUR LIFE.

9 UNDER THE LAW, YOU HAVE CERTAIN RIGHTS.

10 YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER OF YOUR OWN CHOOSING.  
11 THE COURT WILL APPOINT A LAWYER TO REPRESENT YOU IF YOU ARE UNABLE TO  
12 PAY OR PAYMENT WOULD RESULT IN A SUBSTANTIAL HARDSHIP TO YOU.

13 YOU HAVE THE RIGHT TO ASK FOR A JURY TO DECIDE WHETHER OR NOT YOU NEED  
14 A GUARDIAN TO HELP YOU.

15 YOU HAVE THE RIGHT TO BE PRESENT IN COURT WHEN THE HEARING IS HELD TO  
16 DECIDE WHETHER OR NOT YOU NEED A GUARDIAN.

17 (5) All petitions filed under the provisions of this section shall  
18 be heard within (~~forty-five~~) sixty days unless an extension of time  
19 is requested by a party within such (~~forty-five~~) sixty day period and  
20 granted for good cause shown. If an extension is granted, the court  
21 shall set a new hearing date."

22 "Sec. 3. RCW 11.88.040 and 1990 c 122 s 5 are each amended to read  
23 as follows:

1 Before appointing a guardian or a limited guardian, notice of a  
2 hearing, to be held not less than ten days after service thereof, shall  
3 be ~~((given))~~ served personally to the alleged incapacitated person, if  
4 over fourteen years of age, and served upon the guardian ad litem.

5 Before appointing a guardian or a limited guardian, notice of a  
6 hearing, to be held not less than ten days after service thereof, shall  
7 be given by registered or certified mail requesting a return receipt  
8 signed by the addressee or an agent appointed by the addressee, or by  
9 personal service in the manner provided for services of summons, to the  
10 following:

11 (1) The alleged incapacitated person, or minor, if under fourteen  
12 years of age;

13 (2) A parent, if the alleged incapacitated person is a minor, all  
14 known children not residing with a notified person, and the spouse of  
15 the alleged incapacitated person if any;

16 (3) Any other person who has been appointed as guardian or limited  
17 guardian, or the person with whom the alleged incapacitated person  
18 resides. No notice need be given to those persons named in subsections  
19 (2) and (3) of this section if they have signed the petition for the  
20 appointment of the guardian or limited guardian or have waived notice  
21 of the hearing.

22 (4) If the petition is by a parent asking for appointment as  
23 guardian or limited guardian of a minor child under the age of fourteen  
24 years, or if the petition is accompanied by the written consent of a  
25 minor of the age of fourteen years or upward, who consents to the  
26 appointment of the guardian or limited guardian asked for, or if the  
27 petition is by a nonresident guardian of any minor or incapacitated  
28 person, then the court may appoint the guardian without notice of the  
29 hearing. The court for good cause may reduce the number of days of  
30 notice, but in every case, at least three days notice shall be given.

1       The alleged incapacitated person shall be present in court at the  
2 final hearing on the petition: PROVIDED, That this requirement may be  
3 waived at the discretion of the court for good cause other than mere  
4 inconvenience shown in the report to be provided by the guardian ad  
5 litem pursuant to RCW 11.88.090 as now or hereafter amended, or if no  
6 guardian ad litem is required to be appointed pursuant to RCW  
7 11.88.090, as now or hereafter amended, at the discretion of the court  
8 for good cause shown by a party. Alternatively, the court may remove  
9 itself to the place of residence of the alleged incapacitated person  
10 and conduct the final hearing in the presence of the alleged  
11 incapacitated person. Final hearings on the petition may be held in  
12 closed court without admittance of any person other than those  
13 necessary to the action or proceeding.

14       If presence of the alleged incapacitated person is waived and the  
15 court does not remove itself to the place of residence of such person,  
16 the guardian ad litem shall appear in person at the final hearing on  
17 the petition."

18       Renumber the remaining sections consecutively and correct any  
19 internal references accordingly.

20 **ESHB 1510** - S COMM AMD  
21 By Committee on Children & Family Services

22  
23       On page 11, line 15, after "Within" strike "twenty" and insert  
24 "~~((twenty))~~ forty-five"

25       On page 11, line 15, after "days after" strike "appointment of" and  
26 insert "~~((appointment of))~~ notice of commencement of the guardianship  
27 proceeding has been served upon"

1 **ESHB 1510** - S COMM AMD

2 By Committee on Children & Family Services

3 Adopted 4/12/91 - Voice Vote

4 On page 1, line 1 of the title, after "11.88.010," insert

5 "11.88.030, 11.88.040,"