

**2SSB 5604 - H AMD 791**

By Representative Jenkins

**ADOPTED 04/25/2019**

1 Strike everything after the enacting clause and insert the  
2 following:

3 **"ARTICLE 1**  
4 **GENERAL PROVISIONS**

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

8 NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this  
9 section apply throughout this chapter unless the context clearly  
10 requires otherwise.

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

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

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

17 (4) "Claim" includes a claim against an individual or  
18 conservatorship estate, whether arising in contract, tort, or  
19 otherwise.

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

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

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

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

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

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

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

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

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

13 (14) "Less restrictive alternative" means an approach to meeting  
14 an individual's needs which restricts fewer rights of the individual  
15 than would the appointment of a guardian or conservator. The term  
16 includes supported decision making, appropriate technological  
17 assistance, appointment of a representative payee, and appointment of  
18 an agent by the individual, including appointment under a power of  
19 attorney for health care or power of attorney for finances.

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

22 (16) "Limited conservatorship" means a conservatorship that  
23 grants the conservator less than all powers available under this  
24 chapter, grants powers over only certain property, or otherwise  
25 restricts the powers of the conservator.

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

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

31 (19) "Minor" means an unemancipated individual under eighteen  
32 years of age.

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

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

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

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

4 (24) "Professional guardian or conservator" means a guardian or  
5 conservator appointed under this chapter who is not a relative of the  
6 person subject to guardianship or conservatorship established under  
7 this chapter and who charges fees for carrying out the duties of  
8 court-appointed guardian or conservator for three or more persons.

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

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

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

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

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

19 (30) "Relative" means any person related by blood or by law to  
20 the person subject to guardianship, conservatorship, or other  
21 protective arrangements.

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

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

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

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

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

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

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

38 (36) "Supported decision making" means assistance from one or  
39 more persons of an individual's choosing in understanding the nature  
40 and consequences of potential personal and financial decisions, which

1 enables the individual to make the decisions, and in communicating a  
2 decision once made if consistent with the individual's wishes.

3 (37) "Verified receipt" is a verified receipt signed by the  
4 custodian of funds stating that a savings and loan association or  
5 bank, trust company, escrow corporation, or other corporations  
6 approved by the court hold the cash or securities of the individual  
7 subject to conservatorship subject to withdrawal only by order of the  
8 court.

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

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

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

21 (2) The superior court of each county has jurisdiction over a  
22 guardianship, conservatorship, or protective arrangement under  
23 article 5 of this chapter for an adult as provided in the uniform  
24 adult guardianship and protective proceedings jurisdiction act  
25 (chapter 11.90 RCW).

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

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

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

36 (c) Nonexclusive jurisdiction to determine the validity of a  
37 claim against the respondent or property of the respondent or a  
38 question of title concerning the property; and

1 (d) If a guardian or conservator is appointed, exclusive  
2 jurisdiction over issues related to administration of the  
3 guardianship or conservatorship.

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

9 NEW SECTION. **Sec. 105.** TRANSFER OF PROCEEDING. (1) This section  
10 does not apply to a guardianship or conservatorship for an adult that  
11 is subject to the transfer provisions of the uniform adult  
12 guardianship and protective proceedings jurisdiction act (chapter  
13 11.90 RCW).

14 (2) After appointment of a guardian or conservator, the court  
15 that made the appointment may transfer the proceeding to a court in  
16 another county in this state or another state if transfer is in the  
17 best interest of the individual subject to the guardianship or  
18 conservatorship.

19 (3) If a proceeding for a guardianship or conservatorship is  
20 pending in another state or a foreign country and a petition for  
21 guardianship or conservatorship for the same individual is filed in a  
22 court in this state, the court shall notify the court in the other  
23 state or foreign country and, after consultation with that court,  
24 assume or decline jurisdiction, whichever is in the best interest of  
25 the respondent.

26 (4) A guardian or conservator appointed in another state or  
27 country may petition the court for appointment as a guardian or  
28 conservator in this state for the same individual if jurisdiction in  
29 this state is or will be established. The appointment may be made on  
30 proof of appointment in the other state or foreign country and  
31 presentation of a certified copy of the part of the court record in  
32 the other state or country specified by the court in this state.

33 (5) Notice of hearing on a petition under subsection (4) of this  
34 section, together with a copy of the petition, must be given to the  
35 respondent, if the respondent is at least twelve years of age at the  
36 time of the hearing, and to the persons that would be entitled to  
37 notice if the procedures for appointment of a guardian or conservator  
38 under this chapter were applicable. The court shall make the

1 appointment unless it determines the appointment would not be in the  
2 best interest of the respondent.

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

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

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

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

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

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

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

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

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

24 (a) The county in which the respondent resides, whether or not a  
25 guardian has been appointed in another county or other jurisdiction;  
26 or

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

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

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

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

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

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

11 (2) The court shall issue letters of conservatorship to a  
12 conservator on filing by the conservator of an acceptance of  
13 appointment and filing of any required bond or compliance with any  
14 other verified receipt required by the court.

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

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

21 (5) A guardian or conservator may not act on behalf of a person  
22 under guardianship or conservatorship without valid letters of  
23 office.

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

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

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

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

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

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

6 (a) The event occurs; and

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

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

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

16 (2) A person entitled under section 202 or 302 of this act to  
17 petition the court to appoint a guardian may petition the court to  
18 appoint a successor guardian. A person entitled under section 402 of  
19 this act to petition the court to appoint a conservator may petition  
20 the court to appoint a successor conservator.

21 (3) A successor guardian or successor conservator appointed to  
22 serve when a designated event occurs may act as guardian or  
23 conservator when:

24 (a) The event occurs; and

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

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

28 NEW SECTION. **Sec. 112.** EFFECT OF DEATH, REMOVAL, OR RESIGNATION  
29 OF GUARDIAN OR CONSERVATOR. (1) Appointment of a guardian or  
30 conservator terminates on the death or removal of the guardian or  
31 conservator, or when the court under subsection (2) of this section  
32 approves a resignation of the guardian or conservator.

33 (2) A guardian or conservator must petition the court to resign.  
34 The petition may include a request that the court appoint a  
35 successor. Resignation of a guardian or conservator is effective on  
36 the date the resignation is approved by the court.



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

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

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

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

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

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

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

24 (2) A respondent, individual subject to guardianship, individual  
25 subject to conservatorship, or individual subject to a protective  
26 arrangement under article 5 of this chapter may not waive notice  
27 under this chapter.

28 NEW SECTION. **Sec. 115.** GUARDIAN AD LITEM. The court at any time  
29 may appoint a guardian ad litem for an individual if the court  
30 determines the individual's interest otherwise would not be  
31 adequately represented. If no conflict of interest exists, a guardian  
32 ad litem may be appointed to represent multiple individuals or  
33 interests. The guardian ad litem may not be the same individual as  
34 the attorney representing the respondent. The court shall state the  
35 duties of the guardian ad litem and the reasons for the appointment.

1        NEW SECTION.    **Sec. 116.**    REQUEST FOR NOTICE. (1) A person may  
2 file with the court a request for notice under this chapter if the  
3 person is:

4        (a) Not otherwise entitled to notice; and

5        (b) Interested in the welfare of a respondent, individual subject  
6 to guardianship or conservatorship, or individual subject to a  
7 protective arrangement under article 5 of this chapter.

8        (2) A request under subsection (1) of this section must include a  
9 statement showing the interest of the person making the request and  
10 the address of the person or an attorney for the person to whom  
11 notice is to be given.

12        (3) If the court approves a request under subsection (1) of this  
13 section, the court shall give notice of the approval to the guardian  
14 or conservator, if one has been appointed, or the respondent if no  
15 guardian or conservator has been appointed.

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

19        (a) Is or has been a debtor in a bankruptcy, insolvency, or  
20 receivership proceeding;

21        (b) Has been convicted of:

22        (i) A felony;

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

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

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

31        (2) A guardian or conservator that engages or anticipates  
32 engaging an agent the guardian or conservator knows has been  
33 convicted of a felony, a crime involving dishonesty, neglect,  
34 violence, or use of physical force, or other crimes relevant to the  
35 functions the agent is being engaged to perform promptly shall  
36 disclose that knowledge to the court.

37        (3) If a conservator engages or anticipates engaging an agent to  
38 manage finances of the individual subject to conservatorship and  
39 knows the agent is or has been a debtor in a bankruptcy, insolvency,

1 or receivership proceeding, the conservator promptly shall disclose  
2 that knowledge to the court.

3 (4) If a guardian or conservator that engages or anticipates  
4 engaging an agent and knows the agent has any court finding of a  
5 breach of fiduciary duty or a violation of any state's consumer  
6 protection act, or violation of any other statute proscribing unfair  
7 or deceptive acts or practices in the conduct of any business, the  
8 guardian or conservator promptly shall disclose that knowledge to the  
9 court.

10 NEW SECTION. **Sec. 118.** QUALIFICATIONS. (1) Any suitable person  
11 over the age of twenty-one years, or any parent under the age of  
12 twenty-one years or, if the petition is for appointment of a  
13 professional guardian or conservator, any individual or guardianship  
14 or conservatorship service that meets any certification requirements  
15 established by the administrator for the courts, may, if not  
16 otherwise disqualified, be appointed guardian or conservator of a  
17 person subject to guardianship, conservatorship, or both. A financial  
18 institution subject to the jurisdiction of the department of  
19 financial institutions and authorized to exercise trust powers, and a  
20 federally chartered financial institution when authorized to do so,  
21 may be appointed to act as a guardian or conservator of a person  
22 subject to guardianship, conservatorship, or both without having to  
23 meet the certification requirements established by the administrator  
24 for the courts. No person is qualified to serve as a guardian or  
25 conservator who is:

26 (a) Under eighteen years of age except as otherwise provided  
27 herein;

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

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

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

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

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

4 (2) If a guardian, or conservator is not a certified professional  
5 guardian, conservator, or financial institution authorized under this  
6 section, the guardian or conservator must complete any standardized  
7 training video or web cast for lay guardians or conservators made  
8 available by the administrative office of the courts and the superior  
9 court where the petition is filed unless granted a waiver by the  
10 court. The training video or web cast must be provided at no cost to  
11 the guardian, or conservator.

12 (a) If a petitioner requests the appointment of a specific  
13 individual to act as a guardian or conservator, the petition for  
14 guardianship or conservatorship must include evidence of the  
15 successful completion of the required training video or web cast by  
16 the proposed guardian or conservator. The superior court may defer  
17 the completion of the training requirement to a date no later than  
18 ninety days after appointment if the petitioner requests expedited  
19 appointment due to emergent circumstances.

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

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

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

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

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

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

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

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

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

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

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

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

28 (1) Subject to court approval, a guardian is entitled to reasonable  
29 compensation for services as guardian and to reimbursement for room,  
30 board, clothing, and other appropriate expenses advanced for the  
31 benefit of the individual subject to guardianship. If a conservator,  
32 other than the guardian or a person affiliated with the guardian, is  
33 appointed for the individual, reasonable compensation and  
34 reimbursement to the guardian may be approved and paid by the  
35 conservator without court approval.

36 (2) Subject to court approval, a conservator is entitled to  
37 reasonable compensation for services and reimbursement for  
38 appropriate expenses from the property of the individual subject to  
39 conservatorship.

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

8 (a) The necessity and quality of the services provided;

9 (b) The experience, training, professional standing, and skills  
10 of the guardian or conservator;

11 (c) The difficulty of the services performed, including the  
12 degree of skill and care required;

13 (d) The conditions and circumstances under which a service was  
14 performed, including whether the service was provided outside regular  
15 business hours or under dangerous or extraordinary conditions;

16 (e) The effect of the services on the individual subject to  
17 guardianship or conservatorship;

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

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

23 (4) A guardian or conservator need not use personal funds of the  
24 guardian or conservator for the expenses of the individual subject to  
25 guardianship or conservatorship.

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

33 (6) Where the person subject to guardianship or conservatorship  
34 receives guardianship, conservatorship, or other protective services  
35 from the office of public guardianship, the amount of compensation or  
36 reimbursement shall not exceed the amount allowed by the office of  
37 public guardianship.

38 (7) If an individual subject to guardianship or conservatorship  
39 seeks to modify or terminate the guardianship or conservatorship or  
40 remove the guardian or conservator, the court may order compensation

1 to the guardian or conservator for time spent opposing modification,  
2 termination, or removal only to the extent the court determines the  
3 opposition was reasonably necessary to protect the interests of the  
4 individual subject to guardianship or conservatorship.

5 NEW SECTION. **Sec. 122.** LIABILITY OF GUARDIAN OR CONSERVATOR FOR  
6 ACT OF INDIVIDUAL SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP. A  
7 guardian or conservator is not personally liable to another person  
8 solely because of the guardianship or conservatorship for an act or  
9 omission of the individual subject to guardianship or  
10 conservatorship.

11 NEW SECTION. **Sec. 123.** PETITION AFTER APPOINTMENT FOR  
12 INSTRUCTION OR RATIFICATION. (1) A guardian or conservator may  
13 petition the court for instruction concerning fiduciary  
14 responsibility or ratification of a particular act related to the  
15 guardianship or conservatorship.

16 (2) On reasonable notice and hearing on a petition under  
17 subsection (1) of this section, the court may give an instruction and  
18 issue an appropriate order.

19 (3) The petitioner must provide reasonable notice of the petition  
20 and hearing to the individual subject to a guardianship or  
21 conservatorship.

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

26 (a) The person has actual knowledge or a reasonable belief that  
27 the letters of office of the guardian or conservator are invalid or  
28 the conservator or guardian is exceeding or improperly exercising  
29 authority granted by the court; or

30 (b) The person has actual knowledge that the individual subject  
31 to guardianship or conservatorship is subject to physical or  
32 financial abuse, neglect, exploitation, or abandonment by the  
33 guardian or conservator or a person acting for or with the guardian  
34 or conservator.

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

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

3 (b) The person makes, or has actual knowledge that another person  
4 has made, a report to the department of children, youth, and families  
5 or the department of social and health services stating a good-faith  
6 belief that the individual subject to guardianship or conservatorship  
7 is subject to physical or financial abuse, neglect, exploitation, or  
8 abandonment by the guardian or conservator or a person acting for or  
9 with the guardian or conservator.

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

15 (4) A guardian or conservator may petition the court to require a  
16 third party to accept a decision made by the guardian or conservator  
17 on behalf of the individual subject to guardianship or  
18 conservatorship.

19 (5) If the court determines that a third party has failed to  
20 recognize the legitimate authority of a guardian or requires a third  
21 party to accept a decision made by the guardian on behalf of the  
22 individual subject to guardianship, the court may order that third  
23 party to compensate the guardian for the time spent only to the  
24 extent the court determines the opposition was reasonably necessary  
25 to protect the interests of the individual subject to guardianship.

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

27 (1) Except as otherwise provided in subsection (3) of this section, a  
28 guardian or conservator may delegate a power to an agent which a  
29 prudent guardian or conservator of comparable skills could delegate  
30 prudently under the circumstances if the delegation is consistent  
31 with the guardian's or conservator's fiduciary duties and the  
32 guardian's plan under section 317 of this act or the conservator's  
33 plan under section 419 of this act.

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

37 (a) Selecting the agent;



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

4 (c) Monitoring the agent's performance and compliance with the  
5 delegation;

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

9 (e) Ensuring a background check is conducted on the agent, or  
10 conducted on persons employed by the agent when those persons are  
11 providing services to the individual subject to a guardianship or  
12 conservatorship.

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

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

17 (a) Exercise reasonable care to comply with the terms of the  
18 delegation and use reasonable care in the performance of the power;  
19 and

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

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

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

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

35 (a) A proceeding to remove a guardian for the individual is  
36 pending; or

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

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

4 (a) A proceeding to remove a conservator for the individual is  
5 pending; or

6 (b) The court finds that a conservator for the individual is not  
7 effectively performing the conservator's duties and the welfare of  
8 the individual or the conservatorship estate requires immediate  
9 action.

10 (3) The court shall hold a hearing to appoint a temporary  
11 substitute guardian pursuant to subsection (1)(a) or (b) of this  
12 section, or to appoint a temporary substitute conservator pursuant to  
13 subsection (2)(a) or (b) of this section. The court shall give notice  
14 under section 113 of this act to the adult subject to guardianship or  
15 conservatorship and to any other person the court determines should  
16 receive notice. The adult subject to guardianship or conservatorship  
17 shall have the right to attend the hearing and to be represented by  
18 counsel of the adult subject to guardianship or conservatorship's  
19 choosing.

20 (4) Except as otherwise ordered by the court, a temporary  
21 substitute guardian or temporary substitute conservator appointed  
22 under this section has the powers stated in the order of appointment  
23 of the guardian or conservator. The authority of the existing  
24 guardian or conservator is suspended for as long as the temporary  
25 substitute guardian or conservator has authority.

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

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

30 (b) The affected guardian or conservator; and

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

33 (6) The court may remove a temporary substitute guardian or  
34 temporary substitute conservator at any time. The temporary  
35 substitute guardian or temporary substitute conservator shall make  
36 any report the court requires.

37 NEW SECTION. **Sec. 127.** REGISTRATION OF ORDER—EFFECT. (1) If a  
38 guardian has been appointed in another state for an individual, and a  
39 petition for guardianship for the individual is not pending in this

1 state, the guardian appointed in the other state, after giving notice  
2 to the appointing court, may register the guardianship order in this  
3 state by filing as a foreign judgment, in a court of an appropriate  
4 county of this state, certified copies of the order and letters of  
5 office.

6 (2) If a conservator has been appointed in another state for an  
7 individual, and a petition for conservatorship for the individual is  
8 not pending in this state, the conservator appointed for the  
9 individual in the other state, after giving notice to the appointing  
10 court, may register the conservatorship in this state by filing as a  
11 foreign judgment, in a court of a county in which property belonging  
12 to the individual subject to conservatorship is located, certified  
13 copies of the order of conservatorship, letters of office, and any  
14 bond or other verified receipt required by the court.

15 (3) On registration under this section of a guardianship or  
16 conservatorship order from another state, the guardian or conservator  
17 may exercise in this state all powers authorized in the order except  
18 as prohibited by this chapter and law of this state other than this  
19 chapter. If the guardian or conservator is not a resident of this  
20 state, the guardian or conservator may maintain an action or  
21 proceeding in this state subject to any condition imposed by this  
22 state on an action or proceeding by a nonresident party.

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

26 NEW SECTION. **Sec. 128.** GRIEVANCE AGAINST GUARDIAN OR  
27 CONSERVATOR. (1) An individual who is subject to guardianship or  
28 conservatorship, or person interested in the welfare of an individual  
29 subject to guardianship or conservatorship, that reasonably believes  
30 the guardian or conservator is breaching the guardian's or  
31 conservator's fiduciary duty or otherwise acting in a manner  
32 inconsistent with this chapter may file a grievance in a record with  
33 the court.

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

36 (a) Shall promptly review the grievance against a guardian and  
37 shall act to protect the autonomy, values, preferences, and  
38 independence of the individual subject to guardianship or  
39 conservatorship;

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

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

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

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

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

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

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

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

17 (ii) Appointing a guardian ad litem;

18 (iii) Appointing an attorney for the individual subject to  
19 guardianship or conservatorship; or

20 (iv) Holding a hearing.

21 (3) The court may decline to act under subsection (2) of this  
22 section if a similar grievance was filed within the six months  
23 preceding the filing of the current grievance and the court followed  
24 the procedures of subsection (2) of this section in considering the  
25 earlier grievance; and may levy necessary sanctions, including but  
26 not limited to the imposition of reasonable attorney fees, costs,  
27 striking pleadings, or other appropriate relief, if after  
28 consideration the court finds that the grievance is made for reason  
29 to harass, delay, with malice, or other bad faith.

30 (4) In any court action under this section where the court finds  
31 the professional guardian or conservator breached a fiduciary duty,  
32 the court must direct the clerk of the court to send a copy of the  
33 order entered under this section to the certified professional  
34 guardianship board.

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

38 NEW SECTION. **Sec. 129.** DELEGATION BY PARENT. Except as  
39 otherwise provided in RCW 11.125.410, a parent of a minor, by a power

1 of attorney, may delegate to another person for a period not  
2 exceeding twenty-four months any of the parent's powers regarding  
3 care, custody, or property of the minor, other than power to consent  
4 to marriage or adoption.

5 NEW SECTION. **Sec. 130.** EX PARTE COMMUNICATIONS—REMOVAL. A  
6 guardian ad litem or visitor shall not engage in ex parte  
7 communications with any judicial officer involved in the matter for  
8 which he or she is appointed during the pendency of the proceeding,  
9 except as permitted by court rule or statute for ex parte motions. Ex  
10 parte motions shall be heard in open court on the record. The record  
11 may be preserved in a manner deemed appropriate by the county where  
12 the matter is heard. The court, upon its own motion, or upon the  
13 motion of a party, may consider the removal of any guardian ad litem  
14 or visitor who violates this section from any pending case or from  
15 any court-authorized registry, and if so removed may require  
16 forfeiture of any fees for professional services on the pending case.

17 NEW SECTION. **Sec. 131.** REGISTRY FOR GUARDIANS AD LITEM AND  
18 VISITORS. (1) The superior court of each county shall develop and  
19 maintain a registry of persons who are willing and qualified to serve  
20 as guardians ad litem and visitors in guardianship and  
21 conservatorship matters. The court shall choose as guardian ad litem  
22 or visitor a person whose name appears on the registry in a system of  
23 consistent rotation, except in extraordinary circumstances such as  
24 the need for particular expertise. The court shall develop procedures  
25 for periodic review of the persons on the registry and for probation,  
26 suspension, or removal of persons on the registry for failure to  
27 perform properly their duties as guardian ad litem or visitor. In the  
28 event the court does not select the person next on the list, it shall  
29 include in the order of appointment a written reason for its  
30 decision.

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

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

35 (i) Level of formal education;

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

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

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

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

6 (vi) Evidence of the person's knowledge, training, and experience  
7 in each of the following: Needs of impaired elderly people, physical  
8 disabilities, mental illness, developmental disabilities, and other  
9 areas relevant to the needs of persons subject to guardianship or  
10 conservatorship, legal procedure, and the requirements of this  
11 chapter.

12 The written statement of qualifications shall include the names  
13 of any counties in which the person was removed from a guardian ad  
14 litem or visitor registry pursuant to a grievance action, and the  
15 name of the court and the cause number of any case in which the court  
16 has removed the person for cause; and

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

20 (3) The superior court shall remove any person from the guardian  
21 ad litem or visitor registry who misrepresents his or her  
22 qualifications pursuant to a grievance procedure established by the  
23 court.

24 (4) The background and qualification information shall be updated  
25 annually.

26 (5) The department of social and health services shall convene an  
27 advisory group to develop a model lay guardian, guardian ad litem,  
28 and visitor training program and shall update the program biennially.  
29 The advisory group shall consist of representatives from consumer,  
30 advocacy, and professional groups knowledgeable in developmental  
31 disabilities, neurological impairment, physical disabilities, mental  
32 illness, domestic violence, aging, legal, court administration, the  
33 Washington state bar association, and other interested parties.

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

1           NEW SECTION.     **Sec. 132.**     GUARDIANSHIP/CONSERVATORSHIP SUMMARY.

2 Every order appointing a guardian or conservator and every court  
3 order approving accounts or reports filed by a guardian or  
4 conservator must include a guardianship/conservatorship summary  
5 placed directly below the case caption or on a separate cover page in  
6 or substantially in the same form as set forth in section 606 of this  
7 act.

8           NEW SECTION.     **Sec. 133.**     GUARDIANSHIP/CONSERVATORSHIP COURTHOUSE

9 FACILITATOR PROGRAM. A county may create a guardianship/  
10 conservatorship courthouse facilitator program to provide basic  
11 services to pro se litigants in guardianship and conservatorship  
12 cases. The legislative authority of any county may impose user fees  
13 or may impose a surcharge of up to twenty dollars, or both, on  
14 superior court cases filed under this chapter, chapter 11.90 RCW, and  
15 chapter 73.36 RCW to pay for the expenses of the guardianship/  
16 conservatorship courthouse facilitator program. Fees collected under  
17 this section shall be collected and deposited in the same manner as  
18 other county funds are collected and deposited, and shall be  
19 maintained in a separate guardianship/conservatorship courthouse  
20 facilitator account to be used as provided in this section.

21           NEW SECTION.     **Sec. 134.**     FILING FEE. (1)(a) The attorney general

22 may petition for the appointment of a guardian, conservator, or other  
23 protective arrangement under sections 302, 402, and 504 of this act  
24 in which there is cause to believe that a guardianship,  
25 conservatorship, or protective arrangement is necessary and no  
26 private party is able and willing to petition.

27           (b) Prepayment of a filing fee shall not be required in any  
28 guardianship, conservatorship, or protective arrangement proceeding  
29 brought by the attorney general. Payment of the filing fee shall be  
30 ordered from the estate of the respondent person at the hearing on  
31 the merits of the petition, unless in the judgment of the court, such  
32 payment would impose a hardship upon the respondent, in which case  
33 the filing shall be waived.

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

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

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

7 NEW SECTION. **Sec. 136.** CONSTRUCTION—CHAPTER APPLICABLE TO STATE  
8 REGISTERED DOMESTIC PARTNERSHIPS—2009 c 521. For the purposes of this  
9 chapter, the terms spouse, marriage, marital, husband, wife, widow,  
10 widower, next of kin, and relative shall be interpreted as applying  
11 equally to state registered domestic partnerships or individuals in  
12 state registered domestic partnerships as well as to marital  
13 relationships and married persons, and references to dissolution of  
14 marriage shall apply equally to state registered domestic  
15 partnerships that have been terminated, dissolved, or invalidated, to  
16 the extent that such interpretation does not conflict with federal  
17 law. Where necessary to implement chapter 521, Laws of 2009, gender-  
18 specific terms such as husband and wife used in any statute, rule, or  
19 other law shall be construed to be gender neutral, and applicable to  
20 individuals in state registered domestic partnerships.

21 **ARTICLE 2**  
22 **GUARDIANSHIP OF MINOR**

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

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

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

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

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



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

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

9        (a) The minor's name, age, principal residence, current street  
10 address, if different, and, if different, address of the dwelling in  
11 which it is proposed the minor will reside if the appointment is  
12 made;

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

14        (c) The name and address, if known, of each person that had  
15 primary care or custody of the minor for at least sixty days during  
16 the two years immediately before the filing of the petition or for at  
17 least seven hundred thirty days during the five years immediately  
18 before the filing of the petition;

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

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

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

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

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

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

34        (j) Whether any other proceeding concerning the care or custody  
35 of the minor is pending in any court in this state or another  
36 jurisdiction.

37        NEW SECTION.    **Sec. 203.**    NOTICE OF HEARING FOR APPOINTMENT OF  
38 GUARDIAN FOR MINOR. (1) If a petition is filed under section 202 of

1 this act, the court shall schedule a hearing and the petitioner  
2 shall:

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

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

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

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

11 (iv) Each person that had primary care or custody of the minor  
12 for at least sixty days during the two years immediately before the  
13 filing of the petition or for at least seven hundred thirty days  
14 during the five years immediately before the filing of the petition;  
15 and

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

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

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

22 (ii) Any nominee of a parent;

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

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

26 (v) Any other person the court determines.

27 (2) Notice required by subsection (1) of this section must  
28 include a statement of the right to request appointment of an  
29 attorney for the minor or object to appointment of a guardian and a  
30 description of the nature, purpose, and consequences of appointment  
31 of a guardian.

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

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

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

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

5 (a) Interview the petitioner and the minor;

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

8 (c) Investigate any other matter relating to the petition the  
9 court directs; and

10 (d) Ascertain whether the parent consents to the guardian for the  
11 minor.

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

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

18 (b) Recommended by a guardian ad litem; or

19 (c) The court determines the minor needs representation.

20 (2) An attorney appointed under subsection (1) of this section  
21 shall:

22 (a) Make a reasonable effort to ascertain the minor's wishes;

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

25 (c) If the minor's wishes are not reasonably ascertainable,  
26 advocate for the minor's legal rights.

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

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

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

36 (a) The parent has appeared in the proceeding;

37 (b) The parent is indigent; and

38 (c) Any of the following is true:

1 (i) The parent objects to appointment of a guardian for the  
2 minor; or

3 (ii) The court determines that counsel is needed to ensure that  
4 consent to appointment of a guardian is informed; or

5 (iii) The court otherwise determines the parent needs  
6 representation.

7 (6) The court must inquire about whether a parent is indigent to  
8 ensure that counsel is appointed in a timely manner. For purposes of  
9 this section, "indigent" has the same meaning as under RCW  
10 10.101.010.

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

15 (a) The parent objects to appointment of a guardian for the  
16 minor;

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

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

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

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

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

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

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

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

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

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

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

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

17 (b) Require the petitioner to provide the results of an  
18 examination of state and national criminal identification data  
19 provided by the Washington state patrol criminal identification  
20 system as described in chapter 43.43 RCW for the petitioner and adult  
21 members of the petitioner's household.

22 NEW SECTION. **Sec. 207.** ORDER OF APPOINTMENT—PRIORITY OF NOMINEE  
23 —LIMITED GUARDIANSHIP FOR MINOR. (1) After a hearing under section  
24 203 of this act, the court may appoint a guardian for a minor, if  
25 appointment is proper under section 201 of this act, dismiss the  
26 proceeding, or take other appropriate action consistent with this  
27 chapter or law of this state other than this chapter.

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

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

33 (b) If multiple parents have nominated different persons to serve  
34 as guardian, the court shall appoint the nominee whose appointment is  
35 in the best interest of the minor, unless the court finds that  
36 appointment of none of the nominees is in the best interest of the  
37 minor.

1 (c) If a guardian is not appointed under (a) or (b) of this  
2 subsection, the court shall appoint the person nominated by the minor  
3 if the minor is twelve years of age or older unless the court finds  
4 that appointment is contrary to the best interest of the minor. In  
5 that case, the court shall appoint as guardian a person whose  
6 appointment is in the best interest of the minor.

7 (3) In the interest of maintaining or encouraging involvement by  
8 a minor's parent in the minor's life, developing self-reliance of the  
9 minor, or for other good cause, the court, at the time of appointment  
10 of a guardian for the minor or later, on its own or on motion of the  
11 minor or other interested person, may create a limited guardianship  
12 by limiting the powers otherwise granted by this article to the  
13 guardian. Following the same procedure, the court may grant  
14 additional powers or withdraw powers previously granted.

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

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

22 (a) The guardian has delegated custody of the minor subject to  
23 guardianship;

24 (b) The court has modified or limited the powers of the guardian;  
25 or

26 (c) The court has removed the guardian.

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

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

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

1 (2) A parent of a minor, in a signed record, may nominate a  
2 person to be appointed by the court as standby guardian for the  
3 minor. The parent, in a signed record, may state desired limitations  
4 on the powers to be granted the standby guardian. The parent, in a  
5 signed record, may revoke or amend the nomination at any time before  
6 the court appoints a standby guardian.

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

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

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

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

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

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

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

21 (ii) Each parent of the minor;

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

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

24 (b) Include with the copy of the petition served under (a) of  
25 this subsection a statement of the right to request appointment of an  
26 attorney for the minor or to object to appointment of the standby  
27 guardian, and a description of the nature, purpose, and consequences  
28 of appointment of a standby guardian.

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

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

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

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

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

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

12 (a) Interview the petitioner and the minor;

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

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

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

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

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

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

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

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

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

35 (d) The court removes the guardian.

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



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

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

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

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

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

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

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

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

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

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

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

34 (c) Each parent of the minor;

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

37 (e) Any other person the court determines.

38 (4) The court may appoint an emergency guardian for a minor  
39 without notice under subsection (3) of this section and a hearing

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

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

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

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

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

25 (2) A guardian for a minor shall:

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

29 (b) Take reasonable care of the minor's personal effects and  
30 bring a proceeding for a conservatorship or protective arrangement  
31 instead of conservatorship if necessary to protect other property of  
32 the minor;

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

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

1 (e) Report the condition of the minor and account for funds and  
2 other property of the minor in the guardian's possession or subject  
3 to the guardian's control, as required by court rule or ordered by  
4 the court on application of a person interested in the minor's  
5 welfare;

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

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

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

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

17 (a) Apply for and receive funds and benefits otherwise payable  
18 for the support of the minor to the minor's parent, guardian, or  
19 custodian under a statutory system of benefits or insurance or any  
20 private contract, devise, trust, conservatorship, or custodianship;

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

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

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

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

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

36 NEW SECTION. **Sec. 212.** REMOVAL OF GUARDIAN FOR MINOR—  
37 TERMINATION OF GUARDIANSHIP—APPOINTMENT OF SUCCESSOR. (1)  
38 Guardianship under this chapter for a minor terminates:

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

3 (b) When the court finds that the standard in section 201 of this  
4 act for appointment of a guardian is not satisfied, unless the court  
5 finds that:

6 (i) Termination of the guardianship would be harmful to the  
7 minor; and

8 (ii) The minor's interest in the continuation of the guardianship  
9 outweighs the interest of any parent of the minor in restoration of  
10 the parent's right to make decisions for the minor.

11 (2) A minor subject to guardianship or a person interested in the  
12 welfare of the minor, including a parent, may petition the court to  
13 terminate the guardianship, modify the guardianship, remove the  
14 guardian and appoint a successor guardian, or remove a standby  
15 guardian and appoint a different standby guardian.

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

20 (4) The court shall follow the priorities in section 207(2) of  
21 this act when selecting a successor guardian for a minor.

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

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

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

34 NEW SECTION. **Sec. 213.** PRIOR COURT ORDER VALIDITY. This chapter  
35 does not affect the validity of any court order issued under chapter  
36 26.10 RCW prior to the effective date of this section. Orders issued  
37 under chapter 26.10 RCW prior to the effective date of this section  
38 remain in effect and do not need to be reissued in a new order under  
39 this chapter.



1 **GUARDIANSHIP OF ADULT**

2 NEW SECTION. **Sec. 301.** BASIS FOR APPOINTMENT OF GUARDIAN FOR  
3 ADULT. (1) On petition and after notice and hearing, the court may:

4 (a) Appoint a guardian for an adult if the court finds by clear  
5 and convincing evidence that:

6 (i) The respondent lacks the ability to meet essential  
7 requirements for physical health, safety, or self-care because the  
8 respondent is unable to receive and evaluate information or make or  
9 communicate decisions, even with appropriate supportive services,  
10 technological assistance, or supported decision making; and

11 (ii) The respondent's identified needs cannot be met by a  
12 protective arrangement instead of guardianship or other less  
13 restrictive alternative; or

14 (b) With appropriate findings, treat the petition as one for a  
15 conservatorship under article 4 of this chapter or protective  
16 arrangement under article 5 of this chapter, issue any appropriate  
17 order, or dismiss the proceeding.

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

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

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

35 (a) The respondent's name, age, principal residence, current  
36 street address, if different, and, if different, address of the  
37 dwelling in which it is proposed the respondent will reside if the  
38 petition is granted;

- 1 (b) The name and address of the respondent's:
- 2 (i) Spouse or domestic partner or, if the respondent has none, an
- 3 adult with whom the respondent has shared household responsibilities
- 4 for more than six months in the twelve-month period immediately
- 5 before the filing of the petition;
- 6 (ii) Adult children or, if none, each parent and adult sibling of
- 7 the respondent, or, if none, at least one adult nearest in kinship to
- 8 the respondent who can be found with reasonable diligence; and
- 9 (iii) Adult stepchildren whom the respondent actively parented
- 10 during the stepchildren's minor years and with whom the respondent
- 11 had an ongoing relationship in the two-year period immediately before
- 12 the filing of the petition;
- 13 (c) The name and current address of each of the following, if
- 14 applicable:
- 15 (i) A person responsible for care of the respondent;
- 16 (ii) Any attorney currently representing the respondent;
- 17 (iii) Any representative payee appointed by the social security
- 18 administration for the respondent;
- 19 (iv) A guardian or conservator acting for the respondent in this
- 20 state or in another jurisdiction;
- 21 (v) A trustee or custodian of a trust or custodianship of which
- 22 the respondent is a beneficiary;
- 23 (vi) Any fiduciary for the respondent appointed by the department
- 24 of veterans affairs;
- 25 (vii) An agent designated under a power of attorney for health
- 26 care in which the respondent is identified as the principal;
- 27 (viii) An agent designated under a power of attorney for finances
- 28 in which the respondent is identified as the principal;
- 29 (ix) A person nominated as guardian by the respondent;
- 30 (x) A person nominated as guardian by the respondent's parent or
- 31 spouse or domestic partner in a will or other signed record;
- 32 (xi) A proposed guardian and the reason the proposed guardian
- 33 should be selected; and
- 34 (xii) A person known to have routinely assisted the respondent
- 35 with decision making during the six months immediately before the
- 36 filing of the petition;
- 37 (d) The reason a guardianship is necessary, including a brief
- 38 description of:
- 39 (i) The nature and extent of the respondent's alleged need;

1 (ii) Any protective arrangement instead of guardianship or other  
2 less restrictive alternatives for meeting the respondent's alleged  
3 need which have been considered or implemented;

4 (iii) If no protective arrangement instead of guardianship or  
5 other less restrictive alternatives have been considered or  
6 implemented, the reason they have not been considered or implemented;  
7 and

8 (iv) The reason a protective arrangement instead of guardianship  
9 or other less restrictive alternative is insufficient to meet the  
10 respondent's alleged need;

11 (e) Whether the petitioner seeks a limited guardianship or full  
12 guardianship;

13 (f) If the petitioner seeks a full guardianship, the reason a  
14 limited guardianship or protective arrangement instead of  
15 guardianship is not appropriate;

16 (g) If a limited guardianship is requested, the powers to be  
17 granted to the guardian;

18 (h) The name and current address, if known, of any person with  
19 whom the petitioner seeks to limit the respondent's contact;

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

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

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

34 (2) A copy of a petition under section 302 of this act and notice  
35 of a hearing on the petition must be served personally on the  
36 respondent and the visitor appointed under section 304 of this act  
37 not more than five court days after the petition under section 302 of  
38 this act has been filed. The notice must inform the respondent of the  
39 respondent's rights at the hearing, including the right to an



1 attorney and to attend the hearing. The notice must include a  
2 description of the nature, purpose, and consequences of granting the  
3 petition. The court may not grant the petition if notice  
4 substantially complying with this subsection is not served on the  
5 respondent.

6 (3) In a proceeding on a petition under section 302 of this act,  
7 the notice required under subsection (2) of this section must be  
8 given to the persons required to be listed in the petition under  
9 section 302(2) (a) through (c) of this act and any other person  
10 interested in the respondent's welfare the court determines. Failure  
11 to give notice under this subsection does not preclude the court from  
12 appointing a guardian.

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

- 16 (a) The adult subject to guardianship;
- 17 (b) The guardian; and
- 18 (c) Any other person the court determines.

19 NEW SECTION. **Sec. 304.** APPOINTMENT AND ROLE OF VISITOR. (1) On  
20 receipt of a petition under section 302 of this act for appointment  
21 of a guardian for an adult, the court shall appoint a visitor. The  
22 visitor must be an individual with training or experience in the type  
23 of abilities, limitations, and needs alleged in the petition.

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

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

1 the later of the actual service or filing of the visitor's statement,  
2 any party may set a hearing and file and serve a motion for an order  
3 to show cause why the visitor should not be removed for one of the  
4 following three reasons:

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

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

8 (iii) A conflict of interest.

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

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

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

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

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

30 (5) The visitor appointed under subsection (1) of this section  
31 shall:

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

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

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

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

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

7 (a) A summary of self-care and independent living tasks the  
8 respondent can manage without assistance or with existing supports,  
9 could manage with the assistance of appropriate supportive services,  
10 technological assistance, or supported decision making, and cannot  
11 manage;

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

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

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

20 (c) A statement of the qualifications of the proposed guardian  
21 and whether the respondent approves or disapproves of the proposed  
22 guardian;

23 (d) A statement whether the proposed dwelling meets the  
24 respondent's needs and whether the respondent has expressed a  
25 preference as to residence;

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

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

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

34 (h) Any other matter the court directs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (2) If the court orders an evaluation under subsection (1) of  
5 this section, the respondent must be examined by a physician licensed  
6 to practice under chapter 18.71 or 18.57 RCW, psychologist licensed  
7 under chapter 18.83 RCW, or advanced registered nurse practitioner  
8 licensed under chapter 18.79 RCW selected by the visitor who is  
9 qualified to evaluate the respondent's alleged cognitive and  
10 functional abilities and limitations and will not be advantaged or  
11 disadvantaged by a decision to grant the petition or otherwise have a  
12 conflict of interest. The individual conducting the evaluation  
13 promptly shall file report in a record with the court. Unless  
14 otherwise directed by the court, the report must contain:

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

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

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

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

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

25 NEW SECTION. **Sec. 307.** ATTENDANCE AND RIGHTS AT HEARING. (1)  
26 Except as otherwise provided in subsection (2) of this section, a  
27 hearing under section 303 of this act may not proceed unless the  
28 respondent attends the hearing. If it is not reasonably feasible for  
29 the respondent to attend a hearing at the location court proceedings  
30 typically are held, the court shall make reasonable efforts to hold  
31 the hearing at an alternative location convenient to the respondent  
32 or allow the respondent to attend the hearing using real-time audio-  
33 visual technology.

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

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

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

4 (3) The respondent may be assisted in a hearing under section 303  
5 of this act by a person or persons of the respondent's choosing,  
6 assistive technology, or an interpreter or translator, or a  
7 combination of these supports. If assistance would facilitate the  
8 respondent's participation in the hearing, but is not otherwise  
9 available to the respondent, the court shall make reasonable efforts  
10 to provide it.

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

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

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

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

18 (c) Otherwise participate in the hearing.

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

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

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

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

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

34 (b) Either:

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

36 (ii) The guardianship is terminated.

37 (2) An adult subject to a proceeding for a guardianship, whether  
38 or not a guardian is appointed, an attorney designated by the adult,  
39 and a person entitled to notice under section 310(5) of this act or a

1 subsequent order are entitled to access court records of the  
2 proceeding and resulting guardianship, including the guardian's plan  
3 under section 317 of this act and report under section 318 of this  
4 act. A person not otherwise entitled to access court records under  
5 this subsection for good cause may petition the court for access to  
6 court records of the guardianship, including the guardian's report  
7 and plan. The court shall grant access if access is in the best  
8 interest of the respondent or adult subject to guardianship or  
9 furthers the public interest and does not endanger the welfare or  
10 financial interests of the adult.

11 (3) A report under section 304 of this act of a visitor or a  
12 professional evaluation under section 306 of this act is confidential  
13 and must 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, visitor, and petitioner's and respondent's  
18 attorneys, for purposes of the proceeding;

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

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

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

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

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

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

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

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

38 (f) A certified professional guardian or conservator.

1 (2) If two or more persons have equal priority under subsection  
2 (1) of this section, the court shall select as guardian the person  
3 the court considers best qualified. In determining the best qualified  
4 person, the court shall consider the person's relationship with the  
5 respondent, the person's skills, the expressed wishes of the  
6 respondent, the extent to which the person and the respondent have  
7 similar values and preferences, and the likelihood the person will be  
8 able to perform the duties of a guardian successfully.

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

13 (4) A person that provides paid services to the respondent, or an  
14 individual who is employed by a person that provides paid services to  
15 the respondent or is the spouse, domestic partner, parent, or child  
16 of an individual who provides or is employed to provide paid services  
17 to the respondent, may not be appointed as guardian unless:

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

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

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

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

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

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

37 (c) State whether the adult subject to guardianship retains the  
38 right to vote and, if the adult does not retain the right to vote,  
39 include findings that support removing that right which must include



1 a finding that the adult cannot communicate, with or without support,  
2 a specific desire to participate in the voting process; and

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

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

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

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

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

22 (a) Notice of the rights of the adult under section 311(2) of  
23 this act;

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

25 (c) Notice that the guardian has delegated:

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

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

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

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

32 (v) Substantially all powers of the guardian;

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

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

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

39 (g) Notice of the death or significant change in the condition of  
40 the adult;

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

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

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

9 (7) All orders establishing a guardianship for an adult must  
10 contain:

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

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

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

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

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

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

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

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

36 (2) Not later than thirty days after appointment of a guardian  
37 under section 309 of this act, the guardian shall give to the adult  
38 subject to guardianship and any other person entitled to notice under  
39 section 310(5) of this act or a subsequent order a statement of the

1 rights of the adult subject to guardianship and procedures to seek  
2 relief if the adult is denied those rights. The statement must be in  
3 at least sixteen-point font, in plain language, and, to the extent  
4 feasible, in a language in which the adult subject to guardianship is  
5 proficient. The statement must notify the adult subject to  
6 guardianship of the right to:

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

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

13 (c) Be involved in health care decision making to the extent  
14 reasonably feasible and supported in understanding the risks and  
15 benefits of health care options to the extent reasonably feasible;

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

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

24 (f) Communicate, visit, or interact with others, including  
25 receiving visitors, and making or receiving telephone calls, personal  
26 mail, or electronic communications, including through social media,  
27 unless:

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

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

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

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

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

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

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

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

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

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

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

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

19 (2) The duration of authority of an emergency guardian for an  
20 adult may not exceed sixty days, and the emergency guardian may  
21 exercise only the powers specified in the order of appointment. The  
22 emergency guardian's authority may be extended once for not more than  
23 sixty days if the court finds that the conditions for appointment of  
24 an emergency guardian in subsection (1) of this section continue.

25 (3) Immediately on filing of a petition for appointment of an  
26 emergency guardian for an adult, the court shall appoint an attorney  
27 to represent the respondent in the proceeding. Except as otherwise  
28 provided in subsection (4) of this section, reasonable notice of the  
29 date, time, and place of a hearing on the petition must be given to  
30 the respondent, the respondent's attorney, and any other person the  
31 court determines.

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

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

3 (i) The respondent;

4 (ii) The respondent's attorney; and

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

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

8 (5) Appointment of an emergency guardian under this section is  
9 not a determination that a basis exists for appointment of a guardian  
10 under section 301 of this act.

11 (6) The court may remove an emergency guardian appointed under  
12 this section at any time. The emergency guardian shall make any  
13 report the court requires.

14 NEW SECTION. **Sec. 313.** DUTIES OF GUARDIAN FOR ADULT. (1) A  
15 guardian for an adult is a fiduciary and owes the highest duty of  
16 good faith and care to the person under a guardianship. The guardian  
17 shall not substitute his or her moral or religious values, opinions,  
18 or philosophical beliefs for those of the person under a  
19 guardianship. Except as otherwise limited by the court, a guardian  
20 for an adult shall make decisions regarding the support, care,  
21 education, health, and welfare of the adult subject to guardianship  
22 to the extent necessitated by the adult's limitations.

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

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

32 (b) To the extent reasonably feasible, identify the values and  
33 preferences of the adult and involve the adult in decisions affecting  
34 the adult, including decisions about the adult's care, dwelling,  
35 activities, or social interactions; and

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

38 (3) A guardian for an adult at all times shall exercise  
39 reasonable care, diligence, and prudence when acting on behalf of or

1 making decisions for the adult. In furtherance of this duty, the  
2 guardian shall:

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

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

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

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

17 (4) In making a decision for an adult subject to guardianship,  
18 the guardian shall make the decision the guardian reasonably believes  
19 the adult would make if the adult were able unless doing so would  
20 unreasonably harm or endanger the welfare or personal or financial  
21 interests of the adult. To determine the decision the adult subject  
22 to guardianship would make if able, the guardian shall consider the  
23 adult's previous or current directions, preferences, opinions,  
24 values, and actions, to the extent actually known or reasonably  
25 ascertainable by the guardian.

26 (5) If a guardian for an adult cannot make a decision under  
27 subsection (4) of this section because the guardian does not know and  
28 cannot reasonably determine the decision the adult probably would  
29 make if able, or the guardian reasonably believes the decision the  
30 adult would make would unreasonably harm or endanger the welfare or  
31 personal or financial interests of the adult, the guardian shall act  
32 in accordance with the best interests of the adult. In determining  
33 the best interests of the adult, the guardian shall consider:

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

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

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

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

4 (7) The guardian shall file with the court within thirty days of  
5 any substantial change in the condition of the person under  
6 guardianship or any changes in the residence of the person under  
7 guardianship and shall provide a copy of the notice to the adult  
8 subject to guardianship, a person entitled to notice under section  
9 310(5) of this act or a subsequent order, and any other person the  
10 court has determined is entitled to notice.

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

15 (a) Makes a change in residence that is intended or likely to  
16 last more than fourteen calendar days;

17 (b) Has been admitted to a medical facility for acute care in  
18 response to a life-threatening injury or medical condition that  
19 requires inpatient care;

20 (c) Has been treated in an emergency room setting or kept for  
21 hospital observation for more than twenty-four hours; or

22 (d) Dies, in which case the notification must be made in person,  
23 by telephone, or by certified mail.

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

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

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

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

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

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

1 (f) Receive personally identifiable health care information  
2 regarding the adult.

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

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

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

10 (b) Petition for divorce, dissolution, or annulment of marriage  
11 of the adult or a declaration of invalidity of the adult's marriage;  
12 or

13 (c) Support or oppose a petition for divorce, dissolution, or  
14 annulment of marriage of the adult or a declaration of invalidity of  
15 the adult's marriage.

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

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

24 (a) Select a residential setting the guardian believes the adult  
25 would select if the adult were able, in accordance with the decision-  
26 making standard in section 313 (4) and (5) of this act. If the  
27 guardian does not know and cannot reasonably determine what setting  
28 the adult subject to guardianship probably would choose if able, or  
29 the guardian reasonably believes the decision the adult would make  
30 would unreasonably harm or endanger the welfare or personal or  
31 financial interests of the adult, the guardian shall choose in  
32 accordance with section 313(5) of this act a residential setting that  
33 is consistent with the adult's best interest;

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



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

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

6 (ii) Include in the notice the address and nature of the new  
7 dwelling and state whether the adult received advance notice of the  
8 change and whether the adult objected to the change;

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

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

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

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

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

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

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

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

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

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

34 (a) Involve the adult in decision making to the extent reasonably  
35 feasible, including, when practicable, by encouraging and supporting  
36 the adult in understanding the risks and benefits of health care  
37 options;

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

1 (c) Take into account:

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

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

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

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

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

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

37 (2) A guardian for an adult may not initiate the commitment of  
38 the adult to an evaluation and treatment facility except in

1 accordance with the state's procedure for involuntary civil  
2 commitment.

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

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

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

9 (c) Other psychiatric or mental health procedures that restrict  
10 physical freedom of movement or the rights set forth in RCW  
11 71.05.217.

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

17 (5) PERSONS UNDER A GUARDIANSHIP, CONSERVATORSHIP, OR OTHER  
18 PROTECTIVE ARRANGEMENTS—RIGHT TO ASSOCIATE WITH PERSONS OF THEIR  
19 CHOOSING.

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

31 (i) Personally inform the person under a guardianship of the  
32 decision under consideration, using plain language, in a manner  
33 calculated to maximize the understanding of the person under a  
34 guardianship;

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

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

1 (b) A guardian or limited guardian may not restrict a person  
2 under a guardianship's right to communicate, visit, interact, or  
3 otherwise associate with persons of the person under a guardianship's  
4 choosing, unless:

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

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

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

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

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

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

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

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

36 (c) May not deny communication, visitation, interaction, or other  
37 association between the person under a guardianship and another  
38 person unless the court finds that placing reasonable time, place, or  
39 manner restrictions is unlikely to sufficiently protect the person

1 under a guardianship from abuse, neglect, abandonment, or financial  
2 exploitation as those terms are defined in RCW 74.34.020.

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

5 (1) In a power of attorney, a principal may nominate a guardian  
6 of the principal's estate or guardian of the principal's person for  
7 consideration by the court if protective proceedings for the  
8 principal's estate or person are begun after the principal executes  
9 the power of attorney. Except for good cause shown or  
10 disqualification, the court shall make its appointment in accordance  
11 with the principal's most recent nomination.

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

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

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

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

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

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

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

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

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

11 (g) A statement or list of the amount the guardian proposes to  
12 charge for each service the guardian anticipates providing to the  
13 adult.

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

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

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

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

36 NEW SECTION. **Sec. 318.** GUARDIAN'S REPORT—MONITORING OF  
37 GUARDIANSHIP. (1) A guardian for an adult shall file with the court  
38 by the date established by the court a report in a record regarding  
39 the condition of the adult and accounting for funds and other

1 property in the guardian's possession or subject to the guardian's  
2 control. The guardian shall provide a copy of the report to the adult  
3 subject to guardianship, a person entitled to notice under section  
4 310(5) of this act or a subsequent order, and any other person the  
5 court determines.

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

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

9 (b) The living arrangements of the adult during the reporting  
10 period;

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

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

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

18 (f) The extent to which the adult has participated in decision  
19 making;

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

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

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

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

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

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

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

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

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

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

16 (5) The court shall establish procedures for monitoring a report  
17 submitted under this section and review each report to determine  
18 whether:

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

21 (b) The guardianship should continue; and

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

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

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

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

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

32 (d) Consistent with sections 318 and 319 of this act, may hold a  
33 hearing to consider removal of the guardian, termination of the  
34 guardianship, or a change in the powers granted to the guardian or  
35 terms of the guardianship.

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

39 (8) A guardian for an adult must petition the court for approval  
40 of a report filed under this section. The court after review may



1 approve the report. If the court approves the report, there is a  
2 rebuttable presumption the report is accurate as to a matter  
3 adequately disclosed in the report.

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

16 (10) If the court approves a report filed under this section, the  
17 order approving the report shall contain a guardianship summary or be  
18 accompanied by a guardianship summary in the form or substantially in  
19 the same form as set forth in section 606 of this act.

20 (11) If the court approves a report filed under this section, the  
21 order approving the report shall direct the clerk of the court to  
22 reissue letters of office in the form or substantially in the same  
23 form as set forth in section 605 of this act to the guardian  
24 containing an expiration date which will be within one hundred twenty  
25 days after the date the court directs the guardian file its next  
26 report.

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

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

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

36 (a) Petition of the adult, guardian, or person interested in the  
37 welfare of the adult, which contains allegations that, if true, would  
38 support a reasonable belief that removal of the guardian and  
39 appointment of a successor guardian may be appropriate, but the court

1 may decline to hold a hearing if a petition based on the same or  
2 substantially similar facts was filed during the preceding six  
3 months;

4 (b) Communication from the adult, guardian, or person interested  
5 in the welfare of the adult which supports a reasonable belief that  
6 removal of the guardian and appointment of a successor guardian may  
7 be appropriate; or

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

10 (3) Notice of a hearing under subsection (2)(a) of this section  
11 and notice of the adult subject to guardianship's right to be  
12 represented at the hearing by counsel of the individual's choosing  
13 must be given to the adult subject to guardianship, the guardian, and  
14 any other person the court determines.

15 (4) An adult subject to guardianship who seeks to remove the  
16 guardian and have a successor guardian appointed has the right to  
17 choose an attorney to represent the adult in this matter. The court  
18 shall award reasonable attorneys' fees to the attorney for the adult  
19 as provided in section 120 of this act.

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

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

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

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

34 (b) Modification of the guardianship on the ground that the  
35 extent of protection or assistance granted is not appropriate or for  
36 other good cause.

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

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

7 (b) Communication from the adult, guardian, or person interested  
8 in the welfare of the adult which supports a reasonable belief that  
9 termination or modification of the guardianship may be appropriate,  
10 including because the functional needs of the adult or supports or  
11 services available to the adult have changed;

12 (c) A report from a guardian or conservator which indicates that  
13 termination or modification may be appropriate because the functional  
14 needs of the adult or supports or services available to the adult  
15 have changed or a protective arrangement instead of guardianship or  
16 other less restrictive alternative for meeting the adult's needs is  
17 available; or

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

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

23 (4) On presentation of prima facie evidence for termination of a  
24 guardianship for an adult, the court shall order termination unless  
25 it is proven that a basis for appointment of a guardian under section  
26 301 of this act exists.

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

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

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

**ARTICLE 4**  
**CONSERVATORSHIP**

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

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

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

(b) Either:

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

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

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

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

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

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

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

(b) Appointment is necessary to:

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

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

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

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

8 NEW SECTION. **Sec. 402.** PETITION FOR APPOINTMENT OF CONSERVATOR.

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

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

11 (b) A person interested in the estate, financial affairs, or  
12 welfare of the individual, including a person that would be adversely  
13 affected by lack of effective management of property or financial  
14 affairs of the individual; or

15 (c) The guardian for the individual.

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

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

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

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

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

33 (iii) Adult stepchildren whom the respondent actively parented  
34 during the stepchildren's minor years and with whom the respondent  
35 had an ongoing relationship during the two years immediately before  
36 the filing of the petition;

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

- 1 (i) A person responsible for the care or custody of the  
2 respondent;
- 3 (ii) Any attorney currently representing the respondent;
- 4 (iii) The representative payee appointed by the social security  
5 administration for the respondent;
- 6 (iv) A guardian or conservator acting for the respondent in this  
7 state or another jurisdiction;
- 8 (v) A trustee or custodian of a trust or custodianship of which  
9 the respondent is a beneficiary;
- 10 (vi) The fiduciary appointed for the respondent by the department  
11 of veterans affairs;
- 12 (vii) An agent designated under a power of attorney for health  
13 care in which the respondent is identified as the principal;
- 14 (viii) An agent designated under a power of attorney for finances  
15 in which the respondent is identified as the principal;
- 16 (ix) A person known to have routinely assisted the respondent  
17 with decision making in the six-month period immediately before the  
18 filing of the petition;
- 19 (x) Any proposed conservator, including a person nominated by the  
20 respondent, if the respondent is twelve years of age or older; and
- 21 (xi) If the individual for whom a conservator is sought is a  
22 minor:
- 23 (A) An adult not otherwise listed with whom the minor resides;  
24 and
- 25 (B) Each person not otherwise listed that had primary care or  
26 custody of the minor for at least sixty days during the two years  
27 immediately before the filing of the petition or for at least seven  
28 hundred thirty days during the five years immediately before the  
29 filing of the petition;
- 30 (d) A general statement of the respondent's property with an  
31 estimate of its value, including any insurance or pension, and the  
32 source and amount of other anticipated income or receipts;
- 33 (e) The reason conservatorship is necessary, including a brief  
34 description of:
- 35 (i) The nature and extent of the respondent's alleged need;
- 36 (ii) If the petition alleges the respondent is missing, detained,  
37 or unable to return to the United States, the relevant circumstances,  
38 including the time and nature of the disappearance or detention and  
39 any search or inquiry concerning the respondent's whereabouts;

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

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

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

9 (f) Whether the petitioner seeks a limited conservatorship or a  
10 full conservatorship;

11 (g) If the petitioner seeks a full conservatorship, the reason a  
12 limited conservatorship or protective arrangement instead of  
13 conservatorship is not appropriate;

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

16 (i) If the petition is for a limited conservatorship, a  
17 description of the property to be placed under the conservator's  
18 control and any requested limitation on the authority of the  
19 conservator;

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

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

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

31 (2) A copy of a petition under section 402 of this act and notice  
32 of a hearing on the petition must be served personally on the  
33 respondent and the visitor appointed under section 405 of this act  
34 not more than five court days after the petition under section 402 of  
35 this act has been filed. If the respondent's whereabouts are unknown  
36 or personal service cannot be made, service on the respondent must be  
37 made by publication. The notice must inform the respondent of the  
38 respondent's rights at the hearing, including the right to an  
39 attorney and to attend the hearing. The notice must include a

1 description of the nature, purpose, and consequences of granting the  
2 petition. The court may not grant a petition for appointment of a  
3 conservator if notice substantially complying with this subsection is  
4 not served on the respondent.

5 (3) In a proceeding on a petition under section 402 of this act,  
6 the notice required under subsection (2) of this section must be  
7 given to the persons required to be listed in the petition under  
8 section 402(2) (a) through (c) of this act and any other person  
9 interested in the respondent's welfare the court determines. Failure  
10 to give notice under this subsection does not preclude the court from  
11 appointing a conservator.

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

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

18 (b) The conservator; and

19 (c) Any other person the court determines.

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

27 NEW SECTION. **Sec. 405.** APPOINTMENT AND ROLE OF VISITOR. (1) If  
28 the respondent in a proceeding to appoint a conservator is a minor,  
29 the court may appoint a visitor to investigate a matter related to  
30 the petition or inform the minor or a parent of the minor about the  
31 petition or a related matter.

32 (2) If the respondent in a proceeding to appoint a conservator is  
33 an adult, the court shall appoint a visitor. The duties and reporting  
34 requirements of the visitor are limited to the relief requested in  
35 the petition. The visitor must be an individual with training or  
36 experience in the type of abilities, limitations, and needs alleged  
37 in the petition.



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

5 (4) (a) The visitor appointed under subsection (1) or (2) of this  
6 section shall within five days of receipt of notice of appointment  
7 file with the court and serve, either personally or by certified mail  
8 with return receipt, the respondent or his or her legal counsel, the  
9 petitioner or his or her legal counsel, and any interested party  
10 entitled to notice under section 116 of this act with a statement  
11 including: His or her training relating to the duties as a visitor;  
12 his or her criminal history as defined in RCW 9.94A.030 for the  
13 period covering ten years prior to the appointment; his or her hourly  
14 rate, if compensated; whether the guardian ad litem has had any  
15 contact with a party to the proceeding prior to his or her  
16 appointment; and whether he or she has an apparent conflict of  
17 interest. Within three days of the later of the actual service or  
18 filing of the visitor's statement, any party may set a hearing and  
19 file and serve a motion for an order to show cause why the visitor  
20 should not be removed for one of the following three reasons:

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

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

24 (iii) A conflict of interest.

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

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

35 (a) Explain to the respondent the substance of the petition, the  
36 nature, purpose, and effect of the proceeding, the respondent's  
37 rights at the hearing on the petition, and the general powers and  
38 duties of a conservator;

39 (b) Determine the respondent's views about the appointment sought  
40 by the petitioner, including views about a proposed conservator, the

1 conservator's proposed powers and duties, and the scope and duration  
2 of the proposed conservatorship; and

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

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

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

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

11 (c) Investigate whether the respondent's needs could be met by a  
12 protective arrangement instead of conservatorship or other less  
13 restrictive alternative and, if so, identify the arrangement or other  
14 less restrictive alternative; and

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

17 (7) A visitor appointed under subsection (2) of this section for  
18 an adult shall file a report in a record with the court and provide a  
19 copy of the report to the respondent, petitioner, and any interested  
20 party entitled to notice under section 116 of this act at least  
21 fifteen days prior to the hearing on the petition filed under section  
22 402 of this act, which must include:

23 (a) A recommendation:

24 (i) Regarding the appropriateness of conservatorship, or whether  
25 a protective arrangement instead of conservatorship or other less  
26 restrictive alternative for meeting the respondent's needs is  
27 available;

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

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

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

36 (b) A statement of the qualifications of the proposed conservator  
37 and whether the respondent approves or disapproves of the proposed  
38 conservator;

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

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

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

7 (f) Any other matter the court directs.

8 NEW SECTION. **Sec. 406.** APPOINTMENT AND ROLE OF ATTORNEY. (1) (a)

9 The respondent shall have the right to be represented by a willing  
10 attorney of their choosing at any stage in conservatorship  
11 proceedings.

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

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

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

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

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

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

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

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

1 (a) Make reasonable efforts to ascertain the respondent's wishes;  
2 (b) Advocate for the respondent's wishes to the extent reasonably  
3 ascertainable; and

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

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

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

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

13 (c) The court otherwise determines the parent needs  
14 representation.

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

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

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

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

33 (a) A description of the nature, type, and extent of the  
34 respondent's cognitive and functional abilities and limitations with  
35 regard to the management of the respondent's property and financial  
36 affairs;

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

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

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

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

6 NEW SECTION. **Sec. 408.** ATTENDANCE AND RIGHTS AT HEARING. (1)

7 Except as otherwise provided in subsection (2) of this section, a  
8 hearing under section 403 of this act may not proceed unless the  
9 respondent attends the hearing. If it is not reasonably feasible for  
10 the respondent to attend a hearing at the location court proceedings  
11 typically are held, the court shall make reasonable efforts to hold  
12 the hearing at an alternative location convenient to the respondent  
13 or allow the respondent to attend the hearing using real-time audio-  
14 visual technology.

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

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

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

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

26 (3) The respondent may be assisted in a hearing under section 403  
27 of this act by a person or persons of the respondent's choosing,  
28 assistive technology, or an interpreter or translator, or a  
29 combination of these supports. If assistance would facilitate the  
30 respondent's participation in the hearing, but is not otherwise  
31 available to the respondent, the court shall make reasonable efforts  
32 to provide it.

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

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

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

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

1 (c) Otherwise participate in the hearing.

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

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

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

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

14 (a) The respondent, the individual subject to conservatorship, or  
15 the parent of a minor subject to conservatorship requests the record  
16 be sealed; and

17 (b) Either:

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

19 (ii) The conservatorship is terminated.

20 (2) An individual subject to a proceeding for a conservatorship,  
21 whether or not a conservator is appointed, an attorney designated by  
22 the individual, and a person entitled to notice under section 411(6)  
23 of this act or a subsequent order may access court records of the  
24 proceeding and resulting conservatorship, including the conservator's  
25 plan under section 419 of this act and the conservator's report under  
26 section 423 of this act. A person not otherwise entitled access to  
27 court records under this section for good cause may petition the  
28 court for access to court records of the conservatorship, including  
29 the conservator's plan and report. The court shall grant access if  
30 access is in the best interest of the respondent or individual  
31 subject to conservatorship or furthers the public interest and does  
32 not endanger the welfare or financial interests of the respondent or  
33 individual.

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

37 (a) The court;

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

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

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

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

8 NEW SECTION. **Sec. 410.** WHO MAY BE CONSERVATOR—ORDER OF  
9 PRIORITY. (1) Except as otherwise provided in subsection (3) of this  
10 section, the court in appointing a conservator shall consider persons  
11 qualified to be a conservator in the following order of priority:

12 (a) A conservator, other than a temporary or emergency  
13 conservator, currently acting for the respondent in another  
14 jurisdiction;

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

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

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

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

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

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

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

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

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

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

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

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

12 NEW SECTION. **Sec. 411.** ORDER OF APPOINTMENT OF CONSERVATOR. (1)

13 A court order appointing a conservator for a minor must include  
14 findings to support appointment of a conservator and, if a full  
15 conservatorship is granted, the reason a limited conservatorship  
16 would not meet the identified needs of the minor.

17 (2) A court order appointing a conservator for a minor may  
18 dispense with the requirement for the conservator to file reports  
19 with the court under section 423 of this act if all the property of  
20 the minor subject to the conservatorship is protected by a verified  
21 receipt.

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

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

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

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

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



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

4 (a) Notice of the rights of the individual subject to  
5 conservatorship under section 412(2) of this act;

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

8 (c) Notice that the conservator has delegated a power that  
9 requires court approval under section 414 of this act or  
10 substantially all powers of the conservator;

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

13 (e) A copy of the conservator's plan under section 419 of this  
14 act and the conservator's report under section 423 of this act;

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

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

18 (h) Notice of the death or significant change in the condition of  
19 the individual;

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

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

23 (7) If an individual subject to conservatorship is an adult, the  
24 spouse, domestic partner, and adult children of the adult subject to  
25 conservatorship are entitled under subsection (6) of this section to  
26 notice unless the court determines notice would be contrary to the  
27 preferences or prior directions of the adult subject to  
28 conservatorship or not in the best interest of the adult.

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

33 (9) All orders establishing a conservatorship for an adult must  
34 contain:

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

38 (b) The date which the limited conservator or conservator must  
39 file the conservator's plan under section 419 of this act;

1 (c) The date which the limited conservator or conservator must  
2 file an inventory under section 420 of this act;

3 (d) The date by which the court will review the conservator's  
4 plan as required by section 419 of this act;

5 (e) The report interval which the conservator must file its  
6 report under section 423 of this act. The report interval may be  
7 annual, biennial, or triennial;

8 (f) The date the limited conservator or conservator must file its  
9 report under section 423 of this act. The due date of the filing of  
10 the report shall be within ninety days after the anniversary date of  
11 the appointment;

12 (g) The date for the court to review the report under section 423  
13 of this act and enter its order. The court shall conduct the review  
14 within one hundred twenty days after the anniversary date of the  
15 appointment.

16 NEW SECTION. **Sec. 412.** NOTICE OF ORDER OF APPOINTMENT—RIGHTS.

17 (1) A conservator appointed under section 411 of this act shall give  
18 to the individual subject to conservatorship and to all other persons  
19 given notice under section 403 of this act a copy of the order of  
20 appointment, together with notice of the right to request termination  
21 or modification. The order and notice must be given not later than  
22 fourteen days after the appointment.

23 (2) Not later than thirty days after appointment of a conservator  
24 under section 411 of this act, the conservator shall give to the  
25 individual subject to conservatorship and any other person entitled  
26 to notice under section 411(6) of this act a statement of the rights  
27 of the individual subject to conservatorship and procedures to seek  
28 relief if the individual is denied those rights. The statement must  
29 be in plain language, in at least sixteen-point font, and to the  
30 extent feasible, in a language in which the individual subject to  
31 conservatorship is proficient. The statement must notify the  
32 individual subject to conservatorship of the right to:

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

36 (b) Participate in decision making to the extent reasonably  
37 feasible;

1 (c) Receive a copy of the conservator's plan under section 419 of  
2 this act, the conservator's inventory under section 420 of this act,  
3 and the conservator's report under section 423 of this act; and

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

5 (3) If a conservator is appointed for the reasons stated in  
6 section 401(2)(a)(ii) of this act and the individual subject to  
7 conservatorship is missing, notice under this section to the  
8 individual is not required.

9 NEW SECTION. **Sec. 413.** EMERGENCY CONSERVATOR. (1) On its own or  
10 on petition by a person interested in an individual's welfare after a  
11 petition has been filed under section 402 of this act, the court may  
12 appoint an emergency conservator for the individual if the court  
13 finds:

14 (a) Appointment of an emergency conservator is likely to prevent  
15 substantial and irreparable harm to the individual's property or  
16 financial interests;

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

19 (c) There is reason to believe that a basis for appointment of a  
20 conservator under section 401 of this act exists.

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

27 (3) Immediately on filing of a petition for an emergency  
28 conservator, the court shall appoint an attorney to represent the  
29 respondent in the proceeding. Except as otherwise provided in  
30 subsection (4) of this section, reasonable notice of the date, time,  
31 and place of a hearing on the petition must be given to the  
32 respondent, the respondent's attorney, and any other person the court  
33 determines.

34 (4) The court may appoint an emergency conservator without notice  
35 to the respondent and any attorney for the respondent only if the  
36 court finds from an affidavit or testimony that the respondent's  
37 property or financial interests will be substantially and irreparably  
38 harmed before a hearing with notice on the appointment can be held.  
39 If the court appoints an emergency conservator without giving notice

1 under subsection (3) of this section, the court must give notice of  
2 the appointment not later than forty-eight hours after the  
3 appointment to:

4 (a) The respondent;

5 (b) The respondent's attorney; and

6 (c) Any other person the court determines.

7 (5) Not later than five days after the appointment, the court  
8 shall hold a hearing on the appropriateness of the appointment.

9 (6) Appointment of an emergency conservator under this section is  
10 not a determination that a basis exists for appointment of a  
11 conservator under section 401 of this act.

12 (7) The court may remove an emergency conservator appointed under  
13 this section at any time. The emergency conservator shall make any  
14 report the court requires.

15 NEW SECTION. **Sec. 414.** POWERS OF CONSERVATOR REQUIRING COURT  
16 APPROVAL. (1) Except as otherwise ordered by the court, a conservator  
17 must give notice to persons entitled to notice under section 403(4)  
18 of this act and receive specific authorization by the court before  
19 the conservator may exercise with respect to the conservatorship the  
20 power to:

21 (a) Make a gift, except a gift of de minimis value;

22 (b) Sell, encumber an interest in, or surrender a lease to the  
23 primary dwelling of the individual subject to conservatorship;

24 (c) Convey, release, or disclaim a contingent or expectant  
25 interest in property, including marital property and any right of  
26 survivorship incident to joint tenancy or tenancy by the entirety;

27 (d) Exercise or release a power of appointment;

28 (e) Create a revocable or irrevocable trust of property of the  
29 conservatorship estate, whether or not the trust extends beyond the  
30 duration of the conservatorship, or revoke or amend a trust revocable  
31 by the individual subject to conservatorship;

32 (f) Exercise a right to elect an option or change a beneficiary  
33 under an insurance policy or annuity or surrender the policy or  
34 annuity for its cash value;

35 (g) Exercise a right to an elective share in the estate of a  
36 deceased spouse or domestic partner of the individual subject to  
37 conservatorship or renounce or disclaim a property interest;

38 (h) Grant a creditor priority for payment over creditors of the  
39 same or higher class if the creditor is providing property or

1 services used to meet the basic living and care needs of the  
2 individual subject to conservatorship and preferential treatment  
3 otherwise would be impermissible under section 428(5) of this act;  
4 and

5 (i) Make, modify, amend, or revoke the will of the individual  
6 subject to conservatorship in compliance with chapter 11.12 RCW.

7 (2) In approving a conservator's exercise of a power listed in  
8 subsection (1) of this section, the court shall consider primarily  
9 the decision the individual subject to conservatorship would make if  
10 able, to the extent the decision can be ascertained.

11 (3) To determine under subsection (2) of this section the  
12 decision the individual subject to conservatorship would make if  
13 able, the court shall consider the individual's prior or current  
14 directions, preferences, opinions, values, and actions, to the extent  
15 actually known or reasonably ascertainable by the conservator. The  
16 court also shall consider:

17 (a) The financial needs of the individual subject to  
18 conservatorship and individuals who are in fact dependent on the  
19 individual subject to conservatorship for support, and the interests  
20 of creditors of the individual;

21 (b) Possible reduction of income, estate, inheritance, or other  
22 tax liabilities;

23 (c) Eligibility for governmental assistance;

24 (d) The previous pattern of giving or level of support provided  
25 by the individual;

26 (e) Any existing estate plan or lack of estate plan of the  
27 individual;

28 (f) The life expectancy of the individual and the probability the  
29 conservatorship will terminate before the individual's death; and

30 (g) Any other relevant factor.

31 (4) A conservator may not revoke or amend a power of attorney for  
32 finances executed by the individual subject to conservatorship. If a  
33 power of attorney for finances is in effect, a decision of the agent  
34 takes precedence over that of the conservator, unless the court  
35 orders otherwise.

36 NEW SECTION. **Sec. 415.** PETITION FOR ORDER AFTER APPOINTMENT. An  
37 individual subject to conservatorship or a person interested in the  
38 welfare of the individual may petition for an order:

1 (1) Requiring the conservator to furnish a bond or collateral or  
2 additional bond or collateral or allowing a reduction in a bond or  
3 collateral previously furnished;

4 (2) Requiring an accounting for the administration of the  
5 conservatorship estate;

6 (3) Directing distribution;

7 (4) Removing the conservator and appointing a temporary or  
8 successor conservator;

9 (5) Modifying the type of appointment or powers granted to the  
10 conservator, if the extent of protection or management previously  
11 granted is excessive or insufficient to meet the individual's needs,  
12 including because the individual's abilities or supports have  
13 changed;

14 (6) Rejecting or modifying the conservator's plan under section  
15 419 of this act, the conservator's inventory under section 420 of  
16 this act, or the conservator's report under section 423 of this act;  
17 or

18 (7) Granting other appropriate relief.

19 NEW SECTION. **Sec. 416.** BOND—ALTERNATIVE VERIFIED RECEIPT. (1)  
20 Except as otherwise provided in subsections (3) and (4) of this  
21 section, the court shall require a conservator to furnish a bond with  
22 a surety the court specifies, or require a verified receipt,  
23 conditioned on faithful discharge of all duties of the conservator.  
24 The court may waive the requirement only if the court finds that a  
25 bond or other verified receipt is not necessary to protect the  
26 interests of the individual subject to conservatorship. Except as  
27 otherwise provided in subsections (3) and (4) of this section, the  
28 court may not waive the requirement if the conservator is in the  
29 business of serving as a conservator and is being paid for the  
30 conservator's service.

31 (2) Unless the court directs otherwise, the bond required under  
32 this section must be in the amount of the aggregate capital value of  
33 the conservatorship estate, plus the estimated income for the  
34 accounting and report review interval, less the value of property  
35 deposited under a verified receipt requiring a court order for its  
36 removal and real property the conservator lacks power to sell or  
37 convey without specific court authorization. The court, in place of  
38 surety on a bond, may accept collateral for the performance of the

1 bond, including a pledge of securities or a mortgage of real  
2 property.

3 (3) A regulated financial institution qualified to do trust  
4 business in this state is not required to give a bond under this  
5 section.

6 (4) In all conservatorships where the person subject to  
7 conservatorship has total assets of a value of less than three  
8 thousand dollars, the court may dispense with the requirement of a  
9 bond: PROVIDED, That the conservator swears to report to the court  
10 any changes in the total assets of the person subject to  
11 conservatorship increasing their value to over three thousand  
12 dollars: PROVIDED FURTHER, That the conservator files a yearly  
13 statement showing the monthly income of the person subject to  
14 conservatorship if such monthly income, excluding moneys from state  
15 or federal benefits, is over the sum of five hundred dollars per  
16 month for any three consecutive months.

17 NEW SECTION. **Sec. 417.** TERMS AND REQUIREMENTS OF BOND. (1) The  
18 following rules apply to the bond required under section 416 of this  
19 act:

20 (a) Except as otherwise provided by the bond, the surety and the  
21 conservator are jointly and severally liable.

22 (b) By executing a bond provided by a conservator, the surety  
23 submits to the personal jurisdiction of the court that issued letters  
24 of office to the conservator in a proceeding relating to the duties  
25 of the conservator in which the surety is named as a party. Notice of  
26 the proceeding must be given to the surety at the address shown in  
27 the records of the court in which the bond is filed and any other  
28 address of the surety then known to the person required to provide  
29 the notice.

30 (c) On petition of a successor conservator or person affected by  
31 a breach of the obligation of the bond, a proceeding may be brought  
32 against the surety for breach of the obligation of the bond.

33 (d) A proceeding against the bond may be brought until liability  
34 under the bond is exhausted.

35 (2) A proceeding may not be brought under this section against a  
36 surety of a bond on a matter as to which a proceeding against the  
37 conservator is barred.

1 (3) If a bond under section 416 of this act is not renewed by the  
2 conservator, the surety or sureties immediately shall give notice to  
3 the court and the individual subject to conservatorship.

4 NEW SECTION. **Sec. 418.** DUTIES OF CONSERVATOR. (1) A conservator  
5 is a fiduciary and has duties of prudence and loyalty to the  
6 individual subject to conservatorship.

7 (2) A conservator shall promote the self-determination of the  
8 individual subject to conservatorship and, to the extent feasible,  
9 encourage the individual to participate in decisions, act on the  
10 individual's own behalf, and develop or regain the capacity to manage  
11 the individual's personal affairs.

12 (3) In making a decision for an individual subject to  
13 conservatorship, the conservator shall make the decision the  
14 conservator reasonably believes the individual would make if able,  
15 unless doing so would fail to preserve the resources needed to  
16 maintain the individual's well-being and lifestyle or otherwise  
17 unreasonably harm or endanger the welfare or personal or financial  
18 interests of the individual. To determine the decision the individual  
19 would make if able, the conservator shall consider the individual's  
20 prior or current directions, preferences, opinions, values, and  
21 actions, to the extent actually known or reasonably ascertainable by  
22 the conservator.

23 (4) If a conservator cannot make a decision under subsection (3)  
24 of this section because the conservator does not know and cannot  
25 reasonably determine the decision the individual subject to  
26 conservatorship probably would make if able, or the conservator  
27 reasonably believes the decision the individual would make would fail  
28 to preserve resources needed to maintain the individual's well-being  
29 and lifestyle or otherwise unreasonably harm or endanger the welfare  
30 or personal or financial interests of the individual, the conservator  
31 shall act in accordance with the best interests of the individual. In  
32 determining the best interests of the individual, the conservator  
33 shall consider:

34 (a) Information received from professionals and persons that  
35 demonstrate sufficient interest in the welfare of the individual;

36 (b) Other information the conservator believes the individual  
37 would have considered if the individual were able to act; and

38 (c) Other factors a reasonable person in the circumstances of the  
39 individual would consider, including consequences for others.



1 (5) Except when inconsistent with the conservator's duties under  
2 subsections (1) through (4) of this section, a conservator shall  
3 invest and manage the conservatorship estate as a prudent investor  
4 would, by considering:

5 (a) The circumstances of the individual subject to  
6 conservatorship and the conservatorship estate;

7 (b) General economic conditions;

8 (c) The possible effect of inflation or deflation;

9 (d) The expected tax consequences of an investment decision or  
10 strategy;

11 (e) The role of each investment or course of action in relation  
12 to the conservatorship estate as a whole;

13 (f) The expected total return from income and appreciation of  
14 capital;

15 (g) The need for liquidity, regularity of income, and  
16 preservation or appreciation of capital; and

17 (h) The special relationship or value, if any, of specific  
18 property to the individual subject to conservatorship.

19 (6) The propriety of a conservator's investment and management of  
20 the conservatorship estate is determined in light of the facts and  
21 circumstances existing when the conservator decides or acts and not  
22 by hindsight.

23 (7) A conservator shall make a reasonable effort to verify facts  
24 relevant to the investment and management of the conservatorship  
25 estate.

26 (8) A conservator that has special skills or expertise, or is  
27 named conservator in reliance on the conservator's representation of  
28 special skills or expertise, has a duty to use the special skills or  
29 expertise in carrying out the conservator's duties.

30 (9) In investing, selecting specific property for distribution,  
31 and invoking a power of revocation or withdrawal for the use or  
32 benefit of the individual subject to conservatorship, a conservator  
33 shall consider any estate plan of the individual known or reasonably  
34 ascertainable to the conservator and may examine the will or other  
35 donative, nominative, or appointive instrument of the individual.

36 (10) A conservator shall maintain insurance on the insurable real  
37 and personal property of the individual subject to conservatorship,  
38 unless the conservatorship estate lacks sufficient funds to pay for  
39 insurance or the court finds:

40 (a) The property lacks sufficient equity; or

1 (b) Insuring the property would unreasonably dissipate the  
2 conservatorship estate or otherwise not be in the best interest of  
3 the individual.

4 (11) If a power of attorney for finances is in effect, a  
5 conservator shall cooperate with the agent to the extent feasible.

6 (12) A conservator has access to and authority over a digital  
7 asset of the individual subject to conservatorship to the extent  
8 provided by the revised uniform fiduciary access to digital assets  
9 act (chapter 11.120 RCW) or court order.

10 (13) A conservator for an adult shall notify the court if the  
11 condition of the adult has changed so that the adult is capable of  
12 exercising rights previously removed. The notice must be given  
13 immediately on learning of the change.

14 (14) A conservator shall notify the court within thirty days of  
15 any substantial change in the value of the property of the person  
16 subject to conservatorship and shall provide a copy of the notice to  
17 the person subject to guardianship, a person entitled to notice under  
18 section 403 of this act or a subsequent order, and any other person  
19 the court has determined is entitled to notice and schedule a hearing  
20 for the court to review the adequacy of the bond or other verified  
21 receipt under sections 416 and 417 of this act.

22 NEW SECTION. **Sec. 419.** CONSERVATOR'S PLAN. (1) A conservator,  
23 not later than ninety days after appointment, shall file with the  
24 court a plan for protecting, managing, expending, and distributing  
25 the assets of the conservatorship estate. The plan must be based on  
26 the needs of the individual subject to conservatorship and take into  
27 account the best interest of the individual as well as the  
28 individual's preferences, values, and prior directions, to the extent  
29 known to or reasonably ascertainable by the conservator. The  
30 conservator shall include in the plan:

31 (a) A budget containing projected expenses and resources,  
32 including an estimate of the total amount of fees the conservator  
33 anticipates charging per year and a statement or list of the amount  
34 the conservator proposes to charge for each service the conservator  
35 anticipates providing to the individual;

36 (b) How the conservator will involve the individual in decisions  
37 about management of the conservatorship estate;

1 (c) Any step the conservator plans to take to develop or restore  
2 the ability of the individual to manage the conservatorship estate;  
3 and

4 (d) An estimate of the duration of the conservatorship.

5 (2) A conservator shall give notice of the filing of the  
6 conservator's plan under subsection (1) of this section, together  
7 with a copy of the plan, to the individual subject to  
8 conservatorship, a person entitled to notice under section 411(6) of  
9 this act or a subsequent order, and any other person the court  
10 determines. The notice must include a statement of the right to  
11 object to the plan and be given not later than fourteen days after  
12 the filing.

13 (3) An individual subject to conservatorship and any person  
14 entitled under subsection (2) of this section to receive notice and a  
15 copy of the conservator's plan may object to the plan.

16 (4) The court shall review the conservator's plan filed under  
17 subsection (1) of this section and determine whether to approve the  
18 plan or require a new plan. In deciding whether to approve the plan,  
19 the court shall consider an objection under subsection (3) of this  
20 section and whether the plan is consistent with the conservator's  
21 duties and powers. The court may not approve the plan until thirty  
22 days after its filing.

23 (5) After a conservator's plan under this section is approved by  
24 the court, the conservator shall provide a copy of the plan to the  
25 individual subject to conservatorship, a person entitled to notice  
26 under section 411(6) of this act or a subsequent order, and any other  
27 person the court determines.

28 NEW SECTION. **Sec. 420.** INVENTORY—RECORDS. (1) Not later than  
29 sixty days after appointment, a conservator shall prepare and file  
30 with the appointing court a detailed inventory of the conservatorship  
31 estate, together with an oath or affirmation that the inventory is  
32 believed to be complete and accurate as far as information permits.

33 (2) A conservator shall give notice of the filing of an inventory  
34 to the individual subject to conservatorship, a person entitled to  
35 notice under section 411(6) of this act or a subsequent order, and  
36 any other person the court determines. The notice must be given not  
37 later than fourteen days after the filing.

38 (3) A conservator shall keep records of the administration of the  
39 conservatorship estate and make them available for examination on

1 reasonable request of the individual subject to conservatorship, a  
2 guardian for the individual, or any other person the conservator or  
3 the court determines.

4 NEW SECTION. **Sec. 421.** ADMINISTRATIVE POWERS OF CONSERVATOR NOT  
5 REQUIRING COURT APPROVAL. (1) Except as otherwise provided in section  
6 414 of this act or qualified or limited in the court's order of  
7 appointment and stated in the letters of office, a conservator has  
8 all powers granted in this section and any additional power granted  
9 to a trustee by law of this state other than this chapter.

10 (2) A conservator, acting reasonably and consistent with the  
11 fiduciary duties of the conservator to accomplish the purpose of the  
12 conservatorship, without specific court authorization or  
13 confirmation, may with respect to the conservatorship estate:

14 (a) Collect, hold, and retain property, including property in  
15 which the conservator has a personal interest and real property in  
16 another state, until the conservator determines disposition of the  
17 property should be made;

18 (b) Receive additions to the conservatorship estate;

19 (c) Continue or participate in the operation of a business or  
20 other enterprise;

21 (d) Acquire an undivided interest in property in which the  
22 conservator, in a fiduciary capacity, holds an undivided interest;

23 (e) Invest assets;

24 (f) Deposit funds or other property in a financial institution,  
25 including one operated by the conservator;

26 (g) Acquire or dispose of property, including real property in  
27 another state, for cash or on credit, at public or private sale, and  
28 manage, develop, improve, exchange, partition, change the character  
29 of, or abandon property;

30 (h) Make ordinary or extraordinary repairs or alterations in a  
31 building or other structure, demolish any improvement, or raze an  
32 existing or erect a new party wall or building;

33 (i) Subdivide or develop land, dedicate land to public use, make  
34 or obtain the vacation of a plat and adjust a boundary, adjust a  
35 difference in valuation of land, exchange or partition land by giving  
36 or receiving consideration, and dedicate an easement to public use  
37 without consideration;

1 (j) Enter for any purpose into a lease of property as lessor or  
2 lessee, with or without an option to purchase or renew, for a term  
3 within or extending beyond the term of the conservatorship;

4 (k) Enter into a lease or arrangement for exploration and removal  
5 of minerals or other natural resources or a pooling or unitization  
6 agreement;

7 (l) Grant an option involving disposition of property or accept  
8 or exercise an option for the acquisition of property;

9 (m) Vote a security, in person or by general or limited proxy;

10 (n) Pay a call, assessment, or other sum chargeable or accruing  
11 against or on account of a security;

12 (o) Sell or exercise a stock subscription or conversion right;

13 (p) Consent, directly or through a committee or agent, to the  
14 reorganization, consolidation, merger, dissolution, or liquidation of  
15 a corporation or other business enterprise;

16 (q) Hold a security in the name of a nominee or in other form  
17 without disclosure of the conservatorship so that title to the  
18 security may pass by delivery;

19 (r) Insure:

20 (i) The conservatorship estate, in whole or in part, against  
21 damage or loss in accordance with section 418(10) of this act; and

22 (ii) The conservator against liability with respect to a third  
23 person;

24 (s) Borrow funds, with or without security, to be repaid from the  
25 conservatorship estate or otherwise;

26 (t) Advance funds for the protection of the conservatorship  
27 estate or the individual subject to conservatorship and all expenses,  
28 losses, and liability sustained in the administration of the  
29 conservatorship estate or because of holding any property for which  
30 the conservator has a lien on the conservatorship estate;

31 (u) Pay or contest a claim, settle a claim by or against the  
32 conservatorship estate or the individual subject to conservatorship  
33 by compromise, arbitration, or otherwise, or release, in whole or in  
34 part, a claim belonging to the conservatorship estate to the extent  
35 the claim is uncollectible;

36 (v) Pay a tax, assessment, compensation of the conservator or any  
37 guardian, and other expense incurred in the collection, care,  
38 administration, and protection of the conservatorship estate;

39 (w) Pay a sum distributable to the individual subject to  
40 conservatorship or an individual who is in fact dependent on the

1 individual subject to conservatorship by paying the sum to the  
2 distributee or for the use of the distributee:

3 (i) To the guardian for the distributee;

4 (ii) To the custodian of the distributee under the uniform  
5 transfers to minors act (chapter 11.114 RCW); or

6 (iii) If there is no guardian, custodian, or custodial trustee,  
7 to a relative or other person having physical custody of the  
8 distributee;

9 (x) Bring or defend an action, claim, or proceeding in any  
10 jurisdiction for the protection of the conservatorship estate or the  
11 conservator in the performance of the conservator's duties;

12 (y) Structure the finances of the individual subject to  
13 conservatorship to establish eligibility for a public benefit,  
14 including by making gifts consistent with the individual's  
15 preferences, values, and prior directions, if the conservator's  
16 action does not jeopardize the individual's welfare and otherwise is  
17 consistent with the conservator's duties; and

18 (z) Execute and deliver any instrument that will accomplish or  
19 facilitate the exercise of a power of the conservator.

20 NEW SECTION. **Sec. 422.** DISTRIBUTION FROM CONSERVATORSHIP  
21 ESTATE. Except as otherwise provided in section 414 of this act or  
22 qualified or limited in the court's order of appointment and stated  
23 in the letters of office, and unless contrary to a conservator's plan  
24 under section 419 of this act, the conservator may expend or  
25 distribute income or principal of the conservatorship estate without  
26 specific court authorization or confirmation for the support, care,  
27 education, health, or welfare of the individual subject to  
28 conservatorship or an individual who is in fact dependent on the  
29 individual subject to conservatorship, including the payment of child  
30 or spousal support, in accordance with the following rules:

31 (1) The conservator shall consider a recommendation relating to  
32 the appropriate standard of support, care, education, health, or  
33 welfare for the individual subject to conservatorship or individual  
34 who is dependent on the individual subject to conservatorship, made  
35 by a guardian for the individual subject to conservatorship, if any,  
36 and, if the individual subject to conservatorship is a minor, a  
37 recommendation made by a parent of the minor.

38 (2) The conservator acting in compliance with the conservator's  
39 duties under section 418 of this act is not liable for an expenditure

1 or distribution made based on a recommendation under subsection (1)  
2 of this section unless the conservator knows the expenditure or  
3 distribution is not in the best interest of the individual subject to  
4 conservatorship.

5 (3) In making an expenditure or distribution under this section,  
6 the conservator shall consider:

7 (a) The size of the conservatorship estate, the estimated  
8 duration of the conservatorship, and the likelihood the individual  
9 subject to conservatorship, at some future time, may be fully self-  
10 sufficient and able to manage the individual's financial affairs and  
11 the conservatorship estate;

12 (b) The accustomed standard of living of the individual subject  
13 to conservatorship and individual who is dependent on the individual  
14 subject to conservatorship;

15 (c) Other funds or source used for the support of the individual  
16 subject to conservatorship; and

17 (d) The preferences, values, and prior directions of the  
18 individual subject to conservatorship.

19 (4) Funds expended or distributed under this section may be paid  
20 by the conservator to any person, including the individual subject to  
21 conservatorship, as reimbursement for expenditures the conservator  
22 might have made, or in advance for services to be provided to the  
23 individual subject to conservatorship or individual who is dependent  
24 on the individual subject to conservatorship if it is reasonable to  
25 expect the services will be performed and advance payment is  
26 customary or reasonably necessary under the circumstances.

27 NEW SECTION. **Sec. 423.** CONSERVATOR'S REPORT AND ACCOUNTING—  
28 MONITORING. (1) A conservator shall file with the court by the date  
29 established by the court a report in a record regarding the  
30 administration of the conservatorship estate unless the court  
31 otherwise directs, on resignation or removal, on termination of the  
32 conservatorship, and at any other time the court directs.

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

35 (a) An accounting that lists property included in the  
36 conservatorship estate and the receipts, disbursements, liabilities,  
37 and distributions during the period for which the report is made;

38 (b) A list of the services provided to the individual subject to  
39 conservatorship;

1 (c) A copy of the conservator's most recently approved plan and a  
2 statement whether the conservator has deviated from the plan and, if  
3 so, how the conservator has deviated and why;

4 (d) A recommendation as to the need for continued conservatorship  
5 and any recommended change in the scope of the conservatorship;

6 (e) To the extent feasible, a copy of the most recent reasonably  
7 available financial statements evidencing the status of bank  
8 accounts, investment accounts, and mortgages or other debts of the  
9 individual subject to conservatorship with all but the last four  
10 digits of the account numbers and social security number redacted;

11 (f) Anything of more than de minimis value which the conservator,  
12 any individual who resides with the conservator, or the spouse,  
13 domestic partner, parent, child, or sibling of the conservator has  
14 received from a person providing goods or services to the individual  
15 subject to conservatorship;

16 (g) Any business relation the conservator has with a person the  
17 conservator has paid or that has benefited from the property of the  
18 individual subject to conservatorship; and

19 (h) Whether any co-conservator or successor conservator appointed  
20 to serve when a designated event occurs is alive and able to serve.

21 (3) The court may appoint a visitor to review a report under this  
22 section or conservator's plan under section 419 of this act,  
23 interview the individual subject to conservatorship or conservator,  
24 or investigate any other matter involving the conservatorship. In  
25 connection with the report, the court may order the conservator to  
26 submit the conservatorship estate to appropriate examination in a  
27 manner the court directs.

28 (4) Notice of the filing under this section of a conservator's  
29 report, together with a copy of the report, must be provided to the  
30 individual subject to conservatorship, a person entitled to notice  
31 under section 411(6) of this act or a subsequent order, and other  
32 persons the court determines. The notice and report must be given not  
33 later than fourteen days after filing.

34 (5) The court shall establish procedures for monitoring a report  
35 submitted under this section and review each report at least annually  
36 to determine whether:

37 (a) The reports provide sufficient information to establish the  
38 conservator has complied with the conservator's duties;

39 (b) The conservatorship should continue; and

40 (c) The conservator's requested fees, if any, should be approved.



1 (6) If the court determines there is reason to believe a  
2 conservator has not complied with the conservator's duties or the  
3 conservatorship should not continue, the court:

4 (a) Shall notify the individual subject to conservatorship, the  
5 conservator, and any other person entitled to notice under section  
6 411(6) of this act or a subsequent order;

7 (b) May require additional information from the conservator;

8 (c) May appoint a visitor to interview the individual subject to  
9 conservatorship or conservator or investigate any matter involving  
10 the conservatorship; and

11 (d) Consistent with sections 430 and 431 of this act, may hold a  
12 hearing to consider removal of the conservator, termination of the  
13 conservatorship, or a change in the powers granted to the conservator  
14 or terms of the conservatorship.

15 (7) If the court has reason to believe fees requested by a  
16 conservator are not reasonable, the court shall hold a hearing to  
17 determine whether to adjust the requested fees.

18 (8) A conservator must petition the court for approval of a  
19 report filed under this section. The court after review may approve  
20 the report. If the court approves the report, there is a rebuttable  
21 presumption the report is accurate as to a matter adequately  
22 disclosed in the report.

23 (9) An order, after notice and hearing, approving an interim  
24 report of a conservator filed under this section adjudicates  
25 liabilities concerning a matter adequately disclosed in the report,  
26 as to a person given notice of the report or accounting.

27 (10) If the court approves a report filed under this section, the  
28 order approving the report shall set the due date for the filing of  
29 the next report to be filed under this section. The court may set the  
30 review at annual, biennial, or triennial intervals with the report  
31 due date to be within ninety days of the anniversary date of  
32 appointment. When determining the report interval, the court can  
33 consider: The length of time the conservator has been serving the  
34 person under conservatorship; whether the conservator has timely  
35 filed all required reports with the court; whether the conservator is  
36 monitored by other state or local agencies; the income of the person  
37 subject to conservatorship; the value of the property of the person  
38 subject to conservatorship; the adequacy of the bond and other  
39 verified receipt; and whether there have been any allegations of

1 abuse, neglect, or a breach of fiduciary duty against the  
2 conservator.

3 (11) If the court approves a report filed under this section, the  
4 order approving the report shall contain a conservatorship summary or  
5 accompanied by a conservatorship summary in the form or substantially  
6 in the same form as set forth in section 606 of this act.

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

14 (13) An order, after notice and hearing, approving a final report  
15 filed under this section discharges the conservator from all  
16 liabilities, claims, and causes of action by a person given notice of  
17 the report and the hearing as to a matter adequately disclosed in the  
18 report.

19 (14) Any requirement to establish a monitoring program under this  
20 section is subject to appropriation.

21 NEW SECTION. **Sec. 424.** ATTEMPTED TRANSFER OF PROPERTY BY  
22 INDIVIDUAL SUBJECT TO CONSERVATORSHIP. (1) The interest of an  
23 individual subject to conservatorship in property included in the  
24 conservatorship estate is not transferable or assignable by the  
25 individual and is not subject to levy, garnishment, or similar  
26 process for claims against the individual unless allowed under  
27 section 428 of this act.

28 (2) If an individual subject to conservatorship enters into a  
29 contract after having the right to enter the contract removed by the  
30 court, the contract is void against the individual and the  
31 individual's property but is enforceable against the person that  
32 contracted with the individual.

33 (3) A person other than the conservator that deals with an  
34 individual subject to conservatorship with respect to property  
35 included in the conservatorship estate is entitled to protection  
36 provided by law of this state other than this chapter.

37 NEW SECTION. **Sec. 425.** TRANSACTION INVOLVING CONFLICT OF  
38 INTEREST. A transaction involving a conservatorship estate which is

1 affected by a substantial conflict between the conservator's  
2 fiduciary duties and personal interests is voidable unless the  
3 transaction is authorized by court order after notice to persons  
4 entitled to notice under section 411(6) of this act or a subsequent  
5 order. A transaction affected by a substantial conflict includes a  
6 sale, encumbrance, or other transaction involving the conservatorship  
7 estate entered into by the conservator, an individual with whom the  
8 conservator resides, the spouse, domestic partner, descendant,  
9 sibling, agent, or attorney of the conservator, or a corporation or  
10 other enterprise in which the conservator has a substantial  
11 beneficial interest.

12 NEW SECTION. **Sec. 426.** PROTECTION OF PERSON DEALING WITH  
13 CONSERVATOR. (1) A person that assists or deals with a conservator in  
14 good faith and for value in any transaction, other than a transaction  
15 requiring a court order under section 414 of this act, is protected  
16 as though the conservator properly exercised any power in question.  
17 Knowledge by a person that the person is dealing with a conservator  
18 alone does not require the person to inquire into the existence of  
19 authority of the conservator or the propriety of the conservator's  
20 exercise of authority, but restrictions on authority stated in  
21 letters of office, or otherwise provided by law, are effective as to  
22 the person. A person that pays or delivers property to a conservator  
23 is not responsible for proper application of the property.

24 (2) Protection under subsection (1) of this section extends to a  
25 procedural irregularity or jurisdictional defect in the proceeding  
26 leading to the issuance of letters of office and does not substitute  
27 for protection for a person that assists or deals with a conservator  
28 provided by comparable provisions in law of this state other than  
29 this chapter relating to a commercial transaction or simplifying a  
30 transfer of securities by a fiduciary.

31 NEW SECTION. **Sec. 427.** DEATH OF INDIVIDUAL SUBJECT TO  
32 CONSERVATORSHIP. (1) If an individual subject to conservatorship  
33 dies, the conservator shall deliver to the court for safekeeping any  
34 will of the individual in the conservator's possession and inform the  
35 personal representative named in the will if feasible, or if not  
36 feasible, a beneficiary named in the will, of the delivery.

37 (2) If forty days after the death of an individual subject to  
38 conservatorship no personal representative has been appointed and no

1 application or petition for appointment is before the court, the  
2 conservator may apply to exercise the powers and duties of a personal  
3 representative to administer and distribute the decedent's estate.  
4 The conservator shall give notice of his or her appointment and the  
5 pendency of any probate proceedings as provided in RCW 11.28.237 and  
6 shall also give notice to a person nominated as personal  
7 representative by a will of the decedent of which the conservator is  
8 aware. The court may grant the application if there is no objection  
9 and endorse the letters of office to note that the individual  
10 formerly subject to conservatorship is deceased and the conservator  
11 has acquired the powers and duties of a personal representative.

12 (3) On the death of an individual subject to conservatorship, the  
13 conservator shall conclude the administration of the conservatorship  
14 estate as provided in section 431 of this act.

15 NEW SECTION. **Sec. 428.** PRESENTATION AND ALLOWANCE OF CLAIM. (1)  
16 A conservator may pay, or secure by encumbering property included in  
17 the conservatorship estate, a claim against the conservatorship  
18 estate or the individual subject to conservatorship arising before or  
19 during the conservatorship, on presentation and allowance in  
20 accordance with the priorities under subsection (4) of this section.  
21 A claimant may present a claim by:

22 (a) Sending or delivering to the conservator a statement in a  
23 record of the claim, indicating its basis, the name and address of  
24 the claimant, and the amount claimed; or

25 (b) Filing the claim with the court, in a form acceptable to the  
26 court, and sending or delivering a copy of the claim to the  
27 conservator.

28 (2) A claim under subsection (1) of this section is presented on  
29 receipt by the conservator of the statement of the claim or the  
30 filing with the court of the claim, whichever first occurs. A  
31 presented claim is allowed if it is not disallowed in whole or in  
32 part by the conservator in a record sent or delivered to the claimant  
33 not later than sixty days after its presentation. Before payment, the  
34 conservator may change an allowance of the claim to a disallowance in  
35 whole or in part, but not after allowance under a court order or  
36 order directing payment of the claim. Presentation of a claim tolls  
37 until thirty days after disallowance of the claim the running of a  
38 statute of limitations that has not expired relating to the claim.

1 (3) A claimant whose claim under subsection (1) of this section  
2 has not been paid may petition the court to determine the claim at  
3 any time before it is barred by a statute of limitations, and the  
4 court may order its allowance, payment, or security by encumbering  
5 property included in the conservatorship estate. If a proceeding is  
6 pending against the individual subject to conservatorship at the time  
7 of appointment of the conservator or is initiated thereafter, the  
8 moving party shall give the conservator notice of the proceeding if  
9 it could result in creating a claim against the conservatorship  
10 estate.

11 (4) If a conservatorship estate is likely to be exhausted before  
12 all existing claims are paid, the conservator shall distribute the  
13 estate in money or in kind in payment of claims in the following  
14 order:

15 (a) Costs and expenses of administration;

16 (b) A claim of the federal or state government having priority  
17 under law other than this chapter;

18 (c) A claim incurred by the conservator for support, care,  
19 education, health, or welfare previously provided to the individual  
20 subject to conservatorship or an individual who is in fact dependent  
21 on the individual subject to conservatorship;

22 (d) A claim arising before the conservatorship; and

23 (e) All other claims.

24 (5) Preference may not be given in the payment of a claim under  
25 subsection (4) of this section over another claim of the same class.  
26 A claim due and payable may not be preferred over a claim not due  
27 unless:

28 (a) Doing so would leave the conservatorship estate without  
29 sufficient funds to pay the basic living and health care expenses of  
30 the individual subject to conservatorship; and

31 (b) The court authorizes the preference under section 414(1)(h)  
32 of this act.

33 (6) If assets of a conservatorship estate are adequate to meet  
34 all existing claims, the court, acting in the best interest of the  
35 individual subject to conservatorship, may order the conservator to  
36 grant a security interest in the conservatorship estate for payment  
37 of a claim at a future date.

38 NEW SECTION. **Sec. 429.** PERSONAL LIABILITY OF CONSERVATOR. (1)

39 Except as otherwise agreed by a conservator, the conservator is not

1 personally liable on a contract properly entered into in a fiduciary  
2 capacity in the course of administration of the conservatorship  
3 estate unless the conservator fails to reveal the conservator's  
4 representative capacity in the contract or before entering into the  
5 contract.

6 (2) A conservator is personally liable for an obligation arising  
7 from control of property of the conservatorship estate or an act or  
8 omission occurring in the course of administration of the  
9 conservatorship estate only if the conservator is personally at  
10 fault.

11 (3) A claim based on a contract entered into by a conservator in  
12 a fiduciary capacity, an obligation arising from control of property  
13 included in the conservatorship estate, or a tort committed in the  
14 course of administration of the conservatorship estate may be  
15 asserted against the conservatorship estate in a proceeding against  
16 the conservator in a fiduciary capacity, whether or not the  
17 conservator is personally liable for the claim.

18 (4) A question of liability between a conservatorship estate and  
19 the conservator personally may be determined in a proceeding for  
20 accounting, surcharge, or indemnification or another appropriate  
21 proceeding or action.

22 NEW SECTION. **Sec. 430.** REMOVAL OF CONSERVATOR—APPOINTMENT OF  
23 SUCCESSOR. (1) The court may remove a conservator for failure to  
24 perform the conservator's duties or other good cause and appoint a  
25 successor conservator to assume the duties of the conservator.

26 (2) The court shall hold a hearing to determine whether to remove  
27 a conservator and appoint a successor on:

28 (a) Petition of the individual subject to conservatorship,  
29 conservator, or person interested in the welfare of the individual  
30 which contains allegations that, if true, would support a reasonable  
31 belief that removal of the conservator and appointment of a successor  
32 may be appropriate, but the court may decline to hold a hearing if a  
33 petition based on the same or substantially similar facts was filed  
34 during the preceding six months;

35 (b) Communication from the individual subject to conservatorship,  
36 conservator, or person interested in the welfare of the individual  
37 which supports a reasonable belief that removal of the conservator  
38 and appointment of a successor may be appropriate; or

1 (c) Determination by the court that a hearing would be in the  
2 best interest of the individual subject to conservatorship.

3 (3) Notice of a hearing under subsection (2)(a) of this section  
4 and notice of the individual's right to be represented at the hearing  
5 by counsel of the individual's choosing must be given to the  
6 individual subject to conservatorship, the conservator, and any other  
7 person the court determines.

8 (4) An individual subject to conservatorship who seeks to remove  
9 the conservator and have a successor appointed has the right to  
10 choose an attorney to represent the individual in this matter. The  
11 court shall award reasonable attorneys' fees to the attorney as  
12 provided in section 120 of this act.

13 (5) In selecting a successor conservator, the court shall follow  
14 the priorities under section 410 of this act.

15 (6) Not later than fourteen days after appointing a successor  
16 conservator, the successor conservator shall give notice of the  
17 appointment to the individual subject to conservatorship and any  
18 person entitled to notice under section 411(6) of this act or a  
19 subsequent order.

20 NEW SECTION. **Sec. 431.** TERMINATION OR MODIFICATION OF  
21 CONSERVATORSHIP. (1) A conservatorship for a minor terminates on the  
22 earliest of:

23 (a) A court order terminating the conservatorship;

24 (b) The minor becoming an adult or, if the minor consents or the  
25 court finds by clear and convincing evidence that substantial harm to  
26 the minor's interests is otherwise likely, attaining twenty-one years  
27 of age;

28 (c) Emancipation of the minor; or

29 (d) Death of the minor.

30 (2) A conservatorship for an adult terminates on order of the  
31 court or when the adult dies.

32 (3) An individual subject to conservatorship, the conservator, or  
33 a person interested in the welfare of the individual may petition  
34 for:

35 (a) Termination of the conservatorship on the ground that a basis  
36 for appointment under section 401 of this act does not exist or  
37 termination would be in the best interest of the individual or for  
38 other good cause; or

1 (b) Modification of the conservatorship on the ground that the  
2 extent of protection or assistance granted is not appropriate or for  
3 other good cause.

4 (4) The court shall hold a hearing to determine whether  
5 termination or modification of a conservatorship is appropriate on:

6 (a) Petition under subsection (3) of this section that contains  
7 allegations that, if true, would support a reasonable belief that  
8 termination or modification of the conservatorship may be  
9 appropriate, but the court may decline to hold a hearing if a  
10 petition based on the same or substantially similar facts was filed  
11 within the preceding six months;

12 (b) A communication from the individual subject to  
13 conservatorship, conservator, or person interested in the welfare of  
14 the individual which supports a reasonable belief that termination or  
15 modification of the conservatorship may be appropriate, including  
16 because the functional needs of the individual or supports or  
17 services available to the individual have changed;

18 (c) A report from a guardian or conservator which indicates that  
19 termination or modification may be appropriate because the functional  
20 needs or supports or services available to the individual have  
21 changed or a protective arrangement instead of conservatorship or  
22 other less restrictive alternative is available; or

23 (d) A determination by the court that a hearing would be in the  
24 best interest of the individual.

25 (5) Notice of a petition under subsection (3) of this section  
26 must be given to the individual subject to conservatorship, the  
27 conservator, and any such other person the court determines.

28 (6) On presentation of prima facie evidence for termination of a  
29 conservatorship, the court shall order termination unless it is  
30 proven that a basis for appointment of a conservator under section  
31 401 of this act exists.

32 (7) The court shall modify the powers granted to a conservator if  
33 the powers are excessive or inadequate due to a change in the  
34 abilities or limitations of the individual subject to  
35 conservatorship, the individual's supports, or other circumstances.

36 (8) Unless the court otherwise orders for good cause, before  
37 terminating a conservatorship, the court shall follow the same  
38 procedures to safeguard the rights of the individual subject to  
39 conservatorship which apply to a petition for conservatorship.



1 (9) An individual subject to conservatorship who seeks to  
2 terminate or modify the terms of the conservatorship has the right to  
3 choose an attorney to represent the individual in this matter. The  
4 court shall award reasonable attorneys' fees to the attorney as  
5 provided in section 120 of this act.

6 (10) On termination of a conservatorship other than by reason of  
7 the death of the individual subject to conservatorship, property of  
8 the conservatorship estate passes to the individual. The order of  
9 termination must direct the conservator to file a final report and  
10 petition for discharge on approval by the court of the final report.

11 (11) On termination of a conservatorship by reason of the death  
12 of the individual subject to conservatorship, the conservator shall  
13 file a final report and petition for discharge on approval by the  
14 court of the final report within ninety days of death of the person  
15 subject to conservatorship. On approval of the final report, the  
16 conservator shall proceed expeditiously to distribute the  
17 conservatorship estate to the individual's estate or as otherwise  
18 ordered by the court. The conservator may take reasonable measures  
19 necessary to preserve the conservatorship estate until distribution  
20 can be made.

21 (12) The court shall issue a final order of discharge on the  
22 approval by the court of the final report and satisfaction by the  
23 conservator of any other condition the court imposed on the  
24 conservator's discharge.

25 NEW SECTION. **Sec. 432.** TRANSFER FOR BENEFIT OF MINOR WITHOUT  
26 APPOINTMENT OF CONSERVATOR. (1) Unless a person required to transfer  
27 funds or other property to a minor knows that a conservator for the  
28 minor has been appointed or a proceeding is pending for  
29 conservatorship, the person may transfer an amount or value not  
30 exceeding fifteen thousand dollars in a twelve-month period to:

31 (a) A person that has care or custody of the minor and with whom  
32 the minor resides;

33 (b) A guardian for the minor;

34 (c) A custodian under the uniform transfers to minors act  
35 (chapter 11.114 RCW); or

36 (d) A financial institution as a deposit in an interest-bearing  
37 account or certificate solely in the name of the minor and shall give  
38 notice to the minor of the deposit.

1 (2) A person that transfers funds or other property under this  
2 section is not responsible for its proper application.

3 (3) A person that receives funds or other property for a minor  
4 under subsection (1)(a) or (b) of this section may apply it only to  
5 the support, care, education, health, or welfare of the minor, and  
6 may not derive a personal financial benefit from it, except for  
7 reimbursement for necessary expenses. Funds not applied for these  
8 purposes must be preserved for the future support, care, education,  
9 health, or welfare of the minor, and the balance, if any, transferred  
10 to the minor when the minor becomes an adult or otherwise is  
11 emancipated.

## 12 ARTICLE 5

### 13 OTHER PROTECTIVE ARRANGEMENTS

#### 14 NEW SECTION. **Sec. 501.** AUTHORITY FOR PROTECTIVE ARRANGEMENT.

15 (1) Under this article, a court:

16 (a) On receiving a petition for a guardianship for an adult may  
17 order a protective arrangement instead of guardianship as a less  
18 restrictive alternative to guardianship; and

19 (b) On receiving a petition for a conservatorship for an  
20 individual may order a protective arrangement instead of  
21 conservatorship as a less restrictive alternative to conservatorship.

22 (2) A person interested in an adult's welfare, including the  
23 adult or a conservator for the adult, may petition under this article  
24 for a protective arrangement instead of guardianship.

25 (3) The following persons may petition under this article for a  
26 protective arrangement instead of conservatorship:

27 (a) The individual for whom the protective arrangement is sought;

28 (b) A person interested in the property, financial affairs, or  
29 welfare of the individual, including a person that would be affected  
30 adversely by lack of effective management of property or financial  
31 affairs of the individual; and

32 (c) The guardian for the individual.

33 NEW SECTION. **Sec. 502.** BASIS FOR PROTECTIVE ARRANGEMENT INSTEAD  
34 OF GUARDIANSHIP FOR ADULT. (1) After the hearing on a petition under  
35 section 302 of this act for a guardianship or under section 501(2) of  
36 this act for a protective arrangement instead of guardianship, the  
37 court may issue an order under subsection (2) of this section for a

1 protective arrangement instead of guardianship if the court finds by  
2 clear and convincing evidence that:

3 (a) The respondent lacks the ability to meet essential  
4 requirements for physical health, safety, or self-care because the  
5 respondent is unable to receive and evaluate information or make or  
6 communicate decisions, even with appropriate supportive services,  
7 technological assistance, or supported decision making; and

8 (b) The respondent's identified needs cannot be met by a less  
9 restrictive alternative.

10 (2) If the court makes the findings under subsection (1) of this  
11 section, the court, instead of appointing a guardian, may:

12 (a) Authorize or direct a transaction necessary to meet the  
13 respondent's need for health, safety, or care, including:

14 (i) A particular medical treatment or refusal of a particular  
15 medical treatment;

16 (ii) A move to a specified place of dwelling; or

17 (iii) Visitation or supervised visitation between the respondent  
18 and another person;

19 (b) Restrict access to the respondent by a specified person whose  
20 access places the respondent at serious risk of physical,  
21 psychological, or financial harm; and

22 (c) Reorder other arrangements on a limited basis that are  
23 appropriate.

24 (3) In deciding whether to issue an order under this section, the  
25 court shall consider the factors under sections 314 and 315 of this  
26 act that a guardian must consider when making a decision on behalf of  
27 an adult subject to guardianship.

28 NEW SECTION. **Sec. 503.** BASIS FOR PROTECTIVE ARRANGEMENT INSTEAD  
29 OF CONSERVATORSHIP FOR ADULT OR MINOR. (1) After the hearing on a  
30 petition under section 402 of this act for conservatorship for an  
31 adult or under section 501(3) of this act for a protective  
32 arrangement instead of a conservatorship for an adult, the court may  
33 issue an order under subsection (3) of this section for a protective  
34 arrangement instead of conservatorship for the adult if the court  
35 finds by clear and convincing evidence that:

36 (a) The adult is unable to manage property or financial affairs  
37 because:

38 (i) Of a limitation in the ability to receive and evaluate  
39 information or make or communicate decisions, even with appropriate

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

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

5 (b) An order under subsection (3) of this section is necessary  
6 to:

7 (i) Avoid harm to the adult or significant dissipation of the  
8 property of the adult; or

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

12 (c) The respondent's identified needs cannot be met by a less  
13 restrictive alternative.

14 (2) After the hearing on a petition under section 402 of this act  
15 for conservatorship for a minor or under section 501(3) of this act  
16 for a protective arrangement instead of conservatorship for a minor,  
17 the court may issue an order under subsection (3) of this section for  
18 a protective arrangement instead of conservatorship for the  
19 respondent if the court finds by a preponderance of the evidence that  
20 the arrangement is in the minor's best interest, and:

21 (a) If the minor has a parent, the court gives weight to any  
22 recommendation of the parent whether an arrangement is in the minor's  
23 best interest;

24 (b) Either:

25 (i) The minor owns money or property requiring management or  
26 protection that otherwise cannot be provided;

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

29 (iii) The arrangement is necessary or desirable to obtain or  
30 provide funds or other property needed for the support, care,  
31 education, health, or welfare of the minor; and

32 (iv) The order under subsection (3) of this section is necessary  
33 or desirable to obtain or provide money needed for the support, care,  
34 education, health, or welfare of the minor.

35 (3) If the court makes the findings under subsection (1) or (2)  
36 of this section, the court, instead of appointing a conservator, may:

37 (a) Authorize or direct a transaction necessary to protect the  
38 financial interest or property of the respondent, including:

39 (i) An action to establish eligibility for benefits;

1 (ii) Payment, delivery, deposit, or retention of funds or  
2 property;

3 (iii) Sale, mortgage, lease, or other transfer of property;

4 (iv) Purchase of an annuity;

5 (v) Entry into a contractual relationship, including a contract  
6 to provide for personal care, supportive services, education,  
7 training, or employment;

8 (vi) Addition to or establishment of a trust;

9 (vii) Ratification or invalidation of a contract, trust, will, or  
10 other transaction, including a transaction related to the property or  
11 business affairs of the respondent; or

12 (viii) Settlement of a claim; or

13 (b) Restrict access to the respondent's property by a specified  
14 person whose access to the property places the respondent at serious  
15 risk of financial harm.

16 (4) After the hearing on a petition under section 501 (1)(b) or  
17 (3) of this act, whether or not the court makes the findings under  
18 subsection (1) or (2) of this section, the court may issue an order  
19 to restrict access to the respondent or the respondent's property by  
20 a specified person that the court finds by clear and convincing  
21 evidence:

22 (a) Through fraud, coercion, duress, or the use of deception and  
23 control caused or attempted to cause an action that would have  
24 resulted in financial harm to the respondent or the respondent's  
25 property; and

26 (b) Poses a serious risk of substantial financial harm to the  
27 respondent or the respondent's property.

28 (5) Before issuing an order under subsection (3) or (4) of this  
29 section, the court shall consider the factors under section 418 of  
30 this act a conservator must consider when making a decision on behalf  
31 of an individual subject to conservatorship.

32 (6) Before issuing an order under subsection (3) or (4) of this  
33 section for a respondent who is a minor, the court also shall  
34 consider the best interest of the minor, the preference of the  
35 parents of the minor, and the preference of the minor, if the minor  
36 is twelve years of age or older.

37 NEW SECTION. **Sec. 504.** PETITION FOR PROTECTIVE ARRANGEMENT. A  
38 petition for a protective arrangement instead of guardianship or  
39 conservatorship must state the petitioner's name, principal

1 residence, current street address, if different, relationship to the  
2 respondent, interest in the protective arrangement, the name and  
3 address of any attorney representing the petitioner, and, to the  
4 extent known, the following:

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

9 (2) The name and address of the respondent's:

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

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

17 (c) Adult stepchildren whom the respondent actively parented  
18 during the stepchildren's minor years and with whom the respondent  
19 had an ongoing relationship in the two-year period immediately before  
20 the filing of the petition;

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

23 (a) A person responsible for the care or custody of the  
24 respondent;

25 (b) Any attorney currently representing the respondent;

26 (c) The representative payee appointed by the social security  
27 administration for the respondent;

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

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

32 (f) The fiduciary appointed for the respondent by the department  
33 of veterans affairs;

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

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

38 (i) A person nominated as guardian or conservator by the  
39 respondent if the respondent is twelve years of age or older;

1 (j) A person nominated as guardian by the respondent's parent,  
2 spouse, or domestic partner in a will or other signed record;

3 (k) A person known to have routinely assisted the respondent with  
4 decision making in the six-month period immediately before the filing  
5 of the petition; and

6 (l) If the respondent is a minor:

7 (i) An adult not otherwise listed with whom the respondent  
8 resides; and

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

14 (4) The nature of the protective arrangement sought;

15 (5) The reason the protective arrangement sought is necessary,  
16 including a brief description of:

17 (a) The nature and extent of the respondent's alleged need;

18 (b) Any less restrictive alternative for meeting the respondent's  
19 alleged need which has been considered or implemented;

20 (c) If no less restrictive alternative has been considered or  
21 implemented, the reason less restrictive alternatives have not been  
22 considered or implemented; and

23 (d) The reason other less restrictive alternatives are  
24 insufficient to meet the respondent's alleged need;

25 (6) The name and current address, if known, of any person with  
26 whom the petitioner seeks to limit the respondent's contact;

27 (7) Whether the respondent needs an interpreter, translator, or  
28 other form of support to communicate effectively with the court or  
29 understand court proceedings;

30 (8) If a protective arrangement instead of guardianship is sought  
31 and the respondent has property other than personal effects, a  
32 general statement of the respondent's property with an estimate of  
33 its value, including any insurance or pension, and the source and  
34 amount of any other anticipated income or receipts; and

35 (9) If a protective arrangement instead of conservatorship is  
36 sought, a general statement of the respondent's property with an  
37 estimate of its value, including any insurance or pension, and the  
38 source and amount of other anticipated income or receipts.

1        NEW SECTION.    **Sec. 505.**    NOTICE AND HEARING. (1) All petitions  
2 filed under section 504 of this act for appointment of a guardian for  
3 an adult shall be heard within sixty days unless an extension of time  
4 is requested by a party or the visitor within such sixty-day period  
5 and granted for good cause shown.

6        (2) A copy of a petition under section 501 of this act and notice  
7 of a hearing on the petition must be served personally on the  
8 respondent and the visitor appointed under section 506 of this act  
9 not more than five court days after the petition under section 504 of  
10 this act has been filed. The notice must inform the respondent of the  
11 respondent's rights at the hearing, including the right to an  
12 attorney and to attend the hearing. The notice must include a  
13 description of the nature, purpose, and consequences of granting the  
14 petition. The court may not grant the petition if notice  
15 substantially complying with this subsection is not served on the  
16 respondent.

17        (3) In a proceeding on a petition under section 501 of this act,  
18 the notice required under subsection (2) of this section must be  
19 given to the persons required to be listed in the petition under  
20 section 504 (1) through (3) of this act and any other person  
21 interested in the respondent's welfare the court determines. Failure  
22 to give notice under this subsection does not preclude the court from  
23 granting the petition.

24        (4) After the court has ordered a protective arrangement under  
25 this article, notice of a hearing on a petition filed under this  
26 chapter, together with a copy of the petition, must be given to the  
27 respondent and any other person the court determines.

28        NEW SECTION.    **Sec. 506.**    APPOINTMENT AND ROLE OF VISITOR. (1) On  
29 filing of a petition under section 501 of this act for a protective  
30 arrangement instead of guardianship, the court shall appoint a  
31 visitor. The visitor must be an individual with training or  
32 experience in the type of abilities, limitations, and needs alleged  
33 in the petition.

34        (2) On filing of a petition under section 501 of this act for a  
35 protective arrangement instead of conservatorship for a minor, the  
36 court may appoint a visitor to investigate a matter related to the  
37 petition or inform the minor or a parent of the minor about the  
38 petition or a related matter.



1 (3) On filing of a petition under section 501 of this act or a  
2 protective arrangement instead of conservatorship for an adult, the  
3 court shall appoint a visitor unless the respondent is represented by  
4 an attorney appointed by the court. The visitor must be an individual  
5 with training or experience in the types of abilities, limitations,  
6 and needs alleged in the petition.

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

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

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

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

30 (iii) A conflict of interest.

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

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

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

4 (b) Determine the respondent's views with respect to the order  
5 sought;

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

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

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

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

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

23 (7) A visitor under this section promptly shall file a report in  
24 a record with the court, which must include:

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

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

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

31 (iii) Cannot manage;

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

35 (c) If the petition seeks to change the physical location of the  
36 dwelling of the respondent, a statement whether the proposed dwelling  
37 meets the respondent's needs and whether the respondent has expressed  
38 a preference as to the respondent's dwelling;

39 (d) A recommendation whether a professional evaluation under  
40 section 508 of this act is necessary;

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

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

7 (g) Any other matter the court directs.

8 NEW SECTION. **Sec. 507.** APPOINTMENT AND ROLE OF ATTORNEY. (1) (a)

9 The respondent shall have the right to be represented by a willing  
10 attorney of their choosing at any stage in protective arrangement  
11 proceedings.

12 (b) Unless the respondent in a proceeding under this article is  
13 represented by an attorney, the court is not required, but may  
14 appoint an attorney to represent the respondent, regardless of the  
15 respondent's ability to pay, except as provided otherwise in (c) of  
16 this subsection.

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

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

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

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

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

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

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

1 (a) Make reasonable efforts to ascertain the respondent's wishes;  
2 (b) Advocate for the respondent's wishes to the extent reasonably  
3 ascertainable; and

4 (c) If the respondent's wishes are not reasonably ascertainable,  
5 advocate for the result that is the least restrictive alternative in  
6 type, duration, and scope, consistent with the respondent's  
7 interests.

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

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

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

16 (c) The court otherwise determines the parent needs  
17 representation.

18 NEW SECTION. **Sec. 508.** PROFESSIONAL EVALUATION. (1) At or  
19 before a hearing on a petition under this article for a protective  
20 arrangement, the court shall order a professional evaluation of the  
21 respondent:

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

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

26 (2) If the court orders an evaluation under subsection (1) of  
27 this section, the respondent must be examined by a licensed  
28 physician, psychologist, social worker, or other individual appointed  
29 by the court who is qualified to evaluate the respondent's alleged  
30 cognitive and functional abilities and limitations and will not be  
31 advantaged or disadvantaged by a decision to grant the petition or  
32 otherwise have a conflict of interest. The individual conducting the  
33 evaluation promptly shall file a report in a record with the court.  
34 Unless otherwise directed by the court, the report must contain:

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

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

1 (c) A prognosis for improvement, including with regard to the  
2 ability to manage the respondent's property and financial affairs if  
3 a limitation in that ability is alleged, and recommendation for the  
4 appropriate treatment, support, or habilitation plan; and

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

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

8 NEW SECTION. **Sec. 509.** ATTENDANCE AND RIGHTS AT HEARING. (1)

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

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

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

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

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

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

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

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

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

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

3 (c) Otherwise participate in the hearing.

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

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

11 NEW SECTION. **Sec. 510.** NOTICE OF ORDER. The court shall give  
12 notice of an order under this article to the individual who is  
13 subject to the protective arrangement instead of guardianship or  
14 conservatorship, a person whose access to the individual is  
15 restricted by the order, and any other person the court determines.

16 NEW SECTION. **Sec. 511.** CONFIDENTIALITY OF RECORDS. (1) The  
17 existence of a proceeding for or the existence of a protective  
18 arrangement instead of guardianship or conservatorship is a matter of  
19 public record unless the court seals the record after:

20 (a) The respondent, the individual subject to the protective  
21 arrangement, or the parent of a minor subject to the protective  
22 arrangement requests the record be sealed; and

23 (b) Either:

24 (i) The proceeding is dismissed;

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

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

28 (2) A respondent, an individual subject to a protective  
29 arrangement instead of guardianship or conservatorship, an attorney  
30 designated by the respondent or individual, a parent of a minor  
31 subject to a protective arrangement, and any other person the court  
32 determines are entitled to access court records of the proceeding and  
33 resulting protective arrangement. A person not otherwise entitled  
34 access to court records under this subsection for good cause may  
35 petition the court for access. The court shall grant access if access  
36 is in the best interest of the respondent or individual subject to  
37 the protective arrangement or furthers the public interest and does



1 Name and address of attorney representing petitioner, if  
2 applicable: . . . . .  
3 . . . . .  
4 . . . . .

5 Note to petitioner: This form can be used to petition for a  
6 guardian for a minor. A court may appoint a guardian for a minor  
7 who does not have a guardian if the court finds the appointment  
8 is in the minor's best interest, and: The parents, after being  
9 fully informed of the nature and consequences of guardianship,  
10 consent; all parental rights have been terminated; or the court  
11 finds by clear and convincing evidence that the parents are  
12 unwilling or unable to exercise their parental rights.

13 (1) Information about the person filing this petition (the  
14 petitioner.)

- 15 (a) Name: . . . . .
- 16 (b) Principal residence: . . . . .
- 17 (c) Current street address (if different): . . . . .
- 18 (d) Relationship to minor: . . . . .
- 19 (e) Interest in this petition: . . . . .
- 20 (f) Telephone number (optional): . . . . .
- 21 (g) Email address (optional): . . . . .

22 (2) Information about the minor alleged to need a guardian.  
23 Provide the following information to the extent known.

- 24 (a) Name: . . . . .
- 25 (b) Age: . . . . .
- 26 (c) Principal residence: . . . . .
- 27 (d) Current street address (if different): . . . . .
- 28 (e) If petitioner anticipates the minor moving, or seeks to  
29 move the minor, proposed new address: . . . . .
- 30 (f) Does the minor need an interpreter, translator, or other  
31 form of support to communicate with the court or understand court  
32 proceedings? If so, please explain: . . . . .
- 33 (g) Telephone number (optional): . . . . .
- 34 (h) Email address (optional): . . . . .

35 (3) Information about the minor's parent(s).

- 36 (a) Name(s) of living parent(s): . . . . .
- 37 (b) Current street address(es) of living parent(s): . . . . .
- 38 (c) Does any parent need an interpreter, translator, or other  
39 form of support to communicate with the court or understand court  
40 proceedings? If so, please explain: . . . . .



1 . . . . .  
2 . . . . .  
3 (4) People who are required to be notified of this petition.  
4 State the name and current address of the people listed in  
5 Appendix A.

6 . . . . .  
7 . . . . .  
8 (5) Appointment requested. State the name and address of any  
9 proposed guardian and the reason the proposed guardian should be  
10 selected.

11 . . . . .  
12 . . . . .  
13 (6) State why petitioner seeks the appointment. Include a  
14 description of the nature and extent of the minor's alleged need.

15 . . . . .  
16 . . . . .  
17 (7) Property. If the minor has property other than personal  
18 effects, state the minor's property with an estimate of its  
19 value.

20 . . . . .  
21 . . . . .  
22 (8) Other proceedings. If there are any other proceedings  
23 concerning the care or custody of the minor currently pending in  
24 any court in this state or another jurisdiction, please describe  
25 them.

26 . . . . .  
27 . . . . .  
28 (9) Attorney(s). If the minor or the minor's parent is  
29 represented by an attorney in this matter, state the name,  
30 telephone number, email address, and address of the attorney(s).

31 . . . . .  
32 . . . . .

33 SIGNATURE  
34 . . . . .  
35 Signature of Petitioner Date  
36 . . . . .  
37 Signature of Petitioner's Attorney if Date  
38 Petitioner is Represented by Counsel



1           The court may appoint a guardian or order a protective  
2 arrangement instead of guardianship for an adult if the adult  
3 lacks the ability to meet essential requirements for physical  
4 health, safety, or self-care because (1) the adult is unable to  
5 receive and evaluate information or make or communicate decisions  
6 even with the use of supportive services, technological  
7 assistance, and supported decision making, and (2) the adult's  
8 identified needs cannot be met by a less restrictive alternative.

9           The court may appoint a conservator or order a protective  
10 arrangement instead of conservatorship for an adult if (1) the  
11 adult is unable to manage property and financial affairs because  
12 of a limitation in the ability to receive and evaluate  
13 information or make or communicate decisions even with the use of  
14 supportive services, technological assistance, and supported  
15 decision making or the adult is missing, detained, or unable to  
16 return to the United States, and (2) appointment is necessary to  
17 avoid harm to the adult or significant dissipation of the  
18 property of the adult, or to obtain or provide funds or other  
19 property needed for the support, care, education, health, or  
20 welfare of the adult, or of an individual who is entitled to the  
21 adult's support, and protection is necessary or desirable to  
22 provide funds or other property for that purpose.

23           The court may appoint a conservator or order a protective  
24 arrangement instead of conservatorship for a minor if: (1) The  
25 minor owns funds or other property requiring management or  
26 protection that cannot otherwise be provided; or (2) it would be  
27 in the minor's best interests, and the minor has or may have  
28 financial affairs that may be put at unreasonable risk or  
29 hindered because of the minor's age, or appointment is necessary  
30 or desirable to provide funds or other property needed for the  
31 support, care, education, health, or welfare of the minor.

32           The court may also order a protective arrangement instead of  
33 conservatorship that restricts access to an individual or an  
34 individual's property by a person that the court finds: (1)  
35 Through fraud, coercion, duress, or the use of deception and  
36 control, caused, or attempted to cause, an action that would have  
37 resulted in financial harm to the individual or the individual's  
38 property; and (2) poses a serious risk of substantial financial  
39 harm to the individual or the individual's property.

1 (1) Information about the person filing this petition (the  
2 petitioner.)

3 (a) Name: . . . . .

4 (b) Principal residence: . . . . .

5 (c) Current street address (if different): . . . . .

6 (d) Relationship to respondent: . . . . .

7 (e) Interest in this petition: . . . . .

8 (f) Telephone number (optional): . . . . .

9 (g) Email address (optional): . . . . .

10 (2) Information about the individual alleged to need  
11 protection (the "respondent"). Provide the following information  
12 to the extent known.

13 (a) Name: . . . . .

14 (b) Age: . . . . .

15 (c) Principal residence: . . . . .

16 (d) Current street address (if different): . . . . .

17 (e) If petitioner anticipates respondent moving, or seeks to  
18 move respondent, proposed new address: . . . . .

19 (f) Does respondent need an interpreter, translator, or other  
20 form of support to communicate with the court or understand court  
21 proceedings? If so, please explain: . . . . .

22 . . . . .

23 (g) Telephone number (optional): . . . . .

24 (h) Email address (optional): . . . . .

25 (3) People who are required to be notified of this petition.  
26 State the name and address of the people listed in Appendix A.

27 . . . . .

28 . . . . .

29 (4) Existing agents. State the name and address of any person  
30 appointed as an agent under a power of attorney for finances or  
31 power of attorney for health care, or who has been appointed as  
32 the individual's representative for payment of benefits.

33 . . . . .

34 . . . . .

35 (5) Action requested. State whether petitioner is seeking  
36 appointment of a guardian, a conservator, or a protective  
37 arrangement instead of an appointment.

38 . . . . .

39 . . . . .

1 (6) Order requested or appointment requested. If seeking a  
2 protective arrangement instead of a guardianship or  
3 conservatorship, state the transaction or other action you want  
4 the court to order. If seeking appointment of a guardian or  
5 conservator, state the powers petitioner requests the court grant  
6 to a guardian or conservator.

7 . . . . .  
8 . . . . .

9 (7) State why the appointment or protective arrangement  
10 sought is necessary. Include a description of the nature and  
11 extent of respondent's alleged need.

12 . . . . .  
13 . . . . .

14 (8) State all less restrictive alternatives to meeting  
15 respondent's alleged need that have been considered or  
16 implemented. Less restrictive alternatives could include  
17 supported decision making, technological assistance, or the  
18 appointment of an agent by respondent including appointment under  
19 a power of attorney for health care or power of attorney for  
20 finances. If no alternative has been considered or implemented,  
21 state the reason why not.

22 . . . . .  
23 . . . . .

24 (9) Explain why less restrictive alternatives will not meet  
25 respondent's alleged need.

26 . . . . .  
27 . . . . .

28 (10) Provide a general statement of respondent's property and  
29 an estimate of its value. Include any real property such as a  
30 house or land, insurance or pension, and the source and amount of  
31 any other anticipated income or receipts. As part of this  
32 statement, indicate, if known, how the property is titled (for  
33 example, is it jointly owned?).

34 . . . . .  
35 . . . . .

36 (11) For a petition seeking appointment of a conservator.  
37 (Skip this section if not asking for appointment of a  
38 conservator.)

39 (a) If seeking appointment of a conservator with all powers  
40 permissible under this state's law, explain why appointment of a

1 conservator with fewer powers (i.e., a "limited conservatorship")  
2 or other protective arrangement instead of conservatorship will  
3 not meet the individual's alleged needs.

4 . . . . .  
5 . . . . .

6 (b) If seeking a limited conservatorship, state the property  
7 petitioner requests be placed under the conservator's control and  
8 any proposed limitation on the conservator's powers and duties.

9 . . . . .  
10 . . . . .

11 (c) State the name and address of any proposed conservator  
12 and the reason the proposed conservator should be selected.

13 . . . . .  
14 . . . . .

15 (d) If respondent is twelve years of age or older, state the  
16 name and address of any person respondent nominates as  
17 conservator.

18 . . . . .  
19 . . . . .

20 (e) If alleging a limitation in respondent's ability to  
21 receive and evaluate information, provide a brief description of  
22 the nature and extent of respondent's alleged limitation.

23 . . . . .  
24 . . . . .

25 (f) If alleging that respondent is missing, detained, or  
26 unable to return to the United States, state the relevant  
27 circumstances, including the time and nature of the disappearance  
28 or detention and a description of any search or inquiry  
29 concerning respondent's whereabouts.

30 . . . . .  
31 . . . . .

32 (12) For a petition seeking appointment of a guardian. (Skip  
33 this section if not asking for appointment of a guardian.)

34 (a) If seeking appointment of a guardian with all powers  
35 permissible under this state's law, explain why appointment of a  
36 guardian with fewer powers (i.e., a "limited guardianship") or  
37 other protective arrangement instead of guardianship will not  
38 meet the individual's alleged needs.

39 . . . . .  
40 . . . . .

1 (b) If seeking a limited guardianship, state the powers  
2 petitioner requests be granted to the guardian.

3 . . . . .  
4 . . . . .

5 (c) State the name and address of any proposed guardian and  
6 the reason the proposed guardian should be selected.

7 . . . . .  
8 . . . . .

9 (d) State the name and address of any person nominated as  
10 guardian by respondent, or, in a will or other signed writing or  
11 other record, by respondent's parent or spouse or domestic  
12 partner.

13 . . . . .  
14 . . . . .

15 (13) Attorney. If petitioner, respondent, or, if respondent  
16 is a minor, respondent's parent is represented by an attorney in  
17 this matter, state the name, telephone number, email address, and  
18 address of the attorney(s).

19 . . . . .  
20 . . . . .

21 SIGNATURE

22 . . . . .  
23 Signature of Petitioner Date  
24 . . . . .  
25 Signature of Petitioner's Attorney if Date  
26 Petitioner is Represented by Counsel

27 APPENDIX A:

28 People whose name and address must be listed in subsection  
29 (3) of this petition, if they are not the petitioner.

30 Respondent's spouse or domestic partner, or if respondent has  
31 none, any adult with whom respondent has shared household  
32 responsibilities in the past six months;

33 Respondent's adult children, or, if respondent has none,  
34 respondent's parents and adult siblings, or if respondent has  
35 none, one or more adults nearest in kinship to respondent who can  
36 be found with reasonable diligence;

37 Respondent's adult stepchildren whom respondent actively  
38 parented during the stepchildren's minor years and with whom

1 respondent had an ongoing relationship within two years of this  
2 petition;

3 Any person responsible for the care or custody of respondent;

4 Any attorney currently representing respondent;

5 Any representative payee for respondent appointed by the  
6 social security administration;

7 Any current guardian or conservator for respondent appointed  
8 in this state or another jurisdiction;

9 Any trustee or custodian of a trust or custodianship of which  
10 respondent is a beneficiary;

11 Any veterans administration fiduciary for respondent;

12 Any person respondent has designated as agent under a power  
13 of attorney for finances;

14 Any person respondent has designated as agent under a power  
15 of attorney for health care;

16 Any person known to have routinely assisted the individual  
17 with decision making in the previous six months;

18 Any person respondent nominates as guardian or conservator;  
19 and

20 Any person nominated as guardian by respondent's parent or  
21 spouse or domestic partner in a will or other signed writing or  
22 other record.

23 NEW SECTION. **Sec. 604.** NOTIFICATION OF RIGHTS FOR ADULT SUBJECT  
24 TO GUARDIANSHIP OR CONSERVATORSHIP. This form may be used to notify  
25 an adult subject to guardianship or conservatorship of the adult's  
26 rights under sections 311 and 412 of this act.

#### 27 **Notification of Rights**

28 You are getting this notice because a guardian, conservator,  
29 or both have been appointed for you. It tells you about some  
30 important rights you have. It does not tell you about all your  
31 rights. If you have questions about your rights, you can ask an  
32 attorney or another person, including your guardian or  
33 conservator, to help you understand your rights.

#### 34 **General rights:**

35 You have the right to exercise any right the court has not  
36 given to your guardian or conservator.

37 You also have the right to ask the court to:

38 End your guardianship, conservatorship, or both;



1 Increase or decrease the powers granted to your guardian,  
2 conservator, or both;

3 Make other changes that affect what your guardian or  
4 conservator can do or how they do it; and

5 Replace the person that was appointed with someone else.

6 You also have a right to hire an attorney to help you do any  
7 of these things.

8 **Additional rights for persons for whom a guardian has been**  
9 **appointed:**

10 As an adult subject to guardianship, you have a right to:

11 (1) Be involved in decisions affecting you, including  
12 decisions about your care, where you live, your activities, and  
13 your social interactions, to the extent reasonably feasible;

14 (2) Be involved in decisions about your health care to the  
15 extent reasonably feasible, and to have other people help you  
16 understand the risks and benefits of health care options;

17 (3) Be notified at least fourteen days in advance of a change  
18 in where you live or a permanent move to a nursing home, mental  
19 health facility, or other facility that places restrictions on  
20 your ability to leave or have visitors, unless the guardian has  
21 proposed this change in the guardian's plan or the court has  
22 expressly authorized it;

23 (4) Ask the court to prevent your guardian from changing  
24 where you live or selling or surrendering your primary dwelling  
25 by following the appropriate process for objecting to such a move  
26 in compliance with section 314(5) of this act;

27 (5) Vote and get married unless the court order appointing  
28 your guardian states that you cannot do so;

29 (6) Receive a copy of your guardian's report and your  
30 guardian's plan; and

31 (7) Communicate, visit, or interact with other people (this  
32 includes the right to have visitors, to make and receive  
33 telephone calls, personal mail, or electronic communications)  
34 unless:

35 (a) Your guardian has been authorized by the court by  
36 specific order to restrict these communications, visits, or  
37 interactions;

38 (b) A protective order is in effect that limits contact  
39 between you and other people; or

1 (c) Your guardian has good cause to believe the restriction  
2 is needed to protect you from significant physical,  
3 psychological, or financial harm and the restriction is for not  
4 more than seven business days if the person has a relative or  
5 preexisting social relationship with you or not more than sixty  
6 days if the person does not have that kind of relationship with  
7 you.

8 **Additional rights for persons for whom a conservator has been**  
9 **appointed:**

10 As an adult subject to conservatorship, you have a right to:

11 Participate in decisions about how your property is managed  
12 to the extent feasible; and

13 Receive a copy of your conservator's inventory, report, and  
14 plan.

15 NEW SECTION. **Sec. 605.** LETTERS OF OFFICE. All letters of  
16 guardianship/conservatorship must be in the following form or a  
17 substantially similar form:

18 IN THE SUPERIOR COURT OF THE  
19 STATE OF WASHINGTON IN AND FOR THE  
20 COUNTY OF .....

21 IN THE MATTER OF THE Cause No. ....  
22 GUARDIANSHIP/  
23 CONSERVATORSHIP OF  
24 .....

25  
26 LETTERS OF  
27 GUARDIANSHIP/CONSERVATORSHIP  
28

29 Date letters expire .....

30 THESE LETTERS OF GUARDIANSHIP/CONSERVATORSHIP PROVIDE OFFICIAL VERIFICATION OF THE  
31 FOLLOWING:

32  
33 On the ..... day of ....., (year) .... the Court appointed ..... to serve as:

- 34  
35  Guardian of the Person  Full  Limited  
36  Conservator of the Estate  Full  Limited



1 (Signature of Deputy)

2 NEW SECTION. **Sec. 606.** GUARDIANSHIP/CONSERVATORSHIP SUMMARY.  
3 The guardianship/conservatorship summary shall be in or substantially  
4 similar form:

5 **GUARDIANSHIP/CONSERVATORSHIP SUMMARY**

6 Date Guardian/  
7 Conservator Appointed: .....  
8 Due Date for Report and  
9 Accounting: .....  
10 Date of Next Review: .....  
11 Letters Expire On: .....  
12 Bond Amount: \$. .....  
13 Restricted Account  
14 Agreements Required: .....  
15 Due Date for Inventory, if  
16 applicable: .....  
17 Due Date for Guardian's  
18 Plan, if applicable: .....

Person subject to guardianship/ conservatorship	Guardian/Conservator
Name:	Name:
Address:	Address:
Phone:	Phone:
Facsimile:	Facsimile:

Interested Parties	Address	Relation

1 **ARTICLE 7**

2 **CERTIFIED PROFESSIONAL GUARDIANSHIP BOARD OF RESOLUTION GRIEVANCES**

3 NEW SECTION. **Sec. 701.** CERTIFIED PROFESSIONAL GUARDIANSHIP  
4 BOARD RESOLUTION OF GRIEVANCES. (1) The certified professional  
5 guardianship board must resolve grievances against professional  
6 guardians and/or conservators within a reasonable time for alleged  
7 violations of the certified professional guardianship board's  
8 standards of practice.

9 (a) All grievances must initially be reviewed within thirty days  
10 by certified professional guardianship board members, or a subset  
11 thereof, to determine if the grievance is complete, states facts that  
12 allege a violation of the standards of practice, and relates to the  
13 conduct of a professional guardian and/or conservator, before any  
14 investigation or response is requested from the professional guardian  
15 or the superior court. Grievances must provide the dates of the  
16 alleged violations and must be signed and dated by the person filing  
17 the grievance. Grievance investigations by the board are limited to  
18 the allegations contained in the grievance unless, after review by a  
19 majority of the members of the certified professional guardianship  
20 board, further investigation is justified.

21 (b) If the certified professional guardianship board determines  
22 the grievance is complete, states facts that allege a violation of  
23 the standards of practice, and relates to the conduct of a  
24 professional guardian and/or conservator, the certified professional  
25 guardianship board must forward that grievance within ten days to the  
26 superior court for that guardianship or conservatorship and to the  
27 professional guardian and/or conservator. The court must review the  
28 matter as set forth in section 128 of this act, and must direct the  
29 clerk of the court to send a copy of the order entered under this  
30 section to the certified professional guardianship board. The  
31 certified professional guardianship board must act consistently with  
32 any finding of fact issued in that order.

33 (2) Grievances received by the certified professional  
34 guardianship board must be resolved within one hundred eighty days of  
35 receipt.

36 (3) If the grievance cannot be resolved within one hundred eighty  
37 days, the certified professional guardianship board must notify the  
38 professional guardian and/or conservator. The professional guardian  
39 or conservator may propose a resolution of the grievance with facts

1 and/or arguments. The certified professional guardianship board may  
2 accept the proposed resolution or determine that an additional ninety  
3 days are needed to review the grievance. If the certified  
4 professional guardianship board has not resolved the grievance within  
5 the additional ninety days the professional guardian or conservator  
6 may:

7 (a) File a motion for a court order to compel the certified  
8 professional guardianship board to resolve the grievance within a  
9 reasonable time; or

10 (b) Move for the court to resolve the grievance instead of being  
11 resolved by the certified professional guardianship board.

12 (4) The court has authority to enforce the certified professional  
13 guardianship board's standards of practice in this article to the  
14 extent those standards are related to statutory or fiduciary duties  
15 of guardians and conservators.

16 (5) Any unresolved grievances filed with the certified  
17 professional guardianship board at the time of the effective date of  
18 this section must be forwarded to the superior court for that  
19 guardianship or conservatorship for review by the court as set forth  
20 in section 128 of this act.

## 21 **ARTICLE 8**

### 22 **MISCELLANEOUS PROVISIONS**

23 NEW SECTION. **Sec. 801.** REPEALS. The following acts or parts of  
24 acts are each repealed:

25 (1) RCW 11.88.005 (Legislative intent) and 1990 c 122 s 1, 1977  
26 ex.s. c 309 s 1, & 1975 1st ex.s. c 95 s 1;

27 (2) RCW 11.88.008 ("Professional guardian" defined) and 1997 c  
28 312 s 2;

29 (3) RCW 11.88.010 (Authority to appoint guardians—Definitions—  
30 Venue—Nomination by principal) and 2016 c 209 s 403, 2008 c 6 s 802,  
31 2005 c 236 s 3, (2005 c 236 s 2 expired January 1, 2006), 2004 c 267  
32 s 139, 1991 c 289 s 1, 1990 c 122 s 2, 1984 c 149 s 176, 1977 ex.s. c  
33 309 s 2, 1975 1st ex.s. c 95 s 2, & 1965 c 145 s 11.88.010;

34 (4) RCW 11.88.020 (Qualifications) and 2011 c 329 s 1, 1997 c 312  
35 s 1, 1990 c 122 s 3, 1975 1st ex.s. c 95 s 3, 1971 c 28 s 4, & 1965 c  
36 145 s 11.88.020;

1 (5) RCW 11.88.030 (Petition—Contents—Hearing) and 2011 c 329 s  
2 2, 2009 c 521 s 36, 1996 c 249 s 8, 1995 c 297 s 1, 1991 c 289 s 2,  
3 1990 c 122 s 4, 1977 ex.s. c 309 s 3, 1975 1st ex.s. c 95 s 4, & 1965  
4 c 145 s 11.88.030;

5 (6) RCW 11.88.040 (Notice and hearing, when required—Service—  
6 Procedure) and 2008 c 6 s 803, 1995 c 297 s 2, 1991 c 289 s 3, 1990 c  
7 122 s 5, 1984 c 149 s 177, 1977 ex.s. c 309 s 4, 1975 1st ex.s. c 95  
8 s 5, 1969 c 70 s 1, & 1965 c 145 s 11.88.040;

9 (7) RCW 11.88.045 (Legal counsel and jury trial—Proof—Medical  
10 report—Examinations—Waiver) and 2001 c 148 s 1, 1996 c 249 s 9, 1995  
11 c 297 s 3, 1991 c 289 s 4, 1990 c 122 s 6, 1977 ex.s. c 309 s 5, &  
12 1975 1st ex.s. c 95 s 7;

13 (8) RCW 11.88.080 (Guardians nominated by will or durable power  
14 of attorney) and 2016 c 209 s 401, 2005 c 97 s 11, 1990 c 122 s 7, &  
15 1965 c 145 s 11.88.080;

16 (9) RCW 11.88.090 (Guardian ad litem—Mediation—Appointment—  
17 Qualifications—Notice of and statement by guardian ad litem—Hearing  
18 and notice—Attorneys' fees and costs—Registry—Duties—Report—  
19 Responses—Fee) and 2008 c 6 s 804, 2000 c 124 s 1, 1999 c 360 s 1,  
20 1996 c 249 s 10, 1995 c 297 s 4, 1991 c 289 s 5, 1990 c 122 s 8, 1977  
21 ex.s. c 309 s 6, 1975 1st ex.s. c 95 s 9, & 1965 c 145 s 11.88.090;

22 (10) RCW 11.88.093 (Ex parte communications—Removal) and 2000 c  
23 124 s 10;

24 (11) RCW 11.88.095 (Disposition of guardianship petition) and  
25 2011 c 329 s 4, 1995 c 297 s 5, 1991 c 289 s 6, & 1990 c 122 s 9;

26 (12) RCW 11.88.097 (Guardian ad litem—Fees) and 2000 c 124 s 13;

27 (13) RCW 11.88.100 (Oath and bond of guardian or limited  
28 guardian) and 2010 c 8 s 2088, 1990 c 122 s 10, 1983 c 271 s 1, 1977  
29 ex.s. c 309 s 7, 1975 1st ex.s. c 95 s 10, & 1965 c 145 s 11.88.100;

30 (14) RCW 11.88.105 (Reduction in amount of bond) and 1990 c 122 s  
31 11, 1975 1st ex.s. c 95 s 11, & 1965 c 145 s 11.88.105;

32 (15) RCW 11.88.107 (When bond not required) and 1990 c 122 s 12,  
33 1977 ex.s. c 309 s 8, 1975 1st ex.s. c 95 s 12, & 1965 c 145 s  
34 11.88.107;

35 (16) RCW 11.88.110 (Law on executors' and administrators' bonds  
36 applicable) and 1975 1st ex.s. c 95 s 13 & 1965 c 145 s 11.88.110;

37 (17) RCW 11.88.120 (Modification or termination of guardianship—  
38 Procedure) and 2017 c 271 s 2, 2015 c 293 s 1, 1991 c 289 s 7, 1990 c

1 122 s 14, 1977 ex.s. c 309 s 9, 1975 1st ex.s. c 95 s 14, & 1965 c  
2 145 s 11.88.120;

3 (18) RCW 11.88.125 (Standby limited guardian or limited guardian)  
4 and 2013 c 304 s 1, 2011 c 329 s 5, 2008 c 6 s 805, 1991 c 289 s 8,  
5 1990 c 122 s 15, 1979 c 32 s 1, 1977 ex.s. c 309 s 10, & 1975 1st  
6 ex.s. c 95 s 6;

7 (19) RCW 11.88.127 (Guardianship—Incapacitated person—Letters of  
8 guardianship) and 2011 c 329 s 6;

9 (20) RCW 11.88.130 (Transfer of jurisdiction and venue) and 1990  
10 c 122 s 16, 1975 1st ex.s. c 95 s 15, & 1965 c 145 s 11.88.130;

11 (21) RCW 11.88.140 (Termination of guardianship or limited  
12 guardianship) and 2016 c 202 s 9, 2011 c 329 s 7, 1991 c 289 s 9,  
13 1990 c 122 s 17, 1977 ex.s. c 309 s 11, 1975 1st ex.s. c 95 s 16, &  
14 1965 c 145 s 11.88.140;

15 (22) RCW 11.88.150 (Administration of deceased incapacitated  
16 person's estate) and 2010 c 8 s 2089, 1990 c 122 s 18, 1977 ex.s. c  
17 309 s 12, 1975 1st ex.s. c 95 s 17, & 1965 c 145 s 11.88.150;

18 (23) RCW 11.88.160 (Guardianships involving veterans) and 1990 c  
19 122 s 13;

20 (24) RCW 11.88.170 (Guardianship courthouse facilitator program)  
21 and 2015 c 295 s 1;

22 (25) RCW 11.88.900 (Construction—Chapter applicable to state  
23 registered domestic partnerships—2009 c 521) and 2009 c 521 s 35;

24 (26) RCW 11.92.010 (Guardians or limited guardians under court  
25 control—Legal age) and 1975 1st ex.s. c 95 s 18, 1971 c 28 s 5, &  
26 1965 c 145 s 11.92.010;

27 (27) RCW 11.92.035 (Claims) and 1990 c 122 s 19, 1975 1st ex.s. c  
28 95 s 19, & 1965 c 145 s 11.92.035;

29 (28) RCW 11.92.040 (Duties of guardian or limited guardian in  
30 general) and 2011 c 329 s 9, 1991 c 289 s 10, 1990 c 122 s 20, & 1985  
31 c 30 s 9;

32 (29) RCW 11.92.043 (Additional duties) and 2017 c 268 s 3, 2011 c  
33 329 s 3, 1991 c 289 s 11, & 1990 c 122 s 21;

34 (30) RCW 11.92.050 (Intermediate accounts or reports—Hearing—  
35 Order) and 2011 c 329 s 10, 1995 c 297 s 6, 1990 c 122 s 23, 1975 1st  
36 ex.s. c 95 s 21, & 1965 c 145 s 11.92.050;

37 (31) RCW 11.92.053 (Settlement of estate upon termination) and  
38 2011 c 329 s 8, 1995 c 297 s 7, 1990 c 122 s 24, & 1965 c 145 s  
39 11.92.053;



1 (32) RCW 11.92.056 (Citation of surety on bond) and 1990 c 122 s  
2 25, 1975 1st ex.s. c 95 s 22, & 1965 c 145 s 11.92.056;

3 (33) RCW 11.92.060 (Guardian to represent incapacitated person—  
4 Compromise of claims—Service of process) and 1990 c 122 s 26, 1975  
5 1st ex.s. c 95 s 23, & 1965 c 145 s 11.92.060;

6 (34) RCW 11.92.090 (Sale, exchange, lease, or mortgage of  
7 property) and 1990 c 122 s 27, 1975 1st ex.s. c 95 s 24, & 1965 c 145  
8 s 11.92.090;

9 (35) RCW 11.92.096 (Guardian access to certain held assets) and  
10 1991 c 289 s 13;

11 (36) RCW 11.92.100 (Petition—Contents) and 1990 c 122 s 28, 1975  
12 1st ex.s. c 95 s 25, & 1965 c 145 s 11.92.100;

13 (37) RCW 11.92.110 (Sale of real estate) and 1990 c 122 s 29,  
14 1975 1st ex.s. c 95 s 26, & 1965 c 145 s 11.92.110;

15 (38) RCW 11.92.115 (Return and confirmation of sale) and 2010 c 8  
16 s 2090, 1990 c 122 s 30, 1975 1st ex.s. c 95 s 27, & 1965 c 145 s  
17 11.92.115;

18 (39) RCW 11.92.120 (Confirmation conclusive) and 1975 1st ex.s. c  
19 95 s 28 & 1965 c 145 s 11.92.120;

20 (40) RCW 11.92.125 (Broker's fee and closing expenses—Sale,  
21 exchange, mortgage, or lease of real estate) and 1977 ex.s. c 309 s  
22 15 & 1965 c 145 s 11.92.125;

23 (41) RCW 11.92.130 (Performance of contracts) and 1990 c 122 s  
24 31, 1975 1st ex.s. c 95 s 29, & 1965 c 145 s 11.92.130;

25 (42) RCW 11.92.140 (Court authorization for actions regarding  
26 guardianship funds) and 2008 c 6 s 807, 1999 c 42 s 616, 1991 c 193 s  
27 32, 1990 c 122 s 32, & 1985 c 30 s 10;

28 (43) RCW 11.92.150 (Request for special notice of proceedings)  
29 and 1990 c 122 s 33 & 1985 c 30 s 11;

30 (44) RCW 11.92.160 (Citation for failure to file account or  
31 report) and 1990 c 122 s 34, 1975 1st ex.s. c 95 s 31, & 1965 c 145 s  
32 11.92.160;

33 (45) RCW 11.92.170 (Removal of property of nonresident  
34 incapacitated person) and 1990 c 122 s 35, 1977 ex.s. c 309 s 16,  
35 1975 1st ex.s. c 95 s 32, & 1965 c 145 s 11.92.170;

36 (46) RCW 11.92.180 (Compensation and expenses of guardian or  
37 limited guardian—Attorney's fees—Department of social and health  
38 services clients paying part of costs—Rules) and 1995 c 297 s 8, 1994

1 c 68 s 1, 1991 c 289 s 12, 1990 c 122 s 36, 1975 1st ex.s. c 95 s 33,  
2 & 1965 c 145 s 11.92.180;

3 (47) RCW 11.92.185 (Concealed or embezzled property) and 1990 c  
4 122 s 37, 1975 1st ex.s. c 95 s 34, & 1965 c 145 s 11.92.185;

5 (48) RCW 11.92.190 (Detention of person in residential placement  
6 facility against will prohibited—Effect of court order—Service of  
7 notice of residential placement) and 2016 sp.s. c 29 s 412, 1996 c  
8 249 s 11, & 1977 ex.s. c 309 s 14;

9 (49) RCW 11.92.195 (Incapacitated persons—Right to associate with  
10 persons of their choosing) and 2017 c 268 s 1;

11 (50) RCW 26.10.010 (Intent) and 1987 c 460 s 25;

12 (51) RCW 26.10.015 (Mandatory use of approved forms) and 1992 c  
13 229 s 4 & 1990 1st ex.s. c 2 s 27;

14 (52) RCW 26.10.020 (Civil practice to govern—Designation of  
15 proceedings—Decrees) and 1987 c 460 s 26;

16 (53) RCW 26.10.030 (Child custody proceeding—Commencement—Notice  
17 —Intervention) and 2003 c 105 s 3, 2000 c 135 s 3, 1998 c 130 s 4, &  
18 1987 c 460 s 27;

19 (54) RCW 26.10.032 (Child custody motion—Affidavit required—  
20 Notice—Denial of motion—Show cause hearing) and 2003 c 105 s 6;

21 (55) RCW 26.10.034 (Petitions—Indian child statement—Application  
22 of federal Indian child welfare act) and 2011 c 309 s 31, 2004 c 64 s  
23 1, & 2003 c 105 s 7;

24 (56) RCW 26.10.040 (Provisions for child support, custody, and  
25 visitation—Federal tax exemption—Continuing restraining orders—  
26 Domestic violence or antiharassment protection orders—Notice of  
27 modification or termination of restraining order) and 2000 c 119 s 8,  
28 1995 c 93 s 3, 1994 sp.s. c 7 s 453, 1989 c 375 s 31, & 1987 c 460 s  
29 28;

30 (57) RCW 26.10.045 (Child support schedule) and 1988 c 275 s 12;

31 (58) RCW 26.10.050 (Child support by parents—Apportionment of  
32 expense) and 2008 c 6 s 1023 & 1987 c 460 s 29;

33 (59) RCW 26.10.060 (Health insurance coverage—Conditions) and  
34 1989 c 375 s 19 & 1987 c 460 s 30;

35 (60) RCW 26.10.070 (Minor or dependent child—Court appointed  
36 attorney to represent—Payment of costs, fees, and disbursements) and  
37 1989 c 375 s 20 & 1987 c 460 s 31;

38 (61) RCW 26.10.080 (Payment of costs, attorney's fees, etc) and  
39 1987 c 460 s 35;

1 (62) RCW 26.10.090 (Failure to comply with decree or temporary  
2 injunction—Obligation to make support payments or permit visitation  
3 not suspended—Motion) and 1987 c 460 s 36;

4 (63) RCW 26.10.100 (Determination of custody—Child's best  
5 interests) and 1987 c 460 s 38;

6 (64) RCW 26.10.110 (Temporary custody order—Vacation of order)  
7 and 1987 c 460 s 39;

8 (65) RCW 26.10.115 (Temporary orders—Support—Restraining orders  
9 —Domestic violence or antiharassment protection orders—Notice of  
10 modification or termination of restraining order—Preservation of  
11 support debt) and 2000 c 119 s 9, 1995 c 246 s 29, 1994 sp.s. c 7 s  
12 454, & 1989 c 375 s 32;

13 (66) RCW 26.10.120 (Interview with child by court—Advice of  
14 professional personnel) and 1987 c 460 s 40;

15 (67) RCW 26.10.130 (Investigation and report) and 1993 c 289 s 2  
16 & 1987 c 460 s 41;

17 (68) RCW 26.10.135 (Custody orders—Background information to be  
18 consulted) and 2017 3rd sp.s. c 6 s 333 & 2003 c 105 s 1;

19 (69) RCW 26.10.140 (Hearing—Record—Expenses of witnesses) and  
20 1987 c 460 s 42;

21 (70) RCW 26.10.150 (Access to child's education and medical  
22 records) and 1987 c 460 s 43;

23 (71) RCW 26.10.160 (Visitation rights—Limitations) and 2018 c 183  
24 s 7, 2011 c 89 s 7, 2004 c 38 s 13, 1996 c 303 s 2, 1994 c 267 s 2,  
25 1989 c 326 s 2, & 1987 c 460 s 44;

26 (72) RCW 26.10.170 (Powers and duties of custodian—Supervision by  
27 appropriate agency when necessary) and 1987 c 460 s 45;

28 (73) RCW 26.10.180 (Remedies when a child is taken, enticed, or  
29 concealed) and 2008 c 6 s 1024, 1989 c 375 s 21, & 1987 c 460 s 46;

30 (74) RCW 26.10.190 (Petitions for modification and proceedings  
31 concerning relocation of child—Assessment of attorneys' fees) and  
32 2000 c 21 s 21, 1989 c 375 s 24, & 1987 c 460 s 47;

33 (75) RCW 26.10.200 (Temporary custody order or modification of  
34 custody decree—Affidavits required) and 1987 c 460 s 48;

35 (76) RCW 26.10.210 (Venue) and 1987 c 460 s 49;

36 (77) RCW 26.10.220 (Restraining orders—Notice—Refusal to comply  
37 —Arrest—Penalty—Defense—Peace officers, immunity) and 2000 c 119 s  
38 22, 1999 c 184 s 11, 1996 c 248 s 10, 1995 c 246 s 30, & 1987 c 460 s  
39 50; and

1 (78) RCW 26.10.910 (Short title—1987 c 460).

2 NEW SECTION. **Sec. 802.** UNIFORMITY OF APPLICATION AND  
3 CONSTRUCTION. In applying and construing this uniform act,  
4 consideration must be given to the need to promote uniformity of the  
5 law with respect to its subject matter among states that enact it.

6 NEW SECTION. **Sec. 803.** RELATION TO ELECTRONIC SIGNATURES IN  
7 GLOBAL AND NATIONAL COMMERCE ACT. This act modifies, limits, or  
8 supersedes the electronic signatures in global and national commerce  
9 act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or  
10 supersede section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or  
11 authorize electronic delivery of any of the notices described in  
12 section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

13 NEW SECTION. **Sec. 804.** APPLICABILITY. This chapter applies to:

14 (1) A proceeding for appointment of a guardian or conservator or  
15 for a protective arrangement instead of guardianship or  
16 conservatorship commenced after the effective date of this section;  
17 and

18 (2) A guardianship, conservatorship, or protective arrangement  
19 instead of a guardianship or conservatorship in existence on the  
20 effective date of this section unless the court finds application of  
21 a particular provision of this act would substantially interfere with  
22 the effective conduct of the proceeding or prejudice the rights of a  
23 party, in which case the particular provision of this act does not  
24 apply and the superseded law applies.

25 NEW SECTION. **Sec. 805.** SEVERABILITY. If any provision of this  
26 act or its application to any person or circumstance is held invalid,  
27 the remainder of the act or the application of the provision to other  
28 persons or circumstances is not affected.

29 NEW SECTION. **Sec. 806.** Articles I through VII and sections 802  
30 through 804 and 807 of this act constitute a new chapter in Title 11  
31 RCW.

32 NEW SECTION. **Sec. 807.** EFFECTIVE DATE. This act takes effect  
33 January 1, 2021."

1 Correct the title.

EFFECT: (Effect of the striker as compared to the bill as adopted and engrossed by the House on 04/12/19)

Retains changes referenced below, and in addition:

Restores language from the current guardianship statute that:

(1) Provides that a respondent has the right to counsel at any point in a guardianship proceeding and extends the right to conservatorship and protective arrangement proceedings under the uniform act; and

(2) Requires a court to appoint counsel at public expense when the respondent is indigent; the expense of counsel could result in a substantial hardship to the respondent; the respondent does not have practical access to funds to pay for counsel; or the rights and interests of the respondent are not otherwise adequately protected and represented.

(Effect of the striker as compared to the substitute bill)

(1) Raises the age of a qualified guardian or conservator to a person over twenty-one years of age instead of a person over eighteen years of age;

(2) Provides that a court must approve compensation and expenses by a guardian;

(3) Authorizes a court to assess the cost of a visitor or professional evaluation against a person who files a petition in bad faith;

(4) Provides that when a grievance is filed against a guardian, the court must promptly review the grievance and act to protect the autonomy, independence, values, and preferences of the individual subject to guardianship;

(5) Provides that guardians owe a duty of good faith and care to the individual subject to guardianship and must not substitute his or her own values, opinions, or beliefs on the individual;

(6) Requires a guardian for an adult to petition the court for approval of the guardian's report;

(7) Requires a successor guardian or conservator to notify an individual subject to guardianship or conservatorship of their appointment no later than fourteen days after appointment instead of thirty days;

(8) Provides that a lay guardian training program be developed, in addition to the guardian ad litem and visitor training program the advisory group convened by the Department of Social and Health Services is required to develop;

(9) Prohibits a court from dismissing a grievance filed against a guardian or conservator due to an inability to resolve the grievance in a timely manner; and

(10) Makes technical corrections.

--- END ---