

ESSB 6287 - H COMM AMD

By Committee on Civil Rights & Judiciary

ADOPTED 03/05/2020

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

3 **"Sec. 101.** RCW 11.130.185 and 2019 c 437 s 201 are each amended
4 to read as follows:

5 (1) A person becomes a guardian for a minor only on appointment
6 by the court.

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

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

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

13 (c) There is clear and convincing evidence that no parent of the
14 minor is willing or able to exercise (~~the powers the court is~~
15 ~~granting the guardian~~) parenting functions as defined in RCW
16 26.09.004.

17 **Sec. 102.** RCW 11.130.190 and 2019 c 437 s 202 are each amended
18 to read as follows:

19 (1) A person interested in the welfare of a minor, including the
20 minor, may petition for appointment of a guardian for the minor.

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

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

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

1 (c) The name and address, if known, of each person that had
2 primary care or custody of the minor for at least sixty days during
3 the two years immediately before the filing of the petition or for at
4 least seven hundred thirty days during the five years immediately
5 before the filing of the petition;

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

8 ~~((The reason guardianship is sought and would be in the best
9 interest of the minor))~~ The legal basis for the guardianship. Factual
10 reasons why the guardianship is sought and would be in the best
11 interest of the minor shall be set out in a separate supplemental
12 declaration;

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

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

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

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

24 (j) Whether any other proceeding concerning the care or custody
25 of the minor is pending in any court in this state or another
26 jurisdiction.

27 (3) The court may, upon a showing of good cause, order that the
28 information concerning the reasons for the guardianship contained in
29 the supplemental declaration to the petition and all subsequently
30 filed pleadings and evidence by any party not be served on the minor
31 if the minor is unrepresented. A minor entitled to service under this
32 subsection may request access to the court pleadings and evidence
33 filed in the court record.

34 (4) Courts may develop forms for the purpose of filing petitions
35 under subsection (1) of this section.

36 **Sec. 103.** RCW 11.130.195 and 2019 c 437 s 203 are each amended
37 to read as follows:

38 (1) If a petition is filed under RCW 11.130.190, the court shall
39 schedule a hearing and the petitioner shall:

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

4 (i) The minor, if the minor (~~(will be)~~) is twelve years of age or
5 older (~~(at the time of the hearing)~~). The court may, upon a showing
6 of good cause, order that information concerning the reasons for the
7 guardianship contained in the petition, the supplemental declaration,
8 and all subsequently filed pleadings and evidence by any party, not
9 be served on the minor if the minor is unrepresented. A minor
10 entitled to service under this subsection may request access to the
11 court pleadings and evidence filed in the court record;

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

14 (iii) (~~Any adult with whom the minor resides;~~

15 ~~(iv) Each person that had primary care or custody of the minor~~
16 ~~for at least sixty days during the two years immediately before the~~
17 ~~filing of the petition or for at least seven hundred thirty days~~
18 ~~during the five years immediately before the filing of the petition;~~
19 ~~and~~

20 ~~(v))~~ Any guardian or person with nonparental custody of the
21 minor issued under chapter 26.10 RCW; and

22 (iv) Any other person the court determines should receive
23 personal service of notice; and

24 (b) (i) Give notice by mail or other action reasonably calculated
25 to give notice under RCW 11.130.065 of the date, time, and place of
26 the hearing, together with a copy of the petition, to:

27 (~~(i)~~) (A) Any adult with primary care and custody of the minor
28 who is not a parent, guardian, or person with nonparental custody
29 issued under chapter 26.10 RCW;

30 (B) Each person that had primary care or custody of the minor for
31 at least sixty days during the two years immediately before the
32 filing of the petition or for at least seven hundred thirty days
33 during the five years immediately before the filing of the petition,
34 if known;

35 (C) Any person nominated as guardian by the minor, if the minor
36 is twelve years of age or older;

37 (~~(ii)~~) (D) Any nominee of a parent;

38 (~~(iii)~~) (E) Each grandparent and adult sibling of the minor, if
39 known;

1 (~~(iv)~~) (F) Any (~~guardian or~~) conservator acting for the minor
2 in any jurisdiction; and

3 (~~(v)~~) (G) Any other person the court determines.

4 (ii) The court may waive notice to persons listed under (b)(i) of
5 this subsection for good cause. Good cause includes an allegation
6 that giving notice may risk harm to the minor.

7 (2) Notice required by subsection (1) of this section must
8 include a statement of the right to request appointment of an
9 attorney for the minor or object to appointment of a guardian and a
10 description of the nature, purpose, and consequences of appointment
11 of a guardian. Notice for the minor must specifically state all
12 rights retained by the minor including the right to request counsel,
13 the right to attend, and the right to participate and communicate
14 with the court. Notice for the minor must also state whether the
15 court has entered any prior order limiting information served upon
16 the minor, and that the minor may ask the court to reconsider the
17 court's order at any time. Notice for the minor must include
18 information on how the minor can respond to the petition.

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

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

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

27 (4) If a petitioner is unable to serve notice under subsection
28 (1)(a) of this section on a parent of a minor or alleges that the
29 parent waived, in a record, the right to notice under this section,
30 and in all cases involving a minor twelve years of age and older when
31 the minor is unrepresented, the court shall appoint a court visitor
32 who shall:

33 (a) Interview the petitioner and the minor;

34 (b) Meet with the minor and explain the rights retained by the
35 minor as outlined in the notice requirements under this section. The
36 court visitor shall ascertain the minor's views or positions
37 regarding the guardianship and shall file a report with the court
38 regarding the minor's views or positions. If the minor wishes the
39 court to reconsider any prior order limiting information served upon

1 the minor, the court visitor shall inform the court of the minor's
2 request;

3 (c) If the petitioner alleges the parent cannot be located,
4 ascertain whether the parent cannot be located with due diligence;

5 ~~((e))~~ (d) Investigate any other matter relating to the petition
6 the court directs; and

7 ~~((d))~~ (e) Ascertain whether the parent consents to the guardian
8 for the minor.

9 **Sec. 104.** RCW 11.130.205 and 2019 c 437 s 205 are each amended
10 to read as follows:

11 (1) The court shall allow a minor who is the subject of a hearing
12 under RCW 11.130.195 to attend the hearing and allow the minor to
13 participate in the hearing unless the court determines ~~((, by clear~~
14 ~~and convincing evidence presented at the hearing or a separate~~
15 ~~hearing,))~~ that:

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

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

19 (2) Unless excused by the court for good cause, the person
20 proposed to be appointed as guardian for a minor shall attend a
21 hearing under RCW 11.130.195.

22 (3) Each parent of a minor who is the subject of a hearing under
23 RCW 11.130.195 has the right to attend the hearing.

24 (4) A person may request permission to participate in a hearing
25 under RCW 11.130.195. The court may grant the request, with or
26 without hearing, on determining that it is in the best interest of
27 the minor who is the subject of the hearing. The court may impose
28 appropriate conditions on the person's participation.

29 **Sec. 105.** RCW 11.130.210 and 2019 c 437 s 206 are each amended
30 to read as follows:

31 (1) Before granting any order ~~((regarding the custody of a~~
32 ~~child))~~ under this chapter, the court must consult the judicial
33 information system, if available, to determine the existence of any
34 information and proceedings that are relevant to the placement of the
35 child.

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

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

1 (b) Require the petitioner to provide the results of an
2 examination of state and national criminal identification data
3 provided by the Washington state patrol criminal identification
4 system as described in chapter 43.43 RCW for the petitioner and adult
5 members of the petitioner's household.

6 **Sec. 106.** RCW 11.130.215 and 2019 c 437 s 207 are each amended
7 to read as follows:

8 (1) After a hearing under RCW 11.130.195, the court may appoint a
9 guardian for a minor, if appointment is proper under RCW 11.130.185,
10 dismiss the proceeding, or take other appropriate action consistent
11 with this chapter or law of this state other than this chapter.

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

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

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

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

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

36 (4) The court, as part of an order appointing a guardian for a
37 minor, shall state rights retained by any parent of the minor, which
38 shall preserve the parent-child relationship through an order for
39 parent-child visitation and other contact, unless the court finds the

1 relationship should be limited or restricted under RCW 26.09.191; and
2 which may include (~~contact or visitation with the minor,~~) decision
3 making regarding the minor's health care, education, or other matter,
4 or access to a record regarding the minor.

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

7 (a) The guardian has delegated custody of the minor subject to
8 guardianship;

9 (b) The court has modified or limited the powers of the guardian;
10 or

11 (c) The court has removed the guardian.

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

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

19 **Sec. 107.** RCW 11.130.220 and 2019 c 437 s 208 are each amended
20 to read as follows:

21 (1) A standby guardian appointed under this section may act as
22 guardian, with all duties and powers of a guardian under RCW
23 11.130.230 and 11.130.235, when no parent of the minor is willing or
24 able to exercise the duties and powers granted to the guardian.

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

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

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

34 (b) Finding that, within two years after the appointment, no
35 parent of the minor likely will be able or willing to (~~care for or~~
36 ~~make decisions with respect to the minor not later than two years~~
37 ~~after the appointment~~) perform parenting functions as defined in RCW
38 26.09.004.

1 (4) A petition under subsection (3)(a) of this section must
2 include the same information required under RCW 11.130.190 for the
3 appointment of a guardian for a minor.

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

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

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

9 (ii) Each parent of the minor;

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

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

12 (b) Include with the copy of the petition served under (a) of
13 this subsection a statement of the right to request appointment of an
14 attorney for the minor or to object to appointment of the standby
15 guardian, and a description of the nature, purpose, and consequences
16 of appointment of a standby guardian.

17 (6) The court may, upon a showing of good cause, order that the
18 information concerning the reasons for the standby guardianship
19 contained in the petition and all subsequently filed pleadings and
20 evidence by any party not be served on the minor if the minor is
21 unrepresented. A minor entitled to service under this subsection may
22 request access to the court pleadings and evidence filed in the court
23 record.

24 (7) A person entitled to notice under subsection (5) of this
25 section, not later than sixty days after service of the petition and
26 statement, may object to appointment of the standby guardian by
27 filing an objection with the court and giving notice of the objection
28 to each other person entitled to notice under subsection (5) of this
29 section.

30 ~~((7))~~ (8) If an objection is filed under subsection ~~((6))~~ (7)
31 of this section, the court shall hold a hearing to determine whether
32 a standby guardian should be appointed and, if so, the person that
33 should be appointed. If no objection is filed, the court may make the
34 appointment.

35 ~~((8))~~ (9) The court may not grant a petition for a standby
36 guardian of the minor if notice substantially complying with
37 subsection (5) of this section is not served on:

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

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

4 (~~(9)~~) (10) If a petitioner is unable to serve notice under
5 subsection (5) of this section on a parent of the minor or alleges
6 that a parent of the minor waived the right to notice under this
7 section, the court shall appoint a court visitor who shall:

8 (a) Interview the petitioner and the minor;

9 (b) If the petitioner alleges the parent cannot be located and
10 served, ascertain whether the parent cannot be located with due
11 diligence; and

12 (c) Investigate any other matter relating to the petition the
13 court directs.

14 (~~(10)~~) (11) If the court finds under subsection (3) of this
15 section that a standby guardian should be appointed, the following
16 rules apply:

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

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

25 (~~(11)~~) (12) An order appointing a standby guardian under this
26 section must state that each parent of the minor is entitled to
27 notice, and identify any other person entitled to notice, if:

28 (a) The standby guardian assumes the duties and powers of the
29 guardian;

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

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

32 (d) The court removes the guardian.

33 (~~(12)~~) (13) Before assuming the duties and powers of a
34 guardian, a standby guardian must file with the court an acceptance
35 of appointment as guardian and give notice of the acceptance to:

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

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

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

3 (~~((13))~~) (14) A person that receives notice under subsection
4 (~~((12))~~) (13) of this section or any other person interested in the
5 welfare of the minor may file with the court an objection to the
6 standby guardian's assumption of duties and powers of a guardian. The
7 court shall hold a hearing if the objection supports a reasonable
8 belief that the conditions for assumption of duties and powers have
9 not been satisfied.

10 **Sec. 108.** RCW 11.130.225 and 2019 c 437 s 209 are each amended
11 to read as follows:

12 (1) On its own, or on petition by a person interested in a
13 minor's welfare, including the minor, the court may appoint an
14 emergency guardian for the minor if the court finds:

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

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

19 (2) The duration of authority of an emergency guardian for a
20 minor 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) Except as otherwise provided in subsection (4) of this
26 section, reasonable notice of the date, time, and place of a hearing
27 on a petition for appointment of an emergency guardian for a minor
28 must be given to:

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

30 (b) Any attorney appointed under RCW 11.130.200;

31 (c) Each parent of the minor;

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

34 (e) Any other person the court determines.

35 (4) The court may appoint an emergency guardian for a minor
36 without notice under subsection (3) of this section and a hearing
37 only if the court finds from an affidavit or testimony that the
38 minor's health, safety, or welfare will be substantially harmed
39 before a hearing with notice on the appointment can be held. If the

1 court appoints an emergency guardian without notice to an
2 unrepresented minor or the attorney for a represented minor, notice
3 of the appointment must be given not later than forty-eight hours
4 after the appointment to the individuals listed in subsection (3) of
5 this section. Not later than five days after the appointment, the
6 court shall hold a hearing on the appropriateness of the appointment.

7 (5) Appointment of an emergency guardian under this section, with
8 or without notice, is not a determination that a basis exists for
9 appointment of a guardian under RCW 11.130.185.

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

13 (7) Notwithstanding subsection (2) of this section, the court may
14 extend an emergency guardianship pending the outcome of a full
15 hearing under RCW 11.130.190 or 11.130.220.

16 (8) If a petition for guardianship under RCW 11.130.215 is
17 pending, or is subsequently filed after a petition under this
18 section, the cases shall be linked or consolidated.

19 **Sec. 109.** RCW 11.130.230 and 2019 c 437 s 210 are each amended
20 to read as follows:

21 (1) A guardian for a minor is a fiduciary. Except as otherwise
22 limited by the court, a guardian for a minor has the duties and
23 responsibilities of a parent regarding the minor's support, care,
24 education, health, safety, and welfare. A guardian shall act in the
25 minor's best interest and exercise reasonable care, diligence, and
26 prudence.

27 (2) A guardian for a minor shall:

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

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

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

38 (d) Conserve any funds of the minor not expended under (c) of
39 this subsection for the minor's future needs, but if a conservator is

1 appointed for the minor, pay the funds at least quarterly to the
2 conservator to be conserved for the minor's future needs;

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

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

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

13 **Sec. 110.** RCW 11.130.240 and 2019 c 437 s 212 are each amended
14 to read as follows:

15 (1) Guardianship under this chapter for a minor terminates:

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

18 (b) When the court finds that the (~~standard~~) basis in RCW
19 11.130.185 for appointment of a guardian (~~is not satisfied~~) no
20 longer exists, unless the court finds that:

21 (i) Termination of the guardianship would be harmful to the
22 minor; and

23 (ii) The minor's interest in the continuation of the guardianship
24 outweighs the interest of any parent of the minor in restoration of
25 the parent's right to make decisions for the minor.

26 (2) A minor subject to guardianship or a person interested in the
27 welfare of the minor, including a parent, may petition the court to
28 terminate the guardianship, modify the guardianship, remove the
29 guardian and appoint a successor guardian, or remove a standby
30 guardian and appoint a different standby guardian.

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

35 (4) The court shall follow the priorities in RCW 11.130.215(2)
36 when selecting a successor guardian for a minor.

37 (5) Not later than thirty days after appointment of a successor
38 guardian for a minor, the court shall give notice of the appointment
39 to the minor subject to guardianship, if the minor is twelve years of

1 age or older, each parent of the minor, and any other person the
2 court determines.

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

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

10 **Sec. 111.** RCW 11.130.245 and 2019 c 437 s 213 are each amended
11 to read as follows:

12 (1) This chapter does not affect the validity of any court order
13 issued under chapter 26.10 RCW prior to January 1, 2021. Orders
14 issued under chapter 26.10 RCW prior to January 1, 2021, remain in
15 effect and do not need to be reissued in a new order under this
16 chapter.

17 (2) All orders issued under chapter 26.10 RCW prior to the
18 effective date of chapter 437, Laws of 2019 remain operative after
19 the effective date of chapter 437, Laws of 2019. After the effective
20 date of chapter 437, Laws of 2019, if an order issued under chapter
21 26.10 RCW is modified, the modification is subject to the
22 requirements of this chapter.

23 NEW SECTION. **Sec. 112.** A new section is added to chapter 11.130
24 RCW to read as follows:

25 (1) In a proceeding under this chapter either party may file a
26 motion for temporary support of children entitled to support. The
27 motion shall be accompanied by an affidavit setting forth the factual
28 basis for the motion and the amount requested.

29 (2) In a proceeding under this chapter either party may file a
30 motion for a temporary restraining order or preliminary injunction,
31 providing relief proper in the circumstances, and restraining or
32 enjoining another party from:

33 (a) Molesting or disturbing the peace of the other party or of
34 any child;

35 (b) Entering the family home or the home of the other party upon
36 a showing of the necessity therefor;

37 (c) Knowingly coming within, or knowingly remaining within, a
38 specified distance from a specified location; and

1 (d) Removing a child from the jurisdiction of the court.

2 (3) Either party may request a domestic violence protection order
3 under chapter 26.50 RCW or an antiharassment protection order under
4 chapter 10.14 RCW on a temporary basis by filing an appropriate
5 separate civil cause of action. The petitioner shall inform the court
6 of the existence of the action under this title. The court shall set
7 all future protection hearings on the guardianship calendar to be
8 heard concurrent with the action under this title and the clerk shall
9 relate the cases in the case management system. The court may grant
10 any of the relief provided in RCW 26.50.060 except relief pertaining
11 to residential provisions for the children which provisions shall be
12 provided for under this chapter, and any of the relief provided in
13 RCW 10.14.080. Ex parte orders issued under this subsection shall be
14 effective for a fixed period not to exceed fourteen days, or upon
15 court order, not to exceed twenty-four days if necessary to ensure
16 that all temporary motions in the case can be heard at the same time.

17 (4) In issuing the order, the court shall consider the provisions
18 of RCW 9.41.800, and shall order the respondent to surrender, and
19 prohibit the respondent from possessing, all firearms, dangerous
20 weapons, and any concealed pistol license as required in RCW
21 9.41.800. Such orders may only be made in the civil protection case
22 related to the action under this title.

23 (5) The court may issue a temporary restraining order without
24 requiring notice to the other party only if it finds on the basis of
25 the moving affidavit or other evidence that irreparable injury could
26 result if an order is not issued until the time for responding has
27 elapsed.

28 (6) The court may issue a temporary restraining order or
29 preliminary injunction and an order for temporary support in such
30 amounts and on such terms as are just and proper in the
31 circumstances.

32 (7) A temporary order, temporary restraining order, or
33 preliminary injunction:

34 (a) Does not prejudice the rights of a party or any child which
35 are to be adjudicated at subsequent hearings in the proceeding;

36 (b) May be revoked or modified;

37 (c) Terminates when the final order is entered or when the motion
38 is dismissed;

39 (d) May be entered in a proceeding for the modification of an
40 existing order.

1 (8) A support debt owed to the state for public assistance
2 expenditures which has been charged against a party pursuant to RCW
3 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise
4 extinguished by, the final decree or order, unless the office of
5 support enforcement has been given notice of the final proceeding and
6 an opportunity to present its claim for the support debt to the court
7 and has failed to file an affidavit as provided in this subsection.
8 Notice of the proceeding shall be served upon the office of support
9 enforcement personally, or by certified mail, and shall be given no
10 fewer than thirty days prior to the date of the final proceeding. An
11 original copy of the notice shall be filed with the court either
12 before service or within a reasonable time thereafter. The office of
13 support enforcement may present its claim, and thereby preserve the
14 support debt, by filing an affidavit setting forth the amount of the
15 debt with the court, and by mailing a copy of the affidavit to the
16 parties or their attorney prior to the date of the final proceeding.

17 **Sec. 113.** RCW 11.130.250 and 2019 c 437 s 214 are each amended
18 to read as follows:

19 (1) Every petition filed in proceedings under this chapter shall
20 contain a statement alleging whether the child is or may be an Indian
21 child as defined in RCW 13.38.040. If the child is an Indian child,
22 chapter 13.38 RCW shall apply.

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

31 **Sec. 114.** RCW 13.34.030 and 2019 c 172 s 2 and 2019 c 46 s 5016
32 are each reenacted and amended to read as follows:

33 The definitions in this section apply throughout this chapter
34 unless the context clearly requires otherwise.

35 (1) "Abandoned" means when the child's parent, guardian, or other
36 custodian has expressed, either by statement or conduct, an intent to
37 forego, for an extended period, parental rights or responsibilities
38 despite an ability to exercise such rights and responsibilities. If

1 the court finds that the petitioner has exercised due diligence in
2 attempting to locate the parent, no contact between the child and the
3 child's parent, guardian, or other custodian for a period of three
4 months creates a rebuttable presumption of abandonment, even if there
5 is no expressed intent to abandon.

6 (2) "Child," "juvenile," and "youth" mean:

7 (a) Any individual under the age of eighteen years; or

8 (b) Any individual age eighteen to twenty-one years who is
9 eligible to receive and who elects to receive the extended foster
10 care services authorized under RCW 74.13.031. A youth who remains
11 dependent and who receives extended foster care services under RCW
12 74.13.031 shall not be considered a "child" under any other statute
13 or for any other purpose.

14 (3) "Current placement episode" means the period of time that
15 begins with the most recent date that the child was removed from the
16 home of the parent, guardian, or legal custodian for purposes of
17 placement in out-of-home care and continues until: (a) The child
18 returns home; (b) an adoption decree, a permanent custody order, or
19 guardianship order is entered; or (c) the dependency is dismissed,
20 whichever occurs first.

21 (4) "Department" means the department of children, youth, and
22 families.

23 (5) "Dependency guardian" means the person, nonprofit
24 corporation, or Indian tribe appointed by the court pursuant to this
25 chapter for the limited purpose of assisting the court in the
26 supervision of the dependency.

27 (6) "Dependent child" means any child who:

28 (a) Has been abandoned;

29 (b) Is abused or neglected as defined in chapter 26.44 RCW by a
30 person legally responsible for the care of the child;

31 (c) Has no parent, guardian, or custodian capable of adequately
32 caring for the child, such that the child is in circumstances which
33 constitute a danger of substantial damage to the child's
34 psychological or physical development; or

35 (d) Is receiving extended foster care services, as authorized by
36 RCW 74.13.031.

37 (7) "Developmental disability" means a disability attributable to
38 intellectual disability, cerebral palsy, epilepsy, autism, or another
39 neurological or other condition of an individual found by the
40 secretary of the department of social and health services to be

1 closely related to an intellectual disability or to require treatment
2 similar to that required for individuals with intellectual
3 disabilities, which disability originates before the individual
4 attains age eighteen, which has continued or can be expected to
5 continue indefinitely, and which constitutes a substantial limitation
6 to the individual.

7 (8) "Educational liaison" means a person who has been appointed
8 by the court to fulfill responsibilities outlined in RCW 13.34.046.

9 (9) "Extended foster care services" means residential and other
10 support services the department is authorized to provide under RCW
11 74.13.031. These services may include placement in licensed,
12 relative, or otherwise approved care, or supervised independent
13 living settings; assistance in meeting basic needs; independent
14 living services; medical assistance; and counseling or treatment.

15 (10) "Guardian" means the person or agency that: (a) Has been
16 appointed as the guardian of a child in a legal proceeding, including
17 a guardian appointed pursuant to chapter 13.36 RCW; and (b) has the
18 legal right to custody of the child pursuant to such appointment. The
19 term "guardian" does not include a "dependency guardian" appointed
20 pursuant to a proceeding under this chapter.

21 (11) "Guardian ad litem" means a person, appointed by the court
22 to represent the best interests of a child in a proceeding under this
23 chapter, or in any matter which may be consolidated with a proceeding
24 under this chapter. A "court-appointed special advocate" appointed by
25 the court to be the guardian ad litem for the child, or to perform
26 substantially the same duties and functions as a guardian ad litem,
27 shall be deemed to be guardian ad litem for all purposes and uses of
28 this chapter.

29 (12) "Guardian ad litem program" means a court-authorized
30 volunteer program, which is or may be established by the superior
31 court of the county in which such proceeding is filed, to manage all
32 aspects of volunteer guardian ad litem representation for children
33 alleged or found to be dependent. Such management shall include but
34 is not limited to: Recruitment, screening, training, supervision,
35 assignment, and discharge of volunteers.

36 (13) "Guardianship" means a guardianship pursuant to chapter
37 13.36 RCW or a limited guardianship of a minor pursuant to RCW
38 11.130.215 or equivalent laws of another state or a federally
39 recognized Indian tribe.

1 ~~(14)~~ (14) "Housing assistance" means appropriate referrals by the
2 department or other agencies to federal, state, local, or private
3 agencies or organizations, assistance with forms, applications, or
4 financial subsidies or other monetary assistance for housing. For
5 purposes of this chapter, "housing assistance" is not a remedial
6 service or family reunification service as described in RCW
7 13.34.025(2).

8 ~~((14))~~ (15) "Indigent" means a person who, at any stage of a
9 court proceeding, is:

10 (a) Receiving one of the following types of public assistance:
11 Temporary assistance for needy families, aged, blind, or disabled
12 assistance benefits, medical care services under RCW 74.09.035,
13 pregnant women assistance benefits, poverty-related veterans'
14 benefits, food stamps or food stamp benefits transferred
15 electronically, refugee resettlement benefits, medicaid, or
16 supplemental security income; or

17 (b) Involuntarily committed to a public mental health facility;
18 or

19 (c) Receiving an annual income, after taxes, of one hundred
20 twenty-five percent or less of the federally established poverty
21 level; or

22 (d) Unable to pay the anticipated cost of counsel for the matter
23 before the court because his or her available funds are insufficient
24 to pay any amount for the retention of counsel.

25 ~~((15))~~ (16) "Nonminor dependent" means any individual age
26 eighteen to twenty-one years who is participating in extended foster
27 care services authorized under RCW 74.13.031.

28 ~~((16))~~ (17) "Out-of-home care" means placement in a foster
29 family home or group care facility licensed pursuant to chapter 74.15
30 RCW or placement in a home, other than that of the child's parent,
31 guardian, or legal custodian, not required to be licensed pursuant to
32 chapter 74.15 RCW.

33 ~~((17))~~ (18) "Parent" means the biological or adoptive parents
34 of a child, or an individual who has established a parent-child
35 relationship under RCW 26.26A.100, unless the legal rights of that
36 person have been terminated by a judicial proceeding pursuant to this
37 chapter, chapter 26.33 RCW, or the equivalent laws of another state
38 or a federally recognized Indian tribe.

39 ~~((18))~~ (19) "Prevention and family services and programs" means
40 specific mental health prevention and treatment services, substance

1 abuse prevention and treatment services, and in-home parent skill-
2 based programs that qualify for federal funding under the federal
3 family first prevention services act, P.L. 115-123. For purposes of
4 this chapter, prevention and family services and programs are not
5 remedial services or family reunification services as described in
6 RCW 13.34.025(2).

7 ~~((19))~~ (20) "Prevention services" means preservation services,
8 as defined in chapter 74.14C RCW, and other reasonably available
9 services, including housing assistance, capable of preventing the
10 need for out-of-home placement while protecting the child. Prevention
11 services include, but are not limited to, prevention and family
12 services and programs as defined in this section.

13 ~~((20))~~ (21) "Qualified residential treatment program" means a
14 program licensed as a group care facility under chapter 74.15 RCW
15 that also qualifies for funding under the federal family first
16 prevention services act under 42 U.S.C. Sec. 672(k) and meets the
17 requirements provided in RCW 13.34.420.

18 ~~((21))~~ (22) "Relative" includes persons related to a child in
19 the following ways:

20 (a) Any blood relative, including those of half-blood, and
21 including first cousins, second cousins, nephews or nieces, and
22 persons of preceding generations as denoted by prefixes of grand,
23 great, or great-great;

24 (b) Stepfather, stepmother, stepbrother, and stepsister;

25 (c) A person who legally adopts a child or the child's parent as
26 well as the natural and other legally adopted children of such
27 persons, and other relatives of the adoptive parents in accordance
28 with state law;

29 (d) Spouses of any persons named in (a), (b), or (c) of this
30 subsection, even after the marriage is terminated;

31 (e) Relatives, as named in (a), (b), (c), or (d) of this
32 subsection, of any half sibling of the child; or

33 (f) Extended family members, as defined by the law or custom of
34 the Indian child's tribe or, in the absence of such law or custom, a
35 person who has reached the age of eighteen and who is the Indian
36 child's grandparent, aunt or uncle, brother or sister, brother-in-law
37 or sister-in-law, niece or nephew, first or second cousin, or
38 stepparent who provides care in the family abode on a twenty-four
39 hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4);

1 (~~(22)~~) (23) "Shelter care" means temporary physical care in a
2 facility licensed pursuant to RCW 74.15.030 or in a home not required
3 to be licensed pursuant to RCW 74.15.030.

4 (~~(23)~~) (24) "Sibling" means a child's birth brother, birth
5 sister, adoptive brother, adoptive sister, half-brother, or half-
6 sister, or as defined by the law or custom of the Indian child's
7 tribe for an Indian child as defined in RCW 13.38.040.

8 (~~(24)~~) (25) "Social study" means a written evaluation of
9 matters relevant to the disposition of the case that contains the
10 information required by RCW 13.34.430.

11 (~~(25)~~) (26) "Supervised independent living" includes, but is
12 not limited to, apartment living, room and board arrangements,
13 college or university dormitories, and shared roommate settings.
14 Supervised independent living settings must be approved by the
15 department or the court.

16 (~~(26)~~) (27) "Voluntary placement agreement" means, for the
17 purposes of extended foster care services, a written voluntary
18 agreement between a nonminor dependent who agrees to submit to the
19 care and authority of the department for the purposes of
20 participating in the extended foster care program.

21 **Sec. 115.** RCW 13.34.062 and 2018 c 58 s 71 are each amended to
22 read as follows:

23 (1)(a) Whenever a child is taken into custody by child protective
24 services pursuant to a court order issued under RCW 13.34.050 or when
25 child protective services is notified that a child has been taken
26 into custody pursuant to RCW 26.44.050 or 26.44.056, child protective
27 services shall make reasonable efforts to inform the parent,
28 guardian, or legal custodian of the fact that the child has been
29 taken into custody, the reasons why the child was taken into custody,
30 and their legal rights under this title, including the right to a
31 shelter care hearing, as soon as possible. Notice must be provided in
32 an understandable manner and take into consideration the parent's,
33 guardian's, or legal custodian's primary language, level of
34 education, and cultural issues.

35 (b) In no event shall the notice required by this section be
36 provided to the parent, guardian, or legal custodian more than
37 twenty-four hours after the child has been taken into custody or
38 twenty-four hours after child protective services has been notified
39 that the child has been taken into custody.

1 (2) (a) The notice of custody and rights may be given by any means
2 reasonably certain of notifying the parents including, but not
3 limited to, written, telephone, or in person oral notification. If
4 the initial notification is provided by a means other than writing,
5 child protective services shall make reasonable efforts to also
6 provide written notification.

7 (b) The written notice of custody and rights required by this
8 section shall be in substantially the following form:

9 "NOTICE

10 Your child has been placed in temporary custody under the
11 supervision of Child Protective Services (or other person or agency).
12 You have important legal rights and you must take steps to protect
13 your interests.

14 1. A court hearing will be held before a judge within 72 hours of
15 the time your child is taken into custody excluding Saturdays,
16 Sundays, and holidays. You should call the court at (~~_____~~~~(insert~~
17 ~~appropriate phone number here)~~~~_____~~) . . . (insert appropriate phone
18 number here) for specific information about the date, time, and
19 location of the court hearing.

20 2. You have the right to have a lawyer represent you at the
21 hearing. Your right to representation continues after the shelter
22 care hearing. You have the right to records the department intends to
23 rely upon. A lawyer can look at the files in your case, talk to child
24 protective services and other agencies, tell you about the law, help
25 you understand your rights, and help you at hearings. If you cannot
26 afford a lawyer, the court will appoint one to represent you. To get
27 a court-appointed lawyer you must contact: (~~_____~~~~(explain local~~
28 ~~procedure)~~~~_____~~) . . . (explain local procedure).

29 3. At the hearing, you have the right to speak on your own
30 behalf, to introduce evidence, to examine witnesses, and to receive a
31 decision based solely on the evidence presented to the judge.

32 4. If your hearing occurs before a court commissioner, you have
33 the right to have the decision of the court commissioner reviewed by
34 a superior court judge. To obtain that review, you must, within ten
35 days after the entry of the decision of the court commissioner, file
36 with the court a motion for revision of the decision, as provided in
37 RCW 2.24.050.

38 You should be present at any shelter care hearing. If you do not
39 come, the judge will not hear what you have to say.

1 You may call the Child Protective Services' caseworker for more
2 information about your child. The caseworker's name and telephone
3 number are: (~~_____ (insert name and telephone number) _____~~) . . .
4 (insert name and telephone number).

5 5. You have a right to a case conference to develop a written
6 service agreement following the shelter care hearing. The service
7 agreement may not conflict with the court's order of shelter care.
8 You may request that a multidisciplinary team, family group
9 conference, or prognostic staffing be convened for your child's case.
10 You may participate in these processes with your counsel present.

11 6. If your child is placed in the custody of the department of
12 children, youth, and families or other supervising agency,
13 immediately following the shelter care hearing, the court will enter
14 an order granting the department or other supervising agency the
15 right to inspect and copy all health, medical, mental health, and
16 education records of the child, directing health care providers to
17 release such information without your further consent, and granting
18 the department or supervising agency or its designee the authority
19 and responsibility, where applicable, to:

- 20 (1) Notify the child's school that the child is in out-of-home
21 placement;
- 22 (2) Enroll the child in school;
- 23 (3) Request the school transfer records;
- 24 (4) Request and authorize evaluation of special needs;
- 25 (5) Attend parent or teacher conferences;
- 26 (6) Excuse absences;
- 27 (7) Grant permission for extracurricular activities;
- 28 (8) Authorize medications which need to be administered during
29 school hours and sign for medical needs that arise during school
30 hours; and
- 31 (9) Complete or update school emergency records.

32 7. If the court decides to place your child in the custody of the
33 department of children, youth, and families or other supervising
34 agency, the department or agency will create a permanency plan for
35 your child, including a primary placement goal and secondary
36 placement goal. The department or agency also will recommend that the
37 court order services for your child and for you, if needed. The
38 department or agency is required to make reasonable efforts to
39 provide you with services to address your parenting problems, and to
40 provide you with visitation with your child according to court

1 orders. Failure to promptly engage in services or to maintain contact
2 with your child may lead to the filing of a petition to terminate
3 your parental rights.

4 8. Primary and secondary permanency plans are intended to run at
5 the same time so that your child will have a permanent home as
6 quickly as possible. Absent good cause, and when appropriate, the
7 department or other supervising agency must follow the wishes of a
8 natural parent regarding placement of a child. You should tell your
9 lawyer and the court where you wish your child placed immediately,
10 including whether you want your child placed with you, with a
11 relative, or with another suitable person. You also should tell your
12 lawyer and the court what services you feel are necessary and your
13 wishes regarding visitation with your child. Even if you want another
14 parent or person to be the primary placement choice for your child,
15 you should tell your lawyer, the department or other supervising
16 agency, and the court if you want to be a secondary placement option,
17 and you should comply with court orders for services and participate
18 in visitation with your child. Early and consistent involvement in
19 your child's case plan is important for the well-being of your child.

20 9. A dependency petition begins a judicial process, which, if the
21 court finds your child dependent, could result in substantial
22 restrictions including, the entry or modification of a parenting plan
23 or residential schedule, previously existing nonparental custody
24 order or decree, guardianship order, or permanent loss of your
25 parental rights."

26 Upon receipt of the written notice, the parent, guardian, or
27 legal custodian shall acknowledge such notice by signing a receipt
28 prepared by child protective services. If the parent, guardian, or
29 legal custodian does not sign the receipt, the reason for lack of a
30 signature shall be written on the receipt. The receipt shall be made
31 a part of the court's file in the dependency action.

32 If after making reasonable efforts to provide notification, child
33 protective services is unable to determine the whereabouts of the
34 parents, guardian, or legal custodian, the notice shall be delivered
35 or sent to the last known address of the parent, guardian, or legal
36 custodian.

37 (3) If child protective services is not required to give notice
38 under this section, the juvenile court counselor assigned to the
39 matter shall make all reasonable efforts to advise the parents,

1 guardian, or legal custodian of the time and place of any shelter
2 care hearing, request that they be present, and inform them of their
3 basic rights as provided in RCW 13.34.090.

4 (4) Reasonable efforts to advise and to give notice, as required
5 in this section, shall include, at a minimum, investigation of the
6 whereabouts of the parent, guardian, or legal custodian. If such
7 reasonable efforts are not successful, or the parent, guardian, or
8 legal custodian does not appear at the shelter care hearing, the
9 petitioner shall testify at the hearing or state in a declaration:

10 (a) The efforts made to investigate the whereabouts of, and to
11 advise, the parent, guardian, or custodian; and

12 (b) Whether actual advice of rights was made, to whom it was
13 made, and how it was made, including the substance of any oral
14 communication or copies of written materials used.

15 **Sec. 116.** RCW 13.34.110 and 2017 3rd sp.s. c 6 s 305 are each
16 amended to read as follows:

17 (1) The court shall hold a fact-finding hearing on the petition
18 and, unless the court dismisses the petition, shall make written
19 findings of fact, stating the reasons therefor. The rules of evidence
20 shall apply at the fact-finding hearing and the parent, guardian, or
21 legal custodian of the child shall have all of the rights provided in
22 RCW 13.34.090(1). The petitioner shall have the burden of
23 establishing by a preponderance of the evidence that the child is
24 dependent within the meaning of RCW 13.34.030.

25 (2) The court in a fact-finding hearing may consider the history
26 of past involvement of child protective services or law enforcement
27 agencies with the family for the purpose of establishing a pattern of
28 conduct, behavior, or inaction with regard to the health, safety, or
29 welfare of the child on the part of the child's parent, guardian, or
30 legal custodian, or for the purpose of establishing that reasonable
31 efforts have been made by the department to prevent or eliminate the
32 need for removal of the child from the child's home. No report of
33 child abuse or neglect that has been destroyed or expunged under RCW
34 26.44.031 may be used for such purposes.

35 (3) (a) The parent, guardian, or legal custodian of the child may
36 waive his or her right to a fact-finding hearing by stipulating or
37 agreeing to the entry of an order of dependency establishing that the
38 child is dependent within the meaning of RCW 13.34.030. The parent,
39 guardian, or legal custodian may also stipulate or agree to an order

1 of disposition pursuant to RCW 13.34.130 at the same time. Any
2 stipulated or agreed order of dependency or disposition must be
3 signed by the parent, guardian, or legal custodian and his or her
4 attorney, unless the parent, guardian, or legal custodian has waived
5 his or her right to an attorney in open court, and by the petitioner
6 and the attorney, guardian ad litem, or court-appointed special
7 advocate for the child, if any. If the department is not the
8 petitioner and is required by the order to supervise the placement of
9 the child or provide services to any party, the department must also
10 agree to and sign the order.

11 (b) Entry of any stipulated or agreed order of dependency or
12 disposition is subject to approval by the court. The court shall
13 receive and review a social study before entering a stipulated or
14 agreed order and shall consider whether the order is consistent with
15 the allegations of the dependency petition and the problems that
16 necessitated the child's placement in out-of-home care. No social
17 file or social study may be considered by the court in connection
18 with the fact-finding hearing or prior to factual determination,
19 except as otherwise admissible under the rules of evidence.

20 (c) Prior to the entry of any stipulated or agreed order of
21 dependency, the parent, guardian, or legal custodian of the child and
22 his or her attorney must appear before the court and the court within
23 available resources must inquire and establish on the record that:

24 (i) The parent, guardian, or legal custodian understands the
25 terms of the order or orders he or she has signed, including his or
26 her responsibility to participate in remedial services as provided in
27 any disposition order;

28 (ii) The parent, guardian, or legal custodian understands that
29 entry of the order starts a process that could result in the filing
30 of a petition to terminate his or her relationship with the child
31 within the time frames required by state and federal law if he or she
32 fails to comply with the terms of the dependency or disposition
33 orders or fails to substantially remedy the problems that
34 necessitated the child's placement in out-of-home care;

35 (iii) The parent, guardian, or legal custodian understands that
36 the entry of the stipulated or agreed order of dependency is an
37 admission that the child is dependent within the meaning of RCW
38 13.34.030 and shall have the same legal effect as a finding by the
39 court that the child is dependent by at least a preponderance of the
40 evidence, and that the parent, guardian, or legal custodian shall not

1 have the right in any subsequent proceeding for termination of
2 parental rights ((~~or dependency guardianship~~)) pursuant to this
3 chapter or ((~~nonparental custody~~)) guardianship pursuant to ((~~chapter~~
4 ~~26.10~~)) chapters 13.36 or 11.130 RCW to challenge or dispute the fact
5 that the child was found to be dependent; and

6 (iv) The parent, guardian, or legal custodian knowingly and
7 willingly stipulated and agreed to and signed the order or orders,
8 without duress, and without misrepresentation or fraud by any other
9 party.

10 If a parent, guardian, or legal custodian fails to appear before
11 the court after stipulating or agreeing to entry of an order of
12 dependency, the court may enter the order upon a finding that the
13 parent, guardian, or legal custodian had actual notice of the right
14 to appear before the court and chose not to do so. The court may
15 require other parties to the order, including the attorney for the
16 parent, guardian, or legal custodian, to appear and advise the court
17 of the parent's, guardian's, or legal custodian's notice of the right
18 to appear and understanding of the factors specified in this
19 subsection. A parent, guardian, or legal custodian may choose to
20 waive his or her presence at the in-court hearing for entry of the
21 stipulated or agreed order of dependency by submitting to the court
22 through counsel a completed stipulated or agreed dependency fact-
23 finding/disposition statement in a form determined by the Washington
24 state supreme court pursuant to General Rule GR 9.

25 (4) Immediately after the entry of the findings of fact, the
26 court shall hold a disposition hearing, unless there is good cause
27 for continuing the matter for up to fourteen days. If good cause is
28 shown, the case may be continued for longer than fourteen days.
29 Notice of the time and place of the continued hearing may be given in
30 open court. If notice in open court is not given to a party, that
31 party shall be notified by certified mail of the time and place of
32 any continued hearing. Unless there is reasonable cause to believe
33 the health, safety, or welfare of the child would be jeopardized or
34 efforts to reunite the parent and child would be hindered, the court
35 shall direct the department to notify those adult persons who: (a)
36 Are related by blood or marriage to the child in the following
37 degrees: Parent, grandparent, brother, sister, stepparent,
38 stepbrother, stepsister, uncle, or aunt; (b) are known to the
39 department as having been in contact with the family or child within
40 the past twelve months; and (c) would be an appropriate placement for

1 the child. Reasonable cause to dispense with notification to a parent
2 under this section must be proved by clear, cogent, and convincing
3 evidence.

4 The parties need not appear at the fact-finding or dispositional
5 hearing if the parties, their attorneys, the guardian ad litem, and
6 court-appointed special advocates, if any, are all in agreement.

7 **Sec. 117.** RCW 13.34.136 and 2018 c 284 s 13 are each amended to
8 read as follows:

9 (1) Whenever a child is ordered removed from the home, a
10 permanency plan shall be developed no later than sixty days from the
11 time the department assumes responsibility for providing services,
12 including placing the child, or at the time of a hearing under RCW
13 13.34.130, whichever occurs first. The permanency planning process
14 continues until a permanency planning goal is achieved or dependency
15 is dismissed. The planning process shall include reasonable efforts
16 to return the child to the parent's home.

17 (2) The department shall submit a written permanency plan to all
18 parties and the court not less than fourteen days prior to the
19 scheduled hearing. Responsive reports of parties not in agreement
20 with the department's proposed permanency plan must be provided to
21 the department, all other parties, and the court at least seven days
22 prior to the hearing.

23 The permanency plan shall include:

24 (a) A permanency plan of care that shall identify one of the
25 following outcomes as a primary goal and may identify additional
26 outcomes as alternative goals: Return of the child to the home of the
27 child's parent, guardian, or legal custodian; adoption, including a
28 tribal customary adoption as defined in RCW 13.38.040; guardianship
29 pursuant to chapter 13.36 RCW; guardianship of a minor pursuant to
30 RCW 11.130.215; ((permanent legal custody;)) long-term relative or
31 foster care, if the child is between ages sixteen and eighteen, with
32 a written agreement between the parties and the care provider;
33 successful completion of a responsible living skills program; or
34 independent living, if appropriate and if the child is age sixteen or
35 older. Although a permanency plan of care may only identify long-term
36 relative or foster care for children between ages sixteen and
37 eighteen, children under sixteen may remain placed with relatives or
38 in foster care. The department shall not discharge a child to an
39 independent living situation before the child is eighteen years of

1 age unless the child becomes emancipated pursuant to chapter 13.64
2 RCW;

3 (b) Unless the court has ordered, pursuant to RCW 13.34.130(8),
4 that a termination petition be filed, a specific plan as to where the
5 child will be placed, what steps will be taken to return the child
6 home, what steps the department will take to promote existing
7 appropriate sibling relationships and/or facilitate placement
8 together or contact in accordance with the best interests of each
9 child, and what actions the department will take to maintain parent-
10 child ties. All aspects of the plan shall include the goal of
11 achieving permanence for the child.

12 (i) The department's plan shall specify what services the parents
13 will be offered to enable them to resume custody, what requirements
14 the parents must meet to resume custody, and a time limit for each
15 service plan and parental requirement.

16 (A) If the parent is incarcerated, the plan must address how the
17 parent will participate in the case conference and permanency
18 planning meetings and, where possible, must include treatment that
19 reflects the resources available at the facility where the parent is
20 confined. The plan must provide for visitation opportunities, unless
21 visitation is not in the best interests of the child.

22 (B) If a parent has a developmental disability according to the
23 definition provided in RCW 71A.10.020, and that individual is
24 eligible for services provided by the department of social and health
25 services developmental disabilities administration, the department
26 shall make reasonable efforts to consult with the department of
27 social and health services developmental disabilities administration
28 to create an appropriate plan for services. For individuals who meet
29 the definition of developmental disability provided in RCW 71A.10.020
30 and who are eligible for services through the developmental
31 disabilities administration, the plan for services must be tailored
32 to correct the parental deficiency taking into consideration the
33 parent's disability and the department shall also determine an
34 appropriate method to offer those services based on the parent's
35 disability.

36 (ii) (A) Visitation is the right of the family, including the
37 child and the parent, in cases in which visitation is in the best
38 interest of the child. Early, consistent, and frequent visitation is
39 crucial for maintaining parent-child relationships and making it
40 possible for parents and children to safely reunify. The department

1 shall encourage the maximum parent and child and sibling contact
2 possible, when it is in the best interest of the child, including
3 regular visitation and participation by the parents in the care of
4 the child while the child is in placement.

5 (B) Visitation shall not be limited as a sanction for a parent's
6 failure to comply with court orders or services where the health,
7 safety, or welfare of the child is not at risk as a result of the
8 visitation.

9 (C) Visitation may be limited or denied only if the court
10 determines that such limitation or denial is necessary to protect the
11 child's health, safety, or welfare. When a parent or sibling has been
12 identified as a suspect in an active criminal investigation for a
13 violent crime that, if the allegations are true, would impact the
14 safety of the child, the department shall make a concerted effort to
15 consult with the assigned law enforcement officer in the criminal
16 case before recommending any changes in parent/child or child/sibling
17 contact. In the event that the law enforcement officer has
18 information pertaining to the criminal case that may have serious
19 implications for child safety or well-being, the law enforcement
20 officer shall provide this information to the department during the
21 consultation. The department may only use the information provided by
22 law enforcement during the consultation to inform family visitation
23 plans and may not share or otherwise distribute the information to
24 any person or entity. Any information provided to the department by
25 law enforcement during the consultation is considered investigative
26 information and is exempt from public inspection pursuant to RCW
27 42.56.240. The results of the consultation shall be communicated to
28 the court.

29 (D) The court and the department should rely upon community
30 resources, relatives, foster parents, and other appropriate persons
31 to provide transportation and supervision for visitation to the
32 extent that such resources are available, and appropriate, and the
33 child's safety would not be compromised.

34 (iii)(A) The department, court, or caregiver in the out-of-home
35 placement may not limit visitation or contact between a child and
36 sibling as a sanction for a child's behavior or as an incentive to
37 the child to change his or her behavior.

38 (B) Any exceptions, limitation, or denial of contacts or
39 visitation must be approved by the supervisor of the department
40 caseworker and documented. The child, parent, department, guardian ad

1 litem, or court-appointed special advocate may challenge the denial
2 of visits in court.

3 (iv) A child shall be placed as close to the child's home as
4 possible, preferably in the child's own neighborhood, unless the
5 court finds that placement at a greater distance is necessary to
6 promote the child's or parents' well-being.

7 (v) The plan shall state whether both in-state and, where
8 appropriate, out-of-state placement options have been considered by
9 the department.

10 (vi) Unless it is not in the best interests of the child,
11 whenever practical, the plan should ensure the child remains enrolled
12 in the school the child was attending at the time the child entered
13 foster care.

14 (vii) The department shall provide all reasonable services that
15 are available within the department, or within the community, or
16 those services which the department has existing contracts to
17 purchase. It shall report to the court if it is unable to provide
18 such services; and

19 (c) If the court has ordered, pursuant to RCW 13.34.130(~~((8))~~)
20 (9), that a termination petition be filed, a specific plan as to
21 where the child will be placed, what steps will be taken to achieve
22 permanency for the child, services to be offered or provided to the
23 child, and, if visitation would be in the best interests of the
24 child, a recommendation to the court regarding visitation between
25 parent and child pending a fact-finding hearing on the termination
26 petition. The department shall not be required to develop a plan of
27 services for the parents or provide services to the parents if the
28 court orders a termination petition be filed. However, reasonable
29 efforts to ensure visitation and contact between siblings shall be
30 made unless there is reasonable cause to believe the best interests
31 of the child or siblings would be jeopardized.

32 (3) Permanency planning goals should be achieved at the earliest
33 possible date. If the child has been in out-of-home care for fifteen
34 of the most recent twenty-two months, and the court has not made a
35 good cause exception, the court shall require the department to file
36 a petition seeking termination of parental rights in accordance with
37 RCW 13.34.145(4)(b)(vi). In cases where parental rights have been
38 terminated, the child is legally free for adoption, and adoption has
39 been identified as the primary permanency planning goal, it shall be

1 a goal to complete the adoption within six months following entry of
2 the termination order.

3 (4) If the court determines that the continuation of reasonable
4 efforts to prevent or eliminate the need to remove the child from his
5 or her home or to safely return the child home should not be part of
6 the permanency plan of care for the child, reasonable efforts shall
7 be made to place the child in a timely manner and to complete
8 whatever steps are necessary to finalize the permanent placement of
9 the child.

10 (5) The identified outcomes and goals of the permanency plan may
11 change over time based upon the circumstances of the particular case.

12 (6) The court shall consider the child's relationships with the
13 child's siblings in accordance with RCW 13.34.130(~~((6))~~) (7).
14 Whenever the permanency plan for a child is adoption, the court shall
15 encourage the prospective adoptive parents, birth parents, foster
16 parents, kinship caregivers, and the department or other agency to
17 seriously consider the long-term benefits to the child adoptee and
18 his or her siblings of providing for and facilitating continuing
19 postadoption contact between the siblings. To the extent that it is
20 feasible, and when it is in the best interests of the child adoptee
21 and his or her siblings, contact between the siblings should be
22 frequent and of a similar nature as that which existed prior to the
23 adoption. If the child adoptee or his or her siblings are represented
24 by an attorney or guardian ad litem in a proceeding under this
25 chapter or in any other child custody proceeding, the court shall
26 inquire of each attorney and guardian ad litem regarding the
27 potential benefits of continuing contact between the siblings and the
28 potential detriments of severing contact. This section does not
29 require the department or other agency to agree to any specific
30 provisions in an open adoption agreement and does not create a new
31 obligation for the department to provide supervision or
32 transportation for visits between siblings separated by adoption from
33 foster care.

34 (7) For purposes related to permanency planning(~~((~~

35 ~~(a) "Guardianship")~~), "guardianship" means a ~~((dependency~~
36 ~~guardianship or a legal))~~ guardianship pursuant to chapter ~~((11.88))~~
37 13.36 RCW or a guardianship of a minor pursuant to RCW 11.130.215, or
38 equivalent laws of another state or a federally recognized Indian
39 tribe.

1 ~~((b) "Permanent custody order" means a custody order entered~~
2 ~~pursuant to chapter 26.10 RCW.~~

3 ~~(c) "Permanent legal custody" means legal custody pursuant to~~
4 ~~chapter 26.10 RCW or equivalent laws of another state or a federally~~
5 ~~recognized Indian tribe.)~~

6 **Sec. 118.** RCW 13.34.145 and 2019 c 172 s 15 are each amended to
7 read as follows:

8 (1) The purpose of a permanency planning hearing is to review the
9 permanency plan for the child, inquire into the welfare of the child
10 and progress of the case, and reach decisions regarding the permanent
11 placement of the child.

12 (a) A permanency planning hearing shall be held in all cases
13 where the child has remained in out-of-home care for at least nine
14 months and an adoption decree, guardianship order, or permanent
15 custody order has not previously been entered. The hearing shall take
16 place no later than twelve months following commencement of the
17 current placement episode.

18 (b) Whenever a child is removed from the home of a dependency
19 guardian or long-term relative or foster care provider, and the child
20 is not returned to the home of the parent, guardian, or legal
21 custodian but is placed in out-of-home care, a permanency planning
22 hearing shall take place no later than twelve months, as provided in
23 this section, following the date of removal unless, prior to the
24 hearing, the child returns to the home of the dependency guardian or
25 long-term care provider, the child is placed in the home of the
26 parent, guardian, or legal custodian, an adoption decree,
27 guardianship order, or a permanent custody order is entered, or the
28 dependency is dismissed. Every effort shall be made to provide
29 stability in long-term placement, and to avoid disruption of
30 placement, unless the child is being returned home or it is in the
31 best interest of the child.

32 (c) Permanency planning goals should be achieved at the earliest
33 possible date, preferably before the child has been in out-of-home
34 care for fifteen months. In cases where parental rights have been
35 terminated, the child is legally free for adoption, and adoption has
36 been identified as the primary permanency planning goal, it shall be
37 a goal to complete the adoption within six months following entry of
38 the termination order.

1 (2) No later than ten working days prior to the permanency
2 planning hearing, the agency having custody of the child shall submit
3 a written permanency plan to the court and shall mail a copy of the
4 plan to all parties and their legal counsel, if any.

5 (3) When the youth is at least age seventeen years but not older
6 than seventeen years and six months, the department shall provide the
7 youth with written documentation which explains the availability of
8 extended foster care services and detailed instructions regarding how
9 the youth may access such services after he or she reaches age
10 eighteen years.

11 (4) At the permanency planning hearing, the court shall conduct
12 the following inquiry:

13 (a) If a goal of long-term foster or relative care has been
14 achieved prior to the permanency planning hearing, the court shall
15 review the child's status to determine whether the placement and the
16 plan for the child's care remain appropriate. The court shall find,
17 as of the date of the hearing, that the child's placement and plan of
18 care is the best permanency plan for the child and provide compelling
19 reasons why it continues to not be in the child's best interest to
20 (i) return home; (ii) be placed for adoption; (iii) be placed with a
21 legal guardian; or (iv) be placed with a fit and willing relative. If
22 the child is present at the hearing, the court should ask the child
23 about his or her desired permanency outcome.

24 (b) In cases where the primary permanency planning goal has not
25 been achieved, the court shall inquire regarding the reasons why the
26 primary goal has not been achieved and determine what needs to be
27 done to make it possible to achieve the primary goal. The court shall
28 review the permanency plan prepared by the agency and make explicit
29 findings regarding each of the following:

30 (i) The continuing necessity for, and the safety and
31 appropriateness of, the placement;

32 (ii) The extent of compliance with the permanency plan by the
33 department and any other service providers, the child's parents, the
34 child, and the child's guardian, if any;

35 (iii) The extent of any efforts to involve appropriate service
36 providers in addition to department staff in planning to meet the
37 special needs of the child and the child's parents;

38 (iv) The progress toward eliminating the causes for the child's
39 placement outside of his or her home and toward returning the child

1 safely to his or her home or obtaining a permanent placement for the
2 child;

3 (v) The date by which it is likely that the child will be
4 returned to his or her home or placed for adoption, with a guardian
5 or in some other alternative permanent placement; and

6 (vi) If the child has been placed outside of his or her home for
7 fifteen of the most recent twenty-two months, not including any
8 period during which the child was a runaway from the out-of-home
9 placement or the first six months of any period during which the
10 child was returned to his or her home for a trial home visit, the
11 appropriateness of the permanency plan, whether reasonable efforts
12 were made by the department to achieve the goal of the permanency
13 plan, and the circumstances which prevent the child from any of the
14 following:

15 (A) Being returned safely to his or her home;

16 (B) Having a petition for the involuntary termination of parental
17 rights filed on behalf of the child;

18 (C) Being placed for adoption;

19 (D) Being placed with a guardian;

20 (E) Being placed in the home of a fit and willing relative of the
21 child; or

22 (F) Being placed in some other alternative permanent placement,
23 including independent living or long-term foster care.

24 (c) Regardless of whether the primary permanency planning goal
25 has been achieved, for a child who remains placed in a qualified
26 residential treatment program as defined in this chapter for at least
27 sixty days, and remains placed there at subsequent permanency
28 planning hearings, the court shall establish in writing:

29 (i) Whether ongoing assessment of the child's strengths and needs
30 continues to support the determination that the child's needs cannot
31 be met through placement in a foster family home;

32 (ii) Whether the child's placement provides the most effective
33 and appropriate level of care in the least restrictive environment;

34 (iii) Whether the placement is consistent with the child's short
35 and long-term goals as stated in the child's permanency plan;

36 (iv) What specific treatment or service needs will be met in the
37 placement, and how long the child is expected to need the treatment
38 or services; and

39 (v) What efforts the department has made to prepare the child to
40 return home or be placed with a fit and willing relative as defined

1 in RCW 13.34.030, a Title 13 RCW (~~legal~~) guardian, a guardian
2 pursuant to RCW 11.130.215, an adoptive parent, or in a foster family
3 home.

4 (5) Following this inquiry, at the permanency planning hearing,
5 the court shall order the department to file a petition seeking
6 termination of parental rights if the child has been in out-of-home
7 care for fifteen of the last twenty-two months since the date the
8 dependency petition was filed unless the court makes a good cause
9 exception as to why the filing of a termination of parental rights
10 petition is not appropriate. Any good cause finding shall be reviewed
11 at all subsequent hearings pertaining to the child.

12 (a) For purposes of this subsection, "good cause exception"
13 includes but is not limited to the following:

14 (i) The child is being cared for by a relative;
15 (ii) The department has not provided to the child's family such
16 services as the court and the department have deemed necessary for
17 the child's safe return home;

18 (iii) The department has documented in the case plan a compelling
19 reason for determining that filing a petition to terminate parental
20 rights would not be in the child's best interests;

21 (iv) The parent is incarcerated, or the parent's prior
22 incarceration is a significant factor in why the child has been in
23 foster care for fifteen of the last twenty-two months, the parent
24 maintains a meaningful role in the child's life, and the department
25 has not documented another reason why it would be otherwise
26 appropriate to file a petition pursuant to this section;

27 (v) Where a parent has been accepted into a dependency treatment
28 court program or long-term substance abuse or dual diagnoses
29 treatment program and is demonstrating compliance with treatment
30 goals; or

31 (vi) Where a parent who has been court ordered to complete
32 services necessary for the child's safe return home files a
33 declaration under penalty of perjury stating the parent's financial
34 inability to pay for the same court-ordered services, and also
35 declares the department was unwilling or unable to pay for the same
36 services necessary for the child's safe return home.

37 (b) The court's assessment of whether a parent who is
38 incarcerated maintains a meaningful role in the child's life may
39 include consideration of the following:

1 (i) The parent's expressions or acts of manifesting concern for
2 the child, such as letters, telephone calls, visits, and other forms
3 of communication with the child;

4 (ii) The parent's efforts to communicate and work with the
5 department or other individuals for the purpose of complying with the
6 service plan and repairing, maintaining, or building the parent-child
7 relationship;

8 (iii) A positive response by the parent to the reasonable efforts
9 of the department;

10 (iv) Information provided by individuals or agencies in a
11 reasonable position to assist the court in making this assessment,
12 including but not limited to the parent's attorney, correctional and
13 mental health personnel, or other individuals providing services to
14 the parent;

15 (v) Limitations in the parent's access to family support
16 programs, therapeutic services, and visiting opportunities,
17 restrictions to telephone and mail services, inability to participate
18 in foster care planning meetings, and difficulty accessing lawyers
19 and participating meaningfully in court proceedings; and

20 (vi) Whether the continued involvement of the parent in the
21 child's life is in the child's best interest.

22 (c) The constraints of a parent's current or prior incarceration
23 and associated delays or barriers to accessing court-mandated
24 services may be considered in rebuttal to a claim of aggravated
25 circumstances under RCW 13.34.132(4)(h) for a parent's failure to
26 complete available treatment.

27 (6)(a) If the permanency plan identifies independent living as a
28 goal, the court at the permanency planning hearing shall make a
29 finding that the provision of services to assist the child in making
30 a transition from foster care to independent living will allow the
31 child to manage his or her financial, personal, social, educational,
32 and nonfinancial affairs prior to approving independent living as a
33 permanency plan of care. The court will inquire whether the child has
34 been provided information about extended foster care services.

35 (b) The permanency plan shall also specifically identify the
36 services, including extended foster care services, where appropriate,
37 that will be provided to assist the child to make a successful
38 transition from foster care to independent living.

1 (c) The department shall not discharge a child to an independent
2 living situation before the child is eighteen years of age unless the
3 child becomes emancipated pursuant to chapter 13.64 RCW.

4 (7) If the child has resided in the home of a foster parent or
5 relative for more than six months prior to the permanency planning
6 hearing, the court shall:

7 (a) Enter a finding regarding whether the foster parent or
8 relative was informed of the hearing as required in RCW 74.13.280,
9 13.34.215(6), and 13.34.096; and

10 (b) If the department is recommending a placement other than the
11 child's current placement with a foster parent, relative, or other
12 suitable person, enter a finding as to the reasons for the
13 recommendation for a change in placement.

14 (8) In all cases, at the permanency planning hearing, the court
15 shall:

16 (a)(i) Order the permanency plan prepared by the department to be
17 implemented; or

18 (ii) Modify the permanency plan, and order implementation of the
19 modified plan; and

20 (b)(i) Order the child returned home only if the court finds that
21 a reason for removal as set forth in RCW 13.34.130 no longer exists;
22 or

23 (ii) Order the child to remain in out-of-home care for a limited
24 specified time period while efforts are made to implement the
25 permanency plan.

26 (9) Following the first permanency planning hearing, the court
27 shall hold a further permanency planning hearing in accordance with
28 this section at least once every twelve months until a permanency
29 planning goal is achieved or the dependency is dismissed, whichever
30 occurs first.

31 (10) Prior to the second permanency planning hearing, the agency
32 that has custody of the child shall consider whether to file a
33 petition for termination of parental rights.

34 (11) If the court orders the child returned home, casework
35 supervision by the department shall continue for at least six months,
36 at which time a review hearing shall be held pursuant to RCW
37 13.34.138, and the court shall determine the need for continued
38 intervention.

39 (12) The juvenile court may hear a petition for permanent legal
40 custody when: (a) The court has ordered implementation of a

1 permanency plan that includes permanent legal custody; and (b) the
2 party pursuing the permanent legal custody is the party identified in
3 the permanency plan as the prospective legal custodian. During the
4 pendency of such proceeding, the court shall conduct review hearings
5 and further permanency planning hearings as provided in this chapter.
6 At the conclusion of the legal guardianship or permanent legal
7 custody proceeding, a juvenile court hearing shall be held for the
8 purpose of determining whether dependency should be dismissed. If a
9 guardianship or permanent custody order has been entered, the
10 dependency shall be dismissed.

11 (13) Continued juvenile court jurisdiction under this chapter
12 shall not be a barrier to the entry of an order establishing a legal
13 guardianship or permanent legal custody when the requirements of
14 subsection (12) of this section are met.

15 (14) Nothing in this chapter may be construed to limit the
16 ability of the agency that has custody of the child to file a
17 petition for termination of parental rights or a guardianship
18 petition at any time following the establishment of dependency. Upon
19 the filing of such a petition, a fact-finding hearing shall be
20 scheduled and held in accordance with this chapter unless the
21 department requests dismissal of the petition prior to the hearing or
22 unless the parties enter an agreed order terminating parental rights,
23 establishing guardianship, or otherwise resolving the matter.

24 (15) The approval of a permanency plan that does not contemplate
25 return of the child to the parent does not relieve the department of
26 its obligation to provide reasonable services, under this chapter,
27 intended to effectuate the return of the child to the parent,
28 including but not limited to, visitation rights. The court shall
29 consider the child's relationships with siblings in accordance with
30 RCW 13.34.130.

31 (16) Nothing in this chapter may be construed to limit the
32 procedural due process rights of any party in a termination or
33 guardianship proceeding filed under this chapter.

34 **Sec. 119.** RCW 13.34.155 and 2019 c 46 s 5017 are each amended to
35 read as follows:

36 (1) The court hearing the dependency petition may hear and
37 determine issues related to (~~chapter 26.10 RCW~~) a guardianship of a
38 minor under RCW 11.130.215 in a dependency proceeding as necessary to
39 facilitate a permanency plan for the child or children as part of the

1 dependency disposition order or a dependency review order or as
2 otherwise necessary to implement a permanency plan of care for a
3 child. Any modification or establishment of a guardianship of a minor
4 must be made in conformity with the standards in chapter 11.130 RCW.
5 The parents, guardians, or legal custodian of the child must agree,
6 subject to court approval, to establish or modify a ~~((permanent~~
7 ~~eustody order))~~ guardianship of a minor, but the court may decide any
8 contested issues implementing the guardianship. This agreed ~~((order))~~
9 guardianship of a minor may have the concurrence of the other parties
10 to the dependency, the guardian ad litem of the child, and the child
11 if age twelve or older, and must also be in the best interests of the
12 child. If the petitioner for a ~~((eustody))~~ guardianship of a minor
13 order under ~~((chapter 26.10))~~ RCW 11.130.215 is not a party to the
14 dependency proceeding, he or she must agree on the record or by the
15 filing of a declaration to the entry of a ~~((eustody order))~~
16 guardianship of a minor. Once ~~((a))~~ a guardianship of a minor order
17 is entered under ~~((chapter 26.10))~~ RCW 11.130.215, and the dependency
18 petition dismissed, the department shall not continue to supervise
19 the placement.

20 (2) (a) The court hearing the dependency petition may establish or
21 modify a parenting plan under chapter 26.09, 26.26A, or 26.26B RCW as
22 part of a disposition order or at a review hearing when doing so will
23 implement a permanent plan of care for the child and result in
24 dismissal of the dependency.

25 (b) The dependency court shall adhere to procedural requirements
26 under chapter 26.09 RCW and must make a written finding that the
27 parenting plan established or modified by the dependency court under
28 this section is in the child's best interests.

29 (c) Unless the whereabouts of one of the parents is unknown to
30 either the department or the court, the parents must agree, subject
31 to court approval, to establish the parenting plan or modify an
32 existing parenting plan.

33 (d) Whenever the court is asked to establish or modify a
34 parenting plan, the child's residential schedule, the allocation of
35 decision-making authority, and dispute resolution under this section,
36 the dependency court may:

37 (i) Appoint a guardian ad litem to represent the interests of the
38 child when the court believes the appointment is necessary to protect
39 the best interests of the child; and

1 (ii) Appoint an attorney to represent the interests of the child
2 with respect to provisions for the parenting plan.

3 (e) The dependency court must make a written finding that the
4 parenting plan established or modified by the dependency court under
5 this section is in the child's best interests.

6 (f) The dependency court may interview the child in chambers to
7 ascertain the child's wishes as to the child's residential schedule
8 in a proceeding for the entry or modification of a parenting plan
9 under this section. The court may permit counsel to be present at the
10 interview. The court shall cause a record of the interview to be made
11 and to become part of the court record of the dependency case and the
12 case under chapter 26.09, 26.26A, or 26.26B RCW.

13 (g) In the absence of agreement by a parent, guardian, or legal
14 custodian of the child to allow the juvenile court to hear and
15 determine issues related to the establishment or modification of a
16 parenting plan under chapter 26.09, 26.26A, or 26.26B RCW, a party
17 may move the court to transfer such issues to the family law
18 department of the superior court for further resolution. The court
19 may only grant the motion upon entry of a written finding that it is
20 in the best interests of the child.

21 (h) In any parenting plan agreed to by the parents and entered or
22 modified in juvenile court under this section, all issues pertaining
23 to child support and the division of marital property shall be
24 referred to or retained by the family law department of the superior
25 court.

26 ~~(3) ((Any court order determining issues under chapter 26.10 RCW
27 is subject to modification upon the same showing and standards as a
28 court order determining Title 26 RCW issues.~~

29 ~~(4))~~ Any order entered in the dependency court establishing or
30 modifying a ~~((permanent legal custody order))~~ guardianship of a minor
31 under RCW 11.130.215, parenting plan, or residential schedule under
32 chapter 26.09, ~~((26.10,))~~ 26.26A, or 26.26B RCW shall also be filed
33 in the chapter 11.130, 26.09, ~~((26.10,))~~ 26.26A, or 26.26B RCW action
34 by the moving or prevailing party. If the petitioning or moving party
35 has been found indigent and appointed counsel at public expense in
36 the dependency proceeding, no filing fees shall be imposed by the
37 clerk. Once filed, any guardianship of a minor order, parenting plan,
38 or residential schedule establishing or modifying permanent legal
39 custody of a child shall survive dismissal of the dependency
40 proceeding.

1 **Sec. 120.** RCW 13.34.210 and 2018 c 284 s 21 are each amended to
2 read as follows:

3 If, upon entering an order terminating the parental rights of a
4 parent, there remains no parent having parental rights, the court
5 shall commit the child to the custody of the department willing to
6 accept custody for the purpose of placing the child for adoption. If
7 an adoptive home has not been identified, the department shall place
8 the child in a licensed foster home, or take other suitable measures
9 for the care and welfare of the child. The custodian shall have
10 authority to consent to the adoption of the child consistent with
11 chapter 26.33 RCW, the marriage of the child, the enlistment of the
12 child in the armed forces of the United States, necessary surgical
13 and other medical treatment for the child, and to consent to such
14 other matters as might normally be required of the parent of the
15 child.

16 If a child has not been adopted within six months after the date
17 of the order and a guardianship of the child under chapter 13.36 RCW
18 or (~~chapter 11.88 RCW, or a permanent custody order under chapter~~
19 ~~26.10 RCW,~~) a guardianship of a minor under RCW 11.130.215 has not
20 been entered by the court, the court shall review the case every six
21 months until a decree of adoption is entered. The department shall
22 take reasonable steps to ensure that the child maintains
23 relationships with siblings as provided in RCW 13.34.130(~~(+6)~~) (7)
24 and shall report to the court the status and extent of such
25 relationships.

26 **Sec. 121.** RCW 13.50.100 and 2019 c 470 s 21 are each amended to
27 read as follows:

28 (1) This section governs records not covered by RCW 13.50.050,
29 13.50.260, and 13.50.270.

30 (2) Records covered by this section shall be confidential and
31 shall be released only pursuant to this section and RCW 13.50.010.

32 (3) Records retained or produced by any juvenile justice or care
33 agency may be released to other participants in the juvenile justice
34 or care system only when an investigation or case involving the
35 juvenile in question is being pursued by the other participant or
36 when that other participant is assigned the responsibility of
37 supervising the juvenile. Records covered under this section and
38 maintained by the juvenile courts which relate to the official
39 actions of the agency may be entered in the statewide judicial

1 information system. However, truancy records associated with a
2 juvenile who has no other case history, and records of a juvenile's
3 parents who have no other case history, shall be removed from the
4 judicial information system when the juvenile is no longer subject to
5 the compulsory attendance laws in chapter 28A.225 RCW. A county clerk
6 is not liable for unauthorized release of this data by persons or
7 agencies not in his or her employ or otherwise subject to his or her
8 control, nor is the county clerk liable for inaccurate or incomplete
9 information collected from litigants or other persons required to
10 provide identifying data pursuant to this section.

11 (4) Subject to (a) of this subsection, the department of
12 children, youth, and families may release information retained in the
13 course of conducting child protective services investigations to a
14 family or juvenile court hearing a petition for custody of a minor
15 under chapter (~~26.10~~) 11.130 RCW.

16 (a) Information that may be released shall be limited to
17 information regarding investigations in which: (i) The juvenile was
18 an alleged victim of abandonment or abuse or neglect; or (ii) the
19 petitioner for custody of the juvenile, or any individual aged
20 sixteen or older residing in the petitioner's household, is the
21 subject of a founded or currently pending child protective services
22 investigation made by the department of social and health services or
23 the department of children, youth, and families subsequent to October
24 1, 1998.

25 (b) Additional information may only be released with the written
26 consent of the subject of the investigation and the juvenile alleged
27 to be the victim of abandonment or abuse and neglect, or the parent,
28 custodian, guardian, or personal representative of the juvenile, or
29 by court order obtained with notice to all interested parties.

30 (5) Any disclosure of records or information by the department of
31 social and health services or the department of children, youth, and
32 families, pursuant to this section shall not be deemed a waiver of
33 any confidentiality or privilege attached to the records or
34 information by operation of any state or federal statute or
35 regulation, and any recipient of such records or information shall
36 maintain it in such a manner as to comply with such state and federal
37 statutes and regulations and to protect against unauthorized
38 disclosure.

39 (6) A contracting agency or service provider of the department of
40 social and health services or the department of children, youth, and

1 families, that provides counseling, psychological, psychiatric, or
2 medical services may release to the office of the family and
3 children's ombuds information or records relating to services
4 provided to a juvenile who is dependent under chapter 13.34 RCW
5 without the consent of the parent or guardian of the juvenile, or of
6 the juvenile if the juvenile is under the age of thirteen years,
7 unless such release is otherwise specifically prohibited by law.

8 (7) A juvenile, his or her parents, the juvenile's attorney, and
9 the juvenile's parent's attorney, shall, upon request, be given
10 access to all records and information collected or retained by a
11 juvenile justice or care agency which pertain to the juvenile except:

12 (a) If it is determined by the agency that release of this
13 information is likely to cause severe psychological or physical harm
14 to the juvenile or his or her parents the agency may withhold the
15 information subject to other order of the court: PROVIDED, That if
16 the court determines that limited release of the information is
17 appropriate, the court may specify terms and conditions for the
18 release of the information; or

19 (b) If the information or record has been obtained by a juvenile
20 justice or care agency in connection with the provision of
21 counseling, psychological, psychiatric, or medical services to the
22 juvenile, when the services have been sought voluntarily by the
23 juvenile, and the juvenile has a legal right to receive those
24 services without the consent of any person or agency, then the
25 information or record may not be disclosed to the juvenile's parents
26 without the informed consent of the juvenile unless otherwise
27 authorized by law; or

28 (c) That the department of children, youth, and families or the
29 department of social and health services may delete the name and
30 identifying information regarding persons or organizations who have
31 reported alleged child abuse or neglect.

32 (8) A juvenile or his or her parent denied access to any records
33 following an agency determination under subsection (7) of this
34 section may file a motion in juvenile court requesting access to the
35 records. The court shall grant the motion unless it finds access may
36 not be permitted according to the standards found in subsection
37 (7)(a) and (b) of this section.

38 (9) The person making a motion under subsection (8) of this
39 section shall give reasonable notice of the motion to all parties to

1 the original action and to any agency whose records will be affected
2 by the motion.

3 (10) Subject to the rules of discovery in civil cases, any party
4 to a proceeding seeking a declaration of dependency or a termination
5 of the parent-child relationship and any party's counsel and the
6 guardian ad litem of any party, shall have access to the records of
7 any natural or adoptive child of the parent, subject to the
8 limitations in subsection (7) of this section. A party denied access
9 to records may request judicial review of the denial. If the party
10 prevails, he or she shall be awarded attorneys' fees, costs, and an
11 amount not less than five dollars and not more than one hundred
12 dollars for each day the records were wrongfully denied.

13 (11) No unfounded allegation of child abuse or neglect as defined
14 in RCW 26.44.020(1) may be disclosed to a child-placing agency,
15 private adoption agency, or any other licensed provider.

16 NEW SECTION. **Sec. 122.** A new section is added to chapter 11.130
17 RCW to read as follows:

18 Any order for the relocation of a minor under a guardianship must
19 comply with the notice requirements of RCW 26.09.430 through
20 26.09.490.

21 **PART II**
22 **GUARDIANSHIPS OF ADULTS**

23 **Sec. 201.** RCW 11.130.275 and 2019 c 437 s 303 are each amended
24 to read as follows:

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

30 (2) (a) A copy of a petition under RCW 11.130.270 and notice of a
31 hearing on the petition must be served personally on the respondent
32 and the court visitor appointed under RCW 11.130.280 not more than
33 five court days after the petition under RCW 11.130.270 has been
34 filed. (~~The notice must inform the respondent of the respondent's~~
35 ~~rights at the hearing, including the right to an attorney and to~~
36 ~~attend the hearing. The notice must include a description of the~~
37 ~~nature, purpose, and consequences of granting the petition.~~)

1 (b) Notice under this subsection shall include a clear and easily
2 readable statement of the legal rights of the respondent that could
3 be restricted or transferred to a guardian by a guardianship order as
4 well as the right to counsel of choice and to a jury trial on whether
5 a basis exists under RCW 11.130.265 for the appointment of a guardian
6 and the issue of the respondent's rights that will be retained or
7 restricted if a guardian is appointed. Such notice must be in
8 substantially the same form as set forth in section 321 of this act
9 and must be double-spaced and in a type size not smaller than sixteen
10 point font. The court may not grant the petition if notice
11 substantially complying with this subsection is not served on the
12 respondent.

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

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

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

27 **Sec. 202.** RCW 11.130.285 and 2019 c 437 s 305 are each amended
28 to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

30 **Sec. 203.** RCW 11.130.290 and 2019 c 437 s 306 are each amended
31 to read as follows:

32 ~~(1) ((At or before a hearing on a petition for a guardianship for~~
33 ~~an adult, the court shall order a professional evaluation of the~~
34 ~~respondent:~~

35 ~~(a) If the respondent requests the evaluation; or~~

36 ~~(b) In other cases, unless the court finds that it has sufficient~~
37 ~~information to determine the respondent's needs and abilities without~~
38 ~~the evaluation.)) On receipt of a petition under RCW 11.130.270 and~~

1 at the time the court appoints a court visitor under RCW 11.130.280,
2 the court shall order a professional evaluation of the respondent.

3 ~~(2) ((If the court orders an evaluation under subsection (1) of~~
4 ~~this section, the))~~ The respondent must be examined by a physician
5 licensed to practice under chapter 18.71 or 18.57 RCW, psychologist
6 licensed under chapter 18.83 RCW, ~~((or))~~ advanced registered nurse
7 practitioner licensed under chapter 18.79 RCW, or physician assistant
8 licensed under chapter 18.71A RCW selected by the court visitor who
9 is 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 [a] report in a record with the court.))~~ If the
14 respondent opposes the professional selected by the court visitor,
15 the court visitor shall obtain a professional evaluation from the
16 professional selected by the respondent. The court visitor, after
17 receiving a professional evaluation from the individual selected by
18 the respondent, may obtain a supplemental evaluation from a different
19 professional.

20 (3) The individual conducting the evaluation shall provide the
21 completed evaluation report to the court visitor within thirty days
22 of the examination of the respondent. The court visitor shall file
23 the report in a sealed record with the court. Unless otherwise
24 directed by the court, the report must contain:

25 (a) The professional's name, address, education, and experience;

26 (b) A description of the nature, type, and extent of the
27 respondent's cognitive and functional abilities and limitations;

28 ~~((b))~~ (c) An evaluation of the respondent's mental and physical
29 condition and, if appropriate, educational potential, adaptive
30 behavior, and social skills;

31 ~~((e))~~ (d) A prognosis for improvement and recommendation for
32 the appropriate treatment, support, or habilitation plan; ~~(and~~

33 ~~(d))~~ (e) A description of the respondent's current medications,
34 and the effect of the medications on the respondent's cognitive and
35 functional abilities;

36 (f) Identification or persons with whom the professional has met
37 or spoken with regarding the respondent; and

38 (g) The date of the examination on which the report is based.

39 ~~((3) The))~~ (4) If the respondent ~~((may decline)) declines~~ to
40 participate in an evaluation ordered under subsection (1) of this

1 section, the court may proceed with the hearing under RCW 11.130.275
2 if the court finds that it has sufficient information to determine
3 the respondent's needs and abilities without the professional
4 evaluation.

5 **Sec. 204.** RCW 11.130.320 and 2019 c 437 s 312 are each amended
6 to read as follows:

7 (1) A person interested in an adult's welfare, including the
8 adult for whom the order is sought, may petition for appointment of
9 an emergency guardian for the adult.

10 (2) An emergency petition under subsection (1) of this section
11 must state the petitioner's name, principal residence, and current
12 street address, if different, and to the extent known, the following:

13 (a) The respondent's name, age, principal residence and current
14 street address, if different;

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

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

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

23 (iii) Adult stepchildren whom the respondent actively parented
24 during the stepchildren's minor years and with whom the respondent
25 had an ongoing relationship in the two-year period immediately before
26 the filing of the emergency petition;

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

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

30 (ii) Any attorney currently representing the respondent;

31 (iii) Any representative payee appointed by the social security
32 administration for the respondent;

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

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

37 (vi) Any fiduciary for the respondent appointed by the department
38 of veterans affairs;

1 (vii) Any representative payee or authorized representative or
2 protective payee;

3 (viii) An agent designated under a power of attorney for health
4 care in which the respondent is identified as the principal;

5 (ix) An agent designated under a power of attorney for finances
6 in which the respondent is identified as the principal;

7 (x) A person nominated as guardian by the respondent;

8 (xi) A person nominated as guardian by the respondent's parent or
9 spouse or domestic partner in a will or other signed record;

10 (xii) A proposed emergency guardian, and the reason the proposed
11 emergency guardian should be selected; and

12 (xiii) A person known to have routinely assisted the respondent
13 with decision making during the six months immediately before the
14 filing of the emergency petition;

15 (d) The reason an emergency guardianship is necessary, including
16 a specific description of:

17 (i) The nature and extent of the emergency situation;

18 (ii) The nature and extent of the respondent's alleged emergency
19 need that arose because of the emergency situation;

20 (iii) The substantial and irreparable harm to the respondent's
21 health, safety, welfare, or rights that is likely to be prevented by
22 the appointment of an emergency guardian;

23 (iv) All protective arrangements or other less restrictive
24 alternatives that have been considered or implemented to meet the
25 respondent's alleged emergency need instead of emergency
26 guardianship;

27 (v) If no protective arrangements or other less restrictive
28 alternatives have been considered or implemented instead of emergency
29 guardianship, the reason they have not been considered or
30 implemented; and

31 (vi) The reason a protective arrangement or other less
32 restrictive alternative instead of emergency guardianship is
33 insufficient to meet the respondent's alleged emergency need;

34 (e) The reason the petitioner believes that a basis for
35 appointment of a guardian under RCW 11.130.265 exists;

36 (f) Whether the petitioner intends to also seek guardianship for
37 an adult under RCW 11.130.270;

38 (g) The reason the petitioner believes that no other person
39 appears to have authority and willingness to act to address the
40 respondent's identified needs caused by the emergency circumstances;

1 (h) The specific powers to be granted to the proposed emergency
2 guardian and a description of how those powers will be used to meet
3 the respondent's alleged emergency need;

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

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

11 (3) The requirements of RCW 11.130.090 apply to an emergency
12 guardian appointed for an adult with the following exceptions for any
13 proposed emergency guardian required to complete the training under
14 RCW 11.130.090:

15 (a) The proposed emergency guardian shall present evidence of the
16 successful completion of the required training video or web cast to
17 the court no later than the hearing on the petition for appointment
18 of an emergency guardian for an adult; and

19 (b) The superior court may defer the completion of the training
20 requirement to a date no later than fourteen days after appointment
21 if the petitioner requests an extension of time to complete the
22 training due to emergent circumstances beyond the control of
23 petitioner.

24 (4) On its own after a petition has been filed under RCW
25 11.130.270, or on petition (~~by a person interested in an adult's~~
26 welfare)) for appointment of an emergency guardian for an adult, the
27 court may appoint an emergency guardian for the adult if the court
28 (~~finds~~) makes specific findings based on clear and convincing
29 evidence that:

30 (a) (~~Appointment~~) An emergency exists such that appointment of
31 an emergency guardian is likely to prevent substantial and
32 irreparable harm to the adult's physical health, safety, or welfare;

33 (b) The respondent's identified needs caused by the emergency
34 cannot be met by a protective arrangement or other less restrictive
35 alternative instead of emergency guardianship;

36 (c) No other person appears to have authority and willingness to
37 act (~~in the~~) to address the respondent's identified needs caused by
38 the emergency circumstances; and

39 (~~e~~) (d) There is reason to believe that a basis for
40 appointment of a guardian under RCW 11.130.265 exists.

1 ~~((2))~~ (5) If the court acts on its own to appoint an emergency
2 guardian after a petition has been filed under RCW 11.130.270, all
3 requirements of this section shall be met.

4 (6) A court order appointing an emergency guardian for an adult
5 shall:

6 (a) Grant only the specific powers necessary to meet the adult's
7 identified emergency need and to prevent substantial and irreparable
8 harm to the adult's physical health, safety, or welfare;

9 (b) Include a specific finding that clear and convincing evidence
10 established that an emergency exists such that appointment of an
11 emergency guardian is likely to prevent substantial and irreparable
12 harm to the respondent's health, safety, or welfare;

13 (c) Include a specific finding that the identified emergency need
14 of the respondent cannot be met by a protective arrangement instead
15 of guardianship or other less restrictive alternative, including any
16 relief available under chapter 74.34 RCW or use of appropriate
17 supportive services, technological assistance, or supported decision
18 making;

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

22 (e) State that the adult subject to emergency guardianship
23 retains all rights the adult enjoyed prior to the emergency
24 guardianship with the exception of the rights not retained during the
25 period of emergency guardianship;

26 (f) Include the date that the sixty-day period of emergency
27 guardianship ends, and the date the emergency guardian's report,
28 required by this section, is due to the court; and

29 (g) Identify any person or notice party that subsequently is
30 entitled to:

31 (i) Notice of the rights of the adult;

32 (ii) Notice of a change in the primary dwelling of the adult;

33 (iii) Notice of the removal of the guardian;

34 (iv) A copy of the emergency guardian's plan and the emergency
35 guardian's report under this section;

36 (v) Access to court records relating to the emergency
37 guardianship;

38 (vi) Notice of the death or significant change in the condition
39 of the adult;

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

3 (viii) Notice of the removal of the emergency guardian.

4 (7) A spouse, a domestic partner, and adult children of an adult
5 subject to emergency guardianship are entitled to notice under this
6 section unless the court orders otherwise based on good cause. Good
7 cause includes the court's determination that notice would be
8 contrary to the preferences or prior directions of the adult subject
9 to emergency guardianship or not in the best interest of the adult
10 subject to the emergency guardianship.

11 (8) The duration of authority of an emergency guardian for an
12 adult may not exceed sixty days, and the emergency guardian may
13 exercise only the powers specified in the order of appointment.
14 ((The)) Upon a motion by the petitioner, adult subject to emergency
15 guardianship, court visitor, or the emergency guardian, with notice
16 served upon all applicable notice parties, the emergency guardian's
17 authority may be extended once for not more than sixty days if the
18 court finds that the conditions for appointment of an emergency
19 guardian in subsection ((+1)) (4) of this section continue.

20 ((+3)) (9) Immediately on filing of a petition for appointment
21 of an emergency guardian for an adult, the court shall appoint an
22 attorney to represent the respondent in the proceeding. Except as
23 otherwise provided in subsection ((+4)) (10) of this section,
24 ((reasonable)) an order appointing an emergency guardian for the
25 respondent may not be entered unless the respondent, the respondent's
26 attorney, and the court visitor appointed under subsection (11) of
27 this section have received a minimum of fourteen days' notice of the
28 date, time, and place of a hearing on the petition ((must be given to
29 the respondent, the respondent's attorney, and any other person the
30 court determines)). A copy of the emergency petition and notice of a
31 hearing on the petition must be served personally on the respondent,
32 the respondent's attorney, and the court visitor not more than two
33 court days after the petition has been filed. The notice must inform
34 the respondent of the respondent's rights at the hearing, including
35 the right to an attorney and to attend the hearing. The notice must
36 include a description of the nature, purpose, and consequences of
37 granting the emergency petition. The court shall not grant the
38 emergency petition if notice substantially complying with this
39 subsection is not served on the respondent.

1 (~~(4)~~) (10) The court may appoint an emergency guardian for an
2 adult without notice to the adult and any attorney for the adult only
3 if the court finds from an affidavit or testimony that the
4 respondent's physical health, safety, or welfare will be
5 substantially harmed before a hearing with notice on the appointment
6 can be held. If the court appoints an emergency guardian without
7 giving notice under subsection (~~(3)~~) (9) of this section, the court
8 must:

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

11 (i) The respondent;

12 (ii) The respondent's attorney; and

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

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

16 (~~(5)~~) (11) On receipt of a petition for appointment of
17 emergency guardian for an adult, the court shall appoint a court
18 visitor. Notice of appointment of the court visitor must be served
19 upon the court visitor within two days of appointment. The court
20 visitor must be an individual with training or experience in the type
21 of abilities, limitations, and needs alleged in the emergency
22 petition. The court, in the order appointing a court visitor, shall
23 specify the hourly rate the visitor may charge for his or her
24 services, and shall specify the maximum amount the court visitor may
25 charge without additional court review and approval.

26 (a) The court visitor shall within two days of service of notice
27 of appointment file with the court and serve, either personally or by
28 certified mail with return receipt, the respondent or the
29 respondent's legal counsel, the petitioner or the petitioner's legal
30 counsel, and any notice party with a statement including the court
31 visitor's: Training relating to the duties as a court visitor;
32 criminal history as defined in RCW 9.94A.030 for the period covering
33 ten years prior to the appointment; hourly rate, if compensated;
34 contact, if any, with a party to the proceeding prior to appointment;
35 and apparent or actual conflicts of interest.

36 (b) A court visitor appointed under this section shall use due
37 diligence to attempt to interview the respondent in person and, in a
38 manner the respondent is best able to understand:

39 (i) Explain to the respondent the substance of the emergency
40 petition, the nature, purpose, and effect of the proceeding, the

1 respondent's rights at the hearing on the petition, and the proposed
2 specific powers and duties of the proposed guardian as stated in the
3 emergency petition;

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

9 (iii) Inform the respondent that all costs and expenses of the
10 proceeding, including but not limited to the respondent's attorneys'
11 fees, the appointed guardian's fees, and the appointed guardian's
12 attorneys' fees, will be paid from the respondent's assets upon
13 approval by the court.

14 (c) The court visitor appointed under this section shall:

15 (i) Interview the petitioner and proposed emergency guardian;

16 (ii) Use due diligence to attempt to visit the respondent's
17 present dwelling;

18 (iii) Use due diligence to attempt to obtain information from any
19 physician or other person known to have treated, advised, or assessed
20 the respondent's relevant physical or mental condition; and

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

24 (d) A court visitor appointed under this section shall file a
25 report in a record with the court and provide a copy of the report to
26 the respondent, petitioner, and any notice party at least seven days
27 prior to the hearing on the emergency petition, which must include:

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

33 (ii) A recommendation regarding the appropriateness of emergency
34 guardianship, including whether a protective arrangement instead of
35 guardianship or other less restrictive alternative for meeting the
36 respondent's needs is available, and if an emergency guardianship is
37 recommended;

38 (iii) A detailed summary of the alleged emergency and the
39 substantial and irreparable harm to the respondent's health, safety,

1 welfare, or rights that is likely to be prevented by the appointment
2 of an emergency guardian;

3 (iv) A statement as to whether the alleged emergency and the
4 respondent's alleged needs are likely to require an extension of
5 sixty days as authorized under this section;

6 (v) The specific powers to be granted to the emergency guardian
7 and how the specific powers will address the alleged emergency and
8 the respondent's alleged need;

9 (vi) A recommendation regarding the appropriateness of an ongoing
10 guardianship for an adult, including whether a protective arrangement
11 instead of guardianship or other less restrictive alternative for
12 meeting the respondent's needs is available;

13 (vii) A statement of the qualifications of the proposed emergency
14 guardian and whether the respondent approves or disapproves of the
15 proposed emergency guardian, and the reasons for such approval or
16 disapproval;

17 (viii) A recommendation whether a professional evaluation under
18 RCW 11.130.290 is necessary;

19 (ix) A statement whether the respondent is able to attend a
20 hearing at the location court proceedings typically are held;

21 (x) A statement whether the respondent is able to participate in
22 a hearing which identifies any technology or other form of support
23 that would enhance the respondent's ability to participate;

24 (xi) A statement, as needed when the petition seeks emergency
25 authority to change the respondent's place of dwelling, as to whether
26 the proposed dwelling meets the respondent's needs and whether the
27 respondent has expressed a preference as to residence; and

28 (xii) Any other matter the court directs.

29 (12) An emergency guardian shall:

30 (a) Comply with the requirements of RCW 11.130.325, the
31 requirements regarding the adult's right to association under RCW
32 11.130.335, and the requirements of this chapter that pertain to the
33 rights of an adult subject to guardianship;

34 (b) Not have authority to make decisions or take actions that a
35 guardian for an adult is prohibited by law from having; and

36 (c) Be subject to the same special limitations on a guardian's
37 power that apply to a guardian for an adult.

38 (13) Appointment of an emergency guardian under this section is
39 not a determination that a basis exists for appointment of a guardian
40 under RCW 11.130.265.

1 (~~(6)~~) (14) The court may remove an emergency guardian appointed
2 under this section at any time.

3 (15) The emergency guardian shall file a report in a record with
4 the court and provide a copy of the report to the adult subject to
5 emergency guardianship, and any notice party no later than forty-five
6 days after appointment. The report shall include specific and updated
7 information regarding the emergency alleged in the emergency
8 petition, the adult's emergency needs, all actions and decisions by
9 the emergency guardian, and a recommendation as to whether a guardian
10 for an adult should be appointed. If the appointment of the emergency
11 guardian is extended for an additional sixty days, the emergency
12 guardian shall file a second report in a record with the court and
13 provide a copy of the report to the adult subject to emergency
14 guardianship, and any notice party no later than forty-five days
15 after extension of the appointment is granted by the court, which
16 shall include the same information required for the first report. The
17 emergency guardian shall make any other report the court requires.

18 (16) The court shall issue letters of emergency guardianship to
19 the emergency guardian in compliance with RCW 11.130.040. Such
20 letters shall be issued on an expedited basis.

21 **Sec. 205.** RCW 11.130.330 and 2019 c 437 s 314 are each amended
22 to read as follows:

23 (1) Except as limited by court order, a guardian for an adult
24 may:

25 (a) Apply for and receive funds and benefits as a representative
26 payee or an authorized representative or protective payee for the
27 support of the adult, unless a conservator is appointed for the adult
28 and the application or receipt is within the powers of the
29 conservator;

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

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

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

38 (e) To the extent reasonable, delegate to the adult
39 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 RCW 11.130.310;

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

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

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

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

23 (a) Select a residential setting the guardian believes the adult
24 would select if the adult were able, in accordance with the decision-
25 making standard in RCW 11.130.325 (4) and (5). If the guardian does
26 not know and cannot reasonably determine what setting the adult
27 subject to guardianship probably would choose if able, or the
28 guardian reasonably believes the decision the adult would make would
29 unreasonably harm or endanger the welfare or personal or financial
30 interests of the adult, the guardian shall choose in accordance with
31 RCW 11.130.325(5) a residential setting that is consistent with the
32 adult's best interest;

33 (b) In selecting among residential settings, give priority to a
34 residential setting in a location that will allow the adult to
35 interact with persons important to the adult and meet the adult's
36 needs in the least restrictive manner reasonably feasible unless to
37 do so would be inconsistent with the decision-making standard in RCW
38 11.130.325 (4) and (5);

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

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

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

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

12 (i) The establishment or move is in the guardian's plan under RCW
13 11.130.340;

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

15 (iii) The guardian gives notice of the establishment or move at
16 least fourteen days before the establishment or move to the adult and
17 all persons entitled to notice under RCW 11.130.310(5)(b) or a
18 subsequent order, and no objection is filed;

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

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

24 (i) The action is specifically included in the guardian's plan
25 under RCW 11.130.340;

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

27 (iii) Notice of the action was given at least fourteen days
28 before the action to the adult and all persons entitled to the notice
29 under RCW 11.130.310(5)(b) or a subsequent order and no objection has
30 been filed.

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

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

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

40 (c) Take into account:

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

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

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

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

23 **Sec. 206.** RCW 11.130.335 and 2019 c 437 s 315 are each amended
24 to read as follows:

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

38 (2) A guardian for an adult (~~may~~) shall not initiate the
39 commitment of the adult to an evaluation and treatment facility

1 except in accordance with the ~~((state's procedure for involuntary~~
2 ~~civil commitment))~~ provisions of chapter 10.77, 71.05, or 72.23 RCW.

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~~
21 ~~under a guardianship retains the right to associate with persons of~~
22 ~~the person under a guardianship's choosing. This right includes, but~~
23 ~~is 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 11.130 RCW;~~

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

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

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

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

27 ~~(6) A protection order under chapter 74.34 RCW issued to protect~~
28 ~~the person under a guardianship)) an adult subject to a guardianship,~~
29 ~~conservatorship, or other protective arrangement retains the right to~~
30 ~~associate with other persons of the adult's choosing. This right~~
31 ~~includes, but is not limited to, the right to freely communicate and~~
32 ~~interact with other persons, whether through in-person visits,~~
33 ~~telephone calls, electronic communication, personal mail, or other~~
34 ~~means. If the adult subject to a guardianship, conservatorship, or~~
35 ~~other protective arrangement is unable to express consent for~~
36 ~~communication, visitation, or interaction with another person, or is~~
37 ~~otherwise unable to make a decision regarding association with~~
38 ~~another person, the guardian, conservator, or person acting under a~~
39 ~~protective arrangement, whether full or limited, must:~~

1 (i) Personally inform the adult subject to a guardianship,
2 conservatorship, or other protective arrangement of the decision
3 under consideration, using plain language, in a manner calculated to
4 maximize the understanding of the adult;

5 (ii) Maximize the adult's participation in the decision-making
6 process to the greatest extent possible, consistent with the adult's
7 abilities; and

8 (iii) Give substantial weight to the adult's preferences, both
9 expressed and historical.

10 (b) A guardian or limited guardian, a conservator or limited
11 conservator, or a person acting under a protective arrangement may
12 not restrict an adult's right to communicate, visit, interact, or
13 otherwise associate with persons of the adult's choosing, unless:

14 (i) The restriction is specifically authorized by the court in
15 the court order establishing or modifying the guardianship or limited
16 guardianship, the conservatorship or limited conservatorship, or the
17 protective arrangement under this chapter;

18 (ii) The restriction is pursuant to a protection order issued
19 under chapter 74.34 or 26.50 RCW, or other law, that limits contact
20 between the adult under a guardianship, conservatorship, or other
21 protective arrangement and other persons;

22 (iii) (A) The guardian or limited guardian, the conservator or
23 limited conservator, or the person acting under the protective
24 arrangement has good cause to believe that there is an immediate need
25 to restrict the adult's right to communicate, visit, interact, or
26 otherwise associate with persons of the adult's choosing in order to
27 protect the adult from abuse, neglect, abandonment, or financial
28 exploitation, as those terms are defined in RCW 74.34.020, or to
29 protect the adult from activities that unnecessarily impose
30 significant distress on the adult; and

31 (B) Within fourteen calendar days of imposing the restriction
32 under (b) (iii) (A) of this subsection, the guardian or limited
33 guardian, the conservator or limited conservator, or person acting
34 under the protective arrangement files a petition for a protection
35 order under chapter 74.34 RCW. The immediate need restriction may
36 remain in place until the court has heard and issued an order or
37 decision on the petition; or

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

1 (6) A protection order under chapter 74.34 RCW issued to protect
2 the adult under a guardianship, conservatorship, or other protective
3 arrangement as described in subsection (5)(b)(iii)(B) of this
4 section:

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

6 (b) May not be more restrictive than necessary to protect the
7 (~~person under a guardianship~~) adult from abuse, neglect,
8 abandonment, or financial exploitation as those terms are defined in
9 RCW 74.34.020; and

10 (c) May not deny communication, visitation, interaction, or other
11 association between the (~~person under a guardianship~~) adult and
12 another person unless the court finds that placing reasonable time,
13 place, or manner restrictions is unlikely to sufficiently protect the
14 (~~person under a guardianship~~) adult from abuse, neglect,
15 abandonment, or financial exploitation as those terms are defined in
16 RCW 74.34.020.

17 **Sec. 207.** RCW 11.130.340 and 2019 c 437 s 317 are each amended
18 to read as follows:

19 (1) A guardian for an adult, not later than ninety days after
20 appointment, shall file with the court a plan for the care of the
21 adult and shall provide a copy of the plan to the adult subject to
22 guardianship(~~(, a person entitled to notice under RCW 11.130.310(5)~~
23 ~~or a subsequent order,~~) and any other (~~person the court~~
24 ~~determines~~) notice party. The plan must be based on the needs of the
25 adult and take into account the best interest of the adult as well as
26 the adult's preferences, values, and prior directions, to the extent
27 known to or reasonably ascertainable by the guardian. The guardian
28 shall include in the plan:

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

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

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

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

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

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

6 (g) A statement or list of the amount the guardian proposes to
7 charge for each service the guardian anticipates providing to the
8 adult.

9 (2) A guardian shall give notice of the filing of the guardian's
10 plan under subsection (1) of this section, together with a copy of
11 the plan, to the adult subject to guardianship(~~(, a person entitled~~
12 ~~to notice under RCW 11.130.310(5) or a subsequent order,~~) and any
13 other (~~(person the court determines)~~) notice party. The notice must
14 include a statement of the right to object to the plan and be given
15 not later than fourteen days after the filing.

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

19 (4) The court shall review the guardian's plan filed under
20 subsection (1) of this section and determine whether to approve the
21 plan or require a new plan. In deciding whether to approve the plan,
22 the court shall consider an objection under subsection (3) of this
23 section and whether the plan is consistent with the guardian's duties
24 and powers under RCW 11.130.325 and 11.130.330. The court may not
25 approve the plan until thirty days after its filing.

26 (5) After the guardian's plan filed under this section is
27 approved by the court, the guardian shall provide a copy of the order
28 approving the plan to the adult subject to guardianship(~~(, a person~~
29 ~~entitled to notice under RCW 11.130.310(5) or a subsequent order,~~)
30 and any other (~~(person the court determines)~~) notice party.

31 **Sec. 208.** RCW 11.130.345 and 2019 c 437 s 318 are each amended
32 to read as follows:

33 (1) A guardian for an adult shall file with the court by the date
34 established by the court a report in a record regarding the condition
35 of the adult and accounting for funds and other property in the
36 guardian's possession or subject to the guardian's control. The
37 guardian shall provide a copy of the report to the adult subject to
38 guardianship(~~(, a person entitled to notice under RCW 11.130.310(5)~~

1 ~~or a subsequent order,~~) and any other (~~person the court~~
2 ~~determines~~) notice party.

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

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

6 (b) The living arrangements of the adult during the reporting
7 period;

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

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

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

15 (f) The extent to which the adult has participated in decision
16 making;

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

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

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

31 (j) Any business relation the guardian has with a person the
32 guardian has paid or that has benefited from the property of the
33 adult;

34 (k) A copy of the guardian's most recently approved plan under
35 RCW 11.130.340 and a statement whether the guardian has deviated from
36 the plan and, if so, how the guardian has deviated and why;

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

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

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

3 (3) The court may appoint a court visitor to review a report
4 submitted under this section or a guardian's plan submitted under RCW
5 11.130.340, interview the guardian or adult subject to guardianship,
6 or investigate any other matter involving the guardianship.

7 (4) Notice of the filing under this section of a guardian's
8 report, together with a copy of the report, must be given to the
9 adult subject to guardianship(~~(, a person entitled to notice under~~
10 ~~RCW 11.130.310(5) or a subsequent order,~~) and any other (~~(person the~~
11 ~~court determines)~~) notice party. The notice and report must be given
12 not later than fourteen days after the filing.

13 (5) The court shall establish procedures for monitoring a report
14 submitted under this section and review each report to determine
15 whether:

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

18 (b) The guardianship should continue; and

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

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

23 (a) Shall notify the adult, the guardian, and any other person
24 entitled to notice under RCW 11.130.310(5) or a subsequent order;

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

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

28 (d) Consistent with this section and RCW 11.130.350, may hold a
29 hearing to consider removal of the guardian, termination of the
30 guardianship, or a change in the powers granted to the guardian or
31 terms of the guardianship.

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

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

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

13 (10) If the court approves a report filed under this section, the
14 order approving the report shall contain a guardianship summary or be
15 accompanied by a guardianship summary in the form or substantially in
16 the same form as set forth in RCW 11.130.665.

17 (11) If the court approves a report filed under this section, the
18 order approving the report shall direct the clerk of the court to
19 reissue letters of office in the form or substantially in the same
20 form as set forth in RCW 11.130.660 to the guardian containing an
21 expiration date which will be within one hundred twenty days after
22 the date the court directs the guardian file its next report.

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

25 **Sec. 209.** RCW 11.130.360 and 2019 c 437 s 401 are each amended
26 to read as follows:

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

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

34 (b) Either:

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

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

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

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

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

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

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

15 (b) Appointment is necessary to:

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

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

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

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

31 (4) A determination by the court that a basis under subsection
32 (2) of this section exists for the appointment of a conservator for
33 an adult and on the issue of the rights that will be retained or
34 restricted by the appointment of a conservator is a legal, not a
35 medical decision. The determination must be based on demonstrated
36 management insufficiencies over time in the area of property or
37 financial affairs. Age, eccentricity, poverty, or medical diagnosis
38 alone are not a sufficient basis under subsection (2) of this section
39 to justify a determination that a conservator should be appointed for
40 the respondent.

1 (5) For purposes of subsection (2) of this section, an adult who
2 resides in a long-term care facility, resides in another care
3 setting, or is the subject of an involuntary commitment order is not
4 considered missing or detained.

5 **Sec. 210.** RCW 11.130.370 and 2019 c 437 s 403 are each amended
6 to read as follows:

7 (1) All petitions filed under RCW 11.130.365 for appointment of a
8 conservator shall be heard within sixty days unless an extension of
9 time is requested by a party or the court visitor within such sixty-
10 day period and granted for good cause shown. If an extension is
11 granted, the court shall set a new hearing date.

12 (2) (a) A copy of a petition under RCW 11.130.365 and notice of a
13 hearing on the petition must be served personally on the respondent
14 ~~((and)),~~ the court visitor appointed under RCW 11.130.380, and the
15 appointed or proposed guardian not more than five court days after
16 the petition under RCW 11.130.365 has been filed. If the respondent's
17 whereabouts are unknown or personal service cannot be made, service
18 on the respondent must be made by publication. ~~((The notice must~~
19 ~~inform the respondent of the respondent's rights at the hearing,~~
20 ~~including the right to an attorney and to attend the hearing. The~~
21 ~~notice must include a description of the nature, purpose, and~~
22 ~~consequences of granting the petition.))~~

23 (b) Notice under this subsection shall include a clear and easily
24 readable statement of the legal rights of the respondent that could
25 be restricted or transferred to a conservator by a conservatorship
26 order as well as the right to counsel of choice and to a jury trial
27 whether a basis exists under RCW 11.130.360(2) for the appointment of
28 a conservator and the issue of the respondent's rights that will be
29 retained or restricted if a conservator is appointed. Such notice
30 must be in substantially the same form as set forth in section 321 of
31 this act and must be double-spaced and in a type size not smaller
32 than sixteen point font. The court may not grant ((a)) the petition
33 ~~((for appointment of a conservator))~~ if notice substantially
34 complying with this subsection is not served on the respondent.

35 (3) In a proceeding on a petition under RCW 11.130.365, the
36 notice required under subsection (2) of this section must be ~~((given~~
37 ~~to))~~ served upon the persons required to be listed in the petition
38 under RCW 11.130.365(2) (a) through (c) and any other ~~((person~~
39 ~~interested in the respondent's welfare the court determines))~~ notice

1 party. Failure to give notice under this subsection does not preclude
2 the court from appointing a conservator.

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

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

9 (b) The conservator; and

10 (c) Any other notice party or person the court determines
11 pursuant to RCW 11.130.420(6) or a subsequent court order.

12 **Sec. 211.** RCW 11.130.385 and 2019 c 437 s 406 are each amended
13 to read as follows:

14 (1)(a) The respondent shall have the right to be represented by a
15 willing attorney of their choosing at any stage in conservatorship
16 proceedings. Any attorney purporting to represent a respondent or
17 person subject to conservatorship shall petition the court to be
18 appointed to represent the respondent or person subject to
19 conservatorship.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (c) The court otherwise determines the parent needs
23 representation.

24 **Sec. 212.** RCW 11.130.390 and 2019 c 437 s 407 are each amended
25 to read as follows:

26 (1) ~~((At or before a hearing on a petition for conservatorship
27 for an adult, the court shall order a professional evaluation of the
28 respondent:~~

29 ~~(a) If the respondent requests the evaluation; or~~

30 ~~(b) In other cases, unless the court finds it has sufficient
31 information to determine the respondent's needs and abilities without
32 the evaluation.))~~ On receipt of a petition under RCW 11.130.360 and
33 at the time the court appoints a court visitor under RCW 11.130.380,
34 the court shall order a professional evaluation of the respondent.

35 (2) ~~((If the court orders an evaluation under subsection (1) of
36 this section, the))~~ The respondent must be examined by a physician
37 licensed to practice under chapter 18.71 or 18.57 RCW, psychologist
38 licensed under chapter 18.83 RCW, ~~((or))~~ advanced registered nurse
39 practitioner licensed under chapter 18.79 RCW, or physician assistant

1 licensed under chapter 18.71A RCW, selected by the court visitor who
2 is qualified to evaluate the respondent's alleged cognitive and
3 functional abilities and limitations and will not be advantaged or
4 disadvantaged by a decision to grant the petition or otherwise have a
5 conflict of interest. If the respondent opposes the professional
6 selected by the court visitor, the court visitor shall obtain a
7 professional evaluation from the professional selected by the
8 respondent. The court visitor, after receiving a professional
9 evaluation from the individual selected by the respondent, may obtain
10 a supplemental evaluation from a different professional.

11 (3) The individual conducting the evaluation (~~(promptly)~~) shall
12 promptly provide the completed evaluation report to the court visitor
13 who shall file ((a)) the report in a sealed record with the court.
14 Unless otherwise directed by the court, the report must contain:

15 (a) The professional's name, address, education, and experience;

16 (b) A description of the nature, type, and extent of the
17 respondent's cognitive and functional abilities and limitations with
18 regard to the management of the respondent's property and financial
19 affairs;

20 ~~((b))~~ (c) An evaluation of the respondent's mental and physical
21 condition and, if appropriate, educational potential, adaptive
22 behavior, and social skills;

23 ~~((e))~~ (d) A prognosis for improvement with regard to the
24 ability to manage the respondent's property and financial affairs;
25 ((and

26 ~~(d))~~ (e) A description of the respondent's current medications,
27 and the effect of the medications on the respondent's cognitive and
28 functional abilities;

29 (f) Identification or persons with whom the professional has met
30 or spoken with regarding the respondent; and

31 (g) The date of the examination on which the report is based.

32 ~~((3) A)) (4) If the respondent ((may decline)) declines to~~
33 participate in an evaluation ordered under subsection (1) of this
34 section, the court may proceed with the hearing under RCW 11.130.370
35 if the court finds that it has sufficient information to determine
36 the respondent's needs and abilities without the professional
37 evaluation.

38 (5) A professional evaluation is not required if a petition for
39 appointment of a conservator under RCW 11.130.360 is for a

1 conservator for the property or financial affairs of a minor or for
2 an adult missing, detained, or unable to return to the United States.

3 **Sec. 213.** RCW 11.130.410 and 2019 c 437 s 409 are each amended
4 to read as follows:

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

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

11 (b) Either:

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

13 (ii) The conservatorship is terminated.

14 (2) An individual subject to a proceeding for a conservatorship,
15 whether or not a conservator is appointed, an attorney designated by
16 the individual, and a person entitled to notice under RCW
17 11.130.420(6) or a subsequent order may access court records of the
18 proceeding and resulting conservatorship, including the conservator's
19 plan under RCW 11.130.510 and the conservator's report under RCW
20 11.130.530. A person not otherwise entitled access to court records
21 under this section for good cause may petition the court for access
22 to court records of the conservatorship, including the conservator's
23 plan and report. The court shall grant access if access is in the
24 best interest of the respondent or individual subject to
25 conservatorship or furthers the public interest and does not endanger
26 the welfare or financial interests of the respondent or individual.

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

30 (a) The court;

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

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

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

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

3 **Sec. 214.** RCW 11.130.415 and 2019 c 437 s 410 are each amended
4 to read as follows:

5 (1) Except as otherwise provided in subsection (3) of this
6 section, the court in appointing a conservator shall consider persons
7 qualified to be a conservator in the following order of priority:

8 (a) A conservator, other than a temporary or emergency
9 conservator, currently acting for the respondent in another
10 jurisdiction;

11 (b) A person nominated as conservator by the respondent,
12 including the respondent's most recent nomination made in a power of
13 attorney for finances;

14 (c) An agent appointed by the respondent to manage the
15 respondent's property under a power of attorney for finances;

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

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

19 (f) A certified professional guardian or conservator or other
20 entity the court determines is suitable.

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

29 (3) The court, acting in the best interest of the respondent, may
30 decline to appoint as conservator a person having priority under
31 subsection (1) of this section and appoint a person having a lower
32 priority or no priority.

33 (4) A person that provides paid services to the respondent, or an
34 individual who is employed by a person that provides paid services to
35 the respondent or is the spouse, domestic partner, parent, or child
36 of an individual who provides or is employed to provide paid services
37 to the respondent, may not be appointed as conservator unless:

38 (a) The individual is related to the respondent by blood(~~(7~~
39 ~~marriage, or adoption))~~ or law; or

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

4 (5) An owner, operator, or employee of a long-term care facility
5 at which the respondent is receiving care may not be appointed as
6 conservator unless the owner, operator, or employee is related to the
7 respondent by blood(~~(, marriage, or adoption)~~) or law.

8 **Sec. 215.** RCW 11.130.420 and 2019 c 437 s 411 are each amended
9 to read as follows:

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

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

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

19 (a) Include a specific finding that clear and convincing evidence
20 has established that the identified needs of the respondent cannot be
21 met by a protective arrangement instead of conservatorship or other
22 less restrictive alternatives, including use of appropriate
23 supportive services, technological assistance, or supported decision
24 making; and

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

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

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

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

38 (a) Notice of the rights of the individual subject to
39 conservatorship under RCW 11.130.425(2);

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

3 (c) Notice that the conservator has delegated a power that
4 requires court approval under RCW 11.130.435 or substantially all
5 powers of the conservator;

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

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

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

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

13 (h) Notice of the death or significant change in the condition of
14 the individual;

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

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

18 (7) If an individual subject to conservatorship is an adult, the
19 spouse, domestic partner, and adult children of the adult subject to
20 conservatorship are entitled under subsection (6) of this section to
21 notice unless the court (~~determines~~) orders otherwise based on good
22 cause. Good cause includes the court's determination that notice
23 would be contrary to the preferences or prior directions of the adult
24 subject to conservatorship (~~or not in the best interest of the~~
25 ~~adult~~)).

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

30 (9) All orders establishing a conservatorship for an adult must
31 contain:

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

35 (b) The date which the limited conservator or conservator must
36 file the conservator's plan under RCW 11.130.510;

37 (c) The date which the limited conservator or conservator must
38 file an inventory under RCW 11.130.515;

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

1 (e) The report interval which the conservator must file its
2 report under RCW 11.130.530. The report interval may be annual,
3 biennial, or triennial;

4 (f) The date the limited conservator or conservator must file its
5 report under RCW 11.130.530. The due date of the filing of the report
6 shall be within ninety days after the anniversary date of the
7 appointment;

8 (g) The date for the court to review the report under RCW
9 11.130.530 and enter its order. The court shall conduct the review
10 within one hundred twenty days after the anniversary date of the
11 appointment.

12 **Sec. 216.** RCW 11.130.425 and 2019 c 437 s 412 are each amended
13 to read as follows:

14 (1) A conservator appointed under RCW 11.130.420 shall give to
15 the individual subject to conservatorship and to all other persons
16 (~~given~~) entitled to notice pursuant to an order under RCW
17 (~~11.130.370~~) 11.130.420(6) or a subsequent order a copy of the
18 order of appointment, together with notice of the right to request
19 termination or modification. The order and notice must be given not
20 later than fourteen days after the appointment.

21 (2) Not later than thirty days after appointment of a conservator
22 under RCW 11.130.420, the conservator shall give to the individual
23 subject to conservatorship and any other person entitled to notice
24 under RCW 11.130.420(6) a statement of the rights of the individual
25 subject to conservatorship and procedures to seek relief if the
26 individual is denied those rights. The statement must be in plain
27 language, in at least sixteen-point font, and to the extent feasible,
28 in a language in which the individual subject to conservatorship is
29 proficient. The statement must notify the individual subject to
30 conservatorship of the right to:

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

34 (b) Participate in decision making to the extent reasonably
35 feasible;

36 (c) Receive a copy of the conservator's plan under RCW
37 11.130.510, the conservator's inventory under RCW 11.130.515, and the
38 conservator's report under RCW 11.130.530; and

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

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

4 **Sec. 217.** RCW 11.130.430 and 2019 c 437 s 413 are each amended
5 to read as follows:

6 (1) A person interested in an individual's welfare, including the
7 individual for whom the order is sought, may petition for appointment
8 of an emergency conservator for the individual.

9 (2) An emergency petition under subsection (1) of this section
10 must state the petitioner's name, principal residence, and current
11 street address, if different, and to the extent known, the following:

12 (a) The respondent's name, age, principal residence and current
13 street address, if different;

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

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

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

22 (iii) Adult stepchildren whom the respondent actively parented
23 during the stepchildren's minor years and with whom the respondent
24 had an ongoing relationship in the two-year period immediately before
25 the filing of the emergency petition;

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

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

29 (ii) Any attorney currently representing the respondent;

30 (iii) Any representative payee appointed by the social security
31 administration for the respondent;

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

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

36 (vi) Any fiduciary for the respondent appointed by the department
37 of veterans affairs;

38 (vii) Any representative payee or authorized representative or
39 protective payee;

1 (viii) An agent designated under a power of attorney for health
2 care in which the respondent is identified as the principal;
3 (ix) An agent designated under a power of attorney for finances
4 in which the respondent is identified as the principal;
5 (x) A person nominated as conservator by the respondent;
6 (xi) A person nominated as conservator by the respondent's parent
7 or spouse or domestic partner in a will or other signed record;
8 (xii) A proposed emergency conservator, and the reason the
9 proposed emergency conservator should be selected; and
10 (xiii) A person known to have routinely assisted the respondent
11 with decision making during the six months immediately before the
12 filing of the emergency petition;
13 (d) The reason an emergency conservatorship is necessary,
14 including a specific description of:
15 (i) The nature and extent of the emergency situation;
16 (ii) The nature and extent of the individual's alleged emergency
17 need that arose because of the emergency situation;
18 (iii) The substantial and irreparable harm to the individual's
19 property or financial interests that is likely to be prevented by the
20 appointment of an emergency conservator;
21 (iv) All protective arrangements or other less restrictive
22 alternatives that have been considered or implemented to meet the
23 individual's alleged emergency needs instead of emergency
24 conservatorship;
25 (v) If no protective arrangements or other less restrictive
26 alternatives have been considered or implemented instead of emergency
27 conservatorship, the reason they have not been considered or
28 implemented; and
29 (vi) The reason a protective arrangement or other less
30 restrictive alternative instead of emergency conservatorship is
31 insufficient to meet the individual's alleged emergency need;
32 (e) The reason the petitioner believes that a basis for
33 appointment of a conservator under RCW 11.130.360 exists;
34 (f) Whether the petitioner intends to also seek conservatorship
35 for an individual under RCW 11.130.365;
36 (g) The reason the petitioner believes that no other person
37 appears to have authority and willingness to act to address the
38 individual's identified needs caused by the emergency circumstances;

1 (h) The specific powers to be granted to the proposed emergency
2 conservator and a description of how those powers will be used to
3 meet the individual's alleged emergency need;

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

8 (j) Whether the individual needs an interpreter, translator, or
9 other form of support to communicate effectively with the court or
10 understand court proceedings.

11 (3) The requirements of RCW 11.130.090 apply to an emergency
12 conservator appointed for an individual with the following exceptions
13 for any proposed emergency conservator required to complete the
14 training under RCW 11.130.090:

15 (a) The proposed emergency conservator shall present evidence of
16 the successful completion of the required training video or web cast
17 to the court no later than the hearing on the petition for
18 appointment of an emergency conservator for an individual; and

19 (b) The superior court may defer the completion of the training
20 requirement to a date no later than fourteen days after appointment
21 if the petitioner requests an extension of time to complete the
22 training due to emergent circumstances beyond the control of
23 petitioner.

24 (4) On its own or on petition (~~by a person interested in an~~
25 individual's welfare)) for appointment of an emergency conservator
26 for an individual after a petition has been filed under RCW
27 11.130.365, the court may appoint an emergency conservator for the
28 individual if the court (~~finds~~) makes specific findings based on
29 clear and convincing evidence that:

30 (a) (~~Appointment~~) An emergency exists such that appointment
31 of an emergency conservator is likely to prevent substantial and
32 irreparable harm to the individual's property or financial interests;

33 (b) The individual's identified needs caused by the emergency
34 cannot be met by a protective arrangement or other less restrictive
35 alternative instead of emergency conservatorship;

36 (c) No other person appears to have authority and willingness to
37 act (~~in the~~) to address the individual's identified needs caused by
38 the emergency circumstances; and

39 (~~e~~) (d) There is reason to believe that a basis for
40 appointment of a conservator under RCW 11.130.360 exists.

1 ~~((2))~~ (5) If the court acts on its own to appoint an emergency
2 conservator after a petition has been filed under RCW 11.130.365, all
3 requirements of this section shall be met.

4 (6) A court order appointing an emergency conservator for an
5 individual shall:

6 (a) Grant only the specific powers necessary to meet the
7 individual's identified emergency need and to prevent substantial and
8 irreparable harm to the individual's property or financial interests;

9 (b) Include a specific finding that clear and convincing evidence
10 established that an emergency exists such that appointment of an
11 emergency conservator is likely to prevent substantial and
12 irreparable harm to the individual's property or financial interests;

13 (c) Include a specific finding that the identified emergency need
14 of the individual cannot be met by a protective arrangement instead
15 of conservatorship or other less restrictive alternative, including
16 any relief available under chapter 74.34 RCW or use of appropriate
17 supportive services, technological assistance, or supported decision
18 making;

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

22 (e) State that the individual subject to emergency
23 conservatorship retains all rights the individual enjoyed prior to
24 the emergency conservatorship with the exception of the rights not
25 retained during the period of emergency conservatorship;

26 (f) Require the emergency conservator to furnish a bond or other
27 security under RCW 11.130.445;

28 (g) Include the date that the sixty-day period of emergency
29 conservatorship ends, and the date the emergency conservator's
30 report, required by this section, is due to the court; and

31 (h) Identify any person or notice party that subsequently is
32 entitled to:

33 (i) Notice of the rights of the individual;

34 (ii) Notice of a change in the primary dwelling of the
35 individual;

36 (iii) Notice of the removal of the conservator;

37 (iv) A copy of the emergency conservator's plan and the emergency
38 conservator's report under this section;

39 (v) Access to court records relating to the emergency
40 conservatorship;

1 (vi) Notice of the death or significant change in the condition
2 of the individual;

3 (vii) Notice that the court has limited or modified the powers of
4 the emergency conservator; and

5 (viii) Notice of the removal of the emergency conservator.

6 (7) A spouse, a domestic partner, and adult children of an adult
7 subject to emergency conservatorship are entitled to notice under
8 this section unless the court orders otherwise based on good cause.
9 Good cause includes the court's determination that notice would be
10 contrary to the preferences or prior directions of the individual
11 subject to emergency conservatorship or in the best interest of the
12 individual.

13 (8) The duration of authority of an emergency conservator may not
14 exceed sixty days and the emergency conservator may exercise only the
15 powers specified in the order of appointment. ((The)) Upon a motion
16 by the emergency conservator, with notice served upon all applicable
17 notice parties, the emergency conservator's authority may be extended
18 once for not more than sixty days if the court finds that the
19 conditions for appointment of an emergency conservator under
20 subsection ((+1)) (4) of this section continue.

21 ~~(((3)))~~ (9) Immediately on filing of a petition for an emergency
22 conservator for an adult, the court shall appoint an attorney to
23 represent the ((respondent)) adult in the proceeding. ((Except as
24 otherwise provided in subsection (4) of this section, reasonable
25 notice of the date, time, and place of a hearing on the petition must
26 be given to the respondent, the respondent's attorney, and any other
27 person the court determines)) An order appointing an emergency
28 conservator for an adult may not be entered unless the adult
29 respondent, the adult respondent's attorney, and the court visitor
30 appointed under subsection (10) of this section have received a
31 minimum of fourteen days' notice of the date, time, and place of a
32 hearing on the petition. A copy of the emergency petition and notice
33 of a hearing on the petition must be served personally on the adult
34 respondent, the adult respondent's attorney, and the court visitor
35 appointed under subsection (10) of this section not more than two
36 court days after the petition has been filed. The notice must inform
37 the respondent of the adult respondent's rights at the hearing,
38 including the right to an attorney and to attend the hearing. The
39 notice must include a description of the nature, purpose, and
40 consequences of granting the emergency petition. The court shall not

1 grant the emergency petition if notice substantially complying with
2 this subsection is not served on the respondent.

3 ~~((4) The court may appoint an emergency conservator without~~
4 ~~notice to the respondent and any attorney for the respondent only if~~
5 ~~the court finds from an affidavit or testimony that the respondent's~~
6 ~~property or financial interests will be substantially and irreparably~~
7 ~~harmed before a hearing with notice on the appointment can be held.~~
8 ~~If the court appoints an emergency conservator without giving notice~~
9 ~~under subsection (3) of this section, the court must give notice of~~
10 ~~the appointment not later than forty-eight hours after the~~
11 ~~appointment to:~~

12 ~~(a) The respondent;~~

13 ~~(b) The respondent's attorney; and~~

14 ~~(c) Any other person the court determines.~~

15 ~~(5) Not later than five days after the appointment, the court~~
16 ~~shall hold a hearing on the appropriateness of the appointment.~~

17 ~~(6))~~ (10)(a) On receipt of a petition for appointment of
18 emergency conservator for an individual, the court:

19 (i) Shall appoint a court visitor if an emergency conservator is
20 sought for an adult; or

21 (ii) May appoint a court visitor if an emergency conservator is
22 sought for a minor.

23 (b) Notice of appointment of the court visitor must be served
24 upon the court visitor within two days of appointment. The court
25 visitor must be an individual with training or experience in the type
26 of abilities, limitations, and needs alleged in the emergency
27 petition. The court, in the order appointing a court visitor, shall
28 specify the hourly rate the visitor may charge for his or her
29 services, and shall specify the maximum amount the court visitor may
30 charge without additional court review and approval.

31 (c) The court visitor shall within two days of service of notice
32 of appointment file with the court and serve, either personally or by
33 certified mail with return receipt, the respondent or the
34 respondent's legal counsel, the petitioner or the petitioner's legal
35 counsel, and any notice party with a statement including the court
36 visitor's: Training relating to the duties as a court visitor;
37 criminal history as defined in RCW 9.94A.030 for the period covering
38 ten years prior to the appointment; hourly rate, if compensated;
39 contact, if any, with a party to the proceeding prior to appointment;
40 and apparent or actual conflicts of interest.

1 (d) A court visitor appointed under this section shall use due
2 diligence to attempt to interview the adult respondent in person and,
3 in a manner the individual is best able to understand:

4 (i) Explain to the adult respondent the substance of the
5 emergency petition, the nature, purpose, and effect of the
6 proceeding, the respondent's rights at the hearing on the petition,
7 and the proposed specific powers and duties of the proposed
8 conservator as stated in the emergency petition;

9 (ii) Determine the adult respondent's views about the emergency
10 appointment sought by the petitioner, including views about a
11 proposed emergency conservator, the emergency conservator's proposed
12 powers and duties, and the scope and duration of the proposed
13 emergency conservatorship; and

14 (iii) Inform the adult respondent that all costs and expenses of
15 the proceeding, including but not limited to the adult respondent's
16 attorneys' fees, the appointed conservator's fees, and the appointed
17 conservator's attorneys' fees, will be paid from the individual's
18 assets upon approval by the court.

19 (e) The court visitor appointed under this section shall:

20 (i) Interview the petitioner and proposed emergency conservator;

21 (ii) Use due diligence to attempt to visit the adult respondent's
22 present dwelling;

23 (iii) Use due diligence to attempt to obtain information from any
24 physician or other person known to have treated, advised, or assessed
25 the adult respondent's relevant physical or mental condition; and

26 (iv) Investigate the allegations in the emergency petition and
27 any other matter relating to the emergency petition the court
28 directs.

29 (f) A court visitor appointed under this section shall file a
30 report in a record with the court and provide a copy of the report to
31 the petitioner, the adult subject to the emergency conservatorship,
32 and any notice party at least seven days prior to the hearing on the
33 emergency petition, which must include:

34 (i) A recommendation regarding the appropriateness of emergency
35 conservatorship, including whether a protective arrangement instead
36 of conservatorship or other less restrictive alternative for meeting
37 the respondent's needs is available, and if an emergency
38 conservatorship is recommended;

39 (ii) A detailed summary of the alleged emergency and the
40 substantial and irreparable harm to the individual's property or

1 finances that is likely to be prevented by the appointment of an
2 emergency conservator;

3 (iii) A statement as to whether the alleged emergency and the
4 respondent's alleged needs are likely to require an extension of
5 sixty days as authorized under this section;

6 (iv) The specific powers to be granted to the emergency
7 conservator and how the specific powers will address the alleged
8 emergency and the respondent's alleged need;

9 (v) A recommendation regarding the appropriateness of an ongoing
10 conservatorship for an individual, including whether a protective
11 arrangement instead of conservatorship or other less restrictive
12 alternative for meeting the respondent's needs is available;

13 (vi) A statement of the qualifications of the proposed emergency
14 conservator and whether the respondent approves or disapproves of the
15 proposed emergency conservator, and the reasons for such approval or
16 disapproval;

17 (vii) A recommendation whether a professional evaluation under
18 RCW 11.130.390 is necessary;

19 (viii) A statement whether the respondent is able to attend a
20 hearing at the location court proceedings typically are held;

21 (ix) A statement whether the respondent is able to participate in
22 a hearing which identifies any technology or other form of support
23 that would enhance the respondent's ability to participate; and

24 (x) Any other matter the court directs.

25 (11) An emergency conservator shall:

26 (a) Comply with the requirements of RCW 11.130.505 and the
27 requirements of this chapter that pertain to the rights of an
28 individual subject to conservatorship;

29 (b) Not have authority to make decisions or take actions that a
30 conservator for an individual is prohibited by law from having; and

31 (c) Be subject to the same special limitations on a conservator's
32 power that apply to a conservator for an individual.

33 (12) Appointment of an emergency conservator under this section
34 is not a determination that a basis exists for appointment of a
35 conservator under RCW 11.130.360.

36 ~~((+7))~~ (13) The court may remove an emergency conservator
37 appointed under this section at any time.

38 (14) The emergency conservator shall file a report in a record
39 with the court and provide a copy of the report to the individual
40 subject to emergency conservatorship, and any notice party no later

1 than forty-five days after appointment. The report shall include
2 specific and updated information regarding the emergency alleged in
3 the emergency petition, the individual's emergency needs, all actions
4 and decisions by the emergency conservator, and a recommendation as
5 to whether a conservator for an individual should be appointed. If
6 the appointment of the emergency conservator is extended for an
7 additional sixty days, the emergency conservator shall file a second
8 report in a record with the court and provide a copy of the report to
9 the individual subject to emergency conservatorship, and any notice
10 party no later than forty-five days after the emergency
11 conservatorship is extended by the court, which shall include the
12 same information required for the first report. The emergency
13 conservator shall make any other report the court requires.

14 (15) The court shall issue letters of emergency conservatorship
15 to the emergency conservator in compliance with RCW 11.130.040.

16 **Sec. 218.** RCW 11.130.435 and 2019 c 437 s 414 are each amended
17 to read as follows:

18 (1) Except as otherwise ordered by the court, a conservator must
19 give notice to persons entitled to notice under RCW 11.130.370(4) and
20 receive specific authorization by the court before the conservator
21 may exercise with respect to the conservatorship the power to:

22 (a) Make a gift, except a gift of de minimis value;

23 (b) Sell, encumber an interest in, or surrender a lease to the
24 primary dwelling of the individual subject to conservatorship;

25 (c) Sell, or encumber an interest in, any other real estate;

26 (d) Convey, release, or disclaim a contingent or expectant
27 interest in property, including marital property and any right of
28 survivorship incident to joint tenancy or tenancy by the entireties;

29 ~~((d))~~ (e) Exercise or release a power of appointment;

30 ~~((e))~~ (f) Create a revocable or irrevocable trust of property
31 of the conservatorship estate, whether or not the trust extends
32 beyond the duration of the conservatorship, or revoke or amend a
33 trust revocable by the individual subject to conservatorship;

34 ~~((f))~~ (g) Exercise a right to elect an option or change a
35 beneficiary under an insurance policy or annuity or surrender the
36 policy or annuity for its cash value;

37 ~~((g))~~ (h) Exercise a right to a quasi-community property share
38 under RCW 26.16.230 or a right to an elective share under other law
39 in the estate of a deceased spouse or domestic partner of the

1 individual subject to conservatorship or renounce or disclaim a
2 property interest;

3 ~~((h))~~ (i) Grant a creditor priority for payment over creditors
4 of the same or higher class if the creditor is providing property or
5 services used to meet the basic living and care needs of the
6 individual subject to conservatorship and preferential treatment
7 otherwise would be impermissible under RCW 11.130.555(5); ~~(and~~

8 ~~(i))~~ (j) Make, modify, amend, or revoke the will of the
9 individual subject to conservatorship in compliance with chapter
10 11.12 RCW;

11 (k) Acquire or dispose of property, including real property in
12 another state, for cash or on credit, at public or private sale, and
13 manage, develop, improve, exchange, partition, change the character
14 of, or abandon property;

15 (l) Make ordinary or extraordinary repairs or alterations in a
16 building or other structure, demolish any improvement, or raze an
17 existing or erect a new party wall or building;

18 (m) Subdivide or develop land, dedicate land to public use, make
19 or obtain the vacation of a plat and adjust a boundary, adjust a
20 difference in valuation of land, exchange or partition land by giving
21 or receiving consideration, and dedicate an easement to public use
22 without consideration;

23 (n) Enter for any purpose into a lease of property as lessor or
24 lessee, with or without an option to purchase or renew, for a term
25 within or extending beyond the term of the conservatorship; and

26 (o) Structure the finances of the individual subject to
27 conservatorship to establish eligibility for a public benefit
28 including by making gifts consistent with the individual's
29 preferences, values, and prior directions, if the conservator's
30 action does not jeopardize the individual's welfare and otherwise is
31 consistent with the conservator's duties.

32 (2) In approving a conservator's exercise of a power listed in
33 subsection (1) of this section, the court shall consider primarily
34 the decision the individual subject to conservatorship would make if
35 able, to the extent the decision can be ascertained.

36 (3) To determine under subsection (2) of this section the
37 decision the individual subject to conservatorship would make if
38 able, the court shall consider the individual's prior or current
39 directions, preferences, opinions, values, and actions, to the extent

1 actually known or reasonably ascertainable by the conservator. The
2 court also shall consider:

3 (a) The financial needs of the individual subject to
4 conservatorship and individuals who are in fact dependent on the
5 individual subject to conservatorship for support, and the interests
6 of creditors of the individual;

7 (b) Possible reduction of income, estate, inheritance, or other
8 tax liabilities;

9 (c) Eligibility for governmental assistance;

10 (d) The previous pattern of giving or level of support provided
11 by the individual;

12 (e) Any existing estate plan or lack of estate plan of the
13 individual;

14 (f) The life expectancy of the individual and the probability the
15 conservatorship will terminate before the individual's death; and

16 (g) Any other relevant factor.

17 (4) A conservator may not revoke or amend a power of attorney for
18 finances executed by the individual subject to conservatorship. If a
19 power of attorney for finances is in effect, a decision of the agent
20 within the scope of the agent's authority takes precedence over that
21 of the conservator, unless the court orders otherwise. The court has
22 authority to revoke or amend any power of attorney executed by the
23 adult.

24 **Sec. 219.** RCW 11.130.505 and 2019 c 437 s 418 are each amended
25 to read as follows:

26 (1) A conservator is a fiduciary and has duties of prudence and
27 loyalty to the individual subject to conservatorship.

28 (2) A conservator shall promote the self-determination of the
29 individual subject to conservatorship and, to the extent feasible,
30 encourage the individual to participate in decisions, act on the
31 individual's own behalf, and develop or regain the capacity to manage
32 the individual's personal affairs.

33 (3) In making a decision for an individual subject to
34 conservatorship, the conservator shall make the decision the
35 conservator reasonably believes the individual would make if able,
36 unless doing so would fail to preserve the resources needed to
37 maintain the individual's well-being and lifestyle or otherwise
38 unreasonably harm or endanger the welfare or personal or financial
39 interests of the individual. To determine the decision the individual

1 would make if able, the conservator shall consider the individual's
2 prior or current directions, preferences, opinions, values, and
3 actions, to the extent actually known or reasonably ascertainable by
4 the conservator.

5 (4) If a conservator cannot make a decision under subsection (3)
6 of this section because the conservator does not know and cannot
7 reasonably determine the decision the individual subject to
8 conservatorship probably would make if able, or the conservator
9 reasonably believes the decision the individual would make would fail
10 to preserve resources needed to maintain the individual's well-being
11 and lifestyle or otherwise unreasonably harm or endanger the welfare
12 or personal or financial interests of the individual, the conservator
13 shall act in accordance with the best interests of the individual. In
14 determining the best interests of the individual, the conservator
15 shall consider:

16 (a) Information received from professionals and persons that
17 demonstrate sufficient interest in the welfare of the individual;

18 (b) Other information the conservator believes the individual
19 would have considered if the individual were able to act; and

20 (c) Other factors a reasonable person in the circumstances of the
21 individual would consider, including consequences for others.

22 (5) Except when inconsistent with the conservator's duties under
23 subsections (1) through (4) of this section, a conservator shall
24 invest and manage the conservatorship estate as a prudent investor
25 would, by considering:

26 (a) The circumstances of the individual subject to
27 conservatorship and the conservatorship estate;

28 (b) General economic conditions;

29 (c) The possible effect of inflation or deflation;

30 (d) The expected tax consequences of an investment decision or
31 strategy;

32 (e) The role of each investment or course of action in relation
33 to the conservatorship estate as a whole;

34 (f) The expected total return from income and appreciation of
35 capital;

36 (g) The need for liquidity, regularity of income, and
37 preservation or appreciation of capital; and

38 (h) The special relationship or value, if any, of specific
39 property to the individual subject to conservatorship.

1 (6) The propriety of a conservator's investment and management of
2 the conservatorship estate is determined in light of the facts and
3 circumstances existing when the conservator decides or acts and not
4 by hindsight.

5 (7) A conservator shall make a reasonable effort to verify facts
6 relevant to the investment and management of the conservatorship
7 estate.

8 (8) A conservator that has special skills or expertise, or is
9 named conservator in reliance on the conservator's representation of
10 special skills or expertise, has a duty to use the special skills or
11 expertise in carrying out the conservator's duties.

12 (9) In investing, selecting specific property for distribution,
13 and invoking a power of revocation or withdrawal for the use or
14 benefit of the individual subject to conservatorship, a conservator
15 shall consider any estate plan of the individual known or reasonably
16 ascertainable to the conservator and may examine the will or other
17 donative, nominative, or appointive instrument of the individual.

18 (10) A conservator shall maintain insurance on the insurable real
19 and personal property of the individual subject to conservatorship,
20 unless the conservatorship estate lacks sufficient funds to pay for
21 insurance or the court finds:

22 (a) The property lacks sufficient equity; or

23 (b) Insuring the property would unreasonably dissipate the
24 conservatorship estate or otherwise not be in the best interest of
25 the individual.

26 (11) If a power of attorney for finances is in effect, a
27 conservator shall cooperate with the agent to the extent feasible.

28 (12) A conservator has access to and authority over a digital
29 asset of the individual subject to conservatorship to the extent
30 provided by the revised uniform fiduciary access to digital assets
31 act (chapter 11.120 RCW) or court order.

32 (13) A conservator for an adult shall notify the court if the
33 condition of the adult has changed so that the adult is capable of
34 exercising rights previously removed. The notice must be given
35 immediately on learning of the change.

36 (14) A conservator shall notify the court within thirty days of
37 any substantial change in the value of the property of the person
38 subject to conservatorship and shall provide a copy of the notice to
39 the person subject to guardianship, a person entitled to notice under
40 RCW (~~(11.130.370)~~) 11.130.420(6) or a subsequent court order, and any

1 other person the court has determined is entitled to notice and
2 schedule a hearing for the court to review the adequacy of the bond
3 or other verified receipt under RCW 11.130.445 and 11.130.500.

4 **Sec. 220.** RCW 11.130.515 and 2019 c 437 s 420 are each amended
5 to read as follows:

6 (1) Not later than (~~sixty~~) ninety days after appointment, a
7 conservator shall prepare and file with the appointing court a
8 detailed inventory of the conservatorship estate, together with an
9 oath or affirmation that the inventory is believed to be complete and
10 accurate as far as information permits.

11 (2) A conservator shall give notice of the filing of an inventory
12 to the individual subject to conservatorship, a person entitled to
13 notice under RCW 11.130.420(6) or a subsequent order, and any other
14 person the court determines. The notice must be given not later than
15 fourteen days after the filing.

16 (3) A conservator shall keep records of the administration of the
17 conservatorship estate and make them available for examination on
18 reasonable request of the individual subject to conservatorship, a
19 guardian for the individual, or any other person the conservator or
20 the court determines.

21 **Sec. 221.** RCW 11.130.520 and 2019 c 437 s 421 are each amended
22 to read as follows:

23 (1) Except as otherwise provided in RCW 11.130.435 or qualified
24 or limited in the court's order of appointment and stated in the
25 letters of office, a conservator has all powers granted in this
26 section and any additional power granted to a trustee by law of this
27 state other than this chapter.

28 (2) A conservator, acting reasonably and consistent with the
29 fiduciary duties of the conservator to accomplish the purpose of the
30 conservatorship, without specific court authorization or
31 confirmation, may with respect to the conservatorship estate:

32 (a) Collect, hold, and retain property, including property in
33 which the conservator has a personal interest and real property in
34 another state, until the conservator determines disposition of the
35 property should be made;

36 (b) Receive additions to the conservatorship estate;

37 (c) Continue or participate in the operation of a business or
38 other enterprise;

1 (d) Acquire an undivided interest in property in which the
2 conservator, in a fiduciary capacity, holds an undivided interest;

3 (e) Invest assets;

4 (f) Deposit funds or other property in a financial institution,
5 including one operated by the conservator;

6 ~~(g) ((Acquire or dispose of property, including real property in
7 another state, for cash or on credit, at public or private sale, and
8 manage, develop, improve, exchange, partition, change the character
9 of, or abandon property;~~

10 ~~(h) Make ordinary or extraordinary repairs or alterations in a
11 building or other structure, demolish any improvement, or raze an
12 existing or erect a new party wall or building;~~

13 ~~(i) Subdivide or develop land, dedicate land to public use, make
14 or obtain the vacation of a plat and adjust a boundary, adjust a
15 difference in valuation of land, exchange or partition land by giving
16 or receiving consideration, and dedicate an easement to public use
17 without consideration;~~

18 ~~(j) Enter for any purpose into a lease of property as lessor or
19 lessee, with or without an option to purchase or renew, for a term
20 within or extending beyond the term of the conservatorship;~~

21 ~~(k))~~ Enter into a lease or arrangement for exploration and
22 removal of minerals or other natural resources or a pooling or
23 unitization agreement;

24 ~~((l))~~ (h) Grant an option involving disposition of property or
25 accept or exercise an option for the acquisition of property;

26 ~~((m))~~ (i) Vote a security, in person or by general or limited
27 proxy;

28 ~~((n))~~ (j) Pay a call, assessment, or other sum chargeable or
29 accruing against or on account of a security;

30 ~~((o))~~ (k) Sell or exercise a stock subscription or conversion
31 right;

32 ~~((p))~~ (l) Consent, directly or through a committee or agent, to
33 the reorganization, consolidation, merger, dissolution, or
34 liquidation of a corporation or other business enterprise;

35 ~~((q))~~ (m) Hold a security in the name of a nominee or in other
36 form without disclosure of the conservatorship so that title to the
37 security may pass by delivery;

38 ~~((r))~~ (n) Insure:

39 (i) The conservatorship estate, in whole or in part, against
40 damage or loss in accordance with RCW 11.130.505(10); and

1 (ii) The conservator against liability with respect to a third
2 person;

3 ~~((s))~~ (o) Borrow funds, with or without security, to be repaid
4 from the conservatorship estate or otherwise;

5 ~~((t))~~ (p) Advance funds for the protection of the
6 conservatorship estate or the individual subject to conservatorship
7 and all expenses, losses, and liability sustained in the
8 administration of the conservatorship estate or because of holding
9 any property for which the conservator has a lien on the
10 conservatorship estate;

11 ~~((u))~~ (q) Pay or contest a claim, settle a claim by or against
12 the conservatorship estate or the individual subject to
13 conservatorship by compromise, arbitration, or otherwise, or release,
14 in whole or in part, a claim belonging to the conservatorship estate
15 to the extent the claim is uncollectible;

16 ~~((v))~~ (r) Pay a tax, assessment, compensation of the
17 conservator or any guardian, and other expense incurred in the
18 collection, care, administration, and protection of the
19 conservatorship estate;

20 ~~((w))~~ (s) Pay a sum distributable to the individual subject to
21 conservatorship or an individual who is in fact dependent on the
22 individual subject to conservatorship by paying the sum to the
23 distributee or for the use of the distributee:

24 (i) To the guardian for the distributee;

25 (ii) To the custodian of the distributee under the uniform
26 transfers to minors act (chapter 11.114 RCW); or

27 (iii) If there is no guardian, custodian, or custodial trustee,
28 to a relative or other person having physical custody of the
29 distributee;

30 ~~((x))~~ (t) Bring or defend an action, claim, or proceeding in
31 any jurisdiction for the protection of the conservatorship estate or
32 the conservator in the performance of the conservator's duties; and

33 ~~((y) Structure the finances of the individual subject to
34 conservatorship to establish eligibility for a public benefit,
35 including by making gifts consistent with the individual's
36 preferences, values, and prior directions, if the conservator's
37 action does not jeopardize the individual's welfare and otherwise is
38 consistent with the conservator's duties; and~~

39 ~~(z))~~ (u) Execute and deliver any instrument that will accomplish
40 or facilitate the exercise of a power of the conservator.

1 **Sec. 222.** RCW 11.130.530 and 2019 c 437 s 423 are each amended
2 to read as follows:

3 (1) A conservator shall file with the court by the date
4 established by the court a report in a record regarding the
5 administration of the conservatorship estate unless the court
6 otherwise directs, on resignation or removal, on termination of the
7 conservatorship, and at any other time the court directs.

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

10 (a) An accounting that lists property included in the
11 conservatorship estate and the receipts, disbursements, liabilities,
12 and distributions during the period for which the report is made;

13 (b) A list of the services provided to the individual subject to
14 conservatorship;

15 (c) A copy of the conservator's most recently approved plan and a
16 statement whether the conservator has deviated from the plan and, if
17 so, how the conservator has deviated and why;

18 (d) A recommendation as to the need for continued conservatorship
19 and any recommended change in the scope of the conservatorship;

20 (e) To the extent feasible, a copy of the most recent reasonably
21 available financial statements evidencing the status of bank
22 accounts, investment accounts, and mortgages or other debts of the
23 individual subject to conservatorship with all but the last four
24 digits of the account numbers and social security number redacted;

25 (f) Anything of more than de minimis value which the conservator,
26 any individual who resides with the conservator, or the spouse,
27 domestic partner, parent, child, or sibling of the conservator has
28 received from a person providing goods or services to the individual
29 subject to conservatorship;

30 (g) Any business relation the conservator has with a person the
31 conservator has paid or that has benefited from the property of the
32 individual subject to conservatorship; and

33 (h) Whether any co-conservator or successor conservator appointed
34 to serve when a designated event occurs is alive and able to serve.

35 (3) The court may appoint a court visitor to review a report
36 under this section or conservator's plan under RCW 11.130.510,
37 interview the individual subject to conservatorship or conservator,
38 or investigate any other matter involving the conservatorship. In
39 connection with the report, the court may order the conservator to

1 submit the conservatorship estate to appropriate examination in a
2 manner the court directs.

3 (4) Notice of the filing under this section of a conservator's
4 report, together with a copy of the report, must be provided to the
5 individual subject to conservatorship, a person entitled to notice
6 under RCW 11.130.420(6) or a subsequent order, and other persons the
7 court determines. The notice and report must be given not later than
8 fourteen days after filing.

9 (5) The court shall establish procedures for monitoring a report
10 submitted under this section and review each report at least annually
11 to determine whether:

12 (a) The reports provide sufficient information to establish the
13 conservator has complied with the conservator's duties;

14 (b) The conservatorship should continue; and

15 (c) The conservator's requested fees, if any, should be approved.

16 (6) If the court determines there is reason to believe a
17 conservator has not complied with the conservator's duties or the
18 conservatorship should not continue, the court:

19 (a) Shall notify the individual subject to conservatorship, the
20 conservator, and any other person entitled to notice under RCW
21 11.130.420(6) or a subsequent order;

22 (b) May require additional information from the conservator;

23 (c) May appoint a court visitor to interview the individual
24 subject to conservatorship or conservator or investigate any matter
25 involving the conservatorship; and

26 (d) Consistent with RCW 11.130.565 and 11.130.570, may hold a
27 hearing to consider removal of the conservator, termination of the
28 conservatorship, or a change in the powers granted to the conservator
29 or terms of the conservatorship.

30 (7) If the court has reason to believe fees requested by a
31 conservator are not reasonable, the court shall hold a hearing to
32 determine whether to adjust the requested fees.

33 (8) A conservator must petition the court for approval of a
34 report filed under this section. The court after review may approve
35 the report. If the court approves the report, there is a rebuttable
36 presumption the report is accurate as to a matter adequately
37 disclosed in the report.

38 (9) An order, after notice and hearing, approving an interim
39 report of a conservator filed under this section adjudicates

1 liabilities concerning a matter adequately disclosed in the report,
2 as to a person given notice of the report or accounting.

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

18 (11) If the court approves a report filed under this section, the
19 order approving the report shall contain a conservatorship summary or
20 accompanied by a conservatorship summary in the form or substantially
21 in the same form as set forth in RCW 11.130.665.

22 (12) If the court approves a report filed under this section, the
23 order approving the report shall direct the clerk of the court to
24 reissue letters of office in the form or substantially in the same
25 form as set forth in RCW 11.130.660 to the conservator containing an
26 expiration date which will be within one hundred (~~twenty~~) eighty
27 days after the date the court directs the conservator file its next
28 report.

29 (13) An order, after notice and hearing, approving a final report
30 filed under this section discharges the conservator from all
31 liabilities, claims, and causes of action by a person given notice of
32 the report and the hearing as to a matter adequately disclosed in the
33 report.

34 (14) Any requirement to establish a monitoring program under this
35 section is subject to appropriation.

36 **Sec. 223.** RCW 11.130.550 and 2019 c 437 s 427 are each amended
37 to read as follows:

1 (1) ~~((If an individual subject to conservatorship dies, the~~
2 ~~conservator shall deliver))~~ Upon the death of an individual subject
3 to conservatorship, a conservator shall:

4 (a) Have authority to disburse or commit those funds under the
5 control of the conservator as are prudent and within the means of the
6 estate for the disposition of the deceased individual subject to
7 conservatorship's remains. Consent for such arrangement must be
8 secured according to RCW 68.50.160. If no person authorized by RCW
9 68.50.160 accepts responsibility for giving consent, the conservator
10 may consent, subject to the provisions of this section and to the
11 known directives of the deceased individual subject to
12 conservatorship. Reasonable financial commitments made by a
13 conservator pursuant to this section are binding against the estate
14 of the deceased individual subject to conservatorship;

15 (b) Deliver to the court for safekeeping any will of the
16 individual in the conservator's possession and inform the personal
17 representative named in the will if feasible, or if not feasible, a
18 beneficiary named in the will, of the delivery.

19 (2) If forty days after the death of an individual subject to
20 conservatorship no personal representative has been appointed and no
21 application or petition for appointment is before the court, the
22 conservator may apply to exercise the powers and duties of a personal
23 representative to administer and distribute the decedent's estate.
24 The conservator shall give notice of his or her appointment and the
25 pendency of any probate proceedings as provided in RCW 11.28.237 and
26 shall also give notice to a person nominated as personal
27 representative by a will of the decedent of which the conservator is
28 aware. The court may grant the application if there is no objection
29 and endorse the letters of office to note that the individual
30 formerly subject to conservatorship is deceased and the conservator
31 has acquired the powers and duties of a personal representative.

32 (3) On the death of an individual subject to conservatorship, the
33 conservator shall conclude the administration of the conservatorship
34 estate as provided in RCW 11.130.570.

35 NEW SECTION. Sec. 224. A new section is added to chapter 11.130
36 RCW to read as follows:

37 CONSERVATOR ACCESS TO CERTAIN HELD ASSETS. (1) For purposes of
38 this section, "institution" means all financial institutions as
39 defined in RCW 30A.22.041, all insurance companies holding a

1 certificate of authority under chapter 48.05 RCW, or any agent who
2 constitutes a salesperson or broker-dealer of securities under the
3 definitions of RCW 21.20.005, individually and collectively.

4 (2) Institutions shall provide the conservator access and control
5 over the assets described in (a)(vii) of this subsection, including
6 but not limited to delivery of the asset to the conservator, upon
7 receipt of the following:

8 (a) An affidavit containing as an attachment a true and correct
9 copy of the conservator's letters of conservatorship and stating:

10 (i) That as of the date of the affidavit, the affiant is a duly
11 appointed conservator with authority over assets held by the
12 institution but owned or subject to withdrawal or delivery to a
13 client or depositor of the institution;

14 (ii) The cause number of the conservatorship;

15 (iii) The name of the person under conservatorship and the name
16 of the client or depositor, which names must be the same;

17 (iv) The account or the safety deposit box number or numbers;

18 (v) The address of the client or depositor;

19 (vi) The name and address of the affiant-conservator being
20 provided assets or access to assets;

21 (vii) A description of and the value of the asset or assets, or,
22 where the value cannot be readily ascertained, a reasonable estimate
23 thereof, and a statement that the conservator receives delivery or
24 control of each asset solely in its capacity as conservator;

25 (viii) The date the conservator assumed control over the assets;
26 and

27 (ix) That a true and correct copy of the letters of
28 conservatorship duly issued by a court to the conservator is attached
29 to the affidavit; and

30 (b) An envelope, with postage prepaid, addressed to the clerk of
31 the court issuing the letters of conservatorship. The affidavit must
32 be sent in the envelope by the institution to the clerk of the court
33 together with a statement signed by an agent of the institution that
34 the description of the asset set forth in the affidavit appears to be
35 accurate, and confirming in the case of cash assets, the value of the
36 asset.

37 (3) Any conservator provided with access to a safe deposit box
38 pursuant to subsection (1) of this section shall make an inventory of
39 the contents of the box and attach this inventory to the affidavit
40 before the affidavit is sent to the clerk of the court and before the

1 contents of the box are released to the conservator. Any inventory
2 must be prepared in the presence of an employee of the institution
3 and the statement of the institution required under subsection (1) of
4 this section must include a statement executed by the employee that
5 the inventory appears to be accurate. The institution may require
6 payment by the conservator of any fees or charges then due in
7 connection with the asset or account and of a reasonable fee for
8 witnessing preparation of the inventory and preparing the statement
9 required by this subsection or subsection (1) of this section.

10 (4) Any institution to which an affidavit complying with
11 subsection (1) of this section is submitted may rely on the affidavit
12 without inquiry and is not subject to any liability of any nature
13 whatsoever to any person whatsoever, including but not limited to the
14 institution's client or depositor or any other person with an
15 ownership or other interest in or right to the asset, for the
16 reliance or for providing the conservator access and control over the
17 asset, including but not limited to delivery of the asset to the
18 conservator.

19 **Sec. 225.** RCW 11.130.670 and 2019 c 437 s 701 are each amended
20 to read as follows:

21 (1) The certified professional guardianship board must resolve
22 grievances against professional guardians and/or conservators within
23 a reasonable time for alleged violations of the certified
24 professional guardianship board's standards of practice, statutes,
25 regulations, or rules, that relate to the conduct of a certified
26 professional guardian or conservator.

27 (a) All grievances must initially be reviewed within thirty days
28 by certified professional guardianship board members, or a subset
29 thereof, to determine if the grievance is complete, states facts that
30 ~~((allege))~~ describe a violation of the standards of practice,
31 statutes, regulations, or rules, and relates to the conduct of a
32 professional guardian and/or conservator, before ~~((any investigation~~
33 ~~or))~~ investigating, requesting a response ~~((is requested))~~ from the
34 professional guardian or conservator, or forwarding to the superior
35 courts. ~~((Grievances))~~ To be complete, grievances must provide
36 sufficient details of the alleged conduct to demonstrate that a
37 violation of the statute, regulation, standard of practice, or rule,
38 relating to the conduct of a certified professional guardian or
39 conservator could have occurred, the dates ~~((of))~~ the alleged

1 (~~violations~~) conduct occurred, and must be signed and dated by the
2 person filing the grievance. Grievance investigations by the board
3 are limited to the allegations contained in the grievance unless,
4 after review by a majority of the members of the certified
5 professional guardianship board, further investigation is justified.

6 (b) If the certified professional guardianship board determines
7 the grievance is complete, states facts that allege a violation of
8 the certified professional guardianship board's standards of
9 practice, and relates to the conduct of a professional guardian
10 and/or conservator, the certified professional guardianship board
11 must forward that grievance within ten days to the superior court for
12 that guardianship or conservatorship and to the professional guardian
13 and/or conservator. The court must review the matter as set forth in
14 RCW 11.130.140, and must direct the clerk of the court to send a copy
15 of the order entered under this section to the certified professional
16 guardianship board. The certified professional guardianship board
17 must accept as facts any finding of fact contained in the order. The
18 certified professional guardianship board must act consistently with
19 any finding of fact issued in that order.

20 (2) Grievances received by the certified professional
21 guardianship board must be (~~resolved~~) investigated and the
22 resolution determined and in process within one hundred eighty days
23 of receipt. The one hundred eighty days is tolled during any period
24 of time when:

25 (a) The certified professional guardianship board has provided a
26 certified professional guardian or conservator an opportunity to
27 respond to a grievance against the certified professional guardian or
28 conservator and the certified professional guardianship board is
29 awaiting the certified professional guardian or conservator's
30 response;

31 (b) The certified professional guardianship board has forwarded a
32 grievance to the superior court for review under subsection (1)(b) of
33 this section and is awaiting receipt of the court's entered order
34 with findings; or

35 (c) A certified professional guardianship board disciplinary
36 hearing has been requested or is in process and during the time of
37 posthearing board review of the hearing officer's recommendations
38 through issuance of a final certified professional guardianship
39 board's order on the matter.

1 (3) If the grievance cannot be resolved within one hundred eighty
2 days, the certified professional guardianship board must notify the
3 professional guardian and/or conservator. The professional guardian
4 or conservator may propose a resolution of the grievance with facts
5 and/or arguments. The certified professional guardianship board may
6 accept the proposed resolution or determine that an additional ninety
7 days are needed to review the grievance. If the certified
8 professional guardianship board has not resolved the grievance within
9 the additional ninety days the professional guardian or conservator
10 may:

11 (a) File a motion for a court order to compel the certified
12 professional guardianship board to resolve the grievance within a
13 reasonable time; or

14 (b) Move for the superior court to resolve the grievance instead
15 of being resolved by the certified professional guardianship board.

16 (4) The superior court has authority to enforce the certified
17 professional guardianship board's standards of practice in this
18 article to the extent those standards are related to statutory or
19 fiduciary duties of guardians and conservators.

20 (5) Any unresolved grievances filed with the certified
21 professional guardianship board (~~at the time of~~) one year or more
22 before January 1, 2021, must be forwarded to the superior court for
23 that guardianship or conservatorship for review by the superior court
24 as set forth in RCW 11.130.140 if the grievance is not in process of
25 a hearing or final resolution.

26 NEW SECTION. Sec. 226. A new section is added to chapter 11.130
27 RCW to read as follows:

28 For the purposes of this chapter, an adult is presumed to have
29 legal capacity.

30 **PART III**
31 **OTHER PROVISIONS**

32 **Sec. 301.** RCW 11.130.010 and 2019 c 437 s 102 are each amended
33 to read as follows:

34 The definitions in this section apply throughout this chapter
35 unless the context clearly requires otherwise.

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

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

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

5 (4) "Claim" includes a claim against an individual or
6 conservatorship estate, whether arising in contract, tort, or
7 otherwise.

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

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

14 (7) "Court visitor" means the person appointed by the court
15 pursuant to this chapter.

16 (8) "Evaluation and treatment facility" has the same meaning as
17 provided in RCW 71.05.020.

18 ~~((+8))~~ (9) "Full conservatorship" means a conservatorship that
19 grants the conservator all powers available under this chapter.

20 ~~((+9))~~ (10) "Full guardianship" means a guardianship that grants
21 the guardian all powers available under this chapter.

22 ~~((+10))~~ (11) "Guardian" means a person appointed by the court to
23 make decisions with respect to the personal affairs of an individual.
24 The term includes a co-guardian but does not include a guardian ad
25 litem.

26 ~~((+11))~~ (12) "Guardian ad litem" means a person appointed to
27 inform the court about, and to represent, the needs and best
28 interests of ~~((an individual))~~ a minor.

29 ~~((+12))~~ (13) "Individual subject to conservatorship" means an
30 adult or minor for whom a conservator has been appointed under this
31 chapter.

32 ~~((+13))~~ (14) "Individual subject to guardianship" means an adult
33 or minor for whom a guardian has been appointed under this chapter.

34 ~~((+14))~~ (15) "Less restrictive alternative" means an approach to
35 meeting an individual's needs which restricts fewer rights of the
36 individual than would the appointment of a guardian or conservator.
37 The term includes supported decision making, appropriate
38 technological assistance, appointment of a representative payee, and
39 appointment of an agent by the individual, including appointment

1 under a power of attorney for health care or power of attorney for
2 finances.

3 ~~((15))~~ (16) "Letters of office" means a record issued by a
4 court certifying a guardian's or conservator's authority to act.

5 ~~((16))~~ (17) "Limited conservatorship" means a conservatorship
6 that grants the conservator less than all powers available under this
7 chapter, grants powers over only certain property, or otherwise
8 restricts the powers of the conservator.

9 ~~((17))~~ (18) "Limited guardianship" means a guardianship that
10 grants the guardian less than all powers available under this chapter
11 or otherwise restricts the powers of the guardian.

12 ~~((18))~~ (19) "Long-term care facility" has the same meaning as
13 provided in RCW 70.129.010.

14 ~~((19))~~ (20) "Minor" means an unemancipated individual under
15 eighteen years of age.

16 ~~((20))~~ (21) "Minor subject to conservatorship" means a minor
17 for whom a conservator has been appointed under this chapter.

18 ~~((21))~~ (22) "Minor subject to guardianship" means a minor for
19 whom a guardian has been appointed under this chapter.

20 ~~((22))~~ (23) "Notice party" means a person entitled to notice
21 under this chapter or otherwise determined by the court to be
22 entitled to notice.

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

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

28 ~~((24))~~ (26) "Professional guardian or conservator" means a
29 guardian or conservator appointed under this chapter who is not a
30 relative of the person subject to guardianship or conservatorship
31 established under this chapter and who charges fees for carrying out
32 the duties of court-appointed guardian or conservator for three or
33 more persons.

34 ~~((25))~~ (27) "Property" includes tangible and intangible
35 property.

36 ~~((26))~~ (28) "Protective arrangement instead of conservatorship"
37 means a court order entered under RCW 11.130.590.

38 ~~((27))~~ (29) "Protective arrangement instead of guardianship"
39 means a court order entered under RCW 11.130.585.

1 ~~((28))~~ (30) "Protective arrangement under Article 5 of this
2 chapter" means a court order entered under RCW 11.130.585 or
3 11.130.590.

4 ~~((29))~~ (31) "Record," used as a noun, means information that is
5 inscribed on a tangible medium or that is stored in an electronic or
6 other medium and is retrievable in perceivable form.

7 ~~((30))~~ (32) "Relative" means any person related by blood or by
8 law to the person subject to guardianship, conservatorship, or other
9 protective arrangements.

10 ~~((31))~~ (33) "Respondent" means an individual for whom
11 appointment of a guardian or conservator or a protective arrangement
12 instead of guardianship or conservatorship is sought.

13 ~~((32))~~ (34) "Sign" means, with present intent to authenticate
14 or adopt a record:

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

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

18 ~~((33))~~ (35) "Special agent" means the person appointed by the
19 court pursuant to RCW 11.130.375 or 11.130.635.

20 ~~((34))~~ (36) "Standby guardian" means a person appointed by the
21 court under RCW 11.130.220.

22 ~~((35))~~ (37) "State" means a state of the United States, the
23 District of Columbia, Puerto Rico, the United States Virgin Islands,
24 or any territory or insular possession subject to the jurisdiction of
25 the United States. The term includes a federally recognized Indian
26 tribe.

27 ~~((36))~~ (38) "Supported decision making" means assistance from
28 one or more persons of an individual's choosing in understanding the
29 nature and consequences of potential personal and financial
30 decisions, which enables the individual to make the decisions, and in
31 communicating a decision once made if consistent with the
32 individual's wishes.

33 ~~((37))~~ (39) "Verified receipt" is a verified receipt signed by
34 the custodian of funds stating that a savings and loan association or
35 bank, trust company, escrow corporation, or other corporations
36 approved by the court hold the cash or securities of the individual
37 subject to conservatorship subject to withdrawal only by order of the
38 court.

39 ~~((38))~~ (40) "Visitor" means ~~((the person appointed by the court
40 pursuant to RCW 11.130.280(1) or 11.130.380(1)))~~ a court visitor.

1 **Sec. 302.** RCW 11.130.035 and 2019 c 437 s 107 are each amended
2 to read as follows:

3 (1) Except as otherwise provided in this chapter, the rules of
4 evidence and civil procedure, including rules concerning appellate
5 review, govern a proceeding under this chapter.

6 (2) If proceedings for a guardianship, conservatorship, or
7 protective arrangement under Article 5 of this chapter for the same
8 individual are commenced or pending in the same court, the
9 proceedings may be consolidated.

10 (3) ((A)) An adult respondent may demand a jury trial in a
11 proceeding under this chapter on the issue (~~whether a basis exists~~
12 ~~for appointment of a guardian or conservator~~) of whether a basis
13 exists for the appointment of a guardian under RCW 11.130.265 or a
14 conservator under RCW 11.130.360(2) and on the rights to be retained
15 or restricted if a guardian or conservator is appointed.

16 (4) Upon the motion of the respondent or the court visitor, prior
17 to the appointment of a guardian or a conservator or the
18 establishment of a protective arrangement for an adult, or upon the
19 motion of the respondent, guardian, conservator, or any notice party
20 subsequent to such appointment, whenever it appears that the adult
21 respondent could benefit from mediation, the court may require the
22 petitioner, adult respondent, guardian, conservator, and any notice
23 party to participate in mediation pursuant to RCW 11.96A.300.

24 **Sec. 303.** RCW 11.130.040 and 2019 c 437 s 108 are each amended
25 to read as follows:

26 (1) The court shall issue letters of guardianship to a guardian
27 on filing by the guardian of an acceptance of appointment.

28 (2) The court shall issue letters of conservatorship to a
29 conservator on filing by the conservator of an acceptance of
30 appointment and filing of any required bond or compliance with any
31 other verified receipt required by the court.

32 (3) Limitations on the powers of a guardian or conservator or on
33 the property subject to conservatorship must be (~~stated on the~~
34 ~~letters of office~~) included on the form prescribed by RCW
35 11.130.660.

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

1 (5) A guardian or conservator may not act on behalf of a person
2 under guardianship or conservatorship without valid letters of
3 office.

4 (6) The clerk of the superior court shall issue letters of
5 guardianship or conservatorship in or substantially in the same form
6 as set forth in RCW 11.130.660.

7 (7) Letters of office issued to a guardian or conservator who is
8 a nonresident of this state must include the name and contact
9 information for the resident agent of the guardian or conservator,
10 appointed pursuant to RCW 11.130.090(1)(c).

11 (8) This chapter does not affect the validity of letters of
12 office issued under chapter 11.88 RCW prior to January 1, 2021.

13 **Sec. 304.** RCW 11.130.100 and 2019 c 437 s 120 are each amended
14 to read as follows:

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

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

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

28 ~~(4) If the court dismisses a petition under this chapter and~~
29 ~~determines the petition was filed in bad faith, the court may assess~~
30 ~~the cost of any court-ordered professional evaluation or visitor~~
31 ~~against the petitioner.~~

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

1 ~~((+6))~~ (4) Where the person subject to guardianship or
2 conservatorship receives guardianship, conservatorships, or other
3 protective services from the office of public guardianship, the
4 amount of compensation or reimbursement shall not exceed the amount
5 allowed by the office of public guardianship.

6 ~~((+7))~~ (5) The court must approve compensation and expenses
7 payable under this section before payment. Approval is not required
8 before a service is provided or an expense is incurred.

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

13 **Sec. 305.** RCW 11.130.105 and 2019 c 437 s 121 are each amended
14 to read as follows:

15 (1) Subject to court approval, a guardian is entitled to
16 reasonable compensation for services as guardian and to reimbursement
17 for room, board, clothing, and other appropriate expenses advanced
18 for the benefit of the individual subject to guardianship. ~~((If a
19 conservator, other than the guardian or a person affiliated with the
20 guardian, is appointed for the individual, reasonable compensation
21 and reimbursement to the guardian may be approved and paid by the
22 conservator without court approval.))~~ The court shall determine if
23 the fees charged by a guardian and conservator are just and
24 reasonable.

25 (2) Subject to court approval, a conservator is entitled to
26 reasonable compensation for services and reimbursement for
27 appropriate expenses from the property of the individual subject to
28 conservatorship.

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

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

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

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

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

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

8 (f) The extent to which the services provided were or were not
9 consistent with the guardian's plan under RCW 11.130.340 or
10 conservator's plan under RCW 11.130.510; and

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

13 (4) A guardian or conservator need not use personal funds of the
14 guardian or conservator for the expenses of the individual subject to
15 guardianship or conservatorship.

16 (5) Where the person subject to guardianship or conservatorship
17 is a department of social and health services client, or health care
18 authority client, and is required to contribute a portion of their
19 income towards the cost of long-term care services or room and board,
20 the amount of compensation or reimbursement shall not exceed the
21 amount allowed by the department of social and health services or
22 health care authority by rule.

23 (6) Where the person subject to guardianship or conservatorship
24 receives guardianship, conservatorship, or other protective services
25 from the office of public guardianship, the amount of compensation or
26 reimbursement shall not exceed the amount allowed by the office of
27 public guardianship.

28 (7) If an individual subject to guardianship or conservatorship
29 seeks to modify or terminate the guardianship or conservatorship or
30 remove the guardian or conservator, the court may order compensation
31 to the guardian or conservator for time spent opposing modification,
32 termination, or removal only to the extent the court determines the
33 opposition was reasonably necessary to protect the interests of the
34 individual subject to guardianship or conservatorship.

35 **Sec. 306.** RCW 11.130.115 and 2019 c 437 s 123 are each amended
36 to read as follows:

37 (1) A guardian or conservator may petition the court for
38 instruction concerning fiduciary responsibility or ratification of a
39 particular act related to the guardianship or conservatorship.

1 (2) (~~On reasonable notice and hearing on~~) Fourteen days after
2 notice of a petition under subsection (1) of this section, the court
3 may give an instruction and issue an appropriate order.

4 (3) The petitioner must provide reasonable notice of the petition
5 and hearing to the individual subject to a guardianship or
6 conservatorship and any notice party.

7 **Sec. 307.** RCW 11.130.140 and 2019 c 437 s 128 are each amended
8 to read as follows:

9 (1) An individual who is subject to guardianship or
10 conservatorship, or person interested in the welfare of an individual
11 subject to guardianship or conservatorship, that reasonably believes
12 the guardian or conservator is breaching the guardian's or
13 conservator's fiduciary duty or otherwise acting in a manner
14 inconsistent with this chapter may file a grievance in a record with
15 the court.

16 (2) (a) An unrepresented person or entity may submit a complaint
17 to the court. Complaints must be addressed to one of the following
18 designees of the court: The clerk of the court having jurisdiction in
19 the guardianship, the court administrator, or the guardianship
20 monitoring program, and must identify the complainant and the person
21 who is the subject of the guardianship or conservatorship. The
22 complaint must also provide the complainant's address, the case
23 number (if available), and the address of the person subject to a
24 guardianship or conservatorship (if available). The complaint must
25 state facts to support the claim.

26 (b) By the next judicial day after receipt of a complaint from an
27 unrepresented person, the court's designee must ensure the original
28 complaint is filed and deliver the complaint to the court.

29 (c) Within fourteen days of being presented with a complaint, the
30 court must enter an order to do one or more of the following actions:

31 (i) To show cause, with fourteen days' notice, directing the
32 guardian or conservator to appear at a hearing set by the court in
33 order to respond to the complaint;

34 (ii) To appoint a court visitor or other court representative to
35 investigate the issues raised by the complaint or to take any
36 emergency action the court deems necessary to protect the person
37 subject to a guardianship or conservatorship until a hearing can be
38 held;

1 (iii) To dismiss the complaint without scheduling a hearing, if
2 it appears to the court that the complaint: Is without merit on its
3 face; is filed in other than good faith; is filed for an improper
4 purpose; regards issues that have already been adjudicated; or is
5 frivolous. In making a determination, the court may review the matter
6 and consider previous behavior of the complainant that is documented
7 in the guardianship or conservatorship record;

8 (iv) To direct the guardian or conservator to provide, in not
9 less than fourteen days, a written report to the court on the issues
10 raised in the complaint;

11 (v) To defer consideration of the complaint until the next
12 regularly scheduled hearing in the guardianship or conservatorship,
13 if the date of that hearing is within the next three months, provided
14 that there is no indication that the person subject to a guardianship
15 or conservatorship will suffer physical, emotional, financial, or
16 other harm as a result of the court's deferral of consideration;

17 (vi) To order other action, in the court's discretion, in
18 addition to doing one or more of the actions set out in this
19 subsection.

20 (3) Subject to subsection ((-3)) (4) of this section, after
21 receiving a grievance under subsection (1) of this section, the
22 court:

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

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

30 (i) Removal of the guardian and appointment of a successor may be
31 appropriate under RCW 11.130.350;

32 (ii) Termination or modification of the guardianship may be
33 appropriate under RCW 11.130.355;

34 (iii) Removal of the conservator and appointment of a successor
35 may be appropriate under RCW 11.130.565;

36 (iv) Termination or modification of the conservatorship may be
37 appropriate under RCW 11.130.570; or

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

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

- 1 (i) Ordering the guardian or conservator to provide the court a
- 2 report, accounting, inventory, updated plan, or other information;
- 3 (ii) Appointing a (~~guardian ad litem~~) court visitor;
- 4 (iii) Appointing an attorney for the individual subject to
- 5 guardianship or conservatorship; or
- 6 (iv) Holding a hearing.

7 (~~(3)~~) (4) The court may decline to act under subsection (~~(2)~~)

8 (3) of this section if a similar grievance was filed within the six

9 months preceding the filing of the current grievance and the court

10 followed the procedures of subsection (~~(2)~~) (3) of this section in

11 considering the earlier grievance; and may levy necessary sanctions,

12 including but not limited to the imposition of reasonable attorney

13 fees, costs, striking pleadings, or other appropriate relief, if

14 after consideration the court finds that the grievance is made for

15 reason to harass, delay, with malice, or other bad faith.

16 (~~(4)~~) (5) In any court action under this section where the

17 court finds the professional guardian or conservator breached a

18 fiduciary duty, the court must direct the clerk of the court to send

19 a copy of the order entered under this section to the certified

20 professional guardianship board.

21 (~~(5)~~) (6) A court shall not dismiss a grievance that has been

22 filed against a guardian or conservator due to an inability to

23 resolve the grievance in a timely manner.

24 **Sec. 308.** RCW 11.130.265 and 2019 c 437 s 301 are each amended

25 to read as follows:

26 (1) On petition and after notice and hearing, the court may:

27 (a) Appoint a guardian for an adult if the court finds by clear

28 and convincing evidence that:

29 (i) The respondent lacks the ability to meet essential

30 requirements for physical health, safety, or self-care because the

31 respondent is unable to receive and evaluate information or make or

32 communicate decisions, even with appropriate supportive services,

33 technological assistance, or supported decision making; (~~and~~)

34 (ii) Appointment is necessary to prevent significant risk of harm

35 to the adult respondent's physical health, safety, or self-care; and

36 (iii) The respondent's identified needs cannot be met by a

37 protective arrangement instead of guardianship or other less

38 restrictive alternative; or

1 (b) With appropriate findings, treat the petition as one for a
2 conservatorship under Article 4 of this chapter or protective
3 arrangement under Article 5 of this chapter, issue any appropriate
4 order, or dismiss the proceeding.

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

13 (3) A determination by the court that a basis exists under
14 subsection (1) of this section for the appointment of a guardian and
15 on the issue of the rights that will be retained or restricted by the
16 appointment of a guardian is a legal decision, not a medical
17 decision. The determination must be based on a demonstration of
18 management insufficiencies over time in the area of physical health,
19 safety, or self-care. Age, eccentricity, poverty, or medical
20 diagnosis alone are not sufficient basis under subsection (1) of this
21 section to justify a determination that a guardian should be
22 appointed for the respondent.

23 **Sec. 309.** RCW 11.130.280 and 2019 c 437 s 304 are each amended
24 to read as follows:

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

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

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

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

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

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

25 (iii) A conflict of interest.

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

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

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

1 (b) Determine the respondent's views about the appointment sought
2 by the petitioner, including views about a proposed guardian, the
3 guardian's proposed powers and duties, and the scope and duration of
4 the proposed guardianship; and

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

8 (5) The court visitor appointed under subsection (1) of this
9 section shall:

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

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

14 (c) 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; and

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

19 (6) A court visitor appointed under subsection (1) of this
20 section shall file a report in a record with the court and provide a
21 copy of the report to the respondent, petitioner, and any interested
22 party entitled to notice under RCW 11.130.080 at least fifteen days
23 prior to the hearing on the petition filed under RCW 11.130.270,
24 which must include:

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

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

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

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

38 (c) A statement of the qualifications of the proposed guardian
39 and whether the respondent approves or disapproves of the proposed
40 guardian;

1 (d) A statement whether the proposed dwelling meets the
2 respondent's needs and whether the respondent has expressed a
3 preference as to residence;

4 (e) A (~~recommendation whether~~) statement whether the respondent
5 declined a professional evaluation under RCW 11.130.290 (~~is~~
6 ~~necessary~~) and what other information is available to determine the
7 respondent's needs and abilities without the professional evaluation;

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

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

14 (h) Any other matter the court directs.

15 (7) The appointment of a court visitor has no effect on the
16 determination of the adult respondent's legal capacity and does not
17 overcome the presumption of legal capacity or full legal and civil
18 rights of the adult respondent.

19 **Sec. 310.** RCW 11.130.380 and 2019 c 437 s 405 are each amended
20 to read as follows:

21 (1) If the respondent in a proceeding to appoint a conservator is
22 a minor, the court may appoint a court visitor to investigate a
23 matter related to the petition or inform the minor or a parent of the
24 minor about the petition or a related matter.

25 (2) If the respondent in a proceeding to appoint a conservator is
26 an adult, the court shall appoint a court visitor. The duties and
27 reporting requirements of the court visitor are limited to the relief
28 requested in the petition. The court visitor must be an individual
29 with training or experience in the type of abilities, limitations,
30 and needs alleged in the petition.

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

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

7 (4) (a) The court visitor appointed under subsection (1) or (2) of
8 this section shall within five days of receipt of notice of
9 appointment file with the court and serve, either personally or by
10 certified mail with return receipt, the respondent or his or her
11 legal counsel, the petitioner or his or her legal counsel, and any
12 interested party entitled to notice under RCW 11.130.080 with a
13 statement including: His or her training relating to the duties as a
14 court visitor; his or her criminal history as defined in RCW
15 9.94A.030 for the period covering ten years prior to the appointment;
16 his or her hourly rate, if compensated; whether the (~~guardian-ad~~
17 ~~litem~~) court visitor has had any contact with a party to the
18 proceeding prior to his or her appointment; and whether he or she has
19 an apparent conflict of interest. Within three days of the later of
20 the actual service or filing of the court visitor's statement, any
21 party may set a hearing and file and serve a motion for an order to
22 show cause why the court visitor should not be removed for one of the
23 following three reasons:

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

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

27 (iii) A conflict of interest.

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

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

38 (a) Explain to the respondent the substance of the petition, the
39 nature, purpose, and effect of the proceeding, the respondent's

1 rights at the hearing on the petition, and the general powers and
2 duties of a conservator;

3 (b) Determine the respondent's views about the appointment sought
4 by the petitioner, including views about a proposed conservator, the
5 conservator's proposed powers and duties, and the scope and duration
6 of the proposed conservatorship; and

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

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

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

13 (b) Review financial records of the respondent, if relevant to
14 the court visitor's recommendation under subsection (7)(b) of this
15 section;

16 (c) Investigate whether the respondent's needs could be met by a
17 protective arrangement instead of conservatorship or other less
18 restrictive alternative and, if so, identify the arrangement or other
19 less restrictive alternative; and

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

22 (7) A court visitor appointed under subsection (2) of this
23 section for an adult shall file a report in a record with the court
24 and provide a copy of the report to the respondent, petitioner, and
25 any interested party entitled to notice under RCW 11.130.080 at least
26 fifteen days prior to the hearing on the petition filed under RCW
27 11.130.365, which must include:

28 (a) A recommendation:

29 (i) Regarding the appropriateness of conservatorship, or whether
30 a protective arrangement instead of conservatorship or other less
31 restrictive alternative for meeting the respondent's needs is
32 available;

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

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

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

1 (b) A statement of the qualifications of the proposed conservator
2 and whether the respondent approves or disapproves of the proposed
3 conservator;

4 (c) A (~~recommendation whether~~) statement whether the respondent
5 declined a professional evaluation under RCW 11.130.390 (~~is~~
6 ~~necessary~~) and what other information is available to determine the
7 respondent's needs and abilities without the professional evaluation;

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

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

14 (f) Any other matter the court directs.

15 (8) The appointment of a court visitor has no effect on the
16 determination of the adult respondent's legal capacity and does not
17 overcome the presumption of legal capacity or full legal and civil
18 rights of the adult respondent.

19 **Sec. 311.** RCW 11.130.605 and 2019 c 437 s 506 are each amended
20 to read as follows:

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

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

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

37 (4) The court, in the order appointing a court visitor, shall
38 specify the hourly rate the court visitor may charge for his or her
39 services, and shall specify the maximum amount the court visitor may

1 charge without additional court review and approval. The fee shall be
2 charged to the person subject to a guardianship, conservatorship, or
3 other protective arrangement proceeding unless the court finds that
4 such payment would result in substantial hardship upon such person,
5 in which case the county shall be responsible for such costs:
6 PROVIDED, That the court may charge such fee to the petitioner, the
7 person subject to a guardianship or conservatorship proceeding, or
8 any person who has appeared in the action; or may allocate the fee,
9 as it deems just. If the petition is found to be frivolous or not
10 brought in good faith, the court visitor fee shall be charged to the
11 petitioner. The court shall not be required to provide for the
12 payment of a fee to any salaried employee of a public agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (iii) Cannot manage;

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

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

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

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

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

18 (g) Any other matter the court directs.

19 **Sec. 312.** RCW 11.130.080 and 2019 c 437 s 116 are each amended
20 to read as follows:

21 (1) A person may file with the court a request for notice under
22 this chapter if the person is:

23 (a) Not otherwise entitled to notice; and

24 (b) Interested in the welfare of a respondent, individual subject
25 to guardianship or conservatorship, or individual subject to a
26 protective arrangement under Article 5 of this chapter.

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

31 (3) If the court approves a request under subsection (1) of this
32 section, the (~~court~~) approved individual shall give notice of the
33 approval to the guardian or conservator, if one has been appointed,
34 or the respondent if no guardian or conservator has been appointed.

35 **Sec. 313.** RCW 11.130.120 and 2019 c 437 s 124 are each amended
36 to read as follows:

1 (1) A person must not recognize the authority of a guardian or
2 conservator to act on behalf of an individual subject to guardianship
3 or conservatorship if:

4 (a) The person has actual knowledge or a reasonable belief that
5 the letters of office of the guardian or conservator are invalid or
6 the conservator or guardian is exceeding or improperly exercising
7 authority granted by the court; or

8 (b) The person has actual knowledge that the individual subject
9 to guardianship or conservatorship is subject to physical or
10 financial abuse, neglect, exploitation, or abandonment by the
11 guardian or conservator or a person acting for or with the guardian
12 or conservator.

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

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

18 (b) The person makes, or has actual knowledge that another person
19 has made, a report to the department of children, youth, and families
20 or the department of social and health services stating a good-faith
21 belief that the individual subject to guardianship or conservatorship
22 is subject to physical or financial abuse, neglect, exploitation, or
23 abandonment by the guardian or conservator or a person acting for or
24 with the guardian or conservator.

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

30 (4) A guardian or conservator may petition the court to require a
31 third party to accept a decision made by the guardian or conservator
32 on behalf of the individual subject to guardianship or
33 conservatorship.

34 (5) If the court determines that a third party has failed to
35 recognize the legitimate authority of a guardian or conservator, or
36 requires a third party to accept a decision made by the guardian on
37 behalf of the individual subject to guardianship, the court may order
38 that third party to compensate the guardian or conservator, for the
39 time spent only to the extent the court determines the opposition was

1 reasonably necessary to protect the interests of the individual
2 subject to guardianship.

3 **Sec. 314.** RCW 11.130.295 and 2019 c 437 s 307 are each amended
4 to read as follows:

5 (1) Except as otherwise provided in subsection (2) of this
6 section, a hearing under RCW 11.130.275 may not proceed unless the
7 respondent attends the hearing. If it is not reasonably feasible for
8 the respondent to attend a hearing at the location court proceedings
9 typically are held, the court shall make reasonable efforts to hold
10 the hearing at an alternative location convenient to the respondent
11 or allow the respondent to attend the hearing using real-time audio-
12 visual technology.

13 (2) A hearing under RCW 11.130.275 may proceed without the
14 respondent in attendance if the court finds by clear and convincing
15 evidence that:

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

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

22 (3) The respondent may be assisted in a hearing under RCW
23 11.130.275 by a person or persons of the respondent's choosing,
24 assistive technology, or an interpreter or translator, or a
25 combination of these supports. If assistance would facilitate the
26 respondent's participation in the hearing, but is not otherwise
27 available to the respondent, the court shall make reasonable efforts
28 to provide it.

29 (4) The respondent has a right to choose an attorney to represent
30 the respondent at a hearing under RCW 11.130.275.

31 (5) At a hearing held under RCW 11.130.275, the respondent may:

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

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

35 (c) Otherwise participate in the hearing.

36 (6) Unless excused by the court for good cause, a proposed
37 guardian shall attend a hearing under RCW 11.130.275.

38 (7) A hearing under RCW 11.130.275 must be closed on request of
39 the respondent and a showing of good cause.

1 (8) Any person may request to participate in a hearing under RCW
2 11.130.275. The court may grant the request, with or without a
3 hearing, on determining that the best interest of the respondent will
4 be served. The court may impose appropriate conditions on the
5 person's participation.

6 **Sec. 315.** RCW 11.130.585 and 2019 c 437 s 502 are each amended
7 to read as follows:

8 (1) After the hearing on a petition under RCW 11.130.270 for a
9 guardianship or under RCW 11.130.580(2) for a protective arrangement
10 instead of guardianship, the court may issue an order under
11 subsection (2) of this section for a protective arrangement instead
12 of guardianship if the court finds by clear and convincing evidence
13 that:

14 (a) The respondent lacks the ability to meet essential
15 requirements for physical health, safety, or self-care because the
16 respondent is unable to receive and evaluate information or make or
17 communicate decisions, even with appropriate supportive services,
18 technological assistance, or supported decision making; and

19 (b) The respondent's identified needs cannot be met by a less
20 restrictive alternative.

21 (2) If the court makes the findings under subsection (1) of this
22 section, the court, instead of appointing a guardian, may:

23 (a) Authorize or direct a transaction necessary to meet the
24 respondent's need for health, safety, or care, including:

25 (i) A particular medical treatment or refusal of a particular
26 medical treatment; or

27 (ii) ~~((A move to a specified place of dwelling; or~~
28 ~~(iii)))~~ Visitation or supervised visitation between the
29 respondent and another person;

30 (b) Restrict access to the respondent by a specified person whose
31 access places the respondent at serious risk of physical,
32 psychological, or financial harm; and

33 (c) Reorder other arrangements on a limited basis that are
34 appropriate.

35 (3) In deciding whether to issue an order under this section, the
36 court shall consider the factors under RCW 11.130.330 and 11.130.335
37 that a guardian must consider when making a decision on behalf of an
38 adult subject to guardianship.

1 **Sec. 316.** RCW 11.130.600 and 2019 c 437 s 505 are each amended
2 to read as follows:

3 (1) All petitions filed under RCW 11.130.595 for (~~appointment of~~
4 ~~a guardian for an adult~~) the establishment of a protective
5 arrangement shall be heard within sixty days unless an extension of
6 time is requested by a party or the court visitor within such sixty-
7 day period and granted for good cause shown.

8 (2) (a) A copy of a petition under RCW 11.130.580 and notice of a
9 hearing on the petition must be served personally on the respondent
10 and the court visitor appointed under RCW 11.130.605 not more than
11 five court days after the petition under RCW 11.130.595 has been
12 filed.

13 (b) A copy of a petition under RCW 11.130.580 and notice of a
14 hearing on the petition must be served personally on the respondent
15 and the court visitor appointed under RCW 11.130.605 not more than
16 five court days after the petition under RCW 11.130.595 has been
17 filed. The notice must inform the respondent of the respondent's
18 rights at the hearing, including the right to an attorney and to
19 attend the hearing. The notice must include a description of the
20 nature, purpose, and consequences of granting the petition for a
21 protective arrangement. The court may not grant the petition if
22 notice substantially complying with this subsection is not served on
23 the respondent.

24 (3) In a proceeding on a petition under RCW 11.130.580, the
25 notice required under subsection (2) of this section must be given to
26 the persons required to be listed in the petition under RCW
27 11.130.595 (1) through (3) and any other person interested in the
28 respondent's welfare the court determines. Failure to give notice
29 under this subsection does not preclude the court from granting the
30 petition.

31 (4) After the court has ordered a protective arrangement under
32 this article, notice of a hearing on a petition filed under this
33 chapter, together with a copy of the petition, must be given to the
34 respondent and any other person the court determines.

35 **Sec. 317.** RCW 11.130.625 and 2019 c 437 s 510 are each amended
36 to read as follows:

37 The (~~court~~) petitioner shall give notice of an order under this
38 article to the individual who is subject to the protective
39 arrangement instead of guardianship or conservatorship, a person

1 whose access to the individual is restricted by the order, and any
2 other person the court determines.

3 **Sec. 318.** RCW 11.130.610 and 2019 c 437 s 507 are each amended
4 to read as follows:

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

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

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

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

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

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

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

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

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

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

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

3 (c) If the respondent's wishes are not reasonably ascertainable,
4 advocate for the result that is the least restrictive alternative in
5 type, duration, and scope, consistent with the respondent's
6 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 this article if:

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

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

15 (c) The court otherwise determines the parent needs
16 representation.

17 **Sec. 319.** RCW 11.130.615 and 2019 c 437 s 508 are each amended
18 to read as follows:

19 ~~(1) ((At or before a hearing on a petition under this article for~~
20 ~~a protective arrangement, the court shall order a professional~~
21 ~~evaluation of the 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)) On receipt of a petition under
7 RCW 11.130.595 and at the time the court appoints a court visitor
8 under RCW 11.130.605, the court shall order a professional evaluation
9 of the respondent.~~

10 (2) The respondent must be examined by a physician licensed to
11 practice under chapter 18.71 or 18.57 RCW, psychologist licensed
12 under chapter 18.83 RCW, advanced registered nurse practitioner
13 licensed under chapter 18.79 RCW, or physician assistant licensed
14 under chapter 18.71A RCW selected by the court visitor who is
15 qualified to evaluate the respondent's alleged cognitive and
16 functional abilities and limitations and will not be advantaged or
17 disadvantaged by a decision to grant the petition or otherwise have a
18 conflict of interest. If the respondent opposes the professional
19 selected by the court visitor, the court visitor shall obtain a
20 professional evaluation from the professional selected by the
21 respondent. The court visitor, after receiving a professional
22 evaluation from the individual selected by the respondent, may obtain
23 a supplemental evaluation from a different professional.

24 (3) The individual conducting the evaluation shall provide the
25 completed evaluation report to the court visitor within thirty days
26 of the examination of the respondent. The court visitor shall file
27 the report in a sealed record with the court. Unless otherwise
28 directed by the court, the report must contain:

29 (a) The professional's name, address, education, and experience;

30 (b) A description of the nature, type, and extent of the
31 respondent's cognitive and functional abilities and limitations;

32 (c) An evaluation of the respondent's mental and physical
33 condition and, if appropriate, education potential, adaptive
34 behavior, and social skills;

35 (d) A prognosis for improvement and recommendation for the
36 appropriate treatment, support, or habilitation plan;

37 (e) A description of the respondent's current medications, and
38 the effect of the medications on the respondent's cognitive and
39 functional abilities;

1 (f) Identification or persons with whom the professional has met
2 or spoken with regarding the respondent; and

3 (g) The date of the examination on which the report is based.

4 (4) If the respondent declines to participate in an evaluation
5 ordered under subsection (1) of this section, the court may proceed
6 with the hearing under RCW 11.130.600 if the court finds that it has
7 sufficient information to determine the respondent's needs and
8 abilities without the professional evaluation.

9 **Sec. 320.** RCW 11.125.080 and 2019 c 437 s 316 are each amended
10 to read as follows:

11 (1) In a power of attorney, a principal may nominate a
12 ~~((guardian))~~ conservator of the ~~((principal's))~~ estate or guardian of
13 the ~~((principal's))~~ person for consideration by the court if
14 protective proceedings for the principal's estate or person are begun
15 after the principal executes the power of attorney. Except for good
16 cause shown or disqualification, the court shall make its appointment
17 in accordance with the principal's most recent nomination.

18 (2) 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 all of the principal's property, the~~
21 ~~power of attorney remains in effect subject to the provisions of RCW~~
22 ~~11.130.335(1).))~~ conservator of the estate or other fiduciary charged
23 with the management of some or all of the principal's property, the
24 agent is accountable to the fiduciary as well as to the principal.
25 The power of attorney is not terminated and the agent's authority
26 continues, subject to the provisions of RCW 11.130.335(1) and
27 11.130.435(4), unless limited, suspended, or terminated by the court.

28 (3) If, after a principal executes a power of attorney ~~((, a court~~
29 ~~appoints a guardian of the principal's estate or other fiduciary~~
30 ~~charged with the management of some but not all of the principal's~~
31 ~~property, the power of attorney shall not terminate or be modified,~~
32 ~~except to the extent ordered by the court.))~~ that includes health
33 care decisions, a court appoints a guardian of the person, the agent
34 is accountable to the fiduciary as well as to the principal. The
35 power of attorney is not terminated and the agent's authority
36 continues, subject to the provisions of RCW 11.130.335(1) and
37 11.130.435(4), unless limited, suspended, or terminated by the court.

1 **Sec. 401.** RCW 2.72.005 and 2019 c 215 s 1 are each amended to
2 read as follows:

3 (1) In establishing an office of public guardianship and
4 conservatorship, the legislature intends to promote the availability
5 of guardianship, conservatorship, and alternate services that provide
6 support for decision making for individuals who need them and for
7 whom adequate services may otherwise be unavailable. The legislature
8 reaffirms its commitment to treat liberty and autonomy as paramount
9 values for all Washington residents and to authorize public
10 guardianship and conservatorship only to the minimum extent necessary
11 to provide for health or safety, or to manage financial affairs, when
12 the legal conditions for appointment of a guardian or conservator are
13 met. It does not intend to alter those legal conditions or to expand
14 judicial authority to determine that any individual (~~is~~
15 ~~incapacitated~~) may be subject to guardianship or conservatorship.

16 (2) The legislature further recognizes that (~~services that~~
17 ~~support~~) decision making assistance for people who have limited
18 capacity can preserve individual liberty and provide effective
19 support responsive to individual needs and wishes. The legislature
20 also recognizes that these services may be less expensive than
21 guardianship and conservatorship for the state, the courts, and for
22 individuals with limited capacity and their families.

23 **Sec. 402.** RCW 2.72.010 and 2019 c 215 s 2 are each reenacted and
24 amended to read as follows:

25 The definitions in this section apply throughout this chapter
26 unless the context clearly requires otherwise.

27 (1) (~~"Attorney-in-fact" means an agent authorized by an~~
28 ~~individual to act on his or her behalf pursuant to a power of~~
29 ~~attorney.~~) "Agent" means a person granted authority to act for a
30 principal under a power of attorney.

31 (2) "Contract service provider" means a public guardian or public
32 conservator providing services under contract with the office of
33 public guardianship and conservatorship. Any public guardian or
34 public conservator providing such services must be certified by the
35 certified professional guardian board established by the supreme
36 court.

37 (3) "Estate administration" means services provided for a fee to
38 the estate of an individual who died at age eighteen or older, in

1 circumstances where a contract service provider is granted letters
2 under RCW 11.28.120(7).

3 (4) "Long-term care services" means services provided through the
4 department of social and health services either in a hospital or
5 skilled nursing facility, or in another setting under a home and
6 community-based waiver authorized under 42 U.S.C. Sec. 1396n.

7 ~~((3))~~ (5) "Office" means the office of public guardianship and
8 conservatorship.

9 ~~((4))~~ (6) "Public conservator" means an individual or entity
10 appointed by a court to make decisions with respect to property or
11 financial affairs of an individual subject to conservatorship, and
12 who provides these services under contract with the office of public
13 guardianship and conservatorship.

14 (7) "Public guardian" means an individual or entity ~~((providing~~
15 ~~public guardianship services))~~ appointed by the court to make
16 decisions with respect to the personal affairs of an individual, and
17 who provides these services under contract with the office of public
18 guardianship and conservatorship.

19 ~~((5) "Public guardianship services" means the services provided~~
20 ~~by a guardian or limited guardian appointed under chapters 11.88 and~~
21 ~~11.92 RCW, who is compensated under a contract with the office of~~
22 ~~public guardianship.~~

23 ~~(6))~~ (8) "Representative payee" means the designated agent for a
24 recipient of government benefits whom a government agency has
25 determined to be incapable of managing his or her benefits.

26 ~~((7) "Supported decision-making))~~ (9) "Decision-making
27 assistance" means support for an individual with diminished decision-
28 making ability in making decisions affecting health or safety or to
29 manage financial affairs. Assistance includes, without limitation,
30 acting as a representative payee, an ~~((attorney-in-fact))~~ agent, a
31 trustee, ~~((or))~~ a public guardian, or a public conservator.

32 ~~((8))~~ (10) "Trustee" means a person or organization named in a
33 trust agreement to handle trust property for the benefit of one or
34 more beneficiaries in accordance with the terms of the agreement.

35 **Sec. 403.** RCW 2.72.020 and 2019 c 215 s 3 are each amended to
36 read as follows:

37 (1) There is created an office of public guardianship and
38 conservatorship within the administrative office of the courts.

1 (2) The supreme court shall appoint a public guardianship and
2 conservatorship administrator to establish and administer a public
3 guardianship, public conservatorship, (~~supported~~) decision-making
4 assistance, and estate administration program in the office of public
5 guardianship and conservatorship. The public guardianship and
6 conservatorship administrator serves at the pleasure of the supreme
7 court.

8 **Sec. 404.** RCW 2.72.030 and 2019 c 215 s 4 are each amended to
9 read as follows:

10 The public guardianship and conservatorship administrator is
11 authorized to establish and administer a public guardianship, public
12 conservatorship, (~~supported~~) decision-making assistance, and estate
13 administration program as follows:

14 (1)(a) The office shall contract with (~~public or private~~
15 ~~entities or individuals to provide:~~

16 ~~(i) Public guardianship, supported decision-making assistance,~~
17 ~~and estate administration services to)) certified professional
18 guardians and conservators or certified professional guardian and
19 conservator agencies to provide public guardianship, public
20 conservatorship, decision-making assistance, and estate
21 administration services to persons age eighteen or older whose income
22 does not exceed two hundred percent of the federal poverty level
23 determined annually by the United States department of health and
24 human services or who are receiving long-term care services through
25 the Washington state department of social and health services(~~+~~~~

26 ~~(ii) Supported decision-making services for a fee to persons age~~
27 ~~eighteen or older)), when there is no one else qualified who is~~
28 ~~willing and able to serve~~(~~+~~ and

29 ~~(iii) Estate administration services for a fee to the estate of~~
30 ~~an individual who died at age eighteen or older, in circumstances~~
31 ~~where a service provider under contract with the office of public~~
32 ~~guardianship is granted letters under RCW 11.28.120(7))).~~

33 (b) Neither the public guardianship and conservatorship
34 administrator nor the office may act as public guardian or (~~limited~~
35 ~~guardian~~) conservator or act in any other representative capacity
36 for any individual.

37 (c) The primary function of the office is to contract for public
38 guardianship, public conservatorship, (~~supported~~) decision-making
39 assistance, and estate administration services that are provided in a

1 manner consistent with the requirements of this chapter. The office
2 is subject to audit by the state auditor.

3 (d) Public guardianship, public conservatorship, (~~supported~~)
4 decision-making assistance, and estate administration service
5 contracts are dependent upon legislative appropriation. This chapter
6 does not create an entitlement.

7 (2) The office shall adopt and maintain eligibility criteria to
8 enable it to serve individuals with the greatest need when the number
9 of cases in which courts propose to appoint a public guardian or
10 conservator exceeds the number of cases in which (~~public~~
11 ~~guardianship and supported decision-making assistance~~) services can
12 be provided. In adopting such criteria, the office may consider
13 factors including, but not limited to, the following: Whether an
14 individual with diminished decision-making ability is at significant
15 risk of harm from abuse, exploitation, abandonment, neglect, or self-
16 neglect; and whether an individual with diminished decision-making
17 ability is in imminent danger of loss or significant reduction in
18 public services that are necessary for the individual to live
19 successfully in the most integrated and least restrictive environment
20 that is appropriate in light of the individual's needs and values.

21 (3) The office shall adopt minimum standards of practice for
22 public guardians, public conservators, and other contract service
23 providers providing public guardianship, public conservatorship,
24 (~~supported~~) decision-making assistance, and estate administration
25 services. (~~Any public guardian providing such public guardianship~~
26 ~~services must be certified by the certified professional guardian~~
27 ~~board established by the supreme court.~~)

28 (4) The office shall require a public guardian or conservator to
29 visit each (~~incapacitated person~~) individual subject to
30 guardianship or conservatorship for which public guardianship or
31 conservatorship services are provided no less than monthly to be
32 eligible for compensation.

33 (5) The office shall not petition for appointment of a public
34 guardian or conservator for any individual. It may develop a proposal
35 for the legislature to make affordable legal assistance available to
36 petition for guardianships or conservatorships.

37 (6) The office shall develop and adopt a case-weighting system
38 designed to balance the increasing need for access to guardianship
39 and conservatorship services, while effectively managing public

1 guardian and conservator caseloads and providing appropriate supports
2 for individuals on that caseload.

3 (a) The standard caseload limit for a contract service provider
4 must be no more than twenty (~~(incapacitated)~~) persons placed under a
5 guardianship per certified professional guardian or conservator. The
6 office may authorize adjustments to the standard caseload limit on a
7 case-by-case basis, and payment for services to a contract service
8 provider that serves more than twenty (~~(incapacitated)~~) persons
9 placed under a guardianship per professional guardian or conservator
10 is subject to review by the office. In evaluating caseload size, the
11 office shall consider the expected activities, time, and demands
12 involved, as well as the available support for each case.

13 (b) (~~(Caseload)~~) Adjusted caseload limits must not exceed thirty-
14 six cases. The office shall not authorize payment for services for
15 any contract service provider that fails to comply with the
16 (~~(standard)~~) adjusted caseload limit guidelines.

17 (c) The office shall develop case-weighting guidelines to include
18 a process for adjusting caseload limits, relevant policies and
19 procedures, and recommendations for changes in court rules which may
20 be appropriate for the implementation of the system.

21 (d) By December 1, 2019, the office must submit to the
22 legislature a report detailing the final case-weighting system and
23 guidelines, and implementation progress and recommendations. The
24 report must be made available to the public.

25 (e) The administrative office of the courts shall notify the
26 superior courts of the policies contained in the final case-weighting
27 system.

28 (7) The office shall monitor and oversee the use of state funding
29 to ensure compliance with this chapter.

30 (8) The office shall collect uniform and consistent basic data
31 elements regarding service delivery. This data shall be made
32 available to the legislature and supreme court in a format that is
33 not identifiable by individual (~~(incapacitated person)~~) subject to
34 guardianship or conservatorship to protect confidentiality.

35 (9) The office shall require contract service providers to seek
36 reimbursement of fees from program clients who are receiving long-
37 term care services through the department of social and health
38 services to the extent, and only to the extent, that such
39 reimbursement may be paid, consistent with an order of the superior
40 court, from income that would otherwise be required by the department

1 to be paid toward the cost of the client's care. Fees reimbursed
2 shall be remitted by the contract service provider to the office
3 unless a different disposition is directed by the public guardianship
4 and conservatorship administrator.

5 (10) Fees may be collected from the estate when the
6 (~~decedant's~~) decedent's income prior to death exceeded two hundred
7 percent of the federal poverty level, determined annually by the
8 United States department of health and human services, based on a fee
9 schedule established by the office that must be published annually.

10 (11) The office shall require public (~~guardianship providers~~)
11 guardians or conservators to certify annually that for each
12 individual served they have reviewed the need for continued public
13 guardianship (~~services~~) or conservatorship and the appropriateness
14 of limiting, or further limiting, the authority of the public
15 guardian or conservator under the applicable (~~guardianship~~) order,
16 and that where termination or modification of a guardianship or
17 conservatorship order appears warranted, the superior court has been
18 asked to take the corresponding action.

19 (12) The office shall adopt a process for receipt and
20 consideration of and response to complaints against the office and
21 (~~contracted~~) contract service providers of public guardianship,
22 public conservatorship, (~~supported~~) decision-making assistance, and
23 estate administration (~~services~~). The process shall include
24 investigation in cases in which investigation appears warranted in
25 the judgment of the administrator.

26 (13) The office shall develop standardized forms and reporting
27 instruments that may include, but are not limited to, intake, initial
28 assessment, guardianship care plan, decisional accounting, staff time
29 logs, changes in condition or abilities of an (~~incapacitated~~
30 ~~person~~) individual subject to guardianship or conservatorship, and
31 values history. The office shall collect and analyze the data
32 gathered from these reports.

33 (14) The office shall identify training needs for contract
34 service providers it contracts with, and shall make recommendations
35 to the supreme court, the certified professional guardian board, and
36 the legislature for improvements in training. The office may offer
37 training to individuals providing services pursuant to this chapter,
38 to individuals who, in the judgment of the administrator or the
39 administrator's designee, are likely to provide such services in the

1 future, to lay guardians or conservators, and to the family and
2 friends of individuals subject to guardianship or conservatorship.

3 (15) The office shall establish a system for monitoring the
4 performance of contract service providers, and office staff shall
5 make in-home visits to a randomly selected sample of public
6 guardianship, public conservatorship, and (~~supported~~) decision-
7 making assistance clients. The office may conduct further monitoring,
8 including in-home visits, as the administrator deems appropriate. For
9 monitoring purposes, office staff shall have access to any
10 information relating to a public guardianship, public
11 conservatorship, (~~supported~~) decision-making assistance, and estate
12 administration client that is available to the guardian or
13 conservator.

14 **Sec. 405.** RCW 11.28.120 and 2019 c 215 s 5 are each amended to
15 read as follows:

16 Administration of an estate if the decedent died intestate or if
17 the personal representative or representatives named in the will
18 declined or were unable to serve shall be granted to some one or more
19 of the persons hereinafter mentioned, and they shall be respectively
20 entitled in the following order:

21 (1) The surviving spouse or state registered domestic partner, or
22 such person as he or she may request to have appointed.

23 (2) The next of kin in the following order: (a) Child or
24 children; (b) father or mother; (c) brothers or sisters; (d)
25 grandchildren; (e) nephews or nieces.

26 (3) The trustee named by the decedent in an inter vivos trust
27 instrument, testamentary trustee named in the will, guardian (~~of the~~
28 ~~person or estate~~) of the decedent, conservator of the decedent, or
29 (~~attorney-in-fact~~) an agent named in a durable power of attorney
30 appointed by the decedent, if any such a fiduciary controlled or
31 potentially controlled substantially all of the decedent's probate
32 and nonprobate assets.

33 (4) One or more of the beneficiaries or transferees of the
34 decedent's probate or nonprobate assets.

35 (5) (a) The director of revenue, or the director's designee, for
36 those estates having property subject to the provisions of chapter
37 11.08 RCW; however, the director may waive this right.

1 (b) The secretary of the department of social and health services
2 for those estates owing debts for long-term care services as defined
3 in RCW 74.39A.008; however the secretary may waive this right.

4 (6) One or more of the principal creditors.

5 (7) If the persons so entitled shall fail for more than forty
6 days after the death of the decedent to present a petition for
7 letters of administration, or if it appears to the satisfaction of
8 the court that there is no next of kin, as above specified eligible
9 to appointment, or they waive their right, and there are no principal
10 creditor or creditors, or such creditor or creditors waive their
11 right, then the court may appoint a contract service provider (~~under~~
12 ~~contract~~) with the office of public guardianship and conservatorship
13 under chapter 2.72 RCW or any suitable person to administer such
14 estate.

15 **PART V**

16 **UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS ACT**

17 **Sec. 501.** RCW 11.90.020 and 2009 c 81 s 2 are each amended to
18 read as follows:

19 In this chapter:

20 (1) "Adult" means an individual who has attained eighteen years
21 of age.

22 (2) (~~"Guardian of the estate"~~) "Conservator" means a person
23 appointed by the court to administer the property of an adult,
24 including a person appointed under chapter 11.130 RCW, and includes a
25 conservator appointed by the court in another state.

26 (3) (~~"Guardian of the person" or "guardian"~~) "Guardian" means a
27 person appointed by the court to make decisions regarding the person
28 of an adult, including a person appointed under chapter 11.130 RCW,
29 and includes a guardian appointed by the court in another state.

30 (4) "Guardianship order" means an order appointing a guardian
31 (~~(of the person or guardian of the estate)~~).

32 (5) "Guardianship proceeding" means a judicial proceeding in
33 which an order for the appointment of a guardian (~~(of the person or~~
34 ~~guardian of the estate)~~) is sought or has been issued.

35 (6) (~~"Incapacitated person" means an adult for whom a guardian~~
36 ~~of the person or guardian of the estate has been appointed.~~

37 (~~7~~) "Party" means the respondent, petitioner, guardian (~~(of the~~
38 ~~person or guardian of the estate)~~), conservator, or any other person

1 allowed by the court to participate in a guardianship or protective
2 proceeding.

3 ~~((8))~~ (7) "Person," except in the term ~~((incapacitated))~~ person
4 under a guardianship, person under a conservatorship, or protected
5 person, means an individual, corporation, business trust, estate,
6 trust, partnership, limited liability company, association, joint
7 venture, public corporation, government or governmental subdivision,
8 agency, or instrumentality, or any other legal or commercial entity.

9 (8) "Person subject to a guardianship" means an adult for whom a
10 guardian has been appointed.

11 (9) "Protected person" means an adult for whom a protective order
12 has been issued.

13 (10) "Protective order" means an order appointing a ~~((guardian of~~
14 ~~the estate))~~ conservator or other order related to management of an
15 adult's property ~~(, including an order issued by a court in another~~
16 ~~state appointing a conservator)).~~

17 (11) "Protective proceeding" means a judicial proceeding in which
18 a protective order is sought or has been issued.

19 (12) "Record" means information that is inscribed on a tangible
20 medium or that is stored in an electronic or other medium and is
21 retrievable in perceivable form.

22 (13) "Respondent" means an adult for whom a protective order or
23 the appointment of a guardian ~~((of the person))~~ is sought.

24 (14) "State" means a state of the United States, the District of
25 Columbia, Puerto Rico, the United States Virgin Islands, a federally
26 recognized Indian tribe, or any territory or insular possession
27 subject to the jurisdiction of the United States.

28 **Sec. 502.** RCW 11.90.230 and 2009 c 81 s 10 are each amended to
29 read as follows:

30 (1) A court of this state lacking jurisdiction under RCW
31 11.90.220 has special jurisdiction to do any of the following:

32 ~~((In an emergency, process a petition under RCW 11.88.090 for~~
33 ~~appointment of a guardian for a respondent who is physically present~~
34 ~~in this state, for a term not exceeding ninety days;))~~ Appoint a
35 guardian in an emergency for a term not exceeding sixty days for a
36 respondent who is physically present in this state;

37 (b) Issue a protective order with respect to ~~((a respondent's))~~
38 real or tangible personal property located in this state if a

1 petition for appointment of a guardian or a conservator for the
2 respondent is pending or has been approved in another state;

3 (c) Appoint a guardian (~~(of the person or guardian of the~~
4 ~~estate))~~ or conservator for (~~(an incapacitated))~~ a person under a
5 guardianship, person under a conservatorship, or protected person for
6 whom a provisional order to transfer the proceeding from another
7 state has been issued under procedures similar to RCW 11.90.400.

8 (2) If a petition for the appointment of a guardian in an
9 emergency is brought in this state and this state was not the
10 respondent's home state on the date the petition was filed, the court
11 shall dismiss the proceeding at the request of the court of the home
12 state, if any, whether dismissal is requested before or after the
13 emergency appointment.

14 **Sec. 503.** RCW 11.90.250 and 2009 c 81 s 12 are each amended to
15 read as follows:

16 (1) A court of this state having jurisdiction under RCW 11.90.220
17 to appoint a guardian or issue a protective order may decline to
18 exercise its jurisdiction if it determines at any time that a court
19 of another state is a more appropriate forum.

20 (2) If a court of this state declines to exercise its
21 jurisdiction under subsection (1) of this section, it shall either
22 dismiss or stay the proceeding. The court may impose any condition
23 the court considers just and proper, including the condition that a
24 petition for the appointment of a guardian or issuance of a
25 protective order be filed promptly in another state.

26 (3) In determining whether it is an appropriate forum, the court
27 shall consider all relevant factors, including:

28 (a) Any expressed preference of the respondent;

29 (b) Whether abuse, neglect, or exploitation of the respondent has
30 occurred or is likely to occur and which state could best protect the
31 respondent from the abuse, neglect, or exploitation;

32 (c) The length of time the respondent was physically present in
33 or was a legal resident of this or another state;

34 (d) The distance of the respondent from the court in each state;

35 (e) The financial circumstances of the respondent's estate;

36 (f) The nature and location of the evidence;

37 (g) The ability of the court in each state to decide the issue
38 expeditiously and the procedures necessary to present evidence;

1 (h) The familiarity of the court of each state with the facts and
2 issues in the proceeding; and

3 (i) If an appointment were made, the court's ability to monitor
4 the conduct of the guardian (~~(of the person or guardian of the~~
5 ~~estate)) or conservator.~~

6 **Sec. 504.** RCW 11.90.400 and 2009 c 81 s 16 are each amended to
7 read as follows:

8 (1) A guardian (~~(of the person or guardian of the estate)) or~~

9 conservator appointed in this state may petition the court to
10 transfer the guardianship or conservatorship to another state.

11 (2) Notice of a petition under subsection (1) of this section
12 must be given to the persons that would be entitled to notice of a
13 petition in this state for the appointment of a guardian (~~(of the~~
14 ~~person or guardian of the estate)) or conservator.~~

15 (3) On the court's own motion or on request of the guardian (~~(of~~
16 ~~the person or guardian of the estate)) or conservator, the
17 (~~(incapacitated)) person under a guardianship, person under a~~
18 conservatorship, or protected person, or other person required to be
19 notified of the petition, the court shall hold a hearing on a
20 petition filed pursuant to subsection (1) of this section.~~

21 (4) The court shall issue an order provisionally granting a
22 petition to transfer a guardianship and shall direct the guardian
23 (~~(of the person or guardian of the estate)) to petition for~~
24 guardianship in the other state if the court is satisfied that the
25 guardianship will be accepted by the court in the other state and the
26 court finds that:

27 (a) The (~~(incapacitated)) person under a guardianship is~~
28 physically present in or is reasonably expected to move permanently
29 to the other state;

30 (b) An objection to the transfer has not been made or, if an
31 objection has been made, the objector has not established that the
32 transfer would be contrary to the interests of the (~~(incapacitated))~~
33 person under a guardianship; and

34 (c) Plans for care and services for the (~~(incapacitated)) person~~
35 under a guardianship in the other state are reasonable and
36 sufficient.

37 (5) The court shall issue a provisional order granting a petition
38 to transfer a (~~(guardianship of the estate)) conservatorship and~~
39 shall direct the (~~(guardian of the estate)) conservator to petition~~

1 for (~~guardianship of the estate or~~) conservatorship in the other
2 state if the court is satisfied that the (~~guardianship of the~~
3 ~~estate~~) conservatorship will be accepted by the court of the other
4 state and the court finds that:

5 (a) The protected person is physically present in or is
6 reasonably expected to move permanently to the other state, or the
7 protected person has a significant connection to the other state
8 considering the factors in RCW 11.90.200(2);

9 (b) An objection to the transfer has not been made or, if an
10 objection has been made, the objector has not established that the
11 transfer would be contrary to the interests of the protected person;
12 and

13 (c) Adequate arrangements will be made for management of the
14 protected person's property.

15 (6) The court shall issue a final order confirming the transfer
16 and terminating the guardianship (~~of the person or guardianship of~~
17 ~~the estate~~) or conservatorship upon its receipt of:

18 (a) A provisional order accepting the proceeding from the court
19 to which the proceeding is to be transferred which is issued under
20 provisions similar to RCW 11.90.410; and

21 (b) The documents required to terminate a guardianship (~~of the~~
22 ~~person or guardianship of the estate~~) or conservatorship in this
23 state.

24 **Sec. 505.** RCW 11.90.410 and 2009 c 81 s 17 are each amended to
25 read as follows:

26 (1) To confirm transfer of a guardianship or conservatorship
27 transferred to this state under provisions similar to RCW 11.90.400,
28 the guardian or conservator must petition the court in this state to
29 accept the guardianship or conservatorship. The petition must include
30 a certified copy of the other state's provisional order of transfer.

31 (2) Notice of a petition under subsection (1) of this section
32 must be given to those persons that would be entitled to notice if
33 the petition were a petition for the appointment of a guardian or
34 issuance of a protective order in both the transferring state and
35 this state. The notice must be given in the same manner as notice is
36 required to be given in this state.

37 (3) On the court's own motion or on request of the guardian or
38 conservator, the (~~incapacitated~~) person under a guardianship,
39 person under a conservatorship, or protected person, or other person

1 required to be notified of the proceeding, the court shall hold a
2 hearing on a petition filed pursuant to subsection (1) of this
3 section.

4 (4) The court shall issue an order provisionally granting a
5 petition filed under subsection (1) of this section unless:

6 (a) An objection is made and the objector establishes that
7 transfer of the proceeding would be contrary to the interests of the
8 ~~((incapacitated))~~ person under a guardianship, person under a
9 conservatorship, or protected person; or

10 (b) The guardian or conservator is ineligible for appointment in
11 this state.

12 (5) The court shall issue a final order accepting the proceeding
13 and appointing the guardian or conservator as guardian ~~((of the~~
14 ~~person or guardian of the estate))~~ or conservator in this state upon
15 its receipt from the court from which the proceeding is being
16 transferred of a final order issued under provisions similar to RCW
17 11.90.400 transferring the proceeding to this state.

18 (6) Not later than ninety days after issuance of a final order
19 accepting transfer of a guardianship or conservatorship, the court
20 shall determine whether the guardianship ~~((of the person or~~
21 ~~guardianship of the estate))~~ or conservatorship needs to be modified
22 to conform to the law of this state.

23 (7) In granting a petition under this section, the court shall
24 recognize a guardianship or conservatorship order from the other
25 state, including the determination of the ~~((incapacitated))~~ person
26 under a guardianship, person under a conservatorship, or protected
27 person's incapacity and the appointment of the guardian or
28 conservator.

29 (8) The denial by a court of this state of a petition to accept a
30 guardianship or conservatorship transferred from another state does
31 not affect the ability of the guardian or conservator to seek
32 appointment as guardian or ~~((guardian of the estate))~~ conservator in
33 this state if the court has jurisdiction to make an appointment other
34 than by reason of the provisional order of transfer.

35 **PART VI**

36 **SUPPORTED DECISION-MAKING AGREEMENTS**

1 NEW SECTION. **Sec. 601.** DEFINITIONS. The definitions in this
2 section apply throughout this section and sections 602 through 612 of
3 this act unless the context clearly requires otherwise.

4 (1) "Disability" means, with respect to an individual, a physical
5 or mental impairment that substantially limits one or more major life
6 activities.

7 (2) "Supported decision-making agreement" is an agreement between
8 an adult with a disability and one or more supporters entered into
9 under this chapter.

10 (3) "Supporter" means an adult who has entered into a supported
11 decision-making agreement with an adult with a disability.

12 NEW SECTION. **Sec. 602.** PURPOSE. The purpose of sections 601
13 through 612 of this act is to recognize a less restrictive
14 alternative to guardianship for adults with disabilities who need
15 assistance with decisions regarding daily living.

16 NEW SECTION. **Sec. 603.** PRESUMPTION OF CAPACITY. (1) All adults
17 are presumed to be capable of managing their affairs.

18 (2) The manner in which an adult communicates with others is not
19 grounds for deciding that the adult is incapable of managing the
20 adult's affairs.

21 (3) Execution of a supported decision-making agreement may not be
22 used as evidence for the petition or appointment of a guardianship or
23 conservatorship under this chapter, and does not preclude the ability
24 of the adult who has entered into such an agreement to act
25 independently of the agreement.

26 NEW SECTION. **Sec. 604.** SCOPE OF SUPPORTED DECISION-MAKING
27 AGREEMENT. An adult with a disability may voluntarily, without undue
28 influence or coercion, enter into a supported decision-making
29 agreement with a supporter under which the adult with a disability
30 authorizes the supporter to do any or all of the following:

31 (1) Provide supported decision-making, including assistance in
32 understanding the options, responsibilities, and consequences of the
33 adult's life decisions, without making those decisions on behalf of
34 the adult with a disability;

35 (2) Assist the adult in accessing, collecting, and obtaining
36 information that is relevant to a given life decision, including

1 medical, psychological, financial, educational, or treatment records,
2 from any person;

3 (3) Assist the adult with a disability in understanding the
4 information described in subsection (2) of this section; and

5 (4) Assist the adult in communicating the adult's decisions to
6 appropriate persons.

7 NEW SECTION. **Sec. 605.** AUTHORITY OF SUPPORTER. A supporter may
8 exercise the authority granted to the supporter in the supported
9 decision-making agreement.

10 NEW SECTION. **Sec. 606.** TERM OF AGREEMENT. (1) Except as
11 provided by subsection (2) of this section, the supported decision-
12 making agreement extends until terminated by either party or by the
13 terms of the agreement.

14 (2) The supported decision-making agreement is terminated if:

15 (a) The department of social and health services finds that the
16 adult with a disability has been abused, neglected, or exploited by
17 the supporter;

18 (b) The supporter is found criminally liable for conduct
19 described in (a) of this subsection;

20 (c) The person with a disability gives notice to the supporter
21 orally, in writing, through an assistive technology device, or by any
22 other means or act showing a specific intent to terminate the
23 agreement; or

24 (d) The supporter provides written notice of the supporter's
25 resignation to the person with a disability. If a supported decision-
26 making agreement includes more than one supporter, each supporter can
27 terminate the agreement only as to that supporter.

28 NEW SECTION. **Sec. 607.** DISQUALIFICATION OF SUPPORTER. The
29 following are disqualified from acting as a supporter:

30 (1) A person who is an employer or employee of the adult with a
31 disability, unless the person is an immediate family member of the
32 adult with a disability;

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

36 (3) An individual against whom the person with a disability has
37 obtained an order of protection from abuse, or an individual who is

1 the subject of a civil or criminal order prohibiting contact with the
2 adult with a disability.

3 NEW SECTION. **Sec. 608.** ACCESS TO PERSONAL INFORMATION. (1) A
4 supporter is only authorized to assist the adult with a disability in
5 accessing, collecting, or obtaining information that is relevant to a
6 decision authorized under the supported decision-making agreement.

7 (2) If a supporter assists an adult with a disability in
8 accessing, collecting, or obtaining personal information, including
9 protected health information under the federal health insurance
10 portability and accountability act of 1996, P.L. 104-191, or
11 educational records under the federal family educational rights and
12 privacy act of 1974, 20 U.S.C. Sec. 1232g, the supporter shall ensure
13 the information is kept privileged and confidential, as applicable,
14 and is not subject to unauthorized access, use, or disclosure.

15 (3) The existence of a supported decision-making agreement does
16 not preclude an adult with a disability from seeking personal
17 information without the assistance of a supporter.

18 NEW SECTION. **Sec. 609.** AUTHORIZING AND WITNESSING OF SUPPORTED
19 DECISION-MAKING AGREEMENT. (1) A supported decision-making agreement
20 must be in writing, dated, and signed voluntarily, without coercion
21 or undue influence, by the adult with a disability and the supporter
22 in the presence of two or more subscribing witnesses or a notary
23 public.

24 (2) If signed before two witnesses, the attesting witnesses must
25 be at least eighteen years of age.

26 (3) The witnesses required by subsection (1) of this section may
27 not be any of the following:

28 (a) A supporter for the person with a disability;

29 (b) An employee or agent of a supporter named in the supported
30 decision-making agreement;

31 (c) A paid provider of services to the person with a disability;
32 or

33 (d) Any person who does not understand the type of communication
34 the person with a disability uses, unless an individual who
35 understands the person with a disability's means of communication is
36 present to assist during the execution of the supported decision-
37 making agreement.

1 NEW SECTION. **Sec. 610.** FORM OF SUPPORTED DECISION-MAKING
2 AGREEMENT. (1) Subject to subsection (2) of this section, a supported
3 decision-making agreement is valid only if it is in substantially the
4 following form:

5 SUPPORTED DECISION-MAKING AGREEMENT

6 Appointment of Supporter

7 I, (name of supported adult), make this agreement of my
8 own free will.

9 I agree and designate that:

10 Name: (name of supporter)

11 Address: (address of supporter)

12 Phone Number: (phone number of supporter)

13 Email Address: (email address of supporter)

14 is my supporter.

15 My supporter may help me with making everyday life decisions
16 relating to the following:

17 (Y/N) Obtaining food, clothing, and shelter.

18 (Y/N) Taking care of my health.

19 (Y/N) Managing my financial affairs.

20 (Y/N) Other matters: (specify).

21 My supporter is not allowed to make decisions for me. To help
22 me with my decisions, my supporter may:

23 1. Help me access, collect, or obtain information
24 that is relevant to a decision, including medical,
25 psychological, financial, educational, or treatment
26 records;

27 2. Help me understand my options so I can make an
28 informed decision; and

29 3. Help me communicate my decision to appropriate
30 persons.

31 (Y/N) A release allowing my supporter to see
32 protected health information under the Health Insurance
33 Portability and Accountability Act of 1996, P.L. 104-191,
34 is attached.

35 (Y/N) A release allowing my supporter to see
36 educational records under the Family Educational Rights
37 and Privacy Act of 1974, 20 U.S.C. Sec. 1232g, is
38 attached.

1 Effective Date of Supported Decision-Making Agreement

2 This supported decision-making agreement is effective
3 immediately and will continue until (insert date) or
4 until the agreement is terminated by my supporter or me or by
5 operation of law.

6 Signed this (day) day of (month), (year)

7 Consent of Supporter

8 I, (name of supporter), acknowledge my responsibilities
9 and consent to act as a supporter under this agreement.

10 (Signature of supporter)
11 (Printed name of supporter)
12 Supporter

13 (Signature of supported adult)
14 (Printed name of supported adult)
15 Supported Adult

16 (Signature of witness 1)
17 (Printed name of witness 1)
18 Witness 1

19 (Signature of witness 2)
20 (Printed name of witness 2)
21 Witness 2

22 State of
23 County of

24 This record was acknowledged before me on (date)
25 by (name(s) of individuals).

26
27 (Signature of notary
28 public)

29 (Stamp)

30
31 (Title of office)
32 My commission expires:
33

(Date)

WARNING: PROTECTION FOR VULNERABLE ADULTS AS DEFINED UNDER CHAPTER
74.34 RCW.

IF A PERSON WHO RECEIVES A COPY OF THIS AGREEMENT OR IS AWARE
OF THE EXISTENCE OF THIS AGREEMENT HAS CAUSE TO BELIEVE THAT
A VULNERABLE ADULT IS BEING ABUSED, ABANDONED, NEGLECTED
(INCLUDING SELF-NEGLECT), OR PERSONALLY OR FINANCIALLY
EXPLOITED BY THE SUPPORTER, THE PERSON SHALL REPORT THE
ALLEGED ABUSE, ABANDONMENT, NEGLECT, SELF-NEGLECT, OR
PERSONAL OR FINANCIAL EXPLOITATION TO THE DEPARTMENT OF
SOCIAL AND HEALTH SERVICES BY CALLING THE ABUSE HOTLINE AT
1-800-END-HARM.

(2) A supported decision-making agreement may be in any form not
inconsistent with subsection (1) of this section and the other
requirements of this chapter.

NEW SECTION. **Sec. 611.** RELIANCE ON AGREEMENT—LIMITATION OF
LIABILITY. (1) A person who receives the original or a copy of a
supported decision-making agreement shall rely on the agreement.

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

NEW SECTION. **Sec. 612.** REPORTING OF SUSPECTED ABUSE,
ABANDONMENT, NEGLECT (INCLUDING SELF-NEGLECT), OR PERSONAL OR
FINANCIAL EXPLOITATION. If a person who receives a copy of a
supported decision-making agreement or is aware of the existence of a
supported decision-making agreement has cause to believe that a
vulnerable adult as defined in RCW 74.34.020 is being abused,
abandoned, neglected (including self-neglect), or personally or
financially exploited by the supporter, the person shall make a
report to the department of social and health services, except where
the person is exempted from the requirements to report abuse due to a
confidential relationship recognized in statute, regulation, or
professional standards.

PART VII

TECHNICAL CORRECTIONS

1 **Sec. 701.** RCW 2.56.150 and 2005 c 282 s 9 are each amended to
2 read as follows:

3 (1) The administrator for the courts shall review the
4 advisability and feasibility of the statewide mandatory use of court-
5 appointed special advocates as described in RCW 26.12.175 to act as
6 guardians ad litem in appropriate cases under Titles 13 and 26 RCW.
7 The review must explore the feasibility of obtaining various sources
8 of private and public funding to implement statewide mandatory use of
9 court-appointed special advocates, such as grants and donations,
10 instead of or in combination with raising court fees or assessments.

11 (2) The administrator shall also conduct a study on the
12 feasibility and desirability of requiring all persons who act as
13 guardians ad litem or court visitors under Titles 11, 13, and 26 RCW
14 to be certified as qualified guardians ad litem or court visitors
15 prior to their eligibility for appointment.

16 (3) In conducting the review and study the administrator shall
17 consult with: (a) The presidents or directors of all public benefit
18 nonprofit corporations that are eligible to receive state funds under
19 RCW 43.330.135; (b) the attorney general, or a designee; (c) the
20 secretary of the department of social and health services, or a
21 designee; (d) the superior court judges' association; (e) the
22 Washington state bar association; (f) public defenders who represent
23 children under Title 13 or 26 RCW; (g) private attorneys who
24 represent parents under Title 13 or 26 RCW; (h) professionals who
25 evaluate families for the purposes of determining the custody or
26 placement decisions of children; (i) the office of financial
27 management; (j) persons who act as volunteer or compensated guardians
28 ad litem; and (k) parents who have dealt with guardians ad litem or
29 court visitors in court cases. For the purposes of studying the
30 feasibility of a certification requirement for guardians ad litem
31 acting under Title 11 RCW the administrator shall consult with the
32 advisory group formed under RCW (~~41.88.090~~) 11.130.155.

33 (4) The administrator shall also conduct a review of problems and
34 concerns about the role of guardians ad litem in actions under Titles
35 11, 13, and 26 RCW and recommend alternatives to strengthen judicial
36 oversight of guardians ad litem or court visitors and ensure fairness
37 and impartiality of the process. The administrator must accept and
38 obtain comments from parties designated in subsection (3) of this
39 section.

1 **Sec. 702.** RCW 4.16.190 and 2006 c 8 s 303 are each amended to
2 read as follows:

3 (1) Unless otherwise provided in this section, if a person
4 entitled to bring an action mentioned in this chapter, except for a
5 penalty or forfeiture, or against a sheriff or other officer, for an
6 escape, be at the time the cause of action accrued either under the
7 age of eighteen years, or incompetent or disabled to such a degree
8 that he or she cannot understand the nature of the proceedings, such
9 incompetency or disability as determined according to chapter
10 ~~((11.88))~~ 11.130 RCW, or imprisoned on a criminal charge prior to
11 sentencing, the time of such disability shall not be a part of the
12 time limited for the commencement of action.

13 (2) Subsection (1) of this section with respect to a person under
14 the age of eighteen years does not apply to the time limited for the
15 commencement of an action under RCW 4.16.350.

16 **Sec. 703.** RCW 7.28.090 and 1977 ex.s. c 80 s 7 are each amended
17 to read as follows:

18 RCW 7.28.070 and 7.28.080 shall not extend to lands or tenements
19 owned by the United States or this state, nor to school lands, nor to
20 lands held for any public purpose. Nor shall they extend to lands or
21 tenements when there shall be an adverse title to such lands or
22 tenements, and the holder of such adverse title is a person under
23 eighteen years of age, or ~~((incompetent within the meaning of RCW
24 11.88.010: PROVIDED, Such))~~ has been placed under a guardianship
25 under RCW 11.130.265 or has been placed under a conservatorship under
26 RCW 11.130.360. However, such persons as aforesaid shall commence an
27 action to recover such lands or tenements so possessed as aforesaid,
28 within three years after the several disabilities herein enumerated
29 shall cease to exist, and shall prosecute such action to judgment, or
30 in case of vacant and unoccupied land shall, within the time last
31 aforesaid, pay to the person or persons who have paid the same for
32 his or her betterments, and the taxes, with interest on said taxes at
33 the legal rate per annum that have been paid on said vacant and
34 unimproved land.

35 **Sec. 704.** RCW 7.36.020 and 2008 c 6 s 801 are each amended to
36 read as follows:

37 Writs of habeas corpus shall be granted in favor of parents,
38 guardians, limited guardians where appropriate, spouses or domestic

1 partners, and next of kin, and to enforce the rights, and for the
2 protection of (~~infants and incompetent or disabled persons within~~
3 ~~the meaning of RCW 11.88.010~~) minors and persons who have been
4 placed under a guardianship under RCW 11.130.265 or under a
5 conservatorship under RCW 11.130.360; and the proceedings shall in
6 all cases conform to the provisions of this chapter.

7 **Sec. 705.** RCW 7.70.065 and 2019 c 232 s 8 and 2019 c 209 s 1 are
8 each reenacted and amended to read as follows:

9 (1) Informed consent for health care for a patient who is (~~not~~
10 ~~competent, as defined in RCW 11.88.010(1)(e)~~) a minor or, to consent
11 may be obtained from a person authorized to consent on behalf of such
12 patient.

13 (a) Persons authorized to provide informed consent to health care
14 on behalf of a patient who (~~is not competent to consent, based upon~~
15 ~~a reason other than incapacity as defined in RCW 11.88.010(1)(d)~~)
16 has been placed under a guardianship under RCW 11.130.265 a minor or,
17 shall be a member of one of the following classes of persons in the
18 following order of priority:

19 (i) The appointed guardian of the patient, if any;

20 (ii) The individual, if any, to whom the patient has given a
21 durable power of attorney that encompasses the authority to make
22 health care decisions;

23 (iii) The patient's spouse or state registered domestic partner;

24 (iv) Children of the patient who are at least eighteen years of
25 age;

26 (v) Parents of the patient;

27 (vi) Adult brothers and sisters of the patient;

28 (vii) Adult grandchildren of the patient who are familiar with
29 the patient;

30 (viii) Adult nieces and nephews of the patient who are familiar
31 with the patient;

32 (ix) Adult aunts and uncles of the patient who are familiar with
33 the patient; and

34 (x) (A) An adult who:

35 (I) Has exhibited special care and concern for the patient;

36 (II) Is familiar with the patient's personal values;

37 (III) Is reasonably available to make health care decisions;

38 (IV) Is not any of the following: A physician to the patient or
39 an employee of the physician; the owner, administrator, or employee

1 of a health care facility, nursing home, or long-term care facility
2 where the patient resides or receives care; or a person who receives
3 compensation to provide care to the patient; and

4 (V) Provides a declaration under (a)(x)(B) of this subsection.

5 (B) An adult who meets the requirements of (a)(x)(A) of this
6 subsection shall provide a declaration, which is effective for up to
7 six months from the date of the declaration, signed and dated under
8 penalty of perjury pursuant to (~~RCW 9A.72.085~~) chapter 5.50 RCW,
9 that recites facts and circumstances demonstrating that he or she is
10 familiar with the patient and that he or she:

11 (I) Meets the requirements of (a)(x)(A) of this subsection;

12 (II) Is a close friend of the patient;

13 (III) Is willing and able to become involved in the patient's
14 health care;

15 (IV) Has maintained such regular contact with the patient as to
16 be familiar with the patient's activities, health, personal values,
17 and morals; and

18 (V) Is not aware of a person in a higher priority class willing
19 and able to provide informed consent to health care on behalf of the
20 patient.

21 (C) A health care provider may, but is not required to, rely on a
22 declaration provided under (a)(x)(B) of this subsection. The health
23 care provider or health care facility where services are rendered is
24 immune from suit in any action, civil or criminal, or from
25 professional or other disciplinary action when such reliance is based
26 on a declaration provided in compliance with (a)(x)(B) of this
27 subsection.

28 (b) If the health care provider seeking informed consent for
29 proposed health care of the patient who (~~is not competent to consent~~
30 ~~under RCW 11.88.010(1)(c), other than a person determined to be~~
31 ~~incapacitated because he or she is under the age of majority and who~~
32 ~~is not otherwise authorized to provide informed consent~~) has been
33 placed under a guardianship under RCW 11.130.265, makes reasonable
34 efforts to locate and secure authorization from a competent person in
35 the first or succeeding class and finds no such person available,
36 authorization may be given by any person in the next class in the
37 order of descending priority. However, no person under this section
38 may provide informed consent to health care:

39 (i) If a person of higher priority under this section has refused
40 to give such authorization; or

1 (ii) If there are two or more individuals in the same class and
2 the decision is not unanimous among all available members of that
3 class.

4 (c) Before any person authorized to provide informed consent on
5 behalf of a patient (~~((not competent to consent under RCW
6 11.88.010(1)(e), other than a person determined to be incapacitated
7 because he or she is under the age of majority and who is not
8 otherwise authorized to provide informed consent))~~ who has been
9 placed under a guardianship under RCW 11.130.265, exercises that
10 authority, the person must first determine in good faith that that
11 patient, if competent, would consent to the proposed health care. If
12 such a determination cannot be made, the decision to consent to the
13 proposed health care may be made only after determining that the
14 proposed health care is in the patient's best interests.

15 (d) No rights under Washington's death with dignity act, chapter
16 70.245 RCW, may be exercised through a person authorized to provide
17 informed consent to health care on behalf of a patient (~~((not
18 competent to consent under RCW 11.88.010(1)(e)))~~ who is a minor or
19 has been placed under a guardianship under RCW 11.130.265.

20 (2) Informed consent for health care, including mental health
21 care, for a patient who (~~((is not competent, as defined in RCW
22 11.88.010(1)(e), because he or she))~~ is under the age of majority and
23 who is not otherwise authorized to provide informed consent, may be
24 obtained from a person authorized to consent on behalf of such a
25 patient.

26 (a) Persons authorized to provide informed consent to health
27 care, including mental health care, on behalf of a patient who (~~((is
28 incapacitated, as defined in RCW 11.88.010(1)(e), because he or she))~~
29 is under the age of majority and who is not otherwise authorized to
30 provide informed consent, shall be a member of one of the following
31 classes of persons in the following order of priority:

32 (i) The appointed guardian, or legal custodian authorized
33 pursuant to Title 26 RCW, of the minor patient, if any;

34 (ii) A person authorized by the court to consent to medical care
35 for a child in out-of-home placement pursuant to chapter 13.32A or
36 13.34 RCW, if any;

37 (iii) Parents of the minor patient;

38 (iv) The individual, if any, to whom the minor's parent has given
39 a signed authorization to make health care decisions for the minor
40 patient; and

1 (v) A competent adult representing himself or herself to be a
2 relative responsible for the health care of such minor patient or a
3 competent adult who has signed and dated a declaration under penalty
4 of perjury pursuant to chapter 5.50 RCW stating that the adult person
5 is a relative responsible for the health care of the minor patient.
6 Such declaration shall be effective for up to six months from the
7 date of the declaration.

8 (b) (i) Informed consent for health care on behalf of a patient
9 who (~~is incapacitated, as defined in RCW 11.88.010(1)(e), because he~~
10 ~~or she~~) is under the age of majority and who is not otherwise
11 authorized to provide informed consent may be obtained from a school
12 nurse, school counselor, or homeless student liaison when:

13 (A) Consent is necessary for nonemergency, outpatient, primary
14 care services, including physical examinations, vision examinations
15 and eyeglasses, dental examinations, hearing examinations and hearing
16 aids, immunizations, treatments for illnesses and conditions, and
17 routine follow-up care customarily provided by a health care provider
18 in an outpatient setting, excluding elective surgeries;

19 (B) The minor patient meets the definition of a "homeless child
20 or youth" under the federal McKinney-Vento homeless education
21 assistance improvements act of 2001, P.L. 107-110, January 8, 2002,
22 115 Stat. 2005; and

23 (C) The minor patient is not under the supervision or control of
24 a parent, custodian, or legal guardian, and is not in the care and
25 custody of the department of social and health services.

26 (ii) A person authorized to consent to care under this subsection
27 (2)(b) and the person's employing school or school district are not
28 subject to administrative sanctions or civil damages resulting from
29 the consent or nonconsent for care, any care, or payment for any
30 care, rendered pursuant to this section. Nothing in this section
31 prevents a health care facility or a health care provider from
32 seeking reimbursement from other sources for care provided to a minor
33 patient under this subsection (2)(b).

34 (iii) Upon request by a health care facility or a health care
35 provider, a person authorized to consent to care under this
36 subsection (2)(b) must provide to the person rendering care a
37 declaration signed and dated under penalty of perjury pursuant to
38 chapter 5.50 RCW stating that the person is a school nurse, school
39 counselor, or homeless student liaison and that the minor patient
40 meets the elements under (b) (i) of this subsection. The declaration

1 must also include written notice of the exemption from liability
2 under (b)(ii) of this subsection.

3 (c) A health care provider may, but is not required to, rely on
4 the representations or declaration of a person claiming to be a
5 relative responsible for the care of the minor patient, under (a)(v)
6 of this subsection, or a person claiming to be authorized to consent
7 to the health care of the minor patient under (b) of this subsection,
8 if the health care provider does not have actual notice of the
9 falsity of any of the statements made by the person claiming to be a
10 relative responsible for the health care of the minor patient, or
11 person claiming to be authorized to consent to the health care of the
12 minor patient.

13 (d) A health care facility or a health care provider may, in its
14 discretion, require documentation of a person's claimed status as
15 being a relative responsible for the health care of the minor
16 patient, or a person claiming to be authorized to consent to the
17 health care of the minor patient under (b) of this subsection.
18 However, there is no obligation to require such documentation.

19 (e) The health care provider or health care facility where
20 services are rendered shall be immune from suit in any action, civil
21 or criminal, or from professional or other disciplinary action when
22 such reliance is based on a declaration signed under penalty of
23 perjury pursuant to chapter 5.50 RCW stating that the adult person is
24 a relative responsible for the health care of the minor patient under
25 (a)(v) of this subsection, or a person claiming to be authorized to
26 consent to the health care of the minor patient under (b) of this
27 subsection.

28 (3) For the purposes of this section, "health care," "health care
29 provider," and "health care facility" shall be defined as established
30 in RCW 70.02.010.

31 (4) A person who knowingly provides a false declaration under
32 this section shall be subject to criminal penalties under chapter
33 9A.72 RCW.

34 **Sec. 706.** RCW 9.35.005 and 2017 c 4 s 3 are each amended to read
35 as follows:

36 The definitions in this section apply throughout this chapter
37 unless the context clearly requires otherwise.

1 (1) "Financial information" means any of the following
2 information identifiable to the individual that concerns the amount
3 and conditions of an individual's assets, liabilities, or credit:

4 (a) Account numbers and balances;

5 (b) Transactional information concerning an account; and

6 (c) Codes, passwords, social security numbers, tax identification
7 numbers, driver's license or permit numbers, state identicard numbers
8 issued by the department of licensing, and other information held for
9 the purpose of account access or transaction initiation.

10 (2) "Financial information repository" means a person engaged in
11 the business of providing services to customers who have a credit,
12 deposit, trust, stock, or other financial account or relationship
13 with the person.

14 (3) "Means of identification" means information or an item that
15 is not describing finances or credit but is personal to or
16 identifiable with an individual or other person, including: A current
17 or former name of the person, telephone number, an electronic
18 address, or identifier of the individual or a member of his or her
19 family, including the ancestor of the person; information relating to
20 a change in name, address, telephone number, or electronic address or
21 identifier of the individual or his or her family; a social security,
22 driver's license, or tax identification number of the individual or a
23 member of his or her family; and other information that could be used
24 to identify the person, including unique biometric data.

25 (4) "Person" means a person as defined in RCW 9A.04.110.

26 (5) "Senior" means a person over the age of sixty-five.

27 (6) "Victim" means a person whose means of identification or
28 financial information has been used or transferred with the intent to
29 commit, or to aid or abet, any unlawful activity.

30 (7) "Vulnerable individual" means a person:

31 ~~((i) [(a)])~~ (a) Sixty years of age or older who has the
32 functional, mental, or physical inability to care for himself or
33 herself;

34 ~~((ii) [(b)] Found incapacitated under chapter 11.88)~~ (b) Who
35 has been placed under a guardianship under RCW 11.130.265 or has been
36 placed under a conservatorship under RCW 11.130.360 RCW;

37 ~~((iii) [(c)])~~ (c) Who has a developmental disability as defined
38 under RCW 71A.10.020;

39 ~~((iv) [(d)])~~ (d) Admitted to any facility;

1 (~~(v)~~—[~~(e)~~]) (e) Receiving services from home health, hospice,
2 or home care agencies licensed or required to be licensed under
3 chapter 70.127 RCW;

4 (~~(vi)~~—[~~(f)~~]) (f) Receiving services from an individual provider
5 as defined in RCW 74.39A.240; or

6 (~~(vii)~~—[~~(g)~~]) (g) Who self-directs his or her own care and
7 receives services from a personal aide under chapter 74.39 RCW.

8 **Sec. 707.** RCW 9A.44.010 and 2007 c 20 s 3 are each amended to
9 read as follows:

10 As used in this chapter:

11 (1) "Sexual intercourse" (a) has its ordinary meaning and occurs
12 upon any penetration, however slight, and

13 (b) Also means any penetration of the vagina or anus however
14 slight, by an object, when committed on one person by another,
15 whether such persons are of the same or opposite sex, except when
16 such penetration is accomplished for medically recognized treatment
17 or diagnostic purposes, and

18 (c) Also means any act of sexual contact between persons
19 involving the sex organs of one person and the mouth or anus of
20 another whether such persons are of the same or opposite sex.

21 (2) "Sexual contact" means any touching of the sexual or other
22 intimate parts of a person done for the purpose of gratifying sexual
23 desire of either party or a third party.

24 (3) "Married" means one who is legally married to another, but
25 does not include a person who is living separate and apart from his
26 or her spouse and who has filed in an appropriate court for legal
27 separation or for dissolution of his or her marriage.

28 (4) "Mental incapacity" is that condition existing at the time of
29 the offense which prevents a person from understanding the nature or
30 consequences of the act of sexual intercourse whether that condition
31 is produced by illness, defect, the influence of a substance or from
32 some other cause.

33 (5) "Physically helpless" means a person who is unconscious or
34 for any other reason is physically unable to communicate
35 unwillingness to an act.

36 (6) "Forcible compulsion" means physical force which overcomes
37 resistance, or a threat, express or implied, that places a person in
38 fear of death or physical injury to herself or himself or another

1 person, or in fear that she or he or another person will be
2 kidnapped.

3 (7) "Consent" means that at the time of the act of sexual
4 intercourse or sexual contact there are actual words or conduct
5 indicating freely given agreement to have sexual intercourse or
6 sexual contact.

7 (8) "Significant relationship" means a situation in which the
8 perpetrator is:

9 (a) A person who undertakes the responsibility, professionally or
10 voluntarily, to provide education, health, welfare, or organized
11 recreational activities principally for minors;

12 (b) A person who in the course of his or her employment
13 supervises minors; or

14 (c) A person who provides welfare, health or residential
15 assistance, personal care, or organized recreational activities to
16 frail elders or vulnerable adults, including a provider, employee,
17 temporary employee, volunteer, or independent contractor who supplies
18 services to long-term care facilities licensed or required to be
19 licensed under chapter 18.20, 18.51, 72.36, or 70.128 RCW, and home
20 health, hospice, or home care agencies licensed or required to be
21 licensed under chapter 70.127 RCW, but not including a consensual
22 sexual partner.

23 (9) "Abuse of a supervisory position" means:

24 (a) To use a direct or indirect threat or promise to exercise
25 authority to the detriment or benefit of a minor; or

26 (b) To exploit a significant relationship in order to obtain the
27 consent of a minor.

28 (10) "Person with a developmental disability," for purposes of
29 RCW 9A.44.050(1)(c) and 9A.44.100(1)(c), means a person with a
30 developmental disability as defined in RCW 71A.10.020.

31 (11) "Person with supervisory authority," for purposes of RCW
32 9A.44.050(1)(c) or (e) and 9A.44.100(1)(c) or (e), means any
33 proprietor or employee of any public or private care or treatment
34 facility who directly supervises developmentally disabled, mentally
35 disordered, or chemically dependent persons at the facility.

36 (12) "Person with a mental disorder" for the purposes of RCW
37 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person with a "mental
38 disorder" as defined in RCW 71.05.020.

1 (13) "Person with a chemical dependency" for purposes of RCW
2 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person who is "chemically
3 dependent" as defined in RCW 70.96A.020(~~(+4)~~).

4 (14) "Health care provider" for purposes of RCW 9A.44.050 and
5 9A.44.100 means a person who is, holds himself or herself out to be,
6 or provides services as if he or she were: (a) A member of a health
7 care profession under chapter 18.130 RCW; or (b) registered under
8 chapter 18.19 RCW or licensed under chapter 18.225 RCW, regardless of
9 whether the health care provider is licensed, certified, or
10 registered by the state.

11 (15) "Treatment" for purposes of RCW 9A.44.050 and 9A.44.100
12 means the active delivery of professional services by a health care
13 provider which the health care provider holds himself or herself out
14 to be qualified to provide.

15 (16) "Frail elder or vulnerable adult" means a person sixty years
16 of age or older who has the functional, mental, or physical inability
17 to care for himself or herself. "Frail elder or vulnerable adult"
18 also includes a person (~~found incapacitated under chapter 11.88~~
19 RCW) who has been placed under a guardianship under RCW 11.130.265
20 or a conservatorship under RCW 11.130.360, a person over eighteen
21 years of age who has a developmental disability under chapter 71A.10
22 RCW, a person admitted to a long-term care facility that is licensed
23 or required to be licensed under chapter 18.20, 18.51, 72.36, or
24 70.128 RCW, and a person receiving services from a home health,
25 hospice, or home care agency licensed or required to be licensed
26 under chapter 70.127 RCW.

27 **Sec. 708.** RCW 11.02.005 and 2018 c 22 s 6 are each amended to
28 read as follows:

29 When used in this title, unless otherwise required from the
30 context:

31 (1) "Administrator" means a personal representative of the estate
32 of a decedent and the term may be used in lieu of "personal
33 representative" wherever required by context.

34 (2) "Codicil" means a will that modifies or partially revokes an
35 existing earlier will. A codicil need not refer to or be attached to
36 the earlier will.

37 (3) "Degree of kinship" means the degree of kinship as computed
38 according to the rules of the civil law; that is, by counting upward
39 from the intestate to the nearest common ancestor and then downward

1 to the relative, the degree of kinship being the sum of these two
2 counts.

3 (4) "Executor" means a personal representative of the estate of a
4 decedent appointed by will and the term may be used in lieu of
5 "personal representative" wherever required by context.

6 (5) "Guardian," ~~((or))~~ "limited guardian," "conservator," or
7 "limited conservator" means a personal representative of the person
8 or estate of ~~((an incompetent or disabled))~~ a person ((as defined in
9 RCW 11.88.010)) who has been placed under a guardianship under RCW
10 11.130.265 or who has been placed under a conservatorship under RCW
11 11.130.360 and the term may be used in lieu of "personal
12 representative" wherever required by context.

13 (6) "Heirs" denotes those persons, including the surviving spouse
14 or surviving domestic partner, who are entitled under the statutes of
15 intestate succession to the real and personal property of a decedent
16 on the decedent's death intestate.

17 (7) "Internal revenue code" means the United States internal
18 revenue code of 1986, as amended or renumbered as of January 1, 2001.

19 (8) "Issue" means all the lineal descendants of an individual. An
20 adopted individual is a lineal descendant of each of his or her
21 adoptive parents and of all individuals with regard to which each
22 adoptive parent is a lineal descendant. A child conceived prior to
23 the death of a parent but born after the death of the deceased parent
24 is considered to be the surviving issue of the deceased parent for
25 purposes of this title.

26 (9) "Net estate" refers to the real and personal property of a
27 decedent exclusive of homestead rights, exempt property, the family
28 allowance and enforceable claims against, and debts of, the deceased
29 or the estate.

30 (10) "Nonprobate asset" means those rights and interests of a
31 person having beneficial ownership of an asset that pass on the
32 person's death under a written instrument or arrangement other than
33 the person's will. "Nonprobate asset" includes, but is not limited
34 to, a right or interest passing under a joint tenancy with right of
35 survivorship, joint bank account with right of survivorship, transfer
36 on death deed, payable on death or trust bank account, transfer on
37 death security or security account, deed or conveyance if possession
38 has been postponed until the death of the person, trust of which the
39 person is grantor and that becomes effective or irrevocable only upon
40 the person's death, community property agreement, individual

1 retirement account or bond, or note or other contract the payment or
2 performance of which is affected by the death of the person.
3 "Nonprobate asset" does not include: A payable-on-death provision of
4 a life insurance policy, annuity, or other similar contract, or of an
5 employee benefit plan; a right or interest passing by descent and
6 distribution under chapter 11.04 RCW; a right or interest if, before
7 death, the person has irrevocably transferred the right or interest,
8 the person has waived the power to transfer it or, in the case of
9 contractual arrangement, the person has waived the unilateral right
10 to rescind or modify the arrangement; or a right or interest held by
11 the person solely in a fiduciary capacity. For the definition of
12 "nonprobate asset" relating to revocation of a provision for a former
13 spouse upon dissolution of marriage or declaration of invalidity of
14 marriage, RCW 11.07.010(5) applies. For the definition of "nonprobate
15 asset" relating to testamentary disposition of nonprobate assets, see
16 RCW 11.11.010(7).

17 (11) "Personal representative" includes executor, administrator,
18 special administrator, and (~~(guardian)~~) conservator or limited
19 (~~(guardian)~~) conservator and special representative.

20 (12) "Real estate" includes, except as otherwise specifically
21 provided herein, all lands, tenements, and hereditaments, and all
22 rights thereto, and all interest therein possessed and claimed in fee
23 simple, or for the life of a third person.

24 (13) "Representation" refers to a method of determining
25 distribution in which the takers are in unequal degrees of kinship
26 with respect to a decedent, and is accomplished as follows: After
27 first determining who, of those entitled to share in the estate, are
28 in the nearest degree of kinship, the estate is divided into equal
29 shares, the number of shares being the sum of the number of persons
30 who survive the decedent who are in the nearest degree of kinship and
31 the number of persons in the same degree of kinship who died before
32 the decedent but who left issue surviving the decedent; each share of
33 a deceased person in the nearest degree must be divided among those
34 of the deceased person's issue who survive the decedent and have no
35 ancestor then living who is in the line of relationship between them
36 and the decedent, those more remote in degree taking together the
37 share which their ancestor would have taken had he or she survived
38 the decedent.

39 (14) References to "section 2033A" of the internal revenue code
40 in wills, trust agreements, powers of appointment, beneficiary

1 designations, and other instruments governed by or subject to this
2 title are deemed to refer to the comparable or corresponding
3 provisions of section 2057 of the internal revenue code, as added by
4 section 6006(b) of the internal revenue service restructuring act of
5 1998 (H.R. 2676, P.L. 105-206); and references to the section 2033A
6 "exclusion" are deemed to mean the section 2057 deduction.

7 (15) "Settlor" has the same meaning as provided for "trustor" in
8 this section.

9 (16) "Special administrator" means a personal representative of
10 the estate of a decedent appointed for limited purposes and the term
11 may be used in lieu of "personal representative" wherever required by
12 context.

13 (17) "Surviving spouse" or "surviving domestic partner" does not
14 include an individual whose marriage to or state registered domestic
15 partnership with the decedent has been terminated, dissolved, or
16 invalidated unless, by virtue of a subsequent marriage or state
17 registered domestic partnership, he or she is married to or in a
18 domestic partnership with the decedent at the time of death. A decree
19 of separation that does not terminate the status of spouses or
20 domestic partners is not a dissolution or invalidation for purposes
21 of this subsection.

22 (18) "Trustee" means an original, added, or successor trustee and
23 includes the state, or any agency thereof, when it is acting as the
24 trustee of a trust to which chapter 11.98 RCW applies.

25 (19) "Trustor" means a person, including a testator, who creates,
26 or contributes property to, a trust.

27 (20) "Will" means an instrument validly executed as required by
28 RCW 11.12.020.

29 Words that import the singular number may also be applied to the
30 plural of persons and things.

31 Words importing the masculine gender only may be extended to
32 females also.

33 **Sec. 709.** RCW 11.28.185 and 2008 c 6 s 915 are each amended to
34 read as follows:

35 When the terms of the decedent's will manifest an intent that the
36 personal representative appointed to administer the estate shall not
37 be required to furnish bond or other security, or when the personal
38 representative is the surviving spouse or surviving domestic partner
39 of the decedent and it appears to the court that the entire estate,

1 after provision for expenses and claims of creditors, will be
2 distributable to such spouse or surviving domestic partner, then such
3 personal representative shall not be required to give bond or other
4 security as a condition of appointment. In all cases where a bank or
5 trust company authorized to act as personal representative is
6 appointed as personal representative, no bond shall be required. In
7 all other cases, unless waived by the court, the personal
8 representative shall give such bond or other security, in such amount
9 and with such surety or sureties, as the court may direct.

10 Every person required to furnish bond must, before receiving
11 letters testamentary or of administration, execute a bond to the
12 state of Washington conditioned that the personal representative
13 shall faithfully execute the duty of the trust according to law.

14 The court may at any time after appointment of the personal
15 representative require said personal representative to give a bond or
16 additional bond, the same to be conditioned and to be approved as
17 provided in this section; or the court may allow a reduction of the
18 bond upon a proper showing.

19 In lieu of bond, the court may in its discretion, substitute
20 other security or financial arrangements, such as provided under RCW
21 (~~11.88.105~~) 11.130.445, or as the court may deem adequate to
22 protect the assets of the estate.

23 **Sec. 710.** RCW 11.76.080 and 2008 c 6 s 806 are each amended to
24 read as follows:

25 If there be any alleged incapacitated person (~~as defined in RCW~~
26 ~~11.88.010~~) interested in the estate who has no legally appointed
27 (~~guardian or limited guardian~~) conservator or limited conservator
28 under RCW 11.130.360, the court:

29 (1) At any stage of the proceeding in its discretion and for such
30 purpose or purposes as it shall indicate, may appoint; and

31 (2) For hearings held under RCW 11.54.010, 11.68.041, 11.68.100,
32 and 11.76.050 or for entry of an order adjudicating testacy or
33 intestacy and heirship when no personal representative is appointed
34 to administer the estate of the decedent, shall appoint some
35 disinterested person as guardian ad litem to represent the allegedly
36 incapacitated person with reference to any petition, proceeding
37 report, or adjudication of testacy or intestacy without the
38 appointment of a personal representative to administer the estate of
39 decedent in which the alleged incapacitated person may have an

1 interest, who, on behalf of the alleged incapacitated person, may
2 contest the same as any other person interested might contest it, and
3 who shall be allowed by the court reasonable compensation for his or
4 her services: PROVIDED, HOWEVER, That where a surviving spouse or
5 surviving domestic partner is the sole beneficiary under the terms of
6 a will, the court may grant a motion by the personal representative
7 to waive the appointment of a guardian ad litem for a person who is
8 the minor child of the surviving spouse or surviving domestic partner
9 and the decedent and who is incapacitated solely for the reason of
10 his or her being under eighteen years of age.

11 **Sec. 711.** RCW 11.86.021 and 2016 c 209 s 402 are each amended to
12 read as follows:

13 (1) A beneficiary may disclaim an interest in whole or in part,
14 or with reference to specific parts, shares or assets, in the manner
15 provided in RCW 11.86.031.

16 (2) Likewise, a beneficiary may so disclaim through an agent or
17 attorney so authorized by written instrument.

18 (3) A personal representative, guardian, attorney-in-fact if
19 authorized under a durable power of attorney under chapter 11.125
20 RCW, or other legal representative of the estate of a minor,
21 incompetent, or deceased beneficiary, may so disclaim on behalf of
22 the beneficiary, with or without court order, if:

23 (a) The legal representative deems the disclaimer to be in the
24 best interests of those interested in the estate of the beneficiary
25 and of those who take the disclaimed interest because of the
26 disclaimer, and not detrimental to the best interests of the
27 beneficiary; and

28 (b) In the case of a (~~guardian~~) conservatorship, no order has
29 been issued under (~~RCW 11.92.140~~) RCW 11.130.435 determining that
30 the disclaimer is not in the best interests of the beneficiary.

31 **Sec. 712.** RCW 11.90.210 and 2009 c 81 s 8 are each amended to
32 read as follows:

33 This chapter provides the exclusive jurisdictional basis for a
34 court of this state to appoint a guardian or issue a protective order
35 for an adult under (~~chapters 11.88 and 11.92~~) chapter 11.130 RCW.

36 **Sec. 713.** RCW 11.96A.050 and 2013 c 272 s 3 are each amended to
37 read as follows:

1 (1) Venue for proceedings pertaining to trusts is:

2 (a) For testamentary trusts established under wills probated in
3 the state of Washington, in the superior court of the county where
4 the probate of the will is being administered or was completed or, in
5 the alternative, the superior court of the county where any qualified
6 beneficiary of the trust as defined in RCW 11.98.002 resides, the
7 county where any trustee resides or has a place of business, or the
8 county where any real property that is an asset of the trust is
9 located; and

10 (b) For all other trusts, in the superior court of the county
11 where any qualified beneficiary of the trust as defined in RCW
12 11.98.002 resides, the county where any trustee resides or has a
13 place of business, or the county where any real property that is an
14 asset of the trust is located. If no county has venue for proceedings
15 pertaining to a trust under the preceding sentence, then in any
16 county.

17 (2) A party to a proceeding pertaining to a trust may request
18 that venue be changed. If the request is made within four months of
19 the giving of the first notice of a proceeding pertaining to the
20 trust, except for good cause shown, venue must be moved to the county
21 with the strongest connection to the trust as determined by the
22 court, considering such factors as the residence of a qualified
23 beneficiary of the trust as defined in RCW 11.98.002, the residence
24 or place of business of a trustee, and the location of any real
25 property that is an asset of the trust.

26 (3) Venue for proceedings subject to chapter (~~11.88 or 11.92~~)
27 11.130 RCW must be determined under the provisions of those chapters.

28 (4) Venue for proceedings pertaining to the probate of wills, the
29 administration and disposition of a decedent's property, including
30 nonprobate assets, and any other matter not identified in subsection
31 (1), (2), or (3) of this section, must be in any county in the state
32 of Washington that the petitioner selects. A party to a proceeding
33 may request that venue be changed if the request is made within four
34 months of the mailing of the notice of appointment and pendency of
35 probate required by RCW 11.28.237, and except for good cause shown,
36 venue must be moved as follows:

37 (a) If the decedent was a resident of the state of Washington at
38 the time of death, to the county of the decedent's residence; or

39 (b) If the decedent was not a resident of the state of Washington
40 at the time of death, to any of the following:

- 1 (i) Any county in which any part of the probate estate might be;
2 (ii) If there are no probate assets, any county where any
3 nonprobate asset might be; or
4 (iii) The county in which the decedent died.

5 (5) Once letters testamentary or of administration have been
6 granted in the state of Washington, all orders, settlements, trials,
7 and other proceedings under this title must be had or made in the
8 county in which such letters have been granted unless venue is moved
9 as provided in subsection (4) of this section.

10 (6) Venue for proceedings pertaining to powers of attorney must
11 be in the superior court of the county of the principal's residence,
12 except for good cause shown.

13 (7) If venue is moved, an action taken before venue is changed is
14 not invalid because of the venue.

15 (8) Any request to change venue that is made more than four
16 months after the commencement of the action may be granted in the
17 discretion of the court.

18 **Sec. 714.** RCW 11.96A.080 and 1999 c 42 s 301 are each amended to
19 read as follows:

20 (1) Subject to the provisions of RCW 11.96A.260 through
21 11.96A.320, any party may have a judicial proceeding for the
22 declaration of rights or legal relations with respect to any matter,
23 as defined by RCW 11.96A.030; the resolution of any other case or
24 controversy that arises under the Revised Code of Washington and
25 references judicial proceedings under this title; or the
26 determination of the persons entitled to notice under RCW 11.96A.110
27 or 11.96A.120.

28 (2) The provisions of this chapter apply to disputes arising in
29 connection with estates of (~~incapacitated persons~~) individuals
30 subject to conservatorship under RCW 11.130.360 unless otherwise
31 covered by (~~chapters 11.88 and 11.92~~) chapter 11.130 RCW. The
32 provisions of this chapter shall not supersede, but shall supplement,
33 any otherwise applicable provisions and procedures contained in this
34 title, including without limitation those contained in chapter 11.20,
35 11.24, 11.28, 11.40, 11.42, or 11.56 RCW. The provisions of this
36 chapter shall not apply to actions for wrongful death under chapter
37 4.20 RCW.

1 **Sec. 715.** RCW 11.96A.120 and 2013 c 272 s 5 are each amended to
2 read as follows:

3 (1) Notice to a person who may represent and bind another person
4 under this section has the same effect as if notice were given
5 directly to the other person.

6 (2) The consent of a person who may represent and bind another
7 person under this section is binding on the person represented unless
8 the person represented objects to the representation before the
9 consent would otherwise have become effective.

10 (3) The following limitations on the ability to serve as a
11 virtual representative apply:

12 (a) A trustor may not represent and bind a beneficiary under this
13 section with respect to the termination and modification of an
14 irrevocable trust; and

15 (b) Representation of an incapacitated trustor with respect to
16 his or her powers over a trust is subject to the provisions of RCW
17 11.103.030, and chapters 11.96A(~~(, 11.88, and 11.92)~~) and 11.130 RCW.

18 (4) To the extent there is no conflict of interest between the
19 representative and the person represented or among those being
20 represented with respect to the particular question or dispute:

21 (a) A guardian may represent and bind the estate that the
22 guardian controls, subject to chapters 11.96A(~~(, 11.88, and 11.92)~~)
23 and 11.130 RCW;

24 (b) A guardian of the person may represent and bind the
25 incapacitated person if a guardian of the incapacitated person's
26 estate has not been appointed;

27 (c) An agent having authority to act with respect to the
28 particular question or dispute may represent and bind the principal;

29 (d) A trustee may represent and bind the beneficiaries of the
30 trust;

31 (e) A personal representative of a decedent's estate may
32 represent and bind persons interested in the estate; and

33 (f) A parent may represent and bind the parent's minor or unborn
34 child or children if a guardian for the child or children has not
35 been appointed.

36 (5) Unless otherwise represented, a minor, incapacitated, or
37 unborn individual, or a person whose identity or location is unknown
38 and not reasonably ascertainable, may be represented by and bound by
39 another having a substantially identical interest with respect to the
40 particular question or dispute, but only to the extent there is no

1 conflict of interest between the representative and the person
2 represented with regard to the particular question or dispute.

3 (6) Where an interest has been given to persons who comprise a
4 certain class upon the happening of a certain event, the living
5 persons who would constitute the class as of the date the
6 representation is to be determined may virtually represent all other
7 members of the class as of that date, but only to the extent that
8 there is no conflict of interest between the representative and the
9 person(s) represented with regard to the particular question or
10 dispute.

11 (7) Where an interest has been given to a living person, and the
12 same interest, or a share in it, is to pass to the surviving spouse
13 or surviving domestic partner or to persons who are, or might be, the
14 heirs, issue, or other kindred of that living person or the
15 distributees of the estate of that living person upon the happening
16 of a future event, that living person may virtually represent the
17 surviving spouse or surviving domestic partner, heirs, issue, or
18 other kindred of the person, and the distributees of the estate of
19 the person, but only to the extent that there is no conflict of
20 interest between the representative and the person(s) represented
21 with regard to the particular question or dispute.

22 (8) Except as otherwise provided in subsection (7) of this
23 section, where an interest has been given to a person or a class of
24 persons, or both, upon the happening of any future event, and the
25 same interest or a share of the interest is to pass to another person
26 or class of persons, or both, upon the happening of an additional
27 future event, the living person or persons who would take the
28 interest upon the happening of the first event may virtually
29 represent the persons and classes of persons who might take on the
30 happening of the additional future event, but only to the extent that
31 there is no conflict of interest between the representative and the
32 person(s) represented with regard to the particular question or
33 dispute.

34 (9) To the extent there is no conflict of interest between the
35 holder of the power of appointment and the persons represented with
36 respect to the particular question or dispute, the holder of a
37 lifetime or testamentary power of appointment may virtually represent
38 and bind persons who are permissible appointees or takers in default
39 (but only to the extent that they are permissible appointees in the

1 case of a limited power of appointment) under the power, and who are
2 not permissible distributees as defined in RCW 11.98.002.

3 (10) The attorney general may virtually represent and bind a
4 charitable organization if:

5 (a) The charitable organization is not a qualified beneficiary as
6 defined in RCW 11.98.002 specified in the trust instrument or acting
7 as trustee; or

8 (b) The charitable organization is a qualified beneficiary, but
9 is not a permissible distributee, as those terms are defined in RCW
10 11.98.002, and its beneficial interest in the trust is subject to
11 change by the trustor or by a person designated by the trustor.

12 (11) An action taken by the court is conclusive and binding upon
13 each person receiving actual or constructive notice or who is
14 otherwise represented under this section.

15 (12) This section is intended to adopt the common law concept of
16 virtual representation. This section supplements the common law
17 relating to the doctrine of virtual representation and may not be
18 construed as limiting the application of that common law doctrine.

19 **Sec. 716.** RCW 11.96A.130 and 1999 c 42 s 306 are each amended to
20 read as follows:

21 Nothing in this chapter eliminates the requirement to give notice
22 to a person who has requested special notice under RCW 11.28.240 or
23 (~~11.92.150~~) notice under RCW 11.130.080.

24 **Sec. 717.** RCW 11.96A.150 and 2007 c 475 s 5 are each amended to
25 read as follows:

26 (1) Either the superior court or any court on an appeal may, in
27 its discretion, order costs, including reasonable attorneys' fees, to
28 be awarded to any party: (a) From any party to the proceedings; (b)
29 from the assets of the estate or trust involved in the proceedings;
30 or (c) from any nonprobate asset that is the subject of the
31 proceedings. The court may order the costs, including reasonable
32 attorneys' fees, to be paid in such amount and in such manner as the
33 court determines to be equitable. In exercising its discretion under
34 this section, the court may consider any and all factors that it
35 deems to be relevant and appropriate, which factors may but need not
36 include whether the litigation benefits the estate or trust involved.

37 (2) This section applies to all proceedings governed by this
38 title, including but not limited to proceedings involving trusts,

1 decedent's estates and properties, and guardianship matters. This
2 section shall not be construed as being limited by any other specific
3 statutory provision providing for the payment of costs, including RCW
4 11.68.070 and 11.24.050, unless such statute specifically provides
5 otherwise. This section shall apply to matters involving guardians
6 and guardians ad litem (~~and shall not be limited or controlled by~~
7 ~~the provisions of RCW 11.88.090(10)~~).

8 **Sec. 718.** RCW 11.96A.220 and 1999 c 42 s 402 are each amended to
9 read as follows:

10 RCW 11.96A.210 through 11.96A.250 shall be applicable to the
11 resolution of any matter, as defined by RCW 11.96A.030, other than
12 matters subject to chapter (~~11.88 or 11.92~~) 11.130 RCW, or a trust
13 for a minor or other incapacitated person created at its inception by
14 the judgment or decree of a court unless the judgment or decree
15 provides that RCW 11.96A.210 through 11.96A.250 shall be applicable.
16 If all parties agree to a resolution of any such matter, then the
17 agreement shall be evidenced by a written agreement signed by all
18 parties. Subject to the provisions of RCW 11.96A.240, the written
19 agreement shall be binding and conclusive on all persons interested
20 in the estate or trust. The agreement shall identify the subject
21 matter of the dispute and the parties. If the agreement or a
22 memorandum of the agreement is to be filed with the court under RCW
23 11.96A.230, the agreement may, but need not, include provisions
24 specifically addressing jurisdiction, governing law, the waiver of
25 notice of the filing as provided in RCW 11.96A.230, and the discharge
26 of any special representative who has acted with respect to the
27 agreement.

28 If a party who virtually represents another under RCW 11.96A.120
29 signs the agreement, then the party's signature constitutes the
30 signature of all persons whom the party virtually represents, and all
31 the virtually represented persons shall be bound by the agreement.

32 **Sec. 719.** RCW 11.103.030 and 2016 c 209 s 404 are each amended
33 to read as follows:

34 (1) Unless the terms of a trust expressly provide that the trust
35 is revocable, the trustor may not revoke or amend the trust.

36 (2) If a revocable trust is created or funded by more than one
37 trustor and unless the trust agreement provides otherwise:

1 (a) To the extent the trust consists of community property, the
2 trust may be revoked by either spouse or either domestic partner
3 acting alone but may be amended only by joint action of both spouses
4 or both domestic partners;

5 (b) To the extent the trust consists of property other than
6 community property, each trustor may revoke or amend the trust with
7 regard to the portion of the trust property attributable to that
8 trustor's contribution;

9 (c) The character of community property or separate property is
10 unaffected by its transfer to and from a revocable trust; and

11 (d) Upon the revocation or amendment of the trust by fewer than
12 all of the trustors, the trustee must promptly notify the other
13 trustors of the revocation or amendment.

14 (3) The trustor may revoke or amend a revocable trust:

15 (a) By substantial compliance with a method provided in the terms
16 of the trust; or

17 (b) (i) If the terms of the trust do not provide a method or the
18 method provided in the terms is not expressly made exclusive, by:

19 (A) A later will or codicil that expressly refers to the trust or
20 specifically devises property that would otherwise have passed
21 according to the terms of the trust; or

22 (B) A written instrument signed by the trustor evidencing intent
23 to revoke or amend.

24 (ii) The requirements of chapter 11.11 RCW do not apply to
25 revocation or amendment of a revocable trust under (b) (i) of this
26 subsection.

27 (4) Upon revocation of a revocable trust, the trustee must
28 deliver the trust property as the trustor directs.

29 (5) A trustor's powers with respect to the revocation or
30 amendment of a trust or distribution of the property of a trust may
31 be exercised by the trustor's agent under a power of attorney only to
32 the extent specified in the power of attorney document, as provided
33 in RCW 11.125.240 and to the extent consistent with or expressly
34 authorized by the trust agreement.

35 (6) A (~~guardian~~) conservator of the trustor may exercise a
36 trustor's powers with respect to revocation, amendment, or
37 distribution of trust property only with the approval of the court
38 supervising the guardianship pursuant to (~~RCW 11.92.140~~) chapter
39 11.130 RCW.

1 (7) A trustee who does not know that a trust has been revoked or
2 amended is not liable to the trustor or trustor's successors in
3 interest for distributions made and other actions taken on the
4 assumption that the trust had not been amended or revoked.

5 (8) This section does not limit or affect operation of RCW
6 11.96A.220 through 11.96A.240.

7 **Sec. 720.** RCW 11.107.060 and 2017 c 29 s 6 are each amended to
8 read as follows:

9 (1) The definitions in this subsection apply throughout this
10 section unless the context clearly requires otherwise.

11 (a) "Beneficiary with a disability" means a beneficiary of the
12 first trust who the trustee believes may qualify for governmental
13 benefits based on disability, whether or not the beneficiary
14 currently receives those benefits or is an individual who (~~is~~
15 ~~incapacitated within the meaning of RCW 11.88.010~~) has been placed
16 under a guardianship or conservatorship under chapter 11.130 RCW.

17 (b) "Governmental benefits" means financial aid or services from
18 a state, federal, or other public agency.

19 (c) "Special needs trust" means a trust the trustee believes
20 would not be considered a resource for purposes of determining
21 whether the beneficiary with a disability is eligible for
22 governmental benefits.

23 (2) A trustee may exercise the decanting power under RCW
24 11.107.020 and 11.107.030 over the property of the first trust as if
25 the trustee had authority to distribute principal to a beneficiary
26 with a disability subject to expanded discretion if:

27 (a) The second trust is a special needs trust that benefits the
28 beneficiary with a disability; and

29 (b) The trustee determines that exercise of the decanting power
30 will further the purposes of the first trust.

31 (3) In an exercise of the decanting power under this section, the
32 following rules apply:

33 (a) The provisions of the second trust for a beneficiary with a
34 disability may:

35 (i) Meet the medicaid law requirements for an account in a pooled
36 trust for a beneficiary with a disability under 42 U.S.C. Sec.
37 1369p(d)(4)(C), as amended, including requiring a payback to the
38 state of medicaid expenditures of funds not retained by the pooled
39 trust; or

1 (ii) Meet the medicaid law requirements for a trust for the sole
2 benefit of a beneficiary with a disability under age sixty-five under
3 42 U.S.C. Sec. 1369(d)(4)(A), as amended, including requiring a
4 payback to the state of medicaid expenditures.

5 (b) RCW 11.107.020(1)(a)(iii) does not apply to the interests of
6 the beneficiary with a disability.

7 (c) Except as affected by any change to the interests of the
8 beneficiary with a disability, the second trusts, in the aggregate,
9 must grant each other beneficiary of the first trust beneficial
10 interests in the second trusts which are substantially similar to the
11 beneficiary's beneficial interests in the first trust unless
12 inconsistent with (a)(i) or (ii) of this subsection (3).

13 **Sec. 721.** RCW 11.120.140 and 2016 c 140 s 14 are each amended to
14 read as follows:

15 (1) Unless otherwise ordered by the court, a guardian or
16 conservator appointed (~~(due to a finding of incapacity under RCW~~
17 ~~11.88.010(1))~~) under chapter 11.130 RCW has the right to access an
18 incapacitated person's digital assets other than the content of
19 electronic communications.

20 (2) Unless otherwise ordered by the court or directed by the
21 user, a custodian shall disclose to a guardian the catalogue of
22 electronic communications sent or received by an incapacitated person
23 and any digital assets, other than the content of electronic
24 communications, if the guardian gives the custodian:

25 (a) A written request for disclosure in physical or electronic
26 form;

27 (b) Certified copies of letters of guardianship and the court
28 order appointing the guardian; and

29 (c) If requested by the custodian:

30 (i) A number, user name, address, or other unique subscriber or
31 account identifier assigned by the custodian to identify the account
32 of the person; or

33 (ii) Evidence linking the account to the incapacitated person.

34 (3) A guardian may request a custodian of the incapacitated
35 person's digital assets to suspend or terminate an account of the
36 incapacitated person for good cause. A request made under this
37 section must be accompanied by certified copies of letters of
38 guardianship and the court order appointing the guardian.

1 **Sec. 722.** RCW 11.125.400 and 2016 c 209 s 217 are each amended
2 to read as follows:

3 Unless the power of attorney otherwise provides, where language
4 in a power of attorney grants general authority with respect to
5 health care matters:

6 (1) The agent shall be authorized to act as the principal's
7 personal representative pursuant to the health insurance portability
8 and accountability act, sections 1171 through 1179 of the social
9 security act, 42 U.S.C. Sec. 1320d, as amended, and applicable
10 regulations for all purposes thereunder, including but not limited to
11 accessing and acquiring the principal's health care related
12 information.

13 (2) The agent shall be authorized to provide informed consent for
14 health care decisions on the principal's behalf. If a principal has
15 appointed more than one agent with authority to make mental health
16 treatment decisions in accordance with a directive under chapter
17 71.32 RCW, to the extent of any conflict, the most recently appointed
18 agent shall be treated as the principal's agent for mental health
19 treatment decisions unless provided otherwise in either appointment.

20 (3) Unless he or she is the spouse, state registered domestic
21 partner, father or mother, or adult child or brother or sister of the
22 principal, none of the following persons may act as the agent for the
23 principal: Any of the principal's physicians, the physicians'
24 employees, or the owners, administrators, or employees of the health
25 care facility or long-term care facility as defined in RCW 43.190.020
26 where the principal resides or receives care. Except when the
27 principal has consented in a mental health advance directive executed
28 under chapter 71.32 RCW to inpatient admission or electroconvulsive
29 therapy, this authorization is subject to the same limitations as
30 those that apply to a guardian under (~~(RCW 11.92.043(5) (a) through~~
31 ~~(e) and 11.92.190)~~) chapter 11.130 RCW.

32 **Sec. 723.** RCW 11.125.410 and 2016 c 209 s 218 are each amended
33 to read as follows:

34 Unless the power of attorney otherwise provides, the following
35 general provisions shall apply to any power of attorney making
36 reference to the care of the principal's minor children:

37 (1) A parent or guardian, through a power of attorney, may
38 authorize an agent to make health care decisions on behalf of one or
39 more of his or her children, or children for whom he or she is the

1 legal guardian, who are under the age of majority as defined in RCW
2 26.28.015, to be effective if the child has no other parent or legal
3 representative readily available and authorized to give such consent.

4 (2) A principal may further nominate a guardian or guardians of
5 the person, or of the estate or both, of a minor child, whether born
6 at the time of making the durable power of attorney or afterwards, to
7 continue during the disability of the principal, during the minority
8 of the child or for any less time by including such a provision in
9 his or her power of attorney.

10 (3) The authority of any guardian of the person of any minor
11 child shall supersede the authority of a designated agent to make
12 health care decisions for the minor only after such designated
13 guardian has been appointed by the court.

14 (4) In the event a conflict between the provisions of a will
15 nominating a testamentary guardian under (~~the authority of RCW~~
16 ~~11.88.080~~) chapter 11.130 RCW and the nomination of a guardian under
17 the authority of this statute, the most recent designation shall
18 control.

19 **Sec. 724.** RCW 13.32A.160 and 2019 c 124 s 1 are each amended to
20 read as follows:

21 (1) When a proper child in need of services petition to approve
22 an out-of-home placement is filed under RCW 13.32A.120, 13.32A.140,
23 or 13.32A.150 the juvenile court shall: (a)(i) Schedule a fact-
24 finding hearing to be held: (A) For a child who resides in a place
25 other than his or her parent's home and other than an out-of-home
26 placement, within five calendar days unless the last calendar day is
27 a Saturday, Sunday, or holiday, in which case the hearing shall be
28 held on the preceding judicial day; or (B) for a child living at home
29 or in an out-of-home placement, within ten days; and (ii) notify the
30 parent, child, and the department of such date; (b) notify the parent
31 of the right to be represented by counsel and, if indigent, to have
32 counsel appointed for him or her by the court; (c) appoint legal
33 counsel for the child; (d) inform the child and his or her parent of
34 the legal consequences of the court approving or disapproving a child
35 in need of services petition; (e) notify the parents of their rights
36 under this chapter and chapters (~~11.88~~) 11.130, 13.34, and 71.34
37 RCW, including the right to file an at-risk youth petition, the right
38 to submit an application for admission of their child to a treatment
39 facility for alcohol, chemical dependency, or mental health

1 treatment, and the right to file a guardianship petition; and (f)
2 notify all parties, including the department, of their right to
3 present evidence at the fact-finding hearing.

4 (2) Upon filing of a child in need of services petition, the
5 child may be placed, if not already placed, by the department in a
6 crisis residential center, HOPE center, foster family home, group
7 home facility licensed under chapter 74.15 RCW, or any other suitable
8 residence to be determined by the department. The court may place a
9 child in a crisis residential center for a temporary out-of-home
10 placement as long as the requirements of RCW 13.32A.125 are met.

11 (3) If the child has been placed in a foster family home or group
12 care facility under chapter 74.15 RCW, the child shall remain there,
13 or in any other suitable residence as determined by the department,
14 pending resolution of the petition by the court. Any placement may be
15 reviewed by the court within three judicial days upon the request of
16 the juvenile or the juvenile's parent.

17 **Sec. 725.** RCW 13.34.270 and 2019 c 470 s 1 are each amended to
18 read as follows:

19 (1) Whenever the department of social and health services places
20 a child with a developmental disability in out-of-home care pursuant
21 to RCW 74.13.350, the department shall obtain a judicial
22 determination within one hundred eighty days of the placement that
23 continued placement is in the best interests of the child. If the
24 child's out-of-home placement ends before one hundred eighty days
25 have elapsed, no judicial determination is required.

26 (2) To obtain the judicial determination, the department shall
27 file a petition alleging that there is located or residing within the
28 county a child who has a developmental disability and that the child
29 has been placed in out-of-home care pursuant to RCW 74.13.350. The
30 petition shall request that the court review the child's placement,
31 make a determination whether continued placement is in the best
32 interests of the child, and take other necessary action as provided
33 in this section. The petition shall contain the name, date of birth,
34 and residence of the child and the names and residences of the
35 child's parent or legal guardian who has agreed to the child's
36 placement in out-of-home care. Reasonable attempts shall be made by
37 the department to ascertain and set forth in the petition the
38 identity, location, and custodial status of any parent who is not a

1 party to the placement agreement and why that parent cannot assume
2 custody of the child.

3 (3) Upon filing of the petition, the clerk of the court shall
4 schedule the petition for a hearing to be held no later than fourteen
5 calendar days after the petition has been filed. The department shall
6 provide notification of the time, date, and purpose of the hearing to
7 the parent or legal guardian who has agreed to the child's placement
8 in out-of-home care. The department shall also make reasonable
9 attempts to notify any parent who is not a party to the placement
10 agreement, if the parent's identity and location is known.
11 Notification under this section may be given by the most expedient
12 means, including but not limited to, mail, personal service, and
13 telephone.

14 (4) The court shall appoint a guardian ad litem for the child as
15 provided in RCW 13.34.100, unless the court for good cause finds the
16 appointment unnecessary.

17 (5) Permanency planning hearings shall be held as provided in
18 this section. At the hearing, the court shall review whether the
19 child's best interests are served by continued out-of-home placement
20 and determine the future legal status of the child.

21 (a) For children age ten and under, a permanency planning hearing
22 shall be held in all cases where the child has remained in out-of-
23 home care for at least nine months and an adoption decree or
24 guardianship order under chapter (~~11.88~~) 11.130 RCW has not
25 previously been entered. The hearing shall take place no later than
26 twelve months following commencement of the child's current placement
27 episode.

28 (b) For children over age ten, a permanency planning hearing
29 shall be held in all cases where the child has remained in out-of-
30 home care for at least fifteen months and an adoption decree or
31 guardianship order under chapter (~~11.88~~) 11.130 RCW has not
32 previously been entered. The hearing shall take place no later than
33 eighteen months following commencement of the current placement
34 episode.

35 (c) No later than ten working days before the permanency planning
36 hearing, the department shall submit a written permanency plan to the
37 court and shall mail a copy of the plan to all parties. The plan
38 shall be directed toward securing a safe, stable, and permanent home
39 for the child as soon as possible. The plan shall identify one of the
40 following outcomes as the primary goal and may also identify

1 additional outcomes as alternative goals: Return of the child to the
2 home of the child's parent or legal guardian; adoption; guardianship;
3 or long-term out-of-home care, until the child is age eighteen, with
4 a written agreement between the parties and the child's care
5 provider.

6 (d) If a goal of long-term out-of-home care has been achieved
7 before the permanency planning hearing, the court shall review the
8 child's status to determine whether the placement and the plan for
9 the child's care remains appropriate. In cases where the primary
10 permanency planning goal has not been achieved, the court shall
11 inquire regarding the reasons why the primary goal has not been
12 achieved and determine what needs to be done to make it possible to
13 achieve the primary goal.

14 (e) Following the first permanency planning hearing, the court
15 shall hold a further permanency planning hearing in accordance with
16 this section at least once every twelve months until a permanency
17 planning goal is achieved or the voluntary placement agreement is
18 terminated.

19 (6) Any party to the voluntary placement agreement may terminate
20 the agreement at any time. Upon termination of the agreement, the
21 child shall be returned to the care of the child's parent or legal
22 guardian, unless the child has been taken into custody pursuant to
23 RCW 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW
24 13.34.060, or placed in foster care pursuant to RCW 13.34.130. The
25 department shall notify the court upon termination of the voluntary
26 placement agreement and return of the child to the care of the
27 child's parent or legal guardian. Whenever a voluntary placement
28 agreement is terminated, an action under this section shall be
29 dismissed.

30 (7) When state or federal funds are expended for the care and
31 maintenance of a child with a developmental disability, placed in
32 care as a result of an action under this chapter, the department
33 shall refer the case to the division of child support, unless the
34 department finds that there is good cause not to pursue collection of
35 child support against the parent or parents of the child.

36 (8) This section does not prevent the department of children,
37 youth, and families from filing a dependency petition if there is
38 reason to believe that the child is a dependent child as defined in
39 RCW 13.34.030. An action filed under this section shall be dismissed

1 upon the filing of a dependency petition regarding a child who is the
2 subject of the action under this section.

3 (9) For purposes of this section, unless the context clearly
4 requires otherwise, "department" means the department of social and
5 health services.

6 **Sec. 726.** RCW 18.20.020 and 2012 c 10 s 2 are each reenacted and
7 amended to read as follows:

8 The definitions in this section apply throughout this chapter
9 unless the context clearly requires otherwise.

10 (1) "Adult day services" means care and services provided to a
11 nonresident individual by the assisted living facility on the
12 assisted living facility premises, for a period of time not to exceed
13 ten continuous hours, and does not involve an overnight stay.

14 (2) "Assisted living facility" means any home or other
15 institution, however named, which is advertised, announced, or
16 maintained for the express or implied purpose of providing housing,
17 basic services, and assuming general responsibility for the safety
18 and well-being of the residents, and may also provide domiciliary
19 care, consistent with chapter 142, Laws of 2004, to seven or more
20 residents after July 1, 2000. However, an assisted living facility
21 that is licensed for three to six residents prior to or on July 1,
22 2000, may maintain its assisted living facility license as long as it
23 is continually licensed as an assisted living facility. "Assisted
24 living facility" shall not include facilities certified as group
25 training homes pursuant to RCW 71A.22.040, nor any home, institution
26 or section thereof which is otherwise licensed and regulated under
27 the provisions of state law providing specifically for the licensing
28 and regulation of such home, institution or section thereof. Nor
29 shall it include any independent senior housing, independent living
30 units in continuing care retirement communities, or other similar
31 living situations including those subsidized by the department of
32 housing and urban development.

33 (3) "Basic services" means housekeeping services, meals,
34 nutritious snacks, laundry, and activities.

35 (4) "Department" means the state department of social and health
36 services.

37 (5) "Domiciliary care" means: Assistance with activities of daily
38 living provided by the assisted living facility either directly or
39 indirectly; or health support services, if provided directly or

1 indirectly by the assisted living facility; or intermittent nursing
2 services, if provided directly or indirectly by the assisted living
3 facility.

4 (6) "General responsibility for the safety and well-being of the
5 resident" means the provision of the following: Prescribed general
6 low sodium diets; prescribed general diabetic diets; prescribed
7 mechanical soft foods; emergency assistance; monitoring of the
8 resident; arranging health care appointments with outside health care
9 providers and reminding residents of such appointments as necessary;
10 coordinating health care services with outside health care providers
11 consistent with RCW 18.20.380; assisting the resident to obtain and
12 maintain glasses, hearing aids, dentures, canes, crutches, walkers,
13 wheelchairs, and assistive communication devices; observation of the
14 resident for changes in overall functioning; blood pressure checks as
15 scheduled; responding appropriately when there are observable or
16 reported changes in the resident's physical, mental, or emotional
17 functioning; or medication assistance as permitted under RCW
18 69.41.085 and as defined in RCW 69.41.010.

19 (7) "Legal representative" means a person or persons identified
20 in RCW 7.70.065 who may act on behalf of the resident pursuant to the
21 scope of their legal authority. The legal representative shall not be
22 affiliated with the licensee, assisted living facility, or management
23 company, unless the affiliated person is a family member of the
24 resident.

25 (8) "Nonresident individual" means a person who resides in
26 independent senior housing, independent living units in continuing
27 care retirement communities, or in other similar living environments
28 or in an unlicensed room located within an assisted living facility.
29 Nothing in this chapter prohibits nonresidents from receiving one or
30 more of the services listed in RCW 18.20.030(5) or requires licensure
31 as an assisted living facility when one or more of the services
32 listed in RCW 18.20.030(5) are provided to nonresidents. A
33 nonresident individual may not receive domiciliary care, as defined
34 in this chapter, directly or indirectly by the assisted living
35 facility and may not receive the items and services listed in
36 subsection (6) of this section, except during the time the person is
37 receiving adult day services as defined in this section.

38 (9) "Person" means any individual, firm, partnership,
39 corporation, company, association, or joint stock association, and
40 the legal successor thereof.

1 (10) "Resident" means an individual who is not related by blood
2 or marriage to the operator of the assisted living facility, and by
3 reason of age or disability, chooses to reside in the assisted living
4 facility and receives basic services and one or more of the services
5 listed under general responsibility for the safety and well-being of
6 the resident and may receive domiciliary care or respite care
7 provided directly or indirectly by the assisted living facility and
8 shall be permitted to receive hospice care through an outside service
9 provider when arranged by the resident or the resident's legal
10 representative under RCW 18.20.380.

11 (11) "Resident applicant" means an individual who is seeking
12 admission to a licensed assisted living facility and who has
13 completed and signed an application for admission, or such
14 application for admission has been completed and signed in their
15 behalf by their legal representative if any, and if not, then the
16 designated representative if any.

17 (12) "Resident's representative" means a person designated
18 voluntarily by a competent resident, in writing, to act in the
19 resident's behalf concerning the care and services provided by the
20 assisted living facility and to receive information from the assisted
21 living facility, if there is no legal representative. The resident's
22 competence shall be determined using the criteria in ((RCW
23 ~~11.88.010(1)(e)~~) chapter 11.130 RCW. The resident's representative
24 may not be affiliated with the licensee, assisted living facility, or
25 management company, unless the affiliated person is a family member
26 of the resident. The resident's representative shall not have
27 authority to act on behalf of the resident once the resident is no
28 longer competent.

29 (13) "Secretary" means the secretary of social and health
30 services.

31 **Sec. 727.** RCW 25.15.131 and 2015 c 188 s 28 are each amended to
32 read as follows:

33 (1) A person is dissociated as a member of a limited liability
34 company upon the occurrence of one or more of the following events:

35 (a) The member dies or withdraws by voluntary act from the
36 limited liability company as provided in subsection (2) of this
37 section;

38 (b) The transfer of all of the member's transferable interest in
39 the limited liability company;

1 (c) The member is removed as a member in accordance with the
2 limited liability company agreement;

3 (d) The occurrence of an event upon which the member ceases to be
4 a member under the limited liability company agreement;

5 (e) The person is a corporation, limited liability company,
6 general partnership, or limited partnership, and the person is
7 removed as a member by the unanimous consent of the other members,
8 which may be done under this subsection (1)(e) only if:

9 (i) The person has filed articles of dissolution, a certificate
10 of dissolution or the equivalent, or the person has been
11 administratively or judicially dissolved, or its right to conduct
12 business has been suspended or revoked by the jurisdiction of its
13 incorporation, or the person has otherwise been dissolved; and

14 (ii) The dissolution has not been revoked or the person or its
15 right to conduct business has not been reinstated within ninety days
16 after the limited liability company notifies the person that it will
17 be removed as a member for any reason identified in (e)(i) of this
18 subsection;

19 (f) Unless all other members otherwise agree at the time, the
20 member (i) makes a general assignment for the benefit of creditors;

21 (ii) files a voluntary petition in bankruptcy; (iii) becomes the
22 subject of an order for relief in bankruptcy proceedings; (iv) files
23 a petition or answer seeking for the member any reorganization,
24 arrangement, composition, readjustment, liquidation, dissolution, or
25 similar relief under any statute, law, or regulation; (v) files an
26 answer or other pleading admitting or failing to contest the material
27 allegations of a petition filed against the member in any proceeding
28 of the nature described in (f)(i) through (iv) of this subsection; or
29 (vi) seeks, consents to, or acquiesces in the appointment of a
30 trustee, receiver, or liquidator of the member or of all or any
31 substantial part of the member's properties;

32 (g) Unless all other members otherwise agree at the time, if
33 within one hundred twenty days after the commencement of any
34 proceeding against the member seeking reorganization, arrangement,
35 composition, readjustment, liquidation, dissolution, or similar
36 relief under any statute, law, or regulation, the proceeding has not
37 been dismissed, or if within ninety days after the appointment
38 without his or her consent or acquiescence of a trustee, receiver, or
39 liquidator of the member or of all or any substantial part of the
40 member's properties, the appointment is not vacated or stayed, or

1 within ninety days after the expiration of any stay, the appointment
2 is not vacated; or

3 (h) Unless all other members otherwise agree at the time, in the
4 case of a member who is an individual, the entry of an order by a
5 court of competent jurisdiction adjudicating the member
6 (~~incapacitated, as used and defined under chapter 11.88 RCW, as to~~
7 ~~his or her estate~~) as being subject to a conservatorship under RCW
8 11.130.360.

9 (2) A member may withdraw from a limited liability company at the
10 time or upon the happening of events specified in and in accordance
11 with the limited liability company agreement. If the limited
12 liability company agreement does not specify the time or the events
13 upon the happening of which a member may withdraw, a member may not
14 withdraw from the limited liability company without the written
15 consent of all other members.

16 (3) When a person is dissociated as a member of a limited
17 liability company:

18 (a) The person's right to participate as a member in the
19 management and conduct of the limited liability company's activities
20 terminates;

21 (b) If the limited liability company is member-managed, the
22 person's fiduciary duties as a member end with regard to matters
23 arising and events occurring after the person's dissociation; and

24 (c) Subject to subsection (5) of this section, any transferable
25 interest owned by the person immediately before dissociation in the
26 person's capacity as a member is owned by the person solely as a
27 transferee.

28 (4) A person's dissociation as a member of a limited liability
29 company does not of itself discharge the person from any debt,
30 obligation, or other liability to the limited liability company or
31 the other members which the person incurred while a member.

32 (5) If a member dies, the deceased member's personal
33 representative or other legal representative may exercise the rights
34 of a transferee provided in RCW 25.15.251 and, for the purposes of
35 settling the estate, the rights of a current member under RCW
36 25.15.136.

37 **Sec. 728.** RCW 29A.08.515 and 2004 c 267 s 125 are each amended
38 to read as follows:

1 Upon receiving official notice that a court has imposed a
2 guardianship for (~~an incapacitated~~) a person under RCW 11.130.265
3 and has determined that the person is incompetent for the purpose of
4 rationally exercising the right to vote, (~~under chapter 11.88 RCW,~~)
5 if the (~~incapacitated~~) person subject to guardianship is a
6 registered voter in the county, the county auditor shall cancel (~~the~~
7 ~~incapacitated~~) that person's voter registration.

8 **Sec. 729.** RCW 70.58A.010 and 2019 c 148 s 2 are each amended to
9 read as follows:

10 The definitions in this section apply throughout this chapter
11 unless the context clearly requires otherwise.

12 (1) "Adult" means a person who is at least eighteen years of age,
13 or an emancipated minor under chapter 13.64 RCW.

14 (2) "Amendment" means a change to a certification item on the
15 vital record.

16 (3) "Authorized representative" means a person permitted to
17 receive a certification who is:

18 (a) Identified in a notarized statement signed by a qualified
19 applicant; or

20 (b) An agent identified in a power of attorney as defined in
21 chapter 11.125 RCW.

22 (4) "Certification" means the document, in either paper or
23 electronic format, containing all or part of the information
24 contained in the original vital record from which the document is
25 derived, and is issued from the central vital records system. A
26 certification includes an attestation by the state or local registrar
27 to the accuracy of information, and has the full force and effect of
28 the original vital record.

29 (5) "Certification item" means any item of information that
30 appears on certifications.

31 (6) "Coroner" means the person elected or appointed in a county
32 under chapter 36.16 RCW to serve as the county coroner and fulfill
33 the responsibilities established under chapter 36.24 RCW.

34 (7) "Cremated remains" has the same meaning as "cremated human
35 remains" in chapter 68.04 RCW.

36 (8) "Delayed report of live birth" means the report submitted to
37 the department for the purpose of registering the live birth of a
38 person born in state that was not registered within one year of the
39 date of live birth.

1 (9) "Department" means the department of health.

2 (10) "Domestic partner" means a party to a state registered
3 domestic partnership established under chapter 26.60 RCW.

4 (11) "Facility" means any licensed establishment, public or
5 private, located in state, which provides inpatient or outpatient
6 medical, surgical, or diagnostic care or treatment; or nursing,
7 custodial, or domiciliary care. The term also includes establishments
8 to which persons are committed by law including, but not limited to:

9 (a) Mental illness detention facilities designated to assess,
10 diagnose, and treat individuals detained or committed, under chapter
11 71.05 RCW;

12 (b) City and county jails;

13 (c) State department of corrections facilities; and

14 (d) Juvenile correction centers governed by Title 72 RCW.

15 (12) "Fetal death" means any product of conception that shows no
16 evidence of life, such as breathing, beating of the heart, pulsation
17 of the umbilical cord, or definite movement of voluntary muscles
18 after complete expulsion or extraction from the individual who gave
19 birth that is not an induced termination of pregnancy and:

20 (a) Has completed twenty or more weeks of gestation as calculated
21 from the date the last menstrual period of the individual who gave
22 birth began, to the date of expulsion or extraction; or

23 (b) Weighs three hundred fifty grams or more, if weeks of
24 gestation are not known.

25 (13) "Final disposition" means the burial, interment, entombment,
26 cremation, removal from the state, or other manner of disposing of
27 human remains as authorized under chapter 68.50 RCW.

28 (14) "Funeral director" means a person licensed under chapter
29 18.39 RCW as a funeral director.

30 (15) "Funeral establishment" means a place of business licensed
31 under chapter 18.39 RCW as a funeral establishment.

32 (16) "Government agencies" include state boards, commissions,
33 committees, departments, educational institutions, or other state
34 agencies which are created by or pursuant to statute, other than
35 courts and the legislature; county or city agencies, United States
36 federal agencies, and federally recognized tribes and tribal
37 organizations.

38 (17) "Human remains" means the body of a deceased person,
39 includes the body in any stage of decomposition, and includes
40 cremated human remains, but does not include human remains that are

1 or were at any time under the jurisdiction of the state physical
2 anthropologist under chapter 27.44 RCW.

3 (18) "Individual" means a natural person.

4 (19) "Induced termination of pregnancy" means the purposeful
5 interruption of an intrauterine pregnancy with an intention other
6 than to produce a live-born infant, and which does not result in a
7 live birth.

8 (20) "Informational copy" means a birth or death record issued
9 from the central vital records system, containing all or part of the
10 information contained in the original vital record from which the
11 document is derived, and indicating it cannot be used for legal
12 purposes on its face.

13 (21) "Legal guardian" means a person who serves as a guardian for
14 the purpose of either legal or custodial matters, or both, relating
15 to the person for whom the guardian is appointed. The term legal
16 guardian includes, but is not limited to, guardians appointed
17 pursuant to chapters (~~11.88~~) 11.130 and 13.36 RCW.

18 (22) "Legal representative" means a licensed attorney
19 representing either the subject of the record or qualified applicant.

20 (23) "Live birth" means the complete expulsion or extraction of a
21 product of human conception from the individual who gave birth,
22 irrespective of the duration of pregnancy, which, after such
23 expulsion or extraction, breathes or shows any other evidence of
24 life, such as beating of the heart, pulsation of the umbilical cord,
25 or definite movement of voluntary muscles.

26 (24) "Local health officer" has the same meaning as in chapter
27 70.05 RCW.

28 (25) "Medical certifier" for a death or fetal death means an
29 individual required to attest to the cause of death information
30 provided on a report of death or fetal death. Each individual
31 certifying cause of death or fetal death may certify cause of death
32 only as permitted by that individual's professional scope of
33 practice. These individuals include:

34 (a) A physician, physician's assistant, or an advanced registered
35 nurse practitioner last in attendance at death or who treated the
36 decedent through examination, medical advice, or medications within
37 the twelve months preceding the death;

38 (b) A midwife, only in cases of fetal death; and

1 (c) A physician performing an autopsy, when the decedent was not
2 treated within the last twelve months and the person died a natural
3 death.

4 (26) "Medical examiner" means the person appointed under chapter
5 36.24 RCW to fulfill the responsibilities established under chapter
6 36.24 RCW.

7 (27) "Midwife" means a person licensed to practice midwifery
8 pursuant to chapter 18.50 RCW.

9 (28) "Physician" means a person licensed to practice medicine,
10 naturopathy, or osteopathy pursuant to Title 18 RCW.

11 (29) "Registration" or "register" means the process by which a
12 report is approved and incorporated as a vital record into the vital
13 records system.

14 (30) "Registration date" means the month, day, and year a report
15 is incorporated into the vital records system.

16 (31) "Report" means an electronic or paper document containing
17 information related to a vital life event for the purpose of
18 registering the vital life event.

19 (32) "Sealed record" means the original record of a vital life
20 event and the evidence submitted to support a change to the original
21 record.

22 (33) "Secretary" means the secretary of the department of health.

23 (34) "State" means Washington state unless otherwise specified.

24 (35) "State registrar" means the person appointed by the
25 secretary to administer the vital records system under RCW
26 70.58A.030.

27 (36) "Territory of the United States" means American Samoa, the
28 Commonwealth of the Northern Mariana Islands, the Commonwealth of
29 Puerto Rico, Guam, and the United States Virgin Islands.

30 (37) "Vital life event" means a birth, death, fetal death,
31 marriage, dissolution of marriage, dissolution of domestic
32 partnership, declaration of invalidity of marriage, declaration of
33 invalidity of domestic partnership, and legal separation.

34 (38) "Vital record" or "record" means a report of a vital life
35 event that has been registered and supporting documentation.

36 (39) "Vital records system" means the statewide system created,
37 operated, and maintained by the department under this chapter.

38 (40) "Vital statistics" means the aggregated data derived from
39 vital records, including related reports, and supporting
40 documentation.

1 **Sec. 730.** RCW 70.97.040 and 2013 c 23 s 179 are each amended to
2 read as follows:

3 (1) (a) Every person who is a resident of an enhanced services
4 facility shall be entitled to all the rights set forth in this
5 chapter, and chapters 71.05 and 70.96A RCW, and shall retain all
6 rights not denied him or her under these chapters.

7 (b) No person shall be presumed incompetent as a consequence of
8 receiving an evaluation or voluntary or involuntary treatment for a
9 mental disorder, chemical dependency disorder, or both, under this
10 chapter, or chapter 71.05 or 70.96A RCW, or any prior laws of this
11 state dealing with mental illness. Competency shall not be determined
12 or withdrawn except under the provisions of chapter 10.77 or
13 (~~11.88~~) 11.130 RCW.

14 (c) At the time of his or her treatment planning meeting, every
15 resident of an enhanced services facility shall be given a written
16 statement setting forth the substance of this section. The department
17 shall by rule develop a statement and process for informing residents
18 of their rights in a manner that is likely to be understood by the
19 resident.

20 (2) Every resident of an enhanced services facility shall have
21 the right to adequate care and individualized treatment.

22 (3) The provisions of this chapter shall not be construed to deny
23 to any person treatment by spiritual means through prayer in
24 accordance with the tenets and practices of a church or religious
25 denomination.

26 (4) Persons receiving evaluation or treatment under this chapter
27 shall be given a reasonable choice of an available physician or other
28 professional person qualified to provide such services.

29 (5) The physician-patient privilege or the psychologist-client
30 privilege shall be deemed waived in proceedings under this chapter
31 relating to the administration of antipsychotic medications. As to
32 other proceedings under chapter 10.77, 70.96A, or 71.05 RCW, the
33 privileges shall be waived when a court of competent jurisdiction in
34 its discretion determines that such waiver is necessary to protect
35 either the detained person or the public.

36 (6) Insofar as danger to the person or others is not created,
37 each resident of an enhanced services facility shall have, in
38 addition to other rights not specifically withheld by law, the
39 following rights, a list of which shall be prominently posted in all
40 facilities, institutions, and hospitals providing such services:

1 (a) To wear his or her own clothes and to keep and use his or her
2 own personal possessions, except when deprivation of same is
3 essential to protect the safety of the resident or other persons;

4 (b) To keep and be allowed to spend a reasonable sum of his or
5 her own money for canteen expenses and small purchases;

6 (c) To have access to individual storage space for his or her
7 private use;

8 (d) To have visitors at reasonable times;

9 (e) To have reasonable access to a telephone, both to make and
10 receive confidential calls, consistent with an effective treatment
11 program;

12 (f) To have ready access to letter writing materials, including
13 stamps, and to send and receive uncensored correspondence through the
14 mails;

15 (g) Not to consent to the administration of antipsychotic
16 medications beyond the hearing conducted pursuant to RCW 71.05.215 or
17 71.05.217, or the performance of electroconvulsant therapy, or
18 surgery, except emergency lifesaving surgery, unless ordered by a
19 court under RCW 71.05.217;

20 (h) To discuss and actively participate in treatment plans and
21 decisions with professional persons;

22 (i) Not to have psychosurgery performed on him or her under any
23 circumstances;

24 (j) To dispose of property and sign contracts unless such person
25 has been adjudicated an incompetent in a court proceeding directed to
26 that particular issue; and

27 (k) To complain about rights violations or conditions and request
28 the assistance of a mental health ombuds or representative of
29 Washington protection and advocacy. The facility may not prohibit or
30 interfere with a resident's decision to consult with an advocate of
31 his or her choice.

32 (7) Nothing contained in this chapter shall prohibit a resident
33 from petitioning by writ of habeas corpus for release.

34 (8) Nothing in this section permits any person to knowingly
35 violate a no-contact order or a condition of an active judgment and
36 sentence or active supervision by the department of corrections.

37 (9) A person has a right to refuse placement, except where
38 subject to commitment, in an enhanced services facility. No person
39 shall be denied other department services solely on the grounds that
40 he or she has made such a refusal.

1 (10) A person has a right to appeal the decision of the
2 department that he or she is eligible for placement at an enhanced
3 services facility, and shall be given notice of the right to appeal
4 in a format that is accessible to the person with instructions
5 regarding what to do if the person wants to appeal.

6 **Sec. 731.** RCW 71.05.360 and 2019 c 446 s 13 are each amended to
7 read as follows:

8 (1)(a) Every person involuntarily detained or committed under the
9 provisions of this chapter shall be entitled to all the rights set
10 forth in this chapter, which shall be prominently posted in the
11 facility, and shall retain all rights not denied him or her under
12 this chapter except as chapter 9.41 RCW may limit the right of a
13 person to purchase or possess a firearm or to qualify for a concealed
14 pistol license if the person is committed under RCW 71.05.240 or
15 71.05.320 for mental health treatment.

16 (b) No person shall be presumed incompetent as a consequence of
17 receiving an evaluation or voluntary or involuntary treatment for a
18 mental disorder or substance use disorder, under this chapter or any
19 prior laws of this state dealing with mental illness or substance use
20 disorders. Competency shall not be determined or withdrawn except
21 under the provisions of chapter 10.77 or (~~11.88~~) 11.130 RCW.

22 (c) Any person who leaves a public or private agency following
23 evaluation or treatment for a mental disorder or substance use
24 disorder shall be given a written statement setting forth the
25 substance of this section.

26 (2) Each person involuntarily detained or committed pursuant to
27 this chapter shall have the right to adequate care and individualized
28 treatment.

29 (3) The provisions of this chapter shall not be construed to deny
30 to any person treatment by spiritual means through prayer in
31 accordance with the tenets and practices of a church or religious
32 denomination.

33 (4) Persons receiving evaluation or treatment under this chapter
34 shall be given a reasonable choice of an available physician,
35 physician assistant, psychiatric advanced registered nurse
36 practitioner, or other professional person qualified to provide such
37 services.

38 (5) Whenever any person is detained for evaluation and treatment
39 pursuant to this chapter, both the person and, if possible, a

1 responsible member of his or her immediate family, personal
2 representative, guardian, or conservator, if any, shall be advised as
3 soon as possible in writing or orally, by the officer or person
4 taking him or her into custody or by personnel of the evaluation and
5 treatment facility, secure withdrawal management and stabilization
6 facility, or approved substance use disorder treatment program where
7 the person is detained that unless the person is released or
8 voluntarily admits himself or herself for treatment within seventy-
9 two hours of the initial detention:

10 (a) A judicial hearing in a superior court, either by a judge or
11 court commissioner thereof, shall be held not more than seventy-two
12 hours after the initial detention to determine whether there is
13 probable cause to detain the person after the seventy-two hours have
14 expired for up to an additional fourteen days without further
15 automatic hearing for the reason that the person is a person whose
16 mental disorder or substance use disorder presents a likelihood of
17 serious harm or that the person is gravely disabled;

18 (b) The person has a right to communicate immediately with an
19 attorney; has a right to have an attorney appointed to represent him
20 or her before and at the probable cause hearing if he or she is
21 indigent; and has the right to be told the name and address of the
22 attorney that the mental health professional has designated pursuant
23 to this chapter;

24 (c) The person has the right to remain silent and that any
25 statement he or she makes may be used against him or her;

26 (d) The person has the right to present evidence and to cross-
27 examine witnesses who testify against him or her at the probable
28 cause hearing; and

29 (e) The person has the right to refuse psychiatric medications,
30 including antipsychotic medication beginning twenty-four hours prior
31 to the probable cause hearing.

32 (6) When proceedings are initiated under RCW 71.05.153, no later
33 than twelve hours after such person is admitted to the evaluation and
34 treatment facility, secure withdrawal management and stabilization
35 facility, or approved substance use disorder treatment program the
36 personnel of the facility or the designated crisis responder shall
37 serve on such person a copy of the petition for initial detention and
38 the name, business address, and phone number of the designated
39 attorney and shall forthwith commence service of a copy of the
40 petition for initial detention on the designated attorney.

1 (7) The judicial hearing described in subsection (5) of this
2 section is hereby authorized, and shall be held according to the
3 provisions of subsection (5) of this section and rules promulgated by
4 the supreme court.

5 (8) At the probable cause hearing the detained person shall have
6 the following rights in addition to the rights previously specified:

7 (a) To present evidence on his or her behalf;

8 (b) To cross-examine witnesses who testify against him or her;

9 (c) To be proceeded against by the rules of evidence;

10 (d) To remain silent;

11 (e) To view and copy all petitions and reports in the court file.

12 (9) Privileges between patients and physicians, physician
13 assistants, psychologists, or psychiatric advanced registered nurse
14 practitioners are deemed waived in proceedings under this chapter
15 relating to the administration of antipsychotic medications. As to
16 other proceedings under this chapter, the privileges shall be waived
17 when a court of competent jurisdiction in its discretion determines
18 that such waiver is necessary to protect either the detained person
19 or the public.

20 The waiver of a privilege under this section is limited to
21 records or testimony relevant to evaluation of the detained person
22 for purposes of a proceeding under this chapter. Upon motion by the
23 detained person or on its own motion, the court shall examine a
24 record or testimony sought by a petitioner to determine whether it is
25 within the scope of the waiver.

26 The record maker shall not be required to testify in order to
27 introduce medical or psychological records of the detained person so
28 long as the requirements of RCW 5.45.020 are met except that portions
29 of the record which contain opinions as to the detained person's
30 mental state must be deleted from such records unless the person
31 making such conclusions is available for cross-examination.

32 (10) Insofar as danger to the person or others is not created,
33 each person involuntarily detained, treated in a less restrictive
34 alternative course of treatment, or committed for treatment and
35 evaluation pursuant to this chapter shall have, in addition to other
36 rights not specifically withheld by law, the following rights:

37 (a) To wear his or her own clothes and to keep and use his or her
38 own personal possessions, except when deprivation of same is
39 essential to protect the safety of the resident or other persons;

1 (b) To keep and be allowed to spend a reasonable sum of his or
2 her own money for canteen expenses and small purchases;

3 (c) To have access to individual storage space for his or her
4 private use;

5 (d) To have visitors at reasonable times;

6 (e) To have reasonable access to a telephone, both to make and
7 receive confidential calls, consistent with an effective treatment
8 program;

9 (f) To have ready access to letter writing materials, including
10 stamps, and to send and receive uncensored correspondence through the
11 mails;

12 (g) To discuss treatment plans and decisions with professional
13 persons;

14 (h) Not to consent to the administration of antipsychotic
15 medications and not to thereafter be administered antipsychotic
16 medications unless ordered by a court under RCW 71.05.217 or pursuant
17 to an administrative hearing under RCW 71.05.215;

18 (i) Not to consent to the performance of electroconvulsant
19 therapy or surgery, except emergency lifesaving surgery, unless
20 ordered by a court under RCW 71.05.217;

21 (j) Not to have psychosurgery performed on him or her under any
22 circumstances;

23 (k) To dispose of property and sign contracts unless such person
24 has been adjudicated an incompetent in a court proceeding directed to
25 that particular issue.

26 (11) Every person involuntarily detained shall immediately be
27 informed of his or her right to a hearing to review the legality of
28 his or her detention and of his or her right to counsel, by the
29 professional person in charge of the facility providing evaluation
30 and treatment, or his or her designee, and, when appropriate, by the
31 court. If the person so elects, the court shall immediately appoint
32 an attorney to assist him or her.

33 (12) A person challenging his or her detention or his or her
34 attorney shall have the right to designate and have the court appoint
35 a reasonably available independent physician, physician assistant,
36 psychiatric advanced registered nurse practitioner, or other
37 professional person to examine the person detained, the results of
38 which examination may be used in the proceeding. The person shall, if
39 he or she is financially able, bear the cost of such expert

1 examination, otherwise such expert examination shall be at public
2 expense.

3 (13) Nothing contained in this chapter shall prohibit the patient
4 from petitioning by writ of habeas corpus for release.

5 (14) Nothing in this chapter shall prohibit a person committed on
6 or prior to January 1, 1974, from exercising a right available to him
7 or her at or prior to January 1, 1974, for obtaining release from
8 confinement.

9 (15) Nothing in this section permits any person to knowingly
10 violate a no-contact order or a condition of an active judgment and
11 sentence or an active condition of supervision by the department of
12 corrections.

13 **Sec. 732.** RCW 71.32.020 and 2016 c 209 s 407 are each amended to
14 read as follows:

15 The definitions in this section apply throughout this chapter
16 unless the context clearly requires otherwise.

17 (1) "Adult" means any individual who has attained the age of
18 majority or is an emancipated minor.

19 (2) "Agent" has the same meaning as an attorney-in-fact or agent
20 as provided in chapter 11.125 RCW.

21 (3) "Capacity" means that an adult has not been found to be
22 incapacitated pursuant to this chapter or ~~((RCW 11.88.010(1)(e)))~~
23 subject to a guardianship under RCW 11.130.265.

24 (4) "Court" means a superior court under chapter 2.08 RCW.

25 (5) "Health care facility" means a hospital, as defined in RCW
26 70.41.020; an institution, as defined in RCW 71.12.455; a state
27 hospital, as defined in RCW 72.23.010; a nursing home, as defined in
28 RCW 18.51.010; or a clinic that is part of a community mental health
29 service delivery system, as defined in RCW 71.24.025.

30 (6) "Health care provider" means an osteopathic physician or
31 osteopathic physician's assistant licensed under chapter 18.57 or
32 18.57A RCW, a physician or physician's assistant licensed under
33 chapter 18.71 or 18.71A RCW, or an advanced registered nurse
34 practitioner licensed under RCW 18.79.050.

35 (7) "Incapacitated" means an adult who: (a) Is unable to
36 understand the nature, character, and anticipated results of proposed
37 treatment or alternatives; understand the recognized serious possible
38 risks, complications, and anticipated benefits in treatments and
39 alternatives, including nontreatment; or communicate his or her

1 understanding or treatment decisions; or (b) has been found to be
2 (~~incompetent pursuant to RCW 11.88.010(1)(e))~~) subject to a
3 guardianship under RCW 11.130.265.

4 (8) "Informed consent" means consent that is given after the
5 person: (a) Is provided with a description of the nature, character,
6 and anticipated results of proposed treatments and alternatives, and
7 the recognized serious possible risks, complications, and anticipated
8 benefits in the treatments and alternatives, including nontreatment,
9 in language that the person can reasonably be expected to understand;
10 or (b) elects not to be given the information included in (a) of this
11 subsection.

12 (9) "Long-term care facility" has the same meaning as defined in
13 RCW 43.190.020.

14 (10) "Mental disorder" means any organic, mental, or emotional
15 impairment which has substantial adverse effects on an individual's
16 cognitive or volitional functions.

17 (11) "Mental health advance directive" or "directive" means a
18 written document in which the principal makes a declaration of
19 instructions or preferences or appoints an agent to make decisions on
20 behalf of the principal regarding the principal's mental health
21 treatment, or both, and that is consistent with the provisions of
22 this chapter.

23 (12) "Mental health professional" means a psychiatrist,
24 psychologist, psychiatric nurse, or social worker, and such other
25 mental health professionals as may be defined by rules adopted by the
26 secretary pursuant to the provisions of chapter 71.05 RCW.

27 (13) "Principal" means an adult who has executed a mental health
28 advance directive.

29 (14) "Professional person" means a mental health professional and
30 shall also mean a physician, registered nurse, and such others as may
31 be defined by rules adopted by the secretary pursuant to the
32 provisions of chapter 71.05 RCW.

33 (15) "Social worker" means a person with a master's or further
34 advanced degree from a social work educational program accredited and
35 approved as provided in RCW 18.320.010.

36 **Sec. 733.** RCW 71A.16.030 and 1998 c 216 s 4 are each amended to
37 read as follows:

38 (1) (~~The department will develop an outreach program to ensure~~
39 ~~that any eligible person with developmental disabilities services in~~

1 ~~homes, the community, and residential habilitation centers will be~~
2 ~~made aware of these services. This subsection (1) expires June 30,~~
3 ~~2003.~~

4 ~~(2))~~ The secretary shall establish a single procedure for
5 persons to apply for a determination of eligibility for services
6 provided to persons with developmental disabilities.

7 ~~((3) Until June 30, 2003, the procedure set out under subsection~~
8 ~~(1) of this section must require that all applicants and all persons~~
9 ~~with developmental disabilities currently receiving services from the~~
10 ~~division of developmental disabilities within the department be given~~
11 ~~notice of the existence and availability of residential habilitation~~
12 ~~center and community support services. For genuine choice to exist,~~
13 ~~people must know what the options are. Available options must be~~
14 ~~clearly explained, with services customized to fit the unique needs~~
15 ~~and circumstances of developmentally disabled clients and their~~
16 ~~families. Choice of providers and design of services and supports~~
17 ~~will be determined by the individual in conjunction with the~~
18 ~~department. When the person cannot make these choices, the person's~~
19 ~~legal guardian may make them, consistent with chapter 11.88 or 11.92~~
20 ~~RCW. This subsection expires June 30, 2003.~~

21 ~~(4))~~ (2) An application may be submitted by a person with a
22 developmental disability, by the legal representative of a person
23 with a developmental disability, or by any other person who is
24 authorized by rule of the secretary to submit an application.

25 **Sec. 734.** RCW 73.36.050 and 1994 c 147 s 4 are each amended to
26 read as follows:

27 (1) A petition for the appointment of a guardian may be filed by
28 any relative or friend of the ward or by any person who is authorized
29 by law to file such a petition. If there is no person so authorized
30 or if the person so authorized refuses or fails to file such a
31 petition within thirty days after mailing of notice by the veterans
32 administration to the last known address of the person, if any,
33 indicating the necessity for the same, a petition for appointment may
34 be filed by any resident of this state.

35 (2) The petition for appointment shall set forth the name, age,
36 place of residence of the ward, the name and place of residence of
37 the nearest relative, if known, and the fact that the ward is
38 entitled to receive benefits payable by or through the veterans

1 administration and shall set forth the amount of moneys then due and
2 the amount of probable future payments.

3 (3) The petition shall also set forth the name and address of the
4 person or institution, if any, having actual custody of the ward and
5 the name, age, relationship, if any, occupation and address of the
6 proposed guardian and if the nominee is a natural person, the number
7 of wards for whom the nominee is presently acting as guardian.
8 Notwithstanding any law as to priority of persons entitled to
9 appointment, or the nomination in the petition, the court may appoint
10 some other individual or a bank or trust company as guardian, if the
11 court determines it is for the best interest of the ward.

12 (4) In the case of a mentally incompetent ward the petition shall
13 show that such ward has been rated incompetent by the veterans
14 administration on examination in accordance with the laws and
15 regulations governing the veterans administration.

16 (5) All proceedings under this chapter shall be governed by the
17 provisions of (~~chapters 11.88 and 11.92~~) chapter 11.130 RCW which
18 shall prevail over any conflicting provisions of this chapter.

19 **Sec. 735.** RCW 74.34.020 and 2019 c 325 s 5030 are each amended
20 to read as follows:

21 The definitions in this section apply throughout this chapter
22 unless the context clearly requires otherwise.

23 (1) "Abandonment" means action or inaction by a person or entity
24 with a duty of care for a vulnerable adult that leaves the vulnerable
25 person without the means or ability to obtain necessary food,
26 clothing, shelter, or health care.

27 (2) "Abuse" means the willful action or inaction that inflicts
28 injury, unreasonable confinement, intimidation, or punishment on a
29 vulnerable adult. In instances of abuse of a vulnerable adult who is
30 unable to express or demonstrate physical harm, pain, or mental
31 anguish, the abuse is presumed to cause physical harm, pain, or
32 mental anguish. Abuse includes sexual abuse, mental abuse, physical
33 abuse, and personal exploitation of a vulnerable adult, and improper
34 use of restraint against a vulnerable adult which have the following
35 meanings:

36 (a) "Sexual abuse" means any form of nonconsensual sexual
37 conduct, including but not limited to unwanted or inappropriate
38 touching, rape, sodomy, sexual coercion, sexually explicit
39 photographing, and sexual harassment. Sexual abuse also includes any

1 sexual conduct between a staff person, who is not also a resident or
2 client, of a facility or a staff person of a program authorized under
3 chapter 71A.12 RCW, and a vulnerable adult living in that facility or
4 receiving service from a program authorized under chapter 71A.12 RCW,
5 whether or not it is consensual.

6 (b) "Physical abuse" means the willful action of inflicting
7 bodily injury or physical mistreatment. Physical abuse includes, but
8 is not limited to, striking with or without an object, slapping,
9 pinching, choking, kicking, shoving, or prodding.

10 (c) "Mental abuse" means a willful verbal or nonverbal action
11 that threatens, humiliates, harasses, coerces, intimidates, isolates,
12 unreasonably confines, or punishes a vulnerable adult. Mental abuse
13 may include ridiculing, yelling, or swearing.

14 (d) "Personal exploitation" means an act of forcing, compelling,
15 or exerting undue influence over a vulnerable adult causing the
16 vulnerable adult to act in a way that is inconsistent with relevant
17 past behavior, or causing the vulnerable adult to perform services
18 for the benefit of another.

19 (e) "Improper use of restraint" means the inappropriate use of
20 chemical, physical, or mechanical restraints for convenience or
21 discipline or in a manner that: (i) Is inconsistent with federal or
22 state licensing or certification requirements for facilities,
23 hospitals, or programs authorized under chapter 71A.12 RCW; (ii) is
24 not medically authorized; or (iii) otherwise constitutes abuse under
25 this section.

26 (3) "Chemical restraint" means the administration of any drug to
27 manage a vulnerable adult's behavior in a way that reduces the safety
28 risk to the vulnerable adult or others, has the temporary effect of
29 restricting the vulnerable adult's freedom of movement, and is not
30 standard treatment for the vulnerable adult's medical or psychiatric
31 condition.

32 (4) "Consent" means express written consent granted after the
33 vulnerable adult or his or her legal representative has been fully
34 informed of the nature of the services to be offered and that the
35 receipt of services is voluntary.

36 (5) "Department" means the department of social and health
37 services.

38 (6) "Facility" means a residence licensed or required to be
39 licensed under chapter 18.20 RCW, assisted living facilities; chapter
40 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes;

1 chapter 72.36 RCW, soldiers' homes; chapter 71A.20 RCW, residential
2 habilitation centers; or any other facility licensed or certified by
3 the department.

4 (7) "Financial exploitation" means the illegal or improper use,
5 control over, or withholding of the property, income, resources, or
6 trust funds of the vulnerable adult by any person or entity for any
7 person's or entity's profit or advantage other than for the
8 vulnerable adult's profit or advantage. "Financial exploitation"
9 includes, but is not limited to:

10 (a) The use of deception, intimidation, or undue influence by a
11 person or entity in a position of trust and confidence with a
12 vulnerable adult to obtain or use the property, income, resources, or
13 trust funds of the vulnerable adult for the benefit of a person or
14 entity other than the vulnerable adult;

15 (b) The breach of a fiduciary duty, including, but not limited
16 to, the misuse of a power of attorney, trust, or a guardianship
17 appointment, that results in the unauthorized appropriation, sale, or
18 transfer of the property, income, resources, or trust funds of the
19 vulnerable adult for the benefit of a person or entity other than the
20 vulnerable adult; or

21 (c) Obtaining or using a vulnerable adult's property, income,
22 resources, or trust funds without lawful authority, by a person or
23 entity who knows or clearly should know that the vulnerable adult
24 lacks the capacity to consent to the release or use of his or her
25 property, income, resources, or trust funds.

26 (8) "Financial institution" has the same meaning as in RCW
27 30A.22.040 and 30A.22.041. For purposes of this chapter only,
28 "financial institution" also means a "broker-dealer" or "investment
29 adviser" as defined in RCW 21.20.005.

30 (9) "Hospital" means a facility licensed under chapter 70.41 or
31 71.12 RCW or a state hospital defined in chapter 72.23 RCW and any
32 employee, agent, officer, director, or independent contractor
33 thereof.

34 (~~(10) ("Incapacitated person" means a person who is at a
35 significant risk of personal or financial harm under RCW 11.88.010(1)
36 (a), (b), (c), or (d).~~

37 ~~(11))~~) "Individual provider" means a person under contract with
38 the department to provide services in the home under chapter 74.09 or
39 74.39A RCW.

1 (~~(12)~~) (11) "Interested person" means a person who demonstrates
2 to the court's satisfaction that the person is interested in the
3 welfare of the vulnerable adult, that the person has a good faith
4 belief that the court's intervention is necessary, and that the
5 vulnerable adult is unable, due to incapacity, undue influence, or
6 duress at the time the petition is filed, to protect his or her own
7 interests.

8 (~~(13)~~) (12)(a) "Isolate" or "isolation" means to restrict a
9 vulnerable adult's ability to communicate, visit, interact, or
10 otherwise associate with persons of his or her choosing. Isolation
11 may be evidenced by acts including but not limited to:

12 (i) Acts that prevent a vulnerable adult from sending, making, or
13 receiving his or her personal mail, electronic communications, or
14 telephone calls; or

15 (ii) Acts that prevent or obstruct the vulnerable adult from
16 meeting with others, such as telling a prospective visitor or caller
17 that a vulnerable adult is not present, or does not wish contact,
18 where the statement is contrary to the express wishes of the
19 vulnerable adult.

20 (b) The term "isolate" or "isolation" may not be construed in a
21 manner that prevents a guardian or limited guardian from performing
22 his or her fiduciary obligations under chapter (~~(11.92)~~) 11.130 RCW
23 or prevents a hospital or facility from providing treatment
24 consistent with the standard of care for delivery of health services.

25 (~~(14)~~) (13) "Mandated reporter" is an employee of the
26 department; law enforcement officer; social worker; professional
27 school personnel; individual provider; an employee of a facility; an
28 operator of a facility; an employee of a social service, welfare,
29 mental health, adult day health, adult day care, home health, home
30 care, or hospice agency; county coroner or medical examiner;
31 Christian Science practitioner; or health care provider subject to
32 chapter 18.130 RCW.

33 (~~(15)~~) (14) "Mechanical restraint" means any device attached or
34 adjacent to the vulnerable adult's body that he or she cannot easily
35 remove that restricts freedom of movement or normal access to his or
36 her body. "Mechanical restraint" does not include the use of devices,
37 materials, or equipment that are (a) medically authorized, as
38 required, and (b) used in a manner that is consistent with federal or
39 state licensing or certification requirements for facilities,
40 hospitals, or programs authorized under chapter 71A.12 RCW.

1 (~~(16)~~) (15) "Neglect" means (a) a pattern of conduct or
2 inaction by a person or entity with a duty of care that fails to
3 provide the goods and services that maintain physical or mental
4 health of a vulnerable adult, or that fails to avoid or prevent
5 physical or mental harm or pain to a vulnerable adult; or (b) an act
6 or omission by a person or entity with a duty of care that
7 demonstrates a serious disregard of consequences of such a magnitude
8 as to constitute a clear and present danger to the vulnerable adult's
9 health, welfare, or safety, including but not limited to conduct
10 prohibited under RCW 9A.42.100.

11 (~~(17)~~) (16) "Permissive reporter" means any person, including,
12 but not limited to, an employee of a financial institution, attorney,
13 or volunteer in a facility or program providing services for
14 vulnerable adults.

15 (~~(18)~~) (17) "Physical restraint" means the application of
16 physical force without the use of any device, for the purpose of
17 restraining the free movement of a vulnerable adult's body. "Physical
18 restraint" does not include (a) briefly holding without undue force a
19 vulnerable adult in order to calm or comfort him or her, or (b)
20 holding a vulnerable adult's hand to safely escort him or her from
21 one area to another.

22 (~~(19)~~) (18) "Protective services" means any services provided
23 by the department to a vulnerable adult with the consent of the
24 vulnerable adult, or the legal representative of the vulnerable
25 adult, who has been abandoned, abused, financially exploited,
26 neglected, or in a state of self-neglect. These services may include,
27 but are not limited to case management, social casework, home care,
28 placement, arranging for medical evaluations, psychological
29 evaluations, day care, or referral for legal assistance.

30 (~~(20)~~) (19) "Self-neglect" means the failure of a vulnerable
31 adult, not living in a facility, to provide for himself or herself
32 the goods and services necessary for the vulnerable adult's physical
33 or mental health, and the absence of which impairs or threatens the
34 vulnerable adult's well-being. This definition may include a
35 vulnerable adult who is receiving services through home health,
36 hospice, or a home care agency, or an individual provider when the
37 neglect is not a result of inaction by that agency or individual
38 provider.

39 (~~(21)~~) (20) "Social worker" means:

40 (a) A social worker as defined in RCW 18.320.010(2); or

1 (b) Anyone engaged in a professional capacity during the regular
2 course of employment in encouraging or promoting the health, welfare,
3 support, or education of vulnerable adults, or providing social
4 services to vulnerable adults, whether in an individual capacity or
5 as an employee or agent of any public or private organization or
6 institution.

7 ((+22)) (21) "Vulnerable adult" includes a person:

8 (a) Sixty years of age or older who has the functional, mental,
9 or physical inability to care for himself or herself; or

10 (b) (~~Found incapacitated under chapter 11.88 RCW~~) Subject to a
11 guardianship under RCW 11.130.265 or adult subject to conservatorship
12 under RCW 11.130.360; or

13 (c) Who has a developmental disability as defined under RCW
14 71A.10.020; or

15 (d) Admitted to any facility; or

16 (e) Receiving services from home health, hospice, or home care
17 agencies licensed or required to be licensed under chapter 70.127
18 RCW; or

19 (f) Receiving services from an individual provider; or

20 (g) Who self-directs his or her own care and receives services
21 from a personal aide under chapter 74.39 RCW.

22 ((+23)) (22) "Vulnerable adult advocacy team" means a team of
23 three or more persons who coordinate a multidisciplinary process, in
24 compliance with chapter 266, Laws of 2017 and the protocol governed
25 by RCW 74.34.320, for preventing, identifying, investigating,
26 prosecuting, and providing services related to abuse, neglect, or
27 financial exploitation of vulnerable adults.

28 **Sec. 736.** RCW 74.34.067 and 2013 c 263 s 3 are each amended to
29 read as follows:

30 (1) Where appropriate, an investigation by the department may
31 include a private interview with the vulnerable adult regarding the
32 alleged abandonment, abuse, financial exploitation, neglect, or self-
33 neglect.

34 (2) In conducting the investigation, the department shall
35 interview the complainant, unless anonymous, and shall use its best
36 efforts to interview the vulnerable adult or adults harmed, and,
37 consistent with the protection of the vulnerable adult shall
38 interview facility staff, any available independent sources of

1 relevant information, including if appropriate the family members of
2 the vulnerable adult.

3 (3) The department may conduct ongoing case planning and
4 consultation with: (a) Those persons or agencies required to report
5 under this chapter or submit a report under this chapter; (b)
6 consultants designated by the department; and (c) designated
7 representatives of Washington Indian tribes if client information
8 exchanged is pertinent to cases under investigation or the provision
9 of protective services. Information considered privileged by statute
10 and not directly related to reports required by this chapter must not
11 be divulged without a valid written waiver of the privilege.

12 (4) The department shall prepare and keep on file a report of
13 each investigation conducted by the department for a period of time
14 in accordance with policies established by the department.

15 (5) If the department has reason to believe that the vulnerable
16 adult has suffered from abandonment, abuse, financial exploitation,
17 neglect, or self-neglect, and lacks the ability or capacity to
18 consent, and needs the protection of a guardian, the department may
19 bring a guardianship (~~(action)~~), conservatorship, or other protective
20 proceedings under chapter (~~(11.88)~~) 11.130 RCW.

21 (6) For purposes consistent with this chapter, the department,
22 the certified professional guardian board, and the office of public
23 guardianship may share information contained in reports and
24 investigations of the abuse, abandonment, neglect, self-neglect, and
25 financial exploitation of vulnerable adults. This information may be
26 used solely for (a) recruiting or appointing appropriate guardians
27 and (b) monitoring, or when appropriate, disciplining certified
28 professional or public guardians. Reports of abuse, abandonment,
29 neglect, self-neglect, and financial exploitation are confidential
30 under RCW 74.34.095 and other laws, and secondary disclosure of
31 information shared under this section is prohibited.

32 (7) When the investigation is completed and the department
33 determines that an incident of abandonment, abuse, financial
34 exploitation, neglect, or self-neglect has occurred, the department
35 shall inform the vulnerable adult of their right to refuse protective
36 services, and ensure that, if necessary, appropriate protective
37 services are provided to the vulnerable adult, with the consent of
38 the vulnerable adult. The vulnerable adult has the right to withdraw
39 or refuse protective services.

1 (8) The department's adult protective services division may enter
2 into agreements with federally recognized tribes to investigate
3 reports of abandonment, abuse, financial exploitation, neglect, or
4 self-neglect of vulnerable adults on property over which a federally
5 recognized tribe has exclusive jurisdiction. If the department has
6 information that abandonment, abuse, financial exploitation, or
7 neglect is criminal or is placing a vulnerable adult on tribal
8 property at potential risk of personal or financial harm, the
9 department may notify tribal law enforcement or another tribal
10 representative specified by the tribe. Upon receipt of the
11 notification, the tribe may assume jurisdiction of the matter.
12 Neither the department nor its employees may participate in the
13 investigation after the tribe assumes jurisdiction. The department,
14 its officers, and its employees are not liable for any action or
15 inaction of the tribe or for any harm to the alleged victim, the
16 person against whom the allegations were made, or other parties that
17 occurs after the tribe assumes jurisdiction. Nothing in this section
18 limits the department's jurisdiction and authority over facilities or
19 entities that the department licenses or certifies under federal or
20 state law.

21 (9) The department may photograph a vulnerable adult or their
22 environment for the purpose of providing documentary evidence of the
23 physical condition of the vulnerable adult or his or her environment.
24 When photographing the vulnerable adult, the department shall obtain
25 permission from the vulnerable adult or his or her legal
26 representative unless immediate photographing is necessary to
27 preserve evidence. However, if the legal representative is alleged to
28 have abused, neglected, abandoned, or exploited the vulnerable adult,
29 consent from the legal representative is not necessary. No such
30 consent is necessary when photographing the physical environment.

31 (10) When the investigation is complete and the department
32 determines that the incident of abandonment, abuse, financial
33 exploitation, or neglect has occurred, the department shall inform
34 the facility in which the incident occurred, consistent with
35 confidentiality requirements concerning the vulnerable adult,
36 witnesses, and complainants.

37 **Sec. 737.** RCW 74.34.135 and 2007 c 312 s 9 are each amended to
38 read as follows:

1 (1) When a petition for protection under RCW 74.34.110 is filed
2 by someone other than the vulnerable adult or the vulnerable adult's
3 ((full)) guardian ((~~ever either the person or the estate~~)),
4 conservator, or person acting under a protective arrangement, or
5 both, and the vulnerable adult for whom protection is sought advises
6 the court at the hearing that he or she does not want all or part of
7 the protection sought in the petition, then the court may dismiss the
8 petition or the provisions that the vulnerable adult objects to and
9 any protection order issued under RCW 74.34.120 or 74.34.130, or the
10 court may take additional testimony or evidence, or order additional
11 evidentiary hearings to determine whether the vulnerable adult is
12 unable, due to incapacity, undue influence, or duress, to protect his
13 or her person or estate in connection with the issues raised in the
14 petition or order. If an additional evidentiary hearing is ordered
15 and the court determines that there is reason to believe that there
16 is a genuine issue about whether the vulnerable adult is unable to
17 protect his or her person or estate in connection with the issues
18 raised in the petition or order, the court may issue a temporary
19 order for protection of the vulnerable adult pending a decision after
20 the evidentiary hearing.

21 (2) An evidentiary hearing on the issue of whether the vulnerable
22 adult is unable, due to incapacity, undue influence, or duress, to
23 protect his or her person or estate in connection with the issues
24 raised in the petition or order, shall be held within fourteen days
25 of entry of the temporary order for protection under subsection (1)
26 of this section. If the court did not enter a temporary order for
27 protection, the evidentiary hearing shall be held within fourteen
28 days of the prior hearing on the petition. Notice of the time and
29 place of the evidentiary hearing shall be personally served upon the
30 vulnerable adult and the respondent not less than six court days
31 before the hearing. When good faith attempts to personally serve the
32 vulnerable adult and the respondent have been unsuccessful, the court
33 shall permit service by mail, or by publication if the court
34 determines that personal service and service by mail cannot be
35 obtained. If timely service cannot be made, the court may set a new
36 hearing date. A hearing under this subsection is not necessary if the
37 vulnerable adult has been determined to be ((~~fully incapacitated over~~
38 ~~either the person or the estate, or both, under the guardianship~~
39 ~~laws,~~)) subject to a guardianship, conservatorship, or other
40 protective arrangement under chapter ((~~11.88~~)) 11.130 RCW. If a

1 hearing is scheduled under this subsection, the protection order
2 shall remain in effect pending the court's decision at the subsequent
3 hearing.

4 (3) At the hearing scheduled by the court, the court shall give
5 the vulnerable adult, the respondent, the petitioner, and in the
6 court's discretion other interested persons, the opportunity to
7 testify and submit relevant evidence.

8 (4) If the court determines that the vulnerable adult is capable
9 of protecting his or her person or estate in connection with the
10 issues raised in the petition, and the individual continues to object
11 to the protection order, the court shall dismiss the order or may
12 modify the order if agreed to by the vulnerable adult. If the court
13 determines that the vulnerable adult is not capable of protecting his
14 or her person or estate in connection with the issues raised in the
15 petition or order, and that the individual continues to need
16 protection, the court shall order relief consistent with RCW
17 74.34.130 as it deems necessary for the protection of the vulnerable
18 adult. In the entry of any order that is inconsistent with the
19 expressed wishes of the vulnerable adult, the court's order shall be
20 governed by the legislative findings contained in RCW 74.34.005.

21 **Sec. 738.** RCW 74.34.163 and 2007 c 312 s 10 are each amended to
22 read as follows:

23 Any vulnerable adult who (~~has not been adjudicated fully~~
24 ~~incapacitated under chapter 11.88 RCW, or the vulnerable adult's~~
25 ~~guardian,)) is subject to a limited guardianship, limited
26 conservatorship, or other protective arrangement under chapter 11.130
27 RCW, or the vulnerable adult's guardian, conservator, or person
28 acting on behalf of the vulnerable adult under a protective
29 arrangement may at any time subsequent to entry of a permanent
30 protection order under this chapter, (~~may~~)) apply to the court for
31 an order to modify or vacate the order. In a hearing on an
32 application to dismiss or modify the protection order, the court
33 shall grant such relief consistent with RCW 74.34.110 as it deems
34 necessary for the protection of the vulnerable adult, including
35 dismissal or modification of the protection order.~~

36 **Sec. 739.** RCW 74.42.430 and 1980 c 184 s 12 are each amended to
37 read as follows:

38 The facility shall develop written guidelines governing:

- 1 (1) All services provided by the facility;
 - 2 (2) Admission, transfer or discharge;
 - 3 (3) The use of chemical and physical restraints, the personnel
 - 4 authorized to administer restraints in an emergency, and procedures
 - 5 for monitoring and controlling the use of the restraints;
 - 6 (4) Procedures for receiving and responding to residents'
 - 7 complaints and recommendations;
 - 8 (5) Access to, duplication of, and dissemination of information
 - 9 from the resident's record;
 - 10 (6) Residents' rights, privileges, and duties;
 - 11 (7) Procedures if the resident is adjudicated incompetent or
 - 12 incapable of understanding his or her rights and responsibilities;
 - 13 (8) When to recommend initiation of guardianship,
 - 14 conservatorship, or other protective arrangement proceedings under
 - 15 chapter (~~11.88~~) 11.130 RCW; (~~and~~)
 - 16 (9) Emergencies;
 - 17 (10) Procedures for isolation of residents with infectious
 - 18 diseases; and
 - 19 (11) Procedures for residents to refuse treatment and for the
 - 20 facility to document informed refusal.
- 21 The written guidelines shall be made available to the staff,
- 22 residents, members of residents' families, and the public.

23 **PART VIII**

24 **INTENT**

25 NEW SECTION. **Sec. 801.** A new section is added to chapter 11.130

26 RCW to read as follows:

27 It is the intent of the legislature to protect the liberty and

28 autonomy of all people of this state, and to enable them to exercise

29 their rights under the law to the maximum extent, consistent with the

30 capacity of each person. The legislature recognizes that people with

31 incapacities have unique abilities and needs, and that some people

32 with incapacities cannot exercise their rights or provide for their

33 basic needs without the help of a guardian. However, their liberty

34 and autonomy should be restricted through guardianship,

35 conservatorship, emergency guardianship, emergency conservatorship,

36 and other protective arrangements only to the minimum extent

37 necessary to adequately provide for their own health or safety, or to

38 adequately manage their financial affairs.

1 **PART IX**
2 **TECHNICAL**

3 NEW SECTION. **Sec. 901.** Sections 601 through 612 of this act are
4 each added to chapter 11.130 RCW.

5 **Sec. 902.** RCW 11.130.915 and 2019 c 437 s 807 are each amended
6 to read as follows:

7 This act takes effect January 1, (~~2021~~) 2022, except that:

8 (1) Section 129, chapter 437, Laws of 2019 takes effect on the
9 effective date of this section; and

10 (2) With respect to minors, sections 101 through 128, 130 through
11 136, 201 through 216, 602, 802, 803, and 805, chapter 437, Laws of
12 2019 take effect January 1, 2021.

13 NEW SECTION. **Sec. 903.** 2019 c 437 s 801 (uncodified) is
14 repealed.

15 NEW SECTION. **Sec. 904.** The following acts or parts of acts are
16 each repealed:

17 (1) RCW 11.88.005 (Legislative intent) and 1990 c 122 s 1, 1977
18 ex.s. c 309 s 1, & 1975 1st ex.s. c 95 s 1;

19 (2) RCW 11.88.008 ("Professional guardian" defined) and 1997 c
20 312 s 2;

21 (3) RCW 11.88.010 (Authority to appoint guardians—Definitions—
22 Venue—Nomination by principal) and 2016 c 209 s 403, 2008 c 6 s 802,
23 2005 c 236 s 3, (2005 c 236 s 2 expired January 1, 2006), 2004 c 267
24 s 139, 1991 c 289 s 1, 1990 c 122 s 2, 1984 c 149 s 176, 1977 ex.s. c
25 309 s 2, 1975 1st ex.s. c 95 s 2, & 1965 c 145 s 11.88.010;

26 (4) RCW 11.88.020 (Qualifications) and 2011 c 329 s 1, 1997 c 312
27 s 1, 1990 c 122 s 3, 1975 1st ex.s. c 95 s 3, 1971 c 28 s 4, & 1965 c
28 145 s 11.88.020;

29 (5) RCW 11.88.030 (Petition—Contents—Hearing) and 2011 c 329 s
30 2, 2009 c 521 s 36, 1996 c 249 s 8, 1995 c 297 s 1, 1991 c 289 s 2,
31 1990 c 122 s 4, 1977 ex.s. c 309 s 3, 1975 1st ex.s. c 95 s 4, & 1965
32 c 145 s 11.88.030;

33 (6) RCW 11.88.040 (Notice and hearing, when required—Service—
34 Procedure) and 2008 c 6 s 803, 1995 c 297 s 2, 1991 c 289 s 3, 1990 c

1 122 s 5, 1984 c 149 s 177, 1977 ex.s. c 309 s 4, 1975 1st ex.s. c 95
2 s 5, 1969 c 70 s 1, & 1965 c 145 s 11.88.040;

3 (7) RCW 11.88.045 (Legal counsel and jury trial—Proof—Medical
4 report—Examinations—Waiver) and 2001 c 148 s 1, 1996 c 249 s 9, 1995
5 c 297 s 3, 1991 c 289 s 4, 1990 c 122 s 6, 1977 ex.s. c 309 s 5, &
6 1975 1st ex.s. c 95 s 7;

7 (8) RCW 11.88.080 (Guardians nominated by will or durable power
8 of attorney) and 2016 c 209 s 401, 2005 c 97 s 11, 1990 c 122 s 7, &
9 1965 c 145 s 11.88.080;

10 (9) RCW 11.88.090 (Guardian ad litem—Mediation—Appointment—
11 Qualifications—Notice of and statement by guardian ad litem—Hearing
12 and notice—Attorneys' fees and costs—Registry—Duties—Report—
13 Responses—Fee) and 2008 c 6 s 804, 2000 c 124 s 1, 1999 c 360 s 1,
14 1996 c 249 s 10, 1995 c 297 s 4, 1991 c 289 s 5, 1990 c 122 s 8, 1977
15 ex.s. c 309 s 6, 1975 1st ex.s. c 95 s 9, & 1965 c 145 s 11.88.090;

16 (10) RCW 11.88.093 (Ex parte communications—Removal) and 2000 c
17 124 s 10;

18 (11) RCW 11.88.095 (Disposition of guardianship petition) and
19 2011 c 329 s 4, 1995 c 297 s 5, 1991 c 289 s 6, & 1990 c 122 s 9;

20 (12) RCW 11.88.097 (Guardian ad litem—Fees) and 2000 c 124 s 13;

21 (13) RCW 11.88.100 (Oath and bond of guardian or limited
22 guardian) and 2010 c 8 s 2088, 1990 c 122 s 10, 1983 c 271 s 1, 1977
23 ex.s. c 309 s 7, 1975 1st ex.s. c 95 s 10, & 1965 c 145 s 11.88.100;

24 (14) RCW 11.88.105 (Reduction in amount of bond) and 1990 c 122 s
25 11, 1975 1st ex.s. c 95 s 11, & 1965 c 145 s 11.88.105;

26 (15) RCW 11.88.107 (When bond not required) and 1990 c 122 s 12,
27 1977 ex.s. c 309 s 8, 1975 1st ex.s. c 95 s 12, & 1965 c 145 s
28 11.88.107;

29 (16) RCW 11.88.110 (Law on executors' and administrators' bonds
30 applicable) and 1975 1st ex.s. c 95 s 13 & 1965 c 145 s 11.88.110;

31 (17) RCW 11.88.115 (Notice to department of revenue);

32 (18) RCW 11.88.120 (Modification or termination of guardianship—
33 Procedure) and 2017 c 271 s 2, 2015 c 293 s 1, 1991 c 289 s 7, 1990 c
34 122 s 14, 1977 ex.s. c 309 s 9, 1975 1st ex.s. c 95 s 14, & 1965 c
35 145 s 11.88.120;

36 (19) RCW 11.88.125 (Standby limited guardian or limited guardian)
37 and 2013 c 304 s 1, 2011 c 329 s 5, 2008 c 6 s 805, 1991 c 289 s 8,
38 1990 c 122 s 15, 1979 c 32 s 1, 1977 ex.s. c 309 s 10, & 1975 1st
39 ex.s. c 95 s 6;

1 (20) RCW 11.88.127 (Guardianship—Incapacitated person—Letters of
2 guardianship) and 2011 c 329 s 6;

3 (21) RCW 11.88.130 (Transfer of jurisdiction and venue) and 1990
4 c 122 s 16, 1975 1st ex.s. c 95 s 15, & 1965 c 145 s 11.88.130;

5 (22) RCW 11.88.140 (Termination of guardianship or limited
6 guardianship) and 2016 c 202 s 9, 2011 c 329 s 7, 1991 c 289 s 9,
7 1990 c 122 s 17, 1977 ex.s. c 309 s 11, 1975 1st ex.s. c 95 s 16, &
8 1965 c 145 s 11.88.140;

9 (23) RCW 11.88.150 (Administration of deceased incapacitated
10 person's estate) and 2010 c 8 s 2089, 1990 c 122 s 18, 1977 ex.s. c
11 309 s 12, 1975 1st ex.s. c 95 s 17, & 1965 c 145 s 11.88.150;

12 (24) RCW 11.88.160 (Guardianships involving veterans) and 1990 c
13 122 s 13;

14 (25) RCW 11.88.170 (Guardianship courthouse facilitator program)
15 and 2015 c 295 s 1;

16 (26) RCW 11.88.900 (Construction—Chapter applicable to state
17 registered domestic partnerships—2009 c 521) and 2009 c 521 s 35;

18 (27) RCW 11.92.010 (Guardians or limited guardians under court
19 control—Legal age) and 1975 1st ex.s. c 95 s 18, 1971 c 28 s 5, &
20 1965 c 145 s 11.92.010;

21 (28) RCW 11.92.035 (Claims) and 1990 c 122 s 19, 1975 1st ex.s. c
22 95 s 19, & 1965 c 145 s 11.92.035;

23 (29) RCW 11.92.040 (Duties of guardian or limited guardian in
24 general) and 2011 c 329 s 9, 1991 c 289 s 10, 1990 c 122 s 20, & 1985
25 c 30 s 9;

26 (30) RCW 11.92.043 (Additional duties) and 2017 c 268 s 3, 2011 c
27 329 s 3, 1991 c 289 s 11, & 1990 c 122 s 21;

28 (31) RCW 11.92.050 (Intermediate accounts or reports—Hearing—
29 Order) and 2011 c 329 s 10, 1995 c 297 s 6, 1990 c 122 s 23, 1975 1st
30 ex.s. c 95 s 21, & 1965 c 145 s 11.92.050;

31 (32) RCW 11.92.053 (Settlement of estate upon termination) and
32 2011 c 329 s 8, 1995 c 297 s 7, 1990 c 122 s 24, & 1965 c 145 s
33 11.92.053;

34 (33) RCW 11.92.056 (Citation of surety on bond) and 1990 c 122 s
35 25, 1975 1st ex.s. c 95 s 22, & 1965 c 145 s 11.92.056;

36 (34) RCW 11.92.060 (Guardian to represent incapacitated person—
37 Compromise of claims—Service of process) and 1990 c 122 s 26, 1975
38 1st ex.s. c 95 s 23, & 1965 c 145 s 11.92.060;

- 1 (35) RCW 11.92.090 (Sale, exchange, lease, or mortgage of
2 property) and 1990 c 122 s 27, 1975 1st ex.s. c 95 s 24, & 1965 c 145
3 s 11.92.090;
- 4 (36) RCW 11.92.096 (Guardian access to certain held assets) and
5 1991 c 289 s 13;
- 6 (37) RCW 11.92.100 (Petition—Contents) and 1990 c 122 s 28, 1975
7 1st ex.s. c 95 s 25, & 1965 c 145 s 11.92.100;
- 8 (38) RCW 11.92.110 (Sale of real estate) and 1990 c 122 s 29,
9 1975 1st ex.s. c 95 s 26, & 1965 c 145 s 11.92.110;
- 10 (39) RCW 11.92.115 (Return and confirmation of sale) and 2010 c 8
11 s 2090, 1990 c 122 s 30, 1975 1st ex.s. c 95 s 27, & 1965 c 145 s
12 11.92.115;
- 13 (40) RCW 11.92.120 (Confirmation conclusive) and 1975 1st ex.s. c
14 95 s 28 & 1965 c 145 s 11.92.120;
- 15 (41) RCW 11.92.125 (Broker's fee and closing expenses—Sale,
16 exchange, mortgage, or lease of real estate) and 1977 ex.s. c 309 s
17 15 & 1965 c 145 s 11.92.125;
- 18 (42) RCW 11.92.130 (Performance of contracts) and 1990 c 122 s
19 31, 1975 1st ex.s. c 95 s 29, & 1965 c 145 s 11.92.130;
- 20 (43) RCW 11.92.140 (Court authorization for actions regarding
21 guardianship funds) and 2008 c 6 s 807, 1999 c 42 s 616, 1991 c 193 s
22 32, 1990 c 122 s 32, & 1985 c 30 s 10;
- 23 (44) RCW 11.92.150 (Request for special notice of proceedings)
24 and 1990 c 122 s 33 & 1985 c 30 s 11;
- 25 (45) RCW 11.92.160 (Citation for failure to file account or
26 report) and 1990 c 122 s 34, 1975 1st ex.s. c 95 s 31, & 1965 c 145 s
27 11.92.160;
- 28 (46) RCW 11.92.170 (Removal of property of nonresident
29 incapacitated person) and 1990 c 122 s 35, 1977 ex.s. c 309 s 16,
30 1975 1st ex.s. c 95 s 32, & 1965 c 145 s 11.92.170;
- 31 (47) RCW 11.92.180 (Compensation and expenses of guardian or
32 limited guardian—Attorney's fees—Department of social and health
33 services clients paying part of costs—Rules) and 1995 c 297 s 8, 1994
34 c 68 s 1, 1991 c 289 s 12, 1990 c 122 s 36, 1975 1st ex.s. c 95 s 33,
35 & 1965 c 145 s 11.92.180;
- 36 (48) RCW 11.92.185 (Concealed or embezzled property) and 1990 c
37 122 s 37, 1975 1st ex.s. c 95 s 34, & 1965 c 145 s 11.92.185;
- 38 (49) RCW 11.92.190 (Detention of person in residential placement
39 facility against will prohibited—Effect of court order—Service of

1 notice of residential placement) and 2016 sp.s. c 29 s 412, 1996 c
2 249 s 11, & 1977 ex.s. c 309 s 14; and

3 (50) RCW 11.92.195 (Incapacitated persons—Right to associate with
4 persons of their choosing) and 2017 c 268 s 1.

5 NEW SECTION. **Sec. 905.** The following acts or parts of acts are
6 each repealed:

7 (1) RCW 26.10.010 (Intent) and 1987 c 460 s 25;

8 (2) RCW 26.10.015 (Mandatory use of approved forms) and 1992 c
9 229 s 4 & 1990 1st ex.s. c 2 s 27;

10 (3) RCW 26.10.020 (Civil practice to govern—Designation of
11 proceedings—Decrees) and 1987 c 460 s 26;

12 (4) RCW 26.10.030 (Child custody proceeding—Commencement—Notice
13 —Intervention) and 2003 c 105 s 3, 2000 c 135 s 3, 1998 c 130 s 4, &
14 1987 c 460 s 27;

15 (5) RCW 26.10.032 (Child custody motion—Affidavit required—
16 Notice—Denial of motion—Show cause hearing) and 2003 c 105 s 6;

17 (6) RCW 26.10.034 (Petitions—Indian child statement—Application
18 of federal Indian child welfare act) and 2011 c 309 s 31, 2004 c 64 s
19 1, & 2003 c 105 s 7;

20 (7) RCW 26.10.040 (Provisions for child support, custody, and
21 visitation—Federal tax exemption—Continuing restraining orders—
22 Domestic violence or antiharassment protection orders—Notice of
23 modification or termination of restraining order) and 2000 c 119 s 8,
24 1995 c 93 s 3, 1994 sp.s. c 7 s 453, 1989 c 375 s 31, & 1987 c 460 s
25 28;

26 (8) RCW 26.10.045 (Child support schedule) and 1988 c 275 s 12;

27 (9) RCW 26.10.050 (Child support by parents—Apportionment of
28 expense) and 2008 c 6 s 1023 & 1987 c 460 s 29;

29 (10) RCW 26.10.060 (Health insurance coverage—Conditions) and
30 1989 c 375 s 19 & 1987 c 460 s 30;

31 (11) RCW 26.10.070 (Minor or dependent child—Court appointed
32 attorney to represent—Payment of costs, fees, and disbursements) and
33 1989 c 375 s 20 & 1987 c 460 s 31;

34 (12) RCW 26.10.080 (Payment of costs, attorney's fees, etc.) and
35 1987 c 460 s 35;

36 (13) RCW 26.10.090 (Failure to comply with decree or temporary
37 injunction—Obligation to make support payments or permit visitation
38 not suspended—Motion) and 1987 c 460 s 36;

- 1 (14) RCW 26.10.100 (Determination of custody—Child's best
2 interests) and 1987 c 460 s 38;
- 3 (15) RCW 26.10.110 (Temporary custody order—Vacation of order)
4 and 1987 c 460 s 39;
- 5 (16) RCW 26.10.120 (Interview with child by court—Advice of
6 professional personnel) and 1987 c 460 s 40;
- 7 (17) RCW 26.10.130 (Investigation and report) and 1993 c 289 s 2
8 & 1987 c 460 s 41;
- 9 (18) RCW 26.10.135 (Custody orders—Background information to be
10 consulted) and 2017 3rd sp.s. c 6 s 333 & 2003 c 105 s 1;
- 11 (19) RCW 26.10.140 (Hearing—Record—Expenses of witnesses) and
12 1987 c 460 s 42;
- 13 (20) RCW 26.10.150 (Access to child's education and medical
14 records) and 1987 c 460 s 43;
- 15 (21) RCW 26.10.160 (Visitation rights—Limitations) and 2018 c 183
16 s 7, 2011 c 89 s 7, 2004 c 38 s 13, 1996 c 303 s 2, 1994 c 267 s 2,
17 1989 c 326 s 2, & 1987 c 460 s 44;
- 18 (22) RCW 26.10.170 (Powers and duties of custodian—Supervision by
19 appropriate agency when necessary) and 1987 c 460 s 45;
- 20 (23) RCW 26.10.180 (Remedies when a child is taken, enticed, or
21 concealed) and 2008 c 6 s 1024, 1989 c 375 s 21, & 1987 c 460 s 46;
- 22 (24) RCW 26.10.190 (Petitions for modification and proceedings
23 concerning relocation of child—Assessment of attorneys' fees) and
24 2000 c 21 s 21, 1989 c 375 s 24, & 1987 c 460 s 47;
- 25 (25) RCW 26.10.200 (Temporary custody order or modification of
26 custody decree—Affidavits required) and 1987 c 460 s 48;
- 27 (26) RCW 26.10.210 (Venue) and 1987 c 460 s 49;
- 28 (27) RCW 26.10.220 (Restraining orders—Notice—Refusal to comply
29 —Arrest—Penalty—Defense—Peace officers, immunity) and 2000 c 119 s
30 22, 1999 c 184 s 11, 1996 c 248 s 10, 1995 c 246 s 30, & 1987 c 460 s
31 50; and
- 32 (28) RCW 26.10.910 (Short title—1987 c 460).

33 NEW SECTION. **Sec. 906.** A new section is added to chapter 11.130
34 RCW to read as follows:

35 (1) To the extent of a conflict between this chapter and chapter
36 11.88 or 11.92 RCW, chapter 11.88 or 11.92 RCW prevails.

37 (2) This section expires January 1, 2022.

1 NEW SECTION. **Sec. 907.** (1) Except for sections 101 through 122,
2 301 through 307, 312, 313, 725, 801, 902, 903, 905, and 906 of this
3 act, this act takes effect January 1, 2022.

4 (2) Sections 101 through 122, 301 through 307, 312, 313, 725,
5 801, 905, and 906 of this act take effect January 1, 2021."

6 Correct the title.

EFFECT: Amends provisions related to minor guardianship notice requirements;

 Removes references to legal capacity;

 Readopts complaint process which was repealed in adoption of the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act; and

 Makes additional technical amendments, including making language consistent throughout guardianship, conservatorship, and protective arrangement articles.

--- END ---