

SUBSTITUTE SENATE BILL 5604

State of Washington

66th Legislature

2019 Regular Session

By Senate Law & Justice (originally sponsored by Senators Pedersen, Padden, Conway, Kuderer, Keiser, Salomon, Bailey, and Dhingra; by request of Uniform Law Commission)

READ FIRST TIME 02/08/19.

1 AN ACT Relating to the uniform guardianship, conservatorship, and
2 other protective arrangements act; adding a new chapter to Title 11
3 RCW; repealing RCW 11.88.005, 11.88.008, 11.88.010, 11.88.020,
4 11.88.030, 11.88.040, 11.88.045, 11.88.080, 11.88.090, 11.88.093,
5 11.88.095, 11.88.097, 11.88.100, 11.88.105, 11.88.107, 11.88.110,
6 11.88.120, 11.88.125, 11.88.127, 11.88.130, 11.88.140, 11.88.150,
7 11.88.160, 11.88.170, 11.88.900, 11.92.010, 11.92.035, 11.92.040,
8 11.92.043, 11.92.050, 11.92.053, 11.92.056, 11.92.060, 11.92.090,
9 11.92.096, 11.92.100, 11.92.110, 11.92.115, 11.92.120, 11.92.125,
10 11.92.130, 11.92.140, 11.92.150, 11.92.160, 11.92.170, 11.92.180,
11 11.92.185, 11.92.190, 11.92.195, 26.10.010, 26.10.015, 26.10.020,
12 26.10.030, 26.10.032, 26.10.034, 26.10.040, 26.10.045, 26.10.050,
13 26.10.060, 26.10.070, 26.10.080, 26.10.090, 26.10.100, 26.10.110,
14 26.10.115, 26.10.120, 26.10.130, 26.10.135, 26.10.140, 26.10.150,
15 26.10.160, 26.10.170, 26.10.180, 26.10.190, 26.10.200, 26.10.210,
16 26.10.220, and 26.10.910; and providing an effective date.

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

18

ARTICLE 1

19

GENERAL PROVISIONS

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

4 NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this
5 section apply throughout this chapter unless the context clearly
6 requires otherwise.

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

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

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

13 (4) "Asset protection arrangement" is a verified receipt signed
14 by the custodian of funds stating that a savings and loan association
15 or bank, trust company, escrow corporation, or other corporations
16 approved by the court hold the cash or securities of the individual
17 subject to conservatorship subject to withdrawal only by order of the
18 court.

19 (5) "Claim" includes a claim against an individual or
20 conservatorship estate, whether arising in contract, tort, or
21 otherwise.

22 (6) "Commissioner" means the person appointed by the court
23 pursuant to section 512 of this act.

24 (7) "Conservator" means a person appointed by a court to make
25 decisions with respect to the property or financial affairs of an
26 individual subject to conservatorship. The term includes a co-
27 conservator.

28 (8) "Conservatorship estate" means the property subject to
29 conservatorship under this chapter.

30 (9) "Evaluation and treatment facility" has the same meaning as
31 provided in RCW 71.05.020.

32 (10) "Full conservatorship" means a conservatorship that grants
33 the conservator all powers available under this chapter.

34 (11) "Full guardianship" means a guardianship that grants the
35 guardian all powers available under this chapter.

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

1 (13) "Guardian ad litem" means a person appointed to inform the
2 court about, and to represent, the needs and best interests of an
3 individual.

4 (14) "Individual subject to conservatorship" means an adult or
5 minor for whom a conservator has been appointed under this chapter.

6 (15) "Individual subject to guardianship" means an adult or minor
7 for whom a guardian has been appointed under this chapter.

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

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

17 (18) "Limited conservatorship" means a conservatorship that
18 grants the conservator less than all powers available under this
19 chapter, grants powers over only certain property, or otherwise
20 restricts the powers of the conservator.

21 (19) "Limited guardianship" means a guardianship that grants the
22 guardian less than all powers available under this chapter or
23 otherwise restricts the powers of the guardian.

24 (20) "Long-term care facility" has the same meaning as provided
25 in RCW 70.129.010.

26 (21) "Minor" means an unemancipated individual under eighteen
27 years of age.

28 (22) "Minor subject to conservatorship" means a minor for whom a
29 conservator has been appointed under this chapter.

30 (23) "Minor subject to guardianship" means a minor for whom a
31 guardian has been appointed under this chapter.

32 (24) "Parent" does not include an individual whose parental
33 rights have been terminated.

34 (25) "Person" means an individual, estate, business or nonprofit
35 entity, public corporation, government or governmental subdivision,
36 agency, or instrumentality, or other legal entity.

37 (26) "Professional guardian or conservator" means a guardian or
38 conservator appointed under this chapter who is not a relative of the
39 person subject to guardianship or conservatorship established under

1 this chapter and who charges fees for carrying out the duties of
2 court-appointed guardian or conservator for three or more persons.

3 (27) "Property" includes tangible and intangible property.

4 (28) "Protective arrangement instead of conservatorship" means a
5 court order entered under section 503 of this act.

6 (29) "Protective arrangement instead of guardianship" means a
7 court order entered under section 502 of this act.

8 (30) "Protective arrangement under article 5 of this chapter"
9 means a court order entered under section 502 or 503 of this act.

10 (31) "Record," used as a noun, means information that is
11 inscribed on a tangible medium or that is stored in an electronic or
12 other medium and is retrievable in perceivable form.

13 (32) "Relative" means any person related by blood or by law to
14 the person subject to guardianship, conservatorship, or other
15 protective arrangements.

16 (33) "Respondent" means an individual for whom appointment of a
17 guardian or conservator or a protective arrangement instead of
18 guardianship or conservatorship is sought.

19 (34) "Sign" means, with present intent to authenticate or adopt a
20 record:

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

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

24 (35) "Standby guardian" means a person appointed by the court
25 under section 208 of this act.

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

30 (37) "Supported decision making" means assistance from one or
31 more persons of an individual's choosing in understanding the nature
32 and consequences of potential personal and financial decisions, which
33 enables the individual to make the decisions, and in communicating a
34 decision once made if consistent with the individual's wishes.

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

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

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

8 (2) The superior court of each county has jurisdiction over a
9 guardianship, conservatorship, or protective arrangement under
10 article 5 of this chapter for an adult as provided in the uniform
11 adult guardianship and protective proceedings jurisdiction act
12 (chapter 11.90 RCW).

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

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

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

23 (c) Nonexclusive jurisdiction to determine the validity of a
24 claim against the respondent or property of the respondent or a
25 question of title concerning the property; and

26 (d) If a guardian or conservator is appointed, exclusive
27 jurisdiction over issues related to administration of the
28 guardianship or conservatorship.

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

34 NEW SECTION. **Sec. 105.** TRANSFER OF PROCEEDING. (1) This section
35 does not apply to a guardianship or conservatorship for an adult that
36 is subject to the transfer provisions of the uniform adult
37 guardianship and protective proceedings jurisdiction act (chapter
38 11.90 RCW).

1 (2) After appointment of a guardian or conservator, the court
2 that made the appointment may transfer the proceeding to a court in
3 another county in this state or another state if transfer is in the
4 best interest of the individual subject to the guardianship or
5 conservatorship.

6 (3) If a proceeding for a guardianship or conservatorship is
7 pending in another state or a foreign country and a petition for
8 guardianship or conservatorship for the same individual is filed in a
9 court in this state, the court shall notify the court in the other
10 state or foreign country and, after consultation with that court,
11 assume or decline jurisdiction, whichever is in the best interest of
12 the respondent.

13 (4) A guardian or conservator appointed in another state or
14 country may petition the court for appointment as a guardian or
15 conservator in this state for the same individual if jurisdiction in
16 this state is or will be established. The appointment may be made on
17 proof of appointment in the other state or foreign country and
18 presentation of a certified copy of the part of the court record in
19 the other state or country specified by the court in this state.

20 (5) Notice of hearing on a petition under subsection (4) of this
21 section, together with a copy of the petition, must be given to the
22 respondent, if the respondent is at least twelve years of age at the
23 time of the hearing, and to the persons that would be entitled to
24 notice if the procedures for appointment of a guardian or conservator
25 under this chapter were applicable. The court shall make the
26 appointment unless it determines the appointment would not be in the
27 best interest of the respondent.

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

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

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

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

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

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

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

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

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

10 (a) The county in which the respondent resides, whether or not a
11 guardian has been appointed in another county or other jurisdiction;
12 or

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

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

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

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

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

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

34 (2) The court shall issue letters of conservatorship to a
35 conservator on filing by the conservator of an acceptance of
36 appointment and filing of any required bond or compliance with any
37 other asset protection arrangement required by the court.

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

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

7 (5) A guardian or conservator may not act on behalf of a person
8 under guardianship or conservatorship without valid letters of
9 office.

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

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

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

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

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

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

28 (a) The event occurs; and

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

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

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

1 (2) A person entitled under section 202 or 302 of this act to
2 petition the court to appoint a guardian may petition the court to
3 appoint a successor guardian. A person entitled under section 402 of
4 this act to petition the court to appoint a conservator may petition
5 the court to appoint a successor conservator.

6 (3) A successor guardian or successor conservator appointed to
7 serve when a designated event occurs may act as guardian or
8 conservator when:

9 (a) The event occurs; and

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

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

13 NEW SECTION. **Sec. 112.** EFFECT OF DEATH, REMOVAL, OR RESIGNATION
14 OF GUARDIAN OR CONSERVATOR. (1) Appointment of a guardian or
15 conservator terminates on the death or removal of the guardian or
16 conservator, or when the court under subsection (2) of this section
17 approves a resignation of the guardian or conservator.

18 (2) A guardian or conservator must petition the court to resign.
19 The petition may include a request that the court appoint a
20 successor. Resignation of a guardian or conservator is effective on
21 the date the resignation is approved by the court.

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

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

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

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

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

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

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

8 (2) A respondent, individual subject to guardianship, individual
9 subject to conservatorship, or individual subject to a protective
10 arrangement under article 5 of this chapter may not waive notice
11 under this chapter.

12 NEW SECTION. **Sec. 115.** GUARDIAN AD LITEM. The court at any time
13 may appoint a guardian ad litem for an individual if the court
14 determines the individual's interest otherwise would not be
15 adequately represented. If no conflict of interest exists, a guardian
16 ad litem may be appointed to represent multiple individuals or
17 interests. The guardian ad litem may not be the same individual as
18 the attorney representing the respondent. The court shall state the
19 duties of the guardian ad litem and the reasons for the appointment.

20 NEW SECTION. **Sec. 116.** REQUEST FOR NOTICE. (1) A person may
21 file with the court a request for notice under this chapter if the
22 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 shall give notice of the approval to the guardian
33 or conservator, if one has been appointed, or the respondent if no
34 guardian or conservator has been appointed.

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

4 (a) Is or has been a debtor in a bankruptcy, insolvency, or
5 receivership proceeding;

6 (b) Has been convicted of:

7 (i) A felony;

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

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

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

16 (2) A guardian or conservator that engages or anticipates
17 engaging an agent the guardian or conservator knows has been
18 convicted of a felony, a crime involving dishonesty, neglect,
19 violence, or use of physical force, or other crimes relevant to the
20 functions the agent is being engaged to perform promptly shall
21 disclose that knowledge to the court.

22 (3) If a conservator engages or anticipates engaging an agent to
23 manage finances of the individual subject to conservatorship and
24 knows the agent is or has been a debtor in a bankruptcy, insolvency,
25 or receivership proceeding, the conservator promptly shall disclose
26 that knowledge to the court.

27 (4) If a guardian or conservator that engages or anticipates
28 engaging an agent and knows the agent has any court finding of a
29 breach of fiduciary duty or a violation of any state's consumer
30 protection act, or violation of any other statute proscribing unfair
31 or deceptive acts or practices in the conduct of any business, the
32 guardian or conservator promptly shall disclose that knowledge to the
33 court.

34 NEW SECTION. **Sec. 118.** QUALIFICATIONS. (1) Any suitable person
35 over the age of eighteen years, or any parent under the age of
36 eighteen years or, if the petition is for appointment of a
37 professional guardian or conservator, any individual or guardianship
38 or conservatorship service that meets any certification requirements
39 established by the administrator for the courts, may, if not

1 otherwise disqualified, be appointed guardian or conservator of a
2 person subject to guardianship, conservatorship, or both. A financial
3 institution subject to the jurisdiction of the department of
4 financial institutions and authorized to exercise trust powers, and a
5 federally chartered financial institution when authorized to do so,
6 may be appointed to act as a guardian or conservator of a person
7 subject to guardianship, conservatorship, or both without having to
8 meet the certification requirements established by the administrator
9 for the courts. No person is qualified to serve as a guardian or
10 conservator who is:

11 (a) Under eighteen years of age except as otherwise provided
12 herein;

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

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

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

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

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

27 (2) If a guardian, or conservator is not a certified professional
28 guardian, conservator, or financial institution authorized under this
29 section, the guardian or conservator must complete any standardized
30 training video or web cast for lay guardians or conservators made
31 available by the administrative office of the courts and the superior
32 court where the petition is filed unless granted a waiver by the
33 court. The training video or web cast must be provided at no cost to
34 the guardian, or conservator.

35 (a) If a petitioner requests the appointment of a specific
36 individual to act as a guardian or conservator, the petition for
37 guardianship or conservatorship must include evidence of the
38 successful completion of the required training video or web cast by
39 the proposed guardian or conservator. The superior court may defer
40 the completion of the training requirement to a date no later than

1 ninety days after appointment if the petitioner requests expedited
2 appointment due to emergent circumstances.

3 (b) If no person is identified to be appointed guardian or
4 conservator at the time the petition is filed, then the court must
5 require the completion of the required training video or web cast by
6 a date no later than ninety days after the appointment.

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

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

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

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

21 (3) Where the person subject to guardianship or conservatorship
22 is a department of social and health services client, or health care
23 authority client, and is required to contribute a portion of their
24 income towards the cost of long-term care services or room and board,
25 the amount of compensation or reimbursement shall not exceed the
26 amount allowed by the department of social and health services or
27 health care authority by rule.

28 (4) Where the person subject to guardianship or conservatorship
29 receives guardianship, conservatorships, or other protective services
30 from the office of public guardianship, the amount of compensation or
31 reimbursement shall not exceed the amount allowed by the office of
32 public guardianship.

33 (5) The court must approve compensation and expenses payable
34 under this section before payment. Approval is not required before a
35 service is provided or an expense is incurred.

36 (6) If the court dismisses a petition under this chapter and
37 determines the petition was filed in bad faith, the court may assess

1 the cost of any court-ordered professional evaluation or visitor
2 against the petitioner.

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

4 (1) Subject to court approval, a guardian is entitled to reasonable
5 compensation for services as guardian and to reimbursement for room,
6 board, clothing, and other appropriate expenses advanced for the
7 benefit of the individual subject to guardianship. If a conservator,
8 other than the guardian or a person affiliated with the guardian, is
9 appointed for the individual, reasonable compensation and
10 reimbursement to the guardian may be approved and paid by the
11 conservator without court approval.

12 (2) Subject to court approval, a conservator is entitled to
13 reasonable compensation for services and reimbursement for
14 appropriate expenses from the property of the individual subject to
15 conservatorship.

16 (3) In determining reasonable compensation for a guardian or
17 conservator, the court, or a conservator in determining reasonable
18 compensation for a guardian as provided in subsection (1) of this
19 section, shall consider:

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

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

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

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

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

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

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

35 (4) A guardian or conservator need not use personal funds of the
36 guardian or conservator for the expenses of the individual subject to
37 guardianship or conservatorship.

38 (5) Where the person subject to guardianship or conservatorship
39 is a department of social and health services client, or health care

1 authority client, and is required to contribute a portion of their
2 income towards the cost of long-term care services or room and board,
3 the amount of compensation or reimbursement shall not exceed the
4 amount allowed by the department of social and health services or
5 health care authority by rule.

6 (6) Where the person subject to guardianship or conservatorship
7 receives guardianship, conservatorship, or other protective services
8 from the office of public guardianship, the amount of compensation or
9 reimbursement shall not exceed the amount allowed by the office of
10 public guardianship.

11 (7) If an individual subject to guardianship or conservatorship
12 seeks to modify or terminate the guardianship or conservatorship or
13 remove the guardian or conservator, the court may order compensation
14 to the guardian or conservator for time spent opposing modification,
15 termination, or removal only to the extent the court determines the
16 opposition was reasonably necessary to protect the interests of the
17 individual subject to guardianship or conservatorship.

18 NEW SECTION. **Sec. 122.** LIABILITY OF GUARDIAN OR CONSERVATOR FOR
19 ACT OF INDIVIDUAL SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP. A
20 guardian or conservator is not personally liable to another person
21 solely because of the guardianship or conservatorship for an act or
22 omission of the individual subject to guardianship or
23 conservatorship.

24 NEW SECTION. **Sec. 123.** PETITION AFTER APPOINTMENT FOR
25 INSTRUCTION OR RATIFICATION. (1) A guardian or conservator may
26 petition the court for instruction concerning fiduciary
27 responsibility or ratification of a particular act related to the
28 guardianship or conservatorship.

29 (2) On notice and hearing on a petition under subsection (1) of
30 this section, the court may give an instruction and issue an
31 appropriate order.

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

36 (a) The person has actual knowledge or a reasonable belief that
37 the letters of office of the guardian or conservator are invalid or

1 the conservator or guardian is exceeding or improperly exercising
2 authority granted by the court; or

3 (b) The person has actual knowledge that the individual subject
4 to guardianship or conservatorship is subject to physical or
5 financial abuse, neglect, exploitation, or abandonment by the
6 guardian or conservator or a person acting for or with the guardian
7 or conservator.

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

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

13 (b) The person makes, or has actual knowledge that another person
14 has made, a report to the department of children, youth, and families
15 or the department of social and health services stating a good-faith
16 belief that the individual subject to guardianship or conservatorship
17 is subject to physical or financial abuse, neglect, exploitation, or
18 abandonment by the guardian or conservator or a person acting for or
19 with the guardian or conservator.

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

25 (4) A guardian or conservator may petition the court to require a
26 third party to accept a decision made by the guardian or conservator
27 on behalf of the individual subject to guardianship or
28 conservatorship.

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

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

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

- 1 (a) Selecting the agent;
- 2 (b) Establishing the scope and terms of the agent's work in
3 accordance with the guardian's plan under section 317 of this act or
4 the conservator's plan under section 419 of this act;
- 5 (c) Monitoring the agent's performance and compliance with the
6 delegation; and
- 7 (d) Redressing an act or omission of the agent which would
8 constitute a breach of the guardian's or conservator's duties if done
9 by the guardian or conservator.
- 10 (3) A guardian or conservator may not delegate all powers to an
11 agent.
- 12 (4) In performing a power delegated under this section, an agent
13 shall:
- 14 (a) Exercise reasonable care to comply with the terms of the
15 delegation and use reasonable care in the performance of the power;
16 and
- 17 (b) If the guardian or conservator has delegated to the agent the
18 power to make a decision on behalf of the individual subject to
19 guardianship or conservatorship, use the same decision-making
20 standard the guardian or conservator would be required to use.
- 21 (5) By accepting a delegation of a power under subsection (1) of
22 this section from a guardian or conservator, an agent submits to the
23 personal jurisdiction of the courts of this state in an action
24 involving the agent's performance as agent.
- 25 (6) A guardian or conservator that delegates and monitors a power
26 in compliance with this section is not liable for the decision, act,
27 or omission of the agent.

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

32 (a) A proceeding to remove a guardian for the individual is
33 pending; or

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

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

1 (a) A proceeding to remove a conservator for the individual is
2 pending; or

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

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

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

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

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

27 (b) The affected guardian or conservator; and

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

30 (6) The court may remove a temporary substitute guardian or
31 temporary substitute conservator at any time. The temporary
32 substitute guardian or temporary substitute conservator shall make
33 any report the court requires.

34 NEW SECTION. **Sec. 127.** REGISTRATION OF ORDER—EFFECT. (1) If a
35 guardian has been appointed in another state for an individual, and a
36 petition for guardianship for the individual is not pending in this
37 state, the guardian appointed in the other state, after giving notice
38 to the appointing court, may register the guardianship order in this
39 state by filing as a foreign judgment, in a court of an appropriate

1 county of this state, certified copies of the order and letters of
2 office.

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

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

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

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

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

33 (a) Shall review the grievance and, if necessary to determine the
34 appropriate response, court records related to the guardianship or
35 conservatorship;

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

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

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

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

7 (iv) Termination or modification of the conservatorship may be
8 appropriate under section 431 of this act; and

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

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

12 (ii) Appointing a guardian ad litem;

13 (iii) Appointing an attorney for the individual subject to
14 guardianship or conservatorship; or

15 (iv) Holding a hearing.

16 (3) The court may decline to act under subsection (2) of this
17 section if a similar grievance was filed within the six months
18 preceding the filing of the current grievance and the court followed
19 the procedures of subsection (2) of this section in considering the
20 earlier grievance.

21 (4) In any court action under this section that involves a
22 professional guardian, the court must direct the clerk of the court
23 to send a copy of the order entered under this section to the
24 certified professional guardianship board.

25 NEW SECTION. **Sec. 129.** DELEGATION BY PARENT. Except as
26 otherwise provided in RCW 11.125.410, a parent of a minor, by a power
27 of attorney, may delegate to another person for a period not
28 exceeding twenty-four months any of the parent's powers regarding
29 care, custody, or property of the minor, other than power to consent
30 to marriage or adoption.

31 NEW SECTION. **Sec. 130.** EX PARTE COMMUNICATIONS—REMOVAL. A
32 guardian ad litem or visitor shall not engage in ex parte
33 communications with any judicial officer involved in the matter for
34 which he or she is appointed during the pendency of the proceeding,
35 except as permitted by court rule or statute for ex parte motions. Ex
36 parte motions shall be heard in open court on the record. The record
37 may be preserved in a manner deemed appropriate by the county where
38 the matter is heard. The court, upon its own motion, or upon the

1 motion of a party, may consider the removal of any guardian ad litem
2 or visitor who violates this section from any pending case or from
3 any court-authorized registry, and if so removed may require
4 forfeiture of any fees for professional services on the pending case.

5 NEW SECTION. **Sec. 131.** REGISTRY FOR GUARDIANS AD LITEM AND
6 VISITORS. (1) The superior court of each county shall develop and
7 maintain a registry of persons who are willing and qualified to serve
8 as guardians ad litem and visitors in guardianship and
9 conservatorship matters. The court shall choose as guardian ad litem
10 or visitor a person whose name appears on the registry in a system of
11 consistent rotation, except in extraordinary circumstances such as
12 the need for particular expertise. The court shall develop procedures
13 for periodic review of the persons on the registry and for probation,
14 suspension, or removal of persons on the registry for failure to
15 perform properly their duties as guardian ad litem or visitor. In the
16 event the court does not select the person next on the list, it shall
17 include in the order of appointment a written reason for its
18 decision.

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

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

23 (i) Level of formal education;

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

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

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

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

31 (vi) Evidence of the person's knowledge, training, and experience
32 in each of the following: Needs of impaired elderly people, physical
33 disabilities, mental illness, developmental disabilities, and other
34 areas relevant to the needs of persons subject to guardianship or
35 conservatorship, legal procedure, and the requirements of this
36 chapter.

37 The written statement of qualifications shall include the names
38 of any counties in which the person was removed from a guardian ad
39 litem or visitor registry pursuant to a grievance action, and the

1 name of the court and the cause number of any case in which the court
2 has removed the person for cause; and

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

6 (3) The superior court shall remove any person from the guardian
7 ad litem or visitor registry who misrepresents his or her
8 qualifications pursuant to a grievance procedure established by the
9 court.

10 (4) The background and qualification information shall be updated
11 annually.

12 (5) The department of social and health services shall convene an
13 advisory group to develop a model guardian ad litem and visitor
14 training program and shall update the program biennially. The
15 advisory group shall consist of representatives from consumer,
16 advocacy, and professional groups knowledgeable in developmental
17 disabilities, neurological impairment, physical disabilities, mental
18 illness, domestic violence, aging, legal, court administration, the
19 Washington state bar association, and other interested parties.

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

26 NEW SECTION. **Sec. 132.** GUARDIANSHIP/CONSERVATORSHIP SUMMARY.
27 Every order appointing a guardian or conservator and every court
28 order approving accounts or reports filed by a guardian or
29 conservator must include a guardianship/conservatorship summary
30 placed directly below the case caption or on a separate cover page in
31 or substantially in the same form as set forth in section 606 of this
32 act.

33 NEW SECTION. **Sec. 133.** GUARDIANSHIP/CONSERVATORSHIP COURTHOUSE
34 FACILITATOR PROGRAM. A county may create a guardianship/
35 conservatorship courthouse facilitator program to provide basic
36 services to pro se litigants in guardianship and conservatorship
37 cases. The legislative authority of any county may impose user fees
38 or may impose a surcharge of up to twenty dollars, or both, on

1 superior court cases filed under this chapter, chapter 11.90 RCW, and
2 chapter 73.36 RCW to pay for the expenses of the guardianship/
3 conservatorship courthouse facilitator program. Fees collected under
4 this section shall be collected and deposited in the same manner as
5 other county funds are collected and deposited, and shall be
6 maintained in a separate guardianship/conservatorship courthouse
7 facilitator account to be used as provided in this section.

8 NEW SECTION. **Sec. 134.** FILING FEE. (1)(a) The attorney general
9 may petition for the appointment of a guardian, conservator, or other
10 protective arrangement under sections 302, 402, and 504 of this act
11 in which there is cause to believe that a guardianship,
12 conservatorship, or protective arrangement is necessary and no
13 private party is able and willing to petition.

14 (b) Prepayment of a filing fee shall not be required in any
15 guardianship, conservatorship, or protective arrangement proceeding
16 brought by the attorney general. Payment of the filing fee shall be
17 ordered from the estate of the respondent person at the hearing on
18 the merits of the petition, unless in the judgment of the court, such
19 payment would impose a hardship upon the respondent, in which case
20 the filing shall be waived.

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

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

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

32 NEW SECTION. **Sec. 136.** CONSTRUCTION—CHAPTER APPLICABLE TO STATE
33 REGISTERED DOMESTIC PARTNERSHIPS—2009 c 521. For the purposes of this
34 chapter, the terms spouse, marriage, marital, husband, wife, widow,
35 widower, next of kin, and relative shall be interpreted as applying
36 equally to state registered domestic partnerships or individuals in
37 state registered domestic partnerships as well as to marital

1 relationships and married persons, and references to dissolution of
2 marriage shall apply equally to state registered domestic
3 partnerships that have been terminated, dissolved, or invalidated, to
4 the extent that such interpretation does not conflict with federal
5 law. Where necessary to implement chapter 521, Laws of 2009, gender-
6 specific terms such as husband and wife used in any statute, rule, or
7 other law shall be construed to be gender neutral, and applicable to
8 individuals in state registered domestic partnerships.

9 **ARTICLE 2**

10 **GUARDIANSHIP OF MINOR**

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

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

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

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

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

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

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

31 (a) The minor's name, age, principal residence, current street
32 address, if different, and, if different, address of the dwelling in
33 which it is proposed the minor will reside if the appointment is
34 made;

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

36 (c) The name and address, if known, of each person that had
37 primary care or custody of the minor for at least sixty days during

1 the two years immediately before the filing of the petition or for at
2 least seven hundred thirty days during the five years immediately
3 before the filing of the petition;

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

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

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

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

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

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

19 (j) Whether any other proceeding concerning the care or custody
20 of the minor is pending in any court in this state or another
21 jurisdiction.

22 NEW SECTION. **Sec. 203.** NOTICE OF HEARING FOR APPOINTMENT OF
23 GUARDIAN FOR MINOR. (1) If a petition is filed under section 202 of
24 this act, the court shall schedule a hearing and the petitioner
25 shall:

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

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

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

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

34 (iv) Each person that had primary care or custody of the minor
35 for at least sixty days during the two years immediately before the
36 filing of the petition or for at least seven hundred thirty days
37 during the five years immediately before the filing of the petition;
38 and

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

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

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

7 (ii) Any nominee of a parent;

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

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

11 (v) Any other person the court determines.

12 (2) Notice required by subsection (1) of this section must
13 include a statement of the right to request appointment of an
14 attorney for the minor or object to appointment of a guardian and a
15 description of the nature, purpose, and consequences of appointment
16 of a guardian.

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

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

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

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

29 (a) Interview the petitioner and the minor;

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

32 (c) Investigate any other matter relating to the petition the
33 court directs; and

34 (d) Ascertain whether the parent consents to the guardian for the
35 minor.

36 (5) The court may not grant a petition for guardianship of a
37 minor if the parents are objecting or not consenting unless parental
38 rights have been terminated.

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

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

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

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

9 (2) An attorney appointed under subsection (1) of this section
10 shall:

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

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

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

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

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

22 (5) The court is not required, but may appoint an attorney to
23 represent a parent of a minor who is the subject of a proceeding
24 under section 202 of this act if:

25 (a) The parent objects to appointment of a guardian for the
26 minor;

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

29 (c) The court otherwise determines the parent needs
30 representation.

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

37 (a) The minor consistently and repeatedly refused to attend the
38 hearing after being fully informed of the right to attend and, if the

1 minor is twelve years of age or older, the potential consequences of
2 failing to do so;

3 (b) There is no practicable way for the minor to attend the
4 hearing;

5 (c) The minor lacks the ability or maturity to participate
6 meaningfully in the hearing; or

7 (d) Attendance would be harmful to the minor.

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

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

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

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

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

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

27 (b) Require the petitioner to provide the results of an
28 examination of state and national criminal identification data
29 provided by the Washington state patrol criminal identification
30 system as described in chapter 43.43 RCW for the petitioner and adult
31 members of the petitioner's household.

32 NEW SECTION. **Sec. 207.** ORDER OF APPOINTMENT—PRIORITY OF NOMINEE
33 —LIMITED GUARDIANSHIP FOR MINOR. (1) After a hearing under section
34 203 of this act, the court may appoint a guardian for a minor, if
35 appointment is proper under section 201 of this act, dismiss the
36 proceeding, or take other appropriate action consistent with this
37 chapter or law of this state other than this chapter.

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

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

6 (b) If multiple parents have nominated different persons to serve
7 as guardian, the court shall appoint the nominee whose appointment is
8 in the best interest of the minor, unless the court finds that
9 appointment of none of the nominees is in the best interest of the
10 minor.

11 (c) If a guardian is not appointed under (a) or (b) of this
12 subsection, the court shall appoint the person nominated by the minor
13 if the minor is twelve years of age or older unless the court finds
14 that appointment is contrary to the best interest of the minor. In
15 that case, the court shall appoint as guardian a person whose
16 appointment is in the best interest of the minor.

17 (3) In the interest of maintaining or encouraging involvement by
18 a minor's parent in the minor's life, developing self-reliance of the
19 minor, or for other good cause, the court, at the time of appointment
20 of a guardian for the minor or later, on its own or on motion of the
21 minor or other interested person, may create a limited guardianship
22 by limiting the powers otherwise granted by this article to the
23 guardian. Following the same procedure, the court may grant
24 additional powers or withdraw powers previously granted.

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

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

32 (a) The guardian has delegated custody of the minor subject to
33 guardianship;

34 (b) The court has modified or limited the powers of the guardian;
35 or

36 (c) The court has removed the guardian.

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

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

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

10 (2) A parent of a minor, in a signed record, may nominate a
11 person to be appointed by the court as standby guardian for the
12 minor. The parent, in a signed record, may state desired limitations
13 on the powers to be granted the standby guardian. The parent, in a
14 signed record, may revoke or amend the nomination at any time before
15 the court appoints a standby guardian.

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

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

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

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

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

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

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

30 (ii) Each parent of the minor;

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

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

33 (b) Include with the copy of the petition served under (a) of
34 this subsection a statement of the right to request appointment of an
35 attorney for the minor or to object to appointment of the standby
36 guardian, and a description of the nature, purpose, and consequences
37 of appointment of a standby guardian.

38 (6) A person entitled to notice under subsection (5) of this
39 section, not later than sixty days after service of the petition and

1 statement, may object to appointment of the standby guardian by
2 filing an objection with the court and giving notice of the objection
3 to each other person entitled to notice under subsection (5) of this
4 section.

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

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

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

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

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

21 (a) Interview the petitioner and the minor;

22 (b) If the petitioner alleges the parent cannot be located and
23 served, ascertain whether the parent cannot be located with due
24 diligence; and

25 (c) Investigate any other matter relating to the petition the
26 court directs.

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

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

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

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

1 (a) The standby guardian assumes the duties and powers of the
2 guardian;

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

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

5 (d) The court removes the guardian.

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

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

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

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

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

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

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

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

30 (2) The duration of authority of an emergency guardian for a
31 minor may not exceed sixty days and the emergency guardian may
32 exercise only the powers specified in the order of appointment. The
33 emergency guardian's authority may be extended once for not more than
34 sixty days if the court finds that the conditions for appointment of
35 an emergency guardian in subsection (1) of this section continue.

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

- 1 (a) The minor, if the minor is twelve years of age or older;
- 2 (b) Any attorney appointed under section 204 of this act;
- 3 (c) Each parent of the minor;
- 4 (d) Any person, other than a parent, having care or custody of
- 5 the minor; and
- 6 (e) Any other person the court determines.

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

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

21 (6) The court may remove an emergency guardian appointed under
22 this section at any time. The emergency guardian shall make any
23 report the court requires.

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

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

33 (2) A guardian for a minor shall:

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

37 (b) Take reasonable care of the minor's personal effects and
38 bring a proceeding for a conservatorship or protective arrangement

1 instead of conservatorship if necessary to protect other property of
2 the minor;

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

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

10 (e) Report the condition of the minor and account for funds and
11 other property of the minor in the guardian's possession or subject
12 to the guardian's control, as required by court rule or ordered by
13 the court on application of a person interested in the minor's
14 welfare;

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

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

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

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

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

30 (b) Unless inconsistent with a court order entitled to
31 recognition in this state, take custody of the minor and establish
32 the minor's place of dwelling and, on authorization of the court,
33 establish or move the minor's dwelling outside this state;

34 (c) If the minor is not subject to conservatorship, commence a
35 proceeding, including an administrative proceeding, or take other
36 appropriate action to compel a person to support the minor or make a
37 payment for the benefit of the minor;

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

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

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

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

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

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

13 (i) Termination of the guardianship would be harmful to the
14 minor; and

15 (ii) The minor's interest in the continuation of the guardianship
16 outweighs the interest of any parent of the minor in restoration of
17 the parent's right to make decisions for the minor.

18 (2) A minor subject to guardianship or a person interested in the
19 welfare of the minor may petition the court to terminate the
20 guardianship, modify the guardianship, remove the guardian and
21 appoint a successor guardian, or remove a standby guardian and
22 appoint a different standby guardian.

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

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

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

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

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

4 NEW SECTION. **Sec. 213.** This chapter does not affect the
5 validity of any court order issued under chapter 26.10 RCW prior to
6 the effective date of this section.

7 **ARTICLE 3**
8 **GUARDIANSHIP OF ADULT**

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

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

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

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

21 (b) With appropriate findings, treat the petition as one for a
22 conservatorship under article 4 of this chapter or protective
23 arrangement under article 5 of this chapter, issue any appropriate
24 order, or dismiss the proceeding.

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

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

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

6 (a) The respondent's name, age, principal residence, current
7 street address, if different, and, if different, address of the
8 dwelling in which it is proposed the respondent will reside if the
9 petition is granted;

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

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

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

18 (iii) Adult stepchildren whom the respondent actively parented
19 during the stepchildren's minor years and with whom the respondent
20 had an ongoing relationship in the two-year period immediately before
21 the filing of the petition;

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

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

25 (ii) Any attorney currently representing the respondent;

26 (iii) Any representative payee appointed by the social security
27 administration for the respondent;

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

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

32 (vi) Any fiduciary for the respondent appointed by the department
33 of veterans affairs;

34 (vii) An agent designated under a power of attorney for health
35 care in which the respondent is identified as the principal;

36 (viii) An agent designated under a power of attorney for finances
37 in which the respondent is identified as the principal;

38 (ix) A person nominated as guardian by the respondent;

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

- 1 (xi) A proposed guardian and the reason the proposed guardian
2 should be selected; and
- 3 (xii) A person known to have routinely assisted the respondent
4 with decision making during the six months immediately before the
5 filing of the petition;
- 6 (d) The reason a guardianship is necessary, including a brief
7 description of:
- 8 (i) The nature and extent of the respondent's alleged need;
- 9 (ii) Any protective arrangement instead of guardianship or other
10 less restrictive alternatives for meeting the respondent's alleged
11 need which have been considered or implemented;
- 12 (iii) If no protective arrangement instead of guardianship or
13 other less restrictive alternatives have been considered or
14 implemented, the reason they have not been considered or implemented;
15 and
- 16 (iv) The reason a protective arrangement instead of guardianship
17 or other less restrictive alternative is insufficient to meet the
18 respondent's alleged need;
- 19 (e) Whether the petitioner seeks a limited guardianship or full
20 guardianship;
- 21 (f) If the petitioner seeks a full guardianship, the reason a
22 limited guardianship or protective arrangement instead of
23 guardianship is not appropriate;
- 24 (g) If a limited guardianship is requested, the powers to be
25 granted to the guardian;
- 26 (h) The name and current address, if known, of any person with
27 whom the petitioner seeks to limit the respondent's contact;
- 28 (i) If the respondent has property other than personal effects, a
29 general statement of the respondent's property, with an estimate of
30 its value, including any insurance or pension, and the source and
31 amount of other anticipated income or receipts; and
- 32 (j) Whether the respondent needs an interpreter, translator, or
33 other form of support to communicate effectively with the court or
34 understand court proceedings.

35 NEW SECTION. **Sec. 303.** NOTICE OF HEARING FOR APPOINTMENT OF
36 GUARDIAN FOR ADULT. (1) All petitions filed under section 302 of this
37 act for appointment of a guardian for an adult shall be heard within
38 sixty-days unless an extension of time is requested by a party or the
39 visitor within such sixty-day period and granted for good cause

1 shown. If an extension is granted, the court shall set a new hearing
2 date.

3 (2) A copy of a petition under section 302 of this act and notice
4 of a hearing on the petition must be served personally on the
5 respondent and the visitor appointed under section 304 of this act
6 not more than five court days after the petition under section 302 of
7 this act has been filed. The notice must inform the respondent of the
8 respondent's rights at the hearing, including the right to an
9 attorney and to attend the hearing. The notice must include a
10 description of the nature, purpose, and consequences of granting the
11 petition. The court may not grant the petition if notice
12 substantially complying with this subsection is not served on the
13 respondent.

14 (3) In a proceeding on a petition under section 302 of this act,
15 the notice required under subsection (2) of this section must be
16 given to the persons required to be listed in the petition under
17 section 302(2) (a) through (c) of this act and any other person
18 interested in the respondent's welfare the court determines. Failure
19 to give notice under this subsection does not preclude the court from
20 appointing a guardian.

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

- 24 (a) The adult subject to guardianship;
- 25 (b) The guardian; and
- 26 (c) Any other person the court determines.

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

32 (2) The court, in the order appointing a visitor, shall specify
33 the hourly rate the visitor may charge for his or her services, and
34 shall specify the maximum amount the visitor may charge without
35 additional court review and approval.

36 (3) (a) The visitor appointed under subsection (1) of this section
37 shall within five days of receipt of notice of appointment file with
38 the court and serve, either personally or by certified mail with
39 return receipt, the respondent or his or her legal counsel, the

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

- 13 (i) Lack of expertise necessary for the proceeding;
- 14 (ii) An hourly rate higher than what is reasonable for the
15 particular proceeding; or
- 16 (iii) A conflict of interest.

17 (b) Notice of the hearing shall be provided to the visitor and
18 all parties. If, after a hearing, the court enters an order replacing
19 the visitor, findings shall be included, expressly stating the
20 reasons for the removal. If the visitor is not removed, the court has
21 the authority to assess to the moving party attorneys' fees and costs
22 related to the motion. The court shall assess attorneys' fees and
23 costs for frivolous motions.

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

27 (a) Explain to the respondent the substance of the petition, the
28 nature, purpose, and effect of the proceeding, the respondent's
29 rights at the hearing on the petition, and the general powers and
30 duties of a guardian;

31 (b) Determine the respondent's views about the appointment sought
32 by the petitioner, including views about a proposed guardian, the
33 guardian's proposed powers and duties, and the scope and duration of
34 the proposed guardianship; and

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

38 (5) The visitor appointed under subsection (1) of this section
39 shall:

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

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

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

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

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

15 (a) A summary of self-care and independent living tasks the
16 respondent can manage without assistance or with existing supports,
17 could manage with the assistance of appropriate supportive services,
18 technological assistance, or supported decision making, and cannot
19 manage;

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

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

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

28 (c) A statement of the qualifications of the proposed guardian
29 and whether the respondent approves or disapproves of the proposed
30 guardian;

31 (d) A statement whether the proposed dwelling meets the
32 respondent's needs and whether the respondent has expressed a
33 preference as to residence;

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

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

38 (g) A statement whether the respondent is able to participate in
39 a hearing and which identifies any technology or other form of

1 support that would enhance the respondent's ability to participate;
2 and

3 (h) Any other matter the court directs.

4 NEW SECTION. **Sec. 305.** APPOINTMENT AND ROLE OF ATTORNEY FOR
5 ADULT. (1) Unless the respondent in a proceeding for appointment of a
6 guardian for an adult is represented by an attorney, the court is not
7 required, but may appoint an attorney to represent the respondent,
8 regardless of the respondent's ability to pay.

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

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

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

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

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

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

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

24 (2) If the court orders an evaluation under subsection (1) of
25 this section, the respondent must be examined by a physician licensed
26 to practice under chapter 18.71 or 18.57 RCW, psychologist licensed
27 under chapter 18.83 RCW, or advanced registered nurse practitioner
28 licensed under chapter 18.79 RCW selected by the visitor who is
29 qualified to evaluate the respondent's alleged cognitive and
30 functional abilities and limitations and will not be advantaged or
31 disadvantaged by a decision to grant the petition or otherwise have a
32 conflict of interest. The individual conducting the evaluation
33 promptly shall file report in a record with the court. Unless
34 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;

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

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

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

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

9 NEW SECTION. **Sec. 307.** ATTENDANCE AND RIGHTS AT HEARING. (1)

10 Except as otherwise provided in subsection (2) of this section, a
11 hearing under section 303 of this act may not proceed unless the
12 respondent attends the hearing. If it is not reasonably feasible for
13 the respondent to attend a hearing at the location court proceedings
14 typically are held, the court shall make reasonable efforts to hold
15 the hearing at an alternative location convenient to the respondent
16 or allow the respondent to attend the hearing using real-time audio-
17 visual technology.

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

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

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

27 (3) The respondent may be assisted in a hearing under section 303
28 of this act by a person or persons of the respondent's choosing,
29 assistive technology, or an interpreter or translator, or a
30 combination of these supports. If assistance would facilitate the
31 respondent's participation in the hearing, but is not otherwise
32 available to the respondent, the court shall make reasonable efforts
33 to provide it.

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

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

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

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

3 (c) Otherwise participate in the hearing.

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

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

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

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

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

19 (b) Either:

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

21 (ii) The guardianship is terminated.

22 (2) An adult subject to a proceeding for a guardianship, whether
23 or not a guardian is appointed, an attorney designated by the adult,
24 and a person entitled to notice under section 310(5) of this act or a
25 subsequent order are entitled to access court records of the
26 proceeding and resulting guardianship, including the guardian's plan
27 under section 317 of this act and report under section 318 of this
28 act. A person not otherwise entitled to access court records under
29 this subsection for good cause may petition the court for access to
30 court records of the guardianship, including the guardian's report
31 and plan. The court shall grant access if access is in the best
32 interest of the respondent or adult subject to guardianship or
33 furthers the public interest and does not endanger the welfare or
34 financial interests of the adult.

35 (3) A report under section 304 of this act of a visitor or a
36 professional evaluation under section 306 of this act is confidential
37 and must be sealed on filing, but is available to:

38 (a) The court;

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

3 (c) The petitioner, visitor, and petitioner's and respondent's
4 attorneys, for purposes of the proceeding;

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

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

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

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

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

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

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

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

24 (f) A certified professional guardian or conservator.

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

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

37 (4) A person that provides paid services to the respondent, or an
38 individual who is employed by a person that provides paid services to
39 the respondent or is the spouse, domestic partner, parent, or child

1 of an individual who provides or is employed to provide paid services
2 to the respondent, may not be appointed as guardian unless:

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

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

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

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

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

19 (b) 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 (c) State whether the adult subject to guardianship retains the
23 right to vote and, if the adult does not retain the right to vote,
24 include findings that support removing that right which must include
25 a finding that the adult cannot communicate, with or without support,
26 a specific desire to participate in the voting process; and

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

30 (2) An adult subject to guardianship retains the right to vote
31 unless the order under subsection (1) of this section includes the
32 statement required by subsection (1)(c) of this section. An adult
33 subject to guardianship retains the right to marry unless the order
34 under subsection (1) of this section includes the findings required
35 by subsection (1)(d) of this section.

36 (3) A court order establishing a full guardianship for an adult
37 must state the basis for granting a full guardianship and include
38 specific findings that support the conclusion that a limited

1 guardianship would not meet the functional needs of the adult subject
2 to guardianship.

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

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

8 (a) Notice of the rights of the adult under section 311(2) of
9 this act;

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

11 (c) Notice that the guardian has delegated:

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

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

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

16 (iv) A power that requires court approval under section 316 of
17 this act; or

18 (v) Substantially all powers of the guardian;

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

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

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

25 (g) Notice of the death or significant change in the condition of
26 the adult;

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

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

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

35 (7) All orders establishing a guardianship for an adult must
36 contain:

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

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

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

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

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

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

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

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

23 (2) Not later than thirty days after appointment of a guardian
24 under section 309 of this act, the guardian shall give to the adult
25 subject to guardianship and any other person entitled to notice under
26 section 310(5) of this act or a subsequent order a statement of the
27 rights of the adult subject to guardianship and procedures to seek
28 relief if the adult is denied those rights. The statement must be in
29 at least sixteen-point font, in plain language, and, to the extent
30 feasible, in a language in which the adult subject to guardianship is
31 proficient. The statement must notify the adult subject to
32 guardianship of the right to:

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

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

1 (c) Be involved in health care decision making to the extent
2 reasonably feasible and supported in understanding the risks and
3 benefits of health care options to the extent reasonably feasible;

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

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

12 (f) Communicate, visit, or interact with others, including
13 receiving visitors, and making or receiving telephone calls, personal
14 mail, or electronic communications, including through social media,
15 unless:

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

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

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

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

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

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

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

34 (i) Associate with persons of their choosing as provided in
35 section 312 of this act.

36 NEW SECTION. **Sec. 312.** PERSONS UNDER A GUARDIANSHIP,
37 CONSERVATORSHIP, OR OTHER PROTECTIVE ARRANGEMENTS—RIGHT TO ASSOCIATE
38 WITH PERSONS OF THEIR CHOOSING. (1) Except as otherwise provided in
39 this section, a person under a guardianship retains the right to

1 associate with persons of the person under a guardianship's choosing.
2 This right includes, but is not limited to, the right to freely
3 communicate and interact with other persons, whether through in-
4 person visits, telephone calls, electronic communication, personal
5 mail, or other means. If the person under a guardianship is unable to
6 express consent for communication, visitation, or interaction with
7 another person, or is otherwise unable to make a decision regarding
8 association with another person, a guardian of a person under a
9 guardianship, whether full or limited, must:

10 (a) Personally inform the person under a guardianship of the
11 decision under consideration, using plain language, in a manner
12 calculated to maximize the understanding of the person under a
13 guardianship;

14 (b) Maximize the person under a guardianship's participation in
15 the decision-making process to the greatest extent possible,
16 consistent with the person under a guardianship's abilities; and

17 (c) Give substantial weight to the person under a guardianship's
18 preferences, both expressed and historical.

19 (2) A guardian or limited guardian may not restrict a person
20 under a guardianship's right to communicate, visit, interact, or
21 otherwise associate with persons of the person under a guardianship's
22 choosing, unless:

23 (a) The restriction is specifically authorized by the
24 guardianship court in the court order establishing or modifying the
25 guardianship or limited guardianship under chapter 11.--- RCW (the
26 new chapter created in section 806 of this act);

27 (b) The restriction is pursuant to a protection order issued
28 under chapter 74.34 RCW, chapter 26.50 RCW, or other law, that limits
29 contact between the person under a guardianship and other persons; or

30 (c)(i) The guardian or limited guardian has good cause to believe
31 that there is an immediate need to restrict a person under a
32 guardianship's right to communicate, visit, interact, or otherwise
33 associate with persons of the person under a guardianship's choosing
34 in order to protect the person under a guardianship from abuse,
35 neglect, abandonment, or financial exploitation, as those terms are
36 defined in RCW 74.34.020, or to protect the person under a
37 guardianship from activities that unnecessarily impose significant
38 distress on the person under a guardianship; and

39 (ii) Within fourteen calendar days of imposing the restriction
40 under (c)(i) of this subsection, the guardian or limited guardian

1 files a petition for a protection order under chapter 74.34 RCW. The
2 immediate need restriction may remain in place until the court has
3 heard and issued an order or decision on the petition.

4 (3) A protection order under chapter 74.34 RCW issued to protect
5 the person under a guardianship as described in subsection (2)(c)(ii)
6 of this section:

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

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

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

18 NEW SECTION. **Sec. 313.** EMERGENCY GUARDIAN FOR ADULT. (1) On its
19 own after a petition has been filed under section 302 of this act, or
20 on petition by a person interested in an adult's welfare, the court
21 may appoint an emergency guardian for the adult if the court finds:

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

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

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

28 (2) The duration of authority of an emergency guardian for an
29 adult may not exceed sixty days, and the emergency guardian may
30 exercise only the powers specified in the order of appointment. The
31 emergency guardian's authority may be extended once for not more than
32 sixty days if the court finds that the conditions for appointment of
33 an emergency guardian in subsection (1) of this section continue.

34 (3) Immediately on filing of a petition for appointment of an
35 emergency guardian for an adult, the court shall appoint an attorney
36 to represent the respondent in the proceeding. Except as otherwise
37 provided in subsection (4) of this section, reasonable notice of the
38 date, time, and place of a hearing on the petition must be given to

1 the respondent, the respondent's attorney, and any other person the
2 court determines.

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

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

12 (i) The respondent;

13 (ii) The respondent's attorney; and

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

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

17 (5) Appointment of an emergency guardian under this section is
18 not a determination that a basis exists for appointment of a guardian
19 under section 301 of this act.

20 (6) The court may remove an emergency guardian appointed under
21 this section at any time. The emergency guardian shall make any
22 report the court requires.

23 NEW SECTION. **Sec. 314.** DUTIES OF GUARDIAN FOR ADULT. (1) A
24 guardian for an adult is a fiduciary. Except as otherwise limited by
25 the court, a guardian for an adult shall make decisions regarding the
26 support, care, education, health, and welfare of the adult subject to
27 guardianship to the extent necessitated by the adult's limitations.

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

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

37 (b) To the extent reasonably feasible, identify the values and
38 preferences of the adult and involve the adult in decisions affecting

1 the adult, including decisions about the adult's care, dwelling,
2 activities, or social interactions; and

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

5 (3) A guardian for an adult at all times shall exercise
6 reasonable care, diligence, and prudence when acting on behalf of or
7 making decisions for the adult. In furtherance of this duty, the
8 guardian shall:

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

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

16 (c) Conserve any funds and other property of the adult not
17 expended under (b) of this subsection for the adult's future needs,
18 but if a conservator has been appointed for the adult, pay the funds
19 and other property at least quarterly to the conservator to be
20 conserved for the adult's future needs; and

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

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

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

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

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

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

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

10 (7) The guardian shall file with the court within thirty days of
11 any substantial change in the condition of the person under
12 guardianship or any changes in the residence of the person under
13 guardianship and shall provide a copy of the notice to the adult
14 subject to guardianship, a person entitled to notice under section
15 310(5) of this act or a subsequent order, and any other person the
16 court has determined is entitled to notice.

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

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

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

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

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

30 NEW SECTION. **Sec. 315.** POWERS OF GUARDIAN FOR ADULT. (1) Except
31 as limited by court order, a guardian for an adult may:

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

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

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

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

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

7 (f) Receive personally identifiable health care information
8 regarding the adult.

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

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

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

16 (b) Petition for divorce, dissolution, or annulment of marriage
17 of the adult or a declaration of invalidity of the adult's marriage;
18 or

19 (c) Support or oppose a petition for divorce, dissolution, or
20 annulment of marriage of the adult or a declaration of invalidity of
21 the adult's marriage.

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

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

30 (a) Select a residential setting the guardian believes the adult
31 would select if the adult were able, in accordance with the decision-
32 making standard in section 314 (4) and (5) of this act. If the
33 guardian does not know and cannot reasonably determine what setting
34 the adult subject to guardianship probably would choose if able, or
35 the guardian reasonably believes the decision the adult would make
36 would unreasonably harm or endanger the welfare or personal or
37 financial interests of the adult, the guardian shall choose in
38 accordance with section 314(5) of this act a residential setting that
39 is consistent with the adult's best interest;

1 (b) In selecting among residential settings, give priority to a
2 residential setting in a location that will allow the adult to
3 interact with persons important to the adult and meet the adult's
4 needs in the least restrictive manner reasonably feasible unless to
5 do so would be inconsistent with the decision-making standard in
6 section 314 (4) and (5) of this act;

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

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

12 (ii) Include in the notice the address and nature of the new
13 dwelling and state whether the adult received advance notice of the
14 change and whether the adult objected to the change;

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

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

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

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

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

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

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

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

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

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

1 (a) Involve the adult in decision making to the extent reasonably
2 feasible, including, when practicable, by encouraging and supporting
3 the adult in understanding the risks and benefits of health care
4 options;

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

8 (c) Take into account:

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

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

12 NEW SECTION. **Sec. 316.** SPECIAL LIMITATIONS ON GUARDIAN'S POWER.

13 (1) Unless authorized by the court by specific order, a guardian for
14 an adult does not have the power to revoke or amend a power of
15 attorney for health care or power of attorney for finances executed
16 by the adult. If a power of attorney for health care is in effect,
17 unless there is a court order to the contrary, a health care decision
18 of an agent takes precedence over that of the guardian and the
19 guardian shall cooperate with the agent to the extent feasible. If a
20 power of attorney for finances is in effect, unless there is a court
21 order to the contrary, a decision by the agent which the agent is
22 authorized to make under the power of attorney for finances takes
23 precedence over that of the guardian and the guardian shall cooperate
24 with the agent to the extent feasible.

25 (2) A guardian for an adult may not initiate the commitment of
26 the adult to an evaluation and treatment facility except in
27 accordance with the state's procedure for involuntary civil
28 commitment.

29 NEW SECTION. **Sec. 317.** GUARDIAN'S PLAN. (1) A guardian for an

30 adult, not later than ninety days after appointment, shall file with
31 the court a plan for the care of the adult and shall provide a copy
32 of the plan to the adult subject to guardianship, a person entitled
33 to notice under section 310(5) of this act or a subsequent order, and
34 any other person the court determines. The plan must be based on the
35 needs of the adult and take into account the best interest of the
36 adult as well as the adult's preferences, values, and prior
37 directions, to the extent known to or reasonably ascertainable by the
38 guardian. The guardian shall include in the plan:

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

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

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

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

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

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

15 (g) A statement or list of the amount the guardian proposes to
16 charge for each service the guardian anticipates providing to the
17 adult.

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

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

28 (4) The court shall review the guardian's plan filed under
29 subsection (1) of this section and determine whether to approve the
30 plan or require a new plan. In deciding whether to approve the plan,
31 the court shall consider an objection under subsection (3) of this
32 section and whether the plan is consistent with the guardian's duties
33 and powers under sections 314 and 315 of this act. The court may not
34 approve the plan until thirty days after its filing.

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

1 NEW SECTION. **Sec. 318.** GUARDIAN'S REPORT—MONITORING OF

2 GUARDIANSHIP. (1) A guardian for an adult shall file with the court
3 by the date established by the court a report in a record regarding
4 the condition of the adult and accounting for funds and other
5 property in the guardian's possession or subject to the guardian's
6 control. The guardian shall provide a copy of the report to the adult
7 subject to guardianship, a person entitled to notice under section
8 310(5) of this act or a subsequent order, and any other person the
9 court determines.

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

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

13 (b) The living arrangements of the adult during the reporting
14 period;

15 (c) A summary of the supported decision making, technological
16 assistance, medical services, educational and vocational services,
17 and other supports and services provided to the adult and the
18 guardian's opinion as to the adequacy of the adult's care;

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

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

22 (f) The extent to which the adult has participated in decision
23 making;

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

30 (h) Anything of more than de minimis value which the guardian,
31 any individual who resides with the guardian, or the spouse, domestic
32 partner, parent, child, or sibling of the guardian has received from
33 an individual providing goods or services to the adult;

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

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

39 (k) A copy of the guardian's most recently approved plan under
40 section 317 of this act and a statement whether the guardian has

1 deviated from the plan and, if so, how the guardian has deviated and
2 why;

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

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

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

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

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

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

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

23 (b) The guardianship should continue; and

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

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

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

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

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

34 (d) Consistent with sections 319 and 320 of this act, may hold a
35 hearing to consider removal of the guardian, termination of the
36 guardianship, or a change in the powers granted to the guardian or
37 terms of the guardianship.

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

1 (8) A guardian for an adult may petition the court for approval
2 of a report filed under this section. The court after review may
3 approve the report. If the court approves the report, there is a
4 rebuttable presumption the report is accurate as to a matter
5 adequately disclosed in the report.

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

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

22 (11) 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 section 605 of this act to the guardian
26 containing an expiration date which will be within one hundred twenty
27 days after the date the court directs the guardian file its next
28 report.

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

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

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

38 (a) Petition of the adult, guardian, or person interested in the
39 welfare of the adult, which contains allegations that, if true, would

1 support a reasonable belief that removal of the guardian and
2 appointment of a successor guardian may be appropriate, but the court
3 may decline to hold a hearing if a petition based on the same or
4 substantially similar facts was filed during the preceding six
5 months;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (4) On presentation of prima facie evidence for termination of a
27 guardianship for an adult, the court shall order termination unless
28 it is proven that a basis for appointment of a guardian under section
29 301 of this act exists.

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

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

38 (7) An adult subject to guardianship who seeks to terminate or
39 modify the terms of the guardianship has the right to choose an
40 attorney to represent the adult in the matter. The court shall award

1 reasonable attorneys' fees to the attorney for the adult as provided
2 in section 120 of this act.

3 **ARTICLE 4**
4 **CONSERVATORSHIP**

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

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

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

13 (b) Either:

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

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

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

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

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

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

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

32 (b) Appointment is necessary to:

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

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

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

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

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

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

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

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

18 (c) The guardian for the individual.

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

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

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

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

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

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

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

3 (i) A person responsible for the care or custody of the
4 respondent;

5 (ii) Any attorney currently representing the respondent;

6 (iii) The representative payee appointed by the social security
7 administration for the respondent;

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

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

12 (vi) The fiduciary appointed for the respondent by the department
13 of veterans affairs;

14 (vii) An agent designated under a power of attorney for health
15 care in which the respondent is identified as the principal;

16 (viii) An agent designated under a power of attorney for finances
17 in which the respondent is identified as the principal;

18 (ix) A person known to have routinely assisted the respondent
19 with decision making in the six-month period immediately before the
20 filing of the petition;

21 (x) Any proposed conservator, including a person nominated by the
22 respondent, if the respondent is twelve years of age or older; and

23 (xi) If the individual for whom a conservator is sought is a
24 minor:

25 (A) An adult not otherwise listed with whom the minor resides;
26 and

27 (B) Each person not otherwise listed that had primary care or
28 custody of the minor for at least sixty days during the two years
29 immediately before the filing of the petition or for at least seven
30 hundred thirty days during the five years immediately before the
31 filing of the petition;

32 (d) A general statement of the respondent's property with an
33 estimate of its value, including any insurance or pension, and the
34 source and amount of other anticipated income or receipts;

35 (e) The reason conservatorship is necessary, including a brief
36 description of:

37 (i) The nature and extent of the respondent's alleged need;

38 (ii) If the petition alleges the respondent is missing, detained,
39 or unable to return to the United States, the relevant circumstances,

1 including the time and nature of the disappearance or detention and
2 any search or inquiry concerning the respondent's whereabouts;

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

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

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

11 (f) Whether the petitioner seeks a limited conservatorship or a
12 full conservatorship;

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

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

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

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

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

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

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

1 respondent's rights at the hearing, including the right to an
2 attorney and to attend the hearing. The notice must include a
3 description of the nature, purpose, and consequences of granting the
4 petition. The court may not grant a petition for appointment of a
5 conservator if notice substantially complying with this subsection is
6 not served on the respondent.

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

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

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

20 (b) The conservator; and

21 (c) Any other person the court determines.

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

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

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

1 experience in the type of abilities, limitations, and needs alleged
2 in the petition.

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

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

- 23 (i) Lack of expertise necessary for the proceeding;
- 24 (ii) An hourly rate higher than what is reasonable for the
25 particular proceeding; or
- 26 (iii) A conflict of interest.

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

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

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

1 (b) Determine the respondent's views about the appointment sought
2 by the petitioner, including views about a proposed conservator, the
3 conservator's proposed powers and duties, and the scope and duration
4 of the proposed conservatorship; and

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

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

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

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

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

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

19 (7) A visitor appointed under subsection (2) of this section for
20 an adult 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 section 116 of this act at least
23 fifteen days prior to the hearing on the petition filed under section
24 402 of this act, which must include:

25 (a) A recommendation:

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

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

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

35 (iv) If a conservatorship is recommended, the amount of the bond
36 or other asset protection arrangement needed under sections 416 and
37 417 of this act;

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

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

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

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

9 (f) Any other matter the court directs.

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

11 Unless the respondent in a proceeding for appointment of a
12 conservator is represented by an attorney, the court is not required,
13 but may appoint an attorney to represent the respondent, regardless
14 of the respondent's ability to pay.

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

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

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

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

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

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

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

29 (c) The court otherwise determines the parent needs
30 representation.

31 NEW SECTION. **Sec. 407.** PROFESSIONAL EVALUATION. (1) At or

32 before a hearing on a petition for conservatorship for an adult, the
33 court shall order a professional evaluation of the respondent:

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

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

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

12 (a) A description of the nature, type, and extent of the
13 respondent's cognitive and functional abilities and limitations with
14 regard to the management of the respondent's property and financial
15 affairs;

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

19 (c) A prognosis for improvement with regard to the ability to
20 manage the respondent's property and financial affairs; and

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

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

24 NEW SECTION. **Sec. 408.** ATTENDANCE AND RIGHTS AT HEARING. (1)
25 Except as otherwise provided in subsection (2) of this section, a
26 hearing under section 403 of this act may not proceed unless the
27 respondent attends the hearing. If it is not reasonably feasible for
28 the respondent to attend a hearing at the location court proceedings
29 typically are held, the court shall make reasonable efforts to hold
30 the hearing at an alternative location convenient to the respondent
31 or allow the respondent to attend the hearing using real-time audio-
32 visual technology.

33 (2) A hearing under section 403 of this act may proceed without
34 the respondent in attendance if the court finds by clear and
35 convincing evidence that:

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

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

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

6 (3) The respondent may be assisted in a hearing under section 403
7 of this act by a person or persons of the respondent's choosing,
8 assistive technology, or an interpreter or translator, or a
9 combination of these supports. If assistance would facilitate the
10 respondent's participation in the hearing, but is not otherwise
11 available to the respondent, the court shall make reasonable efforts
12 to provide it.

13 (4) The respondent has a right to choose an attorney to represent
14 the respondent at a hearing under section 403 of this act.

15 (5) At a hearing under section 403 of this act, the respondent
16 may:

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

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

20 (c) Otherwise participate in the hearing.

21 (6) Unless excused by the court for good cause, a proposed
22 conservator shall attend a hearing under section 403 of this act.

23 (7) A hearing under section 403 of this act must be closed on
24 request of the respondent and a showing of good cause.

25 (8) Any person may request to participate in a hearing under
26 section 403 of this act. The court may grant the request, with or
27 without a hearing, on determining that the best interest of the
28 respondent will be served. The court may impose appropriate
29 conditions on the person's participation.

30 NEW SECTION. **Sec. 409.** CONFIDENTIALITY OF RECORDS. (1) The
31 existence of a proceeding for or the existence of conservatorship is
32 a matter of public record unless the court seals the record after:

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

36 (b) Either:

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

38 (ii) The conservatorship is terminated.

1 (2) An individual subject to a proceeding for a conservatorship,
2 whether or not a conservator is appointed, an attorney designated by
3 the individual, and a person entitled to notice under section 411(6)
4 of this act or a subsequent order may access court records of the
5 proceeding and resulting conservatorship, including the conservator's
6 plan under section 419 of this act and the conservator's report under
7 section 423 of this act. A person not otherwise entitled access to
8 court records under this section for good cause may petition the
9 court for access to court records of the conservatorship, including
10 the conservator's plan and report. The court shall grant access if
11 access is in the best interest of the respondent or individual
12 subject to conservatorship or furthers the public interest and does
13 not endanger the welfare or financial interests of the respondent or
14 individual.

15 (3) A report under section 405 of this act of a visitor or
16 professional evaluation under section 407 of this act is confidential
17 and must be sealed on filing, but is available to:

18 (a) The court;

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

21 (c) The petitioner, visitor, and petitioner's and respondent's
22 attorneys, for purposes of the proceeding;

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

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

28 NEW SECTION. **Sec. 410.** WHO MAY BE CONSERVATOR—ORDER OF
29 PRIORITY. (1) Except as otherwise provided in subsection (3) of this
30 section, the court in appointing a conservator shall consider persons
31 qualified to be a conservator in the following order of priority:

32 (a) A conservator, other than a temporary or emergency
33 conservator, currently acting for the respondent in another
34 jurisdiction;

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

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

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

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

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

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

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

18 (4) A person that provides paid services to the respondent, or an
19 individual who is employed by a person that provides paid services to
20 the respondent or is the spouse, domestic partner, parent, or child
21 of an individual who provides or is employed to provide paid services
22 to the respondent, may not be appointed as conservator unless:

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

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

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

32 NEW SECTION. **Sec. 411.** ORDER OF APPOINTMENT OF CONSERVATOR. (1)

33 A court order appointing a conservator for a minor must include
34 findings to support appointment of a conservator and, if a full
35 conservatorship is granted, the reason a limited conservatorship
36 would not meet the identified needs of the minor.

37 (2) A court order appointing a conservator for a minor may
38 dispense with the requirement for the conservator to file reports
39 with the court under section 423 of this act if all the property of

1 the minor subject to the conservatorship is protected by an asset
2 protection arrangement.

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

4 (a) Include a specific finding that clear and convincing evidence
5 has established that the identified needs of the respondent cannot be
6 met by a protective arrangement instead of conservatorship or other
7 less restrictive alternatives, including use of appropriate
8 supportive services, technological assistance, or supported decision
9 making; and

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

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

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

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

23 (a) Notice of the rights of the individual subject to
24 conservatorship under section 412(2) of this act;

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

27 (c) Notice that the conservator has delegated a power that
28 requires court approval under section 414 of this act or
29 substantially all powers of the conservator;

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

32 (e) A copy of the conservator's plan under section 419 of this
33 act and the conservator's report under section 423 of this act;

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

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

37 (h) Notice of the death or significant change in the condition of
38 the individual;

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

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

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

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

12 (9) All orders establishing a conservatorship for an adult must
13 contain:

14 (a) A conservatorship summary placed directly below the case
15 caption or on a separate cover page in the form or substantially the
16 same form as set forth in section 606 of this act;

17 (b) The date which the limited conservator or conservator must
18 file the conservator's plan under section 419 of this act;

19 (c) The date which the limited conservator or conservator must
20 file an inventory under section 420 of this act;

21 (d) The date by which the court will review the conservator's
22 plan as required by section 419 of this act;

23 (e) The report interval which the conservator must file its
24 report under section 423 of this act. The report interval may be
25 annual, biennial, or triennial;

26 (f) The date the limited conservator or conservator must file its
27 report under section 423 of this act. The due date of the filing of
28 the report shall be within ninety days after the anniversary date of
29 the appointment;

30 (g) The date for the court to review the report under section 423
31 of this act and enter its order. The court shall conduct the review
32 within one hundred twenty days after the anniversary date of the
33 appointment.

34 NEW SECTION. **Sec. 412.** NOTICE OF ORDER OF APPOINTMENT—RIGHTS.

35 (1) A conservator appointed under section 411 of this act shall give
36 to the individual subject to conservatorship and to all other persons
37 given notice under section 403 of this act a copy of the order of
38 appointment, together with notice of the right to request termination

1 or modification. The order and notice must be given not later than
2 fourteen days after the appointment.

3 (2) Not later than thirty days after appointment of a conservator
4 under section 411 of this act, the conservator shall give to the
5 individual subject to conservatorship and any other person entitled
6 to notice under section 411(6) of this act a statement of the rights
7 of the individual subject to conservatorship and procedures to seek
8 relief if the individual is denied those rights. The statement must
9 be in plain language, in at least sixteen-point font, and to the
10 extent feasible, in a language in which the individual subject to
11 conservatorship is proficient. The statement must notify the
12 individual subject to conservatorship of the right to:

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

16 (b) Participate in decision making to the extent reasonably
17 feasible;

18 (c) Receive a copy of the conservator's plan under section 419 of
19 this act, the conservator's inventory under section 420 of this act,
20 and the conservator's report under section 423 of this act; and

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

22 (3) If a conservator is appointed for the reasons stated in
23 section 401(2)(a)(ii) of this act and the individual subject to
24 conservatorship is missing, notice under this section to the
25 individual is not required.

26 NEW SECTION. **Sec. 413.** EMERGENCY CONSERVATOR. (1) On its own or
27 on petition by a person interested in an individual's welfare after a
28 petition has been filed under section 402 of this act, the court may
29 appoint an emergency conservator for the individual if the court
30 finds:

31 (a) Appointment of an emergency conservator is likely to prevent
32 substantial and irreparable harm to the individual's property or
33 financial interests;

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

36 (c) There is reason to believe that a basis for appointment of a
37 conservator under section 401 of this act exists.

38 (2) The duration of authority of an emergency conservator may not
39 exceed sixty days and the emergency conservator may exercise only the

1 powers specified in the order of appointment. The emergency
2 conservator's authority may be extended once for not more than sixty
3 days if the court finds that the conditions for appointment of an
4 emergency conservator under subsection (1) of this section continue.

5 (3) Immediately on filing of a petition for an emergency
6 conservator, the court shall appoint an attorney to represent the
7 respondent in the proceeding. Except as otherwise provided in
8 subsection (4) of this section, reasonable notice of the date, time,
9 and place of a hearing on the petition must be given to the
10 respondent, the respondent's attorney, and any other person the court
11 determines.

12 (4) The court may appoint an emergency conservator without notice
13 to the respondent and any attorney for the respondent only if the
14 court finds from an affidavit or testimony that the respondent's
15 property or financial interests will be substantially and irreparably
16 harmed before a hearing with notice on the appointment can be held.
17 If the court appoints an emergency conservator without giving notice
18 under subsection (3) of this section, the court must give notice of
19 the appointment not later than forty-eight hours after the
20 appointment to:

- 21 (a) The respondent;
- 22 (b) The respondent's attorney; and
- 23 (c) Any other person the court determines.

24 (5) Not later than five days after the appointment, the court
25 shall hold a hearing on the appropriateness of the appointment.

26 (6) Appointment of an emergency conservator under this section is
27 not a determination that a basis exists for appointment of a
28 conservator under section 401 of this act.

29 (7) The court may remove an emergency conservator appointed under
30 this section at any time. The emergency conservator shall make any
31 report the court requires.

32 NEW SECTION. **Sec. 414.** POWERS OF CONSERVATOR REQUIRING COURT
33 APPROVAL. (1) Except as otherwise ordered by the court, a conservator
34 must give notice to persons entitled to notice under section 403(4)
35 of this act and receive specific authorization by the court before
36 the conservator may exercise with respect to the conservatorship the
37 power to:

- 38 (a) Make a gift, except a gift of de minimis value;

1 (b) Sell, encumber an interest in, or surrender a lease to the
2 primary dwelling of the individual subject to conservatorship;

3 (c) Convey, release, or disclaim a contingent or expectant
4 interest in property, including marital property and any right of
5 survivorship incident to joint tenancy or tenancy by the entireties;

6 (d) Exercise or release a power of appointment;

7 (e) Create a revocable or irrevocable trust of property of the
8 conservatorship estate, whether or not the trust extends beyond the
9 duration of the conservatorship, or revoke or amend a trust revocable
10 by the individual subject to conservatorship;

11 (f) Exercise a right to elect an option or change a beneficiary
12 under an insurance policy or annuity or surrender the policy or
13 annuity for its cash value;

14 (g) Exercise a right to an elective share in the estate of a
15 deceased spouse or domestic partner of the individual subject to
16 conservatorship or renounce or disclaim a property interest;

17 (h) Grant a creditor priority for payment over creditors of the
18 same or higher class if the creditor is providing property or
19 services used to meet the basic living and care needs of the
20 individual subject to conservatorship and preferential treatment
21 otherwise would be impermissible under section 428(5) of this act;
22 and

23 (i) Make, modify, amend, or revoke the will of the individual
24 subject to conservatorship in compliance with chapter 11.12 RCW.

25 (2) In approving a conservator's exercise of a power listed in
26 subsection (1) of this section, the court shall consider primarily
27 the decision the individual subject to conservatorship would make if
28 able, to the extent the decision can be ascertained.

29 (3) To determine under subsection (2) of this section the
30 decision the individual subject to conservatorship would make if
31 able, the court shall consider the individual's prior or current
32 directions, preferences, opinions, values, and actions, to the extent
33 actually known or reasonably ascertainable by the conservator. The
34 court also shall consider:

35 (a) The financial needs of the individual subject to
36 conservatorship and individuals who are in fact dependent on the
37 individual subject to conservatorship for support, and the interests
38 of creditors of the individual;

39 (b) Possible reduction of income, estate, inheritance, or other
40 tax liabilities;

1 (c) Eligibility for governmental assistance;

2 (d) The previous pattern of giving or level of support provided
3 by the individual;

4 (e) Any existing estate plan or lack of estate plan of the
5 individual;

6 (f) The life expectancy of the individual and the probability the
7 conservatorship will terminate before the individual's death; and

8 (g) Any other relevant factor.

9 (4) A conservator may not revoke or amend a power of attorney for
10 finances executed by the individual subject to conservatorship. If a
11 power of attorney for finances is in effect, a decision of the agent
12 takes precedence over that of the conservator, unless the court
13 orders otherwise.

14 NEW SECTION. **Sec. 415.** PETITION FOR ORDER AFTER APPOINTMENT. An
15 individual subject to conservatorship or a person interested in the
16 welfare of the individual may petition for an order:

17 (1) Requiring the conservator to furnish a bond or collateral or
18 additional bond or collateral or allowing a reduction in a bond or
19 collateral previously furnished;

20 (2) Requiring an accounting for the administration of the
21 conservatorship estate;

22 (3) Directing distribution;

23 (4) Removing the conservator and appointing a temporary or
24 successor conservator;

25 (5) Modifying the type of appointment or powers granted to the
26 conservator, if the extent of protection or management previously
27 granted is excessive or insufficient to meet the individual's needs,
28 including because the individual's abilities or supports have
29 changed;

30 (6) Rejecting or modifying the conservator's plan under section
31 419 of this act, the conservator's inventory under section 420 of
32 this act, or the conservator's report under section 423 of this act;
33 or

34 (7) Granting other appropriate relief.

35 NEW SECTION. **Sec. 416.** BOND—ALTERNATIVE ASSET PROTECTION
36 ARRANGEMENT. (1) Except as otherwise provided in subsections (3) and
37 (4) of this section, the court shall require a conservator to furnish
38 a bond with a surety the court specifies, or require an alternative

1 asset protection arrangement, conditioned on faithful discharge of
2 all duties of the conservator. The court may waive the requirement
3 only if the court finds that a bond or other asset protection
4 arrangement is not necessary to protect the interests of the
5 individual subject to conservatorship. Except as otherwise provided
6 in subsections (3) and (4) of this section, the court may not waive
7 the requirement if the conservator is in the business of serving as a
8 conservator and is being paid for the conservator's service.

9 (2) Unless the court directs otherwise, the bond required under
10 this section must be in the amount of the aggregate capital value of
11 the conservatorship estate, plus the estimated income for the
12 accounting and report review interval, less the value of property
13 deposited under an asset protection arrangement requiring a court
14 order for its removal and real property the conservator lacks power
15 to sell or convey without specific court authorization. The court, in
16 place of surety on a bond, may accept collateral for the performance
17 of the bond, including a pledge of securities or a mortgage of real
18 property.

19 (3) A regulated financial institution qualified to do trust
20 business in this state is not required to give a bond under this
21 section.

22 (4) In all conservatorships where the person subject to
23 conservatorship has total assets of a value of less than three
24 thousand dollars, the court may dispense with the requirement of a
25 bond: PROVIDED, That the conservator swears to report to the court
26 any changes in the total assets of the person subject to
27 conservatorship increasing their value to over three thousand
28 dollars: PROVIDED FURTHER, That the conservator files a yearly
29 statement showing the monthly income of the person subject to
30 conservatorship if such monthly income, excluding moneys from state
31 or federal benefits, is over the sum of five hundred dollars per
32 month for any three consecutive months.

33 NEW SECTION. **Sec. 417.** TERMS AND REQUIREMENTS OF BOND. (1) The
34 following rules apply to the bond required under section 416 of this
35 act:

36 (a) Except as otherwise provided by the bond, the surety and the
37 conservator are jointly and severally liable.

38 (b) By executing a bond provided by a conservator, the surety
39 submits to the personal jurisdiction of the court that issued letters

1 of office to the conservator in a proceeding relating to the duties
2 of the conservator in which the surety is named as a party. Notice of
3 the proceeding must be given to the surety at the address shown in
4 the records of the court in which the bond is filed and any other
5 address of the surety then known to the person required to provide
6 the notice.

7 (c) On petition of a successor conservator or person affected by
8 a breach of the obligation of the bond, a proceeding may be brought
9 against the surety for breach of the obligation of the bond.

10 (d) A proceeding against the bond may be brought until liability
11 under the bond is exhausted.

12 (2) A proceeding may not be brought under this section against a
13 surety of a bond on a matter as to which a proceeding against the
14 conservator is barred.

15 (3) If a bond under section 416 of this act is not renewed by the
16 conservator, the surety or sureties immediately shall give notice to
17 the court and the individual subject to conservatorship.

18 NEW SECTION. **Sec. 418.** DUTIES OF CONSERVATOR. (1) A conservator
19 is a fiduciary and has duties of prudence and loyalty to the
20 individual subject to conservatorship.

21 (2) A conservator shall promote the self-determination of the
22 individual subject to conservatorship and, to the extent feasible,
23 encourage the individual to participate in decisions, act on the
24 individual's own behalf, and develop or regain the capacity to manage
25 the individual's personal affairs.

26 (3) In making a decision for an individual subject to
27 conservatorship, the conservator shall make the decision the
28 conservator reasonably believes the individual would make if able,
29 unless doing so would fail to preserve the resources needed to
30 maintain the individual's well-being and lifestyle or otherwise
31 unreasonably harm or endanger the welfare or personal or financial
32 interests of the individual. To determine the decision the individual
33 would make if able, the conservator shall consider the individual's
34 prior or current directions, preferences, opinions, values, and
35 actions, to the extent actually known or reasonably ascertainable by
36 the conservator.

37 (4) If a conservator cannot make a decision under subsection (3)
38 of this section because the conservator does not know and cannot
39 reasonably determine the decision the individual subject to

1 conservatorship probably would make if able, or the conservator
2 reasonably believes the decision the individual would make would fail
3 to preserve resources needed to maintain the individual's well-being
4 and lifestyle or otherwise unreasonably harm or endanger the welfare
5 or personal or financial interests of the individual, the conservator
6 shall act in accordance with the best interests of the individual. In
7 determining the best interests of the individual, the conservator
8 shall consider:

9 (a) Information received from professionals and persons that
10 demonstrate sufficient interest in the welfare of the individual;

11 (b) Other information the conservator believes the individual
12 would have considered if the individual were able to act; and

13 (c) Other factors a reasonable person in the circumstances of the
14 individual would consider, including consequences for others.

15 (5) Except when inconsistent with the conservator's duties under
16 subsections (1) through (4) of this section, a conservator shall
17 invest and manage the conservatorship estate as a prudent investor
18 would, by considering:

19 (a) The circumstances of the individual subject to
20 conservatorship and the conservatorship estate;

21 (b) General economic conditions;

22 (c) The possible effect of inflation or deflation;

23 (d) The expected tax consequences of an investment decision or
24 strategy;

25 (e) The role of each investment or course of action in relation
26 to the conservatorship estate as a whole;

27 (f) The expected total return from income and appreciation of
28 capital;

29 (g) The need for liquidity, regularity of income, and
30 preservation or appreciation of capital; and

31 (h) The special relationship or value, if any, of specific
32 property to the individual subject to conservatorship.

33 (6) The propriety of a conservator's investment and management of
34 the conservatorship estate is determined in light of the facts and
35 circumstances existing when the conservator decides or acts and not
36 by hindsight.

37 (7) A conservator shall make a reasonable effort to verify facts
38 relevant to the investment and management of the conservatorship
39 estate.

1 (8) A conservator that has special skills or expertise, or is
2 named conservator in reliance on the conservator's representation of
3 special skills or expertise, has a duty to use the special skills or
4 expertise in carrying out the conservator's duties.

5 (9) In investing, selecting specific property for distribution,
6 and invoking a power of revocation or withdrawal for the use or
7 benefit of the individual subject to conservatorship, a conservator
8 shall consider any estate plan of the individual known or reasonably
9 ascertainable to the conservator and may examine the will or other
10 donative, nominative, or appointive instrument of the individual.

11 (10) A conservator shall maintain insurance on the insurable real
12 and personal property of the individual subject to conservatorship,
13 unless the conservatorship estate lacks sufficient funds to pay for
14 insurance or the court finds:

15 (a) The property lacks sufficient equity; or

16 (b) Insuring the property would unreasonably dissipate the
17 conservatorship estate or otherwise not be in the best interest of
18 the individual.

19 (11) If a power of attorney for finances is in effect, a
20 conservator shall cooperate with the agent to the extent feasible.

21 (12) A conservator has access to and authority over a digital
22 asset of the individual subject to conservatorship to the extent
23 provided by the revised uniform fiduciary access to digital assets
24 act (chapter 11.120 RCW) or court order.

25 (13) A conservator for an adult shall notify the court if the
26 condition of the adult has changed so that the adult is capable of
27 exercising rights previously removed. The notice must be given
28 immediately on learning of the change.

29 (14) A conservator shall notify the court within thirty days of
30 any substantial change in the value of the property of the person
31 subject to conservatorship and shall provide a copy of the notice to
32 the person subject to guardianship, a person entitled to notice under
33 section 403 of this act or a subsequent order, and any other person
34 the court has determined is entitled to notice and schedule a hearing
35 for the court to review the adequacy of the bond or other asset
36 protection arrangement under sections 416 and 417 of this act.

37 NEW SECTION. **Sec. 419.** CONSERVATOR'S PLAN. (1) A conservator,
38 not later than ninety days after appointment, shall file with the
39 court a plan for protecting, managing, expending, and distributing

1 the assets of the conservatorship estate. The plan must be based on
2 the needs of the individual subject to conservatorship and take into
3 account the best interest of the individual as well as the
4 individual's preferences, values, and prior directions, to the extent
5 known to or reasonably ascertainable by the conservator. The
6 conservator shall include in the plan:

7 (a) A budget containing projected expenses and resources,
8 including an estimate of the total amount of fees the conservator
9 anticipates charging per year and a statement or list of the amount
10 the conservator proposes to charge for each service the conservator
11 anticipates providing to the individual;

12 (b) How the conservator will involve the individual in decisions
13 about management of the conservatorship estate;

14 (c) Any step the conservator plans to take to develop or restore
15 the ability of the individual to manage the conservatorship estate;
16 and

17 (d) An estimate of the duration of the conservatorship.

18 (2) A conservator shall give notice of the filing of the
19 conservator's plan under subsection (1) of this section, together
20 with a copy of the plan, to the individual subject to
21 conservatorship, a person entitled to notice under section 411(6) of
22 this act or a subsequent order, and any other person the court
23 determines. The notice must include a statement of the right to
24 object to the plan and be given not later than fourteen days after
25 the filing.

26 (3) An individual subject to conservatorship and any person
27 entitled under subsection (2) of this section to receive notice and a
28 copy of the conservator's plan may object to the plan.

29 (4) The court shall review the conservator's plan filed under
30 subsection (1) of this section and determine whether to approve the
31 plan or require a new plan. In deciding whether to approve the plan,
32 the court shall consider an objection under subsection (3) of this
33 section and whether the plan is consistent with the conservator's
34 duties and powers. The court may not approve the plan until thirty
35 days after its filing.

36 (5) After a conservator's plan under this section is approved by
37 the court, the conservator shall provide a copy of the plan to the
38 individual subject to conservatorship, a person entitled to notice
39 under section 411(6) of this act or a subsequent order, and any other
40 person the court determines.

1 NEW SECTION. **Sec. 420.** INVENTORY—RECORDS. (1) Not later than
2 sixty days after appointment, a conservator shall prepare and file
3 with the appointing court a detailed inventory of the conservatorship
4 estate, together with an oath or affirmation that the inventory is
5 believed to be complete and accurate as far as information permits.

6 (2) A conservator shall give notice of the filing of an inventory
7 to the individual subject to conservatorship, a person entitled to
8 notice under section 411(6) of this act or a subsequent order, and
9 any other person the court determines. The notice must be given not
10 later than fourteen days after the filing.

11 (3) A conservator shall keep records of the administration of the
12 conservatorship estate and make them available for examination on
13 reasonable request of the individual subject to conservatorship, a
14 guardian for the individual, or any other person the conservator or
15 the court determines.

16 NEW SECTION. **Sec. 421.** ADMINISTRATIVE POWERS OF CONSERVATOR NOT
17 REQUIRING COURT APPROVAL. (1) Except as otherwise provided in section
18 414 of this act or qualified or limited in the court's order of
19 appointment and stated in the letters of office, a conservator has
20 all powers granted in this section and any additional power granted
21 to a trustee by law of this state other than this chapter.

22 (2) A conservator, acting reasonably and consistent with the
23 fiduciary duties of the conservator to accomplish the purpose of the
24 conservatorship, without specific court authorization or
25 confirmation, may with respect to the conservatorship estate:

26 (a) Collect, hold, and retain property, including property in
27 which the conservator has a personal interest and real property in
28 another state, until the conservator determines disposition of the
29 property should be made;

30 (b) Receive additions to the conservatorship estate;

31 (c) Continue or participate in the operation of a business or
32 other enterprise;

33 (d) Acquire an undivided interest in property in which the
34 conservator, in a fiduciary capacity, holds an undivided interest;

35 (e) Invest assets;

36 (f) Deposit funds or other property in a financial institution,
37 including one operated by the conservator;

38 (g) Acquire or dispose of property, including real property in
39 another state, for cash or on credit, at public or private sale, and

1 manage, develop, improve, exchange, partition, change the character
2 of, or abandon property;

3 (h) Make ordinary or extraordinary repairs or alterations in a
4 building or other structure, demolish any improvement, or raze an
5 existing or erect a new party wall or building;

6 (i) Subdivide or develop land, dedicate land to public use, make
7 or obtain the vacation of a plat and adjust a boundary, adjust a
8 difference in valuation of land, exchange or partition land by giving
9 or receiving consideration, and dedicate an easement to public use
10 without consideration;

11 (j) Enter for any purpose into a lease of property as lessor or
12 lessee, with or without an option to purchase or renew, for a term
13 within or extending beyond the term of the conservatorship;

14 (k) Enter into a lease or arrangement for exploration and removal
15 of minerals or other natural resources or a pooling or unitization
16 agreement;

17 (l) Grant an option involving disposition of property or accept
18 or exercise an option for the acquisition of property;

19 (m) Vote a security, in person or by general or limited proxy;

20 (n) Pay a call, assessment, or other sum chargeable or accruing
21 against or on account of a security;

22 (o) Sell or exercise a stock subscription or conversion right;

23 (p) Consent, directly or through a committee or agent, to the
24 reorganization, consolidation, merger, dissolution, or liquidation of
25 a corporation or other business enterprise;

26 (q) Hold a security in the name of a nominee or in other form
27 without disclosure of the conservatorship so that title to the
28 security may pass by delivery;

29 (r) Insure:

30 (i) The conservatorship estate, in whole or in part, against
31 damage or loss in accordance with section 418(10) of this act; and

32 (ii) The conservator against liability with respect to a third
33 person;

34 (s) Borrow funds, with or without security, to be repaid from the
35 conservatorship estate or otherwise;

36 (t) Advance funds for the protection of the conservatorship
37 estate or the individual subject to conservatorship and all expenses,
38 losses, and liability sustained in the administration of the
39 conservatorship estate or because of holding any property for which
40 the conservator has a lien on the conservatorship estate;

1 (u) Pay or contest a claim, settle a claim by or against the
2 conservatorship estate or the individual subject to conservatorship
3 by compromise, arbitration, or otherwise, or release, in whole or in
4 part, a claim belonging to the conservatorship estate to the extent
5 the claim is uncollectible;

6 (v) Pay a tax, assessment, compensation of the conservator or any
7 guardian, and other expense incurred in the collection, care,
8 administration, and protection of the conservatorship estate;

9 (w) Pay a sum distributable to the individual subject to
10 conservatorship or an individual who is in fact dependent on the
11 individual subject to conservatorship by paying the sum to the
12 distributee or for the use of the distributee:

13 (i) To the guardian for the distributee;

14 (ii) To the custodian of the distributee under the uniform
15 transfers to minors act (chapter 11.114 RCW); or

16 (iii) If there is no guardian, custodian, or custodial trustee,
17 to a relative or other person having physical custody of the
18 distributee;

19 (x) Bring or defend an action, claim, or proceeding in any
20 jurisdiction for the protection of the conservatorship estate or the
21 conservator in the performance of the conservator's duties;

22 (y) Structure the finances of the individual subject to
23 conservatorship to establish eligibility for a public benefit,
24 including by making gifts consistent with the individual's
25 preferences, values, and prior directions, if the conservator's
26 action does not jeopardize the individual's welfare and otherwise is
27 consistent with the conservator's duties; and

28 (z) Execute and deliver any instrument that will accomplish or
29 facilitate the exercise of a power of the conservator.

30 NEW SECTION. **Sec. 422.** DISTRIBUTION FROM CONSERVATORSHIP
31 ESTATE. Except as otherwise provided in section 414 of this act or
32 qualified or limited in the court's order of appointment and stated
33 in the letters of office, and unless contrary to a conservator's plan
34 under section 419 of this act, the conservator may expend or
35 distribute income or principal of the conservatorship estate without
36 specific court authorization or confirmation for the support, care,
37 education, health, or welfare of the individual subject to
38 conservatorship or an individual who is in fact dependent on the

1 individual subject to conservatorship, including the payment of child
2 or spousal support, in accordance with the following rules:

3 (1) The conservator shall consider a recommendation relating to
4 the appropriate standard of support, care, education, health, or
5 welfare for the individual subject to conservatorship or individual
6 who is dependent on the individual subject to conservatorship, made
7 by a guardian for the individual subject to conservatorship, if any,
8 and, if the individual subject to conservatorship is a minor, a
9 recommendation made by a parent of the minor.

10 (2) The conservator acting in compliance with the conservator's
11 duties under section 418 of this act is not liable for an expenditure
12 or distribution made based on a recommendation under subsection (1)
13 of this section unless the conservator knows the expenditure or
14 distribution is not in the best interest of the individual subject to
15 conservatorship.

16 (3) In making an expenditure or distribution under this section,
17 the conservator shall consider:

18 (a) The size of the conservatorship estate, the estimated
19 duration of the conservatorship, and the likelihood the individual
20 subject to conservatorship, at some future time, may be fully self-
21 sufficient and able to manage the individual's financial affairs and
22 the conservatorship estate;

23 (b) The accustomed standard of living of the individual subject
24 to conservatorship and individual who is dependent on the individual
25 subject to conservatorship;

26 (c) Other funds or source used for the support of the individual
27 subject to conservatorship; and

28 (d) The preferences, values, and prior directions of the
29 individual subject to conservatorship.

30 (4) Funds expended or distributed under this section may be paid
31 by the conservator to any person, including the individual subject to
32 conservatorship, as reimbursement for expenditures the conservator
33 might have made, or in advance for services to be provided to the
34 individual subject to conservatorship or individual who is dependent
35 on the individual subject to conservatorship if it is reasonable to
36 expect the services will be performed and advance payment is
37 customary or reasonably necessary under the circumstances.

38 NEW SECTION. **Sec. 423.** CONSERVATOR'S REPORT AND ACCOUNTING—
39 MONITORING. (1) A conservator shall file with the court by the date

1 established by the court a report in a record regarding the
2 administration of the conservatorship estate unless the court
3 otherwise directs, on resignation or removal, on termination of the
4 conservatorship, and at any other time the court directs.

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

7 (a) An accounting that lists property included in the
8 conservatorship estate and the receipts, disbursements, liabilities,
9 and distributions during the period for which the report is made;

10 (b) A list of the services provided to the individual subject to
11 conservatorship;

12 (c) A copy of the conservator's most recently approved plan and a
13 statement whether the conservator has deviated from the plan and, if
14 so, how the conservator has deviated and why;

15 (d) A recommendation as to the need for continued conservatorship
16 and any recommended change in the scope of the conservatorship;

17 (e) To the extent feasible, a copy of the most recent reasonably
18 available financial statements evidencing the status of bank
19 accounts, investment accounts, and mortgages or other debts of the
20 individual subject to conservatorship with all but the last four
21 digits of the account numbers and social security number redacted;

22 (f) Anything of more than de minimis value which the conservator,
23 any individual who resides with the conservator, or the spouse,
24 domestic partner, parent, child, or sibling of the conservator has
25 received from a person providing goods or services to the individual
26 subject to conservatorship;

27 (g) Any business relation the conservator has with a person the
28 conservator has paid or that has benefited from the property of the
29 individual subject to conservatorship; and

30 (h) Whether any co-conservator or successor conservator appointed
31 to serve when a designated event occurs is alive and able to serve.

32 (3) The court may appoint a visitor to review a report under this
33 section or conservator's plan under section 419 of this act,
34 interview the individual subject to conservatorship or conservator,
35 or investigate any other matter involving the conservatorship. In
36 connection with the report, the court may order the conservator to
37 submit the conservatorship estate to appropriate examination in a
38 manner the court directs.

39 (4) Notice of the filing under this section of a conservator's
40 report, together with a copy of the report, must be provided to the

1 individual subject to conservatorship, a person entitled to notice
2 under section 411(6) of this act or a subsequent order, and other
3 persons the court determines. The notice and report must be given not
4 later than fourteen days after filing.

5 (5) The court shall establish procedures for monitoring a report
6 submitted under this section and review each report at least annually
7 to determine whether:

8 (a) The reports provide sufficient information to establish the
9 conservator has complied with the conservator's duties;

10 (b) The conservatorship should continue; and

11 (c) The conservator's requested fees, if any, should be approved.

12 (6) If the court determines there is reason to believe a
13 conservator has not complied with the conservator's duties or the
14 conservatorship should not continue, the court:

15 (a) Shall notify the individual subject to conservatorship, the
16 conservator, and any other person entitled to notice under section
17 411(6) of this act or a subsequent order;

18 (b) May require additional information from the conservator;

19 (c) May appoint a visitor to interview the individual subject to
20 conservatorship or conservator or investigate any matter involving
21 the conservatorship; and

22 (d) Consistent with sections 430 and 431 of this act, may hold a
23 hearing to consider removal of the conservator, termination of the
24 conservatorship, or a change in the powers granted to the conservator
25 or terms of the conservatorship.

26 (7) If the court has reason to believe fees requested by a
27 conservator are not reasonable, the court shall hold a hearing to
28 determine whether to adjust the requested fees.

29 (8) A conservator must petition the court for approval of a
30 report filed under this section. The court after review may approve
31 the report. If the court approves the report, there is a rebuttable
32 presumption the report is accurate as to a matter adequately
33 disclosed in the report.

34 (9) An order, after notice and hearing, approving an interim
35 report of a conservator filed under this section adjudicates
36 liabilities concerning a matter adequately disclosed in the report,
37 as to a person given notice of the report or accounting.

38 (10) If the court approves a report filed under this section, the
39 order approving the report shall set the due date for the filing of
40 the next report to be filed under this section. The court may set the

1 review at annual, biennial, or triennial intervals with the report
2 due date to be within ninety days of the anniversary date of
3 appointment. When determining the report interval, the court can
4 consider: The length of time the conservator has been serving the
5 person under conservatorship; whether the conservator has timely
6 filed all required reports with the court; whether the conservator is
7 monitored by other state or local agencies; the income of the person
8 subject to conservatorship; the value of the property of the person
9 subject to conservatorship; the adequacy of the bond and other asset
10 protection arrangement(s); and whether there have been any
11 allegations of abuse, neglect, or a breach of fiduciary duty against
12 the conservator.

13 (11) If the court approves a report filed under this section, the
14 order approving the report shall contain a conservatorship summary or
15 accompanied by a conservatorship summary in the form or substantially
16 in the same form as set forth in section 606 of this act.

17 (12) 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 section 605 of this act to the conservator
21 containing an expiration date which will be within one hundred twenty
22 days after the date the court directs the conservator file its next
23 report.

24 (13) An order, after notice and hearing, approving a final report
25 filed under this section discharges the conservator from all
26 liabilities, claims, and causes of action by a person given notice of
27 the report and the hearing as to a matter adequately disclosed in the
28 report.

29 (14) Any requirement to establish a monitoring program under this
30 section is subject to appropriation.

31 NEW SECTION. **Sec. 424.** ATTEMPTED TRANSFER OF PROPERTY BY
32 INDIVIDUAL SUBJECT TO CONSERVATORSHIP. (1) The interest of an
33 individual subject to conservatorship in property included in the
34 conservatorship estate is not transferable or assignable by the
35 individual and is not subject to levy, garnishment, or similar
36 process for claims against the individual unless allowed under
37 section 428 of this act.

38 (2) If an individual subject to conservatorship enters into a
39 contract after having the right to enter the contract removed by the

1 court, the contract is void against the individual and the
2 individual's property but is enforceable against the person that
3 contracted with the individual.

4 (3) A person other than the conservator that deals with an
5 individual subject to conservatorship with respect to property
6 included in the conservatorship estate is entitled to protection
7 provided by law of this state other than this chapter.

8 NEW SECTION. **Sec. 425.** TRANSACTION INVOLVING CONFLICT OF
9 INTEREST. A transaction involving a conservatorship estate which is
10 affected by a substantial conflict between the conservator's
11 fiduciary duties and personal interests is voidable unless the
12 transaction is authorized by court order after notice to persons
13 entitled to notice under section 411(6) of this act or a subsequent
14 order. A transaction affected by a substantial conflict includes a
15 sale, encumbrance, or other transaction involving the conservatorship
16 estate entered into by the conservator, an individual with whom the
17 conservator resides, the spouse, domestic partner, descendant,
18 sibling, agent, or attorney of the conservator, or a corporation or
19 other enterprise in which the conservator has a substantial
20 beneficial interest.

21 NEW SECTION. **Sec. 426.** PROTECTION OF PERSON DEALING WITH
22 CONSERVATOR. (1) A person that assists or deals with a conservator in
23 good faith and for value in any transaction, other than a transaction
24 requiring a court order under section 414 of this act, is protected
25 as though the conservator properly exercised any power in question.
26 Knowledge by a person that the person is dealing with a conservator
27 alone does not require the person to inquire into the existence of
28 authority of the conservator or the propriety of the conservator's
29 exercise of authority, but restrictions on authority stated in
30 letters of office, or otherwise provided by law, are effective as to
31 the person. A person that pays or delivers property to a conservator
32 is not responsible for proper application of the property.

33 (2) Protection under subsection (1) of this section extends to a
34 procedural irregularity or jurisdictional defect in the proceeding
35 leading to the issuance of letters of office and does not substitute
36 for protection for a person that assists or deals with a conservator
37 provided by comparable provisions in law of this state other than

1 this chapter relating to a commercial transaction or simplifying a
2 transfer of securities by a fiduciary.

3 NEW SECTION. **Sec. 427.** DEATH OF INDIVIDUAL SUBJECT TO
4 CONSERVATORSHIP. (1) If an individual subject to conservatorship
5 dies, the conservator shall deliver to the court for safekeeping any
6 will of the individual in the conservator's possession and inform the
7 personal representative named in the will if feasible, or if not
8 feasible, a beneficiary named in the will, of the delivery.

9 (2) If forty days after the death of an individual subject to
10 conservatorship no personal representative has been appointed and no
11 application or petition for appointment is before the court, the
12 conservator may apply to exercise the powers and duties of a personal
13 representative to administer and distribute the decedent's estate.
14 The conservator shall give notice of his or her appointment and the
15 pendency of any probate proceedings as provided in RCW 11.28.237 and
16 shall also give notice to a person nominated as personal
17 representative by a will of the decedent of which the conservator is
18 aware. The court may grant the application if there is no objection
19 and endorse the letters of office to note that the individual
20 formerly subject to conservatorship is deceased and the conservator
21 has acquired the powers and duties of a personal representative.

22 (3) On the death of an individual subject to conservatorship, the
23 conservator shall conclude the administration of the conservatorship
24 estate as provided in section 431 of this act.

25 NEW SECTION. **Sec. 428.** PRESENTATION AND ALLOWANCE OF CLAIM. (1)
26 A conservator may pay, or secure by encumbering property included in
27 the conservatorship estate, a claim against the conservatorship
28 estate or the individual subject to conservatorship arising before or
29 during the conservatorship, on presentation and allowance in
30 accordance with the priorities under subsection (4) of this section.
31 A claimant may present a claim by:

32 (a) Sending or delivering to the conservator a statement in a
33 record of the claim, indicating its basis, the name and address of
34 the claimant, and the amount claimed; or

35 (b) Filing the claim with the court, in a form acceptable to the
36 court, and sending or delivering a copy of the claim to the
37 conservator.

1 (2) A claim under subsection (1) of this section is presented on
2 receipt by the conservator of the statement of the claim or the
3 filing with the court of the claim, whichever first occurs. A
4 presented claim is allowed if it is not disallowed in whole or in
5 part by the conservator in a record sent or delivered to the claimant
6 not later than sixty days after its presentation. Before payment, the
7 conservator may change an allowance of the claim to a disallowance in
8 whole or in part, but not after allowance under a court order or
9 order directing payment of the claim. Presentation of a claim tolls
10 until thirty days after disallowance of the claim the running of a
11 statute of limitations that has not expired relating to the claim.

12 (3) A claimant whose claim under subsection (1) of this section
13 has not been paid may petition the court to determine the claim at
14 any time before it is barred by a statute of limitations, and the
15 court may order its allowance, payment, or security by encumbering
16 property included in the conservatorship estate. If a proceeding is
17 pending against the individual subject to conservatorship at the time
18 of appointment of the conservator or is initiated thereafter, the
19 moving party shall give the conservator notice of the proceeding if
20 it could result in creating a claim against the conservatorship
21 estate.

22 (4) If a conservatorship estate is likely to be exhausted before
23 all existing claims are paid, the conservator shall distribute the
24 estate in money or in kind in payment of claims in the following
25 order:

26 (a) Costs and expenses of administration;

27 (b) A claim of the federal or state government having priority
28 under law other than this chapter;

29 (c) A claim incurred by the conservator for support, care,
30 education, health, or welfare previously provided to the individual
31 subject to conservatorship or an individual who is in fact dependent
32 on the individual subject to conservatorship;

33 (d) A claim arising before the conservatorship; and

34 (e) All other claims.

35 (5) Preference may not be given in the payment of a claim under
36 subsection (4) of this section over another claim of the same class.
37 A claim due and payable may not be preferred over a claim not due
38 unless:

1 (a) Doing so would leave the conservatorship estate without
2 sufficient funds to pay the basic living and health care expenses of
3 the individual subject to conservatorship; and

4 (b) The court authorizes the preference under section 414(1)(h)
5 of this act.

6 (6) If assets of a conservatorship estate are adequate to meet
7 all existing claims, the court, acting in the best interest of the
8 individual subject to conservatorship, may order the conservator to
9 grant a security interest in the conservatorship estate for payment
10 of a claim at a future date.

11 NEW SECTION. **Sec. 429.** PERSONAL LIABILITY OF CONSERVATOR. (1)
12 Except as otherwise agreed by a conservator, the conservator is not
13 personally liable on a contract properly entered into in a fiduciary
14 capacity in the course of administration of the conservatorship
15 estate unless the conservator fails to reveal the conservator's
16 representative capacity in the contract or before entering into the
17 contract.

18 (2) A conservator is personally liable for an obligation arising
19 from control of property of the conservatorship estate or an act or
20 omission occurring in the course of administration of the
21 conservatorship estate only if the conservator is personally at
22 fault.

23 (3) A claim based on a contract entered into by a conservator in
24 a fiduciary capacity, an obligation arising from control of property
25 included in the conservatorship estate, or a tort committed in the
26 course of administration of the conservatorship estate may be
27 asserted against the conservatorship estate in a proceeding against
28 the conservator in a fiduciary capacity, whether or not the
29 conservator is personally liable for the claim.

30 (4) A question of liability between a conservatorship estate and
31 the conservator personally may be determined in a proceeding for
32 accounting, surcharge, or indemnification or another appropriate
33 proceeding or action.

34 NEW SECTION. **Sec. 430.** REMOVAL OF CONSERVATOR—APPOINTMENT OF
35 SUCCESSOR. (1) The court may remove a conservator for failure to
36 perform the conservator's duties or other good cause and appoint a
37 successor conservator to assume the duties of the conservator.

1 (2) The court shall hold a hearing to determine whether to remove
2 a conservator and appoint a successor on:

3 (a) Petition of the individual subject to conservatorship,
4 conservator, or person interested in the welfare of the individual
5 which contains allegations that, if true, would support a reasonable
6 belief that removal of the conservator and appointment of a successor
7 may be appropriate, but the court may decline to hold a hearing if a
8 petition based on the same or substantially similar facts was filed
9 during the preceding six months;

10 (b) Communication from the individual subject to conservatorship,
11 conservator, or person interested in the welfare of the individual
12 which supports a reasonable belief that removal of the conservator
13 and appointment of a successor may be appropriate; or

14 (c) Determination by the court that a hearing would be in the
15 best interest of the individual subject to conservatorship.

16 (3) Notice of a hearing under subsection (2)(a) of this section
17 and notice of the individual's right to be represented at the hearing
18 by counsel of the individual's choosing must be given to the
19 individual subject to conservatorship, the conservator, and any other
20 person the court determines.

21 (4) An individual subject to conservatorship who seeks to remove
22 the conservator and have a successor appointed has the right to
23 choose an attorney to represent the individual in this matter. The
24 court shall award reasonable attorneys' fees to the attorney as
25 provided in section 120 of this act.

26 (5) In selecting a successor conservator, the court shall follow
27 the priorities under section 410 of this act.

28 (6) Not later than thirty days after appointing a successor
29 conservator, the court shall give notice of the appointment to the
30 individual subject to conservatorship and any person entitled to
31 notice under section 411(6) of this act or a subsequent order.

32 NEW SECTION. **Sec. 431.** TERMINATION OR MODIFICATION OF
33 CONSERVATORSHIP. (1) A conservatorship for a minor terminates on the
34 earliest of:

35 (a) A court order terminating the conservatorship;

36 (b) The minor becoming an adult or, if the minor consents or the
37 court finds by clear and convincing evidence that substantial harm to
38 the minor's interests is otherwise likely, attaining twenty-one years
39 of age;

1 (c) Emancipation of the minor; or

2 (d) Death of the minor.

3 (2) A conservatorship for an adult terminates on order of the
4 court or when the adult dies.

5 (3) An individual subject to conservatorship, the conservator, or
6 a person interested in the welfare of the individual may petition
7 for:

8 (a) Termination of the conservatorship on the ground that a basis
9 for appointment under section 401 of this act does not exist or
10 termination would be in the best interest of the individual or for
11 other good cause; or

12 (b) Modification of the conservatorship on the ground that the
13 extent of protection or assistance granted is not appropriate or for
14 other good cause.

15 (4) The court shall hold a hearing to determine whether
16 termination or modification of a conservatorship is appropriate on:

17 (a) Petition under subsection (3) of this section that contains
18 allegations that, if true, would support a reasonable belief that
19 termination or modification of the conservatorship may be
20 appropriate, but the court may decline to hold a hearing if a
21 petition based on the same or substantially similar facts was filed
22 within the preceding six months;

23 (b) A communication from the individual subject to
24 conservatorship, conservator, or person interested in the welfare of
25 the individual which supports a reasonable belief that termination or
26 modification of the conservatorship may be appropriate, including
27 because the functional needs of the individual or supports or
28 services available to the individual have changed;

29 (c) A report from a guardian or conservator which indicates that
30 termination or modification may be appropriate because the functional
31 needs or supports or services available to the individual have
32 changed or a protective arrangement instead of conservatorship or
33 other less restrictive alternative is available; or

34 (d) A determination by the court that a hearing would be in the
35 best interest of the individual.

36 (5) Notice of a petition under subsection (3) of this section
37 must be given to the individual subject to conservatorship, the
38 conservator, and any such other person the court determines.

39 (6) On presentation of prima facie evidence for termination of a
40 conservatorship, the court shall order termination unless it is

1 proven that a basis for appointment of a conservator under section
2 401 of this act exists.

3 (7) The court shall modify the powers granted to a conservator if
4 the powers are excessive or inadequate due to a change in the
5 abilities or limitations of the individual subject to
6 conservatorship, the individual's supports, or other circumstances.

7 (8) Unless the court otherwise orders for good cause, before
8 terminating a conservatorship, the court shall follow the same
9 procedures to safeguard the rights of the individual subject to
10 conservatorship which apply to a petition for conservatorship.

11 (9) An individual subject to conservatorship who seeks to
12 terminate or modify the terms of the conservatorship has the right to
13 choose an attorney to represent the individual in this matter. The
14 court shall award reasonable attorneys' fees to the attorney as
15 provided in section 120 of this act.

16 (10) On termination of a conservatorship other than by reason of
17 the death of the individual subject to conservatorship, property of
18 the conservatorship estate passes to the individual. The order of
19 termination must direct the conservator to file a final report and
20 petition for discharge on approval by the court of the final report.

21 (11) On termination of a conservatorship by reason of the death
22 of the individual subject to conservatorship, the conservator shall
23 file a final report and petition for discharge on approval by the
24 court of the final report within ninety days of death of the person
25 subject to conservatorship. On approval of the final report, the
26 conservator shall proceed expeditiously to distribute the
27 conservatorship estate to the individual's estate or as otherwise
28 ordered by the court. The conservator may take reasonable measures
29 necessary to preserve the conservatorship estate until distribution
30 can be made.

31 (12) The court shall issue a final order of discharge on the
32 approval by the court of the final report and satisfaction by the
33 conservator of any other condition the court imposed on the
34 conservator's discharge.

35 NEW SECTION. **Sec. 432.** TRANSFER FOR BENEFIT OF MINOR WITHOUT
36 APPOINTMENT OF CONSERVATOR. (1) Unless a person required to transfer
37 funds or other property to a minor knows that a conservator for the
38 minor has been appointed or a proceeding is pending for

1 conservatorship, the person may transfer an amount or value not
2 exceeding fifteen thousand dollars in a twelve-month period to:

3 (a) A person that has care or custody of the minor and with whom
4 the minor resides;

5 (b) A guardian for the minor;

6 (c) A custodian under the uniform transfers to minors act
7 (chapter 11.114 RCW); or

8 (d) A financial institution as a deposit in an interest-bearing
9 account or certificate solely in the name of the minor and shall give
10 notice to the minor of the deposit.

11 (2) A person that transfers funds or other property under this
12 section is not responsible for its proper application.

13 (3) A person that receives funds or other property for a minor
14 under subsection (1)(a) or (b) of this section may apply it only to
15 the support, care, education, health, or welfare of the minor, and
16 may not derive a personal financial benefit from it, except for
17 reimbursement for necessary expenses. Funds not applied for these
18 purposes must be preserved for the future support, care, education,
19 health, or welfare of the minor, and the balance, if any, transferred
20 to the minor when the minor becomes an adult or otherwise is
21 emancipated.

22 **ARTICLE 5**

23 **OTHER PROTECTIVE ARRANGEMENTS**

24 NEW SECTION. **Sec. 501.** AUTHORITY FOR PROTECTIVE ARRANGEMENT.

25 (1) Under this article, a court:

26 (a) On receiving a petition for a guardianship for an adult may
27 order a protective arrangement instead of guardianship as a less
28 restrictive alternative to guardianship; and

29 (b) On receiving a petition for a conservatorship for an
30 individual may order a protective arrangement instead of
31 conservatorship as a less restrictive alternative to conservatorship.

32 (2) A person interested in an adult's welfare, including the
33 adult or a conservator for the adult, may petition under this article
34 for a protective arrangement instead of guardianship.

35 (3) The following persons may petition under this article for a
36 protective arrangement instead of conservatorship:

37 (a) The individual for whom the protective arrangement is sought;

1 (b) A person interested in the property, financial affairs, or
2 welfare of the individual, including a person that would be affected
3 adversely by lack of effective management of property or financial
4 affairs of the individual; and

5 (c) The guardian for the individual.

6 NEW SECTION. **Sec. 502.** BASIS FOR PROTECTIVE ARRANGEMENT INSTEAD
7 OF GUARDIANSHIP FOR ADULT. (1) After the hearing on a petition under
8 section 302 of this act for a guardianship or under section 501(2) of
9 this act for a protective arrangement instead of guardianship, the
10 court may issue an order under subsection (2) of this section for a
11 protective arrangement instead of guardianship if the court finds by
12 clear and convincing evidence that:

13 (a) The respondent lacks the ability to meet essential
14 requirements for physical health, safety, or self-care because the
15 respondent is unable to receive and evaluate information or make or
16 communicate decisions, even with appropriate supportive services,
17 technological assistance, or supported decision making; and

18 (b) The respondent's identified needs cannot be met by a less
19 restrictive alternative.

20 (2) If the court makes the findings under subsection (1) of this
21 section, the court, instead of appointing a guardian, may:

22 (a) Authorize or direct a transaction necessary to meet the
23 respondent's need for health, safety, or care, including:

24 (i) A particular medical treatment or refusal of a particular
25 medical treatment;

26 (ii) A move to a specified place of dwelling; or

27 (iii) Visitation or supervised visitation between the respondent
28 and another person;

29 (b) Restrict access to the respondent by a specified person whose
30 access places the respondent at serious risk of physical,
31 psychological, or financial harm; and

32 (c) Reorder other arrangements on a limited basis that are
33 appropriate.

34 (3) In deciding whether to issue an order under this section, the
35 court shall consider the factors under sections 314 and 315 of this
36 act that a guardian must consider when making a decision on behalf of
37 an adult subject to guardianship.

1 NEW SECTION. **Sec. 503.** BASIS FOR PROTECTIVE ARRANGEMENT INSTEAD
2 OF CONSERVATORSHIP FOR ADULT OR MINOR. (1) After the hearing on a
3 petition under section 402 of this act for conservatorship for an
4 adult or under section 501(3) of this act for a protective
5 arrangement instead of a conservatorship for an adult, the court may
6 issue an order under subsection (3) of this section for a protective
7 arrangement instead of conservatorship for the adult if the court
8 finds by clear and convincing evidence that:

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

11 (i) Of a limitation in the ability to receive and evaluate
12 information or make or communicate decisions, even with appropriate
13 supportive services, technological assistance, or supported decision
14 making; or

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

17 (b) An order under subsection (3) of this section is necessary
18 to:

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

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

24 (c) The respondent's identified needs cannot be met by a less
25 restrictive alternative.

26 (2) After the hearing on a petition under section 402 of this act
27 for conservatorship for a minor or under section 501(3) of this act
28 for a protective arrangement instead of conservatorship for a minor,
29 the court may issue an order under subsection (3) of this section for
30 a protective arrangement instead of conservatorship for the
31 respondent if the court finds by a preponderance of the evidence that
32 the arrangement is in the minor's best interest, and:

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

36 (b) Either:

37 (i) The minor owns money or property requiring management or
38 protection that otherwise cannot be provided;

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

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

4 (iv) The order under subsection (3) of this section is necessary
5 or desirable to obtain or provide money needed for the support, care,
6 education, health, or welfare of the minor.

7 (3) If the court makes the findings under subsection (1) or (2)
8 of this section, the court, instead of appointing a conservator, may:

9 (a) Authorize or direct a transaction necessary to protect the
10 financial interest or property of the respondent, including:

11 (i) An action to establish eligibility for benefits;

12 (ii) Payment, delivery, deposit, or retention of funds or
13 property;

14 (iii) Sale, mortgage, lease, or other transfer of property;

15 (iv) Purchase of an annuity;

16 (v) Entry into a contractual relationship, including a contract
17 to provide for personal care, supportive services, education,
18 training, or employment;

19 (vi) Addition to or establishment of a trust;

20 (vii) Ratification or invalidation of a contract, trust, will, or
21 other transaction, including a transaction related to the property or
22 business affairs of the respondent; or

23 (viii) Settlement of a claim; or

24 (b) Restrict access to the respondent's property by a specified
25 person whose access to the property places the respondent at serious
26 risk of financial harm.

27 (4) After the hearing on a petition under section 501 (1)(b) or
28 (3) of this act, whether or not the court makes the findings under
29 subsection (1) or (2) of this section, the court may issue an order
30 to restrict access to the respondent or the respondent's property by
31 a specified person that the court finds by clear and convincing
32 evidence:

33 (a) Through fraud, coercion, duress, or the use of deception and
34 control caused or attempted to cause an action that would have
35 resulted in financial harm to the respondent or the respondent's
36 property; and

37 (b) Poses a serious risk of substantial financial harm to the
38 respondent or the respondent's property.

39 (5) Before issuing an order under subsection (3) or (4) of this
40 section, the court shall consider the factors under section 418 of

1 this act a conservator must consider when making a decision on behalf
2 of an individual subject to conservatorship.

3 (6) Before issuing an order under subsection (3) or (4) of this
4 section for a respondent who is a minor, the court also shall
5 consider the best interest of the minor, the preference of the
6 parents of the minor, and the preference of the minor, if the minor
7 is twelve years of age or older.

8 NEW SECTION. **Sec. 504.** PETITION FOR PROTECTIVE ARRANGEMENT. A
9 petition for a protective arrangement instead of guardianship or
10 conservatorship must state the petitioner's name, principal
11 residence, current street address, if different, relationship to the
12 respondent, interest in the protective arrangement, the name and
13 address of any attorney representing the petitioner, and, to the
14 extent known, the following:

15 (1) The respondent's name, age, principal residence, current
16 street address, if different, and, if different, address of the
17 dwelling in which it is proposed the respondent will reside if the
18 petition is granted;

19 (2) The name and address of the respondent's:

20 (a) Spouse or domestic partner or, if the respondent has none, an
21 adult with whom the respondent has shared household responsibilities
22 for more than six months in the twelve-month period before the filing
23 of the petition;

24 (b) Adult children or, if none, each parent and adult sibling of
25 the respondent, or, if none, at least one adult nearest in kinship to
26 the respondent who can be found with reasonable diligence; and

27 (c) Adult stepchildren whom the respondent actively parented
28 during the stepchildren's minor years and with whom the respondent
29 had an ongoing relationship in the two-year period immediately before
30 the filing of the petition;

31 (3) The name and current address of each of the following, if
32 applicable:

33 (a) A person responsible for the care or custody of the
34 respondent;

35 (b) Any attorney currently representing the respondent;

36 (c) The representative payee appointed by the social security
37 administration for the respondent;

38 (d) A guardian or conservator acting for the respondent in this
39 state or another jurisdiction;

- 1 (e) A trustee or custodian of a trust or custodianship of which
2 the respondent is a beneficiary;
- 3 (f) The fiduciary appointed for the respondent by the department
4 of veterans affairs;
- 5 (g) An agent designated under a power of attorney for health care
6 in which the respondent is identified as the principal;
- 7 (h) An agent designated under a power of attorney for finances in
8 which the respondent is identified as the principal;
- 9 (i) A person nominated as guardian or conservator by the
10 respondent if the respondent is twelve years of age or older;
- 11 (j) A person nominated as guardian by the respondent's parent,
12 spouse, or domestic partner in a will or other signed record;
- 13 (k) A person known to have routinely assisted the respondent with
14 decision making in the six-month period immediately before the filing
15 of the petition; and
- 16 (l) If the respondent is a minor:
- 17 (i) An adult not otherwise listed with whom the respondent
18 resides; and
- 19 (ii) Each person not otherwise listed that had primary care or
20 custody of the respondent for at least sixty days during the two
21 years immediately before the filing of the petition or for at least
22 seven hundred thirty days during the five years immediately before
23 the filing of the petition;
- 24 (4) The nature of the protective arrangement sought;
- 25 (5) The reason the protective arrangement sought is necessary,
26 including a brief description of:
- 27 (a) The nature and extent of the respondent's alleged need;
- 28 (b) Any less restrictive alternative for meeting the respondent's
29 alleged need which has been considered or implemented;
- 30 (c) If no less restrictive alternative has been considered or
31 implemented, the reason less restrictive alternatives have not been
32 considered or implemented; and
- 33 (d) The reason other less restrictive alternatives are
34 insufficient to meet the respondent's alleged need;
- 35 (6) The name and current address, if known, of any person with
36 whom the petitioner seeks to limit the respondent's contact;
- 37 (7) Whether the respondent needs an interpreter, translator, or
38 other form of support to communicate effectively with the court or
39 understand court proceedings;

1 (8) If a protective arrangement instead of guardianship is sought
2 and the respondent has property other than personal effects, a
3 general statement of the respondent's property with an estimate of
4 its value, including any insurance or pension, and the source and
5 amount of any other anticipated income or receipts; and

6 (9) If a protective arrangement instead of conservatorship is
7 sought, a general statement of the respondent's property with an
8 estimate of its value, including any insurance or pension, and the
9 source and amount of other anticipated income or receipts.

10 NEW SECTION. **Sec. 505.** NOTICE AND HEARING. (1) All petitions
11 filed under section 504 of this act for appointment of a guardian for
12 an adult shall be heard within sixty days unless an extension of time
13 is requested by a party or the visitor within such sixty-day period
14 and granted for good cause shown.

15 (2) A copy of a petition under section 501 of this act and notice
16 of a hearing on the petition must be served personally on the
17 respondent and the visitor appointed under section 506 of this act
18 not more than five court days after the petition under section 504 of
19 this act has been filed. The notice must inform the respondent of the
20 respondent's rights at the hearing, including the right to an
21 attorney and to attend the hearing. The notice must include a
22 description of the nature, purpose, and consequences of granting the
23 petition. The court may not grant the petition if notice
24 substantially complying with this subsection is not served on the
25 respondent.

26 (3) In a proceeding on a petition under section 501 of this act,
27 the notice required under subsection (2) of this section must be
28 given to the persons required to be listed in the petition under
29 section 504 (1) through (3) of this act and any other person
30 interested in the respondent's welfare the court determines. Failure
31 to give notice under this subsection does not preclude the court from
32 granting the petition.

33 (4) After the court has ordered a protective arrangement under
34 this article, notice of a hearing on a petition filed under this
35 chapter, together with a copy of the petition, must be given to the
36 respondent and any other person the court determines.

37 NEW SECTION. **Sec. 506.** APPOINTMENT AND ROLE OF VISITOR. (1) On
38 filing of a petition under section 501 of this act for a protective

1 arrangement instead of guardianship, the court shall appoint a
2 visitor. The visitor must be an individual with training or
3 experience in the type of abilities, limitations, and needs alleged
4 in the petition.

5 (2) On filing of a petition under section 501 of this act for a
6 protective arrangement instead of conservatorship for a minor, the
7 court may appoint a visitor to investigate a matter related to the
8 petition or inform the minor or a parent of the minor about the
9 petition or a related matter.

10 (3) On filing of a petition under section 501 of this act or a
11 protective arrangement instead of conservatorship for an adult, the
12 court shall appoint a visitor unless the respondent is represented by
13 an attorney appointed by the court. The visitor must be an individual
14 with training or experience in the types of abilities, limitations,
15 and needs alleged in the petition.

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

20 (5) (a) The visitor appointed under subsection (1) or (3) of this
21 section shall within five days of receipt of notice of appointment
22 file with the court and serve, either personally or by certified mail
23 with return receipt, the respondent or his or her legal counsel, the
24 petitioner or his or her legal counsel, and any interested party
25 entitled to notice under section 116 of this act with a statement
26 including: His or her training relating to the duties as a visitor;
27 his or her criminal history as defined in RCW 9.94A.030 for the
28 period covering ten years prior to the appointment; his or her hourly
29 rate, if compensated; whether the guardian ad litem has had any
30 contact with a party to the proceeding prior to his or her
31 appointment; and whether he or she has an apparent conflict of
32 interest. Within three days of the later of the actual service or
33 filing of the visitor's statement, any party may set a hearing and
34 file and serve a motion for an order to show cause why the visitor
35 should not be removed for one of the following three reasons:

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

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

39 (iii) A conflict of interest.

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

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

11 (a) Explain to the respondent the substance of the petition, the
12 nature, purpose, and effect of the proceeding, and the respondent's
13 rights at the hearing on the petition;

14 (b) Determine the respondent's views with respect to the order
15 sought;

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

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

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

27 (f) If a protective arrangement instead of conservatorship is
28 sought, review financial records of the respondent, if relevant to
29 the visitor's recommendation under subsection (7)(b) of this section;
30 and

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

33 (7) A visitor under this section promptly shall file a report in
34 a record with the court, which must include:

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

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

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

1 (iii) Cannot manage;

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

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

9 (d) A recommendation whether a professional evaluation under
10 section 508 of this act is necessary;

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

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

17 (g) Any other matter the court directs.

18 NEW SECTION. **Sec. 507.** APPOINTMENT AND ROLE OF ATTORNEY. (1)

19 Unless the respondent in a proceeding under this article is
20 represented by an attorney, the court is not required, but may
21 appoint an attorney to represent the respondent, regardless of the
22 respondent's ability to pay.

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

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

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

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

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

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

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

1 (c) The court otherwise determines the parent needs
2 representation.

3 NEW SECTION. **Sec. 508.** PROFESSIONAL EVALUATION. (1) At or
4 before a hearing on a petition under this article for a protective
5 arrangement, the court shall order a professional evaluation of the
6 respondent:

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

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

11 (2) If the court orders an evaluation under subsection (1) of
12 this section, the respondent must be examined by a licensed
13 physician, psychologist, social worker, or other individual appointed
14 by the court who is qualified to evaluate the respondent's alleged
15 cognitive and functional abilities and limitations and will not be
16 advantaged or disadvantaged by a decision to grant the petition or
17 otherwise have a conflict of interest. The individual conducting the
18 evaluation promptly shall file a report in a record with the court.
19 Unless otherwise directed by the court, the report must contain:

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

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

25 (c) A prognosis for improvement, including with regard to the
26 ability to manage the respondent's property and financial affairs if
27 a limitation in that ability is alleged, and recommendation for the
28 appropriate treatment, support, or habilitation plan; and

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

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

32 NEW SECTION. **Sec. 509.** ATTENDANCE AND RIGHTS AT HEARING. (1)
33 Except as otherwise provided in subsection (2) of this section, a
34 hearing under this article may not proceed unless the respondent
35 attends the hearing. If it is not reasonably feasible for the
36 respondent to attend a hearing at the location court proceedings
37 typically are held, the court shall make reasonable efforts to hold
38 the hearing at an alternative location convenient to the respondent

1 or allow the respondent to attend the hearing using real-time audio-
2 visual technology.

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

6 (a) The respondent consistently and repeatedly has refused to
7 attend the hearing after having been fully informed of the right to
8 attend and the potential consequences of failing to do so;

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

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

14 (3) The respondent may be assisted in a hearing under this
15 article by a person or persons of the respondent's choosing,
16 assistive technology, or an interpreter or translator, or a
17 combination of these supports. If assistance would facilitate the
18 respondent's participation in the hearing, but is not otherwise
19 available to the respondent, the court shall make reasonable efforts
20 to provide it.

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

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

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

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

27 (c) Otherwise participate in the hearing.

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

30 (7) Any person may request to participate in a hearing under this
31 article. The court may grant the request, with or without a hearing,
32 on determining that the best interests of the respondent will be
33 served. The court may impose appropriate conditions on the person's
34 participation.

35 NEW SECTION. **Sec. 510.** NOTICE OF ORDER. The court shall give
36 notice of an order under this article to the individual who is
37 subject to the protective arrangement instead of guardianship or
38 conservatorship, a person whose access to the individual is
39 restricted by the order, and any other person the court determines.

1 NEW SECTION. **Sec. 511.** CONFIDENTIALITY OF RECORDS. (1) The

2 existence of a proceeding for or the existence of a protective
3 arrangement instead of guardianship or conservatorship is a matter of
4 public record unless the court seals the record after:

5 (a) The respondent, the individual subject to the protective
6 arrangement, or the parent of a minor subject to the protective
7 arrangement requests the record be sealed; and

8 (b) Either:

9 (i) The proceeding is dismissed;

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

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

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

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

28 (a) The court;

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

31 (c) The petitioner, visitor, and petitioner's and respondent's
32 attorneys, for purposes of the proceeding;

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

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

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

3 NEW SECTION. **Sec. 512.** APPOINTMENT OF COMMISSIONER. The court
4 may appoint a commissioner to assist in implementing a protective
5 arrangement under this article. The commissioner has the authority
6 conferred by the order of appointment and serves until discharged by
7 court order.

8 **ARTICLE 6**
9 **FORMS**

10 NEW SECTION. **Sec. 601.** USE OF FORMS. Unless otherwise provided
11 in this chapter, use of the forms contained in this article is
12 optional. Failure to use these forms does not prejudice any party.

13 NEW SECTION. **Sec. 602.** PETITION FOR GUARDIANSHIP FOR MINOR.
14 This form may be used to petition for guardianship for a minor.

15 Petition for Guardianship for Minor

16 State of:

17 County of:

18 Name and address of attorney representing petitioner, if
19 applicable:

20

21

22 Note to petitioner: This form can be used to petition for a
23 guardian for a minor. A court may appoint a guardian for a minor
24 who does not have a guardian if the court finds the appointment
25 is in the minor's best interest, and: The parents, after being
26 fully informed of the nature and consequences of guardianship,
27 consent; all parental rights have been terminated; or the court
28 finds by clear and convincing evidence that the parents are
29 unwilling or unable to exercise their parental rights.

30 (1) Information about the person filing this petition (the
31 petitioner.)

32 (a) Name:

33 (b) Principal residence:

34 (c) Current street address (if different):

35 (d) Relationship to minor:

1 (e) Interest in this petition:
2 (f) Telephone number (optional):
3 (g) Email address (optional):
4 (2) Information about the minor alleged to need a guardian.
5 Provide the following information to the extent known.
6 (a) Name:
7 (b) Age:
8 (c) Principal residence:
9 (d) Current street address (if different):
10 (e) If petitioner anticipates the minor moving, or seeks to
11 move the minor, proposed new address:
12 (f) Does the minor need an interpreter, translator, or other
13 form of support to communicate with the court or understand court
14 proceedings? If so, please explain:
15 (g) Telephone number (optional):
16 (h) Email address (optional):
17 (3) Information about the minor's parent(s).
18 (a) Name(s) of living parent(s):
19 (b) Current street address(es) of living parent(s):
20 (c) Does any parent need an interpreter, translator, or other
21 form of support to communicate with the court or understand court
22 proceedings? If so, please explain:
23
24
25 (4) People who are required to be notified of this petition.
26 State the name and current address of the people listed in
27 Appendix A.
28
29
30 (5) Appointment requested. State the name and address of any
31 proposed guardian and the reason the proposed guardian should be
32 selected.
33
34
35 (6) State why petitioner seeks the appointment. Include a
36 description of the nature and extent of the minor's alleged need.
37
38

1 (7) Property. If the minor has property other than personal
2 effects, state the minor's property with an estimate of its
3 value.

4
5

6 (8) Other proceedings. If there are any other proceedings
7 concerning the care or custody of the minor currently pending in
8 any court in this state or another jurisdiction, please describe
9 them.

10
11

12 (9) Attorney(s). If the minor or the minor's parent is
13 represented by an attorney in this matter, state the name,
14 telephone number, email address, and address of the attorney(s).

15
16

17 SIGNATURE

18
19 Signature of Petitioner	Date
20
21 Signature of Petitioner's Attorney if	Date
22 Petitioner is Represented by Counsel	

23 APPENDIX A:

24 People whose name and address must be listed in subsection
25 (4) of this petition if they are not the petitioner:

26 The minor, if the minor is twelve years of age or older;

27 Each parent of the minor or, if there are none, the adult
28 nearest in kinship that can be found;

29 An adult with whom the minor resides;

30 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
34 petition;

35 If the minor is twelve years of age or older, any person
36 nominated as guardian by the minor;

37 Any person nominated as guardian by a parent of the minor;

38 The grandparents of the minor;

39 Adult siblings of the minor; and

1 Any current guardian or conservator for the minor appointed
2 in this state or another jurisdiction.

3 NEW SECTION. **Sec. 603.** PETITION FOR GUARDIANSHIP,
4 CONSERVATORSHIP, OR PROTECTIVE ARRANGEMENT. This form may be used to
5 petition for:

6 Guardianship for an adult;

7 Conservatorship for an adult or minor;

8 A protective arrangement instead of guardianship for an
9 adult; or

10 A protective arrangement instead of conservatorship for an
11 adult or minor.

12 Petition for Guardianship, Conservatorship, or Protective
13 Arrangement

14 State of:

15 County of:

16 Name and address of attorney representing petitioner, if
17 applicable:
18
19

20 Note to petitioner: This form can be used to petition for a
21 guardian, conservator, or both, or for a protective arrangement
22 instead of either a guardianship or conservatorship. This form
23 should not be used to petition for guardianship for a minor.

24 The court may appoint a guardian or order a protective
25 arrangement instead of guardianship for an adult if the adult
26 lacks the ability to meet essential requirements for physical
27 health, safety, or self-care because (1) the adult is unable to
28 receive and evaluate information or make or communicate decisions
29 even with the use of supportive services, technological
30 assistance, and supported decision making, and (2) the adult's
31 identified needs cannot be met by a less restrictive alternative.

32 The court may appoint a conservator or order a protective
33 arrangement instead of conservatorship for an adult if (1) the
34 adult is unable to manage property and financial affairs because
35 of a limitation in the ability to receive and evaluate
36 information or make or communicate decisions even with the use of
37 supportive services, technological assistance, and supported
38 decision making or the adult is missing, detained, or unable to
39 return to the United States, and (2) appointment is necessary to

1 avoid harm to the adult or significant dissipation of the
2 property of the adult, or to obtain or provide funds or other
3 property needed for the support, care, education, health, or
4 welfare of the adult, or of an individual who is entitled to the
5 adult's support, and protection is necessary or desirable to
6 provide funds or other property for that purpose.

7 The court may appoint a conservator or order a protective
8 arrangement instead of conservatorship for a minor if: (1) The
9 minor owns funds or other property requiring management or
10 protection that cannot otherwise be provided; or (2) it would be
11 in the minor's best interests, and the minor has or may have
12 financial affairs that may be put at unreasonable risk or
13 hindered because of the minor's age, or appointment is necessary
14 or desirable to provide funds or other property needed for the
15 support, care, education, health, or welfare of the minor.

16 The court may also order a protective arrangement instead of
17 conservatorship that restricts access to an individual or an
18 individual's property by a person that the court finds: (1)
19 Through fraud, coercion, duress, or the use of deception and
20 control, caused, or attempted to cause, an action that would have
21 resulted in financial harm to the individual or the individual's
22 property; and (2) poses a serious risk of substantial financial
23 harm to the individual or the individual's property.

24 (1) Information about the person filing this petition (the
25 petitioner.)

- 26 (a) Name:
- 27 (b) Principal residence:
- 28 (c) Current street address (if different):
- 29 (d) Relationship to respondent:
- 30 (e) Interest in this petition:
- 31 (f) Telephone number (optional):
- 32 (g) Email address (optional):

33 (2) Information about the individual alleged to need
34 protection (the "respondent"). Provide the following information
35 to the extent known.

- 36 (a) Name:
- 37 (b) Age:
- 38 (c) Principal residence:
- 39 (d) Current street address (if different):

1 (e) If petitioner anticipates respondent moving, or seeks to
2 move respondent, proposed new address:

3 (f) Does respondent need an interpreter, translator, or other
4 form of support to communicate with the court or understand court
5 proceedings? If so, please explain:

6

7 (g) Telephone number (optional):

8 (h) Email address (optional):

9 (3) People who are required to be notified of this petition.
10 State the name and address of the people listed in Appendix A.

11

12

13 (4) Existing agents. State the name and address of any person
14 appointed as an agent under a power of attorney for finances or
15 power of attorney for health care, or who has been appointed as
16 the individual's representative for payment of benefits.

17

18

19 (5) Action requested. State whether petitioner is seeking
20 appointment of a guardian, a conservator, or a protective
21 arrangement instead of an appointment.

22

23

24 (6) Order requested or appointment requested. If seeking a
25 protective arrangement instead of a guardianship or
26 conservatorship, state the transaction or other action you want
27 the court to order. If seeking appointment of a guardian or
28 conservator, state the powers petitioner requests the court grant
29 to a guardian or conservator.

30

31

32 (7) State why the appointment or protective arrangement
33 sought is necessary. Include a description of the nature and
34 extent of respondent's alleged need.

35

36

37 (8) State all less restrictive alternatives to meeting
38 respondent's alleged need that have been considered or
39 implemented. Less restrictive alternatives could include
40 supported decision making, technological assistance, or the

1 appointment of an agent by respondent including appointment under
2 a power of attorney for health care or power of attorney for
3 finances. If no alternative has been considered or implemented,
4 state the reason why not.

5
6

7 (9) Explain why less restrictive alternatives will not meet
8 respondent's alleged need.

9
10

11 (10) Provide a general statement of respondent's property and
12 an estimate of its value. Include any real property such as a
13 house or land, insurance or pension, and the source and amount of
14 any other anticipated income or receipts. As part of this
15 statement, indicate, if known, how the property is titled (for
16 example, is it jointly owned?).

17
18

19 (11) For a petition seeking appointment of a conservator.
20 (Skip this section if not asking for appointment of a
21 conservator.)

22 (a) If seeking appointment of a conservator with all powers
23 permissible under this state's law, explain why appointment of a
24 conservator with fewer powers (i.e., a "limited conservatorship")
25 or other protective arrangement instead of conservatorship will
26 not meet the individual's alleged needs.

27
28

29 (b) If seeking a limited conservatorship, state the property
30 petitioner requests be placed under the conservator's control and
31 any proposed limitation on the conservator's powers and duties.

32
33

34 (c) State the name and address of any proposed conservator
35 and the reason the proposed conservator should be selected.

36
37

38 (d) If respondent is twelve years of age or older, state the
39 name and address of any person respondent nominates as
40 conservator.

1
2
3 (e) If alleging a limitation in respondent's ability to
4 receive and evaluate information, provide a brief description of
5 the nature and extent of respondent's alleged limitation.

6
7
8 (f) If alleging that respondent is missing, detained, or
9 unable to return to the United States, state the relevant
10 circumstances, including the time and nature of the disappearance
11 or detention and a description of any search or inquiry
12 concerning respondent's whereabouts.

13
14
15 (12) For a petition seeking appointment of a guardian. (Skip
16 this section if not asking for appointment of a guardian.)

17 (a) If seeking appointment of a guardian with all powers
18 permissible under this state's law, explain why appointment of a
19 guardian with fewer powers (i.e., a "limited guardianship") or
20 other protective arrangement instead of guardianship will not
21 meet the individual's alleged needs.

22
23
24 (b) If seeking a limited guardianship, state the powers
25 petitioner requests be granted to the guardian.

26
27
28 (c) State the name and address of any proposed guardian and
29 the reason the proposed guardian should be selected.

30
31
32 (d) State the name and address of any person nominated as
33 guardian by respondent, or, in a will or other signed writing or
34 other record, by respondent's parent or spouse or domestic
35 partner.

36
37
38 (13) Attorney. If petitioner, respondent, or, if respondent
39 is a minor, respondent's parent is represented by an attorney in

1 this matter, state the name, telephone number, email address, and
2 address of the attorney(s).

3
4

5 SIGNATURE

6
7 Signature of Petitioner Date
8
9 Signature of Petitioner's Attorney if Date
10 Petitioner is Represented by Counsel

11 APPENDIX A:

12 People whose name and address must be listed in subsection
13 (3) of this petition, if they are not the petitioner.

14 Respondent's spouse or domestic partner, or if respondent has
15 none, any adult with whom respondent has shared household
16 responsibilities in the past six months;

17 Respondent's adult children, or, if respondent has none,
18 respondent's parents and adult siblings, or if respondent has
19 none, one or more adults nearest in kinship to respondent who can
20 be found with reasonable diligence;

21 Respondent's adult stepchildren whom respondent actively
22 parented during the stepchildren's minor years and with whom
23 respondent had an ongoing relationship within two years of this
24 petition;

25 Any person responsible for the care or custody of respondent;

26 Any attorney currently representing respondent;

27 Any representative payee for respondent appointed by the
28 social security administration;

29 Any current guardian or conservator for respondent appointed
30 in this state or another jurisdiction;

31 Any trustee or custodian of a trust or custodianship of which
32 respondent is a beneficiary;

33 Any veterans administration fiduciary for respondent;

34 Any person respondent has designated as agent under a power
35 of attorney for finances;

36 Any person respondent has designated as agent under a power
37 of attorney for health care;

38 Any person known to have routinely assisted the individual
39 with decision making in the previous six months;

1 Any person respondent nominates as guardian or conservator;
2 and

3 Any person nominated as guardian by respondent's parent or
4 spouse or domestic partner in a will or other signed writing or
5 other record.

6 NEW SECTION. **Sec. 604.** NOTIFICATION OF RIGHTS FOR ADULT SUBJECT
7 TO GUARDIANSHIP OR CONSERVATORSHIP. This form may be used to notify
8 an adult subject to guardianship or conservatorship of the adult's
9 rights under sections 311 and 412 of this act.

10 **Notification of Rights**

11 You are getting this notice because a guardian, conservator,
12 or both have been appointed for you. It tells you about some
13 important rights you have. It does not tell you about all your
14 rights. If you have questions about your rights, you can ask an
15 attorney or another person, including your guardian or
16 conservator, to help you understand your rights.

17 **General rights:**

18 You have the right to exercise any right the court has not
19 given to your guardian or conservator.

20 You also have the right to ask the court to:

21 End your guardianship, conservatorship, or both;

22 Increase or decrease the powers granted to your guardian,
23 conservator, or both;

24 Make other changes that affect what your guardian or
25 conservator can do or how they do it; and

26 Replace the person that was appointed with someone else.

27 You also have a right to hire an attorney to help you do any
28 of these things.

29 **Additional rights for persons for whom a guardian has been** 30 **appointed:**

31 As an adult subject to guardianship, you have a right to:

32 (1) Be involved in decisions affecting you, including
33 decisions about your care, where you live, your activities, and
34 your social interactions, to the extent reasonably feasible;

35 (2) Be involved in decisions about your health care to the
36 extent reasonably feasible, and to have other people help you
37 understand the risks and benefits of health care options;

1 (3) Be notified at least fourteen days in advance of a change
2 in where you live or a permanent move to a nursing home, mental
3 health facility, or other facility that places restrictions on
4 your ability to leave or have visitors, unless the guardian has
5 proposed this change in the guardian's plan or the court has
6 expressly authorized it;

7 (4) Ask the court to prevent your guardian from changing
8 where you live or selling or surrendering your primary dwelling
9 by following the appropriate process for objecting to such a move
10 in compliance with section 315(5) of this act;

11 (5) Vote and get married unless the court order appointing
12 your guardian states that you cannot do so;

13 (6) Receive a copy of your guardian's report and your
14 guardian's plan; and

15 (7) Communicate, visit, or interact with other people (this
16 includes the right to have visitors, to make and receive
17 telephone calls, personal mail, or electronic communications)
18 unless:

19 (a) Your guardian has been authorized by the court by
20 specific order to restrict these communications, visits, or
21 interactions;

22 (b) A protective order is in effect that limits contact
23 between you and other people; or

24 (c) Your guardian has good cause to believe the restriction
25 is needed to protect you from significant physical,
26 psychological, or financial harm and the restriction is for not
27 more than seven business days if the person has a relative or
28 preexisting social relationship with you or not more than sixty
29 days if the person does not have that kind of relationship with
30 you.

31 **Additional rights for persons for whom a conservator has been**
32 **appointed:**

33 As an adult subject to conservatorship, you have a right to:

34 Participate in decisions about how your property is managed
35 to the extent feasible; and

36 Receive a copy of your conservator's inventory, report, and
37 plan.

1 NEW SECTION. **Sec. 605.** LETTERS OF OFFICE. All letters of
2 guardianship/conservatorship must be in the following form or a
3 substantially similar form:

4 IN THE SUPERIOR COURT OF THE
5 STATE OF WASHINGTON IN AND FOR THE
6 COUNTY OF

7 IN THE MATTER OF THE Cause No.
8 GUARDIANSHIP/
9 CONSERVATORSHIP OF
10

11
12 LETTERS OF
13 GUARDIANSHIP/CONSERVATORSHIP
14

15 Date letters expire

16 THESE LETTERS OF GUARDIANSHIP/CONSERVATORSHIP PROVIDE OFFICIAL VERIFICATION OF THE
17 FOLLOWING:

18
19 On the day of, (year) the Court appointed to serve as:

- 20
21 Guardian of the Person Full Limited
22 Conservator of the Estate Full Limited

23
24 for, in the above referenced matter.
25

26 The Guardian/Conservator has fulfilled all legal requirements to serve including, but not limited to: Taking and filing
27 the oath; filing any bond consistent with the court's order; filing any blocked account agreement consistent with the court's
28 order; and appointing a resident agent for a nonresident guardian.
29

30 The Court, having found the Guardian/Conservator duly qualified, now makes it known is authorized as the
31 Guardian for designated in the Court's order as referenced above.
32

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

34 THESE LETTERS ARE NO LONGER VALID ON

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

1 This matter is before the Honorable of Superior Court, the seal of the Court being affixed
2 this day of

3
4 State of Washington)
5) ss.
6 County of)

7
8 I,, Clerk of the Superior Court of said County and State, certify that this document represents true and correct
9 Letters of Guardianship/Conservatorship in the above entitled case, entered upon the record on this day
10 of,

11
12 These letters remain in full force and effect until the date of expiration set forth above.

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

14
15
16, Clerk of Superior Court

17
18 By, Deputy

19
20

21 (Signature of Deputy)

22 NEW SECTION. **Sec. 606.** GUARDIANSHIP/CONSERVATORSHIP SUMMARY.
23 The guardianship/conservatorship summary shall be in or substantially
24 similar form:

25 **GUARDIANSHIP/CONSERVATORSHIP SUMMARY**

26 Date Guardian/
27 Conservator Appointed:
28 Due Date for Report and
29 Accounting:
30 Date of Next Review:
31 Letters Expire On:
32 Bond Amount: \$.

1 Restricted Account
 2 Agreements Required:
 3 Due Date for Inventory, if
 4 applicable:
 5 Due Date for Guardian's
 6 Plan, if applicable:

7
 8 Person subject to Guardian/Conservator
 9 guardianship/
 10 conservatorship

11 Name:	Name:
12 Address:	Address:
13 Phone:	Phone:
14 Facsimile:	Facsimile:

15
 16 Interested Parties Address Relation

17		
18		
19		
20		

21 **ARTICLE 7**
 22 **MISCELLANEOUS PROVISIONS**

23 NEW SECTION. **Sec. 701.** REPEALS. The following acts or parts of
 24 acts are each repealed:

25 (1) RCW 11.88.005 (Legislative intent) and 1990 c 122 s 1, 1977
 26 ex.s. c 309 s 1, & 1975 1st ex.s. c 95 s 1;

27 (2) RCW 11.88.008 ("Professional guardian" defined) and 1997 c
 28 312 s 2;

29 (3) RCW 11.88.010 (Authority to appoint guardians—Definitions—
 30 Venue—Nomination by principal) and 2016 c 209 s 403, 2008 c 6 s 802,
 31 2005 c 236 s 3, (2005 c 236 s 2 expired January 1, 2006), 2004 c 267
 32 s 139, 1991 c 289 s 1, 1990 c 122 s 2, 1984 c 149 s 176, 1977 ex.s. c
 33 309 s 2, 1975 1st ex.s. c 95 s 2, & 1965 c 145 s 11.88.010;

1 (4) RCW 11.88.020 (Qualifications) and 2011 c 329 s 1, 1997 c 312
2 s 1, 1990 c 122 s 3, 1975 1st ex.s. c 95 s 3, 1971 c 28 s 4, & 1965 c
3 145 s 11.88.020;

4 (5) RCW 11.88.030 (Petition—Contents—Hearing) and 2011 c 329 s
5 2, 2009 c 521 s 36, 1996 c 249 s 8, 1995 c 297 s 1, 1991 c 289 s 2,
6 1990 c 122 s 4, 1977 ex.s. c 309 s 3, 1975 1st ex.s. c 95 s 4, & 1965
7 c 145 s 11.88.030;

8 (6) RCW 11.88.040 (Notice and hearing, when required—Service—
9 Procedure) and 2008 c 6 s 803, 1995 c 297 s 2, 1991 c 289 s 3, 1990 c
10 122 s 5, 1984 c 149 s 177, 1977 ex.s. c 309 s 4, 1975 1st ex.s. c 95
11 s 5, 1969 c 70 s 1, & 1965 c 145 s 11.88.040;

12 (7) RCW 11.88.045 (Legal counsel and jury trial—Proof—Medical
13 report—Examinations—Waiver) and 2001 c 148 s 1, 1996 c 249 s 9, 1995
14 c 297 s 3, 1991 c 289 s 4, 1990 c 122 s 6, 1977 ex.s. c 309 s 5, &
15 1975 1st ex.s. c 95 s 7;

16 (8) RCW 11.88.080 (Guardians nominated by will or durable power
17 of attorney) and 2016 c 209 s 401, 2005 c 97 s 11, 1990 c 122 s 7, &
18 1965 c 145 s 11.88.080;

19 (9) RCW 11.88.090 (Guardian ad litem—Mediation—Appointment—
20 Qualifications—Notice of and statement by guardian ad litem—Hearing
21 and notice—Attorneys' fees and costs—Registry—Duties—Report—
22 Responses—Fee) and 2008 c 6 s 804, 2000 c 124 s 1, 1999 c 360 s 1,
23 1996 c 249 s 10, 1995 c 297 s 4, 1991 c 289 s 5, 1990 c 122 s 8, 1977
24 ex.s. c 309 s 6, 1975 1st ex.s. c 95 s 9, & 1965 c 145 s 11.88.090;

25 (10) RCW 11.88.093 (Ex parte communications—Removal) and 2000 c
26 124 s 10;

27 (11) RCW 11.88.095 (Disposition of guardianship petition) and
28 2011 c 329 s 4, 1995 c 297 s 5, 1991 c 289 s 6, & 1990 c 122 s 9;

29 (12) RCW 11.88.097 (Guardian ad litem—Fees) and 2000 c 124 s 13;

30 (13) RCW 11.88.100 (Oath and bond of guardian or limited
31 guardian) and 2010 c 8 s 2088, 1990 c 122 s 10, 1983 c 271 s 1, 1977
32 ex.s. c 309 s 7, 1975 1st ex.s. c 95 s 10, & 1965 c 145 s 11.88.100;

33 (14) RCW 11.88.105 (Reduction in amount of bond) and 1990 c 122 s
34 11, 1975 1st ex.s. c 95 s 11, & 1965 c 145 s 11.88.105;

35 (15) RCW 11.88.107 (When bond not required) and 1990 c 122 s 12,
36 1977 ex.s. c 309 s 8, 1975 1st ex.s. c 95 s 12, & 1965 c 145 s
37 11.88.107;

38 (16) RCW 11.88.110 (Law on executors' and administrators' bonds
39 applicable) and 1975 1st ex.s. c 95 s 13 & 1965 c 145 s 11.88.110;

1 (17) RCW 11.88.120 (Modification or termination of guardianship—
2 Procedure) and 2017 c 271 s 2, 2015 c 293 s 1, 1991 c 289 s 7, 1990 c
3 122 s 14, 1977 ex.s. c 309 s 9, 1975 1st ex.s. c 95 s 14, & 1965 c
4 145 s 11.88.120;

5 (18) RCW 11.88.125 (Standby limited guardian or limited guardian)
6 and 2013 c 304 s 1, 2011 c 329 s 5, 2008 c 6 s 805, 1991 c 289 s 8,
7 1990 c 122 s 15, 1979 c 32 s 1, 1977 ex.s. c 309 s 10, & 1975 1st
8 ex.s. c 95 s 6;

9 (19) RCW 11.88.127 (Guardianship—Incapacitated person—Letters of
10 guardianship) and 2011 c 329 s 6;

11 (20) RCW 11.88.130 (Transfer of jurisdiction and venue) and 1990
12 c 122 s 16, 1975 1st ex.s. c 95 s 15, & 1965 c 145 s 11.88.130;

13 (21) RCW 11.88.140 (Termination of guardianship or limited
14 guardianship) and 2016 c 202 s 9, 2011 c 329 s 7, 1991 c 289 s 9,
15 1990 c 122 s 17, 1977 ex.s. c 309 s 11, 1975 1st ex.s. c 95 s 16, &
16 1965 c 145 s 11.88.140;

17 (22) RCW 11.88.150 (Administration of deceased incapacitated
18 person's estate) and 2010 c 8 s 2089, 1990 c 122 s 18, 1977 ex.s. c
19 309 s 12, 1975 1st ex.s. c 95 s 17, & 1965 c 145 s 11.88.150;

20 (23) RCW 11.88.160 (Guardianships involving veterans) and 1990 c
21 122 s 13;

22 (24) RCW 11.88.170 (Guardianship courthouse facilitator program)
23 and 2015 c 295 s 1;

24 (25) RCW 11.88.900 (Construction—Chapter applicable to state
25 registered domestic partnerships—2009 c 521) and 2009 c 521 s 35;

26 (26) RCW 11.92.010 (Guardians or limited guardians under court
27 control—Legal age) and 1975 1st ex.s. c 95 s 18, 1971 c 28 s 5, &
28 1965 c 145 s 11.92.010;

29 (27) RCW 11.92.035 (Claims) and 1990 c 122 s 19, 1975 1st ex.s. c
30 95 s 19, & 1965 c 145 s 11.92.035;

31 (28) RCW 11.92.040 (Duties of guardian or limited guardian in
32 general) and 2011 c 329 s 9, 1991 c 289 s 10, 1990 c 122 s 20, & 1985
33 c 30 s 9;

34 (29) RCW 11.92.043 (Additional duties) and 2017 c 268 s 3, 2011 c
35 329 s 3, 1991 c 289 s 11, & 1990 c 122 s 21;

36 (30) RCW 11.92.050 (Intermediate accounts or reports—Hearing—
37 Order) and 2011 c 329 s 10, 1995 c 297 s 6, 1990 c 122 s 23, 1975 1st
38 ex.s. c 95 s 21, & 1965 c 145 s 11.92.050;

1 (31) RCW 11.92.053 (Settlement of estate upon termination) and
2 2011 c 329 s 8, 1995 c 297 s 7, 1990 c 122 s 24, & 1965 c 145 s
3 11.92.053;

4 (32) RCW 11.92.056 (Citation of surety on bond) and 1990 c 122 s
5 25, 1975 1st ex.s. c 95 s 22, & 1965 c 145 s 11.92.056;

6 (33) RCW 11.92.060 (Guardian to represent incapacitated person—
7 Compromise of claims—Service of process) and 1990 c 122 s 26, 1975
8 1st ex.s. c 95 s 23, & 1965 c 145 s 11.92.060;

9 (34) RCW 11.92.090 (Sale, exchange, lease, or mortgage of
10 property) and 1990 c 122 s 27, 1975 1st ex.s. c 95 s 24, & 1965 c 145
11 s 11.92.090;

12 (35) RCW 11.92.096 (Guardian access to certain held assets) and
13 1991 c 289 s 13;

14 (36) RCW 11.92.100 (Petition—Contents) and 1990 c 122 s 28, 1975
15 1st ex.s. c 95 s 25, & 1965 c 145 s 11.92.100;

16 (37) RCW 11.92.110 (Sale of real estate) and 1990 c 122 s 29,
17 1975 1st ex.s. c 95 s 26, & 1965 c 145 s 11.92.110;

18 (38) RCW 11.92.115 (Return and confirmation of sale) and 2010 c 8
19 s 2090, 1990 c 122 s 30, 1975 1st ex.s. c 95 s 27, & 1965 c 145 s
20 11.92.115;

21 (39) RCW 11.92.120 (Confirmation conclusive) and 1975 1st ex.s. c
22 95 s 28 & 1965 c 145 s 11.92.120;

23 (40) RCW 11.92.125 (Broker's fee and closing expenses—Sale,
24 exchange, mortgage, or lease of real estate) and 1977 ex.s. c 309 s
25 15 & 1965 c 145 s 11.92.125;

26 (41) RCW 11.92.130 (Performance of contracts) and 1990 c 122 s
27 31, 1975 1st ex.s. c 95 s 29, & 1965 c 145 s 11.92.130;

28 (42) RCW 11.92.140 (Court authorization for actions regarding
29 guardianship funds) and 2008 c 6 s 807, 1999 c 42 s 616, 1991 c 193 s
30 32, 1990 c 122 s 32, & 1985 c 30 s 10;

31 (43) RCW 11.92.150 (Request for special notice of proceedings)
32 and 1990 c 122 s 33 & 1985 c 30 s 11;

33 (44) RCW 11.92.160 (Citation for failure to file account or
34 report) and 1990 c 122 s 34, 1975 1st ex.s. c 95 s 31, & 1965 c 145 s
35 11.92.160;

36 (45) RCW 11.92.170 (Removal of property of nonresident
37 incapacitated person) and 1990 c 122 s 35, 1977 ex.s. c 309 s 16,
38 1975 1st ex.s. c 95 s 32, & 1965 c 145 s 11.92.170;

1 (46) RCW 11.92.180 (Compensation and expenses of guardian or
2 limited guardian—Attorney's fees—Department of social and health
3 services clients paying part of costs—Rules) and 1995 c 297 s 8, 1994
4 c 68 s 1, 1991 c 289 s 12, 1990 c 122 s 36, 1975 1st ex.s. c 95 s 33,
5 & 1965 c 145 s 11.92.180;

6 (47) RCW 11.92.185 (Concealed or embezzled property) and 1990 c
7 122 s 37, 1975 1st ex.s. c 95 s 34, & 1965 c 145 s 11.92.185;

8 (48) RCW 11.92.190 (Detention of person in residential placement
9 facility against will prohibited—Effect of court order—Service of
10 notice of residential placement) and 2016 sp.s. c 29 s 412, 1996 c
11 249 s 11, & 1977 ex.s. c 309 s 14;

12 (49) RCW 11.92.195 (Incapacitated persons—Right to associate with
13 persons of their choosing) and 2017 c 268 s 1;

14 (50) RCW 26.10.010 (Intent) and 1987 c 460 s 25;

15 (51) RCW 26.10.015 (Mandatory use of approved forms) and 1992 c
16 229 s 4 & 1990 1st ex.s. c 2 s 27;

17 (52) RCW 26.10.020 (Civil practice to govern—Designation of
18 proceedings—Decrees) and 1987 c 460 s 26;

19 (53) RCW 26.10.030 (Child custody proceeding—Commencement—Notice
20 —Intervention) and 2003 c 105 s 3, 2000 c 135 s 3, 1998 c 130 s 4, &
21 1987 c 460 s 27;

22 (54) RCW 26.10.032 (Child custody motion—Affidavit required—
23 Notice—Denial of motion—Show cause hearing) and 2003 c 105 s 6;

24 (55) RCW 26.10.034 (Petitions—Indian child statement—Application
25 of federal Indian child welfare act) and 2011 c 309 s 31, 2004 c 64 s
26 1, & 2003 c 105 s 7;

27 (56) RCW 26.10.040 (Provisions for child support, custody, and
28 visitation—Federal tax exemption—Continuing restraining orders—
29 Domestic violence or antiharassment protection orders—Notice of
30 modification or termination of restraining order) and 2000 c 119 s 8,
31 1995 c 93 s 3, 1994 sp.s. c 7 s 453, 1989 c 375 s 31, & 1987 c 460 s
32 28;

33 (57) RCW 26.10.045 (Child support schedule) and 1988 c 275 s 12;

34 (58) RCW 26.10.050 (Child support by parents—Apportionment of
35 expense) and 2008 c 6 s 1023 & 1987 c 460 s 29;

36 (59) RCW 26.10.060 (Health insurance coverage—Conditions) and
37 1989 c 375 s 19 & 1987 c 460 s 30;

1 (60) RCW 26.10.070 (Minor or dependent child—Court appointed
2 attorney to represent—Payment of costs, fees, and disbursements) and
3 1989 c 375 s 20 & 1987 c 460 s 31;

4 (61) RCW 26.10.080 (Payment of costs, attorney's fees, etc) and
5 1987 c 460 s 35;

6 (62) RCW 26.10.090 (Failure to comply with decree or temporary
7 injunction—Obligation to make support payments or permit visitation
8 not suspended—Motion) and 1987 c 460 s 36;

9 (63) RCW 26.10.100 (Determination of custody—Child's best
10 interests) and 1987 c 460 s 38;

11 (64) RCW 26.10.110 (Temporary custody order—Vacation of order)
12 and 1987 c 460 s 39;

13 (65) RCW 26.10.115 (Temporary orders—Support—Restraining orders
14 —Domestic violence or antiharassment protection orders—Notice of
15 modification or termination of restraining order—Preservation of
16 support debt) and 2000 c 119 s 9, 1995 c 246 s 29, 1994 sp.s. c 7 s
17 454, & 1989 c 375 s 32;

18 (66) RCW 26.10.120 (Interview with child by court—Advice of
19 professional personnel) and 1987 c 460 s 40;

20 (67) RCW 26.10.130 (Investigation and report) and 1993 c 289 s 2
21 & 1987 c 460 s 41;

22 (68) RCW 26.10.135 (Custody orders—Background information to be
23 consulted) and 2017 3rd sp.s. c 6 s 333 & 2003 c 105 s 1;

24 (69) RCW 26.10.140 (Hearing—Record—Expenses of witnesses) and
25 1987 c 460 s 42;

26 (70) RCW 26.10.150 (Access to child's education and medical
27 records) and 1987 c 460 s 43;

28 (71) RCW 26.10.160 (Visitation rights—Limitations) and 2018 c 183
29 s 7, 2011 c 89 s 7, 2004 c 38 s 13, 1996 c 303 s 2, 1994 c 267 s 2,
30 1989 c 326 s 2, & 1987 c 460 s 44;

31 (72) RCW 26.10.170 (Powers and duties of custodian—Supervision by
32 appropriate agency when necessary) and 1987 c 460 s 45;

33 (73) RCW 26.10.180 (Remedies when a child is taken, enticed, or
34 concealed) and 2008 c 6 s 1024, 1989 c 375 s 21, & 1987 c 460 s 46;

35 (74) RCW 26.10.190 (Petitions for modification and proceedings
36 concerning relocation of child—Assessment of attorneys' fees) and
37 2000 c 21 s 21, 1989 c 375 s 24, & 1987 c 460 s 47;

38 (75) RCW 26.10.200 (Temporary custody order or modification of
39 custody decree—Affidavits required) and 1987 c 460 s 48;

1 (76) RCW 26.10.210 (Venue) and 1987 c 460 s 49;

2 (77) RCW 26.10.220 (Restraining orders—Notice—Refusal to comply
3 —Arrest—Penalty—Defense—Peace officers, immunity) and 2000 c 119 s
4 22, 1999 c 184 s 11, 1996 c 248 s 10, 1995 c 246 s 30, & 1987 c 460 s
5 50; and

6 (78) RCW 26.10.910 (Short title—1987 c 460).

7 NEW SECTION. **Sec. 702.** UNIFORMITY OF APPLICATION AND
8 CONSTRUCTION. In applying and construing this uniform act,
9 consideration must be given to the need to promote uniformity of the
10 law with respect to its subject matter among states that enact it.

11 NEW SECTION. **Sec. 703.** RELATION TO ELECTRONIC SIGNATURES IN
12 GLOBAL AND NATIONAL COMMERCE ACT. This act modifies, limits, or
13 supersedes the electronic signatures in global and national commerce
14 act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or
15 supersede section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or
16 authorize electronic delivery of any of the notices described in
17 section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

18 NEW SECTION. **Sec. 704.** APPLICABILITY. This chapter applies to:

19 (1) A proceeding for appointment of a guardian or conservator or
20 for a protective arrangement instead of guardianship or
21 conservatorship commenced after the effective date of this section;
22 and

23 (2) A guardianship, conservatorship, or protective arrangement
24 instead of a guardianship or conservatorship in existence on the
25 effective date of this section unless the court finds application of
26 a particular provision of this act would substantially interfere with
27 the effective conduct of the proceeding or prejudice the rights of a
28 party, in which case the particular provision of this act does not
29 apply and the superseded law applies.

30 NEW SECTION. **Sec. 705.** SEVERABILITY. If any provision of this
31 act or its application to any person or circumstance is held invalid,
32 the remainder of the act or the application of the provision to other
33 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 706.** Articles I through VI and sections 702
2 through 704 and 707 of this act constitute a new chapter in Title 11
3 RCW.

4 NEW SECTION. **Sec. 707.** EFFECTIVE DATE. This act takes effect
5 January 1, 2020.

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