

**SECOND SUBSTITUTE SENATE BILL 5604**

**State of Washington**

**66th Legislature**

**2019 Regular Session**

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

READ FIRST TIME 03/01/19.

1 AN ACT Relating to the uniform guardianship, conservatorship, and  
2 other protective arrangements act; amending RCW 11.125.080; adding a  
3 new chapter to Title 11 RCW; repealing RCW 11.88.005, 11.88.008,  
4 11.88.010, 11.88.020, 11.88.030, 11.88.040, 11.88.045, 11.88.080,  
5 11.88.090, 11.88.093, 11.88.095, 11.88.097, 11.88.100, 11.88.105,  
6 11.88.107, 11.88.110, 11.88.120, 11.88.125, 11.88.127, 11.88.130,  
7 11.88.140, 11.88.150, 11.88.160, 11.88.170, 11.88.900, 11.92.010,  
8 11.92.035, 11.92.040, 11.92.043, 11.92.050, 11.92.053, 11.92.056,  
9 11.92.060, 11.92.090, 11.92.096, 11.92.100, 11.92.110, 11.92.115,  
10 11.92.120, 11.92.125, 11.92.130, 11.92.140, 11.92.150, 11.92.160,  
11 11.92.170, 11.92.180, 11.92.185, 11.92.190, 11.92.195, 26.10.010,  
12 26.10.015, 26.10.020, 26.10.030, 26.10.032, 26.10.034, 26.10.040,  
13 26.10.045, 26.10.050, 26.10.060, 26.10.070, 26.10.080, 26.10.090,  
14 26.10.100, 26.10.110, 26.10.115, 26.10.120, 26.10.130, 26.10.135,  
15 26.10.140, 26.10.150, 26.10.160, 26.10.170, 26.10.180, 26.10.190,  
16 26.10.200, 26.10.210, 26.10.220, and 26.10.910; and providing an  
17 effective date.

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

19 **ARTICLE 1**  
20 **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) "Conservator" means a person appointed by a court to make  
23 decisions with respect to the property or financial affairs of an  
24 individual subject to conservatorship. The term includes a co-  
25 conservator.

26       (7) "Conservatorship estate" means the property subject to  
27 conservatorship under this chapter.

28       (8) "Evaluation and treatment facility" has the same meaning as  
29 provided in RCW 71.05.020.

30       (9) "Full conservatorship" means a conservatorship that grants  
31 the conservator all powers available under this chapter.

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

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

37       (12) "Guardian ad litem" means a person appointed to inform the  
38 court about, and to represent, the needs and best interests of an  
39 individual.

- 1 (13) "Individual subject to conservatorship" means an adult or  
2 minor for whom a conservator has been appointed under this chapter.
- 3 (14) "Individual subject to guardianship" means an adult or minor  
4 for whom a guardian has been appointed under this chapter.
- 5 (15) "Less restrictive alternative" means an approach to meeting  
6 an individual's needs which restricts fewer rights of the individual  
7 than would the appointment of a guardian or conservator. The term  
8 includes supported decision making, appropriate technological  
9 assistance, appointment of a representative payee, and appointment of  
10 an agent by the individual, including appointment under a power of  
11 attorney for health care or power of attorney for finances.
- 12 (16) "Letters of office" means a record issued by a court  
13 certifying a guardian's or conservator's authority to act.
- 14 (17) "Limited conservatorship" means a conservatorship that  
15 grants the conservator less than all powers available under this  
16 chapter, grants powers over only certain property, or otherwise  
17 restricts the powers of the conservator.
- 18 (18) "Limited guardianship" means a guardianship that grants the  
19 guardian less than all powers available under this chapter or  
20 otherwise restricts the powers of the guardian.
- 21 (19) "Long-term care facility" has the same meaning as provided  
22 in RCW 70.129.010.
- 23 (20) "Minor" means an unemancipated individual under eighteen  
24 years of age.
- 25 (21) "Minor subject to conservatorship" means a minor for whom a  
26 conservator has been appointed under this chapter.
- 27 (22) "Minor subject to guardianship" means a minor for whom a  
28 guardian has been appointed under this chapter.
- 29 (23) "Parent" does not include an individual whose parental  
30 rights have been terminated.
- 31 (24) "Person" means an individual, estate, business or nonprofit  
32 entity, public corporation, government or governmental subdivision,  
33 agency, or instrumentality, or other legal entity.
- 34 (25) "Professional guardian or conservator" means a guardian or  
35 conservator appointed under this chapter who is not a relative of the  
36 person subject to guardianship or conservatorship established under  
37 this chapter and who charges fees for carrying out the duties of  
38 court-appointed guardian or conservator for three or more persons.
- 39 (26) "Property" includes tangible and intangible property.

1 (27) "Protective arrangement instead of conservatorship" means a  
2 court order entered under section 503 of this act.

3 (28) "Protective arrangement instead of guardianship" means a  
4 court order entered under section 502 of this act.

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

7 (30) "Record," used as a noun, means information that is  
8 inscribed on a tangible medium or that is stored in an electronic or  
9 other medium and is retrievable in perceivable form.

10 (31) "Relative" means any person related by blood or by law to  
11 the person subject to guardianship, conservatorship, or other  
12 protective arrangements.

13 (32) "Respondent" means an individual for whom appointment of a  
14 guardian or conservator or a protective arrangement instead of  
15 guardianship or conservatorship is sought.

16 (33) "Sign" means, with present intent to authenticate or adopt a  
17 record:

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

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

21 (34) "Special agent" means the person appointed by the court  
22 pursuant to section 512 of this act.

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

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

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

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

36 NEW SECTION. **Sec. 103.** SUPPLEMENTAL PRINCIPLES OF LAW AND  
37 EQUITY APPLICABLE. Unless displaced by a particular provision of this  
38 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 318 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 reasonable notice and hearing on a petition under  
30 subsection (1) of this section, the court may give an instruction and  
31 issue an appropriate order.

32 (3) The petitioner must provide reasonable notice of the petition  
33 and hearing to the individual subject to a guardianship or  
34 conservatorship.

35 NEW SECTION. **Sec. 124.** THIRD-PARTY ACCEPTANCE OF AUTHORITY OF  
36 GUARDIAN OR CONSERVATOR. (1) A person must not recognize the

1 authority of a guardian or conservator to act on behalf of an  
2 individual subject to guardianship or conservatorship if:

3 (a) The person has actual knowledge or a reasonable belief that  
4 the letters of office of the guardian or conservator are invalid or  
5 the conservator or guardian is exceeding or improperly exercising  
6 authority granted by the court; or

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

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

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

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

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

29 (4) A guardian or conservator may petition the court to require a  
30 third party to accept a decision made by the guardian or conservator  
31 on behalf of the individual subject to guardianship or  
32 conservatorship.

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

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

1 guardian's plan under section 318 of this act or the conservator's  
2 plan under section 419 of this act.

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

6 (a) Selecting the agent;

7 (b) Establishing the scope and terms of the agent's work in  
8 accordance with the guardian's plan under section 318 of this act or  
9 the conservator's plan under section 419 of this act;

10 (c) Monitoring the agent's performance and compliance with the  
11 delegation;

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

15 (e) Ensuring a background check is conducted on the agent, or  
16 conducted on persons employed by the agent when those persons are  
17 providing services to the individual subject to a guardianship or  
18 conservatorship.

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

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

23 (a) Exercise reasonable care to comply with the terms of the  
24 delegation and use reasonable care in the performance of the power;  
25 and

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

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

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

37 NEW SECTION. **Sec. 126.** TEMPORARY SUBSTITUTE GUARDIAN OR  
38 CONSERVATOR. (1) The court may appoint a temporary substitute

1 guardian for an individual subject to guardianship for a period not  
2 exceeding six months if:

3 (a) A proceeding to remove a guardian for the individual is  
4 pending; or

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

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

11 (a) A proceeding to remove a conservator for the individual is  
12 pending; or

13 (b) The court finds that a conservator for the individual is not  
14 effectively performing the conservator's duties and the welfare of  
15 the individual or the conservatorship estate requires immediate  
16 action.

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

27 (4) Except as otherwise ordered by the court, a temporary  
28 substitute guardian or temporary substitute conservator appointed  
29 under this section has the powers stated in the order of appointment  
30 of the guardian or conservator. The authority of the existing  
31 guardian or conservator is suspended for as long as the temporary  
32 substitute guardian or conservator has authority.

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

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

37 (b) The affected guardian or conservator; and

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

1 (6) The court may remove a temporary substitute guardian or  
2 temporary substitute conservator at any time. The temporary  
3 substitute guardian or temporary substitute conservator shall make  
4 any report the court requires.

5 NEW SECTION. **Sec. 127.** REGISTRATION OF ORDER—EFFECT. (1) If a  
6 guardian has been appointed in another state for an individual, and a  
7 petition for guardianship for the individual is not pending in this  
8 state, the guardian appointed in the other state, after giving notice  
9 to the appointing court, may register the guardianship order in this  
10 state by filing as a foreign judgment, in a court of an appropriate  
11 county of this state, certified copies of the order and letters of  
12 office.

13 (2) If a conservator has been appointed in another state for an  
14 individual, and a petition for conservatorship for the individual is  
15 not pending in this state, the conservator appointed for the  
16 individual in the other state, after giving notice to the appointing  
17 court, may register the conservatorship in this state by filing as a  
18 foreign judgment, in a court of a county in which property belonging  
19 to the individual subject to conservatorship is located, certified  
20 copies of the order of conservatorship, letters of office, and any  
21 bond or other asset protection arrangement required by the court.

22 (3) On registration under this section of a guardianship or  
23 conservatorship order from another state, the guardian or conservator  
24 may exercise in this state all powers authorized in the order except  
25 as prohibited by this chapter and law of this state other than this  
26 chapter. If the guardian or conservator is not a resident of this  
27 state, the guardian or conservator may maintain an action or  
28 proceeding in this state subject to any condition imposed by this  
29 state on an action or proceeding by a nonresident party.

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

33 NEW SECTION. **Sec. 128.** GRIEVANCE AGAINST GUARDIAN OR  
34 CONSERVATOR. (1) An individual who is subject to guardianship or  
35 conservatorship, or person interested in the welfare of an individual  
36 subject to guardianship or conservatorship, that reasonably believes  
37 the guardian or conservator is breaching the guardian's or  
38 conservator's fiduciary duty or otherwise acting in a manner

1 inconsistent with this chapter may file a grievance in a record with  
2 the court.

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

5 (a) Shall review the grievance and, if necessary to determine the  
6 appropriate response, court records related to the guardianship or  
7 conservatorship;

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

11 (i) Removal of the guardian and appointment of a successor may be  
12 appropriate under section 320 of this act;

13 (ii) Termination or modification of the guardianship may be  
14 appropriate under section 321 of this act;

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

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

19 (v) A hearing is necessary to resolve the allegations set forth  
20 in the grievance;

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

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

24 (ii) Appointing a guardian ad litem;

25 (iii) Appointing an attorney for the individual subject to  
26 guardianship or conservatorship; or

27 (iv) Holding a hearing.

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

37 (4) In any court action under this section where the court finds  
38 the professional guardian or conservator breached a fiduciary duty,  
39 the court must direct the clerk of the court to send a copy of the

1 order entered under this section to the certified professional  
2 guardianship board.

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

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

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

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

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

4 (i) Level of formal education;

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

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

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

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

12 (vi) Evidence of the person's knowledge, training, and experience  
13 in each of the following: Needs of impaired elderly people, physical  
14 disabilities, mental illness, developmental disabilities, and other  
15 areas relevant to the needs of persons subject to guardianship or  
16 conservatorship, legal procedure, and the requirements of this  
17 chapter.

18 The written statement of qualifications shall include the names  
19 of any counties in which the person was removed from a guardian ad  
20 litem or visitor registry pursuant to a grievance action, and the  
21 name of the court and the cause number of any case in which the court  
22 has removed the person for cause; and

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

26 (3) The superior court shall remove any person from the guardian  
27 ad litem or visitor registry who misrepresents his or her  
28 qualifications pursuant to a grievance procedure established by the  
29 court.

30 (4) The background and qualification information shall be updated  
31 annually.

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

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

7 NEW SECTION. **Sec. 132.** GUARDIANSHIP/CONSERVATORSHIP SUMMARY.  
8 Every order appointing a guardian or conservator and every court  
9 order approving accounts or reports filed by a guardian or  
10 conservator must include a guardianship/conservatorship summary  
11 placed directly below the case caption or on a separate cover page in  
12 or substantially in the same form as set forth in section 606 of this  
13 act.

14 NEW SECTION. **Sec. 133.** GUARDIANSHIP/CONSERVATORSHIP COURTHOUSE  
15 FACILITATOR PROGRAM. A county may create a guardianship/  
16 conservatorship courthouse facilitator program to provide basic  
17 services to pro se litigants in guardianship and conservatorship  
18 cases. The legislative authority of any county may impose user fees  
19 or may impose a surcharge of up to twenty dollars, or both, on  
20 superior court cases filed under this chapter, chapter 11.90 RCW, and  
21 chapter 73.36 RCW to pay for the expenses of the guardianship/  
22 conservatorship courthouse facilitator program. Fees collected under  
23 this section shall be collected and deposited in the same manner as  
24 other county funds are collected and deposited, and shall be  
25 maintained in a separate guardianship/conservatorship courthouse  
26 facilitator account to be used as provided in this section.

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

33 (b) Prepayment of a filing fee shall not be required in any  
34 guardianship, conservatorship, or protective arrangement proceeding  
35 brought by the attorney general. Payment of the filing fee shall be  
36 ordered from the estate of the respondent person at the hearing on  
37 the merits of the petition, unless in the judgment of the court, such

1 payment would impose a hardship upon the respondent, in which case  
2 the filing shall be waived.

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

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

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

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

28 **ARTICLE 2**  
29 **GUARDIANSHIP OF MINOR**

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

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

- 1 (a) Each parent of the minor, after being fully informed of the  
2 nature and consequences of guardianship, consents;
- 3 (b) All parental rights have been terminated; or
- 4 (c) There is clear and convincing evidence that no parent of the  
5 minor is willing or able to exercise the powers the court is granting  
6 the guardian.

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

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

15 (a) The minor's name, age, principal residence, current street  
16 address, if different, and, if different, address of the dwelling in  
17 which it is proposed the minor will reside if the appointment is  
18 made;

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

20 (c) The name and address, if known, of each person that had  
21 primary care or custody of the minor for at least sixty days during  
22 the two years immediately before the filing of the petition or for at  
23 least seven hundred thirty days during the five years immediately  
24 before the filing of the petition;

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

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

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

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

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

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

1 (j) Whether any other proceeding concerning the care or custody  
2 of the minor is pending in any court in this state or another  
3 jurisdiction.

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

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

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

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

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

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

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

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

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

27 (ii) Any nominee of a parent;

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

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

31 (v) Any other person the court determines.

32 (2) Notice required by subsection (1) of this section must  
33 include a statement of the right to request appointment of an  
34 attorney for the minor or object to appointment of a guardian and a  
35 description of the nature, purpose, and consequences of appointment  
36 of a guardian.

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

1 (a) The minor, if the minor is twelve years of age or older; and  
2 (b) Each parent of the minor, unless the court finds by clear and  
3 convincing evidence that the parent cannot with due diligence be  
4 located and served or the parent waived, in a record, the right to  
5 notice.

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

10 (a) Interview the petitioner and the minor;

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

13 (c) Investigate any other matter relating to the petition the  
14 court directs; and

15 (d) Ascertain whether the parent consents to the guardian for the  
16 minor.

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

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

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

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

25 (2) An attorney appointed under subsection (1) of this section  
26 shall:

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

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

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

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

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

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

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

5 (b) The parent is indigent; and

6 (c) Any of the following is true:

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

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

11 (iii) The court otherwise determines the parent needs  
12 representation.

13 (6) The court must inquire about whether a parent is indigent to  
14 ensure that counsel is appointed in a timely manner. For purposes of  
15 this section, "indigent" has the same meaning as under RCW  
16 10.101.010.

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

21 (a) The parent objects to appointment of a guardian for the  
22 minor;

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

25 (c) The court otherwise determines that the parent needs  
26 representation.

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

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

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

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

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

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

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

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

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

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

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

28 NEW SECTION. **Sec. 207.** ORDER OF APPOINTMENT—PRIORITY OF NOMINEE  
29 —LIMITED GUARDIANSHIP FOR MINOR. (1) After a hearing under section  
30 203 of this act, the court may appoint a guardian for a minor, if  
31 appointment is proper under section 201 of this act, dismiss the  
32 proceeding, or take other appropriate action consistent with this  
33 chapter or law of this state other than this chapter.

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

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

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

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

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

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

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

30 (a) The guardian has delegated custody of the minor subject to  
31 guardianship;

32 (b) The court has modified or limited the powers of the guardian;  
33 or

34 (c) The court has removed the guardian.

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

38 (7) An order granting guardianship for a minor must direct the  
39 clerk of the court to issue letters of office to the guardian

1 containing an expiration date which should be the minor's eighteenth  
2 birthday.

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

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

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

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

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

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

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

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

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

28 (ii) Each parent of the minor;

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

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

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

36 (6) A person entitled to notice under subsection (5) of this  
37 section, not later than sixty days after service of the petition and  
38 statement, may object to appointment of the standby guardian by  
39 filing an objection with the court and giving notice of the objection

1 to each other person entitled to notice under subsection (5) of this  
2 section.

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

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

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

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

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

19 (a) Interview the petitioner and the minor;

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

23 (c) Investigate any other matter relating to the petition the  
24 court directs.

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

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

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

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

38 (a) The standby guardian assumes the duties and powers of the  
39 guardian;

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

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

2 (d) The court removes the guardian.

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

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

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

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

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

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

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

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

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

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

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

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

39 (c) Each parent of the minor;

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

3 (e) Any other person the court determines.

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

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

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

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

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

30 (2) A guardian for a minor shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (i) Termination of the guardianship would be harmful to the  
12 minor; and

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

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

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

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

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

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

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

1        NEW SECTION.    **Sec. 213.**    PRIOR COURT ORDER VALIDITY. This chapter  
2 does not affect the validity of any court order issued under chapter  
3 26.10 RCW prior to the effective date of this section. Orders issued  
4 under chapter 26.10 RCW prior to the effective date of this section  
5 remain in effect and do not need to be reissued in a new order under  
6 this chapter.

7        NEW SECTION.    **Sec. 214.**    APPLICATION OF THE INDIAN CHILD WELFARE  
8 ACT. (1) Every petition filed in proceedings under this chapter shall  
9 contain a statement alleging whether the child is or may be an Indian  
10 child as defined in RCW 13.38.040. If the child is an Indian child,  
11 chapter 13.38 RCW shall apply.

12        (2) Every order or decree entered in any proceeding under this  
13 chapter shall contain a finding that the federal Indian child welfare  
14 act or chapter 13.38 RCW does or does not apply. Where there is a  
15 finding that the federal Indian child welfare act or chapter 13.38  
16 RCW does apply, the decree or order must also contain a finding that  
17 all notice and evidentiary requirements under the federal Indian  
18 child welfare act and chapter 13.38 RCW have been satisfied.

19        NEW SECTION.    **Sec. 215.**    CHILD SUPPORT. In entering or modifying  
20 an order under this chapter, the court may order one or more parents  
21 of the child to pay an amount reasonable or necessary for the child's  
22 support.

23        NEW SECTION.    **Sec. 216.**    HEALTH INSURANCE COVERAGE—CONDITIONS.  
24 (1) In entering or modifying a custody order under this chapter, the  
25 court must require one or more parents to maintain or provide health  
26 insurance coverage for any dependent child if the following  
27 conditions are met:

28        (a) Health insurance that can be extended to cover the child is  
29 available to that parent through an employer or other organization;  
30 and

31        (b) The employer or other organization offering health insurance  
32 will contribute all or a part of the premium for coverage of the  
33 child.

34        (2) A parent who is required to extend insurance coverage to a  
35 child under this section is liable for any covered health care costs  
36 for which the parent receives direct payment from an insurer.

1 (3) This section may not be construed to limit the authority of  
2 the court to enter or modify support orders containing provisions for  
3 payment of medical expenses, medical costs, or insurance premiums  
4 which are in addition to and not inconsistent with this section.  
5 "Health insurance" as used in this section does not include medical  
6 assistance provided under chapter 74.09 RCW.

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 318 of this act and report under section 319 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 318 of this act  
23 and the guardian's report under section 319 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 318(1) of this act;

3 (c) The date by which the court will review the guardian's plan  
4 as required by section 318(4) of this act;

5 (d) The report interval which the guardian shall file its  
6 guardian's plan under section 319 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 319 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 319 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 318 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 318 of  
32 this act and the guardian's report under section 319 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 318 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 318 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 (7) Notwithstanding subsection (1)(b) of this section no  
13 residential treatment facility which provides nursing or other care  
14 may detain a person within such facility against their will. Any  
15 court order, other than an order issued in accordance with the  
16 involuntary treatment provisions of chapters 10.77, 71.05,  
17 and 72.23 RCW, which purports to authorize such involuntary detention  
18 or purports to authorize a guardian or limited guardian to consent to  
19 such involuntary detention on behalf of an individual subject to a  
20 guardianship shall be void and of no force or effect. This section  
21 does not apply to the detention of a minor as provided in chapter  
22 71.34 RCW.

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

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

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

1 order to the contrary, a decision by the agent which the agent is  
2 authorized to make under the power of attorney for finances takes  
3 precedence over that of the guardian and the guardian shall cooperate  
4 with the agent to the extent feasible.

5 (2) A guardian for an adult may not initiate the commitment of  
6 the adult to an evaluation and treatment facility except in  
7 accordance with the state's procedure for involuntary civil  
8 commitment.

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

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

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

15 (c) Other psychiatric or mental health procedures that restrict  
16 physical freedom of movement or the rights set forth in RCW  
17 71.05.217.

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

23 **Sec. 317.** RCW 11.125.080 and 2016 c 209 s 108 are each amended  
24 to read as follows:

25 (1) In a power of attorney, a principal may nominate a guardian  
26 of the principal's estate or guardian of the principal's person for  
27 consideration by the court if protective proceedings for the  
28 principal's estate or person are begun after the principal executes  
29 the power of attorney. Except for good cause shown or  
30 disqualification, the court shall make its appointment in accordance  
31 with the principal's most recent nomination.

32 (2) If, after a principal executes a power of attorney, a court  
33 appoints a guardian of the principal's estate or other fiduciary  
34 charged with the management of all of the principal's property, the  
35 power of attorney (~~is terminated and the agent's authority does not~~  
36 ~~continue unless continued by the court~~) remains in effect subject to  
37 the provisions of section 316(1) of this act.

38 (3) If, after a principal executes a power of attorney, a court  
39 appoints a guardian of the principal's estate or other fiduciary

1 charged with the management of some but not all of the principal's  
2 property, the power of attorney shall not terminate or be modified,  
3 except to the extent ordered by the court.

4 NEW SECTION. **Sec. 318.** GUARDIAN'S PLAN. (1) A guardian for an  
5 adult, not later than ninety days after appointment, shall file with  
6 the court a plan for the care of the adult and shall provide a copy  
7 of the plan to the adult subject to guardianship, a person entitled  
8 to notice under section 310(5) of this act or a subsequent order, and  
9 any other person the court determines. The plan must be based on the  
10 needs of the adult and take into account the best interest of the  
11 adult as well as the adult's preferences, values, and prior  
12 directions, to the extent known to or reasonably ascertainable by the  
13 guardian. The guardian shall include in the plan:

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

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

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

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

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

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

28 (g) A statement or list of the amount the guardian proposes to  
29 charge for each service the guardian anticipates providing to the  
30 adult.

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

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

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

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

16 NEW SECTION. **Sec. 319.** GUARDIAN'S REPORT—MONITORING OF  
17 GUARDIANSHIP. (1) A guardian for an adult shall file with the court  
18 by the date established by the court a report in a record regarding  
19 the condition of the adult and accounting for funds and other  
20 property in the guardian's possession or subject to the guardian's  
21 control. The guardian shall provide a copy of the report to the adult  
22 subject to guardianship, a person entitled to notice under section  
23 310(5) of this act or a subsequent order, and any other person the  
24 court determines.

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

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

28 (b) The living arrangements of the adult during the reporting  
29 period;

30 (c) A summary of the supported decision making, technological  
31 assistance, medical services, educational and vocational services,  
32 and other supports and services provided to the adult and the  
33 guardian's opinion as to the adequacy of the adult's care;

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

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

37 (f) The extent to which the adult has participated in decision  
38 making;

1 (g) If the adult is living in an evaluation and treatment  
2 facility or living in a facility that provides the adult with health  
3 care or other personal services, whether the guardian considers the  
4 facility's current plan for support, care, treatment, or habilitation  
5 consistent with the adult's preferences, values, prior directions,  
6 and best interests;

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

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

13 (j) Any business relation the guardian has with a person the  
14 guardian has paid or that has benefited from the property of the  
15 adult;

16 (k) A copy of the guardian's most recently approved plan under  
17 section 318 of this act and a statement whether the guardian has  
18 deviated from the plan and, if so, how the guardian has deviated and  
19 why;

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

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

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

25 (3) The court may appoint a visitor to review a report submitted  
26 under this section or a guardian's plan submitted under section 318  
27 of this act, interview the guardian or adult subject to guardianship,  
28 or investigate any other matter involving the guardianship.

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

35 (5) The court shall establish procedures for monitoring a report  
36 submitted under this section and review each report to determine  
37 whether:

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

40 (b) The guardianship should continue; and

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

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

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

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

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

11 (d) Consistent with sections 319 and 320 of this act, may hold a  
12 hearing to consider removal of the guardian, termination of the  
13 guardianship, or a change in the powers granted to the guardian or  
14 terms of the guardianship.

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

18 (8) A guardian for an adult may petition the court for approval  
19 of a report filed under this section. The court after review may  
20 approve the report. If the court approves the report, there is a  
21 rebuttable presumption the report is accurate as to a matter  
22 adequately disclosed in the report.

23 (9) If the court approves a report filed under this section, the  
24 order approving the report shall set the due date for the filing of  
25 the next report to be filed under this section. The court may set the  
26 review interval at annual, biennial, or triennial with the report due  
27 date to be within ninety days of the anniversary date of appointment.  
28 When determining the report interval, the court can consider: The  
29 length of time the guardian has been serving the person under  
30 guardianship; whether the guardian has timely filed all required  
31 reports with the court; whether the guardian is monitored by other  
32 state or local agencies; and whether there have been any allegations  
33 of abuse, neglect, or a breach of fiduciary duty against the  
34 guardian.

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

39 (11) If the court approves a report filed under this section, the  
40 order approving the report shall direct the clerk of the court to

1 reissue letters of office in the form or substantially in the same  
2 form as set forth in section 605 of this act to the guardian  
3 containing an expiration date which will be within one hundred twenty  
4 days after the date the court directs the guardian file its next  
5 report.

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

8 NEW SECTION. **Sec. 320.** REMOVAL OF GUARDIAN FOR ADULT—  
9 APPOINTMENT OF SUCCESSOR. (1) The court may remove a guardian for an  
10 adult for failure to perform the guardian's duties or for other good  
11 cause and appoint a successor guardian to assume the duties of  
12 guardian.

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

15 (a) Petition of the adult, guardian, or person interested in the  
16 welfare of the adult, which contains allegations that, if true, would  
17 support a reasonable belief that removal of the guardian and  
18 appointment of a successor guardian may be appropriate, but the court  
19 may decline to hold a hearing if a petition based on the same or  
20 substantially similar facts was filed during the preceding six  
21 months;

22 (b) Communication from the adult, guardian, or person interested  
23 in the welfare of the adult which supports a reasonable belief that  
24 removal of the guardian and appointment of a successor guardian may  
25 be appropriate; or

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

28 (3) Notice of a hearing under subsection (2)(a) of this section  
29 and notice of the adult subject to guardianship's right to be  
30 represented at the hearing by counsel of the individual's choosing  
31 must be given to the adult subject to guardianship, the guardian, and  
32 any other person the court determines.

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

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

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

5 NEW SECTION. **Sec. 321.** TERMINATION OR MODIFICATION OF  
6 GUARDIANSHIP FOR ADULT. (1) An adult subject to guardianship, the  
7 guardian for the adult, or a person interested in the welfare of the  
8 adult may petition for:

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

13 (b) Modification of the guardianship on the ground that the  
14 extent of protection or assistance granted is not appropriate or for  
15 other good cause.

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

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

25 (b) Communication from the adult, guardian, or person interested  
26 in the welfare of the adult which supports a reasonable belief that  
27 termination or modification of the guardianship may be appropriate,  
28 including because the functional needs of the adult or supports or  
29 services available to the adult have changed;

30 (c) A report from a guardian or conservator which indicates that  
31 termination or modification may be appropriate because the functional  
32 needs of the adult or supports or services available to the adult  
33 have changed or a protective arrangement instead of guardianship or  
34 other less restrictive alternative for meeting the adult's needs is  
35 available; or

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

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

4 (4) On presentation of prima facie evidence for termination of a  
5 guardianship for an adult, the court shall order termination unless  
6 it is proven that a basis for appointment of a guardian under section  
7 301 of this act exists.

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

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

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

21 **ARTICLE 4**  
22 **CONSERVATORSHIP**

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

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

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

31 (b) Either:

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

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

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

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

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

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

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

12 (b) Appointment is necessary to:

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

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

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

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

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

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

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

31 (b) A person interested in the estate, financial affairs, or  
32 welfare of the individual, including a person that would be adversely  
33 affected by lack of effective management of property or financial  
34 affairs of the individual; or

35 (c) The guardian for the individual.

36 (2) A petition under subsection (1) of this section must state  
37 the petitioner's name, principal residence, current street address,  
38 if different, relationship to the respondent, interest in the

1 appointment, the name and address of any attorney representing the  
2 petitioner, and, to the extent known, the following:

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

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

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

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

15 (iii) Adult stepchildren whom the respondent actively parented  
16 during the stepchildren's minor years and with whom the respondent  
17 had an ongoing relationship during the two years immediately before  
18 the filing of the petition;

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

21 (i) A person responsible for the care or custody of the  
22 respondent;

23 (ii) Any attorney currently representing the respondent;

24 (iii) The representative payee appointed by the social security  
25 administration for the respondent;

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

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

30 (vi) The fiduciary appointed for the respondent by the department  
31 of veterans affairs;

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

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

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

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

1 (xi) If the individual for whom a conservator is sought is a  
2 minor:

3 (A) An adult not otherwise listed with whom the minor resides;  
4 and

5 (B) Each person not otherwise listed that had primary care or  
6 custody of the minor for at least sixty days during the two years  
7 immediately before the filing of the petition or for at least seven  
8 hundred thirty days during the five years immediately before the  
9 filing of the petition;

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

13 (e) The reason conservatorship is necessary, including a brief  
14 description of:

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

16 (ii) If the petition alleges the respondent is missing, detained,  
17 or unable to return to the United States, the relevant circumstances,  
18 including the time and nature of the disappearance or detention and  
19 any search or inquiry concerning the respondent's whereabouts;

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

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

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

28 (f) Whether the petitioner seeks a limited conservatorship or a  
29 full conservatorship;

30 (g) If the petitioner seeks a full conservatorship, the reason a  
31 limited conservatorship or protective arrangement instead of  
32 conservatorship is not appropriate;

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

35 (i) If the petition is for a limited conservatorship, a  
36 description of the property to be placed under the conservator's  
37 control and any requested limitation on the authority of the  
38 conservator;

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

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

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

12 (2) A copy of a petition under section 402 of this act and notice  
13 of a hearing on the petition must be served personally on the  
14 respondent and the visitor appointed under section 405 of this act  
15 not more than five court days after the petition under section 402 of  
16 this act has been filed. If the respondent's whereabouts are unknown  
17 or personal service cannot be made, service on the respondent must be  
18 made by publication. The notice must inform the respondent of the  
19 respondent's rights at the hearing, including the right to an  
20 attorney and to attend the hearing. The notice must include a  
21 description of the nature, purpose, and consequences of granting the  
22 petition. The court may not grant a petition for appointment of a  
23 conservator if notice substantially complying with this subsection is  
24 not served on the respondent.

25 (3) In a proceeding on a petition under section 402 of this act,  
26 the notice required under subsection (2) of this section must be  
27 given to the persons required to be listed in the petition under  
28 section 402(2) (a) through (c) of this act and any other person  
29 interested in the respondent's welfare the court determines. Failure  
30 to give notice under this subsection does not preclude the court from  
31 appointing a conservator.

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

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

38 (b) The conservator; and

39 (c) Any other person the court determines.

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

8        NEW SECTION.    **Sec. 405.**    APPOINTMENT AND ROLE OF VISITOR. (1) If  
9 the respondent in a proceeding to appoint a conservator is a minor,  
10 the court may appoint a visitor to investigate a matter related to  
11 the petition or inform the minor or a parent of the minor about the  
12 petition or a related matter.

13        (2) If the respondent in a proceeding to appoint a conservator is  
14 an adult, the court shall appoint a visitor. The duties and reporting  
15 requirements of the visitor are limited to the relief requested in  
16 the petition. The visitor must be an individual with training or  
17 experience in the type of abilities, limitations, and needs alleged  
18 in the petition.

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

23        (4) (a) The visitor appointed under subsection (1) or (2) of this  
24 section shall within five days of receipt of notice of appointment  
25 file with the court and serve, either personally or by certified mail  
26 with return receipt, the respondent or his or her legal counsel, the  
27 petitioner or his or her legal counsel, and any interested party  
28 entitled to notice under section 116 of this act with a statement  
29 including: His or her training relating to the duties as a visitor;  
30 his or her criminal history as defined in RCW 9.94A.030 for the  
31 period covering ten years prior to the appointment; his or her hourly  
32 rate, if compensated; whether the guardian ad litem has had any  
33 contact with a party to the proceeding prior to his or her  
34 appointment; and whether he or she has an apparent conflict of  
35 interest. Within three days of the later of the actual service or  
36 filing of the visitor's statement, any party may set a hearing and  
37 file and serve a motion for an order to show cause why the visitor  
38 should not be removed for one of the following three reasons:

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

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

3 (iii) A conflict of interest.

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

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

14 (a) Explain to the respondent the substance of the petition, the  
15 nature, purpose, and effect of the proceeding, the respondent's  
16 rights at the hearing on the petition, and the general powers and  
17 duties of a conservator;

18 (b) Determine the respondent's views about the appointment sought  
19 by the petitioner, including views about a proposed conservator, the  
20 conservator's proposed powers and duties, and the scope and duration  
21 of the proposed conservatorship; and

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

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

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

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

30 (c) Investigate whether the respondent's needs could be met by a  
31 protective arrangement instead of conservatorship or other less  
32 restrictive alternative and, if so, identify the arrangement or other  
33 less restrictive alternative; and

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

36 (7) A visitor appointed under subsection (2) of this section for  
37 an adult shall file a report in a record with the court and provide a  
38 copy of the report to the respondent, petitioner, and any interested  
39 party entitled to notice under section 116 of this act at least

1 fifteen days prior to the hearing on the petition filed under section  
2 402 of this act, which must include:

3 (a) A recommendation:

4 (i) Regarding the appropriateness of conservatorship, or whether  
5 a protective arrangement instead of conservatorship or other less  
6 restrictive alternative for meeting the respondent's needs is  
7 available;

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

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

13 (iv) If a conservatorship is recommended, the amount of the bond  
14 or other asset protection arrangement needed under sections 416 and  
15 417 of this act;

16 (b) A statement of the qualifications of the proposed conservator  
17 and whether the respondent approves or disapproves of the proposed  
18 conservator;

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

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

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

27 (f) Any other matter the court directs.

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

29 Unless the respondent in a proceeding for appointment of a  
30 conservator is represented by an attorney, the court is not required,  
31 but may appoint an attorney to represent the respondent, regardless  
32 of the respondent's ability to pay.

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

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

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

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

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

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

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

10 (c) The court otherwise determines the parent needs  
11 representation.

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

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

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

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

30 (a) A description of the nature, type, and extent of the  
31 respondent's cognitive and functional abilities and limitations with  
32 regard to the management of the respondent's property and financial  
33 affairs;

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

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

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

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

3 NEW SECTION. **Sec. 408.** ATTENDANCE AND RIGHTS AT HEARING. (1)  
4 Except as otherwise provided in subsection (2) of this section, a  
5 hearing under section 403 of this act may not proceed unless the  
6 respondent attends the hearing. If it is not reasonably feasible for  
7 the respondent to attend a hearing at the location court proceedings  
8 typically are held, the court shall make reasonable efforts to hold  
9 the hearing at an alternative location convenient to the respondent  
10 or allow the respondent to attend the hearing using real-time audio-  
11 visual technology.

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

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

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

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

23 (3) The respondent may be assisted in a hearing under section 403  
24 of this act by a person or persons of the respondent's choosing,  
25 assistive technology, or an interpreter or translator, or a  
26 combination of these supports. If assistance would facilitate the  
27 respondent's participation in the hearing, but is not otherwise  
28 available to the respondent, the court shall make reasonable efforts  
29 to provide it.

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

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

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

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

37 (c) Otherwise participate in the hearing.

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

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

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

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

11 (a) The respondent, the individual subject to conservatorship, or  
12 the parent of a minor subject to conservatorship requests the record  
13 be sealed; and

14 (b) Either:

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

16 (ii) The conservatorship is terminated.

17 (2) An individual subject to a proceeding for a conservatorship,  
18 whether or not a conservator is appointed, an attorney designated by  
19 the individual, and a person entitled to notice under section 411(6)  
20 of this act or a subsequent order may access court records of the  
21 proceeding and resulting conservatorship, including the conservator's  
22 plan under section 419 of this act and the conservator's report under  
23 section 423 of this act. A person not otherwise entitled access to  
24 court records under this section for good cause may petition the  
25 court for access to court records of the conservatorship, including  
26 the conservator's plan and report. The court shall grant access if  
27 access is in the best interest of the respondent or individual  
28 subject to conservatorship or furthers the public interest and does  
29 not endanger the welfare or financial interests of the respondent or  
30 individual.

31 (3) A report under section 405 of this act of a visitor or  
32 professional evaluation under section 407 of this act is confidential  
33 and must be sealed on filing, but is available to:

34 (a) The court;

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

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

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

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

6 NEW SECTION. **Sec. 410.** WHO MAY BE CONSERVATOR—ORDER OF  
7 PRIORITY. (1) Except as otherwise provided in subsection (3) of this  
8 section, the court in appointing a conservator shall consider persons  
9 qualified to be a conservator in the following order of priority:

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

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

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

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

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

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

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

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

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

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

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

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

10 NEW SECTION. **Sec. 411.** ORDER OF APPOINTMENT OF CONSERVATOR. (1)  
11 A court order appointing a conservator for a minor must include  
12 findings to support appointment of a conservator and, if a full  
13 conservatorship is granted, the reason a limited conservatorship  
14 would not meet the identified needs of the minor.

15 (2) A court order appointing a conservator for a minor may  
16 dispense with the requirement for the conservator to file reports  
17 with the court under section 423 of this act if all the property of  
18 the minor subject to the conservatorship is protected by an asset  
19 protection arrangement.

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

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

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

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

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

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

- 1 (a) Notice of the rights of the individual subject to  
2 conservatorship under section 412(2) of this act;
- 3 (b) Notice of a sale of or surrender of a lease to the primary  
4 dwelling of the individual;
- 5 (c) Notice that the conservator has delegated a power that  
6 requires court approval under section 414 of this act or  
7 substantially all powers of the conservator;
- 8 (d) Notice that the conservator will be unavailable to perform  
9 the conservator's duties for more than one month;
- 10 (e) A copy of the conservator's plan under section 419 of this  
11 act and the conservator's report under section 423 of this act;
- 12 (f) Access to court records relating to the conservatorship;
- 13 (g) Notice of a transaction involving a substantial conflict  
14 between the conservator's fiduciary duties and personal interests;
- 15 (h) Notice of the death or significant change in the condition of  
16 the individual;
- 17 (i) Notice that the court has limited or modified the powers of  
18 the conservator; and
- 19 (j) Notice of the removal of the conservator.
- 20 (7) If an individual subject to conservatorship is an adult, the  
21 spouse, domestic partner, and adult children of the adult subject to  
22 conservatorship are entitled under subsection (6) of this section to  
23 notice unless the court determines notice would be contrary to the  
24 preferences or prior directions of the adult subject to  
25 conservatorship or not in the best interest of the adult.
- 26 (8) If an individual subject to conservatorship is a minor, each  
27 parent and adult sibling of the minor is entitled under subsection  
28 (6) of this section to notice unless the court determines notice  
29 would not be in the best interest of the minor.
- 30 (9) All orders establishing a conservatorship for an adult must  
31 contain:
- 32 (a) A conservatorship summary placed directly below the case  
33 caption or on a separate cover page in the form or substantially the  
34 same form as set forth in section 606 of this act;
- 35 (b) The date which the limited conservator or conservator must  
36 file the conservator's plan under section 419 of this act;
- 37 (c) The date which the limited conservator or conservator must  
38 file an inventory under section 420 of this act;
- 39 (d) The date by which the court will review the conservator's  
40 plan as required by section 419 of this act;

1 (e) The report interval which the conservator must file its  
2 report under section 423 of this act. The report interval may be  
3 annual, biennial, or triennial;

4 (f) The date the limited conservator or conservator must file its  
5 report under section 423 of this act. The due date of the filing of  
6 the report shall be within ninety days after the anniversary date of  
7 the appointment;

8 (g) The date for the court to review the report under section 423  
9 of this act and enter its order. The court shall conduct the review  
10 within one hundred twenty days after the anniversary date of the  
11 appointment.

12 NEW SECTION. **Sec. 412.** NOTICE OF ORDER OF APPOINTMENT—RIGHTS.

13 (1) A conservator appointed under section 411 of this act shall give  
14 to the individual subject to conservatorship and to all other persons  
15 given notice under section 403 of this act a copy of the order of  
16 appointment, together with notice of the right to request termination  
17 or modification. The order and notice must be given not later than  
18 fourteen days after the appointment.

19 (2) Not later than thirty days after appointment of a conservator  
20 under section 411 of this act, the conservator shall give to the  
21 individual subject to conservatorship and any other person entitled  
22 to notice under section 411(6) of this act a statement of the rights  
23 of the individual subject to conservatorship and procedures to seek  
24 relief if the individual is denied those rights. The statement must  
25 be in plain language, in at least sixteen-point font, and to the  
26 extent feasible, in a language in which the individual subject to  
27 conservatorship is proficient. The statement must notify the  
28 individual subject to conservatorship of the right to:

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

32 (b) Participate in decision making to the extent reasonably  
33 feasible;

34 (c) Receive a copy of the conservator's plan under section 419 of  
35 this act, the conservator's inventory under section 420 of this act,  
36 and the conservator's report under section 423 of this act; and

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

38 (3) If a conservator is appointed for the reasons stated in  
39 section 401(2)(a)(ii) of this act and the individual subject to

1 conservatorship is missing, notice under this section to the  
2 individual is not required.

3 NEW SECTION. **Sec. 413.** EMERGENCY CONSERVATOR. (1) On its own or  
4 on petition by a person interested in an individual's welfare after a  
5 petition has been filed under section 402 of this act, the court may  
6 appoint an emergency conservator for the individual if the court  
7 finds:

8 (a) Appointment of an emergency conservator is likely to prevent  
9 substantial and irreparable harm to the individual's property or  
10 financial interests;

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

13 (c) There is reason to believe that a basis for appointment of a  
14 conservator under section 401 of this act exists.

15 (2) The duration of authority of an emergency conservator may not  
16 exceed sixty days and the emergency conservator may exercise only the  
17 powers specified in the order of appointment. The emergency  
18 conservator's authority may be extended once for not more than sixty  
19 days if the court finds that the conditions for appointment of an  
20 emergency conservator under subsection (1) of this section continue.

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

28 (4) The court may appoint an emergency conservator without notice  
29 to the respondent and any attorney for the respondent only if the  
30 court finds from an affidavit or testimony that the respondent's  
31 property or financial interests will be substantially and irreparably  
32 harmed before a hearing with notice on the appointment can be held.  
33 If the court appoints an emergency conservator without giving notice  
34 under subsection (3) of this section, the court must give notice of  
35 the appointment not later than forty-eight hours after the  
36 appointment to:

37 (a) The respondent;

38 (b) The respondent's attorney; and

39 (c) Any other person the court determines.

1 (5) Not later than five days after the appointment, the court  
2 shall hold a hearing on the appropriateness of the appointment.

3 (6) Appointment of an emergency conservator under this section is  
4 not a determination that a basis exists for appointment of a  
5 conservator under section 401 of this act.

6 (7) The court may remove an emergency conservator appointed under  
7 this section at any time. The emergency conservator shall make any  
8 report the court requires.

9 NEW SECTION. **Sec. 414.** POWERS OF CONSERVATOR REQUIRING COURT  
10 APPROVAL. (1) Except as otherwise ordered by the court, a conservator  
11 must give notice to persons entitled to notice under section 403(4)  
12 of this act and receive specific authorization by the court before  
13 the conservator may exercise with respect to the conservatorship the  
14 power to:

15 (a) Make a gift, except a gift of de minimis value;

16 (b) Sell, encumber an interest in, or surrender a lease to the  
17 primary dwelling of the individual subject to conservatorship;

18 (c) Convey, release, or disclaim a contingent or expectant  
19 interest in property, including marital property and any right of  
20 survivorship incident to joint tenancy or tenancy by the entireties;

21 (d) Exercise or release a power of appointment;

22 (e) Create a revocable or irrevocable trust of property of the  
23 conservatorship estate, whether or not the trust extends beyond the  
24 duration of the conservatorship, or revoke or amend a trust revocable  
25 by the individual subject to conservatorship;

26 (f) Exercise a right to elect an option or change a beneficiary  
27 under an insurance policy or annuity or surrender the policy or  
28 annuity for its cash value;

29 (g) Exercise a right to an elective share in the estate of a  
30 deceased spouse or domestic partner of the individual subject to  
31 conservatorship or renounce or disclaim a property interest;

32 (h) Grant a creditor priority for payment over creditors of the  
33 same or higher class if the creditor is providing property or  
34 services used to meet the basic living and care needs of the  
35 individual subject to conservatorship and preferential treatment  
36 otherwise would be impermissible under section 428(5) of this act;  
37 and

38 (i) Make, modify, amend, or revoke the will of the individual  
39 subject to conservatorship in compliance with chapter 11.12 RCW.

1 (2) In approving a conservator's exercise of a power listed in  
2 subsection (1) of this section, the court shall consider primarily  
3 the decision the individual subject to conservatorship would make if  
4 able, to the extent the decision can be ascertained.

5 (3) To determine under subsection (2) of this section the  
6 decision the individual subject to conservatorship would make if  
7 able, the court shall consider the individual's prior or current  
8 directions, preferences, opinions, values, and actions, to the extent  
9 actually known or reasonably ascertainable by the conservator. The  
10 court also shall consider:

11 (a) The financial needs of the individual subject to  
12 conservatorship and individuals who are in fact dependent on the  
13 individual subject to conservatorship for support, and the interests  
14 of creditors of the individual;

15 (b) Possible reduction of income, estate, inheritance, or other  
16 tax liabilities;

17 (c) Eligibility for governmental assistance;

18 (d) The previous pattern of giving or level of support provided  
19 by the individual;

20 (e) Any existing estate plan or lack of estate plan of the  
21 individual;

22 (f) The life expectancy of the individual and the probability the  
23 conservatorship will terminate before the individual's death; and

24 (g) Any other relevant factor.

25 (4) A conservator may not revoke or amend a power of attorney for  
26 finances executed by the individual subject to conservatorship. If a  
27 power of attorney for finances is in effect, a decision of the agent  
28 takes precedence over that of the conservator, unless the court  
29 orders otherwise.

30 NEW SECTION. **Sec. 415.** PETITION FOR ORDER AFTER APPOINTMENT. An  
31 individual subject to conservatorship or a person interested in the  
32 welfare of the individual may petition for an order:

33 (1) Requiring the conservator to furnish a bond or collateral or  
34 additional bond or collateral or allowing a reduction in a bond or  
35 collateral previously furnished;

36 (2) Requiring an accounting for the administration of the  
37 conservatorship estate;

38 (3) Directing distribution;

1 (4) Removing the conservator and appointing a temporary or  
2 successor conservator;

3 (5) Modifying the type of appointment or powers granted to the  
4 conservator, if the extent of protection or management previously  
5 granted is excessive or insufficient to meet the individual's needs,  
6 including because the individual's abilities or supports have  
7 changed;

8 (6) Rejecting or modifying the conservator's plan under section  
9 419 of this act, the conservator's inventory under section 420 of  
10 this act, or the conservator's report under section 423 of this act;  
11 or

12 (7) Granting other appropriate relief.

13 NEW SECTION. **Sec. 416.** BOND—ALTERNATIVE ASSET PROTECTION  
14 ARRANGEMENT. (1) Except as otherwise provided in subsections (3) and  
15 (4) of this section, the court shall require a conservator to furnish  
16 a bond with a surety the court specifies, or require an alternative  
17 asset protection arrangement, conditioned on faithful discharge of  
18 all duties of the conservator. The court may waive the requirement  
19 only if the court finds that a bond or other asset protection  
20 arrangement is not necessary to protect the interests of the  
21 individual subject to conservatorship. Except as otherwise provided  
22 in subsections (3) and (4) of this section, the court may not waive  
23 the requirement if the conservator is in the business of serving as a  
24 conservator and is being paid for the conservator's service.

25 (2) Unless the court directs otherwise, the bond required under  
26 this section must be in the amount of the aggregate capital value of  
27 the conservatorship estate, plus the estimated income for the  
28 accounting and report review interval, less the value of property  
29 deposited under an asset protection arrangement requiring a court  
30 order for its removal and real property the conservator lacks power  
31 to sell or convey without specific court authorization. The court, in  
32 place of surety on a bond, may accept collateral for the performance  
33 of the bond, including a pledge of securities or a mortgage of real  
34 property.

35 (3) A regulated financial institution qualified to do trust  
36 business in this state is not required to give a bond under this  
37 section.

38 (4) In all conservatorships where the person subject to  
39 conservatorship has total assets of a value of less than three

1 thousand dollars, the court may dispense with the requirement of a  
2 bond: PROVIDED, That the conservator swears to report to the court  
3 any changes in the total assets of the person subject to  
4 conservatorship increasing their value to over three thousand  
5 dollars: PROVIDED FURTHER, That the conservator files a yearly  
6 statement showing the monthly income of the person subject to  
7 conservatorship if such monthly income, excluding moneys from state  
8 or federal benefits, is over the sum of five hundred dollars per  
9 month for any three consecutive months.

10 NEW SECTION. **Sec. 417.** TERMS AND REQUIREMENTS OF BOND. (1) The  
11 following rules apply to the bond required under section 416 of this  
12 act:

13 (a) Except as otherwise provided by the bond, the surety and the  
14 conservator are jointly and severally liable.

15 (b) By executing a bond provided by a conservator, the surety  
16 submits to the personal jurisdiction of the court that issued letters  
17 of office to the conservator in a proceeding relating to the duties  
18 of the conservator in which the surety is named as a party. Notice of  
19 the proceeding must be given to the surety at the address shown in  
20 the records of the court in which the bond is filed and any other  
21 address of the surety then known to the person required to provide  
22 the notice.

23 (c) On petition of a successor conservator or person affected by  
24 a breach of the obligation of the bond, a proceeding may be brought  
25 against the surety for breach of the obligation of the bond.

26 (d) A proceeding against the bond may be brought until liability  
27 under the bond is exhausted.

28 (2) A proceeding may not be brought under this section against a  
29 surety of a bond on a matter as to which a proceeding against the  
30 conservator is barred.

31 (3) If a bond under section 416 of this act is not renewed by the  
32 conservator, the surety or sureties immediately shall give notice to  
33 the court and the individual subject to conservatorship.

34 NEW SECTION. **Sec. 418.** DUTIES OF CONSERVATOR. (1) A conservator  
35 is a fiduciary and has duties of prudence and loyalty to the  
36 individual subject to conservatorship.

37 (2) A conservator shall promote the self-determination of the  
38 individual subject to conservatorship and, to the extent feasible,

1 encourage the individual to participate in decisions, act on the  
2 individual's own behalf, and develop or regain the capacity to manage  
3 the individual's personal affairs.

4 (3) In making a decision for an individual subject to  
5 conservatorship, the conservator shall make the decision the  
6 conservator reasonably believes the individual would make if able,  
7 unless doing so would fail to preserve the resources needed to  
8 maintain the individual's well-being and lifestyle or otherwise  
9 unreasonably harm or endanger the welfare or personal or financial  
10 interests of the individual. To determine the decision the individual  
11 would make if able, the conservator shall consider the individual's  
12 prior or current directions, preferences, opinions, values, and  
13 actions, to the extent actually known or reasonably ascertainable by  
14 the conservator.

15 (4) If a conservator cannot make a decision under subsection (3)  
16 of this section because the conservator does not know and cannot  
17 reasonably determine the decision the individual subject to  
18 conservatorship probably would make if able, or the conservator  
19 reasonably believes the decision the individual would make would fail  
20 to preserve resources needed to maintain the individual's well-being  
21 and lifestyle or otherwise unreasonably harm or endanger the welfare  
22 or personal or financial interests of the individual, the conservator  
23 shall act in accordance with the best interests of the individual. In  
24 determining the best interests of the individual, the conservator  
25 shall consider:

26 (a) Information received from professionals and persons that  
27 demonstrate sufficient interest in the welfare of the individual;

28 (b) Other information the conservator believes the individual  
29 would have considered if the individual were able to act; and

30 (c) Other factors a reasonable person in the circumstances of the  
31 individual would consider, including consequences for others.

32 (5) Except when inconsistent with the conservator's duties under  
33 subsections (1) through (4) of this section, a conservator shall  
34 invest and manage the conservatorship estate as a prudent investor  
35 would, by considering:

36 (a) The circumstances of the individual subject to  
37 conservatorship and the conservatorship estate;

38 (b) General economic conditions;

39 (c) The possible effect of inflation or deflation;

1 (d) The expected tax consequences of an investment decision or  
2 strategy;

3 (e) The role of each investment or course of action in relation  
4 to the conservatorship estate as a whole;

5 (f) The expected total return from income and appreciation of  
6 capital;

7 (g) The need for liquidity, regularity of income, and  
8 preservation or appreciation of capital; and

9 (h) The special relationship or value, if any, of specific  
10 property to the individual subject to conservatorship.

11 (6) The propriety of a conservator's investment and management of  
12 the conservatorship estate is determined in light of the facts and  
13 circumstances existing when the conservator decides or acts and not  
14 by hindsight.

15 (7) A conservator shall make a reasonable effort to verify facts  
16 relevant to the investment and management of the conservatorship  
17 estate.

18 (8) A conservator that has special skills or expertise, or is  
19 named conservator in reliance on the conservator's representation of  
20 special skills or expertise, has a duty to use the special skills or  
21 expertise in carrying out the conservator's duties.

22 (9) In investing, selecting specific property for distribution,  
23 and invoking a power of revocation or withdrawal for the use or  
24 benefit of the individual subject to conservatorship, a conservator  
25 shall consider any estate plan of the individual known or reasonably  
26 ascertainable to the conservator and may examine the will or other  
27 donative, nominative, or appointive instrument of the individual.

28 (10) A conservator shall maintain insurance on the insurable real  
29 and personal property of the individual subject to conservatorship,  
30 unless the conservatorship estate lacks sufficient funds to pay for  
31 insurance or the court finds:

32 (a) The property lacks sufficient equity; or

33 (b) Insuring the property would unreasonably dissipate the  
34 conservatorship estate or otherwise not be in the best interest of  
35 the individual.

36 (11) If a power of attorney for finances is in effect, a  
37 conservator shall cooperate with the agent to the extent feasible.

38 (12) A conservator has access to and authority over a digital  
39 asset of the individual subject to conservatorship to the extent

1 provided by the revised uniform fiduciary access to digital assets  
2 act (chapter 11.120 RCW) or court order.

3 (13) A conservator for an adult shall notify the court if the  
4 condition of the adult has changed so that the adult is capable of  
5 exercising rights previously removed. The notice must be given  
6 immediately on learning of the change.

7 (14) A conservator shall notify the court within thirty days of  
8 any substantial change in the value of the property of the person  
9 subject to conservatorship and shall provide a copy of the notice to  
10 the person subject to guardianship, a person entitled to notice under  
11 section 403 of this act or a subsequent order, and any other person  
12 the court has determined is entitled to notice and schedule a hearing  
13 for the court to review the adequacy of the bond or other asset  
14 protection arrangement under sections 416 and 417 of this act.

15 NEW SECTION. **Sec. 419.** CONSERVATOR'S PLAN. (1) A conservator,  
16 not later than ninety days after appointment, shall file with the  
17 court a plan for protecting, managing, expending, and distributing  
18 the assets of the conservatorship estate. The plan must be based on  
19 the needs of the individual subject to conservatorship and take into  
20 account the best interest of the individual as well as the  
21 individual's preferences, values, and prior directions, to the extent  
22 known to or reasonably ascertainable by the conservator. The  
23 conservator shall include in the plan:

24 (a) A budget containing projected expenses and resources,  
25 including an estimate of the total amount of fees the conservator  
26 anticipates charging per year and a statement or list of the amount  
27 the conservator proposes to charge for each service the conservator  
28 anticipates providing to the individual;

29 (b) How the conservator will involve the individual in decisions  
30 about management of the conservatorship estate;

31 (c) Any step the conservator plans to take to develop or restore  
32 the ability of the individual to manage the conservatorship estate;  
33 and

34 (d) An estimate of the duration of the conservatorship.

35 (2) A conservator shall give notice of the filing of the  
36 conservator's plan under subsection (1) of this section, together  
37 with a copy of the plan, to the individual subject to  
38 conservatorship, a person entitled to notice under section 411(6) of  
39 this act or a subsequent order, and any other person the court

1 determines. The notice must include a statement of the right to  
2 object to the plan and be given not later than fourteen days after  
3 the filing.

4 (3) An individual subject to conservatorship and any person  
5 entitled under subsection (2) of this section to receive notice and a  
6 copy of the conservator's plan may object to the plan.

7 (4) The court shall review the conservator's plan filed under  
8 subsection (1) of this section and determine whether to approve the  
9 plan or require a new plan. In deciding whether to approve the plan,  
10 the court shall consider an objection under subsection (3) of this  
11 section and whether the plan is consistent with the conservator's  
12 duties and powers. The court may not approve the plan until thirty  
13 days after its filing.

14 (5) After a conservator's plan under this section is approved by  
15 the court, the conservator shall provide a copy of the plan to the  
16 individual subject to conservatorship, a person entitled to notice  
17 under section 411(6) of this act or a subsequent order, and any other  
18 person the court determines.

19 NEW SECTION. **Sec. 420.** INVENTORY—RECORDS. (1) Not later than  
20 sixty days after appointment, a conservator shall prepare and file  
21 with the appointing court a detailed inventory of the conservatorship  
22 estate, together with an oath or affirmation that the inventory is  
23 believed to be complete and accurate as far as information permits.

24 (2) A conservator shall give notice of the filing of an inventory  
25 to the individual subject to conservatorship, a person entitled to  
26 notice under section 411(6) of this act or a subsequent order, and  
27 any other person the court determines. The notice must be given not  
28 later than fourteen days after the filing.

29 (3) A conservator shall keep records of the administration of the  
30 conservatorship estate and make them available for examination on  
31 reasonable request of the individual subject to conservatorship, a  
32 guardian for the individual, or any other person the conservator or  
33 the court determines.

34 NEW SECTION. **Sec. 421.** ADMINISTRATIVE POWERS OF CONSERVATOR NOT  
35 REQUIRING COURT APPROVAL. (1) Except as otherwise provided in section  
36 414 of this act or qualified or limited in the court's order of  
37 appointment and stated in the letters of office, a conservator has

1 all powers granted in this section and any additional power granted  
2 to a trustee by law of this state other than this chapter.

3 (2) A conservator, acting reasonably and consistent with the  
4 fiduciary duties of the conservator to accomplish the purpose of the  
5 conservatorship, without specific court authorization or  
6 confirmation, may with respect to the conservatorship estate:

7 (a) Collect, hold, and retain property, including property in  
8 which the conservator has a personal interest and real property in  
9 another state, until the conservator determines disposition of the  
10 property should be made;

11 (b) Receive additions to the conservatorship estate;

12 (c) Continue or participate in the operation of a business or  
13 other enterprise;

14 (d) Acquire an undivided interest in property in which the  
15 conservator, in a fiduciary capacity, holds an undivided interest;

16 (e) Invest assets;

17 (f) Deposit funds or other property in a financial institution,  
18 including one operated by the conservator;

19 (g) Acquire or dispose of property, including real property in  
20 another state, for cash or on credit, at public or private sale, and  
21 manage, develop, improve, exchange, partition, change the character  
22 of, or abandon property;

23 (h) Make ordinary or extraordinary repairs or alterations in a  
24 building or other structure, demolish any improvement, or raze an  
25 existing or erect a new party wall or building;

26 (i) Subdivide or develop land, dedicate land to public use, make  
27 or obtain the vacation of a plat and adjust a boundary, adjust a  
28 difference in valuation of land, exchange or partition land by giving  
29 or receiving consideration, and dedicate an easement to public use  
30 without consideration;

31 (j) Enter for any purpose into a lease of property as lessor or  
32 lessee, with or without an option to purchase or renew, for a term  
33 within or extending beyond the term of the conservatorship;

34 (k) Enter into a lease or arrangement for exploration and removal  
35 of minerals or other natural resources or a pooling or unitization  
36 agreement;

37 (l) Grant an option involving disposition of property or accept  
38 or exercise an option for the acquisition of property;

39 (m) Vote a security, in person or by general or limited proxy;

1 (n) Pay a call, assessment, or other sum chargeable or accruing  
2 against or on account of a security;

3 (o) Sell or exercise a stock subscription or conversion right;

4 (p) Consent, directly or through a committee or agent, to the  
5 reorganization, consolidation, merger, dissolution, or liquidation of  
6 a corporation or other business enterprise;

7 (q) Hold a security in the name of a nominee or in other form  
8 without disclosure of the conservatorship so that title to the  
9 security may pass by delivery;

10 (r) Insure:

11 (i) The conservatorship estate, in whole or in part, against  
12 damage or loss in accordance with section 418(10) of this act; and

13 (ii) The conservator against liability with respect to a third  
14 person;

15 (s) Borrow funds, with or without security, to be repaid from the  
16 conservatorship estate or otherwise;

17 (t) Advance funds for the protection of the conservatorship  
18 estate or the individual subject to conservatorship and all expenses,  
19 losses, and liability sustained in the administration of the  
20 conservatorship estate or because of holding any property for which  
21 the conservator has a lien on the conservatorship estate;

22 (u) Pay or contest a claim, settle a claim by or against the  
23 conservatorship estate or the individual subject to conservatorship  
24 by compromise, arbitration, or otherwise, or release, in whole or in  
25 part, a claim belonging to the conservatorship estate to the extent  
26 the claim is uncollectible;

27 (v) Pay a tax, assessment, compensation of the conservator or any  
28 guardian, and other expense incurred in the collection, care,  
29 administration, and protection of the conservatorship estate;

30 (w) Pay a sum distributable to the individual subject to  
31 conservatorship or an individual who is in fact dependent on the  
32 individual subject to conservatorship by paying the sum to the  
33 distributee or for the use of the distributee:

34 (i) To the guardian for the distributee;

35 (ii) To the custodian of the distributee under the uniform  
36 transfers to minors act (chapter 11.114 RCW); or

37 (iii) If there is no guardian, custodian, or custodial trustee,  
38 to a relative or other person having physical custody of the  
39 distributee;

1 (x) Bring or defend an action, claim, or proceeding in any  
2 jurisdiction for the protection of the conservatorship estate or the  
3 conservator in the performance of the conservator's duties;

4 (y) Structure the finances of the individual subject to  
5 conservatorship to establish eligibility for a public benefit,  
6 including by making gifts consistent with the individual's  
7 preferences, values, and prior directions, if the conservator's  
8 action does not jeopardize the individual's welfare and otherwise is  
9 consistent with the conservator's duties; and

10 (z) Execute and deliver any instrument that will accomplish or  
11 facilitate the exercise of a power of the conservator.

12 NEW SECTION. **Sec. 422.** DISTRIBUTION FROM CONSERVATORSHIP  
13 ESTATE. Except as otherwise provided in section 414 of this act or  
14 qualified or limited in the court's order of appointment and stated  
15 in the letters of office, and unless contrary to a conservator's plan  
16 under section 419 of this act, the conservator may expend or  
17 distribute income or principal of the conservatorship estate without  
18 specific court authorization or confirmation for the support, care,  
19 education, health, or welfare of the individual subject to  
20 conservatorship or an individual who is in fact dependent on the  
21 individual subject to conservatorship, including the payment of child  
22 or spousal support, in accordance with the following rules:

23 (1) The conservator shall consider a recommendation relating to  
24 the appropriate standard of support, care, education, health, or  
25 welfare for the individual subject to conservatorship or individual  
26 who is dependent on the individual subject to conservatorship, made  
27 by a guardian for the individual subject to conservatorship, if any,  
28 and, if the individual subject to conservatorship is a minor, a  
29 recommendation made by a parent of the minor.

30 (2) The conservator acting in compliance with the conservator's  
31 duties under section 418 of this act is not liable for an expenditure  
32 or distribution made based on a recommendation under subsection (1)  
33 of this section unless the conservator knows the expenditure or  
34 distribution is not in the best interest of the individual subject to  
35 conservatorship.

36 (3) In making an expenditure or distribution under this section,  
37 the conservator shall consider:

38 (a) The size of the conservatorship estate, the estimated  
39 duration of the conservatorship, and the likelihood the individual

1 subject to conservatorship, at some future time, may be fully self-  
2 sufficient and able to manage the individual's financial affairs and  
3 the conservatorship estate;

4 (b) The accustomed standard of living of the individual subject  
5 to conservatorship and individual who is dependent on the individual  
6 subject to conservatorship;

7 (c) Other funds or source used for the support of the individual  
8 subject to conservatorship; and

9 (d) The preferences, values, and prior directions of the  
10 individual subject to conservatorship.

11 (4) Funds expended or distributed under this section may be paid  
12 by the conservator to any person, including the individual subject to  
13 conservatorship, as reimbursement for expenditures the conservator  
14 might have made, or in advance for services to be provided to the  
15 individual subject to conservatorship or individual who is dependent  
16 on the individual subject to conservatorship if it is reasonable to  
17 expect the services will be performed and advance payment is  
18 customary or reasonably necessary under the circumstances.

19 NEW SECTION. **Sec. 423.** CONSERVATOR'S REPORT AND ACCOUNTING—  
20 MONITORING. (1) A conservator shall file with the court by the date  
21 established by the court a report in a record regarding the  
22 administration of the conservatorship estate unless the court  
23 otherwise directs, on resignation or removal, on termination of the  
24 conservatorship, and at any other time the court directs.

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

27 (a) An accounting that lists property included in the  
28 conservatorship estate and the receipts, disbursements, liabilities,  
29 and distributions during the period for which the report is made;

30 (b) A list of the services provided to the individual subject to  
31 conservatorship;

32 (c) A copy of the conservator's most recently approved plan and a  
33 statement whether the conservator has deviated from the plan and, if  
34 so, how the conservator has deviated and why;

35 (d) A recommendation as to the need for continued conservatorship  
36 and any recommended change in the scope of the conservatorship;

37 (e) To the extent feasible, a copy of the most recent reasonably  
38 available financial statements evidencing the status of bank  
39 accounts, investment accounts, and mortgages or other debts of the

1 individual subject to conservatorship with all but the last four  
2 digits of the account numbers and social security number redacted;

3 (f) Anything of more than de minimis value which the conservator,  
4 any individual who resides with the conservator, or the spouse,  
5 domestic partner, parent, child, or sibling of the conservator has  
6 received from a person providing goods or services to the individual  
7 subject to conservatorship;

8 (g) Any business relation the conservator has with a person the  
9 conservator has paid or that has benefited from the property of the  
10 individual subject to conservatorship; and

11 (h) Whether any co-conservator or successor conservator appointed  
12 to serve when a designated event occurs is alive and able to serve.

13 (3) The court may appoint a visitor to review a report under this  
14 section or conservator's plan under section 419 of this act,  
15 interview the individual subject to conservatorship or conservator,  
16 or investigate any other matter involving the conservatorship. In  
17 connection with the report, the court may order the conservator to  
18 submit the conservatorship estate to appropriate examination in a  
19 manner the court directs.

20 (4) Notice of the filing under this section of a conservator's  
21 report, together with a copy of the report, must be provided to the  
22 individual subject to conservatorship, a person entitled to notice  
23 under section 411(6) of this act or a subsequent order, and other  
24 persons the court determines. The notice and report must be given not  
25 later than fourteen days after filing.

26 (5) The court shall establish procedures for monitoring a report  
27 submitted under this section and review each report at least annually  
28 to determine whether:

29 (a) The reports provide sufficient information to establish the  
30 conservator has complied with the conservator's duties;

31 (b) The conservatorship should continue; and

32 (c) The conservator's requested fees, if any, should be approved.

33 (6) If the court determines there is reason to believe a  
34 conservator has not complied with the conservator's duties or the  
35 conservatorship should not continue, the court:

36 (a) Shall notify the individual subject to conservatorship, the  
37 conservator, and any other person entitled to notice under section  
38 411(6) of this act or a subsequent order;

39 (b) May require additional information from the conservator;

1 (c) May appoint a visitor to interview the individual subject to  
2 conservatorship or conservator or investigate any matter involving  
3 the conservatorship; and

4 (d) Consistent with sections 430 and 431 of this act, may hold a  
5 hearing to consider removal of the conservator, termination of the  
6 conservatorship, or a change in the powers granted to the conservator  
7 or terms of the conservatorship.

8 (7) If the court has reason to believe fees requested by a  
9 conservator are not reasonable, the court shall hold a hearing to  
10 determine whether to adjust the requested fees.

11 (8) A conservator must petition the court for approval of a  
12 report filed under this section. The court after review may approve  
13 the report. If the court approves the report, there is a rebuttable  
14 presumption the report is accurate as to a matter adequately  
15 disclosed in the report.

16 (9) An order, after notice and hearing, approving an interim  
17 report of a conservator filed under this section adjudicates  
18 liabilities concerning a matter adequately disclosed in the report,  
19 as to a person given notice of the report or accounting.

20 (10) If the court approves a report filed under this section, the  
21 order approving the report shall set the due date for the filing of  
22 the next report to be filed under this section. The court may set the  
23 review at annual, biennial, or triennial intervals with the report  
24 due date to be within ninety days of the anniversary date of  
25 appointment. When determining the report interval, the court can  
26 consider: The length of time the conservator has been serving the  
27 person under conservatorship; whether the conservator has timely  
28 filed all required reports with the court; whether the conservator is  
29 monitored by other state or local agencies; the income of the person  
30 subject to conservatorship; the value of the property of the person  
31 subject to conservatorship; the adequacy of the bond and other asset  
32 protection arrangement(s); and whether there have been any  
33 allegations of abuse, neglect, or a breach of fiduciary duty against  
34 the conservator.

35 (11) If the court approves a report filed under this section, the  
36 order approving the report shall contain a conservatorship summary or  
37 accompanied by a conservatorship summary in the form or substantially  
38 in the same form as set forth in section 606 of this act.

39 (12) If the court approves a report filed under this section, the  
40 order approving the report shall direct the clerk of the court to

1 reissue letters of office in the form or substantially in the same  
2 form as set forth in section 605 of this act to the conservator  
3 containing an expiration date which will be within one hundred twenty  
4 days after the date the court directs the conservator file its next  
5 report.

6 (13) An order, after notice and hearing, approving a final report  
7 filed under this section discharges the conservator from all  
8 liabilities, claims, and causes of action by a person given notice of  
9 the report and the hearing as to a matter adequately disclosed in the  
10 report.

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

13 NEW SECTION. **Sec. 424.** ATTEMPTED TRANSFER OF PROPERTY BY  
14 INDIVIDUAL SUBJECT TO CONSERVATORSHIP. (1) The interest of an  
15 individual subject to conservatorship in property included in the  
16 conservatorship estate is not transferable or assignable by the  
17 individual and is not subject to levy, garnishment, or similar  
18 process for claims against the individual unless allowed under  
19 section 428 of this act.

20 (2) If an individual subject to conservatorship enters into a  
21 contract after having the right to enter the contract removed by the  
22 court, the contract is void against the individual and the  
23 individual's property but is enforceable against the person that  
24 contracted with the individual.

25 (3) A person other than the conservator that deals with an  
26 individual subject to conservatorship with respect to property  
27 included in the conservatorship estate is entitled to protection  
28 provided by law of this state other than this chapter.

29 NEW SECTION. **Sec. 425.** TRANSACTION INVOLVING CONFLICT OF  
30 INTEREST. A transaction involving a conservatorship estate which is  
31 affected by a substantial conflict between the conservator's  
32 fiduciary duties and personal interests is voidable unless the  
33 transaction is authorized by court order after notice to persons  
34 entitled to notice under section 411(6) of this act or a subsequent  
35 order. A transaction affected by a substantial conflict includes a  
36 sale, encumbrance, or other transaction involving the conservatorship  
37 estate entered into by the conservator, an individual with whom the  
38 conservator resides, the spouse, domestic partner, descendant,

1 sibling, agent, or attorney of the conservator, or a corporation or  
2 other enterprise in which the conservator has a substantial  
3 beneficial interest.

4 NEW SECTION. **Sec. 426.** PROTECTION OF PERSON DEALING WITH  
5 CONSERVATOR. (1) A person that assists or deals with a conservator in  
6 good faith and for value in any transaction, other than a transaction  
7 requiring a court order under section 414 of this act, is protected  
8 as though the conservator properly exercised any power in question.  
9 Knowledge by a person that the person is dealing with a conservator  
10 alone does not require the person to inquire into the existence of  
11 authority of the conservator or the propriety of the conservator's  
12 exercise of authority, but restrictions on authority stated in  
13 letters of office, or otherwise provided by law, are effective as to  
14 the person. A person that pays or delivers property to a conservator  
15 is not responsible for proper application of the property.

16 (2) Protection under subsection (1) of this section extends to a  
17 procedural irregularity or jurisdictional defect in the proceeding  
18 leading to the issuance of letters of office and does not substitute  
19 for protection for a person that assists or deals with a conservator  
20 provided by comparable provisions in law of this state other than  
21 this chapter relating to a commercial transaction or simplifying a  
22 transfer of securities by a fiduciary.

23 NEW SECTION. **Sec. 427.** DEATH OF INDIVIDUAL SUBJECT TO  
24 CONSERVATORSHIP. (1) If an individual subject to conservatorship  
25 dies, the conservator shall deliver to the court for safekeeping any  
26 will of the individual in the conservator's possession and inform the  
27 personal representative named in the will if feasible, or if not  
28 feasible, a beneficiary named in the will, of the delivery.

29 (2) If forty days after the death of an individual subject to  
30 conservatorship no personal representative has been appointed and no  
31 application or petition for appointment is before the court, the  
32 conservator may apply to exercise the powers and duties of a personal  
33 representative to administer and distribute the decedent's estate.  
34 The conservator shall give notice of his or her appointment and the  
35 pendency of any probate proceedings as provided in RCW 11.28.237 and  
36 shall also give notice to a person nominated as personal  
37 representative by a will of the decedent of which the conservator is  
38 aware. The court may grant the application if there is no objection

1 and endorse the letters of office to note that the individual  
2 formerly subject to conservatorship is deceased and the conservator  
3 has acquired the powers and duties of a personal representative.

4 (3) On the death of an individual subject to conservatorship, the  
5 conservator shall conclude the administration of the conservatorship  
6 estate as provided in section 431 of this act.

7 NEW SECTION. **Sec. 428.** PRESENTATION AND ALLOWANCE OF CLAIM. (1)

8 A conservator may pay, or secure by encumbering property included in  
9 the conservatorship estate, a claim against the conservatorship  
10 estate or the individual subject to conservatorship arising before or  
11 during the conservatorship, on presentation and allowance in  
12 accordance with the priorities under subsection (4) of this section.  
13 A claimant may present a claim by:

14 (a) Sending or delivering to the conservator a statement in a  
15 record of the claim, indicating its basis, the name and address of  
16 the claimant, and the amount claimed; or

17 (b) Filing the claim with the court, in a form acceptable to the  
18 court, and sending or delivering a copy of the claim to the  
19 conservator.

20 (2) A claim under subsection (1) of this section is presented on  
21 receipt by the conservator of the statement of the claim or the  
22 filing with the court of the claim, whichever first occurs. A  
23 presented claim is allowed if it is not disallowed in whole or in  
24 part by the conservator in a record sent or delivered to the claimant  
25 not later than sixty days after its presentation. Before payment, the  
26 conservator may change an allowance of the claim to a disallowance in  
27 whole or in part, but not after allowance under a court order or  
28 order directing payment of the claim. Presentation of a claim tolls  
29 until thirty days after disallowance of the claim the running of a  
30 statute of limitations that has not expired relating to the claim.

31 (3) A claimant whose claim under subsection (1) of this section  
32 has not been paid may petition the court to determine the claim at  
33 any time before it is barred by a statute of limitations, and the  
34 court may order its allowance, payment, or security by encumbering  
35 property included in the conservatorship estate. If a proceeding is  
36 pending against the individual subject to conservatorship at the time  
37 of appointment of the conservator or is initiated thereafter, the  
38 moving party shall give the conservator notice of the proceeding if

1 it could result in creating a claim against the conservatorship  
2 estate.

3 (4) If a conservatorship estate is likely to be exhausted before  
4 all existing claims are paid, the conservator shall distribute the  
5 estate in money or in kind in payment of claims in the following  
6 order:

7 (a) Costs and expenses of administration;

8 (b) A claim of the federal or state government having priority  
9 under law other than this chapter;

10 (c) A claim incurred by the conservator for support, care,  
11 education, health, or welfare previously provided to the individual  
12 subject to conservatorship or an individual who is in fact dependent  
13 on the individual subject to conservatorship;

14 (d) A claim arising before the conservatorship; and

15 (e) All other claims.

16 (5) Preference may not be given in the payment of a claim under  
17 subsection (4) of this section over another claim of the same class.  
18 A claim due and payable may not be preferred over a claim not due  
19 unless:

20 (a) Doing so would leave the conservatorship estate without  
21 sufficient funds to pay the basic living and health care expenses of  
22 the individual subject to conservatorship; and

23 (b) The court authorizes the preference under section 414(1)(h)  
24 of this act.

25 (6) If assets of a conservatorship estate are adequate to meet  
26 all existing claims, the court, acting in the best interest of the  
27 individual subject to conservatorship, may order the conservator to  
28 grant a security interest in the conservatorship estate for payment  
29 of a claim at a future date.

30 NEW SECTION. **Sec. 429.** PERSONAL LIABILITY OF CONSERVATOR. (1)  
31 Except as otherwise agreed by a conservator, the conservator is not  
32 personally liable on a contract properly entered into in a fiduciary  
33 capacity in the course of administration of the conservatorship  
34 estate unless the conservator fails to reveal the conservator's  
35 representative capacity in the contract or before entering into the  
36 contract.

37 (2) A conservator is personally liable for an obligation arising  
38 from control of property of the conservatorship estate or an act or  
39 omission occurring in the course of administration of the

1 conservatorship estate only if the conservator is personally at  
2 fault.

3 (3) A claim based on a contract entered into by a conservator in  
4 a fiduciary capacity, an obligation arising from control of property  
5 included in the conservatorship estate, or a tort committed in the  
6 course of administration of the conservatorship estate may be  
7 asserted against the conservatorship estate in a proceeding against  
8 the conservator in a fiduciary capacity, whether or not the  
9 conservator is personally liable for the claim.

10 (4) A question of liability between a conservatorship estate and  
11 the conservator personally may be determined in a proceeding for  
12 accounting, surcharge, or indemnification or another appropriate  
13 proceeding or action.

14 NEW SECTION. **Sec. 430.** REMOVAL OF CONSERVATOR—APPOINTMENT OF  
15 SUCCESSOR. (1) The court may remove a conservator for failure to  
16 perform the conservator's duties or other good cause and appoint a  
17 successor conservator to assume the duties of the conservator.

18 (2) The court shall hold a hearing to determine whether to remove  
19 a conservator and appoint a successor on:

20 (a) Petition of the individual subject to conservatorship,  
21 conservator, or person interested in the welfare of the individual  
22 which contains allegations that, if true, would support a reasonable  
23 belief that removal of the conservator and appointment of a successor  
24 may be appropriate, but the court may decline to hold a hearing if a  
25 petition based on the same or substantially similar facts was filed  
26 during the preceding six months;

27 (b) Communication from the individual subject to conservatorship,  
28 conservator, or person interested in the welfare of the individual  
29 which supports a reasonable belief that removal of the conservator  
30 and appointment of a successor may be appropriate; or

31 (c) Determination by the court that a hearing would be in the  
32 best interest of the individual subject to conservatorship.

33 (3) Notice of a hearing under subsection (2)(a) of this section  
34 and notice of the individual's right to be represented at the hearing  
35 by counsel of the individual's choosing must be given to the  
36 individual subject to conservatorship, the conservator, and any other  
37 person the court determines.

38 (4) An individual subject to conservatorship who seeks to remove  
39 the conservator and have a successor appointed has the right to

1 choose an attorney to represent the individual in this matter. The  
2 court shall award reasonable attorneys' fees to the attorney as  
3 provided in section 120 of this act.

4 (5) In selecting a successor conservator, the court shall follow  
5 the priorities under section 410 of this act.

6 (6) Not later than thirty days after appointing a successor  
7 conservator, the court shall give notice of the appointment to the  
8 individual subject to conservatorship and any person entitled to  
9 notice under section 411(6) of this act or a subsequent order.

10 NEW SECTION. **Sec. 431.** TERMINATION OR MODIFICATION OF  
11 CONSERVATORSHIP. (1) A conservatorship for a minor terminates on the  
12 earliest of:

13 (a) A court order terminating the conservatorship;

14 (b) The minor becoming an adult or, if the minor consents or the  
15 court finds by clear and convincing evidence that substantial harm to  
16 the minor's interests is otherwise likely, attaining twenty-one years  
17 of age;

18 (c) Emancipation of the minor; or

19 (d) Death of the minor.

20 (2) A conservatorship for an adult terminates on order of the  
21 court or when the adult dies.

22 (3) An individual subject to conservatorship, the conservator, or  
23 a person interested in the welfare of the individual may petition  
24 for:

25 (a) Termination of the conservatorship on the ground that a basis  
26 for appointment under section 401 of this act does not exist or  
27 termination would be in the best interest of the individual or for  
28 other good cause; or

29 (b) Modification of the conservatorship on the ground that the  
30 extent of protection or assistance granted is not appropriate or for  
31 other good cause.

32 (4) The court shall hold a hearing to determine whether  
33 termination or modification of a conservatorship is appropriate on:

34 (a) Petition under subsection (3) of this section that contains  
35 allegations that, if true, would support a reasonable belief that  
36 termination or modification of the conservatorship may be  
37 appropriate, but the court may decline to hold a hearing if a  
38 petition based on the same or substantially similar facts was filed  
39 within the preceding six months;

1 (b) A communication from the individual subject to  
2 conservatorship, conservator, or person interested in the welfare of  
3 the individual which supports a reasonable belief that termination or  
4 modification of the conservatorship may be appropriate, including  
5 because the functional needs of the individual or supports or  
6 services available to the individual have changed;

7 (c) A report from a guardian or conservator which indicates that  
8 termination or modification may be appropriate because the functional  
9 needs or supports or services available to the individual have  
10 changed or a protective arrangement instead of conservatorship or  
11 other less restrictive alternative is available; or

12 (d) A determination by the court that a hearing would be in the  
13 best interest of the individual.

14 (5) Notice of a petition under subsection (3) of this section  
15 must be given to the individual subject to conservatorship, the  
16 conservator, and any such other person the court determines.

17 (6) On presentation of prima facie evidence for termination of a  
18 conservatorship, the court shall order termination unless it is  
19 proven that a basis for appointment of a conservator under section  
20 401 of this act exists.

21 (7) The court shall modify the powers granted to a conservator if  
22 the powers are excessive or inadequate due to a change in the  
23 abilities or limitations of the individual subject to  
24 conservatorship, the individual's supports, or other circumstances.

25 (8) Unless the court otherwise orders for good cause, before  
26 terminating a conservatorship, the court shall follow the same  
27 procedures to safeguard the rights of the individual subject to  
28 conservatorship which apply to a petition for conservatorship.

29 (9) An individual subject to conservatorship who seeks to  
30 terminate or modify the terms of the conservatorship has the right to  
31 choose an attorney to represent the individual in this matter. The  
32 court shall award reasonable attorneys' fees to the attorney as  
33 provided in section 120 of this act.

34 (10) On termination of a conservatorship other than by reason of  
35 the death of the individual subject to conservatorship, property of  
36 the conservatorship estate passes to the individual. The order of  
37 termination must direct the conservator to file a final report and  
38 petition for discharge on approval by the court of the final report.

39 (11) On termination of a conservatorship by reason of the death  
40 of the individual subject to conservatorship, the conservator shall

1 file a final report and petition for discharge on approval by the  
2 court of the final report within ninety days of death of the person  
3 subject to conservatorship. On approval of the final report, the  
4 conservator shall proceed expeditiously to distribute the  
5 conservatorship estate to the individual's estate or as otherwise  
6 ordered by the court. The conservator may take reasonable measures  
7 necessary to preserve the conservatorship estate until distribution  
8 can be made.

9 (12) The court shall issue a final order of discharge on the  
10 approval by the court of the final report and satisfaction by the  
11 conservator of any other condition the court imposed on the  
12 conservator's discharge.

13 NEW SECTION. **Sec. 432.** TRANSFER FOR BENEFIT OF MINOR WITHOUT  
14 APPOINTMENT OF CONSERVATOR. (1) Unless a person required to transfer  
15 funds or other property to a minor knows that a conservator for the  
16 minor has been appointed or a proceeding is pending for  
17 conservatorship, the person may transfer an amount or value not  
18 exceeding fifteen thousand dollars in a twelve-month period to:

19 (a) A person that has care or custody of the minor and with whom  
20 the minor resides;

21 (b) A guardian for the minor;

22 (c) A custodian under the uniform transfers to minors act  
23 (chapter 11.114 RCW); or

24 (d) A financial institution as a deposit in an interest-bearing  
25 account or certificate solely in the name of the minor and shall give  
26 notice to the minor of the deposit.

27 (2) A person that transfers funds or other property under this  
28 section is not responsible for its proper application.

29 (3) A person that receives funds or other property for a minor  
30 under subsection (1)(a) or (b) of this section may apply it only to  
31 the support, care, education, health, or welfare of the minor, and  
32 may not derive a personal financial benefit from it, except for  
33 reimbursement for necessary expenses. Funds not applied for these  
34 purposes must be preserved for the future support, care, education,  
35 health, or welfare of the minor, and the balance, if any, transferred  
36 to the minor when the minor becomes an adult or otherwise is  
37 emancipated.

1 **OTHER PROTECTIVE ARRANGEMENTS**

2 NEW SECTION. **Sec. 501.** AUTHORITY FOR PROTECTIVE ARRANGEMENT.

3 (1) Under this article, a court:

4 (a) On receiving a petition for a guardianship for an adult may  
5 order a protective arrangement instead of guardianship as a less  
6 restrictive alternative to guardianship; and

7 (b) On receiving a petition for a conservatorship for an  
8 individual may order a protective arrangement instead of  
9 conservatorship as a less restrictive alternative to conservatorship.

10 (2) A person interested in an adult's welfare, including the  
11 adult or a conservator for the adult, may petition under this article  
12 for a protective arrangement instead of guardianship.

13 (3) The following persons may petition under this article for a  
14 protective arrangement instead of conservatorship:

15 (a) The individual for whom the protective arrangement is sought;

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

20 (c) The guardian for the individual.

21 NEW SECTION. **Sec. 502.** BASIS FOR PROTECTIVE ARRANGEMENT INSTEAD  
22 OF GUARDIANSHIP FOR ADULT. (1) After the hearing on a petition under  
23 section 302 of this act for a guardianship or under section 501(2) of  
24 this act for a protective arrangement instead of guardianship, the  
25 court may issue an order under subsection (2) of this section for a  
26 protective arrangement instead of guardianship if the court finds by  
27 clear and convincing evidence that:

28 (a) The respondent lacks the ability to meet essential  
29 requirements for physical health, safety, or self-care because the  
30 respondent is unable to receive and evaluate information or make or  
31 communicate decisions, even with appropriate supportive services,  
32 technological assistance, or supported decision making; and

33 (b) The respondent's identified needs cannot be met by a less  
34 restrictive alternative.

35 (2) If the court makes the findings under subsection (1) of this  
36 section, the court, instead of appointing a guardian, may:

37 (a) Authorize or direct a transaction necessary to meet the  
38 respondent's need for health, safety, or care, including:

1 (i) A particular medical treatment or refusal of a particular  
2 medical treatment;

3 (ii) A move to a specified place of dwelling; or

4 (iii) Visitation or supervised visitation between the respondent  
5 and another person;

6 (b) Restrict access to the respondent by a specified person whose  
7 access places the respondent at serious risk of physical,  
8 psychological, or financial harm; and

9 (c) Reorder other arrangements on a limited basis that are  
10 appropriate.

11 (3) In deciding whether to issue an order under this section, the  
12 court shall consider the factors under sections 314 and 315 of this  
13 act that a guardian must consider when making a decision on behalf of  
14 an adult subject to guardianship.

15 NEW SECTION. **Sec. 503.** BASIS FOR PROTECTIVE ARRANGEMENT INSTEAD  
16 OF CONSERVATORSHIP FOR ADULT OR MINOR. (1) After the hearing on a  
17 petition under section 402 of this act for conservatorship for an  
18 adult or under section 501(3) of this act for a protective  
19 arrangement instead of a conservatorship for an adult, the court may  
20 issue an order under subsection (3) of this section for a protective  
21 arrangement instead of conservatorship for the adult if the court  
22 finds by clear and convincing evidence that:

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

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

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

31 (b) An order under subsection (3) of this section is necessary  
32 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 an  
37 individual entitled to the adult's support; and

38 (c) The respondent's identified needs cannot be met by a less  
39 restrictive alternative.

1 (2) After the hearing on a petition under section 402 of this act  
2 for conservatorship for a minor or under section 501(3) of this act  
3 for a protective arrangement instead of conservatorship for a minor,  
4 the court may issue an order under subsection (3) of this section for  
5 a protective arrangement instead of conservatorship for the  
6 respondent if the court finds by a preponderance of the evidence that  
7 the arrangement is in the minor's best interest, and:

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

11 (b) Either:

12 (i) The minor owns money or property requiring management or  
13 protection that otherwise cannot be provided;

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

16 (iii) The arrangement is necessary or desirable to obtain or  
17 provide funds or other property needed for the support, care,  
18 education, health, or welfare of the minor; and

19 (iv) The order under subsection (3) of this section is necessary  
20 or desirable to obtain or provide money needed for the support, care,  
21 education, health, or welfare of the minor.

22 (3) If the court makes the findings under subsection (1) or (2)  
23 of this section, the court, instead of appointing a conservator, may:

24 (a) Authorize or direct a transaction necessary to protect the  
25 financial interest or property of the respondent, including:

26 (i) An action to establish eligibility for benefits;

27 (ii) Payment, delivery, deposit, or retention of funds or  
28 property;

29 (iii) Sale, mortgage, lease, or other transfer of property;

30 (iv) Purchase of an annuity;

31 (v) Entry into a contractual relationship, including a contract  
32 to provide for personal care, supportive services, education,  
33 training, or employment;

34 (vi) Addition to or establishment of a trust;

35 (vii) Ratification or invalidation of a contract, trust, will, or  
36 other transaction, including a transaction related to the property or  
37 business affairs of the respondent; or

38 (viii) Settlement of a claim; or

1 (b) Restrict access to the respondent's property by a specified  
2 person whose access to the property places the respondent at serious  
3 risk of financial harm.

4 (4) After the hearing on a petition under section 501 (1)(b) or  
5 (3) of this act, whether or not the court makes the findings under  
6 subsection (1) or (2) of this section, the court may issue an order  
7 to restrict access to the respondent or the respondent's property by  
8 a specified person that the court finds by clear and convincing  
9 evidence:

10 (a) Through fraud, coercion, duress, or the use of deception and  
11 control caused or attempted to cause an action that would have  
12 resulted in financial harm to the respondent or the respondent's  
13 property; and

14 (b) Poses a serious risk of substantial financial harm to the  
15 respondent or the respondent's property.

16 (5) Before issuing an order under subsection (3) or (4) of this  
17 section, the court shall consider the factors under section 418 of  
18 this act a conservator must consider when making a decision on behalf  
19 of an individual subject to conservatorship.

20 (6) Before issuing an order under subsection (3) or (4) of this  
21 section for a respondent who is a minor, the court also shall  
22 consider the best interest of the minor, the preference of the  
23 parents of the minor, and the preference of the minor, if the minor  
24 is twelve years of age or older.

25 NEW SECTION. **Sec. 504.** PETITION FOR PROTECTIVE ARRANGEMENT. A  
26 petition for a protective arrangement instead of guardianship or  
27 conservatorship must state the petitioner's name, principal  
28 residence, current street address, if different, relationship to the  
29 respondent, interest in the protective arrangement, the name and  
30 address of any attorney representing the petitioner, and, to the  
31 extent known, the following:

32 (1) The respondent's name, age, principal residence, current  
33 street address, if different, and, if different, address of the  
34 dwelling in which it is proposed the respondent will reside if the  
35 petition is granted;

36 (2) The name and address of the respondent's:

37 (a) Spouse or domestic partner or, if the respondent has none, an  
38 adult with whom the respondent has shared household responsibilities

1 for more than six months in the twelve-month period before the filing  
2 of the petition;

3 (b) Adult children or, if none, each parent and adult sibling of  
4 the respondent, or, if none, at least one adult nearest in kinship to  
5 the respondent who can be found with reasonable diligence; and

6 (c) Adult stepchildren whom the respondent actively parented  
7 during the stepchildren's minor years and with whom the respondent  
8 had an ongoing relationship in the two-year period immediately before  
9 the filing of the petition;

10 (3) The name and current address of each of the following, if  
11 applicable:

12 (a) A person responsible for the care or custody of the  
13 respondent;

14 (b) Any attorney currently representing the respondent;

15 (c) The representative payee appointed by the social security  
16 administration for the respondent;

17 (d) A guardian or conservator acting for the respondent in this  
18 state or another jurisdiction;

19 (e) A trustee or custodian of a trust or custodianship of which  
20 the respondent is a beneficiary;

21 (f) The fiduciary appointed for the respondent by the department  
22 of veterans affairs;

23 (g) An agent designated under a power of attorney for health care  
24 in which the respondent is identified as the principal;

25 (h) An agent designated under a power of attorney for finances in  
26 which the respondent is identified as the principal;

27 (i) A person nominated as guardian or conservator by the  
28 respondent if the respondent is twelve years of age or older;

29 (j) A person nominated as guardian by the respondent's parent,  
30 spouse, or domestic partner in a will or other signed record;

31 (k) A person known to have routinely assisted the respondent with  
32 decision making in the six-month period immediately before the filing  
33 of the petition; and

34 (l) If the respondent is a minor:

35 (i) An adult not otherwise listed with whom the respondent  
36 resides; and

37 (ii) Each person not otherwise listed that had primary care or  
38 custody of the respondent for at least sixty days during the two  
39 years immediately before the filing of the petition or for at least

1 seven hundred thirty days during the five years immediately before  
2 the filing of the petition;

3 (4) The nature of the protective arrangement sought;

4 (5) The reason the protective arrangement sought is necessary,  
5 including a brief description of:

6 (a) The nature and extent of the respondent's alleged need;

7 (b) Any less restrictive alternative for meeting the respondent's  
8 alleged need which has been considered or implemented;

9 (c) If no less restrictive alternative has been considered or  
10 implemented, the reason less restrictive alternatives have not been  
11 considered or implemented; and

12 (d) The reason other less restrictive alternatives are  
13 insufficient to meet the respondent's alleged need;

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

16 (7) Whether the respondent needs an interpreter, translator, or  
17 other form of support to communicate effectively with the court or  
18 understand court proceedings;

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

24 (9) If a protective arrangement instead of conservatorship is  
25 sought, a general statement of the respondent's property with an  
26 estimate of its value, including any insurance or pension, and the  
27 source and amount of other anticipated income or receipts.

28 NEW SECTION. **Sec. 505.** NOTICE AND HEARING. (1) All petitions  
29 filed under section 504 of this act for appointment of a guardian for  
30 an adult shall be heard within sixty days unless an extension of time  
31 is requested by a party or the visitor within such sixty-day period  
32 and granted for good cause shown.

33 (2) A copy of a petition under section 501 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 506 of this act  
36 not more than five court days after the petition under section 504 of  
37 this act has been filed. The notice must inform the respondent of the  
38 respondent's rights at the hearing, including the right to an  
39 attorney and to attend the hearing. The notice must include a

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

5 (3) In a proceeding on a petition under section 501 of this act,  
6 the notice required under subsection (2) of this section must be  
7 given to the persons required to be listed in the petition under  
8 section 504 (1) through (3) of this act and any other person  
9 interested in the respondent's welfare the court determines. Failure  
10 to give notice under this subsection does not preclude the court from  
11 granting the petition.

12 (4) After the court has ordered a protective arrangement under  
13 this article, notice of a hearing on a petition filed under this  
14 chapter, together with a copy of the petition, must be given to the  
15 respondent and any other person the court determines.

16 NEW SECTION. **Sec. 506.** APPOINTMENT AND ROLE OF VISITOR. (1) On  
17 filing of a petition under section 501 of this act for a protective  
18 arrangement instead of guardianship, the court shall appoint a  
19 visitor. The visitor must be an individual with training or  
20 experience in the type of abilities, limitations, and needs alleged  
21 in the petition.

22 (2) On filing of a petition under section 501 of this act for a  
23 protective arrangement instead of conservatorship for a minor, the  
24 court may appoint a visitor to investigate a matter related to the  
25 petition or inform the minor or a parent of the minor about the  
26 petition or a related matter.

27 (3) On filing of a petition under section 501 of this act or a  
28 protective arrangement instead of conservatorship for an adult, the  
29 court shall appoint a visitor unless the respondent is represented by  
30 an attorney appointed by the court. The visitor must be an individual  
31 with training or experience in the types of abilities, limitations,  
32 and needs alleged in the petition.

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

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

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

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

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

25 (6) A visitor appointed under subsection (1) or (3) of this  
26 section shall interview the respondent in person and in a manner the  
27 respondent is best able to understand:

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

31 (b) Determine the respondent's views with respect to the order  
32 sought;

33 (c) Inform the respondent that all costs and expenses of the  
34 proceeding, including respondent's attorneys' fees, may be paid from  
35 the respondent's assets;

36 (d) If the petitioner seeks an order related to the dwelling of  
37 the respondent, visit the respondent's present dwelling and any  
38 dwelling in which it is reasonably believed the respondent will live  
39 if the order is granted;

1 (e) If a protective arrangement instead of guardianship is  
2 sought, obtain information from any physician or other person known  
3 to have treated, advised, or assessed the respondent's relevant  
4 physical or mental condition;

5 (f) If a protective arrangement instead of conservatorship is  
6 sought, review financial records of the respondent, if relevant to  
7 the visitor's recommendation under subsection (7)(b) of this section;  
8 and

9 (g) Investigate the allegations in the petition and any other  
10 matter relating to the petition the court directs.

11 (7) A visitor under this section promptly shall file a report in  
12 a record with the court, which must include:

13 (a) To the extent relevant to the order sought, a summary of  
14 self-care, independent living tasks, and financial management tasks  
15 the respondent:

16 (i) Can manage without assistance or with existing supports;

17 (ii) Could manage with the assistance of appropriate supportive  
18 services, technological assistance, or supported decision making; and

19 (iii) Cannot manage;

20 (b) A recommendation regarding the appropriateness of the  
21 protective arrangement sought and whether a less restrictive  
22 alternative for meeting the respondent's needs is available;

23 (c) If the petition seeks to change the physical location of the  
24 dwelling of the respondent, a statement whether the proposed dwelling  
25 meets the respondent's needs and whether the respondent has expressed  
26 a preference as to the respondent's dwelling;

27 (d) A recommendation whether a professional evaluation under  
28 section 508 of this act is necessary;

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

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

34 and

35 (g) Any other matter the court directs.

36 NEW SECTION. **Sec. 507.** APPOINTMENT AND ROLE OF ATTORNEY. (1)  
37 Unless the respondent in a proceeding under this article is  
38 represented by an attorney, the court is not required, but may

1 appoint an attorney to represent the respondent, regardless of the  
2 respondent's ability to pay.

3 (2) An attorney representing the respondent in a proceeding under  
4 this article shall:

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

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

8 (c) If the respondent's wishes are not reasonably ascertainable,  
9 advocate for the result that is the least restrictive alternative in  
10 type, duration, and scope, consistent with the respondent's  
11 interests.

12 (3) The court is not required, but may appoint an attorney to  
13 represent a parent of a minor who is the subject of a proceeding  
14 under this article if:

15 (a) The parent objects to the entry of an order for a protective  
16 arrangement instead of guardianship or conservatorship;

17 (b) The court determines that counsel is needed to ensure that  
18 consent to the entry of an order for a protective arrangement is  
19 informed; or

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

22 NEW SECTION. **Sec. 508.** PROFESSIONAL EVALUATION. (1) At or  
23 before a hearing on a petition under this article for a protective  
24 arrangement, the court shall order a professional evaluation of the  
25 respondent:

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

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

30 (2) If the court orders an evaluation under subsection (1) of  
31 this section, the respondent must be examined by a licensed  
32 physician, psychologist, social worker, or other individual appointed  
33 by the court who is qualified to evaluate the respondent's alleged  
34 cognitive and functional abilities and limitations and will not be  
35 advantaged or disadvantaged by a decision to grant the petition or  
36 otherwise have a conflict of interest. The individual conducting the  
37 evaluation promptly shall file a report in a record with the court.  
38 Unless otherwise directed by the court, the report must contain:

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

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

6 (c) A prognosis for improvement, including with regard to the  
7 ability to manage the respondent's property and financial affairs if  
8 a limitation in that ability is alleged, and recommendation for the  
9 appropriate treatment, support, or habilitation plan; and

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

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

13 NEW SECTION. **Sec. 509.** ATTENDANCE AND RIGHTS AT HEARING. (1)

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

22 (2) A hearing under this article may proceed without the  
23 respondent in attendance if the court finds by clear and convincing  
24 evidence that:

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

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

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

33 (3) The respondent may be assisted in a hearing under this  
34 article by a person or persons of the respondent's choosing,  
35 assistive technology, or an interpreter or translator, or a  
36 combination of these supports. If assistance would facilitate the  
37 respondent's participation in the hearing, but is not otherwise  
38 available to the respondent, the court shall make reasonable efforts  
39 to provide it.

1 (4) The respondent has a right to choose an attorney to represent  
2 the respondent at a hearing under this article.

3 (5) At a hearing under this article, the respondent may:

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

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

7 (c) Otherwise participate in the hearing.

8 (6) A hearing under this article must be closed on request of the  
9 respondent and a showing of good cause.

10 (7) Any person may request to participate in a hearing under this  
11 article. The court may grant the request, with or without a hearing,  
12 on determining that the best interests of the respondent will be  
13 served. The court may impose appropriate conditions on the person's  
14 participation.

15 NEW SECTION. **Sec. 510.** NOTICE OF ORDER. The court shall give  
16 notice of an order under this article to the individual who is  
17 subject to the protective arrangement instead of guardianship or  
18 conservatorship, a person whose access to the individual is  
19 restricted by the order, and any other person the court determines.

20 NEW SECTION. **Sec. 511.** CONFIDENTIALITY OF RECORDS. (1) The  
21 existence of a proceeding for or the existence of a protective  
22 arrangement instead of guardianship or conservatorship is a matter of  
23 public record unless the court seals the record after:

24 (a) The respondent, the individual subject to the protective  
25 arrangement, or the parent of a minor subject to the protective  
26 arrangement requests the record be sealed; and

27 (b) Either:

28 (i) The proceeding is dismissed;

29 (ii) The protective arrangement is no longer in effect; or

30 (iii) An act authorized by the order granting the protective  
31 arrangement has been completed.

32 (2) A respondent, an individual subject to a protective  
33 arrangement instead of guardianship or conservatorship, an attorney  
34 designated by the respondent or individual, a parent of a minor  
35 subject to a protective arrangement, and any other person the court  
36 determines are entitled to access court records of the proceeding and  
37 resulting protective arrangement. A person not otherwise entitled  
38 access to court records under this subsection for good cause may

1 petition the court for access. The court shall grant access if access  
2 is in the best interest of the respondent or individual subject to  
3 the protective arrangement or furthers the public interest and does  
4 not endanger the welfare or financial interests of the respondent or  
5 individual.

6 (3) A report of a visitor or professional evaluation generated in  
7 the course of a proceeding under this article must be sealed on  
8 filing but is available to:

9 (a) The court;

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

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

14 (d) Unless the court orders otherwise, an agent appointed under a  
15 power of attorney for finances in which the respondent is the  
16 principal;

17 (e) If the order is for a protective arrangement instead of  
18 guardianship and unless the court orders otherwise, an agent  
19 appointed under a power of attorney for health care in which the  
20 respondent is identified as the principal; and

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

23 NEW SECTION. **Sec. 512.** APPOINTMENT OF SPECIAL AGENT. The court  
24 may appoint a special agent, to assist in implementing a protective  
25 arrangement under this article. The special agent has the authority  
26 conferred by the order of appointment and serves until discharged by  
27 court order.

## 28 **ARTICLE 6**

### 29 **FORMS**

30 NEW SECTION. **Sec. 601.** USE OF FORMS. Unless otherwise provided  
31 in this chapter, use of the forms contained in this article is  
32 optional. Failure to use these forms does not prejudice any party.

33 NEW SECTION. **Sec. 602.** PETITION FOR GUARDIANSHIP FOR MINOR.  
34 This form may be used to petition for guardianship for a minor.

35 Petition for Guardianship for Minor

1 State of: . . . . .  
2 County of: . . . . .  
3 Name and address of attorney representing petitioner, if  
4 applicable: . . . . .  
5 . . . . .  
6 . . . . .

7 Note to petitioner: This form can be used to petition for a  
8 guardian for a minor. A court may appoint a guardian for a minor  
9 who does not have a guardian if the court finds the appointment  
10 is in the minor's best interest, and: The parents, after being  
11 fully informed of the nature and consequences of guardianship,  
12 consent; all parental rights have been terminated; or the court  
13 finds by clear and convincing evidence that the parents are  
14 unwilling or unable to exercise their parental rights.

15 (1) Information about the person filing this petition (the  
16 petitioner.)

- 17 (a) Name: . . . . .
- 18 (b) Principal residence: . . . . .
- 19 (c) Current street address (if different): . . . . .
- 20 (d) Relationship to minor: . . . . .
- 21 (e) Interest in this petition: . . . . .
- 22 (f) Telephone number (optional): . . . . .
- 23 (g) Email address (optional): . . . . .

24 (2) Information about the minor alleged to need a guardian.  
25 Provide the following information to the extent known.

- 26 (a) Name: . . . . .
- 27 (b) Age: . . . . .
- 28 (c) Principal residence: . . . . .
- 29 (d) Current street address (if different): . . . . .
- 30 (e) If petitioner anticipates the minor moving, or seeks to  
31 move the minor, proposed new address: . . . . .
- 32 (f) Does the minor need an interpreter, translator, or other  
33 form of support to communicate with the court or understand court  
34 proceedings? If so, please explain: . . . . .
- 35 (g) Telephone number (optional): . . . . .
- 36 (h) Email address (optional): . . . . .

- 37 (3) Information about the minor's parent(s).
- 38 (a) Name(s) of living parent(s): . . . . .
- 39 (b) Current street address(es) of living parent(s): . . . . .

1 (c) Does any parent need an interpreter, translator, or other  
2 form of support to communicate with the court or understand court  
3 proceedings? If so, please explain: . . . . .

4 . . . . .  
5 . . . . .

6 (4) People who are required to be notified of this petition.  
7 State the name and current address of the people listed in  
8 Appendix A.

9 . . . . .  
10 . . . . .

11 (5) Appointment requested. State the name and address of any  
12 proposed guardian and the reason the proposed guardian should be  
13 selected.

14 . . . . .  
15 . . . . .

16 (6) State why petitioner seeks the appointment. Include a  
17 description of the nature and extent of the minor's alleged need.

18 . . . . .  
19 . . . . .

20 (7) Property. If the minor has property other than personal  
21 effects, state the minor's property with an estimate of its  
22 value.

23 . . . . .  
24 . . . . .

25 (8) Other proceedings. If there are any other proceedings  
26 concerning the care or custody of the minor currently pending in  
27 any court in this state or another jurisdiction, please describe  
28 them.

29 . . . . .  
30 . . . . .

31 (9) Attorney(s). If the minor or the minor's parent is  
32 represented by an attorney in this matter, state the name,  
33 telephone number, email address, and address of the attorney(s).

34 . . . . .  
35 . . . . .

36 SIGNATURE

37 . . . . .  
38 Signature of Petitioner Date

39 . . . . .

1 Signature of Petitioner's Attorney if Date  
2 Petitioner is Represented by Counsel

3 APPENDIX A:

4 People whose name and address must be listed in subsection  
5 (4) of this petition if they are not the petitioner:

6 The minor, if the minor is twelve years of age or older;

7 Each parent of the minor or, if there are none, the adult  
8 nearest in kinship that can be found;

9 An adult with whom the minor resides;

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

15 If the minor is twelve years of age or older, any person  
16 nominated as guardian by the minor;

17 Any person nominated as guardian by a parent of the minor;

18 The grandparents of the minor;

19 Adult siblings of the minor; and

20 Any current guardian or conservator for the minor appointed  
21 in this state or another jurisdiction.

22 NEW SECTION. **Sec. 603.** PETITION FOR GUARDIANSHIP,  
23 CONSERVATORSHIP, OR PROTECTIVE ARRANGEMENT. This form may be used to  
24 petition for:

25 Guardianship for an adult;

26 Conservatorship for an adult or minor;

27 A protective arrangement instead of guardianship for an  
28 adult; or

29 A protective arrangement instead of conservatorship for an  
30 adult or minor.

31 Petition for Guardianship, Conservatorship, or Protective  
32 Arrangement

33 State of: . . . . .

34 County of: . . . . .

35 Name and address of attorney representing petitioner, if  
36 applicable: . . . . .

37 . . . . .

38 . . . . .

1 Note to petitioner: This form can be used to petition for a  
2 guardian, conservator, or both, or for a protective arrangement  
3 instead of either a guardianship or conservatorship. This form  
4 should not be used to petition for guardianship for a minor.

5 The court may appoint a guardian or order a protective  
6 arrangement instead of guardianship for an adult if the adult  
7 lacks the ability to meet essential requirements for physical  
8 health, safety, or self-care because (1) the adult is unable to  
9 receive and evaluate information or make or communicate decisions  
10 even with the use of supportive services, technological  
11 assistance, and supported decision making, and (2) the adult's  
12 identified needs cannot be met by a less restrictive alternative.

13 The court may appoint a conservator or order a protective  
14 arrangement instead of conservatorship for an adult if (1) the  
15 adult is unable to manage property and financial affairs because  
16 of a limitation in the ability to receive and evaluate  
17 information or make or communicate decisions even with the use of  
18 supportive services, technological assistance, and supported  
19 decision making or the adult is missing, detained, or unable to  
20 return to the United States, and (2) appointment is necessary to  
21 avoid harm to the adult or significant dissipation of the  
22 property of the adult, or to obtain or provide funds or other  
23 property needed for the support, care, education, health, or  
24 welfare of the adult, or of an individual who is entitled to the  
25 adult's support, and protection is necessary or desirable to  
26 provide funds or other property for that purpose.

27 The court may appoint a conservator or order a protective  
28 arrangement instead of conservatorship for a minor if: (1) The  
29 minor owns funds or other property requiring management or  
30 protection that cannot otherwise be provided; or (2) it would be  
31 in the minor's best interests, and the minor has or may have  
32 financial affairs that may be put at unreasonable risk or  
33 hindered because of the minor's age, or appointment is necessary  
34 or desirable to provide funds or other property needed for the  
35 support, care, education, health, or welfare of the minor.

36 The court may also order a protective arrangement instead of  
37 conservatorship that restricts access to an individual or an  
38 individual's property by a person that the court finds: (1)  
39 Through fraud, coercion, duress, or the use of deception and  
40 control, caused, or attempted to cause, an action that would have

1 resulted in financial harm to the individual or the individual's  
2 property; and (2) poses a serious risk of substantial financial  
3 harm to the individual or the individual's property.

4 (1) Information about the person filing this petition (the  
5 petitioner.)

6 (a) Name: . . . . .

7 (b) Principal residence: . . . . .

8 (c) Current street address (if different): . . . . .

9 (d) Relationship to respondent: . . . . .

10 (e) Interest in this petition: . . . . .

11 (f) Telephone number (optional): . . . . .

12 (g) Email address (optional): . . . . .

13 (2) Information about the individual alleged to need  
14 protection (the "respondent"). Provide the following information  
15 to the extent known.

16 (a) Name: . . . . .

17 (b) Age: . . . . .

18 (c) Principal residence: . . . . .

19 (d) Current street address (if different): . . . . .

20 (e) If petitioner anticipates respondent moving, or seeks to  
21 move respondent, proposed new address: . . . . .

22 (f) Does respondent need an interpreter, translator, or other  
23 form of support to communicate with the court or understand court  
24 proceedings? If so, please explain: . . . . .

25 . . . . .

26 (g) Telephone number (optional): . . . . .

27 (h) Email address (optional): . . . . .

28 (3) People who are required to be notified of this petition.  
29 State the name and address of the people listed in Appendix A.

30 . . . . .

31 . . . . .

32 (4) Existing agents. State the name and address of any person  
33 appointed as an agent under a power of attorney for finances or  
34 power of attorney for health care, or who has been appointed as  
35 the individual's representative for payment of benefits.

36 . . . . .

37 . . . . .

38 (5) Action requested. State whether petitioner is seeking  
39 appointment of a guardian, a conservator, or a protective  
40 arrangement instead of an appointment.

1 . . . . .  
2 . . . . .  
3 (6) Order requested or appointment requested. If seeking a  
4 protective arrangement instead of a guardianship or  
5 conservatorship, state the transaction or other action you want  
6 the court to order. If seeking appointment of a guardian or  
7 conservator, state the powers petitioner requests the court grant  
8 to a guardian or conservator.  
9 . . . . .  
10 . . . . .  
11 (7) State why the appointment or protective arrangement  
12 sought is necessary. Include a description of the nature and  
13 extent of respondent's alleged need.  
14 . . . . .  
15 . . . . .  
16 (8) State all less restrictive alternatives to meeting  
17 respondent's alleged need that have been considered or  
18 implemented. Less restrictive alternatives could include  
19 supported decision making, technological assistance, or the  
20 appointment of an agent by respondent including appointment under  
21 a power of attorney for health care or power of attorney for  
22 finances. If no alternative has been considered or implemented,  
23 state the reason why not.  
24 . . . . .  
25 . . . . .  
26 (9) Explain why less restrictive alternatives will not meet  
27 respondent's alleged need.  
28 . . . . .  
29 . . . . .  
30 (10) Provide a general statement of respondent's property and  
31 an estimate of its value. Include any real property such as a  
32 house or land, insurance or pension, and the source and amount of  
33 any other anticipated income or receipts. As part of this  
34 statement, indicate, if known, how the property is titled (for  
35 example, is it jointly owned?).  
36 . . . . .  
37 . . . . .  
38 (11) For a petition seeking appointment of a conservator.  
39 (Skip this section if not asking for appointment of a  
40 conservator.)

1 (a) If seeking appointment of a conservator with all powers  
2 permissible under this state's law, explain why appointment of a  
3 conservator with fewer powers (i.e., a "limited conservatorship")  
4 or other protective arrangement instead of conservatorship will  
5 not meet the individual's alleged needs.

6 . . . . .  
7 . . . . .

8 (b) If seeking a limited conservatorship, state the property  
9 petitioner requests be placed under the conservator's control and  
10 any proposed limitation on the conservator's powers and duties.

11 . . . . .  
12 . . . . .

13 (c) State the name and address of any proposed conservator  
14 and the reason the proposed conservator should be selected.

15 . . . . .  
16 . . . . .

17 (d) If respondent is twelve years of age or older, state the  
18 name and address of any person respondent nominates as  
19 conservator.

20 . . . . .  
21 . . . . .

22 (e) If alleging a limitation in respondent's ability to  
23 receive and evaluate information, provide a brief description of  
24 the nature and extent of respondent's alleged limitation.

25 . . . . .  
26 . . . . .

27 (f) If alleging that respondent is missing, detained, or  
28 unable to return to the United States, state the relevant  
29 circumstances, including the time and nature of the disappearance  
30 or detention and a description of any search or inquiry  
31 concerning respondent's whereabouts.

32 . . . . .  
33 . . . . .

34 (12) For a petition seeking appointment of a guardian. (Skip  
35 this section if not asking for appointment of a guardian.)

36 (a) If seeking appointment of a guardian with all powers  
37 permissible under this state's law, explain why appointment of a  
38 guardian with fewer powers (i.e., a "limited guardianship") or  
39 other protective arrangement instead of guardianship will not  
40 meet the individual's alleged needs.

1 . . . . .  
2 . . . . .  
3 (b) If seeking a limited guardianship, state the powers  
4 petitioner requests be granted to the guardian.

5 . . . . .  
6 . . . . .  
7 (c) State the name and address of any proposed guardian and  
8 the reason the proposed guardian should be selected.

9 . . . . .  
10 . . . . .  
11 (d) State the name and address of any person nominated as  
12 guardian by respondent, or, in a will or other signed writing or  
13 other record, by respondent's parent or spouse or domestic  
14 partner.

15 . . . . .  
16 . . . . .  
17 (13) Attorney. If petitioner, respondent, or, if respondent  
18 is a minor, respondent's parent is represented by an attorney in  
19 this matter, state the name, telephone number, email address, and  
20 address of the attorney(s).

21 . . . . .  
22 . . . . .  
23 SIGNATURE  
24 . . . . .  
25 Signature of Petitioner Date  
26 . . . . .  
27 Signature of Petitioner's Attorney if Date  
28 Petitioner is Represented by Counsel

29 APPENDIX A:  
30 People whose name and address must be listed in subsection  
31 (3) of this petition, if they are not the petitioner.  
32 Respondent's spouse or domestic partner, or if respondent has  
33 none, any adult with whom respondent has shared household  
34 responsibilities in the past six months;  
35 Respondent's adult children, or, if respondent has none,  
36 respondent's parents and adult siblings, or if respondent has  
37 none, one or more adults nearest in kinship to respondent who can  
38 be found with reasonable diligence;

1 Respondent's adult stepchildren whom respondent actively  
2 parented during the stepchildren's minor years and with whom  
3 respondent had an ongoing relationship within two years of this  
4 petition;

5 Any person responsible for the care or custody of respondent;

6 Any attorney currently representing respondent;

7 Any representative payee for respondent appointed by the  
8 social security administration;

9 Any current guardian or conservator for respondent appointed  
10 in this state or another jurisdiction;

11 Any trustee or custodian of a trust or custodianship of which  
12 respondent is a beneficiary;

13 Any veterans administration fiduciary for respondent;

14 Any person respondent has designated as agent under a power  
15 of attorney for finances;

16 Any person respondent has designated as agent under a power  
17 of attorney for health care;

18 Any person known to have routinely assisted the individual  
19 with decision making in the previous six months;

20 Any person respondent nominates as guardian or conservator;  
21 and

22 Any person nominated as guardian by respondent's parent or  
23 spouse or domestic partner in a will or other signed writing or  
24 other record.

25 NEW SECTION. **Sec. 604.** NOTIFICATION OF RIGHTS FOR ADULT SUBJECT  
26 TO GUARDIANSHIP OR CONSERVATORSHIP. This form may be used to notify  
27 an adult subject to guardianship or conservatorship of the adult's  
28 rights under sections 311 and 412 of this act.

29 **Notification of Rights**

30 You are getting this notice because a guardian, conservator,  
31 or both have been appointed for you. It tells you about some  
32 important rights you have. It does not tell you about all your  
33 rights. If you have questions about your rights, you can ask an  
34 attorney or another person, including your guardian or  
35 conservator, to help you understand your rights.

36 **General rights:**

37 You have the right to exercise any right the court has not  
38 given to your guardian or conservator.

1           You also have the right to ask the court to:  
2           End your guardianship, conservatorship, or both;  
3           Increase or decrease the powers granted to your guardian,  
4           conservator, or both;  
5           Make other changes that affect what your guardian or  
6           conservator can do or how they do it; and  
7           Replace the person that was appointed with someone else.

8           You also have a right to hire an attorney to help you do any  
9           of these things.

10       **Additional rights for persons for whom a guardian has been**  
11       **appointed:**

12           As an adult subject to guardianship, you have a right to:

13           (1) Be involved in decisions affecting you, including  
14           decisions about your care, where you live, your activities, and  
15           your social interactions, to the extent reasonably feasible;

16           (2) Be involved in decisions about your health care to the  
17           extent reasonably feasible, and to have other people help you  
18           understand the risks and benefits of health care options;

19           (3) Be notified at least fourteen days in advance of a change  
20           in where you live or a permanent move to a nursing home, mental  
21           health facility, or other facility that places restrictions on  
22           your ability to leave or have visitors, unless the guardian has  
23           proposed this change in the guardian's plan or the court has  
24           expressly authorized it;

25           (4) Ask the court to prevent your guardian from changing  
26           where you live or selling or surrendering your primary dwelling  
27           by following the appropriate process for objecting to such a move  
28           in compliance with section 315(5) of this act;

29           (5) Vote and get married unless the court order appointing  
30           your guardian states that you cannot do so;

31           (6) Receive a copy of your guardian's report and your  
32           guardian's plan; and

33           (7) Communicate, visit, or interact with other people (this  
34           includes the right to have visitors, to make and receive  
35           telephone calls, personal mail, or electronic communications)  
36           unless:

37           (a) Your guardian has been authorized by the court by  
38           specific order to restrict these communications, visits, or  
39           interactions;

1 (b) A protective order is in effect that limits contact  
2 between you and other people; or

3 (c) Your guardian has good cause to believe the restriction  
4 is needed to protect you from significant physical,  
5 psychological, or financial harm and the restriction is for not  
6 more than seven business days if the person has a relative or  
7 preexisting social relationship with you or not more than sixty  
8 days if the person does not have that kind of relationship with  
9 you.

10 **Additional rights for persons for whom a conservator has been**  
11 **appointed:**

12 As an adult subject to conservatorship, you have a right to:

13 Participate in decisions about how your property is managed  
14 to the extent feasible; and

15 Receive a copy of your conservator's inventory, report, and  
16 plan.

17 NEW SECTION. **Sec. 605.** LETTERS OF OFFICE. All letters of  
18 guardianship/conservatorship must be in the following form or a  
19 substantially similar form:

20 IN THE SUPERIOR COURT OF THE  
21 STATE OF WASHINGTON IN AND FOR THE  
22 COUNTY OF .....

23 IN THE MATTER OF THE Cause No. ....  
24 GUARDIANSHIP/  
25 CONSERVATORSHIP OF  
26 .....

27  
28 LETTERS OF  
29 GUARDIANSHIP/CONSERVATORSHIP  
30

31 Date letters expire .....

32 THESE LETTERS OF GUARDIANSHIP/CONSERVATORSHIP PROVIDE OFFICIAL VERIFICATION OF THE  
33 FOLLOWING:

34  
35 On the ..... day of ....., (year) .... the Court appointed ..... to serve as:  
36



1  
2 .....  
3 (Signature of Deputy)

4 NEW SECTION. **Sec. 606.** GUARDIANSHIP/CONSERVATORSHIP SUMMARY.  
5 The guardianship/conservatorship summary shall be in or substantially  
6 similar form:

7 **GUARDIANSHIP/CONSERVATORSHIP SUMMARY**

8 Date Guardian/  
9 Conservator Appointed: .....  
10 Due Date for Report and  
11 Accounting: .....  
12 Date of Next Review: .....  
13 Letters Expire On: .....  
14 Bond Amount: \$. .....  
15 Restricted Account  
16 Agreements Required: .....  
17 Due Date for Inventory, if  
18 applicable: .....  
19 Due Date for Guardian's  
20 Plan, if applicable: .....

21  
22 Person subject to                      Guardian/Conservator  
23 guardianship/  
24 conservatorship

25 Name:	Name:
26 Address:	Address:
27 Phone:	Phone:
28 Facsimile:	Facsimile:

29  
30 Interested Parties              Address              Relation

31		
32		


3 **ARTICLE 7**

4 **CERTIFIED PROFESSIONAL GUARDIANSHIP BOARD OF RESOLUTION GRIEVANCES**

5 NEW SECTION. **Sec. 701.** CERTIFIED PROFESSIONAL GUARDIANSHIP  
6 BOARD RESOLUTION OF GRIEVANCES. (1) The certified professional  
7 guardianship board must resolve grievances against professional  
8 guardians and/or conservators within a reasonable time for alleged  
9 violations of the certified professional guardianship board's  
10 standards of practice.

11 (a) All grievances must initially be reviewed within thirty days  
12 by certified professional guardianship board members, or a subset  
13 thereof, to determine if the grievance is complete, states facts that  
14 allege a violation of the standards of practice, and relates to the  
15 conduct of a professional guardian and/or conservator, before any  
16 investigation or response is requested from the professional guardian  
17 or the superior court. Grievances must provide the dates of the  
18 alleged violations and must be signed and dated by the person filing  
19 the grievance. Grievance investigations by the board are limited to  
20 the allegations contained in the grievance unless, after review by a  
21 majority of the members of the certified professional guardianship  
22 board, further investigation is justified.

23 (b) If the certified professional guardianship board determines  
24 the grievance is complete, states facts that allege a violation of  
25 the standards of practice, and relates to the conduct of a  
26 professional guardian and/or conservator, the certified professional  
27 guardianship board must forward that grievance within ten days to the  
28 superior court for that guardianship or conservatorship and to the  
29 professional guardian and/or conservator. The court must review the  
30 matter as set forth in section 128 of this act, and must direct the  
31 clerk of the court to send a copy of the order entered under this  
32 section to the certified professional guardianship board. The  
33 certified professional guardianship board must act consistently with  
34 any finding of fact issued in that order.

35 (2) Grievances received by the certified professional  
36 guardianship board must be resolved within one hundred eighty days of  
37 receipt.

1 (3) If the grievance cannot be resolved within one hundred eighty  
2 days, the certified professional guardianship board must notify the  
3 professional guardian and/or conservator. The professional guardian  
4 or conservator may propose a resolution of the grievance with facts  
5 and/or arguments. The certified professional guardianship board may  
6 accept the proposed resolution or determine that an additional ninety  
7 days are needed to review the grievance. If the certified  
8 professional guardianship board has not resolved the grievance within  
9 the additional ninety days the professional guardian or conservator  
10 may:

11 (a) File a motion for a court order to compel the certified  
12 professional guardianship board to resolve the grievance within a  
13 reasonable time; or

14 (b) Move for the court to resolve the grievance instead of being  
15 resolved by the certified professional guardianship board.

16 (4) The court has authority to enforce the certified professional  
17 guardianship board's standards of practice in this article to the  
18 extent those standards are related to statutory or fiduciary duties  
19 of guardians and conservators.

20 (5) Any unresolved grievances filed with the certified  
21 professional guardianship board at the time of the effective date of  
22 this section must be forwarded to the superior court for that  
23 guardianship or conservatorship for review by the court as set forth  
24 in section 128 of this act.

## 25 ARTICLE 8

### 26 MISCELLANEOUS PROVISIONS

27 NEW SECTION. **Sec. 801.** REPEALS. The following acts or parts of  
28 acts are each repealed:

29 (1) RCW 11.88.005 (Legislative intent) and 1990 c 122 s 1, 1977  
30 ex.s. c 309 s 1, & 1975 1st ex.s. c 95 s 1;

31 (2) RCW 11.88.008 ("Professional guardian" defined) and 1997 c  
32 312 s 2;

33 (3) RCW 11.88.010 (Authority to appoint guardians—Definitions—  
34 Venue—Nomination by principal) and 2016 c 209 s 403, 2008 c 6 s 802,  
35 2005 c 236 s 3, (2005 c 236 s 2 expired January 1, 2006), 2004 c 267  
36 s 139, 1991 c 289 s 1, 1990 c 122 s 2, 1984 c 149 s 176, 1977 ex.s. c  
37 309 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. 802.** 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. 803.** 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. 804.** 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. 805.** 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. 806.**    Articles I through VII and sections 802  
2 through 804 and 807 of this act constitute a new chapter in Title 11  
3 RCW.

4        NEW SECTION.    **Sec. 807.**    EFFECTIVE DATE. This act takes effect  
5 January 1, 2021.

--- END ---