
SENATE BILL 5604

State of Washington

66th Legislature

2019 Regular Session

By Senators Pedersen, Padden, Conway, Kuderer, Keiser, Salomon, Bailey, and Dhingra; by request of Uniform Law Commission

1 AN ACT Relating to the uniform guardianship, conservatorship, and
2 other protective arrangements act; adding a new chapter to Title 11
3 RCW; repealing RCW 11.88.005, 11.88.008, 11.88.010, 11.88.020,
4 11.88.030, 11.88.040, 11.88.045, 11.88.080, 11.88.090, 11.88.093,
5 11.88.095, 11.88.097, 11.88.100, 11.88.105, 11.88.107, 11.88.110,
6 11.88.120, 11.88.125, 11.88.127, 11.88.130, 11.88.140, 11.88.150,
7 11.88.160, 11.88.170, 11.88.900, 11.92.010, 11.92.035, 11.92.040,
8 11.92.043, 11.92.050, 11.92.053, 11.92.056, 11.92.060, 11.92.090,
9 11.92.096, 11.92.100, 11.92.110, 11.92.115, 11.92.120, 11.92.125,
10 11.92.130, 11.92.140, 11.92.150, 11.92.160, 11.92.170, 11.92.180,
11 11.92.185, 11.92.190, and 11.92.195; and providing an effective date.

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

13 **ARTICLE 1**

14 **GENERAL PROVISIONS**

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

1 NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this
2 section apply throughout this chapter unless the context clearly
3 requires otherwise.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (26) "Professional guardian or conservator" means a guardian or
33 conservator appointed under this chapter who is not a member of the
34 family of the person subject to guardianship or conservatorship
35 established under this chapter and who charges fees for carrying out
36 the duties of court-appointed guardian or conservator for three or
37 more persons.

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

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

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

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

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

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

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

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

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

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

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

22 (36) "Supported decision making" means assistance from one or
23 more persons of an individual's choosing in understanding the nature
24 and consequences of potential personal and financial decisions, which
25 enables the individual to make the decisions, and in communicating a
26 decision once made if consistent with the individual's wishes.

27 (37) "Visitor" means the person appointed by the court pursuant
28 to section 304(1) or 405(1) of this act.

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

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

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

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

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

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

16 (c) Nonexclusive jurisdiction to determine the validity of a
17 claim against the respondent or property of the respondent or a
18 question of title concerning the property; and

19 (d) If a guardian or conservator is appointed, exclusive
20 jurisdiction over issues related to administration of the
21 guardianship or conservatorship.

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

27 NEW SECTION. **Sec. 105.** TRANSFER OF PROCEEDING. (1) This section
28 does not apply to a guardianship or conservatorship for an adult that
29 is subject to the transfer provisions of the uniform adult
30 guardianship and protective proceedings jurisdiction act (chapter
31 11.90 RCW).

32 (2) After appointment of a guardian or conservator, the court
33 that made the appointment may transfer the proceeding to a court in
34 another county in this state or another state if transfer is in the
35 best interest of the individual subject to the guardianship or
36 conservatorship.

37 (3) If a proceeding for a guardianship or conservatorship is
38 pending in another state or a foreign country and a petition for
39 guardianship or conservatorship for the same individual is filed in a

1 court in this state, the court shall notify the court in the other
2 state or foreign country and, after consultation with that court,
3 assume or decline jurisdiction, whichever is in the best interest of
4 the respondent.

5 (4) A guardian or conservator appointed in another state or
6 country may petition the court for appointment as a guardian or
7 conservator in this state for the same individual if jurisdiction in
8 this state is or will be established. The appointment may be made on
9 proof of appointment in the other state or foreign country and
10 presentation of a certified copy of the part of the court record in
11 the other state or country specified by the court in this state.

12 (5) Notice of hearing on a petition under subsection (4) of this
13 section, together with a copy of the petition, must be given to the
14 respondent, if the respondent is at least twelve years of age at the
15 time of the hearing, and to the persons that would be entitled to
16 notice if the procedures for appointment of a guardian or conservator
17 under this chapter were applicable. The court shall make the
18 appointment unless it determines the appointment would not be in the
19 best interest of the respondent.

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

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

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

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

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

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

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

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

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

3 (a) The county in which the respondent resides, whether or not a
4 guardian has been appointed in another county or other jurisdiction;
5 or

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

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

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

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

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

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

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

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

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

1 (5) A guardian or conservator may not act on behalf of a person
2 under guardianship or conservatorship without valid letters of
3 office.

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

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

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

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

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

19 (a) The event occurs; and

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

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

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

29 (2) A person entitled under section 202 or 302 of this act to
30 petition the court to appoint a guardian may petition the court to
31 appoint a successor guardian. A person entitled under section 402 of
32 this act to petition the court to appoint a conservator may petition
33 the court to appoint a successor conservator.

34 (3) A successor guardian or successor conservator appointed to
35 serve when a designated event occurs may act as guardian or
36 conservator when:

37 (a) The event occurs; and

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

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

4 NEW SECTION. **Sec. 112.** EFFECT OF DEATH, REMOVAL, OR RESIGNATION
5 OF GUARDIAN OR CONSERVATOR. (1) Appointment of a guardian or
6 conservator terminates on the death or removal of the guardian or
7 conservator, or when the court under subsection (2) of this section
8 approves a resignation of the guardian or conservator.

9 (2) A guardian or conservator must petition the court to resign.
10 The petition may include a request that the court appoint a
11 successor. Resignation of a guardian or conservator is effective on
12 the date the resignation is approved by the court.

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

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

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

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

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

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

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

36 (2) A respondent, individual subject to guardianship, individual
37 subject to conservatorship, or individual subject to a protective

1 arrangement under article 5 of this chapter may not waive notice
2 under this chapter.

3 NEW SECTION. **Sec. 115.** GUARDIAN AD LITEM. The court at any time
4 may appoint a guardian ad litem for an individual if the court
5 determines the individual's interest otherwise would not be
6 adequately represented. If no conflict of interest exists, a guardian
7 ad litem may be appointed to represent multiple individuals or
8 interests. The guardian ad litem may not be the same individual as
9 the attorney representing the respondent. The court shall state the
10 duties of the guardian ad litem and the reasons for the appointment.

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

- 14 (a) Not otherwise entitled to notice; and
15 (b) Interested in the welfare of a respondent, individual subject
16 to guardianship or conservatorship, or individual subject to a
17 protective arrangement under article 5 of this chapter.

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

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

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

29 (a) Is or has been a debtor in a bankruptcy, insolvency, or
30 receivership proceeding; or

31 (b) Has been convicted of:

32 (i) A felony;

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

35 (iii) Other crimes relevant to the functions the individual would
36 assume as guardian or conservator.

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

7 (3) If a conservator engages or anticipates engaging an agent to
8 manage finances of the individual subject to conservatorship and
9 knows the agent is or has been a debtor in a bankruptcy, insolvency,
10 or receivership proceeding, the conservator promptly shall disclose
11 that knowledge to the court.

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

28 (a) Under eighteen years of age except as otherwise provided
29 herein;

30 (b) Convicted of a crime involving dishonesty, neglect, or use of
31 physical force or other crime relevant to the functions the
32 individual would assume as guardian;

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

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

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

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

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

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

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

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

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

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

35 (3) Where the person subject to guardianship or conservatorship
36 is a department of social and health services client, or health care
37 authority client, and is required to contribute a portion of their
38 income towards the cost of long-term care services or room and board,

1 the amount of compensation or reimbursement shall not exceed the
2 amount allowed by the department of social and health services or
3 health care authority by rule.

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

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

12 (6) If the court dismisses a petition under this chapter and
13 determines the petition was filed in bad faith, the court may assess
14 the cost of any court-ordered professional evaluation or visitor
15 against the petitioner.

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

17 (1) Subject to court approval, a guardian is entitled to reasonable
18 compensation for services as guardian and to reimbursement for room,
19 board, clothing, and other appropriate expenses advanced for the
20 benefit of the individual subject to guardianship. If a conservator,
21 other than the guardian or a person affiliated with the guardian, is
22 appointed for the individual, reasonable compensation and
23 reimbursement to the guardian may be approved and paid by the
24 conservator without court approval.

25 (2) Subject to court approval, a conservator is entitled to
26 reasonable compensation for services and reimbursement for
27 appropriate expenses from the property of the individual subject to
28 conservatorship.

29 (3) In determining reasonable compensation for a guardian or
30 conservator, the court, or a conservator in determining reasonable
31 compensation for a guardian as provided in subsection (1) of this
32 section, shall consider:

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

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

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

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

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

6 (f) The extent to which the services provided were or were not
7 consistent with the guardian's plan under section 316 of this act or
8 conservator's plan under section 419 of this act; and

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

11 (4) A guardian or conservator need not use personal funds of the
12 guardian or conservator for the expenses of the individual subject to
13 guardianship or conservatorship.

14 (5) Where the person subject to guardianship or conservatorship
15 is a department of social and health services client, or health care
16 authority client, and is required to contribute a portion of their
17 income towards the cost of long-term care services or room and board,
18 the amount of compensation or reimbursement shall not exceed the
19 amount allowed by the department of social and health services or
20 health care authority by rule.

21 (6) Where the person subject to guardianship or conservatorship
22 receives guardianship, conservatorship, or other protective services
23 from the office of public guardianship, the amount of compensation or
24 reimbursement shall not exceed the amount allowed by the office of
25 public guardianship.

26 (7) If an individual subject to guardianship or conservatorship
27 seeks to modify or terminate the guardianship or conservatorship or
28 remove the guardian or conservator, the court may order compensation
29 to the guardian or conservator for time spent opposing modification,
30 termination, or removal only to the extent the court determines the
31 opposition was reasonably necessary to protect the interests of the
32 individual subject to guardianship or conservatorship.

33 NEW SECTION. **Sec. 122.** LIABILITY OF GUARDIAN OR CONSERVATOR FOR
34 ACT OF INDIVIDUAL SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP. A
35 guardian or conservator is not personally liable to another person
36 solely because of the guardianship or conservatorship for an act or
37 omission of the individual subject to guardianship or
38 conservatorship.

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

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

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

13 (a) The person has actual knowledge or a reasonable belief that
14 the letters of office of the guardian or conservator are invalid or
15 the conservator or guardian is exceeding or improperly exercising
16 authority granted by the court; or

17 (b) The person has actual knowledge that the individual subject
18 to guardianship or conservatorship is subject to physical or
19 financial abuse, neglect, exploitation, or abandonment by the
20 guardian or conservator or a person acting for or with the guardian
21 or conservator.

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

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

27 (b) The person makes, or has actual knowledge that another person
28 has made, a report to the department of children, youth, and families
29 or the department of social and health services stating a good-faith
30 belief that the individual subject to guardianship or conservatorship
31 is subject to physical or financial abuse, neglect, exploitation, or
32 abandonment by the guardian or conservator or a person acting for or
33 with the guardian or conservator.

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

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

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

6 (1) Except as otherwise provided in subsection (3) of this section, a
7 guardian or conservator may delegate a power to an agent which a
8 prudent guardian or conservator of comparable skills could delegate
9 prudently under the circumstances if the delegation is consistent
10 with the guardian's or conservator's fiduciary duties and the
11 guardian's plan under section 316 of this act or the conservator's
12 plan under section 419 of this act.

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

16 (a) Selecting the agent;

17 (b) Establishing the scope and terms of the agent's work in
18 accordance with the guardian's plan under section 316 of this act or
19 the conservator's plan under section 419 of this act;

20 (c) Monitoring the agent's performance and compliance with the
21 delegation; and

22 (d) Redressing an act or omission of the agent which would
23 constitute a breach of the guardian's or conservator's duties if done
24 by the guardian or conservator.

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

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

29 (a) Exercise reasonable care to comply with the terms of the
30 delegation and use reasonable care in the performance of the power;
31 and

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

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

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

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

8 (a) A proceeding to remove a guardian for the individual is
9 pending; or

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

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

16 (a) A proceeding to remove a conservator for the individual is
17 pending; or

18 (b) The court finds that a conservator for the individual is not
19 effectively performing the conservator's duties and the welfare of
20 the individual or the conservatorship estate requires immediate
21 action.

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

32 (4) Except as otherwise ordered by the court, a temporary
33 substitute guardian or temporary substitute conservator appointed
34 under this section has the powers stated in the order of appointment
35 of the guardian or conservator. The authority of the existing
36 guardian or conservator is suspended for as long as the temporary
37 substitute guardian or conservator has authority.

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

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

5 (b) The affected guardian or conservator; and

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

8 (6) The court may remove a temporary substitute guardian or
9 temporary substitute conservator at any time. The temporary
10 substitute guardian or temporary substitute conservator shall make
11 any report the court requires.

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

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

29 (3) On registration under this section of a guardianship or
30 conservatorship order from another state, the guardian or conservator
31 may exercise in this state all powers authorized in the order except
32 as prohibited by this chapter and law of this state other than this
33 chapter. If the guardian or conservator is not a resident of this
34 state, the guardian or conservator may maintain an action or
35 proceeding in this state subject to any condition imposed by this
36 state on an action or proceeding by a nonresident party.

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

1 NEW SECTION.

Sec. 128.

 GRIEVANCE AGAINST GUARDIAN OR

2 CONSERVATOR. (1) An individual who is subject to guardianship or
3 conservatorship, or person interested in the welfare of an individual
4 subject to guardianship or conservatorship, that reasonably believes
5 the guardian or conservator is breaching the guardian's or
6 conservator's fiduciary duty or otherwise acting in a manner
7 inconsistent with this chapter may file a grievance in a record with
8 the court.

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

11 (a) Shall review the grievance and, if necessary to determine the
12 appropriate response, court records related to the guardianship or
13 conservatorship;

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

17 (i) Removal of the guardian and appointment of a successor may be
18 appropriate under section 318 of this act;

19 (ii) Termination or modification of the guardianship may be
20 appropriate under section 319 of this act;

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

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

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

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

28 (ii) Appointing a guardian ad litem;

29 (iii) Appointing an attorney for the individual subject to
30 guardianship or conservatorship; or

31 (iv) Holding a hearing.

32 (3) The court may decline to act under subsection (2) of this
33 section if a similar grievance was filed within the six months
34 preceding the filing of the current grievance and the court followed
35 the procedures of subsection (2) of this section in considering the
36 earlier grievance.

37 (4) In any court action under this section that involves a
38 professional guardian, the court must direct the clerk of the court
39 to send a copy of the order entered under this section to the
40 certified professional guardianship board.

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

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

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

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

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

37 (i) Level of formal education;

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

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

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

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

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

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

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

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

26 (4) The background and qualification information shall be updated
27 annually.

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

36 (6) The superior court shall require utilization of the model
37 program developed by the advisory group as described in subsection
38 (5) of this section to assure that candidates applying for
39 registration as a qualified guardian ad litem or visitor shall have

1 satisfactorily completed training to attain these essential minimum
2 qualifications to act as guardian ad litem or visitor.

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

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

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

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

36 (2) No filing fee shall be charged by the court for filing a
37 petition for guardianship, conservatorship, or other protective

1 arrangement filed under sections 302, 402, and 504 of this act if the
2 petition alleges that the respondent has total assets of a value of
3 less than three thousand dollars.

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

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

20 **ARTICLE 2**

21 **GUARDIANSHIP OF MINOR**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (ii) Any nominee of a parent;

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

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

26 (v) Any other person the court determines.

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

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

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

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

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

5 (a) Interview the petitioner and the minor;

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

9 (c) Investigate any other matter relating to the petition the
10 court directs.

11 NEW SECTION. **Sec. 204.** ATTORNEY FOR MINOR OR PARENT. (1) The
12 court shall appoint an attorney to represent a minor who is the
13 subject of a proceeding under section 202 of this act if:

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

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

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

18 (2) An attorney appointed under subsection (1) of this section
19 shall:

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

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

23 (c) If the minor's wishes are not reasonably ascertainable,
24 advocate for the minor's best interest.

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

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

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

34 (a) The parent objects to appointment of a guardian for the
35 minor;

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

38 (c) The court otherwise determines the parent needs
39 representation.

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

7 (a) The minor consistently and repeatedly refused to attend the
8 hearing after being fully informed of the right to attend and, if the
9 minor is twelve years of age or older, the potential consequences of
10 failing to do so;

11 (b) There is no practicable way for the minor to attend the
12 hearing;

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

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

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

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

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

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

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

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

35 (b) Require the petitioner to provide the results of an
36 examination of state and national criminal identification data
37 provided by the Washington state patrol criminal identification
38 system as described in chapter 43.43 RCW for the petitioner and adult
39 members of the petitioner's household.

1 NEW SECTION. **Sec. 207.** ORDER OF APPOINTMENT—PRIORITY OF NOMINEE

2 —LIMITED GUARDIANSHIP FOR MINOR. (1) After a hearing under section
3 203 of this act, the court may appoint a guardian for a minor, if
4 appointment is proper under section 201 of this act, dismiss the
5 proceeding, or take other appropriate action consistent with this
6 chapter or law of this state other than this chapter.

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

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

12 (b) If multiple parents have nominated different persons to serve
13 as guardian, the court shall appoint the nominee whose appointment is
14 in the best interest of the minor, unless the court finds that
15 appointment of none of the nominees is in the best interest of the
16 minor.

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

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

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

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

38 (a) The guardian has delegated custody of the minor subject to
39 guardianship;

1 (b) The court has modified or limited the powers of the guardian;
2 or

3 (c) The court has removed the guardian.

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

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

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

16 (2) A parent of a minor, in a signed record, may nominate a
17 person to be appointed by the court as standby guardian for the
18 minor. The parent, in a signed record, may state desired limitations
19 on the powers to be granted the standby guardian. The parent, in a
20 signed record, may revoke or amend the nomination at any time before
21 the court appoints a standby guardian.

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

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

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

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

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

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

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

36 (ii) Each parent of the minor;

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

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

1 (b) Include with the copy of the petition served under (a) of
2 this subsection a statement of the right to request appointment of an
3 attorney for the minor or to object to appointment of the standby
4 guardian, and a description of the nature, purpose, and consequences
5 of appointment of a standby guardian.

6 (6) A person entitled to notice under subsection (5) of this
7 section, not later than sixty days after service of the petition and
8 statement, may object to appointment of the standby guardian by
9 filing an objection with the court and giving notice of the objection
10 to each other person entitled to notice under subsection (5) of this
11 section.

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

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

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

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

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

28 (a) Interview the petitioner and the minor;

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

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

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

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

39 (b) If the parents have nominated different persons to serve as
40 standby guardian, the court shall appoint the nominee whose

1 appointment is in the best interest of the minor, unless the court
2 finds that appointment of none of the nominees is in the best
3 interest of the minor.

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

7 (a) The standby guardian assumes the duties and powers of the
8 guardian;

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

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

11 (d) The court removes the guardian.

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

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

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

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

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

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

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

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

36 (2) The duration of authority of an emergency guardian for a
37 minor may not exceed sixty days and the emergency guardian may
38 exercise only the powers specified in the order of appointment. The
39 emergency guardian's authority may be extended once for not more than

1 sixty days if the court finds that the conditions for appointment of
2 an emergency guardian in subsection (1) of this section continue.

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

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

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

9 (c) Each parent of the minor;

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

12 (e) Any other person the court determines.

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

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

27 (6) The court may remove an emergency guardian appointed under
28 this section at any time. The emergency guardian shall make any
29 report the court requires.

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

36 (2) A guardian for a minor shall:

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

1 (b) Take reasonable care of the minor's personal effects and
2 bring a proceeding for a conservatorship or protective arrangement
3 instead of conservatorship if necessary to protect other property of
4 the minor;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (i) Termination of the guardianship would be harmful to the
16 minor; and

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

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

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

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

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

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

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

4 **ARTICLE 3**
5 **GUARDIANSHIP OF ADULT**

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

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

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

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

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

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

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

34 (2) A petition under subsection (1) of this section must state
35 the petitioner's name, principal residence, current street address,
36 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 immediately
11 before the filing 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 in the two-year period 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 care of the respondent;

22 (ii) Any attorney currently representing the respondent;

23 (iii) Any representative payee appointed by the social security
24 administration for the respondent;

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

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

29 (vi) Any fiduciary for the respondent appointed by the department
30 of veterans affairs;

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

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

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

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

38 (xi) A proposed guardian and the reason the proposed guardian
39 should be selected; and

1 (xii) A person known to have routinely assisted the respondent
2 with decision making during the six months immediately before the
3 filing of the petition;

4 (d) The reason a guardianship is necessary, including a brief
5 description of:

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

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

10 (iii) If no protective arrangement instead of guardianship or
11 other less restrictive alternatives have been considered or
12 implemented, the reason they have not been considered or implemented;
13 and

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

17 (e) Whether the petitioner seeks a limited guardianship or full
18 guardianship;

19 (f) If the petitioner seeks a full guardianship, the reason a
20 limited guardianship or protective arrangement instead of
21 guardianship is not appropriate;

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

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

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

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

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

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

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

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

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

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

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

34 (3) (a) The visitor appointed under subsection (1) of this section
35 shall within five days of receipt of notice of appointment file with
36 the court and serve, either personally or by certified mail with
37 return receipt, the respondent or his or her legal counsel, the
38 petitioner or his or her legal counsel, and any interested party
39 entitled to notice under section 116 of this act with a statement

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

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

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

14 (iii) A conflict of interest.

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

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

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

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

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

36 (5) The visitor appointed under subsection (1) of this section
37 shall:

38 (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 shall
7 appoint an attorney to represent the respondent, regardless of the
8 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 316 of this act and report under section 317 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 family member or other individual who has shown special
23 care and 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 315 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 316 of this act
23 and the guardian's report under section 317 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 316(1) of this act;

3 (c) The date by which the court will review the guardian's plan
4 as required by section 316(4) of this act;

5 (d) The report interval which the guardian shall file its
6 guardian's plan under section 317 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 317 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 317 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 316 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 family 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 family or preexisting social relationship with the adult;

30 (g) Receive a copy of the guardian's plan under section 316 of
31 this act and the guardian's report under section 317 of this act; and

32 (h) Object to the guardian's plan or report.

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

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

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

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

5 (2) The duration of authority of an emergency guardian for an
6 adult may not exceed sixty days, and the emergency guardian may
7 exercise only the powers specified in the order of appointment. The
8 emergency guardian's authority may be extended once for not more than
9 sixty days if the court finds that the conditions for appointment of
10 an emergency guardian in subsection (1) of this section continue.

11 (3) Immediately on filing of a petition for appointment of an
12 emergency guardian for an adult, the court shall appoint an attorney
13 to represent the respondent in the proceeding. Except as otherwise
14 provided in subsection (4) of this section, reasonable notice of the
15 date, time, and place of a hearing on the petition must be given to
16 the respondent, the respondent's attorney, and any other person the
17 court determines.

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

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

27 (i) The respondent;

28 (ii) The respondent's attorney; and

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

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

32 (5) Appointment of an emergency guardian under this section is
33 not a determination that a basis exists for appointment of a guardian
34 under section 301 of this act.

35 (6) The court may remove an emergency guardian appointed under
36 this section at any time. The emergency guardian shall make any
37 report the court requires.

38 NEW SECTION. **Sec. 313.** DUTIES OF GUARDIAN FOR ADULT. (1) A
39 guardian for an adult is a fiduciary. Except as otherwise limited by

1 the court, a guardian for an adult shall make decisions regarding the
2 support, care, education, health, and welfare of the adult subject to
3 guardianship to the extent necessitated by the adult's limitations.

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

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

13 (b) To the extent reasonably feasible, identify the values and
14 preferences of the adult and involve the adult in decisions affecting
15 the adult, including decisions about the adult's care, dwelling,
16 activities, or social interactions; and

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

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

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

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

30 (c) Conserve any funds and other property of the adult not
31 expended under (b) of this subsection for the adult's future needs,
32 but if a conservator has been appointed for the adult, pay the funds
33 and other property at least quarterly to the conservator to be
34 conserved for the adult's future needs; and

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

37 (4) In making a decision for an adult subject to guardianship,
38 the guardian shall make the decision the guardian reasonably believes
39 the adult would make if the adult were able unless doing so would
40 unreasonably harm or endanger the welfare or personal or financial

1 interests of the adult. To determine the decision the adult subject
2 to guardianship would make if able, the guardian shall consider the
3 adult's previous or current directions, preferences, opinions,
4 values, and actions, to the extent actually known or reasonably
5 ascertainable by the guardian.

6 (5) If a guardian for an adult cannot make a decision under
7 subsection (4) of this section because the guardian does not know and
8 cannot reasonably determine the decision the adult probably would
9 make if able, or the guardian reasonably believes the decision the
10 adult would make would unreasonably harm or endanger the welfare or
11 personal or financial interests of the adult, the guardian shall act
12 in accordance with the best interests of the adult. In determining
13 the best interests of the adult, the guardian shall consider:

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

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

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

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

23 (7) The guardian shall file with the court within thirty days of
24 any substantial change in the condition of the person under
25 guardianship or any changes in the residence of the person under
26 guardianship and shall provide a copy of the notice to the adult
27 subject to guardianship, a person entitled to notice under section
28 310(5) of this act or a subsequent order, and any other person the
29 court has determined is entitled to notice.

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

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

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

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

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

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

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

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

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

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

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

18 (f) Receive personally identifiable health care information
19 regarding the adult.

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

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

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

27 (b) Petition for divorce, dissolution, or annulment of marriage
28 of the adult or a declaration of invalidity of the adult's marriage;
29 or

30 (c) Support or oppose a petition for divorce, dissolution, or
31 annulment of marriage of the adult or a declaration of invalidity of
32 the adult's marriage.

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

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

4 (a) Select a residential setting the guardian believes the adult
5 would select if the adult were able, in accordance with the decision-
6 making standard in section 313 (4) and (5) of this act. If the
7 guardian does not know and cannot reasonably determine what setting
8 the adult subject to guardianship probably would choose if able, or
9 the guardian reasonably believes the decision the adult would make
10 would unreasonably harm or endanger the welfare or personal or
11 financial interests of the adult, the guardian shall choose in
12 accordance with section 313(5) of this act a residential setting that
13 is consistent with the adult's best interest;

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

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

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

25 (ii) Include in the notice the address and nature of the new
26 dwelling and state whether the adult received advance notice of the
27 change and whether the adult objected to the change;

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

32 (i) The establishment or move is in the guardian's plan under
33 section 316 of this act;

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

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

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

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

6 (i) The action is specifically included in the guardian's plan
7 under section 316 of this act;

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

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

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

15 (a) Involve the adult in decision making to the extent reasonably
16 feasible, including, when practicable, by encouraging and supporting
17 the adult in understanding the risks and benefits of health care
18 options;

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

22 (c) Take into account:

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

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

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

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

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

5 (3) A guardian for an adult may not restrict the ability of the
6 adult to communicate, visit, or interact with others, including
7 receiving visitors and making or receiving telephone calls, personal
8 mail, or electronic communications, including through social media,
9 or participating in social activities, unless:

10 (a) Authorized by the court by specific order;

11 (b) A protective order or a protective arrangement instead of
12 guardianship is in effect that limits contact between the adult and a
13 person; or

14 (c) The guardian has good cause to believe restriction is
15 necessary because interaction with a specified person poses a risk of
16 significant physical, psychological, or financial harm to the adult
17 and the restriction is:

18 (i) For a period of not more than seven business days if the
19 person has a family or preexisting social relationship with the
20 adult; or

21 (ii) For a period of not more than sixty days if the person does
22 not have a family or preexisting social relationship with the adult.

23 NEW SECTION. **Sec. 316.** GUARDIAN'S PLAN. (1) A guardian for an
24 adult, not later than ninety days after appointment, shall file with
25 the court a plan for the care of the adult and shall provide a copy
26 of the plan to the adult subject to guardianship, a person entitled
27 to notice under section 310(5) of this act or a subsequent order, and
28 any other person the court determines. The plan must be based on the
29 needs of the adult and take into account the best interest of the
30 adult as well as the adult's preferences, values, and prior
31 directions, to the extent known to or reasonably ascertainable by the
32 guardian. The guardian shall include in the plan:

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

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

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

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

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

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

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

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

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

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

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

33 NEW SECTION. **Sec. 317.** GUARDIAN'S REPORT—MONITORING OF
34 GUARDIANSHIP. (1) A guardian for an adult shall file with the court
35 by the date established by the court a report in a record regarding
36 the condition of the adult and accounting for funds and other
37 property in the guardian's possession or subject to the guardian's
38 control. The guardian shall provide a copy of the report to the adult
39 subject to guardianship, a person entitled to notice under section

1 310(5) of this act or a subsequent order, and any other person the
2 court determines.

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

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

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

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

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

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

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

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

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

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

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

32 (k) A copy of the guardian's most recently approved plan under
33 section 316 of this act and a statement whether the guardian has
34 deviated from the plan and, if so, how the guardian has deviated and
35 why;

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

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

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

1 (3) The court may appoint a visitor to review a report submitted
2 under this section or a guardian's plan submitted under section 316
3 of this act, interview the guardian or adult subject to guardianship,
4 or investigate any other matter involving the guardianship.

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

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

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

16 (b) The guardianship should continue; and

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

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

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

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

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

27 (d) Consistent with sections 318 and 319 of this act, may hold a
28 hearing to consider removal of the guardian, termination of the
29 guardianship, or a change in the powers granted to the guardian or
30 terms of the guardianship.

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

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

39 (9) If the court approves a report filed under this section, the
40 order approving the report shall set the due date for the filing of

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

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

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

22 NEW SECTION. **Sec. 318.** REMOVAL OF GUARDIAN FOR ADULT—
23 APPOINTMENT OF SUCCESSOR. (1) The court may remove a guardian for an
24 adult for failure to perform the guardian's duties or for other good
25 cause and appoint a successor guardian to assume the duties of
26 guardian.

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

29 (a) Petition of the adult, guardian, or person interested in the
30 welfare of the adult, which contains allegations that, if true, would
31 support a reasonable belief that removal of the guardian and
32 appointment of a successor guardian may be appropriate, but the court
33 may decline to hold a hearing if a petition based on the same or
34 substantially similar facts was filed during the preceding six
35 months;

36 (b) Communication from the adult, guardian, or person interested
37 in the welfare of the adult which supports a reasonable belief that
38 removal of the guardian and appointment of a successor guardian may
39 be appropriate; or

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

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

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

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

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

19 NEW SECTION. **Sec. 319.** TERMINATION OR MODIFICATION OF
20 GUARDIANSHIP FOR ADULT. (1) An adult subject to guardianship, the
21 guardian for the adult, or a person interested in the welfare of the
22 adult may petition for:

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

27 (b) Modification of the guardianship on the ground that the
28 extent of protection or assistance granted is not appropriate or for
29 other good cause.

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

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

1 (b) Communication from the adult, guardian, or person interested
2 in the welfare of the adult which supports a reasonable belief that
3 termination or modification of the guardianship may be appropriate,
4 including because the functional needs of the adult or supports or
5 services available to the adult have changed;

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

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

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

17 (4) On presentation of prima facie evidence for termination of a
18 guardianship for an adult, the court shall order termination unless
19 it is proven that a basis for appointment of a guardian under section
20 301 of this act exists.

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

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

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

34 **ARTICLE 4**
35 **CONSERVATORSHIP**

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

37 (1) On petition and after notice and hearing, the court may appoint a
38 conservator for the property or financial affairs of a minor if the

1 court finds by a preponderance of evidence that appointment of a
2 conservator is in the minor's best interest, and:

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

6 (b) Either:

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

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

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

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

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

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

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

25 (b) Appointment is necessary to:

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

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

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

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

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

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

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

4 (b) A person interested in the estate, financial affairs, or
5 welfare of the individual, including a person that would be adversely
6 affected by lack of effective management of property or financial
7 affairs of the individual; or

8 (c) The guardian for the individual.

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

14 (a) The respondent's name, age, principal residence, current
15 street address, if different, and, if different, address of the
16 dwelling in which it is proposed the respondent will reside if the
17 petition is granted;

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

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

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

26 (iii) Adult stepchildren whom the respondent actively parented
27 during the stepchildren's minor years and with whom the respondent
28 had an ongoing relationship during the two years immediately before
29 the filing of the petition;

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

32 (i) A person responsible for the care or custody of the
33 respondent;

34 (ii) Any attorney currently representing the respondent;

35 (iii) The representative payee appointed by the social security
36 administration for the respondent;

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

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

- 1 (vi) The fiduciary appointed for the respondent by the department
2 of veterans affairs;
- 3 (vii) An agent designated under a power of attorney for health
4 care in which the respondent is identified as the principal;
- 5 (viii) An agent designated under a power of attorney for finances
6 in which the respondent is identified as the principal;
- 7 (ix) A person known to have routinely assisted the respondent
8 with decision making in the six-month period immediately before the
9 filing of the petition;
- 10 (x) Any proposed conservator, including a person nominated by the
11 respondent, if the respondent is twelve years of age or older; and
- 12 (xi) If the individual for whom a conservator is sought is a
13 minor:
- 14 (A) An adult not otherwise listed with whom the minor resides;
15 and
- 16 (B) Each person not otherwise listed that had primary care or
17 custody of the minor for at least sixty days during the two years
18 immediately before the filing of the petition or for at least seven
19 hundred thirty days during the five years immediately before the
20 filing of the petition;
- 21 (d) A general statement of the respondent's property with an
22 estimate of its value, including any insurance or pension, and the
23 source and amount of other anticipated income or receipts;
- 24 (e) The reason conservatorship is necessary, including a brief
25 description of:
- 26 (i) The nature and extent of the respondent's alleged need;
- 27 (ii) If the petition alleges the respondent is missing, detained,
28 or unable to return to the United States, the relevant circumstances,
29 including the time and nature of the disappearance or detention and
30 any search or inquiry concerning the respondent's whereabouts;
- 31 (iii) Any protective arrangement instead of conservatorship or
32 other less restrictive alternative for meeting the respondent's
33 alleged need which has been considered or implemented;
- 34 (iv) If no protective arrangement or other less restrictive
35 alternatives have been considered or implemented, the reason it has
36 not been considered or implemented; and
- 37 (v) The reason a protective arrangement or other less restrictive
38 alternative is insufficient to meet the respondent's need;
- 39 (f) Whether the petitioner seeks a limited conservatorship or a
40 full conservatorship;

1 (g) If the petitioner seeks a full conservatorship, the reason a
2 limited conservatorship or protective arrangement instead of
3 conservatorship is not appropriate;

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

6 (i) If the petition is for a limited conservatorship, a
7 description of the property to be placed under the conservator's
8 control and any requested limitation on the authority of the
9 conservator;

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

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

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

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

34 (3) In a proceeding on a petition under section 402 of this act,
35 the notice required under subsection (2) of this section must be
36 given to the persons required to be listed in the petition under
37 section 402(2) (a) through (c) of this act and any other person
38 interested in the respondent's welfare the court determines. Failure

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

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

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

9 (b) The conservator; and

10 (c) Any other person the court determines.

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

18 NEW SECTION. **Sec. 405.** APPOINTMENT AND ROLE OF VISITOR. (1) If
19 the respondent in a proceeding to appoint a conservator is a minor,
20 the court may appoint a visitor to investigate a matter related to
21 the petition or inform the minor or a parent of the minor about the
22 petition or a related matter.

23 (2) If the respondent in a proceeding to appoint a conservator is
24 an adult, the court shall appoint a visitor. The duties and reporting
25 requirements of the visitor are limited to the relief requested in
26 the petition. The visitor must be an individual with training or
27 experience in the type of abilities, limitations, and needs alleged
28 in the petition.

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

33 (4) (a) The visitor appointed under subsection (1) or (2) of this
34 section shall within five days of receipt of notice of appointment
35 file with the court and serve, either personally or by certified mail
36 with return receipt, the respondent or his or her legal counsel, the
37 petitioner or his or her legal counsel, and any interested party
38 entitled to notice under section 116 of this act with a statement

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

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

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

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

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

29 (b) Determine the respondent's views about the appointment sought
30 by the petitioner, including views about a proposed conservator, the
31 conservator's proposed powers and duties, and the scope and duration
32 of the proposed conservatorship; and

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

- 38 (a) Interview the petitioner and proposed conservator, if any;
- 39 (b) Review financial records of the respondent, if relevant to
40 the visitor's recommendation under subsection (7)(b) of this section;

1 (c) Investigate whether the respondent's needs could be met by a
2 protective arrangement instead of conservatorship or other less
3 restrictive alternative and, if so, identify the arrangement or other
4 less restrictive alternative; and

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

7 (7) A visitor appointed under subsection (2) of this section for
8 an adult shall file a report in a record with the court and provide a
9 copy of the report to the respondent, petitioner, and any interested
10 party entitled to notice under section 116 of this act at least
11 fifteen days prior to the hearing on the petition filed under section
12 402 of this act, which must include:

13 (a) A recommendation:

14 (i) Regarding the appropriateness of conservatorship, or whether
15 a protective arrangement instead of conservatorship or other less
16 restrictive alternative for meeting the respondent's needs is
17 available;

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

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

23 (iv) If a conservatorship is recommended, the amount of the bond
24 or other asset protection arrangement needed under sections 416 and
25 417 of this act;

26 (b) A statement of the qualifications of the proposed conservator
27 and whether the respondent approves or disapproves of the proposed
28 conservator;

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

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

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

37 (f) Any other matter the court directs.

38 NEW SECTION. **Sec. 406.** APPOINTMENT AND ROLE OF ATTORNEY. (1)
39 Unless the respondent in a proceeding for appointment of a

1 conservator is represented by an attorney, the court shall appoint an
2 attorney to represent the respondent, regardless of the respondent's
3 ability to pay.

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

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

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

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

12 (3) The court shall appoint an attorney to represent a parent of
13 a minor who is the subject of a proceeding under section 402 of this
14 act if:

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

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

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

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

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

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

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

38 (a) A description of the nature, type, and extent of the
39 respondent's cognitive and functional abilities and limitations with

1 regard to the management of the respondent's property and financial
2 affairs;

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 with regard to the ability to
7 manage the respondent's property and financial affairs; and

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

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

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

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

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

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

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

31 (3) The respondent may be assisted in a hearing under section 403
32 of this act by a person or persons of the respondent's choosing,
33 assistive technology, or an interpreter or translator, or a
34 combination of these supports. If assistance would facilitate the
35 respondent's participation in the hearing, but is not otherwise
36 available to the respondent, the court shall make reasonable efforts
37 to provide it.

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

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

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

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

6 (c) Otherwise participate in the hearing.

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

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

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

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

19 (a) The respondent, the individual subject to conservatorship, or
20 the parent of a minor subject to conservatorship requests the record
21 be sealed; and

22 (b) Either:

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

24 (ii) The conservatorship is terminated.

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

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

4 (a) The court;

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

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

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

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

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

18 (a) A conservator, other than a temporary or emergency
19 conservator, currently acting for the respondent in another
20 jurisdiction;

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

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

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

27 (e) A family member or other individual who has shown special
28 care and concern for the respondent; and

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

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

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

5 (4) A person that provides paid services to the respondent, or an
6 individual who is employed by a person that provides paid services to
7 the respondent or is the spouse, domestic partner, parent, or child
8 of an individual who provides or is employed to provide paid services
9 to the respondent, may not be appointed as conservator unless:

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

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

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

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

24 (2) A court order appointing a conservator for a minor may
25 dispense with the requirement for the conservator to file reports
26 with the court under section 423 of this act if all the property of
27 the minor subject to the conservatorship is protected by an asset
28 protection arrangement.

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

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

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

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

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

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

11 (a) Notice of the rights of the individual subject to
12 conservatorship under section 412(2) of this act;

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

15 (c) Notice that the conservator has delegated a power that
16 requires court approval under section 414 of this act or
17 substantially all powers of the conservator;

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

20 (e) A copy of the conservator's plan under section 419 of this
21 act and the conservator's report under section 423 of this act;

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

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

25 (h) Notice of the death or significant change in the condition of
26 the individual;

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

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

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

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

1 (9) All orders establishing a conservatorship for an adult must
2 contain:

3 (a) A conservatorship summary placed directly below the case
4 caption or on a separate cover page in the form or substantially the
5 same form as set forth in section 606 of this act;

6 (b) The date which the limited conservator or conservator must
7 file the conservator's plan under section 419 of this act;

8 (c) The date which the limited conservator or conservator must
9 file an inventory under section 420 of this act;

10 (d) The date by which the court will review the conservator's
11 plan as required by section 419 of this act;

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

15 (f) The date the limited conservator or conservator must file its
16 report under section 423 of this act. The due date of the filing of
17 the report shall be within ninety days after the anniversary date of
18 the appointment;

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

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

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

30 (2) Not later than thirty days after appointment of a conservator
31 under section 411 of this act, the conservator shall give to the
32 individual subject to conservatorship and any other person entitled
33 to notice under section 411(6) of this act a statement of the rights
34 of the individual subject to conservatorship and procedures to seek
35 relief if the individual is denied those rights. The statement must
36 be in plain language, in at least sixteen-point font, and to the
37 extent feasible, in a language in which the individual subject to
38 conservatorship is proficient. The statement must notify the
39 individual subject to conservatorship of the right to:

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

4 (b) Participate in decision making to the extent reasonably
5 feasible;

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

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

10 (3) If a conservator is appointed for the reasons stated in
11 section 401(2)(a)(ii) of this act and the individual subject to
12 conservatorship is missing, notice under this section to the
13 individual is not required.

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

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

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

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

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

32 (3) Immediately on filing of a petition for an emergency
33 conservator, the court shall appoint an attorney to represent the
34 respondent in the proceeding. Except as otherwise provided in
35 subsection (4) of this section, reasonable notice of the date, time,
36 and place of a hearing on the petition must be given to the
37 respondent, the respondent's attorney, and any other person the court
38 determines.

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

10 (a) The respondent;

11 (b) The respondent's attorney; and

12 (c) Any other person the court determines.

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

15 (6) Appointment of an emergency conservator under this section is
16 not a determination that a basis exists for appointment of a
17 conservator under section 401 of this act.

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

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

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

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

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

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

34 (e) Create a revocable or irrevocable trust of property of the
35 conservatorship estate, whether or not the trust extends beyond the
36 duration of the conservatorship, or revoke or amend a trust revocable
37 by the individual subject to conservatorship;

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

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

7 (h) Grant a creditor priority for payment over creditors of the
8 same or higher class if the creditor is providing property or
9 services used to meet the basic living and care needs of the
10 individual subject to conservatorship and preferential treatment
11 otherwise would be impermissible under section 428(5) of this act;
12 and

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

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

19 (3) To determine under subsection (2) of this section the
20 decision the individual subject to conservatorship would make if
21 able, the court shall consider the individual's prior or current
22 directions, preferences, opinions, values, and actions, to the extent
23 actually known or reasonably ascertainable by the conservator. The
24 court also shall consider:

25 (a) The financial needs of the individual subject to
26 conservatorship and individuals who are in fact dependent on the
27 individual subject to conservatorship for support, and the interests
28 of creditors of the individual;

29 (b) Possible reduction of income, estate, inheritance, or other
30 tax liabilities;

31 (c) Eligibility for governmental assistance;

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

34 (e) Any existing estate plan or lack of estate plan of the
35 individual;

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

38 (g) Any other relevant factor.

39 (4) A conservator may not revoke or amend a power of attorney for
40 finances executed by the individual subject to conservatorship. If a

1 power of attorney for finances is in effect, a decision of the agent
2 takes precedence over that of the conservator, unless the court
3 orders otherwise.

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

7 (1) Requiring the conservator to furnish a bond or collateral or
8 additional bond or collateral or allowing a reduction in a bond or
9 collateral previously furnished;

10 (2) Requiring an accounting for the administration of the
11 conservatorship estate;

12 (3) Directing distribution;

13 (4) Removing the conservator and appointing a temporary or
14 successor conservator;

15 (5) Modifying the type of appointment or powers granted to the
16 conservator, if the extent of protection or management previously
17 granted is excessive or insufficient to meet the individual's needs,
18 including because the individual's abilities or supports have
19 changed;

20 (6) Rejecting or modifying the conservator's plan under section
21 419 of this act, the conservator's inventory under section 420 of
22 this act, or the conservator's report under section 423 of this act;
23 or

24 (7) Granting other appropriate relief.

25 NEW SECTION. **Sec. 416.** BOND—ALTERNATIVE ASSET PROTECTION
26 ARRANGEMENT. (1) Except as otherwise provided in subsections (3) and
27 (4) of this section, the court shall require a conservator to furnish
28 a bond with a surety the court specifies, or require an alternative
29 asset protection arrangement, conditioned on faithful discharge of
30 all duties of the conservator. The court may waive the requirement
31 only if the court finds that a bond or other asset protection
32 arrangement is not necessary to protect the interests of the
33 individual subject to conservatorship. Except as otherwise provided
34 in subsections (3) and (4) of this section, the court may not waive
35 the requirement if the conservator is in the business of serving as a
36 conservator and is being paid for the conservator's service.

37 (2) Unless the court directs otherwise, the bond required under
38 this section must be in the amount of the aggregate capital value of

1 the conservatorship estate, plus the estimated income for the
2 accounting and report review interval, less the value of property
3 deposited under an asset protection arrangement requiring a court
4 order for its removal and real property the conservator lacks power
5 to sell or convey without specific court authorization. The court, in
6 place of surety on a bond, may accept collateral for the performance
7 of the bond, including a pledge of securities or a mortgage of real
8 property.

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

12 (4) In all conservatorships where the person subject to
13 conservatorship has total assets of a value of less than three
14 thousand dollars, the court may dispense with the requirement of a
15 bond: PROVIDED, That the conservator swears to report to the court
16 any changes in the total assets of the person subject to
17 conservatorship increasing their value to over three thousand
18 dollars: PROVIDED FURTHER, That the conservator files a yearly
19 statement showing the monthly income of the person subject to
20 conservatorship if such monthly income, excluding moneys from state
21 or federal benefits, is over the sum of five hundred dollars per
22 month for any three consecutive months.

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

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

28 (b) By executing a bond provided by a conservator, the surety
29 submits to the personal jurisdiction of the court that issued letters
30 of office to the conservator in a proceeding relating to the duties
31 of the conservator in which the surety is named as a party. Notice of
32 the proceeding must be given to the surety at the address shown in
33 the records of the court in which the bond is filed and any other
34 address of the surety then known to the person required to provide
35 the notice.

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

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

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

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

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

12 (2) A conservator shall promote the self-determination of the
13 individual subject to conservatorship and, to the extent feasible,
14 encourage the individual to participate in decisions, act on the
15 individual's own behalf, and develop or regain the capacity to manage
16 the individual's personal affairs.

17 (3) In making a decision for an individual subject to
18 conservatorship, the conservator shall make the decision the
19 conservator reasonably believes the individual would make if able,
20 unless doing so would fail to preserve the resources needed to
21 maintain the individual's well-being and lifestyle or otherwise
22 unreasonably harm or endanger the welfare or personal or financial
23 interests of the individual. To determine the decision the individual
24 would make if able, the conservator shall consider the individual's
25 prior or current directions, preferences, opinions, values, and
26 actions, to the extent actually known or reasonably ascertainable by
27 the conservator.

28 (4) If a conservator cannot make a decision under subsection (3)
29 of this section because the conservator does not know and cannot
30 reasonably determine the decision the individual subject to
31 conservatorship probably would make if able, or the conservator
32 reasonably believes the decision the individual would make would fail
33 to preserve resources needed to maintain the individual's well-being
34 and lifestyle or otherwise unreasonably harm or endanger the welfare
35 or personal or financial interests of the individual, the conservator
36 shall act in accordance with the best interests of the individual. In
37 determining the best interests of the individual, the conservator
38 shall consider:

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

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

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

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

11 (a) The circumstances of the individual subject to
12 conservatorship and the conservatorship estate;

13 (b) General economic conditions;

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

15 (d) The expected tax consequences of an investment decision or
16 strategy;

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

19 (f) The expected total return from income and appreciation of
20 capital;

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

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

25 (6) The propriety of a conservator's investment and management of
26 the conservatorship estate is determined in light of the facts and
27 circumstances existing when the conservator decides or acts and not
28 by hindsight.

29 (7) A conservator shall make a reasonable effort to verify facts
30 relevant to the investment and management of the conservatorship
31 estate.

32 (8) A conservator that has special skills or expertise, or is
33 named conservator in reliance on the conservator's representation of
34 special skills or expertise, has a duty to use the special skills or
35 expertise in carrying out the conservator's duties.

36 (9) In investing, selecting specific property for distribution,
37 and invoking a power of revocation or withdrawal for the use or
38 benefit of the individual subject to conservatorship, a conservator
39 shall consider any estate plan of the individual known or reasonably

1 ascertainable to the conservator and may examine the will or other
2 donative, nominative, or appointive instrument of the individual.

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

7 (a) The property lacks sufficient equity; or

8 (b) Insuring the property would unreasonably dissipate the
9 conservatorship estate or otherwise not be in the best interest of
10 the individual.

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

13 (12) A conservator has access to and authority over a digital
14 asset of the individual subject to conservatorship to the extent
15 provided by the revised uniform fiduciary access to digital assets
16 act (chapter 11.120 RCW) or court order.

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

21 (14) A conservator shall notify the court within thirty days of
22 any substantial change in the value of the property of the person
23 subject to conservatorship and shall provide a copy of the notice to
24 the person subject to guardianship, a person entitled to notice under
25 section 403 of this act or a subsequent order, and any other person
26 the court has determined is entitled to notice and schedule a hearing
27 for the court to review the adequacy of the bond or other asset
28 protection arrangement under sections 416 and 417 of this act.

29 NEW SECTION. **Sec. 419.** CONSERVATOR'S PLAN. (1) A conservator,
30 not later than ninety days after appointment, shall file with the
31 court a plan for protecting, managing, expending, and distributing
32 the assets of the conservatorship estate. The plan must be based on
33 the needs of the individual subject to conservatorship and take into
34 account the best interest of the individual as well as the
35 individual's preferences, values, and prior directions, to the extent
36 known to or reasonably ascertainable by the conservator. The
37 conservator shall include in the plan:

38 (a) A budget containing projected expenses and resources,
39 including an estimate of the total amount of fees the conservator

1 anticipates charging per year and a statement or list of the amount
2 the conservator proposes to charge for each service the conservator
3 anticipates providing to the individual;

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

6 (c) Any step the conservator plans to take to develop or restore
7 the ability of the individual to manage the conservatorship estate;
8 and

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

10 (2) A conservator shall give notice of the filing of the
11 conservator's plan under subsection (1) of this section, together
12 with a copy of the plan, to the individual subject to
13 conservatorship, a person entitled to notice under section 411(6) of
14 this act or a subsequent order, and any other person the court
15 determines. The notice must include a statement of the right to
16 object to the plan and be given not later than fourteen days after
17 the filing.

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

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

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

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

38 (2) A conservator shall give notice of the filing of an inventory
39 to the individual subject to conservatorship, a person entitled to

1 notice under section 411(6) of this act or a subsequent order, and
2 any other person the court determines. The notice must be given not
3 later than fourteen days after the filing.

4 (3) A conservator shall keep records of the administration of the
5 conservatorship estate and make them available for examination on
6 reasonable request of the individual subject to conservatorship, a
7 guardian for the individual, or any other person the conservator or
8 the court determines.

9 NEW SECTION. **Sec. 421.** ADMINISTRATIVE POWERS OF CONSERVATOR NOT
10 REQUIRING COURT APPROVAL. (1) Except as otherwise provided in section
11 414 of this act or qualified or limited in the court's order of
12 appointment and stated in the letters of office, a conservator has
13 all powers granted in this section and any additional power granted
14 to a trustee by law of this state other than this chapter.

15 (2) A conservator, acting reasonably and consistent with the
16 fiduciary duties of the conservator to accomplish the purpose of the
17 conservatorship, without specific court authorization or
18 confirmation, may with respect to the conservatorship estate:

19 (a) Collect, hold, and retain property, including property in
20 which the conservator has a personal interest and real property in
21 another state, until the conservator determines disposition of the
22 property should be made;

23 (b) Receive additions to the conservatorship estate;

24 (c) Continue or participate in the operation of a business or
25 other enterprise;

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

28 (e) Invest assets;

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

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

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

38 (i) Subdivide or develop land, dedicate land to public use, make
39 or obtain the vacation of a plat and adjust a boundary, adjust a

1 difference in valuation of land, exchange or partition land by giving
2 or receiving consideration, and dedicate an easement to public use
3 without consideration;

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

7 (k) Enter into a lease or arrangement for exploration and removal
8 of minerals or other natural resources or a pooling or unitization
9 agreement;

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

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

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

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

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

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

22 (r) Insure:

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

25 (ii) The conservator against liability with respect to a third
26 person;

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

29 (t) Advance funds for the protection of the conservatorship
30 estate or the individual subject to conservatorship and all expenses,
31 losses, and liability sustained in the administration of the
32 conservatorship estate or because of holding any property for which
33 the conservator has a lien on the conservatorship estate;

34 (u) Pay or contest a claim, settle a claim by or against the
35 conservatorship estate or the individual subject to conservatorship
36 by compromise, arbitration, or otherwise, or release, in whole or in
37 part, a claim belonging to the conservatorship estate to the extent
38 the claim is uncollectible;

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

4 (w) Pay a sum distributable to the individual subject to
5 conservatorship or an individual who is in fact dependent on the
6 individual subject to conservatorship by paying the sum to the
7 distributee or for the use of the distributee:

8 (i) To the guardian for the distributee;

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

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

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

17 (y) Structure the finances of the individual subject to
18 conservatorship to establish eligibility for a public benefit,
19 including by making gifts consistent with the individual's
20 preferences, values, and prior directions, if the conservator's
21 action does not jeopardize the individual's welfare and otherwise is
22 consistent with the conservator's duties; and

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

25 NEW SECTION. **Sec. 422.** DISTRIBUTION FROM CONSERVATORSHIP
26 ESTATE. Except as otherwise provided in section 414 of this act or
27 qualified or limited in the court's order of appointment and stated
28 in the letters of office, and unless contrary to a conservator's plan
29 under section 419 of this act, the conservator may expend or
30 distribute income or principal of the conservatorship estate without
31 specific court authorization or confirmation for the support, care,
32 education, health, or welfare of the individual subject to
33 conservatorship or an individual who is in fact dependent on the
34 individual subject to conservatorship, including the payment of child
35 or spousal support, in accordance with the following rules:

36 (1) The conservator shall consider a recommendation relating to
37 the appropriate standard of support, care, education, health, or
38 welfare for the individual subject to conservatorship or individual
39 who is dependent on the individual subject to conservatorship, made

1 by a guardian for the individual subject to conservatorship, if any,
2 and, if the individual subject to conservatorship is a minor, a
3 recommendation made by a parent of the minor.

4 (2) The conservator acting in compliance with the conservator's
5 duties under section 418 of this act is not liable for an expenditure
6 or distribution made based on a recommendation under subsection (1)
7 of this section unless the conservator knows the expenditure or
8 distribution is not in the best interest of the individual subject to
9 conservatorship.

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

12 (a) The size of the conservatorship estate, the estimated
13 duration of the conservatorship, and the likelihood the individual
14 subject to conservatorship, at some future time, may be fully self-
15 sufficient and able to manage the individual's financial affairs and
16 the conservatorship estate;

17 (b) The accustomed standard of living of the individual subject
18 to conservatorship and individual who is dependent on the individual
19 subject to conservatorship;

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

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

24 (4) Funds expended or distributed under this section may be paid
25 by the conservator to any person, including the individual subject to
26 conservatorship, as reimbursement for expenditures the conservator
27 might have made, or in advance for services to be provided to the
28 individual subject to conservatorship or individual who is dependent
29 on the individual subject to conservatorship if it is reasonable to
30 expect the services will be performed and advance payment is
31 customary or reasonably necessary under the circumstances.

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

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

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

4 (b) A list of the services provided to the individual subject to
5 conservatorship;

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

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

11 (e) To the extent feasible, a copy of the most recent reasonably
12 available financial statements evidencing the status of bank
13 accounts, investment accounts, and mortgages or other debts of the
14 individual subject to conservatorship with all but the last four
15 digits of the account numbers and social security number redacted;

16 (f) Anything of more than de minimis value which the conservator,
17 any individual who resides with the conservator, or the spouse,
18 domestic partner, parent, child, or sibling of the conservator has
19 received from a person providing goods or services to the individual
20 subject to conservatorship;

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

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

26 (3) The court may appoint a visitor to review a report under this
27 section or conservator's plan under section 419 of this act,
28 interview the individual subject to conservatorship or conservator,
29 or investigate any other matter involving the conservatorship. In
30 connection with the report, the court may order the conservator to
31 submit the conservatorship estate to appropriate examination in a
32 manner the court directs.

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

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

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

6 (b) The conservatorship should continue; and

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

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

11 (a) Shall notify the individual subject to conservatorship, the
12 conservator, and any other person entitled to notice under section
13 411(6) of this act or a subsequent order;

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

15 (c) May appoint a visitor to interview the individual subject to
16 conservatorship or conservator or investigate any matter involving
17 the conservatorship; and

18 (d) Consistent with sections 430 and 431 of this act, may hold a
19 hearing to consider removal of the conservator, termination of the
20 conservatorship, or a change in the powers granted to the conservator
21 or terms of the conservatorship.

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

25 (8) A conservator must petition the court for approval of a
26 report filed under this section. The court after review may approve
27 the report. If the court approves the report, there is a rebuttable
28 presumption the report is accurate as to a matter adequately
29 disclosed in the report.

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

34 (10) If the court approves a report filed under this section, the
35 order approving the report shall set the due date for the filing of
36 the next report to be filed under this section. The court may set the
37 review at annual, biennial, or triennial intervals with the report
38 due date to be within ninety days of the anniversary date of
39 appointment. When determining the report interval, the court can
40 consider: The length of time the conservator has been serving the

1 person under conservatorship; whether the conservator has timely
2 filed all required reports with the court; whether the conservator is
3 monitored by other state or local agencies; the income of the person
4 subject to conservatorship; the value of the property of the person
5 subject to conservatorship; the adequacy of the bond and other asset
6 protection arrangement(s); and whether there have been any
7 allegations of abuse, neglect, or a breach of fiduciary duty against
8 the conservator.

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

13 (12) If the court approves a report filed under this section, the
14 order approving the report shall direct the clerk of the court to
15 reissue letters of office in the form or substantially in the same
16 form as set forth in section 605 of this act to the conservator
17 containing an expiration date which will be within one hundred twenty
18 days after the date the court directs the conservator file its next
19 report.

20 (13) An order, after notice and hearing, approving a final report
21 filed under this section discharges the conservator from all
22 liabilities, claims, and causes of action by a person given notice of
23 the report and the hearing as to a matter adequately disclosed in the
24 report.

25 NEW SECTION. **Sec. 424.** ATTEMPTED TRANSFER OF PROPERTY BY
26 INDIVIDUAL SUBJECT TO CONSERVATORSHIP. (1) The interest of an
27 individual subject to conservatorship in property included in the
28 conservatorship estate is not transferable or assignable by the
29 individual and is not subject to levy, garnishment, or similar
30 process for claims against the individual unless allowed under
31 section 428 of this act.

32 (2) If an individual subject to conservatorship enters into a
33 contract after having the right to enter the contract removed by the
34 court, the contract is void against the individual and the
35 individual's property but is enforceable against the person that
36 contracted with the individual.

37 (3) A person other than the conservator that deals with an
38 individual subject to conservatorship with respect to property

1 included in the conservatorship estate is entitled to protection
2 provided by law of this state other than this chapter.

3 NEW SECTION. **Sec. 425.** TRANSACTION INVOLVING CONFLICT OF
4 INTEREST. A transaction involving a conservatorship estate which is
5 affected by a substantial conflict between the conservator's
6 fiduciary duties and personal interests is voidable unless the
7 transaction is authorized by court order after notice to persons
8 entitled to notice under section 411(6) of this act or a subsequent
9 order. A transaction affected by a substantial conflict includes a
10 sale, encumbrance, or other transaction involving the conservatorship
11 estate entered into by the conservator, an individual with whom the
12 conservator resides, the spouse, domestic partner, descendant,
13 sibling, agent, or attorney of the conservator, or a corporation or
14 other enterprise in which the conservator has a substantial
15 beneficial interest.

16 NEW SECTION. **Sec. 426.** PROTECTION OF PERSON DEALING WITH
17 CONSERVATOR. (1) A person that assists or deals with a conservator in
18 good faith and for value in any transaction, other than a transaction
19 requiring a court order under section 414 of this act, is protected
20 as though the conservator properly exercised any power in question.
21 Knowledge by a person that the person is dealing with a conservator
22 alone does not require the person to inquire into the existence of
23 authority of the conservator or the propriety of the conservator's
24 exercise of authority, but restrictions on authority stated in
25 letters of office, or otherwise provided by law, are effective as to
26 the person. A person that pays or delivers property to a conservator
27 is not responsible for proper application of the property.

28 (2) Protection under subsection (1) of this section extends to a
29 procedural irregularity or jurisdictional defect in the proceeding
30 leading to the issuance of letters of office and does not substitute
31 for protection for a person that assists or deals with a conservator
32 provided by comparable provisions in law of this state other than
33 this chapter relating to a commercial transaction or simplifying a
34 transfer of securities by a fiduciary.

35 NEW SECTION. **Sec. 427.** DEATH OF INDIVIDUAL SUBJECT TO
36 CONSERVATORSHIP. (1) If an individual subject to conservatorship
37 dies, the conservator shall deliver to the court for safekeeping any

1 will of the individual in the conservator's possession and inform the
2 personal representative named in the will if feasible, or if not
3 feasible, a beneficiary named in the will, of the delivery.

4 (2) If forty days after the death of an individual subject to
5 conservatorship no personal representative has been appointed and no
6 application or petition for appointment is before the court, the
7 conservator may apply to exercise the powers and duties of a personal
8 representative to administer and distribute the decedent's estate.
9 The conservator shall give notice of his or her appointment and the
10 pendency of any probate proceedings as provided in RCW 11.28.237 and
11 shall also give notice to a person nominated as personal
12 representative by a will of the decedent of which the conservator is
13 aware. The court may grant the application if there is no objection
14 and endorse the letters of office to note that the individual
15 formerly subject to conservatorship is deceased and the conservator
16 has acquired the powers and duties of a personal representative.

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

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

21 A conservator may pay, or secure by encumbering property included in
22 the conservatorship estate, a claim against the conservatorship
23 estate or the individual subject to conservatorship arising before or
24 during the conservatorship, on presentation and allowance in
25 accordance with the priorities under subsection (4) of this section.
26 A claimant may present a claim by:

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

30 (b) Filing the claim with the court, in a form acceptable to the
31 court, and sending or delivering a copy of the claim to the
32 conservator.

33 (2) A claim under subsection (1) of this section is presented on
34 receipt by the conservator of the statement of the claim or the
35 filing with the court of the claim, whichever first occurs. A
36 presented claim is allowed if it is not disallowed in whole or in
37 part by the conservator in a record sent or delivered to the claimant
38 not later than sixty days after its presentation. Before payment, the
39 conservator may change an allowance of the claim to a disallowance in

1 whole or in part, but not after allowance under a court order or
2 order directing payment of the claim. Presentation of a claim tolls
3 until thirty days after disallowance of the claim the running of a
4 statute of limitations that has not expired relating to the claim.

5 (3) A claimant whose claim under subsection (1) of this section
6 has not been paid may petition the court to determine the claim at
7 any time before it is barred by a statute of limitations, and the
8 court may order its allowance, payment, or security by encumbering
9 property included in the conservatorship estate. If a proceeding is
10 pending against the individual subject to conservatorship at the time
11 of appointment of the conservator or is initiated thereafter, the
12 moving party shall give the conservator notice of the proceeding if
13 it could result in creating a claim against the conservatorship
14 estate.

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

19 (a) Costs and expenses of administration;

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

22 (c) A claim incurred by the conservator for support, care,
23 education, health, or welfare previously provided to the individual
24 subject to conservatorship or an individual who is in fact dependent
25 on the individual subject to conservatorship;

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

27 (e) All other claims.

28 (5) Preference may not be given in the payment of a claim under
29 subsection (4) of this section over another claim of the same class.
30 A claim due and payable may not be preferred over a claim not due
31 unless:

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

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

37 (6) If assets of a conservatorship estate are adequate to meet
38 all existing claims, the court, acting in the best interest of the
39 individual subject to conservatorship, may order the conservator to

1 grant a security interest in the conservatorship estate for payment
2 of a claim at a future date.

3 NEW SECTION. **Sec. 429.** PERSONAL LIABILITY OF CONSERVATOR. (1)
4 Except as otherwise agreed by a conservator, the conservator is not
5 personally liable on a contract properly entered into in a fiduciary
6 capacity in the course of administration of the conservatorship
7 estate unless the conservator fails to reveal the conservator's
8 representative capacity in the contract or before entering into the
9 contract.

10 (2) A conservator is personally liable for an obligation arising
11 from control of property of the conservatorship estate or an act or
12 omission occurring in the course of administration of the
13 conservatorship estate only if the conservator is personally at
14 fault.

15 (3) A claim based on a contract entered into by a conservator in
16 a fiduciary capacity, an obligation arising from control of property
17 included in the conservatorship estate, or a tort committed in the
18 course of administration of the conservatorship estate may be
19 asserted against the conservatorship estate in a proceeding against
20 the conservator in a fiduciary capacity, whether or not the
21 conservator is personally liable for the claim.

22 (4) A question of liability between a conservatorship estate and
23 the conservator personally may be determined in a proceeding for
24 accounting, surcharge, or indemnification or another appropriate
25 proceeding or action.

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

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

32 (a) Petition of the individual subject to conservatorship,
33 conservator, or person interested in the welfare of the individual
34 which contains allegations that, if true, would support a reasonable
35 belief that removal of the conservator and appointment of a successor
36 may be appropriate, but the court may decline to hold a hearing if a
37 petition based on the same or substantially similar facts was filed
38 during the preceding six months;

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

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

7 (3) Notice of a hearing under subsection (2)(a) of this section
8 and notice of the individual's right to be represented at the hearing
9 by counsel of the individual's choosing must be given to the
10 individual subject to conservatorship, the conservator, and any other
11 person the court determines.

12 (4) An individual subject to conservatorship who seeks to remove
13 the conservator and have a successor appointed has the right to
14 choose an attorney to represent the individual in this matter. The
15 court shall award reasonable attorneys' fees to the attorney as
16 provided in section 120 of this act.

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

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

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

26 (a) A court order terminating the conservatorship;

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

31 (c) Emancipation of the minor; or

32 (d) Death of the minor.

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

35 (3) An individual subject to conservatorship, the conservator, or
36 a person interested in the welfare of the individual may petition
37 for:

38 (a) Termination of the conservatorship on the ground that a basis
39 for appointment under section 401 of this act does not exist or

1 termination would be in the best interest of the individual or for
2 other good cause; or

3 (b) Modification of the conservatorship on the ground that the
4 extent of protection or assistance granted is not appropriate or for
5 other good cause.

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

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

14 (b) A communication from the individual subject to
15 conservatorship, conservator, or person interested in the welfare of
16 the individual which supports a reasonable belief that termination or
17 modification of the conservatorship may be appropriate, including
18 because the functional needs of the individual or supports or
19 services available to the individual have changed;

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

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

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

30 (6) On presentation of prima facie evidence for termination of a
31 conservatorship, the court shall order termination unless it is
32 proven that a basis for appointment of a conservator under section
33 401 of this act exists.

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

38 (8) Unless the court otherwise orders for good cause, before
39 terminating a conservatorship, the court shall follow the same

1 procedures to safeguard the rights of the individual subject to
2 conservatorship which apply to a petition for conservatorship.

3 (9) An individual subject to conservatorship who seeks to
4 terminate or modify the terms of the conservatorship has the right to
5 choose an attorney to represent the individual in this matter. The
6 court shall award reasonable attorneys' fees to the attorney as
7 provided in section 120 of this act.

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

13 (11) On termination of a conservatorship by reason of the death
14 of the individual subject to conservatorship, the conservator shall
15 file a final report and petition for discharge on approval by the
16 court of the final report within ninety days of death of the person
17 subject to conservatorship. On approval of the final report, the
18 conservator shall proceed expeditiously to distribute the
19 conservatorship estate to the individual's estate or as otherwise
20 ordered by the court. The conservator may take reasonable measures
21 necessary to preserve the conservatorship estate until distribution
22 can be made.

23 (12) The court shall issue a final order of discharge on the
24 approval by the court of the final report and satisfaction by the
25 conservator of any other condition the court imposed on the
26 conservator's discharge.

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

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

35 (b) A guardian for the minor;

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

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

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

6 (3) A person that receives funds or other property for a minor
7 under subsection (1)(a) or (b) of this section may apply it only to
8 the support, care, education, health, or welfare of the minor, and
9 may not derive a personal financial benefit from it, except for
10 reimbursement for necessary expenses. Funds not applied for these
11 purposes must be preserved for the future support, care, education,
12 health, or welfare of the minor, and the balance, if any, transferred
13 to the minor when the minor becomes an adult or otherwise is
14 emancipated.

15 ARTICLE 5

16 OTHER PROTECTIVE ARRANGEMENTS

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

18 (1) Under this article, a court:

19 (a) On receiving a petition for a guardianship for an adult may
20 order a protective arrangement instead of guardianship as a less
21 restrictive alternative to guardianship; and

22 (b) On receiving a petition for a conservatorship for an
23 individual may order a protective arrangement instead of
24 conservatorship as a less restrictive alternative to conservatorship.

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

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

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

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

35 (c) The guardian for the individual.

36 NEW SECTION. **Sec. 502.** BASIS FOR PROTECTIVE ARRANGEMENT INSTEAD
37 OF GUARDIANSHIP FOR ADULT. (1) After the hearing on a petition under

1 section 302 of this act for a guardianship or under section 501(2) of
2 this act for a protective arrangement instead of guardianship, the
3 court may issue an order under subsection (2) of this section for a
4 protective arrangement instead of guardianship if the court finds by
5 clear and convincing evidence that:

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

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

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

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

17 (i) A particular medical treatment or refusal of a particular
18 medical treatment;

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

20 (iii) Visitation or supervised visitation between the respondent
21 and another person;

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

25 (c) Reorder other arrangements on a limited basis that are
26 appropriate.

27 (3) In deciding whether to issue an order under this section, the
28 court shall consider the factors under sections 313 and 314 of this
29 act that a guardian must consider when making a decision on behalf of
30 an adult subject to guardianship.

31 NEW SECTION. **Sec. 503.** BASIS FOR PROTECTIVE ARRANGEMENT INSTEAD
32 OF CONSERVATORSHIP FOR ADULT OR MINOR. (1) After the hearing on a
33 petition under section 402 of this act for conservatorship for an
34 adult or under section 501(3) of this act for a protective
35 arrangement instead of a conservatorship for an adult, the court may
36 issue an order under subsection (3) of this section for a protective
37 arrangement instead of conservatorship for the adult if the court
38 finds by clear and convincing evidence that:

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

3 (i) Of a limitation in the ability to receive and evaluate
4 information or make or communicate decisions, even with appropriate
5 supportive services, technological assistance, or supported decision
6 making; or

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

9 (b) An order under subsection (3) of this section is necessary
10 to:

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

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

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

18 (2) After the hearing on a petition under section 402 of this act
19 for conservatorship for a minor or under section 501(3) of this act
20 for a protective arrangement instead of conservatorship for a minor,
21 the court may issue an order under subsection (3) of this section for
22 a protective arrangement instead of conservatorship for the
23 respondent if the court finds by a preponderance of the evidence that
24 the arrangement is in the minor's best interest, and:

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

28 (b) Either:

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

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

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

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

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

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

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

4 (ii) Payment, delivery, deposit, or retention of funds or
5 property;

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

7 (iv) Purchase of an annuity;

8 (v) Entry into a contractual relationship, including a contract
9 to provide for personal care, supportive services, education,
10 training, or employment;

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

12 (vii) Ratification or invalidation of a contract, trust, will, or
13 other transaction, including a transaction related to the property or
14 business affairs of the respondent; or

15 (viii) Settlement of a claim; or

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

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

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

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

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

35 (6) Before issuing an order under subsection (3) or (4) of this
36 section for a respondent who is a minor, the court also shall
37 consider the best interest of the minor, the preference of the
38 parents of the minor, and the preference of the minor, if the minor
39 is twelve years of age or older.

1 NEW SECTION. **Sec. 504.** PETITION FOR PROTECTIVE ARRANGEMENT. A

2 petition for a protective arrangement instead of guardianship or
3 conservatorship must state the petitioner's name, principal
4 residence, current street address, if different, relationship to the
5 respondent, interest in the protective arrangement, the name and
6 address of any attorney representing the petitioner, and, to the
7 extent known, the following:

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

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

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

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

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

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

26 (a) A person responsible for the care or custody of the
27 respondent;

28 (b) Any attorney currently representing the respondent;

29 (c) The representative payee appointed by the social security
30 administration for the respondent;

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

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

35 (f) The fiduciary appointed for the respondent by the department
36 of veterans affairs;

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

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

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

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

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

8 (l) If the respondent is a minor:

9 (i) An adult not otherwise listed with whom the respondent
10 resides; and

11 (ii) Each person not otherwise listed that had primary care or
12 custody of the respondent for at least sixty days during the two
13 years immediately before the filing of the petition or for at least
14 seven hundred thirty days during the five years immediately before
15 the filing of the petition;

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

17 (5) The reason the protective arrangement sought is necessary,
18 including a brief description of:

19 (a) The nature and extent of the respondent's alleged need;

20 (b) Any less restrictive alternative for meeting the respondent's
21 alleged need which has been considered or implemented;

22 (c) If no less restrictive alternative has been considered or
23 implemented, the reason less restrictive alternatives have not been
24 considered or implemented; and

25 (d) The reason other less restrictive alternatives are
26 insufficient to meet the respondent's alleged need;

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

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

32 (8) If a protective arrangement instead of guardianship is sought
33 and the respondent has property other than personal effects, a
34 general statement of the respondent's property with an estimate of
35 its value, including any insurance or pension, and the source and
36 amount of any other anticipated income or receipts; and

37 (9) If a protective arrangement instead of conservatorship is
38 sought, a general statement of the respondent's property with an
39 estimate of its value, including any insurance or pension, and the
40 source and amount of other anticipated income or receipts.

1 NEW SECTION. **Sec. 505.** NOTICE AND HEARING. (1) All petitions
2 filed under section 504 of this act for appointment of a guardian for
3 an adult shall be heard within sixty days unless an extension of time
4 is requested by a party or the visitor within such sixty-day period
5 and granted for good cause shown.

6 (2) A copy of a petition under section 501 of this act and notice
7 of a hearing on the petition must be served personally on the
8 respondent and the visitor appointed under section 506 of this act
9 not more than five court days after the petition under section 504 of
10 this act has been filed. The notice must inform the respondent of the
11 respondent's rights at the hearing, including the right to an
12 attorney and to attend the hearing. The notice must include a
13 description of the nature, purpose, and consequences of granting the
14 petition. The court may not grant the petition if notice
15 substantially complying with this subsection is not served on the
16 respondent.

17 (3) In a proceeding on a petition under section 501 of this act,
18 the notice required under subsection (2) of this section must be
19 given to the persons required to be listed in the petition under
20 section 504 (1) through (3) of this act and any other person
21 interested in the respondent's welfare the court determines. Failure
22 to give notice under this subsection does not preclude the court from
23 granting the petition.

24 (4) After the court has ordered a protective arrangement under
25 this article, notice of a hearing on a petition filed under this
26 chapter, together with a copy of the petition, must be given to the
27 respondent and any other person the court determines.

28 NEW SECTION. **Sec. 506.** APPOINTMENT AND ROLE OF VISITOR. (1) On
29 filing of a petition under section 501 of this act for a protective
30 arrangement instead of guardianship, the court shall appoint a
31 visitor. The visitor must be an individual with training or
32 experience in the type of abilities, limitations, and needs alleged
33 in the petition.

34 (2) On filing of a petition under section 501 of this act for a
35 protective arrangement instead of conservatorship for a minor, the
36 court may appoint a visitor to investigate a matter related to the
37 petition or inform the minor or a parent of the minor about the
38 petition or a related matter.

1 (3) On filing of a petition under section 501 of this act or a
2 protective arrangement instead of conservatorship for an adult, the
3 court shall appoint a visitor unless the respondent is represented by
4 an attorney appointed by the court. The visitor must be an individual
5 with training or experience in the types of abilities, limitations,
6 and needs alleged in the petition.

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

11 (5) (a) The visitor appointed under subsection (1) or (3) of this
12 section shall within five days of receipt of notice of appointment
13 file with the court and serve, either personally or by certified mail
14 with return receipt, the respondent or his or her legal counsel, the
15 petitioner or his or her legal counsel, and any interested party
16 entitled to notice under section 116 of this act with a statement
17 including: His or her training relating to the duties as a visitor;
18 his or her criminal history as defined in RCW 9.94A.030 for the
19 period covering ten years prior to the appointment; his or her hourly
20 rate, if compensated; whether the guardian ad litem has had any
21 contact with a party to the proceeding prior to his or her
22 appointment; and whether he or she has an apparent conflict of
23 interest. Within three days of the later of the actual service or
24 filing of the visitor's statement, any party may set a hearing and
25 file and serve a motion for an order to show cause why the visitor
26 should not be removed for one of the following three reasons:

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

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

30 (iii) A conflict of interest.

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

38 (6) A visitor appointed under subsection (1) or (3) of this
39 section shall interview the respondent in person and in a manner the
40 respondent is best able to understand:

1 (a) Explain to the respondent the substance of the petition, the
2 nature, purpose, and effect of the proceeding, and the respondent's
3 rights at the hearing on the petition;

4 (b) Determine the respondent's views with respect to the order
5 sought;

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

9 (d) If the petitioner seeks an order related to the dwelling of
10 the respondent, visit the respondent's present dwelling and any
11 dwelling in which it is reasonably believed the respondent will live
12 if the order is granted;

13 (e) If a protective arrangement instead of guardianship is
14 sought, obtain information from any physician or other person known
15 to have treated, advised, or assessed the respondent's relevant
16 physical or mental condition;

17 (f) If a protective arrangement instead of conservatorship is
18 sought, review financial records of the respondent, if relevant to
19 the visitor's recommendation under subsection (7)(b) of this section;
20 and

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

23 (7) A visitor under this section promptly shall file a report in
24 a record with the court, which must include:

25 (a) To the extent relevant to the order sought, a summary of
26 self-care, independent living tasks, and financial management tasks
27 the respondent:

28 (i) Can manage without assistance or with existing supports;

29 (ii) Could manage with the assistance of appropriate supportive
30 services, technological assistance, or supported decision making; and

31 (iii) Cannot manage;

32 (b) A recommendation regarding the appropriateness of the
33 protective arrangement sought and whether a less restrictive
34 alternative for meeting the respondent's needs is available;

35 (c) If the petition seeks to change the physical location of the
36 dwelling of the respondent, a statement whether the proposed dwelling
37 meets the respondent's needs and whether the respondent has expressed
38 a preference as to the respondent's dwelling;

39 (d) A recommendation whether a professional evaluation under
40 section 508 of this act is necessary;

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

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

7 (g) Any other matter the court directs.

8 NEW SECTION. **Sec. 507.** APPOINTMENT AND ROLE OF ATTORNEY. (1)

9 Unless the respondent in a proceeding under this article is
10 represented by an attorney, the court shall appoint an attorney to
11 represent the respondent, regardless of the respondent's ability to
12 pay.

13 (2) An attorney representing the respondent in a proceeding under
14 this article shall:

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

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

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

22 (3) The court shall appoint an attorney to represent a parent of
23 a minor who is the subject of a proceeding under this article if:

24 (a) The parent objects to the entry of an order for a protective
25 arrangement instead of guardianship or conservatorship;

26 (b) The court determines that counsel is needed to ensure that
27 consent to the entry of an order for a protective arrangement is
28 informed; or

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

31 NEW SECTION. **Sec. 508.** PROFESSIONAL EVALUATION. (1) At or

32 before a hearing on a petition under this article for a protective
33 arrangement, the court shall order a professional evaluation of the
34 respondent:

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

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

1 (2) If the court orders an evaluation under subsection (1) of
2 this section, the respondent must be examined by a licensed
3 physician, psychologist, social worker, or other individual appointed
4 by the court who is qualified to evaluate the respondent's alleged
5 cognitive and functional abilities and limitations and will not be
6 advantaged or disadvantaged by a decision to grant the petition or
7 otherwise have a conflict of interest. The individual conducting the
8 evaluation promptly shall file a report in a record with the court.
9 Unless otherwise directed by the court, the report must contain:

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

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

15 (c) A prognosis for improvement, including with regard to the
16 ability to manage the respondent's property and financial affairs if
17 a limitation in that ability is alleged, and recommendation for the
18 appropriate treatment, support, or habilitation plan; and

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

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

22 NEW SECTION. **Sec. 509.** ATTENDANCE AND RIGHTS AT HEARING. (1)

23 Except as otherwise provided in subsection (2) of this section, a
24 hearing under this article may not proceed unless the respondent
25 attends the hearing. If it is not reasonably feasible for the
26 respondent to attend a hearing at the location court proceedings
27 typically are held, the court shall make reasonable efforts to hold
28 the hearing at an alternative location convenient to the respondent
29 or allow the respondent to attend the hearing using real-time audio-
30 visual technology.

31 (2) A hearing under this article may proceed without the
32 respondent in attendance if the court finds by clear and convincing
33 evidence that:

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

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

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

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

10 (4) The respondent has a right to choose an attorney to represent
11 the respondent at a hearing under this article.

12 (5) At a hearing under this article, the respondent may:

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

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

16 (c) Otherwise participate in the hearing.

17 (6) A hearing under this article must be closed on request of the
18 respondent and a showing of good cause.

19 (7) Any person may request to participate in a hearing under this
20 article. The court may grant the request, with or without a hearing,
21 on determining that the best interests of the respondent will be
22 served. The court may impose appropriate conditions on the person's
23 participation.

24 NEW SECTION. **Sec. 510.** NOTICE OF ORDER. The court shall give
25 notice of an order under this article to the individual who is
26 subject to the protective arrangement instead of guardianship or
27 conservatorship, a person whose access to the individual is
28 restricted by the order, and any other person the court determines.

29 NEW SECTION. **Sec. 511.** CONFIDENTIALITY OF RECORDS. (1) The
30 existence of a proceeding for or the existence of a protective
31 arrangement instead of guardianship or conservatorship is a matter of
32 public record unless the court seals the record after:

33 (a) The respondent, the individual subject to the protective
34 arrangement, or the parent of a minor subject to the protective
35 arrangement requests the record be sealed; and

36 (b) Either:

37 (i) The proceeding is dismissed;

38 (ii) The protective arrangement is no longer in effect; or

1 (iii) An act authorized by the order granting the protective
2 arrangement has been completed.

3 (2) A respondent, an individual subject to a protective
4 arrangement instead of guardianship or conservatorship, an attorney
5 designated by the respondent or individual, a parent of a minor
6 subject to a protective arrangement, and any other person the court
7 determines are entitled to access court records of the proceeding and
8 resulting protective arrangement. A person not otherwise entitled
9 access to court records under this subsection for good cause may
10 petition the court for access. The court shall grant access if access
11 is in the best interest of the respondent or individual subject to
12 the protective arrangement or furthers the public interest and does
13 not endanger the welfare or financial interests of the respondent or
14 individual.

15 (3) A report of a visitor or professional evaluation generated in
16 the course of a proceeding under this article must be sealed on
17 filing but is available to:

18 (a) The court;

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

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

23 (d) Unless the court orders otherwise, an agent appointed under a
24 power of attorney for finances in which the respondent is the
25 principal;

26 (e) If the order is for a protective arrangement instead of
27 guardianship and unless the court orders otherwise, an agent
28 appointed under a power of attorney for health care in which the
29 respondent is identified as the principal; and

30 (f) Any other person if it is in the public interest or for a
31 purpose the court orders for good cause.

32 NEW SECTION. **Sec. 512.** APPOINTMENT OF COMMISSIONER. The court
33 may appoint a commissioner to assist in implementing a protective
34 arrangement under this article. The commissioner has the authority
35 conferred by the order of appointment and serves until discharged by
36 court order.

37 **ARTICLE 6**

38 **FORMS**

1 NEW SECTION. **Sec. 601.** USE OF FORMS. Unless otherwise provided
2 in this chapter, use of the forms contained in this article is
3 optional. Failure to use these forms does not prejudice any party.

4 NEW SECTION. **Sec. 602.** PETITION FOR GUARDIANSHIP FOR MINOR.
5 This form may be used to petition for guardianship for a minor.

6 Petition for Guardianship for Minor

7 State of:

8 County of:

9 Name and address of attorney representing petitioner, if
10 applicable:

11

12

13 Note to petitioner: This form can be used to petition for a
14 guardian for a minor. A court may appoint a guardian for a minor
15 who does not have a guardian if the court finds the appointment
16 is in the minor's best interest, and: The parents, after being
17 fully informed of the nature and consequences of guardianship,
18 consent; all parental rights have been terminated; or the court
19 finds by clear and convincing evidence that the parents are
20 unwilling or unable to exercise their parental rights.

21 (1) Information about the person filing this petition (the
22 petitioner.)

23 (a) Name:

24 (b) Principal residence:

25 (c) Current street address (if different):

26 (d) Relationship to minor:

27 (e) Interest in this petition:

28 (f) Telephone number (optional):

29 (g) Email address (optional):

30 (2) Information about the minor alleged to need a guardian.
31 Provide the following information to the extent known.

32 (a) Name:

33 (b) Age:

34 (c) Principal residence:

35 (d) Current street address (if different):

36 (e) If petitioner anticipates the minor moving, or seeks to
37 move the minor, proposed new address:

1 (f) Does the minor 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 (g) Telephone number (optional):

5 (h) Email address (optional):

6 (3) Information about the minor's parent(s).

7 (a) Name(s) of living parent(s):

8 (b) Current street address(es) of living parent(s):

9 (c) Does any parent need an interpreter, translator, or other
10 form of support to communicate with the court or understand court
11 proceedings? If so, please explain:

12

13

14 (4) People who are required to be notified of this petition.
15 State the name and current address of the people listed in
16 Appendix A.

17

18

19 (5) Appointment requested. State the name and address of any
20 proposed guardian and the reason the proposed guardian should be
21 selected.

22

23

24 (6) State why petitioner seeks the appointment. Include a
25 description of the nature and extent of the minor's alleged need.

26

27

28 (7) Property. If the minor has property other than personal
29 effects, state the minor's property with an estimate of its
30 value.

31

32

33 (8) Other proceedings. If there are any other proceedings
34 concerning the care or custody of the minor currently pending in
35 any court in this state or another jurisdiction, please describe
36 them.

37

38

1 (9) Attorney(s). If the minor or the minor's parent is
2 represented by an attorney in this matter, state the name,
3 telephone number, email address, and address of the attorney(s).

4
5

6 SIGNATURE

7
8 Signature of Petitioner Date
9
10 Signature of Petitioner's Attorney if Date
11 Petitioner is Represented by Counsel

12 APPENDIX A:

13 People whose name and address must be listed in subsection
14 (4) of this petition if they are not the petitioner:

15 The minor, if the minor is twelve years of age or older;

16 Each parent of the minor or, if there are none, the adult
17 nearest in kinship that can be found;

18 An adult with whom the minor resides;

19 Each person that had primary care or custody of the minor for
20 at least sixty days during the two years immediately before the
21 filing of the petition or for at least seven hundred thirty days
22 during the five years immediately before the filing of the
23 petition;

24 If the minor is twelve years of age or older, any person
25 nominated as guardian by the minor;

26 Any person nominated as guardian by a parent of the minor;

27 The grandparents of the minor;

28 Adult siblings of the minor; and

29 Any current guardian or conservator for the minor appointed
30 in this state or another jurisdiction.

31 NEW SECTION. **Sec. 603.** PETITION FOR GUARDIANSHIP,
32 CONSERVATORSHIP, OR PROTECTIVE ARRANGEMENT. This form may be used to
33 petition for:

34 Guardianship for an adult;

35 Conservatorship for an adult or minor;

36 A protective arrangement instead of guardianship for an
37 adult; or

1 A protective arrangement instead of conservatorship for an
2 adult or minor.

3 Petition for Guardianship, Conservatorship, or Protective
4 Arrangement

5 State of:

6 County of:

7 Name and address of attorney representing petitioner, if
8 applicable:
9
10

11 Note to petitioner: This form can be used to petition for a
12 guardian, conservator, or both, or for a protective arrangement
13 instead of either a guardianship or conservatorship. This form
14 should not be used to petition for guardianship for a minor.

15 The court may appoint a guardian or order a protective
16 arrangement instead of guardianship for an adult if the adult
17 lacks the ability to meet essential requirements for physical
18 health, safety, or self-care because (1) the adult is unable to
19 receive and evaluate information or make or communicate decisions
20 even with the use of supportive services, technological
21 assistance, and supported decision making, and (2) the adult's
22 identified needs cannot be met by a less restrictive alternative.

23 The court may appoint a conservator or order a protective
24 arrangement instead of conservatorship for an adult if (1) the
25 adult is unable to manage property and financial affairs because
26 of a limitation in the ability to receive and evaluate
27 information or make or communicate decisions even with the use of
28 supportive services, technological assistance, and supported
29 decision making or the adult is missing, detained, or unable to
30 return to the United States, and (2) appointment is necessary to
31 avoid harm to the adult or significant dissipation of the
32 property of the adult, or to obtain or provide funds or other
33 property needed for the support, care, education, health, or
34 welfare of the adult, or of an individual who is entitled to the
35 adult's support, and protection is necessary or desirable to
36 provide funds or other property for that purpose.

37 The court may appoint a conservator or order a protective
38 arrangement instead of conservatorship for a minor if: (1) The
39 minor owns funds or other property requiring management or
40 protection that cannot otherwise be provided; or (2) it would be

1 in the minor's best interests, and the minor has or may have
2 financial affairs that may be put at unreasonable risk or
3 hindered because of the minor's age, or appointment is necessary
4 or desirable to provide funds or other property needed for the
5 support, care, education, health, or welfare of the minor.

6 The court may also order a protective arrangement instead of
7 conservatorship that restricts access to an individual or an
8 individual's property by a person that the court finds: (1)
9 Through fraud, coercion, duress, or the use of deception and
10 control, caused, or attempted to cause, an action that would have
11 resulted in financial harm to the individual or the individual's
12 property; and (2) poses a serious risk of substantial financial
13 harm to the individual or the individual's property.

14 (1) Information about the person filing this petition (the
15 petitioner.)

- 16 (a) Name:
- 17 (b) Principal residence:
- 18 (c) Current street address (if different):
- 19 (d) Relationship to respondent:
- 20 (e) Interest in this petition:
- 21 (f) Telephone number (optional):
- 22 (g) Email address (optional):

23 (2) Information about the individual alleged to need
24 protection (the "respondent"). Provide the following information
25 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 respondent moving, or seeks to
31 move respondent, proposed new address:

32 (f) Does respondent 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
- 36 (g) Telephone number (optional):
- 37 (h) Email address (optional):

38 (3) People who are required to be notified of this petition.
39 State the name and address of the people listed in Appendix A.

40

1
2 (4) Existing agents. State the name and address of any person
3 appointed as an agent under a power of attorney for finances or
4 power of attorney for health care, or who has been appointed as
5 the individual's representative for payment of benefits.

6
7

8 (5) Action requested. State whether petitioner is seeking
9 appointment of a guardian, a conservator, or a protective
10 arrangement instead of an appointment.

11
12

13 (6) Order requested or appointment requested. If seeking a
14 protective arrangement instead of a guardianship or
15 conservatorship, state the transaction or other action you want
16 the court to order. If seeking appointment of a guardian or
17 conservator, state the powers petitioner requests the court grant
18 to a guardian or conservator.

19
20

21 (7) State why the appointment or protective arrangement
22 sought is necessary. Include a description of the nature and
23 extent of respondent's alleged need.

24
25

26 (8) State all less restrictive alternatives to meeting
27 respondent's alleged need that have been considered or
28 implemented. Less restrictive alternatives could include
29 supported decision making, technological assistance, or the
30 appointment of an agent by respondent including appointment under
31 a power of attorney for health care or power of attorney for
32 finances. If no alternative has been considered or implemented,
33 state the reason why not.

34
35

36 (9) Explain why less restrictive alternatives will not meet
37 respondent's alleged need.

38
39

1 (10) Provide a general statement of respondent's property and
2 an estimate of its value. Include any real property such as a
3 house or land, insurance or pension, and the source and amount of
4 any other anticipated income or receipts. As part of this
5 statement, indicate, if known, how the property is titled (for
6 example, is it jointly owned?).

7
8

9 (11) For a petition seeking appointment of a conservator.
10 (Skip this section if not asking for appointment of a
11 conservator.)

12 (a) If seeking appointment of a conservator with all powers
13 permissible under this state's law, explain why appointment of a
14 conservator with fewer powers (i.e., a "limited conservatorship")
15 or other protective arrangement instead of conservatorship will
16 not meet the individual's alleged needs.

17
18

19 (b) If seeking a limited conservatorship, state the property
20 petitioner requests be placed under the conservator's control and
21 any proposed limitation on the conservator's powers and duties.

22
23

24 (c) State the name and address of any proposed conservator
25 and the reason the proposed conservator should be selected.

26
27

28 (d) If respondent is twelve years of age or older, state the
29 name and address of any person respondent nominates as
30 conservator.

31
32

33 (e) If alleging a limitation in respondent's ability to
34 receive and evaluate information, provide a brief description of
35 the nature and extent of respondent's alleged limitation.

36
37

38 (f) If alleging that respondent is missing, detained, or
39 unable to return to the United States, state the relevant
40 circumstances, including the time and nature of the disappearance

1 or detention and a description of any search or inquiry
2 concerning respondent's whereabouts.

3
4

5 (12) For a petition seeking appointment of a guardian. (Skip
6 this section if not asking for appointment of a guardian.)

7 (a) If seeking appointment of a guardian with all powers
8 permissible under this state's law, explain why appointment of a
9 guardian with fewer powers (i.e., a "limited guardianship") or
10 other protective arrangement instead of guardianship will not
11 meet the individual's alleged needs.

12
13

14 (b) If seeking a limited guardianship, state the powers
15 petitioner requests be granted to the guardian.

16
17

18 (c) State the name and address of any proposed guardian and
19 the reason the proposed guardian should be selected.

20
21

22 (d) State the name and address of any person nominated as
23 guardian by respondent, or, in a will or other signed writing or
24 other record, by respondent's parent or spouse or domestic
25 partner.

26
27

28 (13) Attorney. If petitioner, respondent, or, if respondent
29 is a minor, respondent's parent is represented by an attorney in
30 this matter, state the name, telephone number, email address, and
31 address of the attorney(s).

32
33

34 SIGNATURE

35
36 Signature of Petitioner Date

37
38 Signature of Petitioner's Attorney if Date
39 Petitioner is Represented by Counsel

APPENDIX A:

People whose name and address must be listed in subsection (3) of this petition, if they are not the petitioner.

Respondent's spouse or domestic partner, or if respondent has none, any adult with whom respondent has shared household responsibilities in the past six months;

Respondent's adult children, or, if respondent has none, respondent's parents and adult siblings, or if respondent has none, one or more adults nearest in kinship to respondent who can be found with reasonable diligence;

Respondent's adult stepchildren whom respondent actively parented during the stepchildren's minor years and with whom respondent had an ongoing relationship within two years of this petition;

Any person responsible for the care or custody of respondent;

Any attorney currently representing respondent;

Any representative payee for respondent appointed by the social security administration;

Any current guardian or conservator for respondent appointed in this state or another jurisdiction;

Any trustee or custodian of a trust or custodianship of which respondent is a beneficiary;

Any veterans administration fiduciary for respondent;

Any person respondent has designated as agent under a power of attorney for finances;

Any person respondent has designated as agent under a power of attorney for health care;

Any person known to have routinely assisted the individual with decision making in the previous six months;

Any person respondent nominates as guardian or conservator; and

Any person nominated as guardian by respondent's parent or spouse or domestic partner in a will or other signed writing or other record.

NEW SECTION. **Sec. 604.** NOTIFICATION OF RIGHTS FOR ADULT SUBJECT TO GUARDIANSHIP OR CONSERVATORSHIP. This form may be used to notify an adult subject to guardianship or conservatorship of the adult's rights under sections 311 and 412 of this act.

1 **Notification of Rights**

2 You are getting this notice because a guardian, conservator,
3 or both have been appointed for you. It tells you about some
4 important rights you have. It does not tell you about all your
5 rights. If you have questions about your rights, you can ask an
6 attorney or another person, including your guardian or
7 conservator, to help you understand your rights.

8 **General rights:**

9 You have the right to exercise any right the court has not
10 given to your guardian or conservator.

11 You also have the right to ask the court to:

12 End your guardianship, conservatorship, or both;

13 Increase or decrease the powers granted to your guardian,
14 conservator, or both;

15 Make other changes that affect what your guardian or
16 conservator can do or how they do it; and

17 Replace the person that was appointed with someone else.

18 You also have a right to hire an attorney to help you do any
19 of these things.

20 **Additional rights for persons for whom a guardian has been**
21 **appointed:**

22 As an adult subject to guardianship, you have a right to:

23 (1) Be involved in decisions affecting you, including
24 decisions about your care, where you live, your activities, and
25 your social interactions, to the extent reasonably feasible;

26 (2) Be involved in decisions about your health care to the
27 extent reasonably feasible, and to have other people help you
28 understand the risks and benefits of health care options;

29 (3) Be notified at least fourteen days in advance of a change
30 in where you live or a permanent move to a nursing home, mental
31 health facility, or other facility that places restrictions on
32 your ability to leave or have visitors, unless the guardian has
33 proposed this change in the guardian's plan or the court has
34 expressly authorized it;

35 (4) Ask the court to prevent your guardian from changing
36 where you live or selling or surrendering your primary dwelling
37 by following the appropriate process for objecting to such a move
38 in compliance with section 314(5) of this act;

1 (5) Vote and get married unless the court order appointing
2 your guardian states that you cannot do so;

3 (6) Receive a copy of your guardian's report and your
4 guardian's plan; and

5 (7) Communicate, visit, or interact with other people (this
6 includes the right to have visitors, to make and receive
7 telephone calls, personal mail, or electronic communications)
8 unless:

9 (a) Your guardian has been authorized by the court by
10 specific order to restrict these communications, visits, or
11 interactions;

12 (b) A protective order is in effect that limits contact
13 between you and other people; or

14 (c) Your guardian has good cause to believe the restriction
15 is needed to protect you from significant physical,
16 psychological, or financial harm and the restriction is for not
17 more than seven business days if the person has a family or
18 preexisting social relationship with you or not more than sixty
19 days if the person does not have that kind of relationship with
20 you.

21 **Additional rights for persons for whom a conservator has been**
22 **appointed:**

23 As an adult subject to conservatorship, you have a right to:

24 Participate in decisions about how your property is managed
25 to the extent feasible; and

26 Receive a copy of your conservator's inventory, report, and
27 plan.

28 NEW SECTION. **Sec. 605.** LETTERS OF OFFICE. All letters of
29 guardianship/conservatorship must be in the following form or a
30 substantially similar form:

31 IN THE SUPERIOR COURT OF THE
32 STATE OF WASHINGTON IN AND FOR THE
33 COUNTY OF

34 IN THE MATTER OF THE Cause No.
35 GUARDIANSHIP/
36 CONSERVATORSHIP OF
37

1
2 LETTERS OF
3 GUARDIANSHIP/CONSERVATORSHIP
4

5 Date letters expire

6 THESE LETTERS OF GUARDIANSHIP/CONSERVATORSHIP PROVIDE OFFICIAL VERIFICATION OF THE
7 FOLLOWING:
8

9 On the day of, (year) the Court appointed to serve as:

- 10
11 Guardian of the Person Full Limited
12 Conservator of the Estate Full Limited
13

14 for, in the above referenced matter.
15

16 The Guardian/Conservator has fulfilled all legal requirements to serve including, but not limited to: Taking and filing
17 the oath; filing any bond consistent with the court's order; filing any blocked account agreement consistent with the court's
18 order; and appointing a resident agent for a nonresident guardian.
19

20 The Court, having found the Guardian/Conservator duly qualified, now makes it known is authorized as the
21 Guardian for designated in the Court's order as referenced above.
22

23 The next filing and reporting deadline in this matter is on the ... day of,

24 THESE LETTERS ARE NO LONGER VALID ON

25 These letters can only be renewed by a new court order. If the court grants an extension, new letters will be issued.

26 This matter is before the Honorable of Superior Court, the seal of the Court being affixed
27 this day of

28
29 State of Washington)

30) ss.

31 County of)
32

1 I,, Clerk of the Superior Court of said County and State, certify that this document represents true and correct
2 Letters of Guardianship/Conservatorship in the above entitled case, entered upon the record on this day
3 of,

4
5 These letters remain in full force and effect until the date of expiration set forth above.

6 The seal of Superior Court has been affixed and witnessed by my hand this day of,

7
8
9, Clerk of Superior Court

10
11 By, Deputy

12
13

14 (Signature of Deputy)

15 NEW SECTION. **Sec. 606.** GUARDIANSHIP/CONSERVATORSHIP SUMMARY.
16 The guardianship/conservatorship summary shall be in or substantially
17 similar form:

18 **GUARDIANSHIP/CONSERVATORSHIP SUMMARY**

19 Date Guardian/
20 Conservator Appointed:
21 Due Date for Report and
22 Accounting:
23 Date of Next Review:
24 Letters Expire On:
25 Bond Amount: \$.
26 Restricted Account
27 Agreements Required:
28 Due Date for Inventory, if
29 applicable:
30 Due Date for Guardian's
31 Plan, if applicable:
32

Person subject to Guardian/Conservator
 guardianship/
 conservatorship

Name:	Name:
Address:	Address:
Phone:	Phone:
Facsimile:	Facsimile:

Interested Parties	Address	Relation

ARTICLE 7
MISCELLANEOUS PROVISIONS

NEW SECTION. **Sec. 701.** REPEALS. The following acts or parts of acts are each repealed:

(1) RCW 11.88.005 (Legislative intent) and 1990 c 122 s 1, 1977 ex.s. c 309 s 1, & 1975 1st ex.s. c 95 s 1;

(2) RCW 11.88.008 ("Professional guardian" defined) and 1997 c 312 s 2;

(3) RCW 11.88.010 (Authority to appoint guardians—Definitions—Venue—Nomination by principal) and 2016 c 209 s 403, 2008 c 6 s 802, 2005 c 236 s 3, (2005 c 236 s 2 expired January 1, 2006), 2004 c 267 s 139, 1991 c 289 s 1, 1990 c 122 s 2, 1984 c 149 s 176, 1977 ex.s. c 309 s 2, 1975 1st ex.s. c 95 s 2, & 1965 c 145 s 11.88.010;

(4) RCW 11.88.020 (Qualifications) and 2011 c 329 s 1, 1997 c 312 s 1, 1990 c 122 s 3, 1975 1st ex.s. c 95 s 3, 1971 c 28 s 4, & 1965 c 145 s 11.88.020;

(5) RCW 11.88.030 (Petition—Contents—Hearing) and 2011 c 329 s 2, 2009 c 521 s 36, 1996 c 249 s 8, 1995 c 297 s 1, 1991 c 289 s 2, 1990 c 122 s 4, 1977 ex.s. c 309 s 3, 1975 1st ex.s. c 95 s 4, & 1965 c 145 s 11.88.030;

1 (6) RCW 11.88.040 (Notice and hearing, when required—Service—
2 Procedure) and 2008 c 6 s 803, 1995 c 297 s 2, 1991 c 289 s 3, 1990 c
3 122 s 5, 1984 c 149 s 177, 1977 ex.s. c 309 s 4, 1975 1st ex.s. c 95
4 s 5, 1969 c 70 s 1, & 1965 c 145 s 11.88.040;

5 (7) RCW 11.88.045 (Legal counsel and jury trial—Proof—Medical
6 report—Examinations—Waiver) and 2001 c 148 s 1, 1996 c 249 s 9, 1995
7 c 297 s 3, 1991 c 289 s 4, 1990 c 122 s 6, 1977 ex.s. c 309 s 5, &
8 1975 1st ex.s. c 95 s 7;

9 (8) RCW 11.88.080 (Guardians nominated by will or durable power
10 of attorney) and 2016 c 209 s 401, 2005 c 97 s 11, 1990 c 122 s 7, &
11 1965 c 145 s 11.88.080;

12 (9) RCW 11.88.090 (Guardian ad litem—Mediation—Appointment—
13 Qualifications—Notice of and statement by guardian ad litem—Hearing
14 and notice—Attorneys' fees and costs—Registry—Duties—Report—
15 Responses—Fee) and 2008 c 6 s 804, 2000 c 124 s 1, 1999 c 360 s 1,
16 1996 c 249 s 10, 1995 c 297 s 4, 1991 c 289 s 5, 1990 c 122 s 8, 1977
17 ex.s. c 309 s 6, 1975 1st ex.s. c 95 s 9, & 1965 c 145 s 11.88.090;

18 (10) RCW 11.88.093 (Ex parte communications—Removal) and 2000 c
19 124 s 10;

20 (11) RCW 11.88.095 (Disposition of guardianship petition) and
21 2011 c 329 s 4, 1995 c 297 s 5, 1991 c 289 s 6, & 1990 c 122 s 9;

22 (12) RCW 11.88.097 (Guardian ad litem—Fees) and 2000 c 124 s 13;

23 (13) RCW 11.88.100 (Oath and bond of guardian or limited
24 guardian) and 2010 c 8 s 2088, 1990 c 122 s 10, 1983 c 271 s 1, 1977
25 ex.s. c 309 s 7, 1975 1st ex.s. c 95 s 10, & 1965 c 145 s 11.88.100;

26 (14) RCW 11.88.105 (Reduction in amount of bond) and 1990 c 122 s
27 11, 1975 1st ex.s. c 95 s 11, & 1965 c 145 s 11.88.105;

28 (15) RCW 11.88.107 (When bond not required) and 1990 c 122 s 12,
29 1977 ex.s. c 309 s 8, 1975 1st ex.s. c 95 s 12, & 1965 c 145 s
30 11.88.107;

31 (16) RCW 11.88.110 (Law on executors' and administrators' bonds
32 applicable) and 1975 1st ex.s. c 95 s 13 & 1965 c 145 s 11.88.110;

33 (17) RCW 11.88.120 (Modification or termination of guardianship—
34 Procedure) and 2017 c 271 s 2, 2015 c 293 s 1, 1991 c 289 s 7, 1990 c
35 122 s 14, 1977 ex.s. c 309 s 9, 1975 1st ex.s. c 95 s 14, & 1965 c
36 145 s 11.88.120;

37 (18) RCW 11.88.125 (Standby limited guardian or limited guardian)
38 and 2013 c 304 s 1, 2011 c 329 s 5, 2008 c 6 s 805, 1991 c 289 s 8,

1 1990 c 122 s 15, 1979 c 32 s 1, 1977 ex.s. c 309 s 10, & 1975 1st
2 ex.s. c 95 s 6;

3 (19) RCW 11.88.127 (Guardianship—Incapacitated person—Letters of
4 guardianship) and 2011 c 329 s 6;

5 (20) RCW 11.88.130 (Transfer of jurisdiction and venue) and 1990
6 c 122 s 16, 1975 1st ex.s. c 95 s 15, & 1965 c 145 s 11.88.130;

7 (21) RCW 11.88.140 (Termination of guardianship or limited
8 guardianship) and 2016 c 202 s 9, 2011 c 329 s 7, 1991 c 289 s 9,
9 1990 c 122 s 17, 1977 ex.s. c 309 s 11, 1975 1st ex.s. c 95 s 16, &
10 1965 c 145 s 11.88.140;

11 (22) RCW 11.88.150 (Administration of deceased incapacitated
12 person's estate) and 2010 c 8 s 2089, 1990 c 122 s 18, 1977 ex.s. c
13 309 s 12, 1975 1st ex.s. c 95 s 17, & 1965 c 145 s 11.88.150;

14 (23) RCW 11.88.160 (Guardianships involving veterans) and 1990 c
15 122 s 13;

16 (24) RCW 11.88.170 (Guardianship courthouse facilitator program)
17 and 2015 c 295 s 1;

18 (25) RCW 11.88.900 (Construction—Chapter applicable to state
19 registered domestic partnerships—2009 c 521) and 2009 c 521 s 35;

20 (26) RCW 11.92.010 (Guardians or limited guardians under court
21 control—Legal age) and 1975 1st ex.s. c 95 s 18, 1971 c 28 s 5, &
22 1965 c 145 s 11.92.010;

23 (27) RCW 11.92.035 (Claims) and 1990 c 122 s 19, 1975 1st ex.s. c
24 95 s 19, & 1965 c 145 s 11.92.035;

25 (28) RCW 11.92.040 (Duties of guardian or limited guardian in
26 general) and 2011 c 329 s 9, 1991 c 289 s 10, 1990 c 122 s 20, & 1985
27 c 30 s 9;

28 (29) RCW 11.92.043 (Additional duties) and 2017 c 268 s 3, 2011 c
29 329 s 3, 1991 c 289 s 11, & 1990 c 122 s 21;

30 (30) RCW 11.92.050 (Intermediate accounts or reports—Hearing—
31 Order) and 2011 c 329 s 10, 1995 c 297 s 6, 1990 c 122 s 23, 1975 1st
32 ex.s. c 95 s 21, & 1965 c 145 s 11.92.050;

33 (31) RCW 11.92.053 (Settlement of estate upon termination) and
34 2011 c 329 s 8, 1995 c 297 s 7, 1990 c 122 s 24, & 1965 c 145 s
35 11.92.053;

36 (32) RCW 11.92.056 (Citation of surety on bond) and 1990 c 122 s
37 25, 1975 1st ex.s. c 95 s 22, & 1965 c 145 s 11.92.056;

1 (33) RCW 11.92.060 (Guardian to represent incapacitated person—
2 Compromise of claims—Service of process) and 1990 c 122 s 26, 1975
3 1st ex.s. c 95 s 23, & 1965 c 145 s 11.92.060;

4 (34) RCW 11.92.090 (Sale, exchange, lease, or mortgage of
5 property) and 1990 c 122 s 27, 1975 1st ex.s. c 95 s 24, & 1965 c 145
6 s 11.92.090;

7 (35) RCW 11.92.096 (Guardian access to certain held assets) and
8 1991 c 289 s 13;

9 (36) RCW 11.92.100 (Petition—Contents) and 1990 c 122 s 28, 1975
10 1st ex.s. c 95 s 25, & 1965 c 145 s 11.92.100;

11 (37) RCW 11.92.110 (Sale of real estate) and 1990 c 122 s 29,
12 1975 1st ex.s. c 95 s 26, & 1965 c 145 s 11.92.110;

13 (38) RCW 11.92.115 (Return and confirmation of sale) and 2010 c 8
14 s 2090, 1990 c 122 s 30, 1975 1st ex.s. c 95 s 27, & 1965 c 145 s
15 11.92.115;

16 (39) RCW 11.92.120 (Confirmation conclusive) and 1975 1st ex.s. c
17 95 s 28 & 1965 c 145 s 11.92.120;

18 (40) RCW 11.92.125 (Broker's fee and closing expenses—Sale,
19 exchange, mortgage, or lease of real estate) and 1977 ex.s. c 309 s
20 15 & 1965 c 145 s 11.92.125;

21 (41) RCW 11.92.130 (Performance of contracts) and 1990 c 122 s
22 31, 1975 1st ex.s. c 95 s 29, & 1965 c 145 s 11.92.130;

23 (42) RCW 11.92.140 (Court authorization for actions regarding
24 guardianship funds) and 2008 c 6 s 807, 1999 c 42 s 616, 1991 c 193 s
25 32, 1990 c 122 s 32, & 1985 c 30 s 10;

26 (43) RCW 11.92.150 (Request for special notice of proceedings)
27 and 1990 c 122 s 33 & 1985 c 30 s 11;

28 (44) RCW 11.92.160 (Citation for failure to file account or
29 report) and 1990 c 122 s 34, 1975 1st ex.s. c 95 s 31, & 1965 c 145 s
30 11.92.160;

31 (45) RCW 11.92.170 (Removal of property of nonresident
32 incapacitated person) and 1990 c 122 s 35, 1977 ex.s. c 309 s 16,
33 1975 1st ex.s. c 95 s 32, & 1965 c 145 s 11.92.170;

34 (46) RCW 11.92.180 (Compensation and expenses of guardian or
35 limited guardian—Attorney's fees—Department of social and health
36 services clients paying part of costs—Rules) and 1995 c 297 s 8, 1994
37 c 68 s 1, 1991 c 289 s 12, 1990 c 122 s 36, 1975 1st ex.s. c 95 s 33,
38 & 1965 c 145 s 11.92.180;

1 (47) RCW 11.92.185 (Concealed or embezzled property) and 1990 c
2 122 s 37, 1975 1st ex.s. c 95 s 34, & 1965 c 145 s 11.92.185;

3 (48) RCW 11.92.190 (Detention of person in residential placement
4 facility against will prohibited—Effect of court order—Service of
5 notice of residential placement) and 2016 sp.s. c 29 s 412, 1996 c
6 249 s 11, & 1977 ex.s. c 309 s 14; and

7 (49) RCW 11.92.195 (Incapacitated persons—Right to associate with
8 persons of their choosing) and 2017 c 268 s 1.

9 NEW SECTION. **Sec. 702.** UNIFORMITY OF APPLICATION AND
10 CONSTRUCTION. In applying and construing this uniform act,
11 consideration must be given to the need to promote uniformity of the
12 law with respect to its subject matter among states that enact it.

13 NEW SECTION. **Sec. 703.** RELATION TO ELECTRONIC SIGNATURES IN
14 GLOBAL AND NATIONAL COMMERCE ACT. This act modifies, limits, or
15 supersedes the electronic signatures in global and national commerce
16 act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or
17 supersede section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or
18 authorize electronic delivery of any of the notices described in
19 section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

20 NEW SECTION. **Sec. 704.** APPLICABILITY. This chapter applies to:

21 (1) A proceeding for appointment of a guardian or conservator or
22 for a protective arrangement instead of guardianship or
23 conservatorship commenced after the effective date of this section;
24 and

25 (2) A guardianship, conservatorship, or protective arrangement
26 instead of a guardianship or conservatorship in existence on the
27 effective date of this section unless the court finds application of
28 a particular provision of this act would substantially interfere with
29 the effective conduct of the proceeding or prejudice the rights of a
30 party, in which case the particular provision of this act does not
31 apply and the superseded law applies.

32 NEW SECTION. **Sec. 705.** SEVERABILITY. If any provision of this
33 act or its application to any person or circumstance is held invalid,
34 the remainder of the act or the application of the provision to other
35 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 706.** Sections 101 through 606, 702 through
2 704, and 707 of this act constitute a new chapter in Title 11 RCW.

3 NEW SECTION. **Sec. 707.** EFFECTIVE DATE. This act takes effect
4 January 1, 2020.

--- END ---