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**SUBSTITUTE HOUSE BILL 1053**

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**State of Washington**

**62nd Legislature**

**2011 Regular Session**

**By** House Judiciary (originally sponsored by Representatives Moeller, Kenney, Ladenburg, Appleton, Roberts, Darneille, and Upthegrove; by request of Washington State Bar Association)

READ FIRST TIME 02/01/11.

1       AN ACT Relating to the implementation of recommendations from the  
2 Washington state bar association elder law section's executive  
3 committee report of the guardianship task force; amending RCW  
4 11.88.020, 11.88.030, 11.92.043, 11.88.095, 11.88.125, 11.88.140,  
5 11.92.053, 11.92.040, 11.92.050, and 36.18.016; and adding a new  
6 section to chapter 11.88 RCW.

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

8       **Sec. 1.** RCW 11.88.020 and 1997 c 312 s 1 are each amended to read  
9 as follows:

10       (1) Any suitable person over the age of eighteen years, or any  
11 parent under the age of eighteen years or, if the petition is for  
12 appointment of a professional guardian, any individual or guardianship  
13 service that meets any certification requirements established by the  
14 administrator for the courts, may, if not otherwise disqualified, be  
15 appointed guardian or limited guardian of the person and/or the estate  
16 of an incapacitated person. A financial institution subject to the  
17 jurisdiction of the department of financial institutions and authorized  
18 to exercise trust powers, and a federally chartered financial  
19 institution when authorized to do so, may act as a guardian of the

1 estate of an incapacitated person without having to meet the  
2 certification requirements established by the administrator for the  
3 courts. No person is qualified to serve as a guardian who is

4 (a) under eighteen years of age except as otherwise provided  
5 herein;

6 (b) of unsound mind;

7 (c) convicted of a felony or of a misdemeanor involving moral  
8 turpitude;

9 (d) a nonresident of this state who has not appointed a resident  
10 agent to accept service of process in all actions or proceedings with  
11 respect to the estate and caused such appointment to be filed with the  
12 court;

13 (e) a corporation not authorized to act as a fiduciary, guardian,  
14 or limited guardian in the state;

15 (f) a person whom the court finds unsuitable.

16 (2) The professional guardian certification requirements required  
17 under this section shall not apply to a testamentary guardian appointed  
18 under RCW 11.88.080.

19 (3) If a guardian or limited guardian is not a certified  
20 professional guardian or financial institution authorized under this  
21 section, the guardian or limited guardian shall complete any  
22 standardized training for lay guardians made available by the  
23 administrative office of the courts and the superior court where the  
24 petition is filed unless granted a waiver by the court under RCW  
25 11.92.043.

26 (a) If a petitioner requests the appointment of a specific  
27 individual to act as a guardian or limited guardian, the petition for  
28 guardianship or limited guardianship shall include evidence of the  
29 successful completion of the required training by the proposed guardian  
30 or limited guardian. The superior court may defer the completion of  
31 the training requirement to a date no later than ninety days after  
32 appointment if the petitioner requests expedited appointment due to  
33 emergent circumstances.

34 (b) If no person is identified to be appointed guardian or limited  
35 guardian at the time the petition is filed, then the court shall  
36 require the completion of the required training by a date no later than  
37 ninety days after the appointment.

1       **Sec. 2.** RCW 11.88.030 and 2009 c 521 s 36 are each amended to read  
2 as follows:

3       (1) Any person or entity may petition for the appointment of a  
4 qualified person, (~~(trust company, national bank, or nonprofit~~  
5 ~~corporation)) certified professional guardian, or financial institution  
6 authorized in RCW 11.88.020 as the guardian or limited guardian of an  
7 incapacitated person. No liability for filing a petition for  
8 guardianship or limited guardianship shall attach to a petitioner  
9 acting in good faith and upon reasonable basis. A petition for  
10 guardianship or limited guardianship shall state:~~

11       (a) The name, age, residence, and post office address of the  
12 alleged incapacitated person;

13       (b) The nature of the alleged incapacity in accordance with RCW  
14 11.88.010;

15       (c) The approximate value and description of property, including  
16 any compensation, pension, insurance, or allowance, to which the  
17 alleged incapacitated person may be entitled;

18       (d) Whether there is, in any state, a guardian or limited guardian,  
19 or pending guardianship action for the person or estate of the alleged  
20 incapacitated person;

21       (e) The residence and post office address of the person whom  
22 petitioner asks to be appointed guardian or limited guardian;

23       (f) The names and addresses, and nature of the relationship, so far  
24 as known or can be reasonably ascertained, of the persons most closely  
25 related by blood, marriage, or state registered domestic partnership to  
26 the alleged incapacitated person;

27       (g) The name and address of the person or facility having the care  
28 and custody of the alleged incapacitated person;

29       (h) The reason why the appointment of a guardian or limited  
30 guardian is sought and the interest of the petitioner in the  
31 appointment, and whether the appointment is sought as guardian or  
32 limited guardian of the person, the estate, or both;

33       (i) A description of any alternate arrangements previously made by  
34 the alleged incapacitated person, such as trusts or powers of attorney,  
35 including identifying any guardianship nominations contained in a power  
36 of attorney, and why a guardianship is nevertheless necessary;

37       (j) The nature and degree of the alleged incapacity and the

1 specific areas of protection and assistance requested and the  
2 limitation of rights requested to be included in the court's order of  
3 appointment;

4 (k) The requested term of the limited guardianship to be included  
5 in the court's order of appointment; and

6 (l) Whether the petitioner is proposing a specific individual to  
7 act as guardian ad litem and, if so, the individual's knowledge of or  
8 relationship to any of the parties, and why the individual is proposed.  
9 The petition shall include evidence of successful completion of any  
10 training required under RCW 11.88.020 by the proposed guardian or  
11 limited guardian unless the petitioner requests expedited appointment  
12 due to emergent circumstances.

13 (2)(a) The attorney general may petition for the appointment of a  
14 guardian or limited guardian in any case in which there is cause to  
15 believe that a guardianship is necessary and no private party is able  
16 and willing to petition.

17 (b) Prepayment of a filing fee shall not be required in any  
18 guardianship or limited guardianship brought by the attorney general.  
19 Payment of the filing fee shall be ordered from the estate of the  
20 incapacitated person at the hearing on the merits of the petition,  
21 unless in the judgment of the court, such payment would impose a  
22 hardship upon the incapacitated person, in which case the filing shall  
23 be waived.

24 (3) No filing fee shall be charged by the court for filing either  
25 a petition for guardianship or a petition for limited guardianship if  
26 the petition alleges that the alleged incapacitated person has total  
27 assets of a value of less than three thousand dollars.

28 (4)(a) Notice that a guardianship proceeding has been commenced  
29 shall be personally served upon the alleged incapacitated person and  
30 the guardian ad litem along with a copy of the petition for appointment  
31 of a guardian. Such notice shall be served not more than five court  
32 days after the petition has been filed.

33 (b) Notice under this subsection shall include a clear and easily  
34 readable statement of the legal rights of the alleged incapacitated  
35 person that could be restricted or transferred to a guardian by a  
36 guardianship order as well as the right to counsel of choice and to a  
37 jury trial on the issue of incapacity. Such notice shall be in

1 substantially the following form and shall be in capital letters,  
2 double-spaced, and in a type size not smaller than ten-point type:

3                   IMPORTANT NOTICE                   PLEASE READ CAREFULLY

4 A PETITION TO HAVE A GUARDIAN APPOINTED FOR YOU HAS BEEN FILED IN THE  
5 . . . . . COUNTY SUPERIOR COURT BY . . . . . IF A GUARDIAN IS  
6 APPOINTED, YOU COULD LOSE ONE OR MORE OF THE FOLLOWING RIGHTS:

- 7       (1) TO MARRY, DIVORCE, OR ENTER INTO OR END A STATE REGISTERED
- 8 DOMESTIC PARTNERSHIP;
- 9       (2) TO VOTE OR HOLD AN ELECTED OFFICE;
- 10       (3) TO ENTER INTO A CONTRACT OR MAKE OR REVOKE A WILL;
- 11       (4) TO APPOINT SOMEONE TO ACT ON YOUR BEHALF;
- 12       (5) TO SUE AND BE SUED OTHER THAN THROUGH A GUARDIAN;
- 13       (6) TO POSSESS A LICENSE TO DRIVE;
- 14       (7) TO BUY, SELL, OWN, MORTGAGE, OR LEASE PROPERTY;
- 15       (8) TO CONSENT TO OR REFUSE MEDICAL TREATMENT;
- 16       (9) TO DECIDE WHO SHALL PROVIDE CARE AND ASSISTANCE;
- 17       (10) TO MAKE DECISIONS REGARDING SOCIAL ASPECTS OF YOUR LIFE.

18 UNDER THE LAW, YOU HAVE CERTAIN RIGHTS.

19 YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER OF YOUR OWN CHOOSING.  
20 THE COURT WILL APPOINT A LAWYER TO REPRESENT YOU IF YOU ARE UNABLE TO  
21 PAY OR PAYMENT WOULD RESULT IN A SUBSTANTIAL HARDSHIP TO YOU.

22 YOU HAVE THE RIGHT TO ASK FOR A JURY TO DECIDE WHETHER OR NOT YOU NEED  
23 A GUARDIAN TO HELP YOU.

24 YOU HAVE THE RIGHT TO BE PRESENT IN COURT AND TESTIFY WHEN THE HEARING  
25 IS HELD TO DECIDE WHETHER OR NOT YOU NEED A GUARDIAN. IF A GUARDIAN AD  
26 LITEM IS APPOINTED, YOU HAVE THE RIGHT TO REQUEST THE COURT TO REPLACE  
27 THAT PERSON.

28       (5) All petitions filed under the provisions of this section shall  
29 be heard within sixty days unless an extension of time is requested by  
30 a party or the guardian ad litem within such sixty day period and  
31 granted for good cause shown. If an extension is granted, the court  
32 shall set a new hearing date.

33       **Sec. 3.** RCW 11.92.043 and 1991 c 289 s 11 are each amended to read  
34 as follows:

1 It shall be the duty of the guardian or limited guardian of the  
2 person:

3 (1) To file within three months after appointment a personal care  
4 plan for the incapacitated person which shall include (a) an assessment  
5 of the incapacitated person's physical, mental, and emotional needs and  
6 of such person's ability to perform or assist in activities of daily  
7 living, and (b) the guardian's specific plan for meeting the identified  
8 and emerging personal care needs of the incapacitated person.

9 (2) To file annually or, where a guardian of the estate has been  
10 appointed, at the time an account is required to be filed under RCW  
11 11.92.040, a report on the status of the incapacitated person, which  
12 shall include:

13 (a) The address and name of the incapacitated person and all  
14 residential changes during the period;

15 (b) The services or programs which the incapacitated person  
16 receives;

17 (c) The medical status of the incapacitated person;

18 (d) The mental status of the incapacitated person;

19 (e) Changes in the functional abilities of the incapacitated  
20 person;

21 (f) Activities of the guardian for the period;

22 (g) Any recommended changes in the scope of the authority of the  
23 guardian;

24 (h) The identity of any professionals who have assisted the  
25 incapacitated person during the period;

26 (i)(i) Evidence of the guardian or limited guardian's successful  
27 completion of any standardized training for guardians or limited  
28 guardians made available by the administrative office of the courts and  
29 the superior court when the guardian or limited guardian: (A) Was  
30 appointed prior to the effective date of this section; (B) is not a  
31 certified professional guardian or financial institution authorized  
32 under RCW 11.88.020; and (C) has not previously completed the  
33 requirements of RCW 11.88.020(3).

34 (ii) The superior court may waive this requirement for good cause  
35 or extend the time period for completion of the training requirement  
36 for ninety days upon petition by the guardian or limited guardian; and

37 (j) Evidence of the guardian or limited guardian's successful  
38 completion of any additional or updated training offered by the

1 administrative office of the courts and the superior court as is  
2 required at the discretion of the superior court unless the guardian or  
3 limited guardian is a certified professional guardian or financial  
4 institution authorized under RCW 11.88.020.

5 (3) To report to the court within thirty days any substantial  
6 change in the incapacitated person's condition, or any changes in  
7 residence of the incapacitated person.

8 (4) Consistent with the powers granted by the court, to care for  
9 and maintain the incapacitated person in the setting least restrictive  
10 to the incapacitated person's freedom and appropriate to the  
11 incapacitated person's personal care needs, assert the incapacitated  
12 person's rights and best interests, and if the incapacitated person is  
13 a minor or where otherwise appropriate, to see that the incapacitated  
14 person receives appropriate training and education and that the  
15 incapacitated person has the opportunity to learn a trade, occupation,  
16 or profession.

17 (5) Consistent with RCW 7.70.065, to provide timely, informed  
18 consent for health care of the incapacitated person, except in the case  
19 of a limited guardian where such power is not expressly provided for in  
20 the order of appointment or subsequent modifying order as provided in  
21 RCW 11.88.125 as now or hereafter amended, the standby guardian or  
22 standby limited guardian may provide timely, informed consent to  
23 necessary medical procedures if the guardian or limited guardian cannot  
24 be located within four hours after the need for such consent arises.  
25 No guardian, limited guardian, or standby guardian may involuntarily  
26 commit for mental health treatment, observation, or evaluation an  
27 alleged incapacitated person who is unable or unwilling to give  
28 informed consent to such commitment unless the procedures for  
29 involuntary commitment set forth in chapter 71.05 or 72.23 RCW are  
30 followed. Nothing in this section shall be construed to allow a  
31 guardian, limited guardian, or standby guardian to consent to:

- 32 (a) Therapy or other procedure which induces convulsion;
- 33 (b) Surgery solely for the purpose of psychosurgery;
- 34 (c) Other psychiatric or mental health procedures that restrict  
35 physical freedom of movement, or the rights set forth in RCW  
36 (~~71.05.370~~) 71.05.217.

37 A guardian, limited guardian, or standby guardian who believes  
38 these procedures are necessary for the proper care and maintenance of

1 the incapacitated person shall petition the court for an order unless  
2 the court has previously approved the procedure within the past thirty  
3 days. The court may order the procedure only after an attorney is  
4 appointed in accordance with RCW 11.88.045 if no attorney has  
5 previously appeared, notice is given, and a hearing is held in  
6 accordance with RCW 11.88.040.

7 **Sec. 4.** RCW 11.88.095 and 1995 c 297 s 5 are each amended to read  
8 as follows:

9 (1) In determining the disposition of a petition for guardianship,  
10 the court's order shall be based upon findings as to the capacities,  
11 condition, and needs of the alleged incapacitated person, and shall not  
12 be based solely upon agreements made by the parties.

13 (2) Every order appointing a full or limited guardian of the person  
14 or estate shall include:

15 (a) Findings as to the capacities, condition, and needs of the  
16 alleged incapacitated person;

17 (b) The amount of the bond, if any, or a bond review period;

18 (c) ~~((When the next report of the guardian is due;~~

19 ~~(+))~~ The date the account or report shall be filed. The date of  
20 filing an account or report shall be within ninety days after the  
21 anniversary date of the appointment;

22 (d) A date for the court to review the account or report and enter  
23 its order. The court shall conduct the review within one hundred  
24 twenty days after the anniversary date of the appointment and follow  
25 the provisions of RCW 11.92.050;

26 (e) A directive to the clerk of court to issue letters of  
27 guardianship that expire thirty days after the date specified under (d)  
28 of this subsection for the review, unless an earlier date is ordered;

29 (f) Whether the guardian ad litem shall continue acting as guardian  
30 ad litem;

31 ~~((+e))~~ (g) Whether a review hearing shall be required upon the  
32 filing of the inventory;

33 ~~((+f))~~ (h) Whether a review hearing is required upon filing the  
34 initial personal care plan;

35 (i) The authority of the guardian, if any, for investment and  
36 expenditure of the ward's estate; ~~((and~~





	<u>Interested Parties</u>	<u>Address</u>	<u>Relation to IP</u>
1			
2			
3			
4			
5			
6			

7 (3) If the court determines that a limited guardian should be  
 8 appointed, the order shall specifically set forth the limits by either  
 9 stating exceptions to the otherwise full authority of the guardian or  
 10 by stating the specific authority of the guardian.

11 (4) In determining the disposition of a petition for appointment of  
 12 a guardian or limited guardian of the estate only, the court shall  
 13 consider whether the alleged incapacitated person is capable of giving  
 14 informed medical consent or of making other personal decisions and, if  
 15 not, whether a guardian or limited guardian of the person of the  
 16 alleged incapacitated person should be appointed for that purpose.

17 (5) Unless otherwise ordered, any powers of attorney or durable  
 18 powers of attorney shall be revoked upon appointment of a guardian or  
 19 limited guardian of the estate.

20 If there is an existing medical power of attorney, the court must  
 21 make a specific finding of fact regarding the continued validity of  
 22 that medical power of attorney before appointing a guardian or limited  
 23 guardian for the person.

24 **Sec. 5.** RCW 11.88.125 and 2008 c 6 s 805 are each amended to read  
 25 as follows:

26 (1) The person appointed by the court as either guardian or limited  
 27 guardian of the person and/or estate of an incapacitated person((7))  
 28 shall file in writing with the court, within ninety days from the date  
 29 of appointment, a notice designating a standby limited guardian or  
 30 guardian to serve as limited guardian or guardian at the death or legal  
 31 incapacity of the court-appointed guardian or limited guardian. The  
 32 notice shall state the name, address, zip code, and telephone number of  
 33 the designated standby or limited guardian. Notice of the guardian's  
 34 designation of the standby guardian shall be given to the standby

1 guardian, the incapacitated person and his or her spouse or domestic  
2 partner and adult children, any facility in which the incapacitated  
3 person resides, and any person entitled to special notice under RCW  
4 11.92.150 or any person entitled to receive pleadings pursuant to RCW  
5 11.88.095(2)((~~g~~)) (j). Such standby guardian or limited guardian  
6 shall have all the powers, duties, and obligations of the regularly  
7 appointed guardian or limited guardian and in addition shall, within a  
8 period of thirty days from the death or adjudication of incapacity of  
9 the regularly appointed guardian or limited guardian, file with the  
10 superior court in the county in which the guardianship or limited  
11 guardianship is then being administered, a petition for appointment of  
12 a substitute guardian or limited guardian. Upon the court's  
13 appointment of a new, substitute guardian or limited guardian, the  
14 standby guardian or limited guardian shall make an accounting and  
15 report to be approved by the court, and upon approval of the court, the  
16 standby guardian or limited guardian shall be released from all duties  
17 and obligations arising from or out of the guardianship or limited  
18 guardianship.

19 (2) Letters of guardianship shall be issued to the standby guardian  
20 or limited guardian upon filing an oath and posting a bond as required  
21 by RCW 11.88.100 as now or hereafter amended. The oath may be filed  
22 prior to the appointed guardian or limited guardian's death. Notice of  
23 such appointment shall be provided to the standby guardian, the  
24 incapacitated person, and any facility in which the incapacitated  
25 person resides. The provisions of RCW 11.88.100 through 11.88.110 as  
26 now or hereafter amended shall apply to standby guardians and limited  
27 guardians.

28 (3) In addition to the powers of a standby limited guardian or  
29 guardian as noted in subsection (1) of this section, the standby  
30 limited guardian or guardian shall have the authority to provide  
31 timely, informed consent to necessary medical procedures, as authorized  
32 in RCW 11.92.040 as now or hereafter amended, if the guardian or  
33 limited guardian cannot be located within four hours after the need for  
34 such consent arises.

35 NEW SECTION. **Sec. 6.** A new section is added to chapter 11.88 RCW  
36 to read as follows:

37 A guardian or limited guardian may not act on behalf of the

1 incapacitated person without valid letters of guardianship. Upon  
2 appointment and fulfilling all legal requirements to serve, as set  
3 forth in the court's order, the clerk shall issue letters of  
4 guardianship to a guardian or limited guardian appointed by the court  
5 in the following form, or a substantially similar form:

6 IN THE SUPERIOR COURT OF THE  
7 STATE OF WASHINGTON IN AND FOR THE  
8 COUNTY OF .....

9 IN THE MATTER OF Guardianship Cause No.  
10 THE .....  
11 GUARDIANSHIP OF  
12 .....  
13 Incapacitated Person LETTERS OF  
14 GUARDIANSHIP OR LIMITED  
15 GUARDIANSHIP  
16  
17 Date Letters Expire .....

18 THESE LETTERS OF GUARDIANSHIP PROVIDE OFFICIAL VERIFICATION OF THE FOLLOWING:

19  
20 On the ..... day of ....., 20.... the Court appointed ..... to serve as:

- 21  
22  Guardian of the Person  Full  Limited  
23  Guardian of the Estate  Full  Limited  
24

25 for ....., the incapacitated person, in the above referenced matter.  
26

27 The Guardian has fulfilled all legal requirements to serve, including, but not limited to: Taking and filing the oath;  
28 filing any bond consistent with the court's order; filing any blocked account agreement consistent with the court's order;  
29 and appointing a resident agent for a nonresident guardian.  
30

31 The Court, having found the Guardian duly qualified, now makes it known ..... is authorized as the Guardian  
32 for ..... designated in the Court's order as referenced above.  
33

34 The next filing and reporting deadline in this matter is on the ... day of .....,.....  
35

THESE LETTERS ARE NO LONGER VALID ON .....

(Next filing date)

These letters can only be renewed by a new court order. If the court grants an extension, new letters will be issued.

This matter is before the Honorable . . . . . of Superior Court, the seal of the Court being affixed  
this . . . . of . . . . .

State of Washington)

) ss.

County of . . . . .)

I, . . . . ., Clerk of the Superior Court of said County and State, certify that this document represents true and  
correct Letters of Guardianship in the above entitled case, entered upon the record on this . . . . . day of . . . . ., . . . .

These Letters remain in full force and effect until the date of expiration set forth above.

The seal of Superior Court has been affixed and witnessed by my hand this . . . . . day of . . . . ., . . . .

. . . . ., Clerk of Superior Court

By . . . . ., Deputy

. . . . .  
(Signature of Deputy)

**Sec. 7.** RCW 11.88.140 and 1991 c 289 s 9 are each amended to read  
as follows:

(1) TERMINATION WITHOUT COURT ORDER. A guardianship or limited  
guardianship is terminated:

(a) Upon the attainment of full and legal age, as defined in RCW  
26.28.010 as now or hereafter amended, of any person defined as an  
incapacitated person pursuant to RCW 11.88.010 as now or hereafter  
amended solely by reason of youth, RCW 26.28.020 to the contrary  
notwithstanding, subject to subsection (2) of this section;

(b) By an adjudication of capacity or an adjudication of  
termination of incapacity;

(c) By the death of the incapacitated person;

(d) By expiration of the term of limited guardianship specified in  
the order appointing the limited guardian, unless prior to such

1 expiration a petition has been filed and served, as provided in RCW  
2 11.88.040 as now or hereafter amended, seeking an extension of such  
3 term.

4 (2) TERMINATION OF GUARDIANSHIP FOR A MINOR BY DECLARATION OF  
5 COMPLETION. A guardianship for the benefit of a minor may be  
6 terminated upon the minor's attainment of legal age, as defined in RCW  
7 26.28.010 as now or hereafter amended, by the guardian filing a  
8 declaration that states:

9 (a) The date the minor attained legal age;

10 (b) That the guardian has paid all of the minor's funds in the  
11 guardian's possession to the minor, who has signed a receipt for the  
12 funds, and that the receipt has been filed with the court;

13 (c) That the guardian has completed the administration of the  
14 minor's estate and the guardianship is ready to be closed; and

15 (d) The amount of fees paid or to be paid to each of the following:

16 (i) The guardian, (ii) lawyer or lawyers, (iii) accountant or  
17 accountants; and that the guardian believes the fees are reasonable and  
18 does not intend to obtain court approval of the amount of the fees or  
19 to submit a guardianship accounting to the court for approval. Subject  
20 to the requirement of notice as provided in this section, unless the  
21 minor petitions the court either for an order requiring the guardian to  
22 obtain court approval of the amount of fees paid or to be paid to the  
23 guardian, lawyers, or accountants, or for an order requiring an  
24 accounting, or both, within thirty days from the filing of the  
25 declaration of completion of guardianship, the guardian shall be  
26 automatically discharged without further order of the court. The  
27 guardian's powers will cease thirty days after filing the declaration  
28 of completion of guardianship. The declaration of completion of  
29 guardianship shall, at the time, be the equivalent of an entry of a  
30 decree terminating the guardianship, distributing the assets, and  
31 discharging the guardian for all legal intents and purposes.

32 Within five days of the date of filing the declaration of  
33 completion of guardianship, the guardian or the guardian's lawyer shall  
34 mail a copy of the declaration of completion to the minor together with  
35 a notice that shall be substantially as follows:

1  
2  
3 CAPTION OF CASE NOTICE OF FILING A  
4 DECLARATION OF  
5 COMPLETION OF  
6 GUARDIANSHIP

7 NOTICE IS GIVEN that the attached Declaration of  
8 Completion of Guardianship was filed by the undersigned  
9 in the above-entitled court on the ..... day of .....,  
10 19 . . .; unless you file a petition in the above-entitled court  
11 requesting the court to review the reasonableness of the  
12 fees, or for an accounting, or both, and serve a copy of the  
13 petition on the guardian or the guardian's lawyer, within  
14 thirty days after the filing date, the amount of fees paid or  
15 to be paid will be deemed reasonable, the acts of the  
16 guardian will be deemed approved, the guardian will be  
17 automatically discharged without further order of the court  
18 and the Declaration of Completion of Guardianship will be  
19 final and deemed the equivalent of an order terminating the  
20 guardianship, discharging the guardian and decreeing the  
21 distribution of the guardianship assets.

22 If you file and serve a petition within the period  
23 specified, the undersigned will request the court to fix a  
24 time and place for the hearing of your petition, and you will  
25 be notified of the time and place of the hearing, by mail, or  
26 by personal service, not less than ten days before the  
27 hearing on the petition.

28 DATED this ..... day of ....., 19...  
29 .....  
30 Guardian

31 If the minor, after reaching legal age, waives in writing the  
32 notice required by this section, the guardian will be automatically  
33 discharged without further order of the court and the declaration of  
34 completion of guardianship will be effective as an order terminating  
35 the guardianship without an accounting upon filing the declaration. If

1 the guardian has been required to furnish a bond, and a declaration of  
2 completion of guardianship is filed according to this section, any bond  
3 furnished by the guardian shall be automatically discharged upon the  
4 discharge of the guardian.

5 (3) TERMINATION ON COURT ORDER. A guardianship or limited  
6 guardianship may be terminated by court order after such notice as the  
7 court may require if the guardianship or limited guardianship is no  
8 longer necessary.

9 The guardian or limited guardian shall, within (~~thirty~~) ninety  
10 days of the date of termination of the guardianship, unless the court  
11 orders a different deadline for good cause, prepare and file with the  
12 court a final verified account of administration. The final verified  
13 account of administration shall contain the same information as  
14 required for (a) an intermediate verified account of administration of  
15 the estate under RCW 11.92.040(2) and (b) an intermediate personal care  
16 status report under RCW 11.92.043(2).

17 (4) EFFECT OF TERMINATION. When a guardianship or limited  
18 guardianship terminates other than by the death of the incapacitated  
19 person, the powers of the guardian or limited guardian cease, except  
20 that a guardian or limited guardian of the estate may make  
21 disbursements for claims that are or may be allowed by the court, for  
22 liabilities already properly incurred for the estate or for the  
23 incapacitated person, and for expenses of administration. When a  
24 guardianship or limited guardianship terminates by death of the  
25 incapacitated person, the guardian or limited guardian of the estate  
26 may proceed under RCW 11.88.150 as now or hereafter amended, but the  
27 rights of all creditors against the incapacitated person's estate shall  
28 be determined by the law of decedents' estates.

29 **Sec. 8.** RCW 11.92.053 and 1995 c 297 s 7 are each amended to read  
30 as follows:

31 Within ninety days, unless the court orders a different deadline  
32 for good cause, after the termination of a guardianship for any reason,  
33 the guardian or limited guardian of the estate shall petition the court  
34 for an order settling his or her account as filed in accordance with  
35 RCW 11.92.040(2) with regard to any receipts, expenditures, and  
36 investments made and acts done by the guardian to the date of the  
37 termination. Upon the filing of the petition, the court shall set a



1 date for the hearing of the petition after notice has been given in  
2 accordance with RCW 11.88.040. Any person interested may file  
3 objections to the petition or may appear at the time and place fixed  
4 for the hearing thereof and present his or her objections thereto. The  
5 court may take such testimony as it deems proper or necessary to  
6 determine whether an order settling the account should be issued and  
7 the transactions of the guardian be approved, and the court may appoint  
8 a guardian ad litem to review the report.

9 At the hearing on the petition of the guardian or limited guardian,  
10 if the court is satisfied that the actions of the guardian or limited  
11 guardian have been proper, and that the guardian has in all respects  
12 discharged his or her trust with relation to the receipts,  
13 expenditures, investments, and acts, then, in such event, the court  
14 shall enter an order approving the account, and the order shall be  
15 final and binding upon the incapacitated person, subject only to the  
16 right of appeal as upon a final order. However, within one year after  
17 the incompetent attains his or her majority any such account may be  
18 challenged by the incapacitated person on the ground of fraud.

19 **Sec. 9.** RCW 11.92.040 and 1991 c 289 s 10 are each amended to read  
20 as follows:

21 It shall be the duty of the guardian or limited guardian of an  
22 estate:

23 (1) To file within three months after the guardian's appointment a  
24 verified inventory of all the property of the incapacitated person  
25 which comes into the guardian's possession or knowledge, including a  
26 statement of all encumbrances, liens, and other secured charges on any  
27 item;

28 (2) To file annually, within ninety days after the anniversary date  
29 of the guardian's or limited guardian's appointment, and also within  
30 (~~thirty~~) ninety days after termination of the appointment, unless the  
31 court for good cause orders a different deadline to file following  
32 termination, a written verified account of the administration for court  
33 approval, which account shall contain at least the following  
34 information:

35 (a) Identification of property of the guardianship estate as of the  
36 date of the last account or, in the case of the initial account, as of  
37 the date of inventory;

1 (b) Identification of all additional property received into the  
2 guardianship, including income by source;

3 (c) Identification of all expenditures made during the account  
4 period by major categories;

5 (d) Any adjustments to the guardianship estate required to  
6 establish its present fair market value, including gains or losses on  
7 sale or other disposition and any mortgages, deeds of trust or other  
8 encumbrances against the guardianship estate; and

9 (e) Identification of all property held in the guardianship estate  
10 as of the date of account, the assessed value of any real property and  
11 the guardian's estimate of the present fair market values of other  
12 property (including the basis on which such estimate is made), and the  
13 total net fair market value of the guardianship estate. In addition,  
14 immediately following such statement of present fair market value, the  
15 account shall set forth a statement of current amount of the guardian's  
16 bond and any other court-ordered protection for the security of the  
17 guardianship assets;

18 (3) The court in its discretion may allow reports at intervals of  
19 up to thirty-six months for estates with assets (exclusive of real  
20 property) having a value of not more than twice the homestead  
21 exemption. All court orders approving accounts or reports shall direct  
22 issuance of new guardianship letters and prominently identify new  
23 expiration dates and must contain a guardianship summary as provided in  
24 subsection (4) of this section. Notwithstanding contrary provisions of  
25 this section, the guardian or limited guardian of an estate need not  
26 file an annual report with the court if the funds of the guardianship  
27 are held for the benefit of a minor in a blocked account unless the  
28 guardian requests a withdrawal from such account, in which case the  
29 guardian shall provide a written verified account of the administration  
30 of the guardianship estate along with the guardian's petition for the  
31 withdrawal. The guardian or limited guardian shall report any  
32 substantial change in income or assets of the guardianship estate  
33 within thirty days of the occurrence of the change. A hearing shall be  
34 scheduled for court review and determination of provision for increased  
35 bond or other provision in accordance with RCW 11.88.100;

36 (4) All court orders approving accounts or reports must contain a  
37 guardianship summary placed directly below the case caption or on a

1 separate cover page in the following form, or a substantially similar  
2 form, containing the following information:

3 **GUARDIANSHIP SUMMARY**

4 Date Guardian Appointed: .....

5 Due Date for Report and

6 Accounting: .....

7 Date of Next Hearing: .....

8 New Letters Expire On: .....

9 Bond Amount: \$.....

10 Restricted Account

11 Agreements Required .....

12 Incapacitated Person Guardian of:  Estate  Person  
13 (IP)

14 <u>Name:</u>	<u>Name:</u>
15 <u>Address:</u>	<u>Address:</u>
16 <u>Phone:</u>	<u>Phone:</u>
17 <u>Facsimile:</u>	<u>Facsimile:</u>

18 <u>Standby Guardian</u>	<u>Address</u>	<u>Relation to IP</u>
19		

20 <u>Interested Parties</u>	<u>Address</u>	<u>Relation to IP</u>
21		
22		
23		
24		
25		

1       (5) To protect and preserve the guardianship estate, to apply it as  
2 provided in this chapter, to account for it faithfully, to perform all  
3 of the duties required by law, and at the termination of the  
4 guardianship or limited guardianship, to deliver the assets of the  
5 incapacitated person to the persons entitled thereto. Except as  
6 provided to the contrary herein, the court may authorize a guardian or  
7 limited guardian to do anything that a trustee can do under the  
8 provisions of RCW 11.98.070 for a period not exceeding one year from  
9 the date of the order or for a period corresponding to the interval in  
10 which the guardian's or limited guardian's report is required to be  
11 filed by the court pursuant to subsection (2) of this section,  
12 whichever period is longer;

13       ~~((+5))~~ (6) To invest and reinvest the property of the  
14 incapacitated person in accordance with the rules applicable to  
15 investment of trust estates by trustees as provided in chapter 11.100  
16 RCW, except that:

17       (a) No investments shall be made without prior order of the court  
18 in any property other than unconditional interest bearing obligations  
19 of this state or of the United States and in obligations the interest  
20 and principal of which are unconditionally guaranteed by the United  
21 States, and in share accounts or deposits which are insured by an  
22 agency of the United States government. Such prior order of the court  
23 may authorize specific investments, or, in the discretion of the court,  
24 may authorize the guardian or limited guardian to invest and reinvest  
25 as provided in chapter 11.100 RCW without further order of the court;

26       (b) If it is for the best interests of the incapacitated person  
27 that a specific property be used by the incapacitated person rather  
28 than sold and the proceeds invested, the court may so order;

29       ~~((+6))~~ (7) To apply to the court no later than the filing of the  
30 inventory for an order authorizing disbursements on behalf of the  
31 incapacitated person: PROVIDED, HOWEVER, That the guardian or limited  
32 guardian of the estate, or the person, department, bureau, agency, or  
33 charitable organization having the care and custody of an incapacitated  
34 person, may apply to the court for an order directing the guardian or  
35 limited guardian of the estate to pay to the person, department,  
36 bureau, agency, or charitable organization having the care and custody  
37 of an incapacitated person, or if the guardian or limited guardian of  
38 the estate has the care and custody of the incapacitated person,

1 directing the guardian or limited guardian of the estate to apply an  
2 amount weekly, monthly, quarterly, semi-annually, or annually, as the  
3 court may direct, to be expended in the care, maintenance, and  
4 education of the incapacitated person and of his or her dependents. In  
5 proper cases, the court may order payment of amounts directly to the  
6 incapacitated person for his or her maintenance or incidental expenses.  
7 The amounts authorized under this section may be decreased or increased  
8 from time to time by direction of the court. If payments are made to  
9 another under an order of the court, the guardian or limited guardian  
10 of the estate is not bound to see to the application thereof;

11 (8) To provide evidence of the guardian or limited guardian's  
12 successful completion of any standardized training for guardians or  
13 limited guardians made available by the administrative office of the  
14 courts and the superior court when the guardian or limited guardian:  
15 (a) Was appointed prior to the effective date of this section; (b) is  
16 not a certified professional guardian or financial institution  
17 authorized under RCW 11.88.020; and (c) has not previously completed  
18 the requirements of RCW 11.88.020(3). The superior court may waive  
19 this requirement for good cause or extend the time period for  
20 completion of the training requirement for ninety days upon petition by  
21 the guardian or limited guardian; and

22 (9) To provide evidence of the guardian or limited guardian's  
23 successful completion of any additional or updated training offered by  
24 the administrative office of the courts and the superior court as is  
25 required at the discretion of the superior court unless the guardian or  
26 limited guardian is a certified professional guardian or financial  
27 institution authorized under RCW 11.88.020.

28 **Sec. 10.** RCW 11.92.050 and 1995 c 297 s 6 are each amended to read  
29 as follows:

30 (1) Upon the filing of any intermediate guardianship or limited  
31 guardianship account or report required by statute, or of any  
32 intermediate account or report required by court rule or order, (~~the~~  
33 ~~guardian or limited guardian may petition~~) the court (~~for~~) shall  
34 enter an order settling (~~his or her~~) the guardianship account or  
35 report with regard to any receipts, expenditures, and investments made  
36 and acts done by the guardian or limited guardian to the date of the  
37 interim report. The order shall set the next review date within one

1 hundred twenty days of the anniversary date of the guardian's or  
2 limited guardian's appointment. The order shall direct the clerk of  
3 court to issue letters of guardianship that automatically expire thirty  
4 days after the next review date, unless an earlier date is ordered.

5 (2) Upon such ((petition)) account or report being filed, the court  
6 may in its discretion((, where the size or condition of the estate  
7 warrants it,)) set a date for the hearing ((of the petition)) and  
8 require the service of the ((petition)) guardian's report or account  
9 and a notice of the hearing as provided in RCW 11.88.040 as now or  
10 hereafter amended or as specified by the court; and, in the event a  
11 hearing is ordered, the court may also appoint a guardian ad litem,  
12 whose duty it shall be to investigate the account or report of the  
13 guardian or limited guardian of the estate and to advise the court  
14 thereon at the hearing, in writing.

15 (3) At the hearing on or upon the court's review of the account or  
16 report of the guardian or limited guardian, if the court is satisfied  
17 that the actions of the guardian or limited guardian have been proper,  
18 and that the guardian or limited guardian has in all respects  
19 discharged his or her trust with relation to the receipts,  
20 expenditures, investments, and acts, then, in such event, the court  
21 shall enter an order approving such account or report.

22 (4) If a guardian or limited guardian fails to file the account or  
23 report or fails to appear at the hearing, the court shall enter an  
24 order for one or more of the following actions:

25 (a) Directing the guardian or limited guardian to appear before the  
26 court subject to contempt sanctions;

27 (b) Appointing a guardian ad litem;

28 (c) Removing the guardian or limited guardian and appointing a  
29 successor;

30 (d) Completing any approved guardianship training made available to  
31 the guardian by the court;

32 (e) Directing the clerk to extend the letters, for good cause  
33 shown, for no more than ninety days, to permit the guardian to file his  
34 or her account or report; or

35 (f) Providing other and further relief the court deems just and  
36 equitable.

37 (5) If the court has appointed a guardian ad litem, the order shall  
38 be final and binding upon the incapacitated person, subject only to the

1 right of appeal as upon a final order; provided that at the time of  
2 final account of said guardian or limited guardian or within one year  
3 after the incapacitated person attains his or her majority any such  
4 interim account may be challenged by the incapacitated person on the  
5 ground of fraud.

6 ~~((+2))~~ (6) The procedure established in ~~((subsection (1) of))~~ this  
7 section for financial accounts by guardians or limited guardians of the  
8 estate shall apply to personal care reports filed by guardians or  
9 limited guardians of the person under RCW 11.92.043.

10 **Sec. 11.** RCW 36.18.016 and 2009 c 417 s 2 are each amended to read  
11 as follows:

12 (1) Revenue collected under this section is not subject to division  
13 under RCW 36.18.025 or 27.24.070.

14 (2)(a) For the filing of a petition for modification of a decree of  
15 dissolution or paternity, within the same case as the original action,  
16 and any party filing a counterclaim, cross-claim, or third-party claim  
17 in any such action, a fee of thirty-six dollars must be paid.

18 (b) The party filing the first or initial petition for dissolution,  
19 legal separation, or declaration concerning the validity of marriage  
20 shall pay, at the time and in addition to the filing fee required under  
21 RCW 36.18.020, a fee of thirty dollars. The clerk of the superior  
22 court shall transmit monthly twenty-four dollars of the thirty-dollar  
23 fee collected under this subsection to the state treasury for deposit  
24 in the domestic violence prevention account. The remaining six dollars  
25 shall be retained by the county for the purpose of supporting  
26 community-based services within the county for victims of domestic  
27 violence, except for five percent of the six dollars, which may be  
28 retained by the court for administrative purposes.

29 (3)(a) The party making a demand for a jury of six in a civil  
30 action shall pay, at the time, a fee of one hundred twenty-five  
31 dollars; if the demand is for a jury of twelve, a fee of two hundred  
32 fifty dollars. If, after the party demands a jury of six and pays the  
33 required fee, any other party to the action requests a jury of twelve,  
34 an additional one hundred twenty-five dollar fee will be required of  
35 the party demanding the increased number of jurors.

36 (b) Upon conviction in criminal cases a jury demand charge of one

1 hundred twenty-five dollars for a jury of six, or two hundred fifty  
2 dollars for a jury of twelve may be imposed as costs under RCW  
3 10.46.190.

4 (4) For preparing a certified copy of an instrument on file or of  
5 record in the clerk's office, for the first page or portion of the  
6 first page, a fee of five dollars, and for each additional page or  
7 portion of a page, a fee of one dollar must be charged. For  
8 authenticating or exemplifying an instrument, a fee of two dollars for  
9 each additional seal affixed must be charged. For preparing a copy of  
10 an instrument on file or of record in the clerk's office without a  
11 seal, a fee of fifty cents per page must be charged. When copying a  
12 document without a seal or file that is in an electronic format, a fee  
13 of twenty-five cents per page must be charged. For copies made on a  
14 compact disc, an additional fee of twenty dollars for each compact disc  
15 must be charged.

16 (5) For executing a certificate, with or without a seal, a fee of  
17 two dollars must be charged.

18 (6) For a garnishee defendant named in an affidavit for garnishment  
19 and for a writ of attachment, a fee of twenty dollars must be charged.

20 (7) For filing a supplemental proceeding, a fee of twenty dollars  
21 must be charged.

22 (8) For approving a bond, including justification on the bond, in  
23 other than civil actions and probate proceedings, a fee of two dollars  
24 must be charged.

25 (9) For the issuance of a certificate of qualification and a  
26 certified copy of letters of administration, letters testamentary, or  
27 letters of guardianship, there must be a fee of five dollars.

28 (10) For the preparation of a passport application, the clerk may  
29 collect an execution fee as authorized by the federal government.

30 (11) For clerk's services such as performing historical searches,  
31 compiling statistical reports, and conducting exceptional record  
32 searches, the clerk may collect a fee not to exceed thirty dollars per  
33 hour.

34 (12) For processing ex parte orders, the clerk may collect a fee of  
35 thirty dollars.

36 (13) For duplicated recordings of court's proceedings there must be  
37 a fee of ten dollars for each audio tape and twenty-five dollars for  
38 each video tape or other electronic storage medium.



1 (14) For registration of land titles, Torrens Act, under RCW  
2 65.12.780, a fee of twenty dollars must be charged.

3 (15) For the issuance of extension of judgment under RCW 6.17.020  
4 and chapter 9.94A RCW, a fee of two hundred dollars must be charged.  
5 When the extension of judgment is at the request of the clerk, the two  
6 hundred dollar charge may be imposed as court costs under RCW  
7 10.46.190.

8 (16) A facilitator surcharge of up to twenty dollars must be  
9 charged as authorized under RCW 26.12.240.

10 (17) For filing a water rights (~~(statement)~~) adjudication claim  
11 under RCW 90.03.180, a fee of twenty-five dollars must be charged.

12 (18) For filing a claim of frivolous lien under RCW 60.04.081, a  
13 fee of thirty-five dollars must be charged.

14 (19) For preparation of a change of venue, a fee of twenty dollars  
15 must be charged by the originating court in addition to the per page  
16 charges in subsection (4) of this section.

17 (20) A service fee of five dollars for the first page and one  
18 dollar for each additional page must be charged for receiving faxed  
19 documents, pursuant to Washington state rules of court, general rule  
20 17.

21 (21) For preparation of clerk's papers under RAP 9.7, a fee of  
22 fifty cents per page must be charged.

23 (22) For copies and reports produced at the local level as  
24 permitted by RCW 2.68.020 and supreme court policy, a variable fee must  
25 be charged.

26 (23) Investment service charge and earnings under RCW 36.48.090  
27 must be charged.

28 (24) Costs for nonstatutory services rendered by clerk by authority  
29 of local ordinance or policy must be charged.

30 (25) For filing a request for mandatory arbitration, a filing fee  
31 may be assessed against the party filing a statement of arbitrability  
32 not to exceed two hundred twenty dollars as established by authority of  
33 local ordinance. This charge (~~shall~~) may be used solely to offset  
34 the cost of the mandatory arbitration program.

35 (26) For filing a request for trial de novo of an arbitration  
36 award, a fee not to exceed two hundred fifty dollars as established by  
37 authority of local ordinance must be charged.

1 (27) A public agency may not charge a fee to a law enforcement  
2 agency, for preparation, copying, or mailing of certified copies of the  
3 judgment and sentence, information, affidavit of probable cause, and/or  
4 the notice of requirement to register, of a sex offender convicted in  
5 a Washington court, when such records are necessary for risk  
6 assessment, preparation of a case for failure to register, or  
7 maintenance of a sex offender's registration file.

8 (28) For the filing of a will or codicil under the provisions of  
9 chapter 11.12 RCW, a fee of twenty dollars must be charged.

10 (29) For the collection of unpaid legal financial obligations, the  
11 clerk may impose an annual fee of up to one hundred dollars, pursuant  
12 to RCW 9.94A.780.

13 (30) A surcharge of up to twenty dollars may be charged in  
14 dissolution and legal separation actions as authorized by RCW  
15 26.12.260.

16 (31) For the filing of accounts required under RCW 11.92.040, a fee  
17 must be charged to the estate of the incapacitated person. The amount  
18 of the fee is determined by the total net fair market value of the  
19 guardianship estate identified pursuant to RCW 11.92.040(2)(e). If the  
20 total fair market value of the guardianship estate is less than or  
21 equal to three thousand dollars, a filing fee is not required. If the  
22 superior court finds that payment of the filing fee would result in  
23 substantial hardship upon the incapacitated person, the superior court  
24 may waive or reduce the filing fee. The amount of the fee is as  
25 follows:

26 (a) Twenty dollars for guardianship estates with a total net fair  
27 market value greater than three thousand dollars but not exceeding one  
28 hundred thousand dollars;

29 (b) Seventy-five dollars for guardianship estates with a total net  
30 fair market value greater than one hundred thousand dollars but not  
31 exceeding five hundred thousand dollars;

32 (c) One hundred fifty dollars for guardianship estates with a total  
33 net fair market value greater than five hundred thousand dollars but  
34 not exceeding one million dollars; or

35 (d) Two hundred fifty dollars for guardianship estates with a total  
36 net fair market value greater than one million dollars.

37 (32) The revenue to counties from the fees established in this  
38 section (~~shall be~~) is deemed to be complete reimbursement from the

1 state for the state's share of benefits paid to the superior court  
2 judges of the state prior to July 24, 2005, and no claim (~~shall~~) may  
3 lie against the state for such benefits.

--- END ---