
SENATE BILL 6287

State of Washington**66th Legislature****2020 Regular Session****By** Senators Pedersen, Holy, Dhingra, Rivers, Kuderer, Salomon, and Conway

1 AN ACT Relating to guardianships and conservatorships; amending
2 RCW 11.130.185, 11.130.190, 11.130.195, 11.130.205, 11.130.210,
3 11.130.215, 11.130.220, 11.130.225, 11.130.230, 11.130.240,
4 11.130.245, 11.130.250, 11.130.915, 13.34.062, 13.34.110, 13.34.136,
5 13.34.145, 13.34.155, 13.34.210, 13.50.100, 11.130.285, 11.130.290,
6 11.130.320, 11.130.330, 11.130.335, 11.130.340, 11.130.345,
7 11.130.360, 11.130.365, 11.130.370, 11.130.385, 11.130.390,
8 11.130.410, 11.130.415, 11.130.420, 11.130.425, 11.130.430,
9 11.130.435, 11.130.505, 11.130.515, 11.130.520, 11.130.530,
10 11.130.550, 11.130.670, 11.130.010, 11.130.040, 11.130.100,
11 11.130.105, 11.130.115, 11.130.140, 11.130.265, 11.130.280,
12 11.130.380, 11.130.605, 11.130.080, 11.130.120, 11.130.295,
13 11.130.625, 11.130.610, 11.130.615, 2.72.005, 2.72.020, 2.72.030,
14 11.28.120, 11.90.020, 11.90.230, 11.90.250, 11.90.400, 11.90.410,
15 2.56.150, 4.16.190, 7.28.090, 7.36.020, 9.35.005, 9A.44.010,
16 11.02.005, 11.28.185, 11.76.080, 11.86.021, 11.90.210, 11.96A.050,
17 11.96A.080, 11.96A.120, 11.96A.130, 11.96A.150, 11.96A.220,
18 11.103.030, 11.107.060, 11.120.140, 11.125.400, 11.125.410,
19 13.32A.160, 13.34.270, 25.15.131, 29A.08.515, 70.58A.010, 70.97.040,
20 71.05.360, 71.32.020, 71A.16.030, 73.36.050, 74.34.020, 74.34.067,
21 74.34.135, 74.34.163, and 74.42.430; reenacting and amending RCW
22 13.34.030, 2.72.010, 7.70.065, and 18.20.020; adding new sections to
23 chapter 11.130 RCW; and providing an effective date.

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

PART I
GUARDIANSHIP OF MINORS

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

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

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

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

(b) All parental rights have been terminated; or

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (j) Whether any other proceeding concerning the care or custody
17 of the minor is pending in any court in this state or another
18 jurisdiction.

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

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

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

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

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

34 (i) The minor, if the minor (~~((will be))~~) is twelve years of age or
35 older (~~((at the time of the hearing))~~);

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

38 (~~((Any adult with whom the minor resides;~~

1 ~~(iv) Each person that had primary care or custody of the minor~~
2 ~~for at least sixty days during the two years immediately before the~~
3 ~~filing of the petition or for at least seven hundred thirty days~~
4 ~~during the five years immediately before the filing of the petition;~~
5 and

6 ~~(v))~~ Any other person the court determines should receive
7 personal service of notice; and

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

11 ~~((i))~~ (A) Any adult with primary care and custody of the minor
12 who is not a parent;

13 (B) Each person that had primary care or custody of the minor for
14 at least sixty days during the two years immediately before the
15 filing of the petition or for at least seven hundred thirty days
16 during the five years immediately before the filing of the petition,
17 if known;

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

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

21 ~~((iii))~~ (E) Each grandparent and adult sibling of the minor;

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

24 ~~((v))~~ (G) Any other person the court determines, if known.

25 (ii) The court may waive notice to persons listed under (b)(i) of
26 this subsection for good cause.

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. Notice for the minor must specifically state all
32 rights retained by the minor including the right to request counsel,
33 the right to attend, and the right to participate.

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

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

38 (b) Each parent of the minor, unless the court finds by clear and
39 convincing evidence that the parent cannot with due diligence be

1 located and served or the parent waived, in a record, the right to
2 notice.

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

7 (a) Interview the petitioner and the minor;

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

10 (c) Investigate any other matter relating to the petition the
11 court directs; and

12 (d) Ascertain whether the parent consents to the guardian for the
13 minor.

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

16 (1) The court shall allow a minor who is the subject of a hearing
17 under RCW 11.130.195 to attend the hearing and allow the minor to
18 participate in the hearing unless the court determines(~~(, by clear~~
19 ~~and convincing evidence presented at the hearing or a separate~~
20 ~~hearing,~~)) that:

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

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

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

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

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

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

36 (1) Before granting any order (~~(regarding the custody of a~~
37 ~~child)~~) under this chapter, the court must consult the judicial
38 information system, if available, to determine the existence of any

1 information and proceedings that are relevant to the placement of the
2 child.

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

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

6 (b) Require the petitioner to provide the results of an
7 examination of state and national criminal identification data
8 provided by the Washington state patrol criminal identification
9 system as described in chapter 43.43 RCW for the petitioner and adult
10 members of the petitioner's household.

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

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

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

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

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

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

33 (3) In the interest of maintaining or encouraging involvement by
34 a minor's parent in the minor's life, developing self-reliance of the
35 minor, or for other good cause, the court, at the time of appointment
36 of a guardian for the minor or later, on its own or on motion of the
37 minor or other interested person, may create a limited guardianship
38 by limiting the powers otherwise granted by this article to the

guardian. Following the same procedure, the court may grant additional powers or withdraw powers previously granted.

(4) The court, as part of an order appointing a guardian for a minor, shall state rights retained by any parent of the minor, which shall preserve the parent-child relationship through an order for parent-child visitation and other contact, unless the court finds the relationship should be limited or restricted under RCW 26.09.191; and which may include ~~((contact or visitation with the minor,))~~ decision making regarding the minor's health care, education, or other matter, or access to a record regarding the minor.

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

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

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

(c) The court has removed the guardian.

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

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

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

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

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

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

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

1 (b) Finding that, within two years after the appointment, no
2 parent of the minor likely will be able or willing to ~~((care for or~~
3 ~~make decisions with respect to the minor not later than two years~~
4 ~~after the appointment))~~ perform parenting functions as defined in RCW
5 26.09.004.

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

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

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

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

14 (ii) Each parent of the minor;

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

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

17 (b) Include with the copy of the petition served under (a) of
18 this subsection a statement of the right to request appointment of an
19 attorney for the minor or to object to appointment of the standby
20 guardian, and a description of the nature, purpose, and consequences
21 of appointment of a standby guardian.

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

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

35 ~~((+7+))~~ (8) If an objection is filed under subsection ~~((+6+))~~ (7)
36 of this section, the court shall hold a hearing to determine whether
37 a standby guardian should be appointed and, if so, the person that
38 should be appointed. If no objection is filed, the court may make the
39 appointment.

1 ~~((+8+))~~ (9) The court may not grant a petition for a standby
2 guardian of the minor if notice substantially complying with
3 subsection (5) of this section is not served on:

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

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

8 ~~((+9+))~~ (10) If a petitioner is unable to serve notice under
9 subsection (5) of this section on a parent of the minor or alleges
10 that a parent of the minor waived the right to notice under this
11 section, the court shall appoint a court visitor who shall:

12 (a) Interview the petitioner and the minor;

13 (b) If the petitioner alleges the parent cannot be located and
14 served, ascertain whether the parent cannot be located with due
15 diligence; and

16 (c) Investigate any other matter relating to the petition the
17 court directs.

18 ~~((+10+))~~ (11) If the court finds under subsection (3) of this
19 section that a standby guardian should be appointed, the following
20 rules apply:

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

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

29 ~~((+11+))~~ (12) An order appointing a standby guardian under this
30 section must state that each parent of the minor is entitled to
31 notice, and identify any other person entitled to notice, if:

32 (a) The standby guardian assumes the duties and powers of the
33 guardian;

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

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

36 (d) The court removes the guardian.

37 ~~((+12+))~~ (13) Before assuming the duties and powers of a
38 guardian, a standby guardian must file with the court an acceptance
39 of appointment as guardian and give notice of the acceptance to:

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

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

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

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

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

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

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

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

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

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

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

34 (b) Any attorney appointed under RCW 11.130.200;

35 (c) Each parent of the minor;

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

38 (e) Any other person the court determines.

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

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

15 (6) The court may remove an emergency guardian appointed under
16 this section at any time. The emergency guardian shall make any
17 report the court requires.

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

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

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

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

32 (2) A guardian for a minor shall:

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

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

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

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

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

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

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

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

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

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

23 (b) When the court finds that the (~~(standard)~~) basis in RCW
24 11.130.185 for appointment of a guardian (~~(is not satisfied)~~) no
25 longer exists, unless the court finds that:

26 (i) Termination of the guardianship would be harmful to the
27 minor; and

28 (ii) The minor's interest in the continuation of the guardianship
29 outweighs the interest of any parent of the minor in restoration of
30 the parent's right to make decisions for the minor.

31 (2) A minor subject to guardianship or a person interested in the
32 welfare of the minor, including a parent, may petition the court to
33 terminate the guardianship, modify the guardianship, remove the
34 guardian and appoint a successor guardian, or remove a standby
35 guardian and appoint a different standby guardian.

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

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

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

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

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

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

17 (1) This chapter does not affect the validity of any court order
18 issued under chapter 26.10 RCW prior to January 1, 2021. Orders
19 issued under chapter 26.10 RCW prior to January 1, 2021, remain in
20 effect and do not need to be reissued in a new order under this
21 chapter.

22 (2) All orders issued under chapter 26.10 RCW prior to the
23 effective date of chapter 437, Laws of 2019 remain operative after
24 the effective date of chapter 437, Laws of 2019. After the effective
25 date of chapter 437, Laws of 2019, if an order issued under chapter
26 26.10 RCW is modified, the modification is subject to the
27 requirements of this chapter.

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

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

34 (2) In a proceeding under this chapter either party may file a
35 motion for a temporary restraining order or preliminary injunction,
36 providing relief proper in the circumstances, and restraining or
37 enjoining any person from:

1 (a) Molesting or disturbing the peace of the other party or of
2 any child;

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

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

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

8 (3) Either party may request a domestic violence protection order
9 under chapter 26.50 RCW or an antiharassment protection order under
10 chapter 10.14 RCW on a temporary basis. The court may grant any of
11 the relief provided in RCW 26.50.060 except relief pertaining to
12 residential provisions for the children which provisions shall be
13 provided for under this chapter, and any of the relief provided in
14 RCW 10.14.080. Ex parte orders issued under this subsection shall be
15 effective for a fixed period not to exceed fourteen days, or upon
16 court order, not to exceed twenty-four days if necessary to ensure
17 that all temporary motions in the case can be heard at the same time.

18 (4) In issuing the order, the court shall consider the provisions
19 of RCW 9.41.800, and shall order the respondent to surrender, and
20 prohibit the respondent from possessing, all firearms, dangerous
21 weapons, and any concealed pistol license as required in RCW
22 9.41.800.

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

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

32 (7) Restraining orders issued under this section restraining or
33 enjoining the person from molesting or disturbing another party, or
34 from going onto the grounds of or entering the home, workplace, or
35 school of the other party or the day care or school of any child, or
36 prohibiting the person from knowingly coming within, or knowingly
37 remaining within, a specified distance of a location, shall
38 prominently bear on the front page of the order the legend: VIOLATION
39 OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE
40 UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

1 (8) The court shall order that any temporary restraining order
2 bearing a criminal offense legend, any domestic violence protection
3 order, or any antiharassment protection order granted under this
4 section be forwarded by the clerk of the court on or before the next
5 judicial day to the appropriate law enforcement agency specified in
6 the order. Upon receipt of the order, the law enforcement agency
7 shall enter the order into any computer-based criminal intelligence
8 information system available in this state used by law enforcement
9 agencies to list outstanding warrants. Entry into the computer-based
10 criminal intelligence information system constitutes notice to all
11 law enforcement agencies of the existence of the order. The order is
12 fully enforceable in any county in the state.

13 (9) If a restraining order issued pursuant to this section is
14 modified or terminated, the clerk of the court shall notify the law
15 enforcement agency specified in the order on or before the next
16 judicial day. Upon receipt of notice that an order has been
17 terminated, the law enforcement agency shall remove the order from
18 any computer-based criminal intelligence system.

19 (10) A temporary order, temporary restraining order, or
20 preliminary injunction:

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

23 (b) May be revoked or modified;

24 (c) Terminates when the final order is entered or when the motion
25 is dismissed;

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

28 (11) A support debt owed to the state for public assistance
29 expenditures which has been charged against a party pursuant to RCW
30 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise
31 extinguished by, the final decree or order, unless the office of
32 support enforcement has been given notice of the final proceeding and
33 an opportunity to present its claim for the support debt to the court
34 and has failed to file an affidavit as provided in this subsection.
35 Notice of the proceeding shall be served upon the office of support
36 enforcement personally, or by certified mail, and shall be given no
37 fewer than thirty days prior to the date of the final proceeding. An
38 original copy of the notice shall be filed with the court either
39 before service or within a reasonable time thereafter. The office of
40 support enforcement may present its claim, and thereby preserve the

1 support debt, by filing an affidavit setting forth the amount of the
2 debt with the court, and by mailing a copy of the affidavit to the
3 parties or their attorney prior to the date of the final proceeding.

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

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

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

18 **Sec. 114.** RCW 11.130.915 and 2019 c 437 s 807 are each amended
19 to read as follows:

20 ~~((This act))~~ Except for RCW 11.130.145 (section 129, chapter 437,
21 Laws of 2019), which takes effect on the effective date of this
22 section, chapter 437, Laws of 2019 takes effect January 1, 2021.

23 **Sec. 115.** RCW 13.34.030 and 2019 c 172 s 2 and 2019 c 46 s 5016
24 are each reenacted and amended to read as follows:

25 The definitions in this section apply throughout this chapter
26 unless the context clearly requires otherwise.

27 (1) "Abandoned" means when the child's parent, guardian, or other
28 custodian has expressed, either by statement or conduct, an intent to
29 forego, for an extended period, parental rights or responsibilities
30 despite an ability to exercise such rights and responsibilities. If
31 the court finds that the petitioner has exercised due diligence in
32 attempting to locate the parent, no contact between the child and the
33 child's parent, guardian, or other custodian for a period of three
34 months creates a rebuttable presumption of abandonment, even if there
35 is no expressed intent to abandon.

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

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

1 (b) Any individual age eighteen to twenty-one years who is
2 eligible to receive and who elects to receive the extended foster
3 care services authorized under RCW 74.13.031. A youth who remains
4 dependent and who receives extended foster care services under RCW
5 74.13.031 shall not be considered a "child" under any other statute
6 or for any other purpose.

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

14 (4) "Department" means the department of children, youth, and
15 families.

16 (5) "Dependency guardian" means the person, nonprofit
17 corporation, or Indian tribe appointed by the court pursuant to this
18 chapter for the limited purpose of assisting the court in the
19 supervision of the dependency.

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

21 (a) Has been abandoned;

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

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

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

30 (7) "Developmental disability" means a disability attributable to
31 intellectual disability, cerebral palsy, epilepsy, autism, or another
32 neurological or other condition of an individual found by the
33 secretary of the department of social and health services to be
34 closely related to an intellectual disability or to require treatment
35 similar to that required for individuals with intellectual
36 disabilities, which disability originates before the individual
37 attains age eighteen, which has continued or can be expected to
38 continue indefinitely, and which constitutes a substantial limitation
39 to the individual.

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

3 (9) "Extended foster care services" means residential and other
4 support services the department is authorized to provide under RCW
5 74.13.031. These services may include placement in licensed,
6 relative, or otherwise approved care, or supervised independent
7 living settings; assistance in meeting basic needs; independent
8 living services; medical assistance; and counseling or treatment.

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

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

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

30 (13) "Guardianship" means a guardianship pursuant to chapter
31 13.36 RCW or a limited guardianship of a minor pursuant to RCW
32 11.130.215 or equivalent laws of another state or a federally
33 recognized Indian tribe.

34 (14) "Housing assistance" means appropriate referrals by the
35 department or other agencies to federal, state, local, or private
36 agencies or organizations, assistance with forms, applications, or
37 financial subsidies or other monetary assistance for housing. For
38 purposes of this chapter, "housing assistance" is not a remedial
39 service or family reunification service as described in RCW
40 13.34.025(2).

1 (~~((14))~~) (15) "Indigent" means a person who, at any stage of a
2 court proceeding, is:

3 (a) Receiving one of the following types of public assistance:
4 Temporary assistance for needy families, aged, blind, or disabled
5 assistance benefits, medical care services under RCW 74.09.035,
6 pregnant women assistance benefits, poverty-related veterans'
7 benefits, food stamps or food stamp benefits transferred
8 electronically, refugee resettlement benefits, medicaid, or
9 supplemental security income; or

10 (b) Involuntarily committed to a public mental health facility;
11 or

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

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

18 (~~((15))~~) (16) "Nonminor dependent" means any individual age
19 eighteen to twenty-one years who is participating in extended foster
20 care services authorized under RCW 74.13.031.

21 (~~((16))~~) (17) "Out-of-home care" means placement in a foster
22 family home or group care facility licensed pursuant to chapter 74.15
23 RCW or placement in a home, other than that of the child's parent,
24 guardian, or legal custodian, not required to be licensed pursuant to
25 chapter 74.15 RCW.

26 (~~((17))~~) (18) "Parent" means the biological or adoptive parents
27 of a child, or an individual who has established a parent-child
28 relationship under RCW 26.26A.100, unless the legal rights of that
29 person have been terminated by a judicial proceeding pursuant to this
30 chapter, chapter 26.33 RCW, or the equivalent laws of another state
31 or a federally recognized Indian tribe.

32 (~~((18))~~) (19) "Prevention and family services and programs" means
33 specific mental health prevention and treatment services, substance
34 abuse prevention and treatment services, and in-home parent skill-
35 based programs that qualify for federal funding under the federal
36 family first prevention services act, P.L. 115-123. For purposes of
37 this chapter, prevention and family services and programs are not
38 remedial services or family reunification services as described in
39 RCW 13.34.025(2).

1 (~~((19))~~) (20) "Prevention services" means preservation services,
2 as defined in chapter 74.14C RCW, and other reasonably available
3 services, including housing assistance, capable of preventing the
4 need for out-of-home placement while protecting the child. Prevention
5 services include, but are not limited to, prevention and family
6 services and programs as defined in this section.

7 (~~((20))~~) (21) "Qualified residential treatment program" means a
8 program licensed as a group care facility under chapter 74.15 RCW
9 that also qualifies for funding under the federal family first
10 prevention services act under 42 U.S.C. Sec. 672(k) and meets the
11 requirements provided in RCW 13.34.420.

12 (~~((21))~~) (22) "Relative" includes persons related to a child in
13 the following ways:

14 (a) Any blood relative, including those of half-blood, and
15 including first cousins, second cousins, nephews or nieces, and
16 persons of preceding generations as denoted by prefixes of grand,
17 great, or great-great;

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

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

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

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

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

34 (~~((22))~~) (23) "Shelter care" means temporary physical care in a
35 facility licensed pursuant to RCW 74.15.030 or in a home not required
36 to be licensed pursuant to RCW 74.15.030.

37 (~~((23))~~) (24) "Sibling" means a child's birth brother, birth
38 sister, adoptive brother, adoptive sister, half-brother, or half-
39 sister, or as defined by the law or custom of the Indian child's
40 tribe for an Indian child as defined in RCW 13.38.040.

1 ~~((24))~~ (25) "Social study" means a written evaluation of
2 matters relevant to the disposition of the case that contains the
3 information required by RCW 13.34.430.

4 ~~((25))~~ (26) "Supervised independent living" includes, but is
5 not limited to, apartment living, room and board arrangements,
6 college or university dormitories, and shared roommate settings.
7 Supervised independent living settings must be approved by the
8 department or the court.

9 ~~((26))~~ (27) "Voluntary placement agreement" means, for the
10 purposes of extended foster care services, a written voluntary
11 agreement between a nonminor dependent who agrees to submit to the
12 care and authority of the department for the purposes of
13 participating in the extended foster care program.

14 **Sec. 116.** RCW 13.34.062 and 2018 c 58 s 71 are each amended to
15 read as follows:

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

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

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

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

"NOTICE

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

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

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

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

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

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

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

5. You have a right to a case conference to develop a written service agreement following the shelter care hearing. The service agreement may not conflict with the court's order of shelter care. You may request that a multidisciplinary team, family group

1 conference, or prognostic staffing be convened for your child's case.
2 You may participate in these processes with your counsel present.

3 6. If your child is placed in the custody of the department of
4 children, youth, and families (~~((or other supervising agency))~~),
5 immediately following the shelter care hearing, the court will enter
6 an order granting the department (~~((or other supervising agency))~~) the
7 right to inspect and copy all health, medical, mental health, and
8 education records of the child, directing health care providers to
9 release such information without your further consent, and granting
10 the department (~~((or supervising agency))~~) or its designee the
11 authority and responsibility, where applicable, to:

12 (1) Notify the child's school that the child is in out-of-home
13 placement;

14 (2) Enroll the child in school;

15 (3) Request the school transfer records;

16 (4) Request and authorize evaluation of special needs;

17 (5) Attend parent or teacher conferences;

18 (6) Excuse absences;

19 (7) Grant permission for extracurricular activities;

20 (8) Authorize medications which need to be administered during
21 school hours and sign for medical needs that arise during school
22 hours; and

23 (9) Complete or update school emergency records.

24 7. If the court decides to place your child in the custody of the
25 department of children, youth, and families (~~((or other supervising
26 agency))~~), the department or agency will create a permanency plan for
27 your child, including a primary placement goal and secondary
28 placement goal. The department or agency also will recommend that the
29 court order services for your child and for you, if needed. The
30 department or agency is required to make reasonable efforts to
31 provide you with services to address your parenting problems, and to
32 provide you with visitation with your child according to court
33 orders. Failure to promptly engage in services or to maintain contact
34 with your child may lead to the filing of a petition to terminate
35 your parental rights.

36 8. Primary and secondary permanency plans are intended to run at
37 the same time so that your child will have a permanent home as
38 quickly as possible. Absent good cause, and when appropriate, the
39 department (~~((or other supervising agency))~~) must follow the wishes of
40 a natural parent regarding placement of a child. You should tell your

1 lawyer and the court where you wish your child placed immediately,
2 including whether you want your child placed with you, with a
3 relative, or with another suitable person. You also should tell your
4 lawyer and the court what services you feel are necessary and your
5 wishes regarding visitation with your child. Even if you want another
6 parent or person to be the primary placement choice for your child,
7 you should tell your lawyer, the department (~~or other supervising~~
8 ~~agency~~), and the court if you want to be a secondary placement
9 option, and you should comply with court orders for services and
10 participate in visitation with your child. Early and consistent
11 involvement in your child's case plan is important for the well-being
12 of your child.

13 9. A dependency petition begins a judicial process, which, if the
14 court finds your child dependent, could result in substantial
15 restrictions including, the entry or modification of a parenting plan
16 or residential schedule, nonparental custody order or decree,
17 guardianship order, or permanent loss of your parental rights."

18 Upon receipt of the written notice, the parent, guardian, or
19 legal custodian shall acknowledge such notice by signing a receipt
20 prepared by child protective services. If the parent, guardian, or
21 legal custodian does not sign the receipt, the reason for lack of a
22 signature shall be written on the receipt. The receipt shall be made
23 a part of the court's file in the dependency action.

24 If after making reasonable efforts to provide notification, child
25 protective services is unable to determine the whereabouts of the
26 parents, guardian, or legal custodian, the notice shall be delivered
27 or sent to the last known address of the parent, guardian, or legal
28 custodian.

29 (3) If child protective services is not required to give notice
30 under this section, the juvenile court counselor assigned to the
31 matter shall make all reasonable efforts to advise the parents,
32 guardian, or legal custodian of the time and place of any shelter
33 care hearing, request that they be present, and inform them of their
34 basic rights as provided in RCW 13.34.090.

35 (4) Reasonable efforts to advise and to give notice, as required
36 in this section, shall include, at a minimum, investigation of the
37 whereabouts of the parent, guardian, or legal custodian. If such
38 reasonable efforts are not successful, or the parent, guardian, or

1 legal custodian does not appear at the shelter care hearing, the
2 petitioner shall testify at the hearing or state in a declaration:

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

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

8 **Sec. 117.** RCW 13.34.110 and 2017 3rd sp.s. c 6 s 305 are each
9 amended to read as follows:

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

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

28 (3)(a) The parent, guardian, or legal custodian of the child may
29 waive his or her right to a fact-finding hearing by stipulating or
30 agreeing to the entry of an order of dependency establishing that the
31 child is dependent within the meaning of RCW 13.34.030. The parent,
32 guardian, or legal custodian may also stipulate or agree to an order
33 of disposition pursuant to RCW 13.34.130 at the same time. Any
34 stipulated or agreed order of dependency or disposition must be
35 signed by the parent, guardian, or legal custodian and his or her
36 attorney, unless the parent, guardian, or legal custodian has waived
37 his or her right to an attorney in open court, and by the petitioner
38 and the attorney, guardian ad litem, or court-appointed special
39 advocate for the child, if any. If the department is not the

petitioner and is required by the order to supervise the placement of the child or provide services to any party, the department must also agree to and sign the order.

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

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

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

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

(iii) The parent, guardian, or legal custodian understands that the entry of the stipulated or agreed order of dependency is an admission that the child is dependent within the meaning of RCW 13.34.030 and shall have the same legal effect as a finding by the court that the child is dependent by at least a preponderance of the evidence, and that the parent, guardian, or legal custodian shall not have the right in any subsequent proceeding for termination of parental rights ((or ~~dependency guardianship~~)) pursuant to this chapter or ((~~nonparental custody~~)) guardianship pursuant to ((~~chapter 26.10~~)) chapters 13.36 or 11.130 RCW to challenge or dispute the fact that the child was found to be dependent; and

(iv) The parent, guardian, or legal custodian knowingly and willingly stipulated and agreed to and signed the order or orders,

1 without duress, and without misrepresentation or fraud by any other
2 party.

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

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

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

1 **Sec. 118.** RCW 13.34.136 and 2018 c 284 s 13 are each amended to
2 read as follows:

3 (1) Whenever a child is ordered removed from the home, a
4 permanency plan shall be developed no later than sixty days from the
5 time the department assumes responsibility for providing services,
6 including placing the child, or at the time of a hearing under RCW
7 13.34.130, whichever occurs first. The permanency planning process
8 continues until a permanency planning goal is achieved or dependency
9 is dismissed. The planning process shall include reasonable efforts
10 to return the child to the parent's home.

11 (2) The department shall submit a written permanency plan to all
12 parties and the court not less than fourteen days prior to the
13 scheduled hearing. Responsive reports of parties not in agreement
14 with the department's proposed permanency plan must be provided to
15 the department, all other parties, and the court at least seven days
16 prior to the hearing.

17 The permanency plan shall include:

18 (a) A permanency plan of care that shall identify one of the
19 following outcomes as a primary goal and may identify additional
20 outcomes as alternative goals: Return of the child to the home of the
21 child's parent, guardian, or legal custodian; adoption, including a
22 tribal customary adoption as defined in RCW 13.38.040; guardianship
23 pursuant to chapter 13.36 RCW; guardianship of a minor pursuant to
24 RCW 11.130.215; ((permanent legal custody;)) long-term relative or
25 foster care, if the child is between ages sixteen and eighteen, with
26 a written agreement between the parties and the care provider;
27 successful completion of a responsible living skills program; or
28 independent living, if appropriate and if the child is age sixteen or
29 older. Although a permanency plan of care may only identify long-term
30 relative or foster care for children between ages sixteen and
31 eighteen, children under sixteen may remain placed with relatives or
32 in foster care. The department shall not discharge a child to an
33 independent living situation before the child is eighteen years of
34 age unless the child becomes emancipated pursuant to chapter 13.64
35 RCW;

36 (b) Unless the court has ordered, pursuant to RCW 13.34.130(8),
37 that a termination petition be filed, a specific plan as to where the
38 child will be placed, what steps will be taken to return the child
39 home, what steps the department will take to promote existing
40 appropriate sibling relationships and/or facilitate placement

1 together or contact in accordance with the best interests of each
2 child, and what actions the department will take to maintain parent-
3 child ties. All aspects of the plan shall include the goal of
4 achieving permanence for the child.

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

9 (A) If the parent is incarcerated, the plan must address how the
10 parent will participate in the case conference and permanency
11 planning meetings and, where possible, must include treatment that
12 reflects the resources available at the facility where the parent is
13 confined. The plan must provide for visitation opportunities, unless
14 visitation is not in the best interests of the child.

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

29 (ii)(A) Visitation is the right of the family, including the
30 child and the parent, in cases in which visitation is in the best
31 interest of the child. Early, consistent, and frequent visitation is
32 crucial for maintaining parent-child relationships and making it
33 possible for parents and children to safely reunify. The department
34 shall encourage the maximum parent and child and sibling contact
35 possible, when it is in the best interest of the child, including
36 regular visitation and participation by the parents in the care of
37 the child while the child is in placement.

38 (B) Visitation shall not be limited as a sanction for a parent's
39 failure to comply with court orders or services where the health,

1 safety, or welfare of the child is not at risk as a result of the
2 visitation.

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

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

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

32 (B) Any exceptions, limitation, or denial of contacts or
33 visitation must be approved by the supervisor of the department
34 caseworker and documented. The child, parent, department, guardian ad
35 litem, or court-appointed special advocate may challenge the denial
36 of visits in court.

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

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

4 (vi) Unless it is not in the best interests of the child,
5 whenever practical, the plan should ensure the child remains enrolled
6 in the school the child was attending at the time the child entered
7 foster care.

8 (vii) The department shall provide all reasonable services that
9 are available within the department, or within the community, or
10 those services which the department has existing contracts to
11 purchase. It shall report to the court if it is unable to provide
12 such services; and

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

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

36 (4) If the court determines that the continuation of reasonable
37 efforts to prevent or eliminate the need to remove the child from his
38 or her home or to safely return the child home should not be part of
39 the permanency plan of care for the child, reasonable efforts shall
40 be made to place the child in a timely manner and to complete

1 whatever steps are necessary to finalize the permanent placement of
2 the child.

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

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

27 (7) For purposes related to permanency planning(~~((~~
28 ~~(a) "Guardianship")~~), "guardianship" means a ~~((dependency~~
29 ~~guardianship or a legal))~~ guardianship pursuant to chapter ~~((11.88))~~
30 11.36 RCW or a guardianship of a minor pursuant to RCW 11.130.215, or
31 equivalent laws of another state or a federally recognized Indian
32 tribe.

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

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

38 **Sec. 119.** RCW 13.34.145 and 2019 c 172 s 15 are each amended to
39 read as follows:

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

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

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

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

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

36 (3) When the youth is at least age seventeen years but not older
37 than seventeen years and six months, the department shall provide the
38 youth with written documentation which explains the availability of
39 extended foster care services and detailed instructions regarding how

1 the youth may access such services after he or she reaches age
2 eighteen years.

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

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

16 (b) In cases where the primary permanency planning goal has not
17 been achieved, the court shall inquire regarding the reasons why the
18 primary goal has not been achieved and determine what needs to be
19 done to make it possible to achieve the primary goal. The court shall
20 review the permanency plan prepared by the agency and make explicit
21 findings regarding each of the following:

22 (i) The continuing necessity for, and the safety and
23 appropriateness of, the placement;

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

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

30 (iv) The progress toward eliminating the causes for the child's
31 placement outside of his or her home and toward returning the child
32 safely to his or her home or obtaining a permanent placement for the
33 child;

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

37 (vi) If the child has been placed outside of his or her home for
38 fifteen of the most recent twenty-two months, not including any
39 period during which the child was a runaway from the out-of-home
40 placement or the first six months of any period during which the

1 child was returned to his or her home for a trial home visit, the
2 appropriateness of the permanency plan, whether reasonable efforts
3 were made by the department to achieve the goal of the permanency
4 plan, and the circumstances which prevent the child from any of the
5 following:

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

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

9 (C) Being placed for adoption;

10 (D) Being placed with a guardian;

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

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

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

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

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

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

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

30 (v) What efforts the department has made to prepare the child to
31 return home or be placed with a fit and willing relative as defined
32 in RCW 13.34.030, a Title 13 RCW (~~legal~~) guardian, a guardian
33 pursuant to RCW 11.130.215, an adoptive parent, or in a foster family
34 home.

35 (5) Following this inquiry, at the permanency planning hearing,
36 the court shall order the department to file a petition seeking
37 termination of parental rights if the child has been in out-of-home
38 care for fifteen of the last twenty-two months since the date the
39 dependency petition was filed unless the court makes a good cause
40 exception as to why the filing of a termination of parental rights

petition is not appropriate. Any good cause finding shall be reviewed at all subsequent hearings pertaining to the child.

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

(i) The child is being cared for by a relative;

(ii) The department has not provided to the child's family such services as the court and the department have deemed necessary for the child's safe return home;

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

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

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

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

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

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

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

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

1 (iv) Information provided by individuals or agencies in a
2 reasonable position to assist the court in making this assessment,
3 including but not limited to the parent's attorney, correctional and
4 mental health personnel, or other individuals providing services to
5 the parent;

6 (v) Limitations in the parent's access to family support
7 programs, therapeutic services, and visiting opportunities,
8 restrictions to telephone and mail services, inability to participate
9 in foster care planning meetings, and difficulty accessing lawyers
10 and participating meaningfully in court proceedings; and

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

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

18 (6)(a) If the permanency plan identifies independent living as a
19 goal, the court at the permanency planning hearing shall make a
20 finding that the provision of services to assist the child in making
21 a transition from foster care to independent living will allow the
22 child to manage his or her financial, personal, social, educational,
23 and nonfinancial affairs prior to approving independent living as a
24 permanency plan of care. The court will inquire whether the child has
25 been provided information about extended foster care services.

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

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

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

36 (a) Enter a finding regarding whether the foster parent or
37 relative was informed of the hearing as required in RCW 74.13.280,
38 13.34.215(6), and 13.34.096; and

39 (b) If the department is recommending a placement other than the
40 child's current placement with a foster parent, relative, or other

1 suitable person, enter a finding as to the reasons for the
2 recommendation for a change in placement.

3 (8) In all cases, at the permanency planning hearing, the court
4 shall:

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

7 (ii) Modify the permanency plan, and order implementation of the
8 modified plan; and

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

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

15 (9) Following the first permanency planning hearing, the court
16 shall hold a further permanency planning hearing in accordance with
17 this section at least once every twelve months until a permanency
18 planning goal is achieved or the dependency is dismissed, whichever
19 occurs first.

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

23 (11) If the court orders the child returned home, casework
24 supervision by the department shall continue for at least six months,
25 at which time a review hearing shall be held pursuant to RCW
26 13.34.138, and the court shall determine the need for continued
27 intervention.

28 (12) The juvenile court may hear a petition for permanent legal
29 custody when: (a) The court has ordered implementation of a
30 permanency plan that includes permanent legal custody; and (b) the
31 party pursuing the permanent legal custody is the party identified in
32 the permanency plan as the prospective legal custodian. During the
33 pendency of such proceeding, the court shall conduct review hearings
34 and further permanency planning hearings as provided in this chapter.
35 At the conclusion of the legal guardianship or permanent legal
36 custody proceeding, a juvenile court hearing shall be held for the
37 purpose of determining whether dependency should be dismissed. If a
38 guardianship or permanent custody order has been entered, the
39 dependency shall be dismissed.

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

5 (14) Nothing in this chapter may be construed to limit the
6 ability of the agency that has custody of the child to file a
7 petition for termination of parental rights or a guardianship
8 petition at any time following the establishment of dependency. Upon
9 the filing of such a petition, a fact-finding hearing shall be
10 scheduled and held in accordance with this chapter unless the
11 department requests dismissal of the petition prior to the hearing or
12 unless the parties enter an agreed order terminating parental rights,
13 establishing guardianship, or otherwise resolving the matter.

14 (15) The approval of a permanency plan that does not contemplate
15 return of the child to the parent does not relieve the department of
16 its obligation to provide reasonable services, under this chapter,
17 intended to effectuate the return of the child to the parent,
18 including but not limited to, visitation rights. The court shall
19 consider the child's relationships with siblings in accordance with
20 RCW 13.34.130.

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

24 **Sec. 120.** RCW 13.34.155 and 2019 c 46 s 5017 are each amended to
25 read as follows:

26 (1) The court hearing the dependency petition may hear and
27 determine issues related to (~~chapter 26.10 RCW~~) a guardianship of a
28 minor under RCW 11.130.215 in a dependency proceeding as necessary to
29 facilitate a permanency plan for the child or children as part of the
30 dependency disposition order or a dependency review order or as
31 otherwise necessary to implement a permanency plan of care for a
32 child. Any modification or establishment of a guardianship of a minor
33 must be made in conformity with the standards in chapter 11.130 RCW.
34 The parents, guardians, or legal custodian of the child must agree,
35 subject to court approval, to establish or modify a (~~permanent~~
36 ~~custody order~~) guardianship of a minor, but the court may decide any
37 contested issues implementing the guardianship. This agreed (~~order~~)
38 guardianship of a minor may have the concurrence of the other parties
39 to the dependency, the guardian ad litem of the child, and the child

1 if age twelve or older, and must also be in the best interests of the
2 child. If the petitioner for a (~~eustody~~) guardianship of a minor
3 order under (~~chapter 26.10~~) RCW 11.130.215 is not a party to the
4 dependency proceeding, he or she must agree on the record or by the
5 filing of a declaration to the entry of a (~~eustody order~~)
6 guardianship of a minor. Once (~~an~~) a guardianship of a minor order
7 is entered under (~~chapter 26.10~~) RCW 11.130.215, and the dependency
8 petition dismissed, the department shall not continue to supervise
9 the placement.

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

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

19 (c) Unless the whereabouts of one of the parents is unknown to
20 either the department or the court, the parents must agree, subject
21 to court approval, to establish the parenting plan or modify an
22 existing parenting plan.

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

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

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

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

35 (f) The dependency court may interview the child in chambers to
36 ascertain the child's wishes as to the child's residential schedule
37 in a proceeding for the entry or modification of a parenting plan
38 under this section. The court may permit counsel to be present at the
39 interview. The court shall cause a record of the interview to be made

1 and to become part of the court record of the dependency case and the
2 case under chapter 26.09, 26.26A, or 26.26B RCW.

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

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

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

19 ~~(4))~~ Any order entered in the dependency court establishing or
20 modifying a ~~((permanent legal custody order))~~ guardianship of a minor
21 under RCW 11.130.215, parenting plan, or residential schedule under
22 chapter 26.09, ~~((26.10,))~~ 26.26A, or 26.26B RCW shall also be filed
23 in the chapter 11.130, 26.09, ~~((26.10,))~~ 26.26A, or 26.26B RCW action
24 by the moving or prevailing party. If the petitioning or moving party
25 has been found indigent and appointed counsel at public expense in
26 the dependency proceeding, no filing fees shall be imposed by the
27 clerk. Once filed, any guardianship of a minor order, parenting plan,
28 or residential schedule establishing or modifying permanent legal
29 custody of a child shall survive dismissal of the dependency
30 proceeding.

31 **Sec. 121.** RCW 13.34.210 and 2018 c 284 s 21 are each amended to
32 read as follows:

33 If, upon entering an order terminating the parental rights of a
34 parent, there remains no parent having parental rights, the court
35 shall commit the child to the custody of the department willing to
36 accept custody for the purpose of placing the child for adoption. If
37 an adoptive home has not been identified, the department shall place
38 the child in a licensed foster home, or take other suitable measures
39 for the care and welfare of the child. The custodian shall have

1 authority to consent to the adoption of the child consistent with
2 chapter 26.33 RCW, the marriage of the child, the enlistment of the
3 child in the armed forces of the United States, necessary surgical
4 and other medical treatment for the child, and to consent to such
5 other matters as might normally be required of the parent of the
6 child.

7 If a child has not been adopted within six months after the date
8 of the order and a guardianship of the child under chapter 13.36 RCW
9 or (~~chapter 11.88 RCW, or a permanent custody order under chapter~~
10 ~~26.10 RCW,~~) a guardianship of a minor under RCW 11.130.215 has not
11 been entered by the court, the court shall review the case every six
12 months until a decree of adoption is entered. The department shall
13 take reasonable steps to ensure that the child maintains
14 relationships with siblings as provided in RCW 13.34.130(~~(+6+)~~) (7)
15 and shall report to the court the status and extent of such
16 relationships.

17 **Sec. 122.** RCW 13.50.100 and 2019 c 470 s 21 are each amended to
18 read as follows:

19 (1) This section governs records not covered by RCW 13.50.050,
20 13.50.260, and 13.50.270.

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

23 (3) Records retained or produced by any juvenile justice or care
24 agency may be released to other participants in the juvenile justice
25 or care system only when an investigation or case involving the
26 juvenile in question is being pursued by the other participant or
27 when that other participant is assigned the responsibility of
28 supervising the juvenile. Records covered under this section and
29 maintained by the juvenile courts which relate to the official
30 actions of the agency may be entered in the statewide judicial
31 information system. However, truancy records associated with a
32 juvenile who has no other case history, and records of a juvenile's
33 parents who have no other case history, shall be removed from the
34 judicial information system when the juvenile is no longer subject to
35 the compulsory attendance laws in chapter 28A.225 RCW. A county clerk
36 is not liable for unauthorized release of this data by persons or
37 agencies not in his or her employ or otherwise subject to his or her
38 control, nor is the county clerk liable for inaccurate or incomplete

1 information collected from litigants or other persons required to
2 provide identifying data pursuant to this section.

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

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

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

22 (5) Any disclosure of records or information by the department of
23 social and health services or the department of children, youth, and
24 families, pursuant to this section shall not be deemed a waiver of
25 any confidentiality or privilege attached to the records or
26 information by operation of any state or federal statute or
27 regulation, and any recipient of such records or information shall
28 maintain it in such a manner as to comply with such state and federal
29 statutes and regulations and to protect against unauthorized
30 disclosure.

31 (6) A contracting agency or service provider of the department of
32 social and health services or the department of children, youth, and
33 families, that provides counseling, psychological, psychiatric, or
34 medical services may release to the office of the family and
35 children's ombuds information or records relating to services
36 provided to a juvenile who is dependent under chapter 13.34 RCW
37 without the consent of the parent or guardian of the juvenile, or of
38 the juvenile if the juvenile is under the age of thirteen years,
39 unless such release is otherwise specifically prohibited by law.

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

5 (a) If it is determined by the agency that release of this
6 information is likely to cause severe psychological or physical harm
7 to the juvenile or his or her parents the agency may withhold the
8 information subject to other order of the court: PROVIDED, That if
9 the court determines that limited release of the information is
10 appropriate, the court may specify terms and conditions for the
11 release of the information; or

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

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

25 (8) A juvenile or his or her parent denied access to any records
26 following an agency determination under subsection (7) of this
27 section may file a motion in juvenile court requesting access to the
28 records. The court shall grant the motion unless it finds access may
29 not be permitted according to the standards found in subsection
30 (7)(a) and (b) of this section.

31 (9) The person making a motion under subsection (8) of this
32 section shall give reasonable notice of the motion to all parties to
33 the original action and to any agency whose records will be affected
34 by the motion.

35 (10) Subject to the rules of discovery in civil cases, any party
36 to a proceeding seeking a declaration of dependency or a termination
37 of the parent-child relationship and any party's counsel and the
38 guardian ad litem of any party, shall have access to the records of
39 any natural or adoptive child of the parent, subject to the
40 limitations in subsection (7) of this section. A party denied access

1 to records may request judicial review of the denial. If the party
2 prevails, he or she shall be awarded attorneys' fees, costs, and an
3 amount not less than five dollars and not more than one hundred
4 dollars for each day the records were wrongfully denied.

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

8 NEW SECTION. **Sec. 123.** A new section is added to chapter 11.130
9 RCW to read as follows:

10 Any order for the relocation of a minor under a guardianship must
11 comply with the notice requirements of RCW 26.09.430 through
12 26.09.490.

13 **PART II**
14 **GUARDIANSHIPS OF ADULTS**

15 **Sec. 201.** RCW 11.130.285 and 2019 c 437 s 305 are each amended
16 to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 202. RCW 11.130.290 and 2019 c 437 s 306 are each amended to read as follows:

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

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

~~(b) In other cases, unless the court finds that it has sufficient information to determine the respondent's needs and abilities without the evaluation.))~~ On receipt of a petition under RCW 11.130.270 and at the time the court appoints a court visitor under RCW 11.130.280, the court shall order a professional evaluation of the respondent.

~~(2) ((If the court orders an evaluation under subsection (1) of this section, the))~~ The respondent must be examined by a physician licensed to practice under chapter 18.71 or 18.57 RCW, psychologist licensed under chapter 18.83 RCW, ((or)) advanced registered nurse practitioner licensed under chapter 18.79 RCW, or physician assistant licensed under chapter 18.71A RCW selected by the court visitor who is qualified to evaluate the respondent's alleged cognitive and functional abilities and limitations and will not be advantaged or disadvantaged by a decision to grant the petition or otherwise have a

1 conflict of interest. ~~((The individual conducting the evaluation~~
2 ~~promptly shall file [a] report in a record with the court.))~~ If the
3 respondent opposes the professional selected by the court visitor,
4 the court visitor shall obtain a professional evaluation from the
5 professional selected by the respondent. The court visitor, after
6 receiving a professional evaluation from the individual selected by
7 the respondent, may obtain a supplemental evaluation from a different
8 professional.

9 (3) The individual conducting the evaluation shall provide the
10 completed evaluation report to the court visitor within thirty days
11 of the examination of the respondent. The court visitor shall file
12 the report in a sealed record with the court. Unless otherwise
13 directed by the court, the report must contain:

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

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

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

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

22 ~~(d))~~ (e) A description of the respondent's current medications,
23 and the effect of the medications on the respondent's cognitive and
24 functional abilities;

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

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

28 ~~((3) The))~~ (4) If the respondent ((may decline)) declines to
29 participate in an evaluation ordered under subsection (1) of this
30 section, the court may proceed with the hearing under RCW 11.130.275
31 if the court finds that it has sufficient information to determine
32 the respondent's needs and abilities without the professional
33 evaluation.

34 **Sec. 203.** RCW 11.130.320 and 2019 c 437 s 312 are each amended
35 to read as follows:

36 (1) On its own after a petition has been filed under RCW
37 11.130.270, or on petition by a person interested in an adult's
38 welfare, the court may appoint an emergency guardian for the adult if
39 the court finds by clear and convincing evidence:

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

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

6 (c) There is reason to believe that a basis for appointment of a
7 guardian under RCW 11.130.265 exists.

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

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

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

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

30 (i) The respondent;

31 (ii) The respondent's attorney; and

32 (iii) Any other ((~~person the court determines~~)) notice party; and

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

35 (5) Appointment of an emergency guardian under this section is
36 not a determination that a basis exists for appointment of a guardian
37 under RCW 11.130.265.

38 (6) The court may remove an emergency guardian appointed under
39 this section at any time. The emergency guardian shall make any
40 report the court requires.

1 **Sec. 204.** RCW 11.130.330 and 2019 c 437 s 314 are each amended
2 to read as follows:

3 (1) Except as limited by court order, a guardian for an adult
4 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 RCW 11.130.310;

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

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

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

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

1 (a) Select a residential setting the guardian believes the adult
2 would select if the adult were able, in accordance with the decision-
3 making standard in RCW 11.130.325 (4) and (5). If the guardian does
4 not know and cannot reasonably determine what setting the adult
5 subject to guardianship probably would choose if able, or the
6 guardian reasonably believes the decision the adult would make would
7 unreasonably harm or endanger the welfare or personal or financial
8 interests of the adult, the guardian shall choose in accordance with
9 RCW 11.130.325(5) a residential setting that is consistent with the
10 adult's best interest;

11 (b) In selecting among residential settings, give priority to a
12 residential setting in a location that will allow the adult to
13 interact with persons important to the adult and meet the adult's
14 needs in the least restrictive manner reasonably feasible unless to
15 do so would be inconsistent with the decision-making standard in RCW
16 11.130.325 (4) and (5);

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

19 (i) Give notice of the change to the court, the adult, and any
20 (~~(person identified as entitled to the notice in the court order~~
21 ~~appointing the guardian or a subsequent order))~~ other notice party;
22 and

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

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

30 (i) The establishment or move is in the guardian's plan under RCW
31 11.130.340;

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

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

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

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

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

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

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

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

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

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

19 (c) Take into account:

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

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

23 (7) Notwithstanding subsection (1)(b) of this section no
24 (~~residential treatment facility~~) care setting which provides
25 nursing or other care may detain a person within such facility
26 against their will. Any court order, other than an order issued in
27 accordance with the involuntary treatment provisions of
28 chapters 10.77, 71.05, and 72.23 RCW, which purports to authorize
29 such involuntary detention or purports to authorize a guardian or
30 limited guardian to consent to such involuntary detention on behalf
31 of an individual subject to a guardianship shall be void and of no
32 force or effect. This section does not apply to the detention of a
33 minor as provided in chapter 71.34 RCW.

34 (8) Nothing in this section shall be construed to require a court
35 order authorizing placement of an incapacitated person in a
36 (~~residential treatment facility~~) care setting if such order is not
37 otherwise required by law: PROVIDED, That notice of any residential
38 placement of an individual subject to a guardianship shall be served,
39 either before or after placement, by the guardian or limited guardian

on such individual, any court visitor of record, any guardian ad litem of record, and any attorney of record.

Sec. 205. RCW 11.130.335 and 2019 c 437 s 315 are each amended to read as follows:

(1) (~~Unless authorized by the court by specific order, a~~) A guardian for an adult does not have the power to revoke or amend a power of attorney for health care or power of attorney for finances executed by the adult. If a power of attorney for health care is in effect, unless there is a court order to the contrary, a health care decision of an agent takes precedence over that of the guardian and the guardian shall cooperate with the agent to the extent feasible. If a power of attorney for finances is in effect, unless there is a court order to the contrary, a decision by the agent which the agent is authorized to make under the power of attorney for finances takes precedence over that of the guardian and the guardian shall cooperate with the agent to the extent feasible.

(2) A guardian for an adult (~~may~~) shall not initiate the commitment of the adult to an evaluation and treatment facility except in accordance with the (~~state's procedure for involuntary civil commitment~~) provisions of chapter 10.77, 71.05, or 72.23 RCW.

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

- (a) Therapy or other procedure to induce convulsion;
- (b) Surgery solely for the purpose of psychosurgery; or
- (c) Other psychiatric or mental health procedures that restrict physical freedom of movement or the rights set forth in RCW 71.05.217.

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

(5) Persons under a guardianship, conservatorship, or other protective arrangements—Right to associate with persons of their choosing.

(a) Except as otherwise provided in this section, a person under a guardianship, conservatorship, or other protective arrangement

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

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

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

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

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

24 (i) The restriction is specifically authorized by the
25 guardianship court in the court order establishing or modifying the
26 guardianship or limited guardianship under this chapter ((~~11.130~~
27 ~~RCW~~));

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

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

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

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

8 (6) A protection order under chapter 74.34 RCW issued to protect
9 the person under a guardianship as described in subsection
10 (5)(b)(iii)(B) of this section:

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

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

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

22 **Sec. 206.** RCW 11.130.340 and 2019 c 437 s 317 are each amended
23 to read as follows:

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

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

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

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

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

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

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

11 (g) A statement or list of the amount the guardian proposes to
12 charge for each service the guardian anticipates providing to the
13 adult.

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

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

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

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

36 **Sec. 207.** RCW 11.130.345 and 2019 c 437 s 318 are each amended
37 to read as follows:

38 (1) A guardian for an adult shall file with the court by the date
39 established by the court a report in a record regarding the condition

1 of the adult and accounting for funds and other property in the
2 guardian's possession or subject to the guardian's control. The
3 guardian shall provide a copy of the report to the adult subject to
4 guardianship(~~((, a person entitled to notice under RCW 11.130.310(5)~~
5 ~~or a subsequent order,))~~) and any other (~~(person the court~~
6 ~~determines))~~) notice party.

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

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

10 (b) The living arrangements of the adult during the reporting
11 period;

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

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

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

19 (f) The extent to which the adult has participated in decision
20 making;

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

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

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

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

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

(l) Plans for future care and support of the adult;
(m) A recommendation as to the need for continued guardianship and any recommended change in the scope of the guardianship; and
(n) Whether any co-guardian or successor guardian appointed to serve when a designated event occurs is alive and able to serve.

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

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

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

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

(b) The guardianship should continue; and

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

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

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

(b) May require additional information from the guardian;

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

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

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

(8) A guardian for an adult must petition the court for approval of a report filed under this section. The court after review may approve the report. If the court approves the report, there is a

1 rebuttable presumption the report is accurate as to a matter
2 adequately disclosed in the report.

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

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

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

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

27 **Sec. 208.** RCW 11.130.360 and 2019 c 437 s 401 are each amended
28 to read as follows:

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

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

36 (b) Either:

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

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

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

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

9 (a) The adult (~~is unable~~) has a demonstrated inability to
10 manage property or financial affairs because:

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

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

17 (b) Appointment is necessary to:

18 (i) Avoid harm to the (~~adult~~) adult's health, safety, welfare,
19 or rights or significant dissipation of the property of the adult; or

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

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

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

33 (4) The appointment of a conservator is a legal decision, not a
34 medical decision. The appointment must be based on a demonstration of
35 management insufficiencies over time in the area of estate. Age,
36 eccentricity, poverty, or medical diagnosis alone are not sufficient
37 to justify the appointment of a conservator for an adult.

38 **Sec. 209.** RCW 11.130.365 and 2019 c 437 s 402 are each amended
39 to read as follows:

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

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

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

(c) The guardian for the individual.

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

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

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

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

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

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

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

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

(ii) Any attorney currently representing the respondent;

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

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

(v) A trustee or custodian of a trust or custodianship of which 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 **Sec. 210.** RCW 11.130.370 and 2019 c 437 s 403 are each amended
16 to read as follows:

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

22 (2) A copy of a petition under RCW 11.130.365 and notice of a
23 hearing on the petition must be served personally on the respondent
24 ~~((and))~~, the court visitor appointed under RCW 11.130.380, and the
25 appointed or proposed guardian not more than five court days after
26 the petition under RCW 11.130.365 has been filed. If the respondent's
27 whereabouts are unknown or personal service cannot be made, service
28 on the respondent must be made by publication. The notice must inform
29 the respondent of the respondent's rights at the hearing, including
30 the right to an attorney and to attend the hearing. The notice must
31 include a description of the nature, purpose, and consequences of
32 granting the petition. The court may not grant a petition for
33 appointment of a conservator if notice substantially complying with
34 this subsection is not served on the respondent.

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

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

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

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

9 (b) The conservator; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Either:

(i) The petition for conservatorship is dismissed; or

(ii) The conservatorship is terminated.

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

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

(a) The court;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (1) On its own or on petition by a person interested in an
7 individual's welfare after a petition has been filed under RCW
8 11.130.365, the court may appoint an emergency conservator for the
9 individual if the court finds:

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

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

15 (c) There is reason to believe that a basis for appointment of a
16 conservator under RCW 11.130.360 exists.

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

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

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

39 (a) The respondent;

(b) The respondent's attorney; and

(c) Any other ((~~person the court determines~~)) notice party.

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

(6) Appointment of an emergency conservator under this section is not a determination that a basis exists for appointment of a conservator under RCW 11.130.360.

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

Sec. 218. RCW 11.130.435 and 2019 c 437 s 414 are each amended to read as follows:

(1) Except as otherwise ordered by the court, a conservator must give notice to persons entitled to notice under RCW 11.130.370(4) and receive specific authorization by the court before the conservator may exercise with respect to the conservatorship the power to:

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

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

(c) Sell, or encumber an interest in, any other real estate;

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

~~((d))~~ (e) Exercise or release a power of appointment;

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

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

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

~~((h))~~ (i) Grant a creditor priority for payment over creditors of the same or higher class if the creditor is providing property or services used to meet the basic living and care needs of the individual subject to conservatorship and preferential treatment otherwise would be impermissible under RCW 11.130.555(5); ~~((and~~

1 ~~(i))~~ (j) Make, modify, amend, or revoke the will of the
2 individual subject to conservatorship in compliance with chapter
3 11.12 RCW;

4 (k) Acquire or dispose of property, including real property in
5 another state, for cash or on credit, at public or private sale, and
6 manage, develop, improve, exchange, partition, change the character
7 of, or abandon property;

8 (l) Make ordinary or extraordinary repairs or alterations in a
9 building or other structure, demolish any improvement, or raze an
10 existing or erect a new party wall or building;

11 (m) Subdivide or develop land, dedicate land to public use, make
12 or obtain the vacation of a plat and adjust a boundary, adjust a
13 difference in valuation of land, exchange or partition land by giving
14 or receiving consideration, and dedicate an easement to public use
15 without consideration;

16 (n) Enter for any purpose into a lease of property as lessor or
17 lessee, with or without an option to purchase or renew, for a term
18 within or extending beyond the term of the conservatorship; and

19 (o) Structure the finances of the individual subject to
20 conservatorship to establish eligibility for a public benefit
21 including by making gifts consistent with the individual's
22 preferences, values, and prior directions, if the conservator's
23 action does not jeopardize the individual's welfare and otherwise is
24 consistent with the conservator's duties.

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

29 (3) To determine under subsection (2) of this section the
30 decision the individual subject to conservatorship would make if
31 able, the court shall consider the individual's prior or current
32 directions, preferences, opinions, values, and actions, to the extent
33 actually known or reasonably ascertainable by the conservator. The
34 court also shall consider:

35 (a) The financial needs of the individual subject to
36 conservatorship and individuals who are in fact dependent on the
37 individual subject to conservatorship for support, and the interests
38 of creditors of the individual;

39 (b) Possible reduction of income, estate, inheritance, or other
40 tax liabilities;

- 1 (c) Eligibility for governmental assistance;
- 2 (d) The previous pattern of giving or level of support provided
- 3 by the individual;
- 4 (e) Any existing estate plan or lack of estate plan of the
- 5 individual;
- 6 (f) The life expectancy of the individual and the probability the
- 7 conservatorship will terminate before the individual's death; and
- 8 (g) Any other relevant factor.

9 (4) A conservator may not revoke or amend a power of attorney for

10 finances executed by the individual subject to conservatorship. If a

11 power of attorney for finances is in effect, a decision of the agent

12 within the scope of the agent's authority takes precedence over that

13 of the conservator, unless the court orders otherwise.

14 **Sec. 219.** RCW 11.130.505 and 2019 c 437 s 418 are each amended

15 to read as follows:

16 (1) A conservator is a fiduciary and has duties of prudence and

17 loyalty to the individual subject to conservatorship.

18 (2) A conservator shall promote the self-determination of the

19 individual subject to conservatorship and, to the extent feasible,

20 encourage the individual to participate in decisions, act on the

21 individual's own behalf, and develop or regain the capacity to manage

22 the individual's personal affairs.

23 (3) In making a decision for an individual subject to

24 conservatorship, the conservator shall make the decision the

25 conservator reasonably believes the individual would make if able,

26 unless doing so would fail to preserve the resources needed to

27 maintain the individual's well-being and lifestyle or otherwise

28 unreasonably harm or endanger the welfare or personal or financial

29 interests of the individual. To determine the decision the individual

30 would make if able, the conservator shall consider the individual's

31 prior or current directions, preferences, opinions, values, and

32 actions, to the extent actually known or reasonably ascertainable by

33 the conservator.

34 (4) If a conservator cannot make a decision under subsection (3)

35 of this section because the conservator does not know and cannot

36 reasonably determine the decision the individual subject to

37 conservatorship probably would make if able, or the conservator

38 reasonably believes the decision the individual would make would fail

39 to preserve resources needed to maintain the individual's well-being

1 and lifestyle or otherwise unreasonably harm or endanger the welfare
2 or personal or financial interests of the individual, the conservator
3 shall act in accordance with the best interests of the individual. In
4 determining the best interests of the individual, the conservator
5 shall consider:

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

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

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

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

16 (a) The circumstances of the individual subject to
17 conservatorship and the conservatorship estate;

18 (b) General economic conditions;

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

20 (d) The expected tax consequences of an investment decision or
21 strategy;

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

24 (f) The expected total return from income and appreciation of
25 capital;

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

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

30 (6) The propriety of a conservator's investment and management of
31 the conservatorship estate is determined in light of the facts and
32 circumstances existing when the conservator decides or acts and not
33 by hindsight.

34 (7) A conservator shall make a reasonable effort to verify facts
35 relevant to the investment and management of the conservatorship
36 estate.

37 (8) A conservator that has special skills or expertise, or is
38 named conservator in reliance on the conservator's representation of
39 special skills or expertise, has a duty to use the special skills or
40 expertise in carrying out the conservator's duties.

1 (9) In investing, selecting specific property for distribution,
2 and invoking a power of revocation or withdrawal for the use or
3 benefit of the individual subject to conservatorship, a conservator
4 shall consider any estate plan of the individual known or reasonably
5 ascertainable to the conservator and may examine the will or other
6 donative, nominative, or appointive instrument of the individual.

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

11 (a) The property lacks sufficient equity; or

12 (b) Insuring the property would unreasonably dissipate the
13 conservatorship estate or otherwise not be in the best interest of
14 the individual.

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

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

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

25 (14) A conservator shall notify the court within thirty days of
26 any substantial change in the value of the property of the person
27 subject to conservatorship and shall provide a copy of the notice to
28 the person subject to guardianship, a person entitled to notice under
29 RCW ((11.130.370)) 11.130.420(6) or a subsequent court order, and any
30 other person the court has determined is entitled to notice and
31 schedule a hearing for the court to review the adequacy of the bond
32 or other verified receipt under RCW 11.130.445 and 11.130.500.

33 **Sec. 220.** RCW 11.130.515 and 2019 c 437 s 420 are each amended
34 to read as follows:

35 (1) Not later than ((~~sixty~~)) ninety days after appointment, a
36 conservator shall prepare and file with the appointing court a
37 detailed inventory of the conservatorship estate, together with an
38 oath or affirmation that the inventory is believed to be complete and
39 accurate as far as information permits.

1 (2) A conservator shall give notice of the filing of an inventory
2 to the individual subject to conservatorship, a person entitled to
3 notice under RCW 11.130.420(6) or a subsequent order, and any other
4 person the court determines. The notice must be given not later than
5 fourteen days after the filing.

6 (3) A conservator shall keep records of the administration of the
7 conservatorship estate and make them available for examination on
8 reasonable request of the individual subject to conservatorship, a
9 guardian for the individual, or any other person the conservator or
10 the court determines.

11 **Sec. 221.** RCW 11.130.520 and 2019 c 437 s 421 are each amended
12 to read as follows:

13 (1) Except as otherwise provided in RCW 11.130.435 or qualified
14 or limited in the court's order of appointment and stated in the
15 letters of office, a conservator has all powers granted in this
16 section and any additional power granted to a trustee by law of this
17 state other than this chapter.

18 (2) A conservator, acting reasonably and consistent with the
19 fiduciary duties of the conservator to accomplish the purpose of the
20 conservatorship, without specific court authorization or
21 confirmation, may with respect to the conservatorship estate:

22 (a) Collect, hold, and retain property, including property in
23 which the conservator has a personal interest and real property in
24 another state, until the conservator determines disposition of the
25 property should be made;

26 (b) Receive additions to the conservatorship estate;

27 (c) Continue or participate in the operation of a business or
28 other enterprise;

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

31 (e) Invest assets;

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

34 ~~(g) ((Acquire or dispose of property, including real property in~~
35 ~~another state, for cash or on credit, at public or private sale, and~~
36 ~~manage, develop, improve, exchange, partition, change the character~~
37 ~~of, or abandon property;~~

1 ~~(h) Make ordinary or extraordinary repairs or alterations in a~~
2 ~~building or other structure, demolish any improvement, or raze an~~
3 ~~existing or erect a new party wall or building;~~

4 ~~(i) Subdivide or develop land, dedicate land to public use, make~~
5 ~~or obtain the vacation of a plat and adjust a boundary, adjust a~~
6 ~~difference in valuation of land, exchange or partition land by giving~~
7 ~~or receiving consideration, and dedicate an easement to public use~~
8 ~~without consideration;~~

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

12 ~~(k))~~ Enter into a lease or arrangement for exploration and
13 removal of minerals or other natural resources or a pooling or
14 unitization agreement;

15 ~~((l))~~ (h) Grant an option involving disposition of property or
16 accept or exercise an option for the acquisition of property;

17 ~~((m))~~ (i) Vote a security, in person or by general or limited
18 proxy;

19 ~~((n))~~ (j) Pay a call, assessment, or other sum chargeable or
20 accruing against or on account of a security;

21 ~~((o))~~ (k) Sell or exercise a stock subscription or conversion
22 right;

23 ~~((p))~~ (l) Consent, directly or through a committee or agent, to
24 the reorganization, consolidation, merger, dissolution, or
25 liquidation of a corporation or other business enterprise;

26 ~~((q))~~ (m) Hold a security in the name of a nominee or in other
27 form without disclosure of the conservatorship so that title to the
28 security may pass by delivery;

29 ~~((r))~~ (n) Insure:

30 (i) The conservatorship estate, in whole or in part, against
31 damage or loss in accordance with RCW 11.130.505(10); and

32 (ii) The conservator against liability with respect to a third
33 person;

34 ~~((s))~~ (o) Borrow funds, with or without security, to be repaid
35 from the conservatorship estate or otherwise;

36 ~~((t))~~ (p) Advance funds for the protection of the
37 conservatorship estate or the individual subject to conservatorship
38 and all expenses, losses, and liability sustained in the
39 administration of the conservatorship estate or because of holding

1 any property for which the conservator has a lien on the
2 conservatorship estate;

3 ~~((+u))~~ (q) Pay or contest a claim, settle a claim by or against
4 the conservatorship estate or the individual subject to
5 conservatorship by compromise, arbitration, or otherwise, or release,
6 in whole or in part, a claim belonging to the conservatorship estate
7 to the extent the claim is uncollectible;

8 ~~((+v))~~ (r) Pay a tax, assessment, compensation of the
9 conservator or any guardian, and other expense incurred in the
10 collection, care, administration, and protection of the
11 conservatorship estate;

12 ~~((+w))~~ (s) Pay a sum distributable to the individual subject to
13 conservatorship or an individual who is in fact dependent on the
14 individual subject to conservatorship by paying the sum to the
15 distributee or for the use of the distributee:

16 (i) To the guardian for the distributee;

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

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

22 ~~((+x))~~ (t) Bring or defend an action, claim, or proceeding in
23 any jurisdiction for the protection of the conservatorship estate or
24 the conservator in the performance of the conservator's duties; and

25 ~~((+y)) Structure the finances of the individual subject to~~
26 ~~conservatorship to establish eligibility for a public benefit,~~
27 ~~including by making gifts consistent with the individual's~~
28 ~~preferences, values, and prior directions, if the conservator's~~
29 ~~action does not jeopardize the individual's welfare and otherwise is~~
30 ~~consistent with the conservator's duties; and~~

31 ~~(+z))~~ (u) Execute and deliver any instrument that will accomplish
32 or facilitate the exercise of a power of the conservator.

33 **Sec. 222.** RCW 11.130.530 and 2019 c 437 s 423 are each amended
34 to read as follows:

35 (1) A conservator shall file with the court by the date
36 established by the court a report in a record regarding the
37 administration of the conservatorship estate unless the court
38 otherwise directs, on resignation or removal, on termination of the
39 conservatorship, and at any other time the court directs.

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

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

6 (b) A list of the services provided to the individual subject to
7 conservatorship;

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

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

13 (e) To the extent feasible, a copy of the most recent reasonably
14 available financial statements evidencing the status of bank
15 accounts, investment accounts, and mortgages or other debts of the
16 individual subject to conservatorship with all but the last four
17 digits of the account numbers and social security number redacted;

18 (f) Anything of more than de minimis value which the conservator,
19 any individual who resides with the conservator, or the spouse,
20 domestic partner, parent, child, or sibling of the conservator has
21 received from a person providing goods or services to the individual
22 subject to conservatorship;

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

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

28 (3) The court may appoint a court visitor to review a report
29 under this section or conservator's plan under RCW 11.130.510,
30 interview the individual subject to conservatorship or conservator,
31 or investigate any other matter involving the conservatorship. In
32 connection with the report, the court may order the conservator to
33 submit the conservatorship estate to appropriate examination in a
34 manner the court directs.

35 (4) Notice of the filing under this section of a conservator's
36 report, together with a copy of the report, must be provided to the
37 individual subject to conservatorship, a person entitled to notice
38 under RCW 11.130.420(6) or a subsequent order, and other persons the
39 court determines. The notice and report must be given not later than
40 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 RCW
13 11.130.420(6) or a subsequent order;

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

15 (c) May appoint a court visitor to interview the individual
16 subject to conservatorship or conservator or investigate any matter
17 involving the conservatorship; and

18 (d) Consistent with RCW 11.130.565 and 11.130.570, 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
6 verified receipt; and whether there have been any allegations of
7 abuse, neglect, or a breach of fiduciary duty against the
8 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 RCW 11.130.665.

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 RCW 11.130.660 to the conservator containing an
17 expiration date which will be within one hundred (~~(twenty)~~) eighty
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 (14) Any requirement to establish a monitoring program under this
26 section is subject to appropriation.

27 **Sec. 223.** RCW 11.130.550 and 2019 c 437 s 427 are each amended
28 to read as follows:

29 ~~((If an individual subject to conservatorship dies, the~~
30 ~~conservator shall deliver))~~ Upon the death of an individual subject
31 to conservatorship, a conservator shall:

32 (a) Have authority to disburse or commit those funds under the
33 control of the conservator as are prudent and within the means of the
34 estate for the disposition of the deceased individual subject to
35 conservatorship's remains. Consent for such arrangement must be
36 secured according to RCW 68.50.160. If no person authorized by RCW
37 68.50.160 accepts responsibility for giving consent, the conservator
38 may consent, subject to the provisions of this section and to the
39 known directives of the deceased individual subject to

1 conservatorship. Reasonable financial commitments made by a
2 conservator pursuant to this section are binding against the estate
3 of the deceased individual subject to conservatorship;

4 (b) Deliver to the court for safekeeping any will of the
5 individual in the conservator's possession and inform the personal
6 representative named in the will if feasible, or if not feasible, a
7 beneficiary named in the will, of the delivery.

8 (2) If forty days after the death of an individual subject to
9 conservatorship no personal representative has been appointed and no
10 application or petition for appointment is before the court, the
11 conservator may apply to exercise the powers and duties of a personal
12 representative to administer and distribute the decedent's estate.
13 The conservator shall give notice of his or her appointment and the
14 pendency of any probate proceedings as provided in RCW 11.28.237 and
15 shall also give notice to a person nominated as personal
16 representative by a will of the decedent of which the conservator is
17 aware. The court may grant the application if there is no objection
18 and endorse the letters of office to note that the individual
19 formerly subject to conservatorship is deceased and the conservator
20 has acquired the powers and duties of a personal representative.

21 (3) On the death of an individual subject to conservatorship, the
22 conservator shall conclude the administration of the conservatorship
23 estate as provided in RCW 11.130.570.

24 NEW SECTION. Sec. 224. A new section is added to chapter 11.130
25 RCW to read as follows:

26 CONSERVATOR ACCESS TO CERTAIN HELD ASSETS. (1) For purposes of
27 this section, "institution" means all financial institutions as
28 defined in RCW 30A.22.041, all insurance companies holding a
29 certificate of authority under chapter 48.05 RCW, or any agent who
30 constitutes a salesperson or broker-dealer of securities under the
31 definitions of RCW 21.20.005, individually and collectively.

32 (2) Institutions shall provide the conservator access and control
33 over the assets described in (a)(vii) of this subsection, including
34 but not limited to delivery of the asset to the conservator, upon
35 receipt of the following:

36 (a) An affidavit containing as an attachment a true and correct
37 copy of the conservator's letters of conservatorship and stating:

38 (i) That as of the date of the affidavit, the affiant is a duly
39 appointed conservator with authority over assets held by the

1 institution but owned or subject to withdrawal or delivery to a
2 client or depositor of the institution;

3 (ii) The cause number of the conservatorship;

4 (iii) The name of the person under conservatorship and the name
5 of the client or depositor, which names must be the same;

6 (iv) The account or the safety deposit box number or numbers;

7 (v) The address of the client or depositor;

8 (vi) The name and address of the affiant-conservator being
9 provided assets or access to assets;

10 (vii) A description of and the value of the asset or assets, or,
11 where the value cannot be readily ascertained, a reasonable estimate
12 thereof, and a statement that the conservator receives delivery or
13 control of each asset solely in its capacity as conservator;

14 (viii) The date the conservator assumed control over the assets;
15 and

16 (ix) That a true and correct copy of the letters of
17 conservatorship duly issued by a court to the conservator is attached
18 to the affidavit; and

19 (b) An envelope, with postage prepaid, addressed to the clerk of
20 the court issuing the letters of conservatorship. The affidavit must
21 be sent in the envelope by the institution to the clerk of the court
22 together with a statement signed by an agent of the institution that
23 the description of the asset set forth in the affidavit appears to be
24 accurate, and confirming in the case of cash assets, the value of the
25 asset.

26 (3) Any conservator provided with access to a safe deposit box
27 pursuant to subsection (1) of this section shall make an inventory of
28 the contents of the box and attach this inventory to the affidavit
29 before the affidavit is sent to the clerk of the court and before the
30 contents of the box are released to the conservator. Any inventory
31 must be prepared in the presence of an employee of the institution
32 and the statement of the institution required under subsection (1) of
33 this section must include a statement executed by the employee that
34 the inventory appears to be accurate. The institution may require
35 payment by the conservator of any fees or charges then due in
36 connection with the asset or account and of a reasonable fee for
37 witnessing preparation of the inventory and preparing the statement
38 required by this subsection or subsection (1) of this section.

39 (4) Any institution to which an affidavit complying with
40 subsection (1) of this section is submitted may rely on the affidavit

1 without inquiry and is not subject to any liability of any nature
2 whatsoever to any person whatsoever, including but not limited to the
3 institution's client or depositor or any other person with an
4 ownership or other interest in or right to the asset, for the
5 reliance or for providing the conservator access and control over the
6 asset, including but not limited to delivery of the asset to the
7 conservator.

8 **Sec. 225.** RCW 11.130.670 and 2019 c 437 s 701 are each amended
9 to read as follows:

10 (1) The certified professional guardianship board must resolve
11 grievances against professional guardians and/or conservators within
12 a reasonable time for alleged violations of the certified
13 professional guardianship board's standards of practice, statutes,
14 regulations, or rules, that relate to the conduct of a certified
15 professional guardian or conservator.

16 (a) All grievances must initially be reviewed within thirty days
17 by certified professional guardianship board members, or a subset
18 thereof, to determine if the grievance is complete, states facts that
19 ~~((allege))~~ describe a violation of the standards of practice,
20 statutes, regulations, or rules, and relates to the conduct of a
21 professional guardian and/or conservator, before ~~((any investigation~~
22 ~~or))~~ investigating, requesting a response ~~((is requested))~~ from the
23 professional guardian or conservator, or forwarding to the superior
24 courts. ~~((Grievances))~~ To be complete, grievances must provide
25 sufficient details of the alleged conduct to demonstrate that a
26 violation of the statute, regulation, standard of practice, or rule,
27 relating to the conduct of a certified professional guardian or
28 conservator could have occurred, the dates ~~((of))~~ the alleged
29 ~~((violations))~~ conduct occurred, and must be signed and dated by the
30 person filing the grievance. Grievance investigations by the board
31 are limited to the allegations contained in the grievance unless,
32 after review by a majority of the members of the certified
33 professional guardianship board, further investigation is justified.

34 (b) If the certified professional guardianship board determines
35 the grievance is complete, states facts that allege a violation of
36 the certified professional guardianship board's standards of
37 practice, and relates to the conduct of a professional guardian
38 and/or conservator, the certified professional guardianship board
39 must forward that grievance within ten days to the superior court for

1 that guardianship or conservatorship and to the professional guardian
2 and/or conservator. The court must review the matter as set forth in
3 RCW 11.130.140, and must direct the clerk of the court to send a copy
4 of the order entered under this section to the certified professional
5 guardianship board. The certified professional guardianship board
6 must accept as facts any finding of fact contained in the order. The
7 certified professional guardianship board must act consistently with
8 any finding of fact issued in that order.

9 (2) Grievances received by the certified professional
10 guardianship board must be (~~resolved~~) investigated and the
11 resolution determined and in process within one hundred eighty days
12 of receipt. The one hundred eighty days is tolled during any period
13 of time when:

14 (a) The certified professional guardianship board has provided a
15 certified professional guardian or conservator an opportunity to
16 respond to a grievance against the certified professional guardian or
17 conservator and the certified professional guardianship board is
18 awaiting the certified professional guardian or conservator's
19 response;

20 (b) The certified professional guardianship board has forwarded a
21 grievance to the superior court for review under subsection (1)(b) of
22 this section and is awaiting receipt of the court's entered order
23 with findings; or

24 (c) A certified professional guardianship board disciplinary
25 hearing has been requested or is in process and during the time of
26 posthearing board review of the hearing officer's recommendations
27 through issuance of a final certified professional guardianship
28 board's order on the matter.

29 (3) If the grievance cannot be resolved within one hundred eighty
30 days, the certified professional guardianship board must notify the
31 professional guardian and/or conservator. The professional guardian
32 or conservator may propose a resolution of the grievance with facts
33 and/or arguments. The certified professional guardianship board may
34 accept the proposed resolution or determine that an additional ninety
35 days are needed to review the grievance. If the certified
36 professional guardianship board has not resolved the grievance within
37 the additional ninety days the professional guardian or conservator
38 may:

1 (a) File a motion for a court order to compel the certified
2 professional guardianship board to resolve the grievance within a
3 reasonable time; or

4 (b) Move for the superior court to resolve the grievance instead
5 of being resolved by the certified professional guardianship board.

6 (4) The superior court has authority to enforce the certified
7 professional guardianship board's standards of practice in this
8 article to the extent those standards are related to statutory or
9 fiduciary duties of guardians and conservators.

10 (5) Any unresolved grievances filed with the certified
11 professional guardianship board (~~at the time of~~) one year or more
12 before January 1, 2021, must be forwarded to the superior court for
13 that guardianship or conservatorship for review by the superior court
14 as set forth in RCW 11.130.140 if the grievance is not in process of
15 a hearing or final resolution.

16 **PART III**
17 **OTHER PROVISIONS**

18 **Sec. 301.** RCW 11.130.010 and 2019 c 437 s 102 are each amended
19 to read as follows:

20 The definitions in this section apply throughout this chapter
21 unless the context clearly requires otherwise.

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

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

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

28 (4) "Claim" includes a claim against an individual or
29 conservatorship estate, whether arising in contract, tort, or
30 otherwise.

31 (5) "Conservator" means a person appointed by a court to make
32 decisions with respect to the property or financial affairs of an
33 individual subject to conservatorship. The term includes a co-
34 conservator.

35 (6) "Conservatorship estate" means the property subject to
36 conservatorship under this chapter.

37 (7) "Court visitor" means the person appointed by the court
38 pursuant to RCW 11.130.280(1) or 11.130.380(1).

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

3 ~~((+8+))~~ (9) "Full conservatorship" means a conservatorship that
4 grants the conservator all powers available under this chapter.

5 ~~((+9+))~~ (10) "Full guardianship" means a guardianship that grants
6 the guardian all powers available under this chapter.

7 ~~((+10+))~~ (11) "Guardian" means a person appointed by the court to
8 make decisions with respect to the personal affairs of an individual.
9 The term includes a co-guardian but does not include a guardian ad
10 litem.

11 ~~((+11+))~~ (12) "Guardian ad litem" means a person appointed to
12 inform the court about, and to represent, the needs and best
13 interests of ~~((an individual))~~ a minor.

14 ~~((+12+))~~ (13) "Individual subject to conservatorship" means an
15 adult or minor for whom a conservator has been appointed under this
16 chapter.

17 ~~((+13+))~~ (14) "Individual subject to guardianship" means an adult
18 or minor for whom a guardian has been appointed under this chapter.

19 ~~((+14+))~~ (15) "Less restrictive alternative" means an approach to
20 meeting an individual's needs which restricts fewer rights of the
21 individual than would the appointment of a guardian or conservator.
22 The term includes supported decision making, appropriate
23 technological assistance, appointment of a representative payee, and
24 appointment of an agent by the individual, including appointment
25 under a power of attorney for health care or power of attorney for
26 finances.

27 ~~((+15+))~~ (16) "Letters of office" means a record issued by a
28 court certifying a guardian's or conservator's authority to act.

29 ~~((+16+))~~ (17) "Limited conservatorship" means a conservatorship
30 that grants the conservator less than all powers available under this
31 chapter, grants powers over only certain property, or otherwise
32 restricts the powers of the conservator.

33 ~~((+17+))~~ (18) "Limited guardianship" means a guardianship that
34 grants the guardian less than all powers available under this chapter
35 or otherwise restricts the powers of the guardian.

36 ~~((+18+))~~ (19) "Long-term care facility" has the same meaning as
37 provided in RCW 70.129.010.

38 ~~((+19+))~~ (20) "Minor" means an unemancipated individual under
39 eighteen years of age.

1 ~~((20))~~ (21) "Minor subject to conservatorship" means a minor
2 for whom a conservator has been appointed under this chapter.

3 ~~((21))~~ (22) "Minor subject to guardianship" means a minor for
4 whom a guardian has been appointed under this chapter.

5 ~~((22))~~ (23) "Notice party" means a person entitled to notice
6 under this chapter or otherwise determined by the court to be
7 entitled to notice.

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

10 ~~((23))~~ (25) "Person" means an individual, estate, business or
11 nonprofit entity, public corporation, government or governmental
12 subdivision, agency, or instrumentality, or other legal entity.

13 ~~((24))~~ (26) "Professional guardian or conservator" means a
14 guardian or conservator appointed under this chapter who is not a
15 relative of the person subject to guardianship or conservatorship
16 established under this chapter and who charges fees for carrying out
17 the duties of court-appointed guardian or conservator for three or
18 more persons.

19 ~~((25))~~ (27) "Property" includes tangible and intangible
20 property.

21 ~~((26))~~ (28) "Protective arrangement instead of conservatorship"
22 means a court order entered under RCW 11.130.590.

23 ~~((27))~~ (29) "Protective arrangement instead of guardianship"
24 means a court order entered under RCW 11.130.585.

25 ~~((28))~~ (30) "Protective arrangement under Article 5 of this
26 chapter" means a court order entered under RCW 11.130.585 or
27 11.130.590.

28 ~~((29))~~ (31) "Record," used as a noun, means information that is
29 inscribed on a tangible medium or that is stored in an electronic or
30 other medium and is retrievable in perceivable form.

31 ~~((30))~~ (32) "Relative" means any person related by blood or by
32 law to the person subject to guardianship, conservatorship, or other
33 protective arrangements.

34 ~~((31))~~ (33) "Respondent" means an individual for whom
35 appointment of a guardian or conservator or a protective arrangement
36 instead of guardianship or conservatorship is sought.

37 ~~((32))~~ (34) "Sign" means, with present intent to authenticate
38 or adopt a record:

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

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

~~((33))~~ (35) "Special agent" means the person appointed by the court pursuant to RCW 11.130.375 or 11.130.635.

~~((34))~~ (36) "Standby guardian" means a person appointed by the court under RCW 11.130.220.

~~((35))~~ (37) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe.

~~((36))~~ (38) "Supported decision making" means assistance from one or more persons of an individual's choosing in understanding the nature and consequences of potential personal and financial decisions, which enables the individual to make the decisions, and in communicating a decision once made if consistent with the individual's wishes.

~~((37))~~ (39) "Verified receipt" is a verified receipt signed by the custodian of funds stating that a savings and loan association or bank, trust company, escrow corporation, or other corporations approved by the court hold the cash or securities of the individual subject to conservatorship subject to withdrawal only by order of the court.

~~((38))~~ (40) "Visitor" means ~~((the person appointed by the court pursuant to RCW 11.130.280(1) or 11.130.380(1)))~~ a court visitor.

Sec. 302. RCW 11.130.040 and 2019 c 437 s 108 are each amended to read as follows:

(1) The court shall issue letters of guardianship to a guardian on filing by the guardian of an acceptance of appointment.

(2) The court shall issue letters of conservatorship to a conservator on filing by the conservator of an acceptance of appointment and filing of any required bond or compliance with any other verified receipt required by the court.

(3) Limitations on the powers of a guardian or conservator or on the property subject to conservatorship must be ~~((stated on the letters of office))~~ included on the form prescribed by RCW 11.130.660.

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

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

7 (6) The clerk of the superior court shall issue letters of
8 guardianship or conservatorship in or substantially in the same form
9 as set forth in RCW 11.130.660.

10 (7) Letters of office issued to a guardian or conservator who is
11 a nonresident of this state must include the name and contact
12 information for the resident agent of the guardian or conservator,
13 appointed pursuant to RCW 11.130.090(1)(c).

14 (8) This chapter does not affect the validity of letters of
15 office issued under chapter 11.88 RCW prior to January 1, 2021.

16 **Sec. 303.** RCW 11.130.100 and 2019 c 437 s 120 are each amended
17 to read as follows:

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

22 (2) Unless otherwise compensated or reimbursed, an attorney or
23 other person whose services resulted in an order beneficial to an
24 individual subject to guardianship or conservatorship or for whom a
25 protective arrangement under Article 5 of this chapter was ordered is
26 entitled to reasonable compensation for services and reimbursement of
27 reasonable expenses from the property of the individual.

28 ~~(3) ((The court must approve compensation and expenses payable~~
29 ~~under this section before payment. Approval is not required before a~~
30 ~~service is provided or an expense is incurred.~~

31 ~~(4) If the court dismisses a petition under this chapter and~~
32 ~~determines the petition was filed in bad faith, the court may assess~~
33 ~~the cost of any court-ordered professional evaluation or visitor~~
34 ~~against the petitioner.~~

35 ~~(5))~~ 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,
39 the amount of compensation or reimbursement shall not exceed the

1 amount allowed by the department of social and health services or
2 health care authority by rule.

3 ~~((+6))~~ (4) Where the person subject to guardianship or
4 conservatorship receives guardianship, conservatorships, or other
5 protective services from the office of public guardianship, the
6 amount of compensation or reimbursement shall not exceed the amount
7 allowed by the office of public guardianship.

8 ~~((+7))~~ (5) The court must approve compensation and expenses
9 payable under this section before payment. Approval is not required
10 before a service is provided or an expense is incurred.

11 ~~((+8))~~ (6) If the court dismisses a petition under this chapter
12 and determines the petition was filed in bad faith, the court may
13 assess the cost of any court-ordered professional evaluation or court
14 visitor against the petitioner.

15 **Sec. 304.** RCW 11.130.105 and 2019 c 437 s 121 are each amended
16 to read as follows:

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

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

31 (3) In determining reasonable compensation for a guardian or
32 conservator, the court, or a conservator in determining reasonable
33 compensation for a guardian as provided in subsection (1) of this
34 section, shall approve compensation that shall not exceed the typical
35 amounts paid for comparable services in the community, at a rate for
36 which the service can be performed in the most efficient and cost-
37 effective manner, considering:

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

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

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

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

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

10 (f) The extent to which the services provided were or were not
11 consistent with the guardian's plan under RCW 11.130.340 or
12 conservator's plan under RCW 11.130.510; and

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

15 (4) A guardian or conservator need not use personal funds of the
16 guardian or conservator for the expenses of the individual subject to
17 guardianship or conservatorship.

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

25 (6) Where the person subject to guardianship or conservatorship
26 receives guardianship, conservatorship, or other protective services
27 from the office of public guardianship, the amount of compensation or
28 reimbursement shall not exceed the amount allowed by the office of
29 public guardianship.

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

37 **Sec. 305.** RCW 11.130.115 and 2019 c 437 s 123 are each amended
38 to read as follows:

(1) A guardian or conservator may petition the court for instruction concerning fiduciary responsibility or ratification of a particular act related to the guardianship or conservatorship.

(2) (~~On reasonable notice and hearing on~~) Fourteen days after notice of a petition under subsection (1) of this section, the court may give an instruction and issue an appropriate order.

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

Sec. 306. RCW 11.130.140 and 2019 c 437 s 128 are each amended to read as follows:

(1) An individual who is subject to guardianship or conservatorship, or person interested in the welfare of an individual subject to guardianship or conservatorship, that reasonably believes the guardian or conservator is breaching the guardian's or conservator's fiduciary duty or otherwise acting in a manner inconsistent with this chapter may file a grievance in a record with the court. In addition, an unrepresented person or entity may submit a complaint to the court.

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

(a) Shall promptly review the grievance against a guardian and shall act to protect the autonomy, values, preferences, and independence of the individual subject to guardianship or conservatorship;

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

(i) Removal of the guardian and appointment of a successor may be appropriate under RCW 11.130.350;

(ii) Termination or modification of the guardianship may be appropriate under RCW 11.130.355;

(iii) Removal of the conservator and appointment of a successor may be appropriate under RCW 11.130.565;

(iv) Termination or modification of the conservatorship may be appropriate under RCW 11.130.570; or

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

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

1 (i) Ordering the guardian or conservator to provide the court a
2 report, accounting, inventory, updated plan, or other information;
3 (ii) Appointing a guardian ad litem;
4 (iii) Appointing an attorney for the individual subject to
5 guardianship or conservatorship; or
6 (iv) Holding a hearing.

7 (3) The court may decline to act under subsection (2) of this
8 section if a similar grievance was filed within the six months
9 preceding the filing of the current grievance and the court followed
10 the procedures of subsection (2) of this section in considering the
11 earlier grievance; and may levy necessary sanctions, including but
12 not limited to the imposition of reasonable attorney fees, costs,
13 striking pleadings, or other appropriate relief, if after
14 consideration the court finds that the grievance is made for reason
15 to harass, delay, with malice, or other bad faith.

16 (4) In any court action under this section where the court finds
17 the professional guardian or conservator breached a fiduciary duty,
18 the court must direct the clerk of the court to send a copy of the
19 order entered under this section to the certified professional
20 guardianship board.

21 (5) A court shall not dismiss a grievance that has been filed
22 against a guardian or conservator due to an inability to resolve the
23 grievance in a timely manner.

24 **Sec. 307.** RCW 11.130.265 and 2019 c 437 s 301 are each amended
25 to read as follows:

26 (1) On petition and after notice and hearing, the court may:

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

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

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

37 (b) With appropriate findings, treat the petition as one for a
38 conservatorship under Article 4 of this chapter or protective

1 arrangement under Article 5 of this chapter, issue any appropriate
2 order, or dismiss the proceeding.

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

11 (3) The appointment of a guardian is a legal decision, not a
12 medical decision. The appointment must be based on a demonstration of
13 management insufficiencies over time in the area of person. Age,
14 eccentricity, poverty, or medical diagnosis alone are not sufficient
15 to justify the appointment of a guardian.

16 **Sec. 308.** RCW 11.130.280 and 2019 c 437 s 304 are each amended
17 to read as follows:

18 (1) On receipt of a petition under RCW 11.130.270 for appointment
19 of a guardian for an adult, the court shall appoint a court visitor.
20 The court visitor must be an individual with training or experience
21 in the type of abilities, limitations, and needs alleged in the
22 petition.

23 (2) The court, in the order appointing a court visitor, shall
24 specify the hourly rate the court visitor may charge for his or her
25 services, and shall specify the maximum amount the court visitor may
26 charge without additional court review and approval. The fee shall be
27 charged to the person subject to a guardianship or conservatorship
28 proceeding unless the court finds that such payment would result in
29 substantial hardship upon such person, in which case the county shall
30 be responsible for such costs: PROVIDED, That the court may charge
31 such fee to the petitioner, the person subject to a guardianship or
32 conservatorship proceeding, or any person who has appeared in the
33 action; or may allocate the fee, as it deems just. If the petition is
34 found to be frivolous or not brought in good faith, the court visitor
35 fee shall be charged to the petitioner. The court shall not be
36 required to provide for the payment of a fee to any salaried employee
37 of a public agency.

38 (3)(a) The court visitor appointed under subsection (1) of this
39 section shall within five days of receipt of notice of appointment

1 file with the court and serve, either personally or by certified mail
2 with return receipt, the respondent or his or her legal counsel, the
3 petitioner or his or her legal counsel, and any interested party
4 entitled to notice under RCW 11.130.080 with a statement including:
5 His or her training relating to the duties as a court visitor; his or
6 her criminal history as defined in RCW 9.94A.030 for the period
7 covering ten years prior to the appointment; his or her hourly rate,
8 if compensated; whether the court visitor has had any contact with a
9 party to the proceeding prior to his or her appointment; and whether
10 he or she has an apparent conflict of interest. Within three days of
11 the later of the actual service or filing of the court visitor's
12 statement, any party may set a hearing and file and serve a motion
13 for an order to show cause why the court visitor should not be
14 removed for one of the following three reasons:

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

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

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

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

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

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

1 (5) The court visitor appointed under subsection (1) of this
2 section shall:

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

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

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

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

12 (6) A court visitor appointed under subsection (1) of this
13 section shall file a report in a record with the court and provide a
14 copy of the report to the respondent, petitioner, and any interested
15 party entitled to notice under RCW 11.130.080 at least fifteen days
16 prior to the hearing on the petition filed under RCW 11.130.270,
17 which must include:

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

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

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

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

31 (c) A statement of the qualifications of the proposed guardian
32 and whether the respondent approves or disapproves of the proposed
33 guardian;

34 (d) A statement whether the proposed dwelling meets the
35 respondent's needs and whether the respondent has expressed a
36 preference as to residence;

37 (e) A ~~((recommendation whether))~~ statement whether the respondent
38 declined a professional evaluation under RCW 11.130.290 ~~((is~~
39 ~~necessary))~~ and what other information is available to determine the
40 respondent's needs and abilities without the professional evaluation;

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

3 (g) 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 (h) Any other matter the court directs.

8 **Sec. 309.** RCW 11.130.380 and 2019 c 437 s 405 are each amended
9 to read as follows:

10 (1) If the respondent in a proceeding to appoint a conservator is
11 a minor, the court may appoint a court visitor to investigate a
12 matter related to the petition or inform the minor or a parent of the
13 minor about the petition or a related matter.

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

20 (3) The court, in the order appointing court visitor, shall
21 specify the hourly rate the court visitor may charge for his or her
22 services, and shall specify the maximum amount the court visitor may
23 charge without additional court review and approval. The fee shall be
24 charged to the person subject to a guardianship or conservatorship
25 proceeding unless the court finds that such payment would result in
26 substantial hardship upon such person, in which case the county shall
27 be responsible for such costs: PROVIDED, That the court may charge
28 such fee to the petitioner, the person subject to a guardianship or
29 conservatorship proceeding, or any person who has appeared in the
30 action; or may allocate the fee, as it deems just. If the petition is
31 found to be frivolous or not brought in good faith, the court visitor
32 fee shall be charged to the petitioner. The court shall not be
33 required to provide for the payment of a fee to any salaried employee
34 of a public agency.

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

1 interested party entitled to notice under RCW 11.130.080 with a
2 statement including: His or her training relating to the duties as a
3 court visitor; his or her criminal history as defined in RCW
4 9.94A.030 for the period covering ten years prior to the appointment;
5 his or her hourly rate, if compensated; whether the ((~~guardian-ad~~
6 ~~litem~~)) court visitor has had any contact with a party to the
7 proceeding prior to his or her appointment; and whether he or she has
8 an apparent conflict of interest. Within three days of the later of
9 the actual service or filing of the court visitor's statement, any
10 party may set a hearing and file and serve a motion for an order to
11 show cause why the court visitor should not be removed for one of the
12 following three reasons:

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

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

16 (iii) A conflict of interest.

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

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

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

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

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

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

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

1 (b) Review financial records of the respondent, if relevant to
2 the court visitor's recommendation under subsection (7)(b) of this
3 section;

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

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

10 (7) A court visitor appointed under subsection (2) of this
11 section for an adult shall file a report in a record with the court
12 and provide a copy of the report to the respondent, petitioner, and
13 any interested party entitled to notice under RCW 11.130.080 at least
14 fifteen days prior to the hearing on the petition filed under RCW
15 11.130.365, which must include:

16 (a) A recommendation:

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

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

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

26 (iv) If a conservatorship is recommended, the amount of the bond
27 or other verified receipt needed under RCW 11.130.445 and 11.130.500;

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

31 (c) A ~~((recommendation whether))~~ statement whether the respondent
32 declined a professional evaluation under RCW 11.130.390 ~~((is~~
33 ~~necessary))~~ and what other information is available to determine the
34 respondent's needs and abilities without the professional evaluation;

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

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

(f) Any other matter the court directs.

Sec. 310. RCW 11.130.605 and 2019 c 437 s 506 are each amended to read as follows:

(1) On filing of a petition under RCW 11.130.580 for a protective arrangement instead of guardianship, the court shall appoint a court visitor. The court visitor must be an individual with training or experience in the type of abilities, limitations, and needs alleged in the petition.

(2) On filing of a petition under RCW 11.130.580 for a protective arrangement instead of conservatorship for a minor, the court may appoint a court visitor to investigate a matter related to the petition or inform the minor or a parent of the minor about the petition or a related matter.

(3) On filing of a petition under RCW 11.130.580 or a protective arrangement instead of conservatorship for an adult, the court shall appoint a court visitor unless the respondent is represented by an attorney appointed by the court. The court visitor must be an individual with training or experience in the types of abilities, limitations, and needs alleged in the petition.

(4) The court, in the order appointing a court visitor, shall specify the hourly rate the court visitor may charge for his or her services, and shall specify the maximum amount the court visitor may charge without additional court review and approval. The fee shall be charged to the person subject to a guardianship or conservatorship proceeding unless the court finds that such payment would result in substantial hardship upon such person, in which case the county shall be responsible for such costs: PROVIDED, That the court may charge such fee to the petitioner, the person subject to a guardianship or conservatorship proceeding, or any person who has appeared in the action; or may allocate the fee, as it deems just. If the petition is found to be frivolous or not brought in good faith, the court visitor fee shall be charged to the petitioner. The court shall not be required to provide for the payment of a fee to any salaried employee of a public agency.

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

1 interested party entitled to notice under RCW 11.130.080 with a
2 statement including: His or her training relating to the duties as a
3 court visitor; his or her criminal history as defined in RCW
4 9.94A.030 for the period covering ten years prior to the appointment;
5 his or her hourly rate, if compensated; whether the ((~~guardian-ad~~
6 ~~litem~~)) court visitor has had any contact with a party to the
7 proceeding prior to his or her appointment; and whether he or she has
8 an apparent conflict of interest. Within three days of the later of
9 the actual service or filing of the court visitor's statement, any
10 party may set a hearing and file and serve a motion for an order to
11 show cause why the court visitor should not be removed for one of the
12 following three reasons:

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

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

16 (iii) A conflict of interest.

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

24 (6) A court visitor appointed under subsection (1) or (3) of this
25 section shall interview the respondent in person and in a manner the
26 respondent is best able to understand:

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

30 (b) Determine the respondent's views with respect to the order
31 sought;

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

35 (d) If the petitioner seeks an order related to the dwelling of
36 the respondent, visit the respondent's present dwelling and any
37 dwelling in which it is reasonably believed the respondent will live
38 if the order is granted;

39 (e) If a protective arrangement instead of guardianship is
40 sought, obtain information from any physician or other person known

1 to have treated, advised, or assessed the respondent's relevant
2 physical or mental condition;

3 (f) If a protective arrangement instead of conservatorship is
4 sought, review financial records of the respondent, if relevant to
5 the court visitor's recommendation under subsection (7)(b) of this
6 section; and

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

9 (7) A court visitor under subsection (1), (2), or (3) of this
10 section promptly shall file a report in a record with the court and
11 provide a copy of the report to the respondent, petitioner, and any
12 interested party entitled to notice under RCW 11.130.580 (1) through
13 (3), at least fifteen days prior to the hearing on the petition filed
14 under RCW 11.130.585, 11.130.590, or 11.130.595, which must include:

15 (a) To the extent relevant to the order sought, a summary of
16 self-care, independent living tasks, and financial management tasks
17 the respondent:

18 (i) Can manage without assistance or with existing supports;

19 (ii) Could manage with the assistance of appropriate supportive
20 services, technological assistance, or supported decision making; and

21 (iii) Cannot manage;

22 (b) A recommendation regarding the appropriateness of the
23 protective arrangement sought and whether a less restrictive
24 alternative for meeting the respondent's needs is available;

25 (c) If the petition seeks to change the physical location of the
26 dwelling of the respondent, a statement whether the proposed dwelling
27 meets the respondent's needs and whether the respondent has expressed
28 a preference as to the respondent's dwelling;

29 (d) A ~~((recommendation whether))~~ statement whether the respondent
30 declined a professional evaluation under RCW 11.130.615 ~~((is~~
31 ~~necessary))~~ and what other information is available to determine the
32 respondent's needs and abilities without the professional evaluation;

33 (e) A statement whether the respondent is able to attend a
34 hearing at the location court proceedings typically are held;

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

39 (g) Any other matter the court directs.

1 **Sec. 311.** RCW 11.130.080 and 2019 c 437 s 116 are each amended
2 to read as follows:

3 (1) A person may file with the court a request for notice under
4 this chapter if the person is:

5 (a) Not otherwise entitled to notice; and

6 (b) Interested in the welfare of a respondent, individual subject
7 to guardianship or conservatorship, or individual subject to a
8 protective arrangement under Article 5 of this chapter.

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

13 (3) If the court approves a request under subsection (1) of this
14 section, the ~~((court))~~ approved individual shall give notice of the
15 approval to the guardian or conservator, if one has been appointed,
16 or the respondent if no guardian or conservator has been appointed.

17 **Sec. 312.** RCW 11.130.120 and 2019 c 437 s 124 are each amended
18 to read as follows:

19 (1) A person must not recognize the authority of a guardian or
20 conservator to act on behalf of an individual subject to guardianship
21 or conservatorship if:

22 (a) The person has actual knowledge or a reasonable belief that
23 the letters of office of the guardian or conservator are invalid or
24 the conservator or guardian is exceeding or improperly exercising
25 authority granted by the court; or

26 (b) The person has actual knowledge that the individual subject
27 to guardianship or conservatorship is subject to physical or
28 financial abuse, neglect, exploitation, or abandonment by the
29 guardian or conservator or a person acting for or with the guardian
30 or conservator.

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

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

36 (b) The person makes, or has actual knowledge that another person
37 has made, a report to the department of children, youth, and families
38 or the department of social and health services stating a good-faith
39 belief that the individual subject to guardianship or conservatorship

1 is subject to physical or financial abuse, neglect, exploitation, or
2 abandonment by the guardian or conservator or a person acting for or
3 with the guardian or conservator.

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

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

13 (5) If the court determines that a third party has failed to
14 recognize the legitimate authority of a guardian or conservator, or
15 requires a third party to accept a decision made by the guardian on
16 behalf of the individual subject to guardianship, the court may order
17 that third party to compensate the guardian or conservator, for the
18 time spent only to the extent the court determines the opposition was
19 reasonably necessary to protect the interests of the individual
20 subject to guardianship.

21 **Sec. 313.** RCW 11.130.295 and 2019 c 437 s 307 are each amended
22 to read as follows:

23 (1) Except as otherwise provided in subsection (2) of this
24 section, a hearing under RCW 11.130.275 may not proceed unless the
25 respondent attends the hearing. If it is not reasonably feasible for
26 the 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 RCW 11.130.275 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; or

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.

1 (3) The respondent may be assisted in a hearing under RCW
2 11.130.275 by a person or persons of the respondent's choosing,
3 assistive technology, or an interpreter or translator, or a
4 combination of these supports. If assistance would facilitate the
5 respondent's participation in the hearing, but is not otherwise
6 available to the respondent, the court shall make reasonable efforts
7 to provide it.

8 (4) The respondent has a right to choose an attorney to represent
9 the respondent at a hearing under RCW 11.130.275.

10 (5) At a hearing held under RCW 11.130.275, the respondent may:

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

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

14 (c) Otherwise participate in the hearing.

15 (6) Unless excused by the court for good cause, a proposed
16 guardian shall attend a hearing under RCW 11.130.275.

17 (7) A hearing under RCW 11.130.275 must be closed on request of
18 the respondent and a showing of good cause.

19 (8) Any person may request to participate in a hearing under RCW
20 11.130.275. The court may grant the request, with or without a
21 hearing, on determining that the best interest of the respondent will
22 be served. The court may impose appropriate conditions on the
23 person's participation.

24 **Sec. 314.** RCW 11.130.625 and 2019 c 437 s 510 are each amended
25 to read as follows:

26 The ((~~court~~)) petitioner shall give notice of an order under this
27 article to the individual who is subject to the protective
28 arrangement instead of guardianship or conservatorship, a person
29 whose access to the individual is restricted by the order, and any
30 other person the court determines.

31 **Sec. 315.** RCW 11.130.610 and 2019 c 437 s 507 are each amended
32 to read as follows:

33 (1)(a) The respondent shall have the right to be represented by a
34 willing attorney of their choosing at any stage in protective
35 arrangement proceedings. Any attorney purporting to represent a
36 respondent or person subject to a protective arrangement shall
37 petition the court to be appointed to represent the respondent or
38 person subject to a protective arrangement.

1 (b) Unless the respondent in a proceeding under this article is
2 represented by an attorney, the court is not required, but may
3 appoint an attorney to represent the respondent, regardless of the
4 respondent's ability to pay, except as provided otherwise in (c) of
5 this subsection.

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

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

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

11 (C) The respondent does not have practical access to funds with
12 which to pay an attorney. If the respondent can afford an attorney
13 but lacks practical access to funds, the court must provide an
14 attorney and may impose a reimbursement requirement as part of a
15 final order.

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

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

27 (2) An attorney representing the respondent in a proceeding under
28 this article shall:

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

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

32 (c) If the respondent's wishes are not reasonably ascertainable,
33 advocate for the result that is the least restrictive alternative in
34 type, duration, and scope, consistent with the respondent's
35 interests.

36 (3) The court is not required, but may appoint an attorney to
37 represent a parent of a minor who is the subject of a proceeding
38 under this article if:

39 (a) The parent objects to the entry of an order for a protective
40 arrangement instead of guardianship or conservatorship;

(b) The court determines that counsel is needed to ensure that consent to the entry of an order for a protective arrangement is informed; or

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

Sec. 316. RCW 11.130.615 and 2019 c 437 s 508 are each amended to read as follows:

~~(1) ((At or before a hearing on a petition under this article for a protective arrangement, the court shall order a professional evaluation of the respondent:~~

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

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

~~(2) If the court orders an evaluation under subsection (1) of this section, the respondent must be examined by a licensed physician, psychologist, social worker, or other individual appointed by the court who is qualified to evaluate the respondent's alleged cognitive and functional abilities and limitations and will not be advantaged or disadvantaged by a decision to grant the petition or otherwise have a conflict of interest. The individual conducting the evaluation promptly shall file a report in a record with the court. Unless otherwise directed by the court, the report must contain:~~

~~(a) A description of the nature, type, and extent of the respondent's cognitive and functional abilities and limitations;~~

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

~~(c) A prognosis for improvement, including with regard to the ability to manage the respondent's property and financial affairs if a limitation in that ability is alleged, and recommendation for the appropriate treatment, support, or habilitation plan; and~~

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

~~(3) The respondent may decline))~~ On receipt of a petition under RCW 11.130.595 and at the time the court appoints a court visitor under RCW 11.130.605, the court shall order a professional evaluation of the respondent.

(2) The respondent must be examined by a physician licensed to practice under chapter 18.71 or 18.57 RCW, psychologist licensed

1 under chapter 18.83 RCW, advanced registered nurse practitioner
2 licensed under chapter 18.79 RCW, or physician assistant licensed
3 under chapter 18.71A RCW selected by the court visitor who is
4 qualified to evaluate the respondent's alleged cognitive and
5 functional abilities and limitations and will not be advantaged or
6 disadvantaged by a decision to grant the petition or otherwise have a
7 conflict of interest. If the respondent opposes the professional
8 selected by the court visitor, the court visitor shall obtain a
9 professional evaluation from the professional selected by the
10 respondent. The court visitor, after receiving a professional
11 evaluation from the individual selected by the respondent, may obtain
12 a supplemental evaluation from a different professional.

13 (3) The individual conducting the evaluation shall provide the
14 completed evaluation report to the court visitor within thirty days
15 of the examination of the respondent. The court visitor shall file
16 the report in a sealed record with the court. Unless otherwise
17 directed by the court, the report must contain:

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

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

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

24 (d) A prognosis for improvement and recommendation for the
25 appropriate treatment, support, or habilitation plan;

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

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

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

32 (4) If the respondent declines to participate in an evaluation
33 ordered under subsection (1) of this section, the court may proceed
34 with the hearing under RCW 11.130.600 if the court finds that it has
35 sufficient information to determine the respondent's needs and
36 abilities without the professional evaluation.

PART IV

OFFICE OF PUBLIC GUARDIANSHIP

1 **Sec. 401.** RCW 2.72.005 and 2019 c 215 s 1 are each amended to
2 read as follows:

3 (1) In establishing an office of public guardianship and
4 conservatorship, the legislature intends to promote the availability
5 of guardianship, conservatorship, and alternate services that provide
6 support for decision making for individuals who need them and for
7 whom adequate services may otherwise be unavailable. The legislature
8 reaffirms its commitment to treat liberty and autonomy as paramount
9 values for all Washington residents and to authorize public
10 guardianship and conservatorship only to the minimum extent necessary
11 to provide for health or safety, or to manage financial affairs, when
12 the legal conditions for appointment of a guardian or conservator are
13 met. It does not intend to alter those legal conditions or to expand
14 judicial authority to determine that any individual (~~is~~
15 ~~incapacitated~~) may be subject to guardianship or conservatorship.

16 (2) The legislature further recognizes that (~~services that~~
17 ~~support~~) decision making assistance for people who have limited
18 capacity can preserve individual liberty and provide effective
19 support responsive to individual needs and wishes. The legislature
20 also recognizes that these services may be less expensive than
21 guardianship and conservatorship for the state, the courts, and for
22 individuals with limited capacity and their families.

23 **Sec. 402.** RCW 2.72.010 and 2019 c 215 s 2 are each reenacted and
24 amended to read as follows:

25 The definitions in this section apply throughout this chapter
26 unless the context clearly requires otherwise.

27 (1) (~~("Attorney-in-fact" means an agent authorized by an~~
28 ~~individual to act on his or her behalf pursuant to a power of~~
29 ~~attorney.))~~ "Agent" means a person granted authority to act for a
30 principal under a power of attorney.

31 (2) "Contract service provider" means a public guardian or public
32 conservator providing services under contract with the office of
33 public guardianship and conservatorship. Any public guardian or
34 public conservator providing such services must be certified by the
35 certified professional guardian board established by the supreme
36 court.

37 (3) "Estate administration" means services provided for a fee to
38 the estate of an individual who died at age eighteen or older, in

1 circumstances where a contract service provider is granted letters
2 under RCW 11.28.120(7).

3 (4) "Long-term care services" means services provided through the
4 department of social and health services either in a hospital or
5 skilled nursing facility, or in another setting under a home and
6 community-based waiver authorized under 42 U.S.C. Sec. 1396n.

7 ~~((3))~~ (5) "Office" means the office of public guardianship and
8 conservatorship.

9 ~~((4))~~ (6) "Public conservator" means an individual or entity
10 appointed by a court to make decisions with respect to property or
11 financial affairs of an individual subject to conservatorship, and
12 who provides these services under contract with the office of public
13 guardianship and conservatorship.

14 (7) "Public guardian" means an individual or entity ~~((providing~~
15 ~~public guardianship services))~~ appointed by the court to make
16 decisions with respect to the personal affairs of an individual, and
17 who provides these services under contract with the office of public
18 guardianship and conservatorship.

19 ~~((5) "Public guardianship services" means the services provided~~
20 ~~by a guardian or limited guardian appointed under chapters 11.88 and~~
21 ~~11.92 RCW, who is compensated under a contract with the office of~~
22 ~~public guardianship.~~

23 ~~(6))~~ (8) "Representative payee" means the designated agent for a
24 recipient of government benefits whom a government agency has
25 determined to be incapable of managing his or her benefits.

26 ~~((7) "Supported decision-making))~~ (9) "Decision-making
27 assistance" means support for an individual with diminished decision-
28 making ability in making decisions affecting health or safety or to
29 manage financial affairs. Assistance includes, without limitation,
30 acting as a representative payee, an ~~((attorney-in-fact))~~ agent, a
31 trustee, ~~((or))~~ a public guardian, or a public conservator.

32 ~~((8))~~ (10) "Trustee" means a person or organization named in a
33 trust agreement to handle trust property for the benefit of one or
34 more beneficiaries in accordance with the terms of the agreement.

35 **Sec. 403.** RCW 2.72.020 and 2019 c 215 s 3 are each amended to
36 read as follows:

37 (1) There is created an office of public guardianship and
38 conservatorship within the administrative office of the courts.

1 (2) The supreme court shall appoint a public guardianship and
2 conservatorship administrator to establish and administer a public
3 guardianship, public conservatorship, ~~((supported))~~ decision-making
4 assistance, and estate administration program in the office of public
5 guardianship and conservatorship. The public guardianship and
6 conservatorship administrator serves at the pleasure of the supreme
7 court.

8 **Sec. 404.** RCW 2.72.030 and 2019 c 215 s 4 are each amended to
9 read as follows:

10 The public guardianship and conservatorship administrator is
11 authorized to establish and administer a public guardianship, public
12 conservatorship, ~~((supported))~~ decision-making assistance, and estate
13 administration program as follows:

14 (1)(a) The office shall contract with ~~((public or private~~
15 ~~entities or individuals to provide:~~

16 ~~(i) Public guardianship, supported decision-making assistance,~~
17 ~~and estate administration services to))~~ certified professional
18 guardians and conservators or certified professional guardian and
19 conservator agencies to provide public guardianship, public
20 conservatorship, decision-making assistance, and estate
21 administration services to persons age eighteen or older whose income
22 does not exceed two hundred percent of the federal poverty level
23 determined annually by the United States department of health and
24 human services or who are receiving long-term care services through
25 the Washington state department of social and health services~~((+~~

26 ~~(ii) Supported decision-making services for a fee to persons age~~
27 ~~eighteen or older)),~~ when there is no one else qualified who is
28 willing and able to serve~~((+ and~~

29 ~~(iii) Estate administration services for a fee to the estate of~~
30 ~~an individual who died at age eighteen or older, in circumstances~~
31 ~~where a service provider under contract with the office of public~~
32 ~~guardianship is granted letters under RCW 11.28.120(7))).~~

33 (b) Neither the public guardianship and conservatorship
34 administrator nor the office may act as public guardian or ~~((limited~~
35 ~~guardian))~~ conservator or act in any other representative capacity
36 for any individual.

37 (c) The primary function of the office is to contract for public
38 guardianship, public conservatorship, ~~((supported))~~ decision-making
39 assistance, and estate administration services that are provided in a

1 manner consistent with the requirements of this chapter. The office
2 is subject to audit by the state auditor.

3 (d) Public guardianship, public conservatorship, ~~((supported))~~
4 decision-making assistance, and estate administration service
5 contracts are dependent upon legislative appropriation. This chapter
6 does not create an entitlement.

7 (2) The office shall adopt and maintain eligibility criteria to
8 enable it to serve individuals with the greatest need when the number
9 of cases in which courts propose to appoint a public guardian or
10 conservator exceeds the number of cases in which ~~((public~~
11 ~~guardianship and supported decision-making assistance))~~ services can
12 be provided. In adopting such criteria, the office may consider
13 factors including, but not limited to, the following: Whether an
14 individual with diminished decision-making ability is at significant
15 risk of harm from abuse, exploitation, abandonment, neglect, or self-
16 neglect; and whether an individual with diminished decision-making
17 ability is in imminent danger of loss or significant reduction in
18 public services that are necessary for the individual to live
19 successfully in the most integrated and least restrictive environment
20 that is appropriate in light of the individual's needs and values.

21 (3) The office shall adopt minimum standards of practice for
22 public guardians, public conservators, and other contract service
23 providers providing public guardianship, public conservatorship,
24 ~~((supported))~~ decision-making assistance, and estate administration
25 services. ~~((Any public guardian providing such public guardianship~~
26 ~~services must be certified by the certified professional guardian~~
27 ~~board established by the supreme court.))~~

28 (4) The office shall require a public guardian or conservator to
29 visit each ~~((incapacitated person))~~ individual subject to
30 guardianship or conservatorship for which public guardianship or
31 conservatorship services are provided no less than monthly to be
32 eligible for compensation.

33 (5) The office shall not petition for appointment of a public
34 guardian or conservator for any individual. It may develop a proposal
35 for the legislature to make affordable legal assistance available to
36 petition for guardianships or conservatorships.

37 (6) The office shall develop and adopt a case-weighting system
38 designed to balance the increasing need for access to guardianship
39 and conservatorship services, while effectively managing public

1 guardian and conservator caseloads and providing appropriate supports
2 for individuals on that caseload.

3 (a) The standard caseload limit for a contract service provider
4 must be no more than twenty (~~((incapacitated))~~) persons placed under a
5 guardianship per certified professional guardian or conservator. The
6 office may authorize adjustments to the standard caseload limit on a
7 case-by-case basis, and payment for services to a contract service
8 provider that serves more than twenty (~~((incapacitated))~~) persons
9 placed under a guardianship per professional guardian or conservator
10 is subject to review by the office. In evaluating caseload size, the
11 office shall consider the expected activities, time, and demands
12 involved, as well as the available support for each case.

13 (b) (~~((Caseload))~~) Adjusted caseload limits must not exceed thirty-
14 six cases. The office shall not authorize payment for services for
15 any contract service provider that fails to comply with the
16 (~~((standard))~~) adjusted caseload limit guidelines.

17 (c) The office shall develop case-weighting guidelines to include
18 a process for adjusting caseload limits, relevant policies and
19 procedures, and recommendations for changes in court rules which may
20 be appropriate for the implementation of the system.

21 (d) By December 1, 2019, the office must submit to the
22 legislature a report detailing the final case-weighting system and
23 guidelines, and implementation progress and recommendations. The
24 report must be made available to the public.

25 (e) The administrative office of the courts shall notify the
26 superior courts of the policies contained in the final case-weighting
27 system.

28 (7) The office shall monitor and oversee the use of state funding
29 to ensure compliance with this chapter.

30 (8) The office shall collect uniform and consistent basic data
31 elements regarding service delivery. This data shall be made
32 available to the legislature and supreme court in a format that is
33 not identifiable by individual (~~((incapacitated person))~~) subject to
34 guardianship or conservatorship to protect confidentiality.

35 (9) The office shall require contract service providers to seek
36 reimbursement of fees from program clients who are receiving long-
37 term care services through the department of social and health
38 services to the extent, and only to the extent, that such
39 reimbursement may be paid, consistent with an order of the superior
40 court, from income that would otherwise be required by the department

1 to be paid toward the cost of the client's care. Fees reimbursed
2 shall be remitted by the contract service provider to the office
3 unless a different disposition is directed by the public guardianship
4 and conservatorship administrator.

5 (10) Fees may be collected from the estate when the
6 ~~((decedant's))~~ decedent's income prior to death exceeded two hundred
7 percent of the federal poverty level, determined annually by the
8 United States department of health and human services, based on a fee
9 schedule established by the office that must be published annually.

10 (11) The office shall require public ~~((guardianship providers))~~
11 guardians or conservators to certify annually that for each
12 individual served they have reviewed the need for continued public
13 guardianship ~~((services))~~ or conservatorship and the appropriateness
14 of limiting, or further limiting, the authority of the public
15 guardian or conservator under the applicable ~~((guardianship))~~ order,
16 and that where termination or modification of a guardianship or
17 conservatorship order appears warranted, the superior court has been
18 asked to take the corresponding action.

19 (12) The office shall adopt a process for receipt and
20 consideration of and response to complaints against the office and
21 ~~((contracted))~~ contract service providers of public guardianship,
22 public conservatorship, ~~((supported))~~ decision-making assistance, and
23 estate administration ~~((services))~~. The process shall include
24 investigation in cases in which investigation appears warranted in
25 the judgment of the administrator.

26 (13) The office shall develop standardized forms and reporting
27 instruments that may include, but are not limited to, intake, initial
28 assessment, guardianship care plan, decisional accounting, staff time
29 logs, changes in condition or abilities of an ~~((incapacitated~~
30 ~~person))~~ individual subject to guardianship or conservatorship, and
31 values history. The office shall collect and analyze the data
32 gathered from these reports.

33 (14) The office shall identify training needs for contract
34 service providers it contracts with, and shall make recommendations
35 to the supreme court, the certified professional guardian board, and
36 the legislature for improvements in training. The office may offer
37 training to individuals providing services pursuant to this chapter,
38 to individuals who, in the judgment of the administrator or the
39 administrator's designee, are likely to provide such services in the

1 future, to lay guardians or conservators, and to the family and
2 friends of individuals subject to guardianship or conservatorship.

3 (15) The office shall establish a system for monitoring the
4 performance of contract service providers, and office staff shall
5 make in-home visits to a randomly selected sample of public
6 guardianship, public conservatorship, and ~~((supported))~~ decision-
7 making assistance clients. The office may conduct further monitoring,
8 including in-home visits, as the administrator deems appropriate. For
9 monitoring purposes, office staff shall have access to any
10 information relating to a public guardianship, public
11 conservatorship, ~~((supported))~~ decision-making assistance, and estate
12 administration client that is available to the guardian or
13 conservator.

14 **Sec. 405.** RCW 11.28.120 and 2019 c 215 s 5 are each amended to
15 read as follows:

16 Administration of an estate if the decedent died intestate or if
17 the personal representative or representatives named in the will
18 declined or were unable to serve shall be granted to some one or more
19 of the persons hereinafter mentioned, and they shall be respectively
20 entitled in the following order:

21 (1) The surviving spouse or state registered domestic partner, or
22 such person as he or she may request to have appointed.

23 (2) The next of kin in the following order: (a) Child or
24 children; (b) father or mother; (c) brothers or sisters; (d)
25 grandchildren; (e) nephews or nieces.

26 (3) The trustee named by the decedent in an inter vivos trust
27 instrument, testamentary trustee named in the will, guardian ~~((of the~~
28 ~~person or estate))~~ of the decedent, conservator of the decedent, or
29 ~~((attorney-in-fact))~~ an agent named in a durable power of attorney
30 appointed by the decedent, if any such a fiduciary controlled or
31 potentially controlled substantially all of the decedent's probate
32 and nonprobate assets.

33 (4) One or more of the beneficiaries or transferees of the
34 decedent's probate or nonprobate assets.

35 (5)(a) The director of revenue, or the director's designee, for
36 those estates having property subject to the provisions of chapter
37 11.08 RCW; however, the director may waive this right.

(b) The secretary of the department of social and health services for those estates owing debts for long-term care services as defined in RCW 74.39A.008; however the secretary may waive this right.

(6) One or more of the principal creditors.

(7) If the persons so entitled shall fail for more than forty days after the death of the decedent to present a petition for letters of administration, or if it appears to the satisfaction of the court that there is no next of kin, as above specified eligible to appointment, or they waive their right, and there are no principal creditor or creditors, or such creditor or creditors waive their right, then the court may appoint a contract service provider (~~(under contract)~~) with the office of public guardianship and conservatorship under chapter 2.72 RCW or any suitable person to administer such estate.

PART V

UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS ACT

Sec. 501. RCW 11.90.020 and 2009 c 81 s 2 are each amended to read as follows:

In this chapter:

(1) "Adult" means an individual who has attained eighteen years of age.

(2) (~~("Guardian of the estate")~~) "Conservator" means a person appointed by the court to administer the property of an adult, including a person appointed under chapter 11.130 RCW, and includes a conservator appointed by the court in another state.

(3) (~~("Guardian of the person" or "guardian")~~) "Guardian" means a person appointed by the court to make decisions regarding the person of an adult, including a person appointed under chapter 11.130 RCW, and includes a guardian appointed by the court in another state.

(4) "Guardianship order" means an order appointing a guardian (~~(of the person or guardian of the estate)~~).

(5) "Guardianship proceeding" means a judicial proceeding in which an order for the appointment of a guardian (~~(of the person or guardian of the estate)~~) is sought or has been issued.

(6) (~~("Incapacitated person" means an adult for whom a guardian of the person or guardian of the estate has been appointed.~~

~~(7))~~) "Party" means the respondent, petitioner, guardian (~~(of the person or guardian of the estate)~~), conservator, or any other person

1 allowed by the court to participate in a guardianship or protective
2 proceeding.

3 ~~((+8))~~ (7) "Person," except in the term incapacitated person or
4 protected person, means an individual, corporation, business trust,
5 estate, trust, partnership, limited liability company, association,
6 joint venture, public corporation, government or governmental
7 subdivision, agency, or instrumentality, or any other legal or
8 commercial entity.

9 (8) "Person subject to a guardianship" means an adult for whom a
10 guardian has been appointed.

11 (9) "Protected person" means an adult for whom a protective order
12 has been issued.

13 (10) "Protective order" means an order appointing a ~~((guardian of~~
14 ~~the estate))~~ conservator or other order related to management of an
15 adult's property(~~(, including an order issued by a court in another~~
16 ~~state appointing a conservator))~~).

17 (11) "Protective proceeding" means a judicial proceeding in which
18 a protective order is sought or has been issued.

19 (12) "Record" means information that is inscribed on a tangible
20 medium or that is stored in an electronic or other medium and is
21 retrievable in perceivable form.

22 (13) "Respondent" means an adult for whom a protective order or
23 the appointment of a guardian ~~((of the person))~~ is sought.

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

28 **Sec. 502.** RCW 11.90.230 and 2009 c 81 s 10 are each amended to
29 read as follows:

30 (1) A court of this state lacking jurisdiction under RCW
31 11.90.220 has special jurisdiction to do any of the following:

32 ~~((In an emergency, process a petition under RCW 11.88.090 for~~
33 ~~appointment of a guardian for a respondent who is physically present~~
34 ~~in this state, for a term not exceeding ninety days;))~~ Appoint a
35 guardian in an emergency for a term not exceeding sixty days for a
36 respondent who is physically present in this state;

37 (b) Issue a protective order with respect to ~~((a respondent's))~~
38 real or tangible personal property located in this state if a

petition for appointment of a guardian or a conservator for the respondent is pending or has been approved in another state;

(c) Appoint a guardian (~~(of the person or guardian of the estate))~~ or conservator for an incapacitated or protected person for whom a provisional order to transfer the proceeding from another state has been issued under procedures similar to RCW 11.90.400.

(2) If a petition for the appointment of a guardian in an emergency is brought in this state and this state was not the respondent's home state on the date the petition was filed, the court shall dismiss the proceeding at the request of the court of the home state, if any, whether dismissal is requested before or after the emergency appointment.

Sec. 503. RCW 11.90.250 and 2009 c 81 s 12 are each amended to read as follows:

(1) A court of this state having jurisdiction under RCW 11.90.220 to appoint a guardian or issue a protective order may decline to exercise its jurisdiction if it determines at any time that a court of another state is a more appropriate forum.

(2) If a court of this state declines to exercise its jurisdiction under subsection (1) of this section, it shall either dismiss or stay the proceeding. The court may impose any condition the court considers just and proper, including the condition that a petition for the appointment of a guardian or issuance of a protective order be filed promptly in another state.

(3) In determining whether it is an appropriate forum, the court shall consider all relevant factors, including:

- (a) Any expressed preference of the respondent;
- (b) Whether abuse, neglect, or exploitation of the respondent has occurred or is likely to occur and which state could best protect the respondent from the abuse, neglect, or exploitation;
- (c) The length of time the respondent was physically present in or was a legal resident of this or another state;
- (d) The distance of the respondent from the court in each state;
- (e) The financial circumstances of the respondent's estate;
- (f) The nature and location of the evidence;
- (g) The ability of the court in each state to decide the issue expeditiously and the procedures necessary to present evidence;
- (h) The familiarity of the court of each state with the facts and issues in the proceeding; and

1 (i) If an appointment were made, the court's ability to monitor
2 the conduct of the guardian (~~((of the person or guardian of the~~
3 ~~estate))~~ or conservator.

4 **Sec. 504.** RCW 11.90.400 and 2009 c 81 s 16 are each amended to
5 read as follows:

6 (1) A guardian (~~((of the person or guardian of the estate))~~ or
7 conservator appointed in this state may petition the court to
8 transfer the guardianship or conservatorship to another state.

9 (2) Notice of a petition under subsection (1) of this section
10 must be given to the persons that would be entitled to notice of a
11 petition in this state for the appointment of a guardian (~~((of the~~
12 ~~person or guardian of the estate))~~ or conservator.

13 (3) On the court's own motion or on request of the guardian (~~((of~~
14 ~~the person or guardian of the estate))~~ or conservator, the
15 incapacitated or protected person, or other person required to be
16 notified of the petition, the court shall hold a hearing on a
17 petition filed pursuant to subsection (1) of this section.

18 (4) The court shall issue an order provisionally granting a
19 petition to transfer a guardianship and shall direct the guardian
20 (~~((of the person or guardian of the estate))~~ to petition for
21 guardianship in the other state if the court is satisfied that the
22 guardianship will be accepted by the court in the other state and the
23 court finds that:

24 (a) The incapacitated person is physically present in or is
25 reasonably expected to move permanently to the other state;

26 (b) An objection to the transfer has not been made or, if an
27 objection has been made, the objector has not established that the
28 transfer would be contrary to the interests of the incapacitated
29 person; and

30 (c) Plans for care and services for the incapacitated person in
31 the other state are reasonable and sufficient.

32 (5) The court shall issue a provisional order granting a petition
33 to transfer a (~~((guardianship of the estate))~~ conservatorship and
34 shall direct the (~~((guardian of the estate))~~ conservator to petition
35 for (~~((guardianship of the estate or))~~ conservatorship in the other
36 state if the court is satisfied that the (~~((guardianship of the~~
37 ~~estate))~~ conservatorship will be accepted by the court of the other
38 state and the court finds that:

1 (a) The protected person is physically present in or is
2 reasonably expected to move permanently to the other state, or the
3 protected person has a significant connection to the other state
4 considering the factors in RCW 11.90.200(2);

5 (b) An objection to the transfer has not been made or, if an
6 objection has been made, the objector has not established that the
7 transfer would be contrary to the interests of the protected person;
8 and

9 (c) Adequate arrangements will be made for management of the
10 protected person's property.

11 (6) The court shall issue a final order confirming the transfer
12 and terminating the guardianship (~~((of the person or guardianship of~~
13 ~~the estate))~~) or conservatorship upon its receipt of:

14 (a) A provisional order accepting the proceeding from the court
15 to which the proceeding is to be transferred which is issued under
16 provisions similar to RCW 11.90.410; and

17 (b) The documents required to terminate a guardianship (~~((of the~~
18 ~~person or guardianship of the estate))~~) or conservatorship in this
19 state.

20 **Sec. 505.** RCW 11.90.410 and 2009 c 81 s 17 are each amended to
21 read as follows:

22 (1) To confirm transfer of a guardianship or conservatorship
23 transferred to this state under provisions similar to RCW 11.90.400,
24 the guardian or conservator must petition the court in this state to
25 accept the guardianship or conservatorship. The petition must include
26 a certified copy of the other state's provisional order of transfer.

27 (2) Notice of a petition under subsection (1) of this section
28 must be given to those persons that would be entitled to notice if
29 the petition were a petition for the appointment of a guardian or
30 issuance of a protective order in both the transferring state and
31 this state. The notice must be given in the same manner as notice is
32 required to be given in this state.

33 (3) On the court's own motion or on request of the guardian or
34 conservator, the incapacitated or protected person, or other person
35 required to be notified of the proceeding, the court shall hold a
36 hearing on a petition filed pursuant to subsection (1) of this
37 section.

38 (4) The court shall issue an order provisionally granting a
39 petition filed under subsection (1) of this section unless:

1 (a) An objection is made and the objector establishes that
2 transfer of the proceeding would be contrary to the interests of the
3 incapacitated or protected person; or

4 (b) The guardian or conservator is ineligible for appointment in
5 this state.

6 (5) The court shall issue a final order accepting the proceeding
7 and appointing the guardian or conservator as guardian (~~(of the~~
8 ~~person or guardian of the estate))~~ or conservator in this state upon
9 its receipt from the court from which the proceeding is being
10 transferred of a final order issued under provisions similar to RCW
11 11.90.400 transferring the proceeding to this state.

12 (6) Not later than ninety days after issuance of a final order
13 accepting transfer of a guardianship or conservatorship, the court
14 shall determine whether the guardianship (~~(of the person or~~
15 ~~guardianship of the estate))~~ or conservatorship needs to be modified
16 to conform to the law of this state.

17 (7) In granting a petition under this section, the court shall
18 recognize a guardianship or conservatorship order from the other
19 state, including the determination of the incapacitated or protected
20 person's incapacity and the appointment of the guardian or
21 conservator.

22 (8) The denial by a court of this state of a petition to accept a
23 guardianship or conservatorship transferred from another state does
24 not affect the ability of the guardian or conservator to seek
25 appointment as guardian or (~~(guardian of the estate))~~ conservator in
26 this state if the court has jurisdiction to make an appointment other
27 than by reason of the provisional order of transfer.

28 PART VI

29 SUPPORTED DECISION-MAKING AGREEMENTS

30 NEW SECTION. **Sec. 601.** DEFINITIONS. The definitions in this
31 section apply throughout this section and sections 602 through 612 of
32 this act unless the context clearly requires otherwise.

33 (1) "Disability" means, with respect to an individual, a physical
34 or mental impairment that substantially limits one or more major life
35 activities.

36 (2) "Supported decision-making agreement" is an agreement between
37 an adult with a disability and one or more supporters entered into
38 under this chapter.

1 (3) "Supporter" means an adult who has entered into a supported
2 decision-making agreement with an adult with a disability.

3 NEW SECTION. **Sec. 602.** PURPOSE. The purpose of sections 601
4 through 612 of this act is to recognize a less restrictive
5 alternative to guardianship for adults with disabilities who need
6 assistance with decisions regarding daily living.

7 NEW SECTION. **Sec. 603.** PRESUMPTION OF CAPACITY. (1) All adults
8 are presumed to be capable of managing their affairs and to have
9 legal capacity.

10 (2) The manner in which an adult communicates with others is not
11 grounds for deciding that the adult is incapable of managing the
12 adult's affairs.

13 (3) Execution of a supported decision-making agreement may not be
14 used as evidence of incapacity and does not preclude the ability of
15 the adult who has entered into such an agreement to act independently
16 of the agreement.

17 NEW SECTION. **Sec. 604.** SCOPE OF SUPPORTED DECISION-MAKING
18 AGREEMENT. An adult with a disability may voluntarily, without undue
19 influence or coercion, enter into a supported decision-making
20 agreement with a supporter under which the adult with a disability
21 authorizes the supporter to do any or all of the following:

22 (1) Provide supported decision-making, including assistance in
23 understanding the options, responsibilities, and consequences of the
24 adult's life decisions, without making those decisions on behalf of
25 the adult with a disability;

26 (2) Assist the adult in accessing, collecting, and obtaining
27 information that is relevant to a given life decision, including
28 medical, psychological, financial, educational, or treatment records,
29 from any person;

30 (3) Assist the adult with a disability in understanding the
31 information described in subsection (2) of this section; and

32 (4) Assist the adult in communicating the adult's decisions to
33 appropriate persons.

34 NEW SECTION. **Sec. 605.** AUTHORITY OF SUPPORTER. A supporter may
35 exercise the authority granted to the supporter in the supported
36 decision-making agreement.

1 NEW SECTION. **Sec. 606.** TERM OF AGREEMENT. (1) Except as
2 provided by subsection (2) of this section, the supported decision-
3 making agreement extends until terminated by either party or by the
4 terms of the agreement.

5 (2) The supported decision-making agreement is terminated if:

6 (a) The department of social and health services finds that the
7 adult with a disability has been abused, neglected, or exploited by
8 the supporter;

9 (b) The supporter is found criminally liable for conduct
10 described in (a) of this subsection;

11 (c) The person with a disability gives notice to the supporter
12 orally, in writing, through an assistive technology device, or by any
13 other means or act showing a specific intent to terminate the
14 agreement; or

15 (d) The supporter provides written notice of the supporter's
16 resignation to the person with a disability. If a supported decision-
17 making agreement includes more than one supporter, each supporter can
18 terminate the agreement only as to that supporter.

19 NEW SECTION. **Sec. 607.** DISQUALIFICATION OF SUPPORTER. The
20 following are disqualified from acting as a supporter:

21 (1) A person who is an employer or employee of the adult with a
22 disability, unless the person is an immediate family member of the
23 adult with a disability;

24 (2) A person directly providing paid support services to the
25 adult with a disability, unless the person is an immediate family
26 member of the adult with a disability; and

27 (3) An individual against whom the person with a disability has
28 obtained an order of protection from abuse, or an individual who is
29 the subject of a civil or criminal order prohibiting contact with the
30 adult with a disability.

31 NEW SECTION. **Sec. 608.** ACCESS TO PERSONAL INFORMATION. (1) A
32 supporter is only authorized to assist the adult with a disability in
33 accessing, collecting, or obtaining information that is relevant to a
34 decision authorized under the supported decision-making agreement.

35 (2) If a supporter assists an adult with a disability in
36 accessing, collecting, or obtaining personal information, including
37 protected health information under the federal health insurance
38 portability and accountability act of 1996, P.L. 104-191, or

1 educational records under the federal family educational rights and
2 privacy act of 1974, 20 U.S.C. Sec. 1232g, the supporter shall ensure
3 the information is kept privileged and confidential, as applicable,
4 and is not subject to unauthorized access, use, or disclosure.

5 (3) The existence of a supported decision-making agreement does
6 not preclude an adult with a disability from seeking personal
7 information without the assistance of a supporter.

8 NEW SECTION. **Sec. 609.** AUTHORIZING AND WITNESSING OF SUPPORTED
9 DECISION-MAKING AGREEMENT. (1) A supported decision-making agreement
10 must be in writing, dated, and signed voluntarily, without coercion
11 or undue influence, by the adult with a disability and the supporter
12 in the presence of two or more subscribing witnesses or a notary
13 public.

14 (2) If signed before two witnesses, the attesting witnesses must
15 be at least eighteen years of age.

16 (3) The witnesses required by subsection (1) of this section may
17 not be any of the following:

18 (a) A supporter for the person with a disability;

19 (b) An employee or agent of a supporter named in the supported
20 decision-making agreement;

21 (c) A paid provider of services to the person with a disability;
22 or

23 (d) Any person who does not understand the type of communication
24 the person with a disability uses, unless an individual who
25 understands the person with a disability's means of communication is
26 present to assist during the execution of the supported decision-
27 making agreement.

28 NEW SECTION. **Sec. 610.** FORM OF SUPPORTED DECISION-MAKING
29 AGREEMENT. (1) Subject to subsection (2) of this section, a supported
30 decision-making agreement is valid only if it is in substantially the
31 following form:

32 SUPPORTED DECISION-MAKING AGREEMENT

33 Appointment of Supporter

34 I, (name of supported adult), make this agreement of my
35 own free will.

36 I agree and designate that:

37 Name: (name of supporter)

Address: (address of supporter)

Phone Number: (phone number of supporter)

Email Address: (email address of supporter)

is my supporter.

My supporter may help me with making everyday life decisions relating to the following:

(Y/N) Obtaining food, clothing, and shelter.

(Y/N) Taking care of my health.

(Y/N) Managing my financial affairs.

(Y/N) Other matters: (specify).

My supporter is not allowed to make decisions for me. To help me with my decisions, my supporter may:

1. Help me access, collect, or obtain information that is relevant to a decision, including medical, psychological, financial, educational, or treatment records;

2. Help me understand my options so I can make an informed decision; and

3. Help me communicate my decision to appropriate persons.

(Y/N) A release allowing my supporter to see protected health information under the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191, is attached.

(Y/N) A release allowing my supporter to see educational records under the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Sec. 1232g, is attached.

Effective Date of Supported Decision-Making Agreement

This supported decision-making agreement is effective immediately and will continue until (insert date) or until the agreement is terminated by my supporter or me or by operation of law.

Signed this (day) day of (month), (year)

Consent of Supporter

1 I, (name of supporter), acknowledge my responsibilities
2 and consent to act as a supporter under this agreement.

3 (Signature of supporter)
4 (Printed name of supporter)
5 Supporter

6 (Signature of supported adult)
7 (Printed name of supported adult)
8 Supported Adult

9 (Signature of witness 1)
10 (Printed name of witness 1)
11 Witness 1

12 (Signature of witness 2)
13 (Printed name of witness 2)
14 Witness 2

15 State of

16 County of

17 This record was acknowledged before me on (date)
18 by (name(s) of individuals).

19

20 (Signature of notary
21 public)

22 (Stamp)

23

24 (Title of office)

25 My commission expires:

26

27 (Date)

28 WARNING: PROTECTION FOR THE ADULT WITH A DISABILITY
29 IF A PERSON WHO RECEIVES A COPY OF THIS AGREEMENT OR IS AWARE
30 OF THE EXISTENCE OF THIS AGREEMENT HAS CAUSE TO BELIEVE THAT
31 THE ADULT WITH A DISABILITY IS BEING ABUSED, NEGLECTED, OR
32 EXPLOITED BY THE SUPPORTER, THE PERSON SHALL REPORT THE
33 ALLEGED ABUSE, NEGLECT, OR EXPLOITATION TO THE DEPARTMENT OF

1 SOCIAL AND HEALTH SERVICES BY CALLING THE ABUSE HOTLINE AT
2 1-800-END-HARM.

3 (2) A supported decision-making agreement may be in any form not
4 inconsistent with subsection (1) of this section and the other
5 requirements of this chapter.

6 NEW SECTION. **Sec. 611.** RELIANCE ON AGREEMENT—LIMITATION OF
7 LIABILITY. (1) A person who receives the original or a copy of a
8 supported decision-making agreement shall rely on the agreement.

9 (2) A person is not subject to criminal or civil liability and
10 has not engaged in professional misconduct for an act or omission if
11 the act or omission is done in good faith and in reliance on a
12 supported decision-making agreement.

13 NEW SECTION. **Sec. 612.** REPORTING OF SUSPECTED ABUSE, NEGLECT,
14 OR EXPLOITATION. If a person who receives a copy of a supported
15 decision-making agreement or is aware of the existence of a supported
16 decision-making agreement has cause to believe that the adult with a
17 disability is being abused, neglected, or exploited by the supporter,
18 the person shall report the alleged abuse, neglect, or exploitation
19 to the department of social and health services.

20 **PART VII**
21 **TECHNICAL CORRECTIONS**

22 **Sec. 701.** RCW 2.56.150 and 2005 c 282 s 9 are each amended to
23 read as follows:

24 (1) The administrator for the courts shall review the
25 advisability and feasibility of the statewide mandatory use of court-
26 appointed special advocates as described in RCW 26.12.175 to act as
27 guardians ad litem in appropriate cases under Titles 13 and 26 RCW.
28 The review must explore the feasibility of obtaining various sources
29 of private and public funding to implement statewide mandatory use of
30 court-appointed special advocates, such as grants and donations,
31 instead of or in combination with raising court fees or assessments.

32 (2) The administrator shall also conduct a study on the
33 feasibility and desirability of requiring all persons who act as
34 guardians ad litem under Titles 11, 13, and 26 RCW to be certified as
35 qualified guardians ad litem prior to their eligibility for
36 appointment.

(3) In conducting the review and study the administrator shall consult with: (a) The presidents or directors of all public benefit nonprofit corporations that are eligible to receive state funds under RCW 43.330.135; (b) the attorney general, or a designee; (c) the secretary of the department of social and health services, or a designee; (d) the superior court judges' association; (e) the Washington state bar association; (f) public defenders who represent children under Title 13 or 26 RCW; (g) private attorneys who represent parents under Title 13 or 26 RCW; (h) professionals who evaluate families for the purposes of determining the custody or placement decisions of children; (i) the office of financial management; (j) persons who act as volunteer or compensated guardians ad litem; and (k) parents who have dealt with guardians ad litem in court cases. For the purposes of studying the feasibility of a certification requirement for guardians ad litem acting under Title 11 RCW the administrator shall consult with the advisory group formed under RCW (~~11.88.090~~) 11.130.155.

(4) The administrator shall also conduct a review of problems and concerns about the role of guardians ad litem in actions under Titles 11, 13, and 26 RCW and recommend alternatives to strengthen judicial oversight of guardians ad litem and ensure fairness and impartiality of the process. The administrator must accept and obtain comments from parties designated in subsection (3) of this section.

Sec. 702. RCW 4.16.190 and 2006 c 8 s 303 are each amended to read as follows:

(1) Unless otherwise provided in this section, if a person entitled to bring an action mentioned in this chapter, except for a penalty or forfeiture, or against a sheriff or other officer, for an escape, be at the time the cause of action accrued either under the age of eighteen years, or incompetent or disabled to such a degree that he or she cannot understand the nature of the proceedings, such incompetency or disability as determined according to chapter (~~11.88~~) 11.130 RCW, or imprisoned on a criminal charge prior to sentencing, the time of such disability shall not be a part of the time limited for the commencement of action.

(2) Subsection (1) of this section with respect to a person under the age of eighteen years does not apply to the time limited for the commencement of an action under RCW 4.16.350.

1 **Sec. 703.** RCW 7.28.090 and 1977 ex.s. c 80 s 7 are each amended
2 to read as follows:

3 RCW 7.28.070 and 7.28.080 shall not extend to lands or tenements
4 owned by the United States or this state, nor to school lands, nor to
5 lands held for any public purpose. Nor shall they extend to lands or
6 tenements when there shall be an adverse title to such lands or
7 tenements, and the holder of such adverse title is a person under
8 eighteen years of age, or ~~((incompetent within the meaning of RCW~~
9 ~~11.88.010: PROVIDED, Such))~~ has been placed under a guardianship
10 under RCW 11.130.265. However, such persons as aforesaid shall
11 commence an action to recover such lands or tenements so possessed as
12 aforesaid, within three years after the several disabilities herein
13 enumerated shall cease to exist, and shall prosecute such action to
14 judgment, or in case of vacant and unoccupied land shall, within the
15 time last aforesaid, pay to the person or persons who have paid the
16 same for his or her betterments, and the taxes, with interest on said
17 taxes at the legal rate per annum that have been paid on said vacant
18 and unimproved land.

19 **Sec. 704.** RCW 7.36.020 and 2008 c 6 s 801 are each amended to
20 read as follows:

21 Writs of habeas corpus shall be granted in favor of parents,
22 guardians, limited guardians where appropriate, spouses or domestic
23 partners, and next of kin, and to enforce the rights, and for the
24 protection of ~~((infants and incompetent or disabled persons within~~
25 ~~the meaning of RCW 11.88.010))~~ minors and persons who have been
26 placed under a guardianship under RCW 11.130.265; and the proceedings
27 shall in all cases conform to the provisions of this chapter.

28 **Sec. 705.** RCW 7.70.065 and 2019 c 232 s 8 and 2019 c 209 s 1 are
29 each reenacted and amended to read as follows:

30 (1) Informed consent for health care for a patient who is ~~((not~~
31 ~~competent, as defined in RCW 11.88.010(1)(e))~~ a minor or, to consent
32 may be obtained from a person authorized to consent on behalf of such
33 patient.

34 (a) Persons authorized to provide informed consent to health care
35 on behalf of a patient who ~~((is not competent to consent, based upon~~
36 ~~a reason other than incapacity as defined in RCW 11.88.010(1)(d))~~
37 has been placed under a guardianship under RCW 11.130.265 a minor or,

shall be a member of one of the following classes of persons in the following order of priority:

- (i) The appointed guardian of the patient, if any;
- (ii) The individual, if any, to whom the patient has given a durable power of attorney that encompasses the authority to make health care decisions;
- (iii) The patient's spouse or state registered domestic partner;
- (iv) Children of the patient who are at least eighteen years of age;
- (v) Parents of the patient;
- (vi) Adult brothers and sisters of the patient;
- (vii) Adult grandchildren of the patient who are familiar with the patient;
- (viii) Adult nieces and nephews of the patient who are familiar with the patient;
- (ix) Adult aunts and uncles of the patient who are familiar with the patient; and
- (x) (A) An adult who:
 - (I) Has exhibited special care and concern for the patient;
 - (II) Is familiar with the patient's personal values;
 - (III) Is reasonably available to make health care decisions;
 - (IV) Is not any of the following: A physician to the patient or an employee of the physician; the owner, administrator, or employee of a health care facility, nursing home, or long-term care facility where the patient resides or receives care; or a person who receives compensation to provide care to the patient; and
 - (V) Provides a declaration under (a)(x)(B) of this subsection.
- (B) An adult who meets the requirements of (a)(x)(A) of this subsection shall provide a declaration, which is effective for up to six months from the date of the declaration, signed and dated under penalty of perjury pursuant to (~~(RCW 9A.72.085)~~) chapter 5.50 RCW, that recites facts and circumstances demonstrating that he or she is familiar with the patient and that he or she:
 - (I) Meets the requirements of (a)(x)(A) of this subsection;
 - (II) Is a close friend of the patient;
 - (III) Is willing and able to become involved in the patient's health care;
 - (IV) Has maintained such regular contact with the patient as to be familiar with the patient's activities, health, personal values, and morals; and

1 (V) Is not aware of a person in a higher priority class willing
2 and able to provide informed consent to health care on behalf of the
3 patient.

4 (C) A health care provider may, but is not required to, rely on a
5 declaration provided under (a)(x)(B) of this subsection. The health
6 care provider or health care facility where services are rendered is
7 immune from suit in any action, civil or criminal, or from
8 professional or other disciplinary action when such reliance is based
9 on a declaration provided in compliance with (a)(x)(B) of this
10 subsection.

11 (b) If the health care provider seeking informed consent for
12 proposed health care of the patient who (~~is not competent to consent~~
13 ~~under RCW 11.88.010(1)(e), other than a person determined to be~~
14 ~~incapacitated because he or she is under the age of majority and who~~
15 ~~is not otherwise authorized to provide informed consent)) has been~~
16 placed under a guardianship under RCW 11.130.265, makes reasonable
17 efforts to locate and secure authorization from a competent person in
18 the first or succeeding class and finds no such person available,
19 authorization may be given by any person in the next class in the
20 order of descending priority. However, no person under this section
21 may provide informed consent to health care:

22 (i) If a person of higher priority under this section has refused
23 to give such authorization; or

24 (ii) If there are two or more individuals in the same class and
25 the decision is not unanimous among all available members of that
26 class.

27 (c) Before any person authorized to provide informed consent on
28 behalf of a patient (~~(not competent to consent under RCW~~
29 ~~11.88.010(1)(e), other than a person determined to be incapacitated~~
30 ~~because he or she is under the age of majority and who is not~~
31 ~~otherwise authorized to provide informed consent)) who has been~~
32 placed under a guardianship under RCW 11.130.265, exercises that
33 authority, the person must first determine in good faith that that
34 patient, if competent, would consent to the proposed health care. If
35 such a determination cannot be made, the decision to consent to the
36 proposed health care may be made only after determining that the
37 proposed health care is in the patient's best interests.

38 (d) No rights under Washington's death with dignity act, chapter
39 70.245 RCW, may be exercised through a person authorized to provide
40 informed consent to health care on behalf of a patient (~~not~~

1 ~~competent to consent under RCW 11.88.010(1)(e))~~ who is a minor or
2 has been placed under a guardianship under RCW 11.130.265.

3 (2) Informed consent for health care, including mental health
4 care, for a patient who ~~((is not competent, as defined in RCW~~
5 ~~11.88.010(1)(e), because he or she))~~ is under the age of majority and
6 who is not otherwise authorized to provide informed consent, may be
7 obtained from a person authorized to consent on behalf of such a
8 patient.

9 (a) Persons authorized to provide informed consent to health
10 care, including mental health care, on behalf of a patient who ~~((is~~
11 ~~incapacitated, as defined in RCW 11.88.010(1)(e), because he or she))~~
12 is under the age of majority and who is not otherwise authorized to
13 provide informed consent, shall be a member of one of the following
14 classes of persons in the following order of priority:

15 (i) The appointed guardian, or legal custodian authorized
16 pursuant to Title 26 RCW, of the minor patient, if any;

17 (ii) A person authorized by the court to consent to medical care
18 for a child in out-of-home placement pursuant to chapter 13.32A or
19 13.34 RCW, if any;

20 (iii) Parents of the minor patient;

21 (iv) The individual, if any, to whom the minor's parent has given
22 a signed authorization to make health care decisions for the minor
23 patient; and

24 (v) A competent adult representing himself or herself to be a
25 relative responsible for the health care of such minor patient or a
26 competent adult who has signed and dated a declaration under penalty
27 of perjury pursuant to chapter 5.50 RCW stating that the adult person
28 is a relative responsible for the health care of the minor patient.
29 Such declaration shall be effective for up to six months from the
30 date of the declaration.

31 (b)(i) Informed consent for health care on behalf of a patient
32 who ~~((is incapacitated, as defined in RCW 11.88.010(1)(e), because he~~
33 ~~or she))~~ is under the age of majority and who is not otherwise
34 authorized to provide informed consent may be obtained from a school
35 nurse, school counselor, or homeless student liaison when:

36 (A) Consent is necessary for nonemergency, outpatient, primary
37 care services, including physical examinations, vision examinations
38 and eyeglasses, dental examinations, hearing examinations and hearing
39 aids, immunizations, treatments for illnesses and conditions, and

1 routine follow-up care customarily provided by a health care provider
2 in an outpatient setting, excluding elective surgeries;

3 (B) The minor patient meets the definition of a "homeless child
4 or youth" under the federal McKinney-Vento homeless education
5 assistance improvements act of 2001, P.L. 107-110, January 8, 2002,
6 115 Stat. 2005; and

7 (C) The minor patient is not under the supervision or control of
8 a parent, custodian, or legal guardian, and is not in the care and
9 custody of the department of social and health services.

10 (ii) A person authorized to consent to care under this subsection
11 (2)(b) and the person's employing school or school district are not
12 subject to administrative sanctions or civil damages resulting from
13 the consent or nonconsent for care, any care, or payment for any
14 care, rendered pursuant to this section. Nothing in this section
15 prevents a health care facility or a health care provider from
16 seeking reimbursement from other sources for care provided to a minor
17 patient under this subsection (2)(b).

18 (iii) Upon request by a health care facility or a health care
19 provider, a person authorized to consent to care under this
20 subsection (2)(b) must provide to the person rendering care a
21 declaration signed and dated under penalty of perjury pursuant to
22 chapter 5.50 RCW stating that the person is a school nurse, school
23 counselor, or homeless student liaison and that the minor patient
24 meets the elements under (b)(i) of this subsection. The declaration
25 must also include written notice of the exemption from liability
26 under (b)(ii) of this subsection.

27 (c) A health care provider may, but is not required to, rely on
28 the representations or declaration of a person claiming to be a
29 relative responsible for the care of the minor patient, under (a)(v)
30 of this subsection, or a person claiming to be authorized to consent
31 to the health care of the minor patient under (b) of this subsection,
32 if the health care provider does not have actual notice of the
33 falsity of any of the statements made by the person claiming to be a
34 relative responsible for the health care of the minor patient, or
35 person claiming to be authorized to consent to the health care of the
36 minor patient.

37 (d) A health care facility or a health care provider may, in its
38 discretion, require documentation of a person's claimed status as
39 being a relative responsible for the health care of the minor
40 patient, or a person claiming to be authorized to consent to the

1 health care of the minor patient under (b) of this subsection.
2 However, there is no obligation to require such documentation.

3 (e) The health care provider or health care facility where
4 services are rendered shall be immune from suit in any action, civil
5 or criminal, or from professional or other disciplinary action when
6 such reliance is based on a declaration signed under penalty of
7 perjury pursuant to chapter 5.50 RCW stating that the adult person is
8 a relative responsible for the health care of the minor patient under
9 (a)(v) of this subsection, or a person claiming to be authorized to
10 consent to the health care of the minor patient under (b) of this
11 subsection.

12 (3) For the purposes of this section, "health care," "health care
13 provider," and "health care facility" shall be defined as established
14 in RCW 70.02.010.

15 (4) A person who knowingly provides a false declaration under
16 this section shall be subject to criminal penalties under chapter
17 9A.72 RCW.

18 **Sec. 706.** RCW 9.35.005 and 2017 c 4 s 3 are each amended to read
19 as follows:

20 The definitions in this section apply throughout this chapter
21 unless the context clearly requires otherwise.

22 (1) "Financial information" means any of the following
23 information identifiable to the individual that concerns the amount
24 and conditions of an individual's assets, liabilities, or credit:

25 (a) Account numbers and balances;

26 (b) Transactional information concerning an account; and

27 (c) Codes, passwords, social security numbers, tax identification
28 numbers, driver's license or permit numbers, state identicard numbers
29 issued by the department of licensing, and other information held for
30 the purpose of account access or transaction initiation.

31 (2) "Financial information repository" means a person engaged in
32 the business of providing services to customers who have a credit,
33 deposit, trust, stock, or other financial account or relationship
34 with the person.

35 (3) "Means of identification" means information or an item that
36 is not describing finances or credit but is personal to or
37 identifiable with an individual or other person, including: A current
38 or former name of the person, telephone number, an electronic
39 address, or identifier of the individual or a member of his or her

1 family, including the ancestor of the person; information relating to
2 a change in name, address, telephone number, or electronic address or
3 identifier of the individual or his or her family; a social security,
4 driver's license, or tax identification number of the individual or a
5 member of his or her family; and other information that could be used
6 to identify the person, including unique biometric data.

7 (4) "Person" means a person as defined in RCW 9A.04.110.

8 (5) "Senior" means a person over the age of sixty-five.

9 (6) "Victim" means a person whose means of identification or
10 financial information has been used or transferred with the intent to
11 commit, or to aid or abet, any unlawful activity.

12 (7) "Vulnerable individual" means a person:

13 (~~((i) [(a)])~~) (a) Sixty years of age or older who has the
14 functional, mental, or physical inability to care for himself or
15 herself;

16 (~~((ii) [(b)]) Found incapacitated under chapter 11.88~~) (b) Who
17 has been placed under a guardianship under chapter 11.130 RCW;

18 (~~((iii) [(c)])~~) (c) Who has a developmental disability as defined
19 under RCW 71A.10.020;

20 (~~((iv) [(d)])~~) (d) Admitted to any facility;

21 (~~((v) [(e)])~~) (e) Receiving services from home health, hospice,
22 or home care agencies licensed or required to be licensed under
23 chapter 70.127 RCW;

24 (~~((vi) [(f)])~~) (f) Receiving services from an individual provider
25 as defined in RCW 74.39A.240; or

26 (~~((vii) [(g)])~~) (g) Who self-directs his or her own care and
27 receives services from a personal aide under chapter 74.39 RCW.

28 **Sec. 707.** RCW 9A.44.010 and 2007 c 20 s 3 are each amended to
29 read as follows:

30 As used in this chapter:

31 (1) "Sexual intercourse" (a) has its ordinary meaning and occurs
32 upon any penetration, however slight, and

33 (b) Also means any penetration of the vagina or anus however
34 slight, by an object, when committed on one person by another,
35 whether such persons are of the same or opposite sex, except when
36 such penetration is accomplished for medically recognized treatment
37 or diagnostic purposes, and

1 (c) Also means any act of sexual contact between persons
2 involving the sex organs of one person and the mouth or anus of
3 another whether such persons are of the same or opposite sex.

4 (2) "Sexual contact" means any touching of the sexual or other
5 intimate parts of a person done for the purpose of gratifying sexual
6 desire of either party or a third party.

7 (3) "Married" means one who is legally married to another, but
8 does not include a person who is living separate and apart from his
9 or her spouse and who has filed in an appropriate court for legal
10 separation or for dissolution of his or her marriage.

11 (4) "Mental incapacity" is that condition existing at the time of
12 the offense which prevents a person from understanding the nature or
13 consequences of the act of sexual intercourse whether that condition
14 is produced by illness, defect, the influence of a substance or from
15 some other cause.

16 (5) "Physically helpless" means a person who is unconscious or
17 for any other reason is physically unable to communicate
18 unwillingness to an act.

19 (6) "Forcible compulsion" means physical force which overcomes
20 resistance, or a threat, express or implied, that places a person in
21 fear of death or physical injury to herself or himself or another
22 person, or in fear that she or he or another person will be
23 kidnapped.

24 (7) "Consent" means that at the time of the act of sexual
25 intercourse or sexual contact there are actual words or conduct
26 indicating freely given agreement to have sexual intercourse or
27 sexual contact.

28 (8) "Significant relationship" means a situation in which the
29 perpetrator is:

30 (a) A person who undertakes the responsibility, professionally or
31 voluntarily, to provide education, health, welfare, or organized
32 recreational activities principally for minors;

33 (b) A person who in the course of his or her employment
34 supervises minors; or

35 (c) A person who provides welfare, health or residential
36 assistance, personal care, or organized recreational activities to
37 frail elders or vulnerable adults, including a provider, employee,
38 temporary employee, volunteer, or independent contractor who supplies
39 services to long-term care facilities licensed or required to be
40 licensed under chapter 18.20, 18.51, 72.36, or 70.128 RCW, and home

1 health, hospice, or home care agencies licensed or required to be
2 licensed under chapter 70.127 RCW, but not including a consensual
3 sexual partner.

4 (9) "Abuse of a supervisory position" means:

5 (a) To use a direct or indirect threat or promise to exercise
6 authority to the detriment or benefit of a minor; or

7 (b) To exploit a significant relationship in order to obtain the
8 consent of a minor.

9 (10) "Person with a developmental disability," for purposes of
10 RCW 9A.44.050(1)(c) and 9A.44.100(1)(c), means a person with a
11 developmental disability as defined in RCW 71A.10.020.

12 (11) "Person with supervisory authority," for purposes of RCW
13 9A.44.050(1)(c) or (e) and 9A.44.100(1)(c) or (e), means any
14 proprietor or employee of any public or private care or treatment
15 facility who directly supervises developmentally disabled, mentally
16 disordered, or chemically dependent persons at the facility.

17 (12) "Person with a mental disorder" for the purposes of RCW
18 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person with a "mental
19 disorder" as defined in RCW 71.05.020.

20 (13) "Person with a chemical dependency" for purposes of RCW
21 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person who is "chemically
22 dependent" as defined in RCW 70.96A.020(~~((4))~~).

23 (14) "Health care provider" for purposes of RCW 9A.44.050 and
24 9A.44.100 means a person who is, holds himself or herself out to be,
25 or provides services as if he or she were: (a) A member of a health
26 care profession under chapter 18.130 RCW; or (b) registered under
27 chapter 18.19 RCW or licensed under chapter 18.225 RCW, regardless of
28 whether the health care provider is licensed, certified, or
29 registered by the state.

30 (15) "Treatment" for purposes of RCW 9A.44.050 and 9A.44.100
31 means the active delivery of professional services by a health care
32 provider which the health care provider holds himself or herself out
33 to be qualified to provide.

34 (16) "Frail elder or vulnerable adult" means a person sixty years
35 of age or older who has the functional, mental, or physical inability
36 to care for himself or herself. "Frail elder or vulnerable adult"
37 also includes a person (~~((found incapacitated under chapter 11.88))~~)
38 who has been placed under a guardianship under chapter 11.130 RCW, a
39 person over eighteen years of age who has a developmental disability
40 under chapter 71A.10 RCW, a person admitted to a long-term care

1 facility that is licensed or required to be licensed under chapter
2 18.20, 18.51, 72.36, or 70.128 RCW, and a person receiving services
3 from a home health, hospice, or home care agency licensed or required
4 to be licensed under chapter 70.127 RCW.

5 **Sec. 708.** RCW 11.02.005 and 2018 c 22 s 6 are each amended to
6 read as follows:

7 When used in this title, unless otherwise required from the
8 context:

9 (1) "Administrator" means a personal representative of the estate
10 of a decedent and the term may be used in lieu of "personal
11 representative" wherever required by context.

12 (2) "Codicil" means a will that modifies or partially revokes an
13 existing earlier will. A codicil need not refer to or be attached to
14 the earlier will.

15 (3) "Degree of kinship" means the degree of kinship as computed
16 according to the rules of the civil law; that is, by counting upward
17 from the intestate to the nearest common ancestor and then downward
18 to the relative, the degree of kinship being the sum of these two
19 counts.

20 (4) "Executor" means a personal representative of the estate of a
21 decedent appointed by will and the term may be used in lieu of
22 "personal representative" wherever required by context.

23 (5) "Guardian" or "limited guardian" means a personal
24 representative of the person or estate of ~~((an incompetent or~~
25 ~~disabled))~~ a person ((as defined in RCW 11.88.010)) who has been
26 placed under a guardianship under chapter 11.130 RCW and the term may
27 be used in lieu of "personal representative" wherever required by
28 context.

29 (6) "Heirs" denotes those persons, including the surviving spouse
30 or surviving domestic partner, who are entitled under the statutes of
31 intestate succession to the real and personal property of a decedent
32 on the decedent's death intestate.

33 (7) "Internal revenue code" means the United States internal
34 revenue code of 1986, as amended or renumbered as of January 1, 2001.

35 (8) "Issue" means all the lineal descendants of an individual. An
36 adopted individual is a lineal descendant of each of his or her
37 adoptive parents and of all individuals with regard to which each
38 adoptive parent is a lineal descendant. A child conceived prior to
39 the death of a parent but born after the death of the deceased parent

1 is considered to be the surviving issue of the deceased parent for
2 purposes of this title.

3 (9) "Net estate" refers to the real and personal property of a
4 decedent exclusive of homestead rights, exempt property, the family
5 allowance and enforceable claims against, and debts of, the deceased
6 or the estate.

7 (10) "Nonprobate asset" means those rights and interests of a
8 person having beneficial ownership of an asset that pass on the
9 person's death under a written instrument or arrangement other than
10 the person's will. "Nonprobate asset" includes, but is not limited
11 to, a right or interest passing under a joint tenancy with right of
12 survivorship, joint bank account with right of survivorship, transfer
13 on death deed, payable on death or trust bank account, transfer on
14 death security or security account, deed or conveyance if possession
15 has been postponed until the death of the person, trust of which the
16 person is grantor and that becomes effective or irrevocable only upon
17 the person's death, community property agreement, individual
18 retirement account or bond, or note or other contract the payment or
19 performance of which is affected by the death of the person.
20 "Nonprobate asset" does not include: A payable-on-death provision of
21 a life insurance policy, annuity, or other similar contract, or of an
22 employee benefit plan; a right or interest passing by descent and
23 distribution under chapter 11.04 RCW; a right or interest if, before
24 death, the person has irrevocably transferred the right or interest,
25 the person has waived the power to transfer it or, in the case of
26 contractual arrangement, the person has waived the unilateral right
27 to rescind or modify the arrangement; or a right or interest held by
28 the person solely in a fiduciary capacity. For the definition of
29 "nonprobate asset" relating to revocation of a provision for a former
30 spouse upon dissolution of marriage or declaration of invalidity of
31 marriage, RCW 11.07.010(5) applies. For the definition of "nonprobate
32 asset" relating to testamentary disposition of nonprobate assets, see
33 RCW 11.11.010(7).

34 (11) "Personal representative" includes executor, administrator,
35 special administrator, and guardian or limited guardian and special
36 representative.

37 (12) "Real estate" includes, except as otherwise specifically
38 provided herein, all lands, tenements, and hereditaments, and all
39 rights thereto, and all interest therein possessed and claimed in fee
40 simple, or for the life of a third person.

1 (13) "Representation" refers to a method of determining
2 distribution in which the takers are in unequal degrees of kinship
3 with respect to a decedent, and is accomplished as follows: After
4 first determining who, of those entitled to share in the estate, are
5 in the nearest degree of kinship, the estate is divided into equal
6 shares, the number of shares being the sum of the number of persons
7 who survive the decedent who are in the nearest degree of kinship and
8 the number of persons in the same degree of kinship who died before
9 the decedent but who left issue surviving the decedent; each share of
10 a deceased person in the nearest degree must be divided among those
11 of the deceased person's issue who survive the decedent and have no
12 ancestor then living who is in the line of relationship between them
13 and the decedent, those more remote in degree taking together the
14 share which their ancestor would have taken had he or she survived
15 the decedent.

16 (14) References to "section 2033A" of the internal revenue code
17 in wills, trust agreements, powers of appointment, beneficiary
18 designations, and other instruments governed by or subject to this
19 title are deemed to refer to the comparable or corresponding
20 provisions of section 2057 of the internal revenue code, as added by
21 section 6006(b) of the internal revenue service restructuring act of
22 1998 (H.R. 2676, P.L. 105-206); and references to the section 2033A
23 "exclusion" are deemed to mean the section 2057 deduction.

24 (15) "Settlor" has the same meaning as provided for "trustor" in
25 this section.

26 (16) "Special administrator" means a personal representative of
27 the estate of a decedent appointed for limited purposes and the term
28 may be used in lieu of "personal representative" wherever required by
29 context.

30 (17) "Surviving spouse" or "surviving domestic partner" does not
31 include an individual whose marriage to or state registered domestic
32 partnership with the decedent has been terminated, dissolved, or
33 invalidated unless, by virtue of a subsequent marriage or state
34 registered domestic partnership, he or she is married to or in a
35 domestic partnership with the decedent at the time of death. A decree
36 of separation that does not terminate the status of spouses or
37 domestic partners is not a dissolution or invalidation for purposes
38 of this subsection.

1 (18) "Trustee" means an original, added, or successor trustee and
2 includes the state, or any agency thereof, when it is acting as the
3 trustee of a trust to which chapter 11.98 RCW applies.

4 (19) "Trustor" means a person, including a testator, who creates,
5 or contributes property to, a trust.

6 (20) "Will" means an instrument validly executed as required by
7 RCW 11.12.020.

8 Words that import the singular number may also be applied to the
9 plural of persons and things.

10 Words importing the masculine gender only may be extended to
11 females also.

12 **Sec. 709.** RCW 11.28.185 and 2008 c 6 s 915 are each amended to
13 read as follows:

14 When the terms of the decedent's will manifest an intent that the
15 personal representative appointed to administer the estate shall not
16 be required to furnish bond or other security, or when the personal
17 representative is the surviving spouse or surviving domestic partner
18 of the decedent and it appears to the court that the entire estate,
19 after provision for expenses and claims of creditors, will be
20 distributable to such spouse or surviving domestic partner, then such
21 personal representative shall not be required to give bond or other
22 security as a condition of appointment. In all cases where a bank or
23 trust company authorized to act as personal representative is
24 appointed as personal representative, no bond shall be required. In
25 all other cases, unless waived by the court, the personal
26 representative shall give such bond or other security, in such amount
27 and with such surety or sureties, as the court may direct.

28 Every person required to furnish bond must, before receiving
29 letters testamentary or of administration, execute a bond to the
30 state of Washington conditioned that the personal representative
31 shall faithfully execute the duty of the trust according to law.

32 The court may at any time after appointment of the personal
33 representative require said personal representative to give a bond or
34 additional bond, the same to be conditioned and to be approved as
35 provided in this section; or the court may allow a reduction of the
36 bond upon a proper showing.

37 In lieu of bond, the court may in its discretion, substitute
38 other security or financial arrangements, such as provided under RCW

1 ((~~11.88.105~~)) 11.130.445, or as the court may deem adequate to
2 protect the assets of the estate.

3 **Sec. 710.** RCW 11.76.080 and 2008 c 6 s 806 are each amended to
4 read as follows:

5 If there be any alleged incapacitated person (~~as defined in RCW~~
6 ~~11.88.010~~) interested in the estate who has no legally appointed
7 guardian or limited guardian, the court:

8 (1) At any stage of the proceeding in its discretion and for such
9 purpose or purposes as it shall indicate, may appoint; and

10 (2) For hearings held under RCW 11.54.010, 11.68.041, 11.68.100,
11 and 11.76.050 or for entry of an order adjudicating testacy or
12 intestacy and heirship when no personal representative is appointed
13 to administer the estate of the decedent, shall appoint some
14 disinterested person as guardian ad litem to represent the allegedly
15 incapacitated person with reference to any petition, proceeding
16 report, or adjudication of testacy or intestacy without the
17 appointment of a personal representative to administer the estate of
18 decedent in which the alleged incapacitated person may have an
19 interest, who, on behalf of the alleged incapacitated person, may
20 contest the same as any other person interested might contest it, and
21 who shall be allowed by the court reasonable compensation for his or
22 her services: PROVIDED, HOWEVER, That where a surviving spouse or
23 surviving domestic partner is the sole beneficiary under the terms of
24 a will, the court may grant a motion by the personal representative
25 to waive the appointment of a guardian ad litem for a person who is
26 the minor child of the surviving spouse or surviving domestic partner
27 and the decedent and who is incapacitated solely for the reason of
28 his or her being under eighteen years of age.

29 **Sec. 711.** RCW 11.86.021 and 2016 c 209 s 402 are each amended to
30 read as follows:

31 (1) A beneficiary may disclaim an interest in whole or in part,
32 or with reference to specific parts, shares or assets, in the manner
33 provided in RCW 11.86.031.

34 (2) Likewise, a beneficiary may so disclaim through an agent or
35 attorney so authorized by written instrument.

36 (3) A personal representative, guardian, attorney-in-fact if
37 authorized under a durable power of attorney under chapter 11.125
38 RCW, or other legal representative of the estate of a minor,

1 incompetent, or deceased beneficiary, may so disclaim on behalf of
2 the beneficiary, with or without court order, if:

3 (a) The legal representative deems the disclaimer to be in the
4 best interests of those interested in the estate of the beneficiary
5 and of those who take the disclaimed interest because of the
6 disclaimer, and not detrimental to the best interests of the
7 beneficiary; and

8 (b) In the case of a guardian, no order has been issued under
9 (~~RCW 11.92.140~~) chapter 11.130 RCW determining that the disclaimer
10 is not in the best interests of the beneficiary.

11 **Sec. 712.** RCW 11.90.210 and 2009 c 81 s 8 are each amended to
12 read as follows:

13 This chapter provides the exclusive jurisdictional basis for a
14 court of this state to appoint a guardian or issue a protective order
15 for an adult under (~~chapters 11.88 and 11.92~~) chapter 11.130 RCW.

16 **Sec. 713.** RCW 11.96A.050 and 2013 c 272 s 3 are each amended to
17 read as follows:

18 (1) Venue for proceedings pertaining to trusts is:

19 (a) For testamentary trusts established under wills probated in
20 the state of Washington, in the superior court of the county where
21 the probate of the will is being administered or was completed or, in
22 the alternative, the superior court of the county where any qualified
23 beneficiary of the trust as defined in RCW 11.98.002 resides, the
24 county where any trustee resides or has a place of business, or the
25 county where any real property that is an asset of the trust is
26 located; and

27 (b) For all other trusts, in the superior court of the county
28 where any qualified beneficiary of the trust as defined in RCW
29 11.98.002 resides, the county where any trustee resides or has a
30 place of business, or the county where any real property that is an
31 asset of the trust is located. If no county has venue for proceedings
32 pertaining to a trust under the preceding sentence, then in any
33 county.

34 (2) A party to a proceeding pertaining to a trust may request
35 that venue be changed. If the request is made within four months of
36 the giving of the first notice of a proceeding pertaining to the
37 trust, except for good cause shown, venue must be moved to the county
38 with the strongest connection to the trust as determined by the

1 court, considering such factors as the residence of a qualified
2 beneficiary of the trust as defined in RCW 11.98.002, the residence
3 or place of business of a trustee, and the location of any real
4 property that is an asset of the trust.

5 (3) Venue for proceedings subject to chapter ~~((11.88 or 11.92))~~
6 11.130 RCW must be determined under the provisions of those chapters.

7 (4) Venue for proceedings pertaining to the probate of wills, the
8 administration and disposition of a decedent's property, including
9 nonprobate assets, and any other matter not identified in subsection
10 (1), (2), or (3) of this section, must be in any county in the state
11 of Washington that the petitioner selects. A party to a proceeding
12 may request that venue be changed if the request is made within four
13 months of the mailing of the notice of appointment and pendency of
14 probate required by RCW 11.28.237, and except for good cause shown,
15 venue must be moved as follows:

16 (a) If the decedent was a resident of the state of Washington at
17 the time of death, to the county of the decedent's residence; or

18 (b) If the decedent was not a resident of the state of Washington
19 at the time of death, to any of the following:

20 (i) Any county in which any part of the probate estate might be;

21 (ii) If there are no probate assets, any county where any
22 nonprobate asset might be; or

23 (iii) The county in which the decedent died.

24 (5) Once letters testamentary or of administration have been
25 granted in the state of Washington, all orders, settlements, trials,
26 and other proceedings under this title must be had or made in the
27 county in which such letters have been granted unless venue is moved
28 as provided in subsection (4) of this section.

29 (6) Venue for proceedings pertaining to powers of attorney must
30 be in the superior court of the county of the principal's residence,
31 except for good cause shown.

32 (7) If venue is moved, an action taken before venue is changed is
33 not invalid because of the venue.

34 (8) Any request to change venue that is made more than four
35 months after the commencement of the action may be granted in the
36 discretion of the court.

37 **Sec. 714.** RCW 11.96A.080 and 1999 c 42 s 301 are each amended to
38 read as follows:

1 (1) Subject to the provisions of RCW 11.96A.260 through
2 11.96A.320, any party may have a judicial proceeding for the
3 declaration of rights or legal relations with respect to any matter,
4 as defined by RCW 11.96A.030; the resolution of any other case or
5 controversy that arises under the Revised Code of Washington and
6 references judicial proceedings under this title; or the
7 determination of the persons entitled to notice under RCW 11.96A.110
8 or 11.96A.120.

9 (2) The provisions of this chapter apply to disputes arising in
10 connection with estates of incapacitated persons unless otherwise
11 covered by (~~chapters 11.88 and 11.92~~) chapter 11.130 RCW. The
12 provisions of this chapter shall not supersede, but shall supplement,
13 any otherwise applicable provisions and procedures contained in this
14 title, including without limitation those contained in chapter 11.20,
15 11.24, 11.28, 11.40, 11.42, or 11.56 RCW. The provisions of this
16 chapter shall not apply to actions for wrongful death under chapter
17 4.20 RCW.

18 **Sec. 715.** RCW 11.96A.120 and 2013 c 272 s 5 are each amended to
19 read as follows:

20 (1) Notice to a person who may represent and bind another person
21 under this section has the same effect as if notice were given
22 directly to the other person.

23 (2) The consent of a person who may represent and bind another
24 person under this section is binding on the person represented unless
25 the person represented objects to the representation before the
26 consent would otherwise have become effective.

27 (3) The following limitations on the ability to serve as a
28 virtual representative apply:

29 (a) A trustor may not represent and bind a beneficiary under this
30 section with respect to the termination and modification of an
31 irrevocable trust; and

32 (b) Representation of an incapacitated trustor with respect to
33 his or her powers over a trust is subject to the provisions of RCW
34 11.103.030, and chapters 11.96A(~~(, 11.88, and 11.92)~~) and 11.130 RCW.

35 (4) To the extent there is no conflict of interest between the
36 representative and the person represented or among those being
37 represented with respect to the particular question or dispute:

1 (a) A guardian may represent and bind the estate that the
2 guardian controls, subject to chapters 11.96A(~~(, 11.88, and 11.92)~~)
3 and 11.130 RCW;

4 (b) A guardian of the person may represent and bind the
5 incapacitated person if a guardian of the incapacitated person's
6 estate has not been appointed;

7 (c) An agent having authority to act with respect to the
8 particular question or dispute may represent and bind the principal;

9 (d) A trustee may represent and bind the beneficiaries of the
10 trust;

11 (e) A personal representative of a decedent's estate may
12 represent and bind persons interested in the estate; and

13 (f) A parent may represent and bind the parent's minor or unborn
14 child or children if a guardian for the child or children has not
15 been appointed.

16 (5) Unless otherwise represented, a minor, incapacitated, or
17 unborn individual, or a person whose identity or location is unknown
18 and not reasonably ascertainable, may be represented by and bound by
19 another having a substantially identical interest with respect to the
20 particular question or dispute, but only to the extent there is no
21 conflict of interest between the representative and the person
22 represented with regard to the particular question or dispute.

23 (6) Where an interest has been given to persons who comprise a
24 certain class upon the happening of a certain event, the living
25 persons who would constitute the class as of the date the
26 representation is to be determined may virtually represent all other
27 members of the class as of that date, but only to the extent that
28 there is no conflict of interest between the representative and the
29 person(s) represented with regard to the particular question or
30 dispute.

31 (7) Where an interest has been given to a living person, and the
32 same interest, or a share in it, is to pass to the surviving spouse
33 or surviving domestic partner or to persons who are, or might be, the
34 heirs, issue, or other kindred of that living person or the
35 distributees of the estate of that living person upon the happening
36 of a future event, that living person may virtually represent the
37 surviving spouse or surviving domestic partner, heirs, issue, or
38 other kindred of the person, and the distributees of the estate of
39 the person, but only to the extent that there is no conflict of

1 interest between the representative and the person(s) represented
2 with regard to the particular question or dispute.

3 (8) Except as otherwise provided in subsection (7) of this
4 section, where an interest has been given to a person or a class of
5 persons, or both, upon the happening of any future event, and the
6 same interest or a share of the interest is to pass to another person
7 or class of persons, or both, upon the happening of an additional
8 future event, the living person or persons who would take the
9 interest upon the happening of the first event may virtually
10 represent the persons and classes of persons who might take on the
11 happening of the additional future event, but only to the extent that
12 there is no conflict of interest between the representative and the
13 person(s) represented with regard to the particular question or
14 dispute.

15 (9) To the extent there is no conflict of interest between the
16 holder of the power of appointment and the persons represented with
17 respect to the particular question or dispute, the holder of a
18 lifetime or testamentary power of appointment may virtually represent
19 and bind persons who are permissible appointees or takers in default
20 (but only to the extent that they are permissible appointees in the
21 case of a limited power of appointment) under the power, and who are
22 not permissible distributees as defined in RCW 11.98.002.

23 (10) The attorney general may virtually represent and bind a
24 charitable organization if:

25 (a) The charitable organization is not a qualified beneficiary as
26 defined in RCW 11.98.002 specified in the trust instrument or acting
27 as trustee; or

28 (b) The charitable organization is a qualified beneficiary, but
29 is not a permissible distributee, as those terms are defined in RCW
30 11.98.002, and its beneficial interest in the trust is subject to
31 change by the trustor or by a person designated by the trustor.

32 (11) An action taken by the court is conclusive and binding upon
33 each person receiving actual or constructive notice or who is
34 otherwise represented under this section.

35 (12) This section is intended to adopt the common law concept of
36 virtual representation. This section supplements the common law
37 relating to the doctrine of virtual representation and may not be
38 construed as limiting the application of that common law doctrine.

1 **Sec. 716.** RCW 11.96A.130 and 1999 c 42 s 306 are each amended to
2 read as follows:

3 Nothing in this chapter eliminates the requirement to give notice
4 to a person who has requested special notice under RCW 11.28.240 or
5 (~~11.92.150~~) notice under RCW 11.130.080.

6 **Sec. 717.** RCW 11.96A.150 and 2007 c 475 s 5 are each amended to
7 read as follows:

8 (1) Either the superior court or any court on an appeal may, in
9 its discretion, order costs, including reasonable attorneys' fees, to
10 be awarded to any party: (a) From any party to the proceedings; (b)
11 from the assets of the estate or trust involved in the proceedings;
12 or (c) from any nonprobate asset that is the subject of the
13 proceedings. The court may order the costs, including reasonable
14 attorneys' fees, to be paid in such amount and in such manner as the
15 court determines to be equitable. In exercising its discretion under
16 this section, the court may consider any and all factors that it
17 deems to be relevant and appropriate, which factors may but need not
18 include whether the litigation benefits the estate or trust involved.

19 (2) This section applies to all proceedings governed by this
20 title, including but not limited to proceedings involving trusts,
21 decedent's estates and properties, and guardianship matters. This
22 section shall not be construed as being limited by any other specific
23 statutory provision providing for the payment of costs, including RCW
24 11.68.070 and 11.24.050, unless such statute specifically provides
25 otherwise. This section shall apply to matters involving guardians
26 and guardians ad litem (~~and shall not be limited or controlled by~~
27 ~~the provisions of RCW 11.88.090(10))~~).

28 **Sec. 718.** RCW 11.96A.220 and 1999 c 42 s 402 are each amended to
29 read as follows:

30 RCW 11.96A.210 through 11.96A.250 shall be applicable to the
31 resolution of any matter, as defined by RCW 11.96A.030, other than
32 matters subject to chapter (~~11.88 or 11.92~~) 11.130 RCW, or a trust
33 for a minor or other incapacitated person created at its inception by
34 the judgment or decree of a court unless the judgment or decree
35 provides that RCW 11.96A.210 through 11.96A.250 shall be applicable.
36 If all parties agree to a resolution of any such matter, then the
37 agreement shall be evidenced by a written agreement signed by all
38 parties. Subject to the provisions of RCW 11.96A.240, the written

1 agreement shall be binding and conclusive on all persons interested
2 in the estate or trust. The agreement shall identify the subject
3 matter of the dispute and the parties. If the agreement or a
4 memorandum of the agreement is to be filed with the court under RCW
5 11.96A.230, the agreement may, but need not, include provisions
6 specifically addressing jurisdiction, governing law, the waiver of
7 notice of the filing as provided in RCW 11.96A.230, and the discharge
8 of any special representative who has acted with respect to the
9 agreement.

10 If a party who virtually represents another under RCW 11.96A.120
11 signs the agreement, then the party's signature constitutes the
12 signature of all persons whom the party virtually represents, and all
13 the virtually represented persons shall be bound by the agreement.

14 **Sec. 719.** RCW 11.103.030 and 2016 c 209 s 404 are each amended
15 to read as follows:

16 (1) Unless the terms of a trust expressly provide that the trust
17 is revocable, the trustor may not revoke or amend the trust.

18 (2) If a revocable trust is created or funded by more than one
19 trustor and unless the trust agreement provides otherwise:

20 (a) To the extent the trust consists of community property, the
21 trust may be revoked by either spouse or either domestic partner
22 acting alone but may be amended only by joint action of both spouses
23 or both domestic partners;

24 (b) To the extent the trust consists of property other than
25 community property, each trustor may revoke or amend the trust with
26 regard to the portion of the trust property attributable to that
27 trustor's contribution;

28 (c) The character of community property or separate property is
29 unaffected by its transfer to and from a revocable trust; and

30 (d) Upon the revocation or amendment of the trust by fewer than
31 all of the trustors, the trustee must promptly notify the other
32 trustors of the revocation or amendment.

33 (3) The trustor may revoke or amend a revocable trust:

34 (a) By substantial compliance with a method provided in the terms
35 of the trust; or

36 (b) (i) If the terms of the trust do not provide a method or the
37 method provided in the terms is not expressly made exclusive, by:

1 (A) A later will or codicil that expressly refers to the trust or
2 specifically devises property that would otherwise have passed
3 according to the terms of the trust; or

4 (B) A written instrument signed by the trustor evidencing intent
5 to revoke or amend.

6 (ii) The requirements of chapter 11.11 RCW do not apply to
7 revocation or amendment of a revocable trust under (b)(i) of this
8 subsection.

9 (4) Upon revocation of a revocable trust, the trustee must
10 deliver the trust property as the trustor directs.

11 (5) A trustor's powers with respect to the revocation or
12 amendment of a trust or distribution of the property of a trust may
13 be exercised by the trustor's agent under a power of attorney only to
14 the extent specified in the power of attorney document, as provided
15 in RCW 11.125.240 and to the extent consistent with or expressly
16 authorized by the trust agreement.

17 (6) A guardian of the trustor may exercise a trustor's powers
18 with respect to revocation, amendment, or distribution of trust
19 property only with the approval of the court supervising the
20 guardianship pursuant to (~~RCW 11.92.140~~) chapter 11.130 RCW.

21 (7) A trustee who does not know that a trust has been revoked or
22 amended is not liable to the trustor or trustor's successors in
23 interest for distributions made and other actions taken on the
24 assumption that the trust had not been amended or revoked.

25 (8) This section does not limit or affect operation of RCW
26 11.96A.220 through 11.96A.240.

27 **Sec. 720.** RCW 11.107.060 and 2017 c 29 s 6 are each amended to
28 read as follows:

29 (1) The definitions in this subsection apply throughout this
30 section unless the context clearly requires otherwise.

31 (a) "Beneficiary with a disability" means a beneficiary of the
32 first trust who the trustee believes may qualify for governmental
33 benefits based on disability, whether or not the beneficiary
34 currently receives those benefits or is an individual who (~~is~~
35 ~~incapacitated within the meaning of RCW 11.88.010~~) has been placed
36 under a guardianship under chapter 11.130 RCW.

37 (b) "Governmental benefits" means financial aid or services from
38 a state, federal, or other public agency.

1 (c) "Special needs trust" means a trust the trustee believes
2 would not be considered a resource for purposes of determining
3 whether the beneficiary with a disability is eligible for
4 governmental benefits.

5 (2) A trustee may exercise the decanting power under RCW
6 11.107.020 and 11.107.030 over the property of the first trust as if
7 the trustee had authority to distribute principal to a beneficiary
8 with a disability subject to expanded discretion if:

9 (a) The second trust is a special needs trust that benefits the
10 beneficiary with a disability; and

11 (b) The trustee determines that exercise of the decanting power
12 will further the purposes of the first trust.

13 (3) In an exercise of the decanting power under this section, the
14 following rules apply:

15 (a) The provisions of the second trust for a beneficiary with a
16 disability may:

17 (i) Meet the medicaid law requirements for an account in a pooled
18 trust for a beneficiary with a disability under 42 U.S.C. Sec.
19 1369p(d)(4)(C), as amended, including requiring a payback to the
20 state of medicaid expenditures of funds not retained by the pooled
21 trust; or

22 (ii) Meet the medicaid law requirements for a trust for the sole
23 benefit of a beneficiary with a disability under age sixty-five under
24 42 U.S.C. Sec. 1369(d)(4)(A), as amended, including requiring a
25 payback to the state of medicaid expenditures.

26 (b) RCW 11.107.020(1)(a)(iii) does not apply to the interests of
27 the beneficiary with a disability.

28 (c) Except as affected by any change to the interests of the
29 beneficiary with a disability, the second trusts, in the aggregate,
30 must grant each other beneficiary of the first trust beneficial
31 interests in the second trusts which are substantially similar to the
32 beneficiary's beneficial interests in the first trust unless
33 inconsistent with (a)(i) or (ii) of this subsection (3).

34 **Sec. 721.** RCW 11.120.140 and 2016 c 140 s 14 are each amended to
35 read as follows:

36 (1) Unless otherwise ordered by the court, a guardian appointed
37 ~~((due to a finding of incapacity under RCW 11.88.010(1)))~~ under
38 chapter 11.130 RCW has the right to access an incapacitated person's
39 digital assets other than the content of electronic communications.

1 (2) Unless otherwise ordered by the court or directed by the
2 user, a custodian shall disclose to a guardian the catalogue of
3 electronic communications sent or received by an incapacitated person
4 and any digital assets, other than the content of electronic
5 communications, if the guardian gives the custodian:

6 (a) A written request for disclosure in physical or electronic
7 form;

8 (b) Certified copies of letters of guardianship and the court
9 order appointing the guardian; and

10 (c) If requested by the custodian:

11 (i) A number, user name, address, or other unique subscriber or
12 account identifier assigned by the custodian to identify the account
13 of the person; or

14 (ii) Evidence linking the account to the incapacitated person.

15 (3) A guardian may request a custodian of the incapacitated
16 person's digital assets to suspend or terminate an account of the
17 incapacitated person for good cause. A request made under this
18 section must be accompanied by certified copies of letters of
19 guardianship and the court order appointing the guardian.

20 **Sec. 722.** RCW 11.125.400 and 2016 c 209 s 217 are each amended
21 to read as follows:

22 Unless the power of attorney otherwise provides, where language
23 in a power of attorney grants general authority with respect to
24 health care matters:

25 (1) The agent shall be authorized to act as the principal's
26 personal representative pursuant to the health insurance portability
27 and accountability act, sections 1171 through 1179 of the social
28 security act, 42 U.S.C. Sec. 1320d, as amended, and applicable
29 regulations for all purposes thereunder, including but not limited to
30 accessing and acquiring the principal's health care related
31 information.

32 (2) The agent shall be authorized to provide informed consent for
33 health care decisions on the principal's behalf. If a principal has
34 appointed more than one agent with authority to make mental health
35 treatment decisions in accordance with a directive under chapter
36 71.32 RCW, to the extent of any conflict, the most recently appointed
37 agent shall be treated as the principal's agent for mental health
38 treatment decisions unless provided otherwise in either appointment.

(3) Unless he or she is the spouse, state registered domestic partner, father or mother, or adult child or brother or sister of the principal, none of the following persons may act as the agent for the principal: Any of the principal's physicians, the physicians' employees, or the owners, administrators, or employees of the health care facility or long-term care facility as defined in RCW 43.190.020 where the principal resides or receives care. Except when the principal has consented in a mental health advance directive executed under chapter 71.32 RCW to inpatient admission or electroconvulsive therapy, this authorization is subject to the same limitations as those that apply to a guardian under ((RCW 11.92.043(5) (a) through (e) and 11.92.190)) chapter 11.130 RCW.

Sec. 723. RCW 11.125.410 and 2016 c 209 s 218 are each amended to read as follows:

Unless the power of attorney otherwise provides, the following general provisions shall apply to any power of attorney making reference to the care of the principal's minor children:

(1) A parent or guardian, through a power of attorney, may authorize an agent to make health care decisions on behalf of one or more of his or her children, or children for whom he or she is the legal guardian, who are under the age of majority as defined in RCW 26.28.015, to be effective if the child has no other parent or legal representative readily available and authorized to give such consent.

(2) A principal may further nominate a guardian or guardians of the person, or of the estate or both, of a minor child, whether born at the time of making the durable power of attorney or afterwards, to continue during the disability of the principal, during the minority of the child or for any less time by including such a provision in his or her power of attorney.

(3) The authority of any guardian of the person of any minor child shall supersede the authority of a designated agent to make health care decisions for the minor only after such designated guardian has been appointed by the court.

(4) In the event a conflict between the provisions of a will nominating a testamentary guardian under ((the authority of RCW 11.88.080)) chapter 11.130 RCW and the nomination of a guardian under the authority of this statute, the most recent designation shall control.

1 **Sec. 724.** RCW 13.32A.160 and 2019 c 124 s 1 are each amended to
2 read as follows:

3 (1) When a proper child in need of services petition to approve
4 an out-of-home placement is filed under RCW 13.32A.120, 13.32A.140,
5 or 13.32A.150 the juvenile court shall: (a)(i) Schedule a fact-
6 finding hearing to be held: (A) For a child who resides in a place
7 other than his or her parent's home and other than an out-of-home
8 placement, within five calendar days unless the last calendar day is
9 a Saturday, Sunday, or holiday, in which case the hearing shall be
10 held on the preceding judicial day; or (B) for a child living at home
11 or in an out-of-home placement, within ten days; and (ii) notify the
12 parent, child, and the department of such date; (b) notify the parent
13 of the right to be represented by counsel and, if indigent, to have
14 counsel appointed for him or her by the court; (c) appoint legal
15 counsel for the child; (d) inform the child and his or her parent of
16 the legal consequences of the court approving or disapproving a child
17 in need of services petition; (e) notify the parents of their rights
18 under this chapter and chapters (~~(11.88)~~) 11.130, 13.34, and 71.34
19 RCW, including the right to file an at-risk youth petition, the right
20 to submit an application for admission of their child to a treatment
21 facility for alcohol, chemical dependency, or mental health
22 treatment, and the right to file a guardianship petition; and (f)
23 notify all parties, including the department, of their right to
24 present evidence at the fact-finding hearing.

25 (2) Upon filing of a child in need of services petition, the
26 child may be placed, if not already placed, by the department in a
27 crisis residential center, HOPE center, foster family home, group
28 home facility licensed under chapter 74.15 RCW, or any other suitable
29 residence to be determined by the department. The court may place a
30 child in a crisis residential center for a temporary out-of-home
31 placement as long as the requirements of RCW 13.32A.125 are met.

32 (3) If the child has been placed in a foster family home or group
33 care facility under chapter 74.15 RCW, the child shall remain there,
34 or in any other suitable residence as determined by the department,
35 pending resolution of the petition by the court. Any placement may be
36 reviewed by the court within three judicial days upon the request of
37 the juvenile or the juvenile's parent.

38 **Sec. 725.** RCW 13.34.270 and 2019 c 470 s 1 are each amended to
39 read as follows:

1 (1) Whenever the department of social and health services places
2 a child with a developmental disability in out-of-home care pursuant
3 to RCW 74.13.350, the department shall obtain a judicial
4 determination within one hundred eighty days of the placement that
5 continued placement is in the best interests of the child. If the
6 child's out-of-home placement ends before one hundred eighty days
7 have elapsed, no judicial determination is required.

8 (2) To obtain the judicial determination, the department shall
9 file a petition alleging that there is located or residing within the
10 county a child who has a developmental disability and that the child
11 has been placed in out-of-home care pursuant to RCW 74.13.350. The
12 petition shall request that the court review the child's placement,
13 make a determination whether continued placement is in the best
14 interests of the child, and take other necessary action as provided
15 in this section. The petition shall contain the name, date of birth,
16 and residence of the child and the names and residences of the
17 child's parent or legal guardian who has agreed to the child's
18 placement in out-of-home care. Reasonable attempts shall be made by
19 the department to ascertain and set forth in the petition the
20 identity, location, and custodial status of any parent who is not a
21 party to the placement agreement and why that parent cannot assume
22 custody of the child.

23 (3) Upon filing of the petition, the clerk of the court shall
24 schedule the petition for a hearing to be held no later than fourteen
25 calendar days after the petition has been filed. The department shall
26 provide notification of the time, date, and purpose of the hearing to
27 the parent or legal guardian who has agreed to the child's placement
28 in out-of-home care. The department shall also make reasonable
29 attempts to notify any parent who is not a party to the placement
30 agreement, if the parent's identity and location is known.
31 Notification under this section may be given by the most expedient
32 means, including but not limited to, mail, personal service, and
33 telephone.

34 (4) The court shall appoint a guardian ad litem for the child as
35 provided in RCW 13.34.100, unless the court for good cause finds the
36 appointment unnecessary.

37 (5) Permanency planning hearings shall be held as provided in
38 this section. At the hearing, the court shall review whether the
39 child's best interests are served by continued out-of-home placement
40 and determine the future legal status of the child.

1 (a) For children age ten and under, a permanency planning hearing
2 shall be held in all cases where the child has remained in out-of-
3 home care for at least nine months and an adoption decree or
4 guardianship order under chapter (~~11.88~~) 11.130 RCW has not
5 previously been entered. The hearing shall take place no later than
6 twelve months following commencement of the child's current placement
7 episode.

8 (b) For children over age ten, a permanency planning hearing
9 shall be held in all cases where the child has remained in out-of-
10 home care for at least fifteen months and an adoption decree or
11 guardianship order under chapter (~~11.88~~) 11.130 RCW has not
12 previously been entered. The hearing shall take place no later than
13 eighteen months following commencement of the current placement
14 episode.

15 (c) No later than ten working days before the permanency planning
16 hearing, the department shall submit a written permanency plan to the
17 court and shall mail a copy of the plan to all parties. The plan
18 shall be directed toward securing a safe, stable, and permanent home
19 for the child as soon as possible. The plan shall identify one of the
20 following outcomes as the primary goal and may also identify
21 additional outcomes as alternative goals: Return of the child to the
22 home of the child's parent or legal guardian; adoption; guardianship;
23 or long-term out-of-home care, until the child is age eighteen, with
24 a written agreement between the parties and the child's care
25 provider.

26 (d) If a goal of long-term out-of-home care has been achieved
27 before the permanency planning hearing, the court shall review the
28 child's status to determine whether the placement and the plan for
29 the child's care remains appropriate. In cases where the primary
30 permanency planning goal has not been achieved, the court shall
31 inquire regarding the reasons why the primary goal has not been
32 achieved and determine what needs to be done to make it possible to
33 achieve the primary goal.

34 (e) Following the first permanency planning hearing, the court
35 shall hold a further permanency planning hearing in accordance with
36 this section at least once every twelve months until a permanency
37 planning goal is achieved or the voluntary placement agreement is
38 terminated.

39 (6) Any party to the voluntary placement agreement may terminate
40 the agreement at any time. Upon termination of the agreement, the

1 child shall be returned to the care of the child's parent or legal
2 guardian, unless the child has been taken into custody pursuant to
3 RCW 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW
4 13.34.060, or placed in foster care pursuant to RCW 13.34.130. The
5 department shall notify the court upon termination of the voluntary
6 placement agreement and return of the child to the care of the
7 child's parent or legal guardian. Whenever a voluntary placement
8 agreement is terminated, an action under this section shall be
9 dismissed.

10 (7) When state or federal funds are expended for the care and
11 maintenance of a child with a developmental disability, placed in
12 care as a result of an action under this chapter, the department
13 shall refer the case to the division of child support, unless the
14 department finds that there is good cause not to pursue collection of
15 child support against the parent or parents of the child.

16 (8) This section does not prevent the department of children,
17 youth, and families from filing a dependency petition if there is
18 reason to believe that the child is a dependent child as defined in
19 RCW 13.34.030. An action filed under this section shall be dismissed
20 upon the filing of a dependency petition regarding a child who is the
21 subject of the action under this section.

22 (9) For purposes of this section, unless the context clearly
23 requires otherwise, "department" means the department of social and
24 health services.

25 **Sec. 726.** RCW 18.20.020 and 2012 c 10 s 2 are each reenacted and
26 amended to read as follows:

27 The definitions in this section apply throughout this chapter
28 unless the context clearly requires otherwise.

29 (1) "Adult day services" means care and services provided to a
30 nonresident individual by the assisted living facility on the
31 assisted living facility premises, for a period of time not to exceed
32 ten continuous hours, and does not involve an overnight stay.

33 (2) "Assisted living facility" means any home or other
34 institution, however named, which is advertised, announced, or
35 maintained for the express or implied purpose of providing housing,
36 basic services, and assuming general responsibility for the safety
37 and well-being of the residents, and may also provide domiciliary
38 care, consistent with chapter 142, Laws of 2004, to seven or more
39 residents after July 1, 2000. However, an assisted living facility

1 that is licensed for three to six residents prior to or on July 1,
2 2000, may maintain its assisted living facility license as long as it
3 is continually licensed as an assisted living facility. "Assisted
4 living facility" shall not include facilities certified as group
5 training homes pursuant to RCW 71A.22.040, nor any home, institution
6 or section thereof which is otherwise licensed and regulated under
7 the provisions of state law providing specifically for the licensing
8 and regulation of such home, institution or section thereof. Nor
9 shall it include any independent senior housing, independent living
10 units in continuing care retirement communities, or other similar
11 living situations including those subsidized by the department of
12 housing and urban development.

13 (3) "Basic services" means housekeeping services, meals,
14 nutritious snacks, laundry, and activities.

15 (4) "Department" means the state department of social and health
16 services.

17 (5) "Domiciliary care" means: Assistance with activities of daily
18 living provided by the assisted living facility either directly or
19 indirectly; or health support services, if provided directly or
20 indirectly by the assisted living facility; or intermittent nursing
21 services, if provided directly or indirectly by the assisted living
22 facility.

23 (6) "General responsibility for the safety and well-being of the
24 resident" means the provision of the following: Prescribed general
25 low sodium diets; prescribed general diabetic diets; prescribed
26 mechanical soft foods; emergency assistance; monitoring of the
27 resident; arranging health care appointments with outside health care
28 providers and reminding residents of such appointments as necessary;
29 coordinating health care services with outside health care providers
30 consistent with RCW 18.20.380; assisting the resident to obtain and
31 maintain glasses, hearing aids, dentures, canes, crutches, walkers,
32 wheelchairs, and assistive communication devices; observation of the
33 resident for changes in overall functioning; blood pressure checks as
34 scheduled; responding appropriately when there are observable or
35 reported changes in the resident's physical, mental, or emotional
36 functioning; or medication assistance as permitted under RCW
37 69.41.085 and as defined in RCW 69.41.010.

38 (7) "Legal representative" means a person or persons identified
39 in RCW 7.70.065 who may act on behalf of the resident pursuant to the
40 scope of their legal authority. The legal representative shall not be

1 affiliated with the licensee, assisted living facility, or management
2 company, unless the affiliated person is a family member of the
3 resident.

4 (8) "Nonresident individual" means a person who resides in
5 independent senior housing, independent living units in continuing
6 care retirement communities, or in other similar living environments
7 or in an unlicensed room located within an assisted living facility.
8 Nothing in this chapter prohibits nonresidents from receiving one or
9 more of the services listed in RCW 18.20.030(5) or requires licensure
10 as an assisted living facility when one or more of the services
11 listed in RCW 18.20.030(5) are provided to nonresidents. A
12 nonresident individual may not receive domiciliary care, as defined
13 in this chapter, directly or indirectly by the assisted living
14 facility and may not receive the items and services listed in
15 subsection (6) of this section, except during the time the person is
16 receiving adult day services as defined in this section.

17 (9) "Person" means any individual, firm, partnership,
18 corporation, company, association, or joint stock association, and
19 the legal successor thereof.

20 (10) "Resident" means an individual who is not related by blood
21 or marriage to the operator of the assisted living facility, and by
22 reason of age or disability, chooses to reside in the assisted living
23 facility and receives basic services and one or more of the services
24 listed under general responsibility for the safety and well-being of
25 the resident and may receive domiciliary care or respite care
26 provided directly or indirectly by the assisted living facility and
27 shall be permitted to receive hospice care through an outside service
28 provider when arranged by the resident or the resident's legal
29 representative under RCW 18.20.380.

30 (11) "Resident applicant" means an individual who is seeking
31 admission to a licensed assisted living facility and who has
32 completed and signed an application for admission, or such
33 application for admission has been completed and signed in their
34 behalf by their legal representative if any, and if not, then the
35 designated representative if any.

36 (12) "Resident's representative" means a person designated
37 voluntarily by a competent resident, in writing, to act in the
38 resident's behalf concerning the care and services provided by the
39 assisted living facility and to receive information from the assisted
40 living facility, if there is no legal representative. The resident's

1 competence shall be determined using the criteria in ((RCW
2 ~~11.88.010(1)(e))~~) chapter 11.130 RCW. The resident's representative
3 may not be affiliated with the licensee, assisted living facility, or
4 management company, unless the affiliated person is a family member
5 of the resident. The resident's representative shall not have
6 authority to act on behalf of the resident once the resident is no
7 longer competent.

8 (13) "Secretary" means the secretary of social and health
9 services.

10 **Sec. 727.** RCW 25.15.131 and 2015 c 188 s 28 are each amended to
11 read as follows:

12 (1) A person is dissociated as a member of a limited liability
13 company upon the occurrence of one or more of the following events:

14 (a) The member dies or withdraws by voluntary act from the
15 limited liability company as provided in subsection (2) of this
16 section;

17 (b) The transfer of all of the member's transferable interest in
18 the limited liability company;

19 (c) The member is removed as a member in accordance with the
20 limited liability company agreement;

21 (d) The occurrence of an event upon which the member ceases to be
22 a member under the limited liability company agreement;

23 (e) The person is a corporation, limited liability company,
24 general partnership, or limited partnership, and the person is
25 removed as a member by the unanimous consent of the other members,
26 which may be done under this subsection (1)(e) only if:

27 (i) The person has filed articles of dissolution, a certificate
28 of dissolution or the equivalent, or the person has been
29 administratively or judicially dissolved, or its right to conduct
30 business has been suspended or revoked by the jurisdiction of its
31 incorporation, or the person has otherwise been dissolved; and

32 (ii) The dissolution has not been revoked or the person or its
33 right to conduct business has not been reinstated within ninety days
34 after the limited liability company notifies the person that it will
35 be removed as a member for any reason identified in (e)(i) of this
36 subsection;

37 (f) Unless all other members otherwise agree at the time, the
38 member (i) makes a general assignment for the benefit of creditors;

39 (ii) files a voluntary petition in bankruptcy; (iii) becomes the

1 subject of an order for relief in bankruptcy proceedings; (iv) files
2 a petition or answer seeking for the member any reorganization,
3 arrangement, composition, readjustment, liquidation, dissolution, or
4 similar relief under any statute, law, or regulation; (v) files an
5 answer or other pleading admitting or failing to contest the material
6 allegations of a petition filed against the member in any proceeding
7 of the nature described in (f)(i) through (iv) of this subsection; or
8 (vi) seeks, consents to, or acquiesces in the appointment of a
9 trustee, receiver, or liquidator of the member or of all or any
10 substantial part of the member's properties;

11 (g) Unless all other members otherwise agree at the time, if
12 within one hundred twenty days after the commencement of any
13 proceeding against the member seeking reorganization, arrangement,
14 composition, readjustment, liquidation, dissolution, or similar
15 relief under any statute, law, or regulation, the proceeding has not
16 been dismissed, or if within ninety days after the appointment
17 without his or her consent or acquiescence of a trustee, receiver, or
18 liquidator of the member or of all or any substantial part of the
19 member's properties, the appointment is not vacated or stayed, or
20 within ninety days after the expiration of any stay, the appointment
21 is not vacated; or

22 (h) Unless all other members otherwise agree at the time, in the
23 case of a member who is an individual, the entry of an order by a
24 court of competent jurisdiction adjudicating the member
25 incapacitated, as used and defined under chapter (~~((11.88))~~) 11.130
26 RCW, as to his or her estate.

27 (2) A member may withdraw from a limited liability company at the
28 time or upon the happening of events specified in and in accordance
29 with the limited liability company agreement. If the limited
30 liability company agreement does not specify the time or the events
31 upon the happening of which a member may withdraw, a member may not
32 withdraw from the limited liability company without the written
33 consent of all other members.

34 (3) When a person is dissociated as a member of a limited
35 liability company:

36 (a) The person's right to participate as a member in the
37 management and conduct of the limited liability company's activities
38 terminates;

(b) If the limited liability company is member-managed, the person's fiduciary duties as a member end with regard to matters arising and events occurring after the person's dissociation; and

(c) Subject to subsection (5) of this section, any transferable interest owned by the person immediately before dissociation in the person's capacity as a member is owned by the person solely as a transferee.

(4) A person's dissociation as a member of a limited liability company does not of itself discharge the person from any debt, obligation, or other liability to the limited liability company or the other members which the person incurred while a member.

(5) If a member dies, the deceased member's personal representative or other legal representative may exercise the rights of a transferee provided in RCW 25.15.251 and, for the purposes of settling the estate, the rights of a current member under RCW 25.15.136.

Sec. 728. RCW 29A.08.515 and 2004 c 267 s 125 are each amended to read as follows:

Upon receiving official notice that a court has imposed a guardianship for an incapacitated person and has determined that the person is incompetent for the purpose of rationally exercising the right to vote, under chapter (~~11.88~~) 11.130 RCW, if the incapacitated person is a registered voter in the county, the county auditor shall cancel the incapacitated person's voter registration.

Sec. 729. RCW 70.58A.010 and 2019 c 148 s 2 are each amended to read as follows:

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

(1) "Adult" means a person who is at least eighteen years of age, or an emancipated minor under chapter 13.64 RCW.

(2) "Amendment" means a change to a certification item on the vital record.

(3) "Authorized representative" means a person permitted to receive a certification who is:

(a) Identified in a notarized statement signed by a qualified applicant; or

(b) An agent identified in a power of attorney as defined in chapter 11.125 RCW.

1 (4) "Certification" means the document, in either paper or
2 electronic format, containing all or part of the information
3 contained in the original vital record from which the document is
4 derived, and is issued from the central vital records system. A
5 certification includes an attestation by the state or local registrar
6 to the accuracy of information, and has the full force and effect of
7 the original vital record.

8 (5) "Certification item" means any item of information that
9 appears on certifications.

10 (6) "Coroner" means the person elected or appointed in a county
11 under chapter 36.16 RCW to serve as the county coroner and fulfill
12 the responsibilities established under chapter 36.24 RCW.

13 (7) "Cremated remains" has the same meaning as "cremated human
14 remains" in chapter 68.04 RCW.

15 (8) "Delayed report of live birth" means the report submitted to
16 the department for the purpose of registering the live birth of a
17 person born in state that was not registered within one year of the
18 date of live birth.

19 (9) "Department" means the department of health.

20 (10) "Domestic partner" means a party to a state registered
21 domestic partnership established under chapter 26.60 RCW.

22 (11) "Facility" means any licensed establishment, public or
23 private, located in state, which provides inpatient or outpatient
24 medical, surgical, or diagnostic care or treatment; or nursing,
25 custodial, or domiciliary care. The term also includes establishments
26 to which persons are committed by law including, but not limited to:

27 (a) Mental illness detention facilities designated to assess,
28 diagnose, and treat individuals detained or committed, under chapter
29 71.05 RCW;

30 (b) City and county jails;

31 (c) State department of corrections facilities; and

32 (d) Juvenile correction centers governed by Title 72 RCW.

33 (12) "Fetal death" means any product of conception that shows no
34 evidence of life, such as breathing, beating of the heart, pulsation
35 of the umbilical cord, or definite movement of voluntary muscles
36 after complete expulsion or extraction from the individual who gave
37 birth that is not an induced termination of pregnancy and:

38 (a) Has completed twenty or more weeks of gestation as calculated
39 from the date the last menstrual period of the individual who gave
40 birth began, to the date of expulsion or extraction; or

1 (b) Weighs three hundred fifty grams or more, if weeks of
2 gestation are not known.

3 (13) "Final disposition" means the burial, interment, entombment,
4 cremation, removal from the state, or other manner of disposing of
5 human remains as authorized under chapter 68.50 RCW.

6 (14) "Funeral director" means a person licensed under chapter
7 18.39 RCW as a funeral director.

8 (15) "Funeral establishment" means a place of business licensed
9 under chapter 18.39 RCW as a funeral establishment.

10 (16) "Government agencies" include state boards, commissions,
11 committees, departments, educational institutions, or other state
12 agencies which are created by or pursuant to statute, other than
13 courts and the legislature; county or city agencies, United States
14 federal agencies, and federally recognized tribes and tribal
15 organizations.

16 (17) "Human remains" means the body of a deceased person,
17 includes the body in any stage of decomposition, and includes
18 cremated human remains, but does not include human remains that are
19 or were at any time under the jurisdiction of the state physical
20 anthropologist under chapter 27.44 RCW.

21 (18) "Individual" means a natural person.

22 (19) "Induced termination of pregnancy" means the purposeful
23 interruption of an intrauterine pregnancy with an intention other
24 than to produce a live-born infant, and which does not result in a
25 live birth.

26 (20) "Informational copy" means a birth or death record issued
27 from the central vital records system, containing all or part of the
28 information contained in the original vital record from which the
29 document is derived, and indicating it cannot be used for legal
30 purposes on its face.

31 (21) "Legal guardian" means a person who serves as a guardian for
32 the purpose of either legal or custodial matters, or both, relating
33 to the person for whom the guardian is appointed. The term legal
34 guardian includes, but is not limited to, guardians appointed
35 pursuant to chapters (~~(11.88)~~) 11.130 and 13.36 RCW.

36 (22) "Legal representative" means a licensed attorney
37 representing either the subject of the record or qualified applicant.

38 (23) "Live birth" means the complete expulsion or extraction of a
39 product of human conception from the individual who gave birth,
40 irrespective of the duration of pregnancy, which, after such

1 expulsion or extraction, breathes or shows any other evidence of
2 life, such as beating of the heart, pulsation of the umbilical cord,
3 or definite movement of voluntary muscles.

4 (24) "Local health officer" has the same meaning as in chapter
5 70.05 RCW.

6 (25) "Medical certifier" for a death or fetal death means an
7 individual required to attest to the cause of death information
8 provided on a report of death or fetal death. Each individual
9 certifying cause of death or fetal death may certify cause of death
10 only as permitted by that individual's professional scope of
11 practice. These individuals include:

12 (a) A physician, physician's assistant, or an advanced registered
13 nurse practitioner last in attendance at death or who treated the
14 decedent through examination, medical advice, or medications within
15 the twelve months preceding the death;

16 (b) A midwife, only in cases of fetal death; and

17 (c) A physician performing an autopsy, when the decedent was not
18 treated within the last twelve months and the person died a natural
19 death.

20 (26) "Medical examiner" means the person appointed under chapter
21 36.24 RCW to fulfill the responsibilities established under chapter
22 36.24 RCW.

23 (27) "Midwife" means a person licensed to practice midwifery
24 pursuant to chapter 18.50 RCW.

25 (28) "Physician" means a person licensed to practice medicine,
26 naturopathy, or osteopathy pursuant to Title 18 RCW.

27 (29) "Registration" or "register" means the process by which a
28 report is approved and incorporated as a vital record into the vital
29 records system.

30 (30) "Registration date" means the month, day, and year a report
31 is incorporated into the vital records system.

32 (31) "Report" means an electronic or paper document containing
33 information related to a vital life event for the purpose of
34 registering the vital life event.

35 (32) "Sealed record" means the original record of a vital life
36 event and the evidence submitted to support a change to the original
37 record.

38 (33) "Secretary" means the secretary of the department of health.

39 (34) "State" means Washington state unless otherwise specified.

1 (35) "State registrar" means the person appointed by the
2 secretary to administer the vital records system under RCW
3 70.58A.030.

4 (36) "Territory of the United States" means American Samoa, the
5 Commonwealth of the Northern Mariana Islands, the Commonwealth of
6 Puerto Rico, Guam, and the United States Virgin Islands.

7 (37) "Vital life event" means a birth, death, fetal death,
8 marriage, dissolution of marriage, dissolution of domestic
9 partnership, declaration of invalidity of marriage, declaration of
10 invalidity of domestic partnership, and legal separation.

11 (38) "Vital record" or "record" means a report of a vital life
12 event that has been registered and supporting documentation.

13 (39) "Vital records system" means the statewide system created,
14 operated, and maintained by the department under this chapter.

15 (40) "Vital statistics" means the aggregated data derived from
16 vital records, including related reports, and supporting
17 documentation.

18 **Sec. 730.** RCW 70.97.040 and 2013 c 23 s 179 are each amended to
19 read as follows:

20 (1)(a) Every person who is a resident of an enhanced services
21 facility shall be entitled to all the rights set forth in this
22 chapter, and chapters 71.05 and 70.96A RCW, and shall retain all
23 rights not denied him or her under these chapters.

24 (b) No person shall be presumed incompetent as a consequence of
25 receiving an evaluation or voluntary or involuntary treatment for a
26 mental disorder, chemical dependency disorder, or both, under this
27 chapter, or chapter 71.05 or 70.96A RCW, or any prior laws of this
28 state dealing with mental illness. Competency shall not be determined
29 or withdrawn except under the provisions of chapter 10.77 or
30 (~~(11.88)~~) 11.130 RCW.

31 (c) At the time of his or her treatment planning meeting, every
32 resident of an enhanced services facility shall be given a written
33 statement setting forth the substance of this section. The department
34 shall by rule develop a statement and process for informing residents
35 of their rights in a manner that is likely to be understood by the
36 resident.

37 (2) Every resident of an enhanced services facility shall have
38 the right to adequate care and individualized treatment.

1 (3) The provisions of this chapter shall not be construed to deny
2 to any person treatment by spiritual means through prayer in
3 accordance with the tenets and practices of a church or religious
4 denomination.

5 (4) Persons receiving evaluation or treatment under this chapter
6 shall be given a reasonable choice of an available physician or other
7 professional person qualified to provide such services.

8 (5) The physician-patient privilege or the psychologist-client
9 privilege shall be deemed waived in proceedings under this chapter
10 relating to the administration of antipsychotic medications. As to
11 other proceedings under chapter 10.77, 70.96A, or 71.05 RCW, the
12 privileges shall be waived when a court of competent jurisdiction in
13 its discretion determines that such waiver is necessary to protect
14 either the detained person or the public.

15 (6) Insofar as danger to the person or others is not created,
16 each resident of an enhanced services facility shall have, in
17 addition to other rights not specifically withheld by law, the
18 following rights, a list of which shall be prominently posted in all
19 facilities, institutions, and hospitals providing such services:

20 (a) To wear his or her own clothes and to keep and use his or her
21 own personal possessions, except when deprivation of same is
22 essential to protect the safety of the resident or other persons;

23 (b) To keep and be allowed to spend a reasonable sum of his or
24 her own money for canteen expenses and small purchases;

25 (c) To have access to individual storage space for his or her
26 private use;

27 (d) To have visitors at reasonable times;

28 (e) To have reasonable access to a telephone, both to make and
29 receive confidential calls, consistent with an effective treatment
30 program;

31 (f) To have ready access to letter writing materials, including
32 stamps, and to send and receive uncensored correspondence through the
33 mails;

34 (g) Not to consent to the administration of antipsychotic
35 medications beyond the hearing conducted pursuant to RCW 71.05.215 or
36 71.05.217, or the performance of electroconvulsant therapy, or
37 surgery, except emergency lifesaving surgery, unless ordered by a
38 court under RCW 71.05.217;

39 (h) To discuss and actively participate in treatment plans and
40 decisions with professional persons;

1 (i) Not to have psychosurgery performed on him or her under any
2 circumstances;

3 (j) To dispose of property and sign contracts unless such person
4 has been adjudicated an incompetent in a court proceeding directed to
5 that particular issue; and

6 (k) To complain about rights violations or conditions and request
7 the assistance of a mental health ombuds or representative of
8 Washington protection and advocacy. The facility may not prohibit or
9 interfere with a resident's decision to consult with an advocate of
10 his or her choice.

11 (7) Nothing contained in this chapter shall prohibit a resident
12 from petitioning by writ of habeas corpus for release.

13 (8) Nothing in this section permits any person to knowingly
14 violate a no-contact order or a condition of an active judgment and
15 sentence or active supervision by the department of corrections.

16 (9) A person has a right to refuse placement, except where
17 subject to commitment, in an enhanced services facility. No person
18 shall be denied other department services solely on the grounds that
19 he or she has made such a refusal.

20 (10) A person has a right to appeal the decision of the
21 department that he or she is eligible for placement at an enhanced
22 services facility, and shall be given notice of the right to appeal
23 in a format that is accessible to the person with instructions
24 regarding what to do if the person wants to appeal.

25 **Sec. 731.** RCW 71.05.360 and 2019 c 446 s 13 are each amended to
26 read as follows:

27 (1)(a) Every person involuntarily detained or committed under the
28 provisions of this chapter shall be entitled to all the rights set
29 forth in this chapter, which shall be prominently posted in the
30 facility, and shall retain all rights not denied him or her under
31 this chapter except as chapter 9.41 RCW may limit the right of a
32 person to purchase or possess a firearm or to qualify for a concealed
33 pistol license if the person is committed under RCW 71.05.240 or
34 71.05.320 for mental health treatment.

35 (b) No person shall be presumed incompetent as a consequence of
36 receiving an evaluation or voluntary or involuntary treatment for a
37 mental disorder or substance use disorder, under this chapter or any
38 prior laws of this state dealing with mental illness or substance use

1 disorders. Competency shall not be determined or withdrawn except
2 under the provisions of chapter 10.77 or (~~(11.88)~~) 11.130 RCW.

3 (c) Any person who leaves a public or private agency following
4 evaluation or treatment for a mental disorder or substance use
5 disorder shall be given a written statement setting forth the
6 substance of this section.

7 (2) Each person involuntarily detained or committed pursuant to
8 this chapter shall have the right to adequate care and individualized
9 treatment.

10 (3) The provisions of this chapter shall not be construed to deny
11 to any person treatment by spiritual means through prayer in
12 accordance with the tenets and practices of a church or religious
13 denomination.

14 (4) Persons receiving evaluation or treatment under this chapter
15 shall be given a reasonable choice of an available physician,
16 physician assistant, psychiatric advanced registered nurse
17 practitioner, or other professional person qualified to provide such
18 services.

19 (5) Whenever any person is detained for evaluation and treatment
20 pursuant to this chapter, both the person and, if possible, a
21 responsible member of his or her immediate family, personal
22 representative, guardian, or conservator, if any, shall be advised as
23 soon as possible in writing or orally, by the officer or person
24 taking him or her into custody or by personnel of the evaluation and
25 treatment facility, secure withdrawal management and stabilization
26 facility, or approved substance use disorder treatment program where
27 the person is detained that unless the person is released or
28 voluntarily admits himself or herself for treatment within seventy-
29 two hours of the initial detention:

30 (a) A judicial hearing in a superior court, either by a judge or
31 court commissioner thereof, shall be held not more than seventy-two
32 hours after the initial detention to determine whether there is
33 probable cause to detain the person after the seventy-two hours have
34 expired for up to an additional fourteen days without further
35 automatic hearing for the reason that the person is a person whose
36 mental disorder or substance use disorder presents a likelihood of
37 serious harm or that the person is gravely disabled;

38 (b) The person has a right to communicate immediately with an
39 attorney; has a right to have an attorney appointed to represent him
40 or her before and at the probable cause hearing if he or she is

1 indigent; and has the right to be told the name and address of the
2 attorney that the mental health professional has designated pursuant
3 to this chapter;

4 (c) The person has the right to remain silent and that any
5 statement he or she makes may be used against him or her;

6 (d) The person has the right to present evidence and to cross-
7 examine witnesses who testify against him or her at the probable
8 cause hearing; and

9 (e) The person has the right to refuse psychiatric medications,
10 including antipsychotic medication beginning twenty-four hours prior
11 to the probable cause hearing.

12 (6) When proceedings are initiated under RCW 71.05.153, no later
13 than twelve hours after such person is admitted to the evaluation and
14 treatment facility, secure withdrawal management and stabilization
15 facility, or approved substance use disorder treatment program the
16 personnel of the facility or the designated crisis responder shall
17 serve on such person a copy of the petition for initial detention and
18 the name, business address, and phone number of the designated
19 attorney and shall forthwith commence service of a copy of the
20 petition for initial detention on the designated attorney.

21 (7) The judicial hearing described in subsection (5) of this
22 section is hereby authorized, and shall be held according to the
23 provisions of subsection (5) of this section and rules promulgated by
24 the supreme court.

25 (8) At the probable cause hearing the detained person shall have
26 the following rights in addition to the rights previously specified:

27 (a) To present evidence on his or her behalf;

28 (b) To cross-examine witnesses who testify against him or her;

29 (c) To be proceeded against by the rules of evidence;

30 (d) To remain silent;

31 (e) To view and copy all petitions and reports in the court file.

32 (9) Privileges between patients and physicians, physician
33 assistants, psychologists, or psychiatric advanced registered nurse
34 practitioners are deemed waived in proceedings under this chapter
35 relating to the administration of antipsychotic medications. As to
36 other proceedings under this chapter, the privileges shall be waived
37 when a court of competent jurisdiction in its discretion determines
38 that such waiver is necessary to protect either the detained person
39 or the public.

1 The waiver of a privilege under this section is limited to
2 records or testimony relevant to evaluation of the detained person
3 for purposes of a proceeding under this chapter. Upon motion by the
4 detained person or on its own motion, the court shall examine a
5 record or testimony sought by a petitioner to determine whether it is
6 within the scope of the waiver.

7 The record maker shall not be required to testify in order to
8 introduce medical or psychological records of the detained person so
9 long as the requirements of RCW 5.45.020 are met except that portions
10 of the record which contain opinions as to the detained person's
11 mental state must be deleted from such records unless the person
12 making such conclusions is available for cross-examination.

13 (10) Insofar as danger to the person or others is not created,
14 each person involuntarily detained, treated in a less restrictive
15 alternative course of treatment, or committed for treatment and
16 evaluation pursuant to this chapter shall have, in addition to other
17 rights not specifically withheld by law, the following rights:

18 (a) To wear his or her own clothes and to keep and use his or her
19 own personal possessions, except when deprivation of same is
20 essential to protect the safety of the resident or other persons;

21 (b) To keep and be allowed to spend a reasonable sum of his or
22 her own money for canteen expenses and small purchases;

23 (c) To have access to individual storage space for his or her
24 private use;

25 (d) To have visitors at reasonable times;

26 (e) To have reasonable access to a telephone, both to make and
27 receive confidential calls, consistent with an effective treatment
28 program;

29 (f) To have ready access to letter writing materials, including
30 stamps, and to send and receive uncensored correspondence through the
31 mails;

32 (g) To discuss treatment plans and decisions with professional
33 persons;

34 (h) Not to consent to the administration of antipsychotic
35 medications and not to thereafter be administered antipsychotic
36 medications unless ordered by a court under RCW 71.05.217 or pursuant
37 to an administrative hearing under RCW 71.05.215;

38 (i) Not to consent to the performance of electroconvulsant
39 therapy or surgery, except emergency lifesaving surgery, unless
40 ordered by a court under RCW 71.05.217;

1 (j) Not to have psychosurgery performed on him or her under any
2 circumstances;

3 (k) To dispose of property and sign contracts unless such person
4 has been adjudicated an incompetent in a court proceeding directed to
5 that particular issue.

6 (11) Every person involuntarily detained shall immediately be
7 informed of his or her right to a hearing to review the legality of
8 his or her detention and of his or her right to counsel, by the
9 professional person in charge of the facility providing evaluation
10 and treatment, or his or her designee, and, when appropriate, by the
11 court. If the person so elects, the court shall immediately appoint
12 an attorney to assist him or her.

13 (12) A person challenging his or her detention or his or her
14 attorney shall have the right to designate and have the court appoint
15 a reasonably available independent physician, physician assistant,
16 psychiatric advanced registered nurse practitioner, or other
17 professional person to examine the person detained, the results of
18 which examination may be used in the proceeding. The person shall, if
19 he or she is financially able, bear the cost of such expert
20 examination, otherwise such expert examination shall be at public
21 expense.

22 (13) Nothing contained in this chapter shall prohibit the patient
23 from petitioning by writ of habeas corpus for release.

24 (14) Nothing in this chapter shall prohibit a person committed on
25 or prior to January 1, 1974, from exercising a right available to him
26 or her at or prior to January 1, 1974, for obtaining release from
27 confinement.

28 (15) Nothing in this section permits any person to knowingly
29 violate a no-contact order or a condition of an active judgment and
30 sentence or an active condition of supervision by the department of
31 corrections.

32 **Sec. 732.** RCW 71.32.020 and 2016 c 209 s 407 are each amended to
33 read as follows:

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

36 (1) "Adult" means any individual who has attained the age of
37 majority or is an emancipated minor.

38 (2) "Agent" has the same meaning as an attorney-in-fact or agent
39 as provided in chapter 11.125 RCW.

1 (3) "Capacity" means that an adult has not been found to be
2 incapacitated pursuant to this chapter or ((RCW 11.88.010(1)(e)))
3 chapter 11.130 RCW.

4 (4) "Court" means a superior court under chapter 2.08 RCW.

5 (5) "Health care facility" means a hospital, as defined in RCW
6 70.41.020; an institution, as defined in RCW 71.12.455; a state
7 hospital, as defined in RCW 72.23.010; a nursing home, as defined in
8 RCW 18.51.010; or a clinic that is part of a community mental health
9 service delivery system, as defined in RCW 71.24.025.

10 (6) "Health care provider" means an osteopathic physician or
11 osteopathic physician's assistant licensed under chapter 18.57 or
12 18.57A RCW, a physician or physician's assistant licensed under
13 chapter 18.71 or 18.71A RCW, or an advanced registered nurse
14 practitioner licensed under RCW 18.79.050.

15 (7) "Incapacitated" means an adult who: (a) Is unable to
16 understand the nature, character, and anticipated results of proposed
17 treatment or alternatives; understand the recognized serious possible
18 risks, complications, and anticipated benefits in treatments and
19 alternatives, including nontreatment; or communicate his or her
20 understanding or treatment decisions; or (b) has been found to be
21 incompetent pursuant to ((RCW 11.88.010(1)(e))) chapter 11.130 RCW.

22 (8) "Informed consent" means consent that is given after the
23 person: (a) Is provided with a description of the nature, character,
24 and anticipated results of proposed treatments and alternatives, and
25 the recognized serious possible risks, complications, and anticipated
26 benefits in the treatments and alternatives, including nontreatment,
27 in language that the person can reasonably be expected to understand;
28 or (b) elects not to be given the information included in (a) of this
29 subsection.

30 (9) "Long-term care facility" has the same meaning as defined in
31 RCW 43.190.020.

32 (10) "Mental disorder" means any organic, mental, or emotional
33 impairment which has substantial adverse effects on an individual's
34 cognitive or volitional functions.

35 (11) "Mental health advance directive" or "directive" means a
36 written document in which the principal makes a declaration of
37 instructions or preferences or appoints an agent to make decisions on
38 behalf of the principal regarding the principal's mental health
39 treatment, or both, and that is consistent with the provisions of
40 this chapter.

1 (12) "Mental health professional" means a psychiatrist,
2 psychologist, psychiatric nurse, or social worker, and such other
3 mental health professionals as may be defined by rules adopted by the
4 secretary pursuant to the provisions of chapter 71.05 RCW.

5 (13) "Principal" means an adult who has executed a mental health
6 advance directive.

7 (14) "Professional person" means a mental health professional and
8 shall also mean a physician, registered nurse, and such others as may
9 be defined by rules adopted by the secretary pursuant to the
10 provisions of chapter 71.05 RCW.

11 (15) "Social worker" means a person with a master's or further
12 advanced degree from a social work educational program accredited and
13 approved as provided in RCW 18.320.010.

14 **Sec. 733.** RCW 71A.16.030 and 1998 c 216 s 4 are each amended to
15 read as follows:

16 (1) ~~((The department will develop an outreach program to ensure~~
17 ~~that any eligible person with developmental disabilities services in~~
18 ~~homes, the community, and residential habilitation centers will be~~
19 ~~made aware of these services. This subsection (1) expires June 30,~~
20 ~~2003.~~

21 ~~(2))~~ The secretary shall establish a single procedure for
22 persons to apply for a determination of eligibility for services
23 provided to persons with developmental disabilities.

24 ~~((3) Until June 30, 2003, the procedure set out under subsection~~
25 ~~(1) of this section must require that all applicants and all persons~~
26 ~~with developmental disabilities currently receiving services from the~~
27 ~~division of developmental disabilities within the department be given~~
28 ~~notice of the existence and availability of residential habilitation~~
29 ~~center and community support services. For genuine choice to exist,~~
30 ~~people must know what the options are. Available options must be~~
31 ~~clearly explained, with services customized to fit the unique needs~~
32 ~~and circumstances of developmentally disabled clients and their~~
33 ~~families. Choice of providers and design of services and supports~~
34 ~~will be determined by the individual in conjunction with the~~
35 ~~department. When the person cannot make these choices, the person's~~
36 ~~legal guardian may make them, consistent with chapter 11.88 or 11.92~~
37 ~~RCW. This subsection expires June 30, 2003.~~

38 ~~(4))~~ (2) An application may be submitted by a person with a
39 developmental disability, by the legal representative of a person

1 with a developmental disability, or by any other person who is
2 authorized by rule of the secretary to submit an application.

3 **Sec. 734.** RCW 73.36.050 and 1994 c 147 s 4 are each amended to
4 read as follows:

5 (1) A petition for the appointment of a guardian may be filed by
6 any relative or friend of the ward or by any person who is authorized
7 by law to file such a petition. If there is no person so authorized
8 or if the person so authorized refuses or fails to file such a
9 petition within thirty days after mailing of notice by the veterans
10 administration to the last known address of the person, if any,
11 indicating the necessity for the same, a petition for appointment may
12 be filed by any resident of this state.

13 (2) The petition for appointment shall set forth the name, age,
14 place of residence of the ward, the name and place of residence of
15 the nearest relative, if known, and the fact that the ward is
16 entitled to receive benefits payable by or through the veterans
17 administration and shall set forth the amount of moneys then due and
18 the amount of probable future payments.

19 (3) The petition shall also set forth the name and address of the
20 person or institution, if any, having actual custody of the ward and
21 the name, age, relationship, if any, occupation and address of the
22 proposed guardian and if the nominee is a natural person, the number
23 of wards for whom the nominee is presently acting as guardian.
24 Notwithstanding any law as to priority of persons entitled to
25 appointment, or the nomination in the petition, the court may appoint
26 some other individual or a bank or trust company as guardian, if the
27 court determines it is for the best interest of the ward.

28 (4) In the case of a mentally incompetent ward the petition shall
29 show that such ward has been rated incompetent by the veterans
30 administration on examination in accordance with the laws and
31 regulations governing the veterans administration.

32 (5) All proceedings under this chapter shall be governed by the
33 provisions of (~~chapters 11.88 and 11.92~~) chapter 11.130 RCW which
34 shall prevail over any conflicting provisions of this chapter.

35 **Sec. 735.** RCW 74.34.020 and 2019 c 325 s 5030 are each amended
36 to read as follows:

37 The definitions in this section apply throughout this chapter
38 unless the context clearly requires otherwise.

1 (1) "Abandonment" means action or inaction by a person or entity
2 with a duty of care for a vulnerable adult that leaves the vulnerable
3 person without the means or ability to obtain necessary food,
4 clothing, shelter, or health care.

5 (2) "Abuse" means the willful action or inaction that inflicts
6 injury, unreasonable confinement, intimidation, or punishment on a
7 vulnerable adult. In instances of abuse of a vulnerable adult who is
8 unable to express or demonstrate physical harm, pain, or mental
9 anguish, the abuse is presumed to cause physical harm, pain, or
10 mental anguish. Abuse includes sexual abuse, mental abuse, physical
11 abuse, and personal exploitation of a vulnerable adult, and improper
12 use of restraint against a vulnerable adult which have the following
13 meanings:

14 (a) "Sexual abuse" means any form of nonconsensual sexual
15 conduct, including but not limited to unwanted or inappropriate
16 touching, rape, sodomy, sexual coercion, sexually explicit
17 photographing, and sexual harassment. Sexual abuse also includes any
18 sexual conduct between a staff person, who is not also a resident or
19 client, of a facility or a staff person of a program authorized under
20 chapter 71A.12 RCW, and a vulnerable adult living in that facility or
21 receiving service from a program authorized under chapter 71A.12 RCW,
22 whether or not it is consensual.

23 (b) "Physical abuse" means the willful action of inflicting
24 bodily injury or physical mistreatment. Physical abuse includes, but
25 is not limited to, striking with or without an object, slapping,
26 pinching, choking, kicking, shoving, or prodding.

27 (c) "Mental abuse" means a willful verbal or nonverbal action
28 that threatens, humiliates, harasses, coerces, intimidates, isolates,
29 unreasonably confines, or punishes a vulnerable adult. Mental abuse
30 may include ridiculing, yelling, or swearing.

31 (d) "Personal exploitation" means an act of forcing, compelling,
32 or exerting undue influence over a vulnerable adult causing the
33 vulnerable adult to act in a way that is inconsistent with relevant
34 past behavior, or causing the vulnerable adult to perform services
35 for the benefit of another.

36 (e) "Improper use of restraint" means the inappropriate use of
37 chemical, physical, or mechanical restraints for convenience or
38 discipline or in a manner that: (i) Is inconsistent with federal or
39 state licensing or certification requirements for facilities,
40 hospitals, or programs authorized under chapter 71A.12 RCW; (ii) is

1 not medically authorized; or (iii) otherwise constitutes abuse under
2 this section.

3 (3) "Chemical restraint" means the administration of any drug to
4 manage a vulnerable adult's behavior in a way that reduces the safety
5 risk to the vulnerable adult or others, has the temporary effect of
6 restricting the vulnerable adult's freedom of movement, and is not
7 standard treatment for the vulnerable adult's medical or psychiatric
8 condition.

9 (4) "Consent" means express written consent granted after the
10 vulnerable adult or his or her legal representative has been fully
11 informed of the nature of the services to be offered and that the
12 receipt of services is voluntary.

13 (5) "Department" means the department of social and health
14 services.

15 (6) "Facility" means a residence licensed or required to be
16 licensed under chapter 18.20 RCW, assisted living facilities; chapter
17 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes;
18 chapter 72.36 RCW, soldiers' homes; chapter 71A.20 RCW, residential
19 habilitation centers; or any other facility licensed or certified by
20 the department.

21 (7) "Financial exploitation" means the illegal or improper use,
22 control over, or withholding of the property, income, resources, or
23 trust funds of the vulnerable adult by any person or entity for any
24 person's or entity's profit or advantage other than for the
25 vulnerable adult's profit or advantage. "Financial exploitation"
26 includes, but is not limited to:

27 (a) The use of deception, intimidation, or undue influence by a
28 person or entity in a position of trust and confidence with a
29 vulnerable adult to obtain or use the property, income, resources, or
30 trust funds of the vulnerable adult for the benefit of a person or
31 entity other than the vulnerable adult;

32 (b) The breach of a fiduciary duty, including, but not limited
33 to, the misuse of a power of attorney, trust, or a guardianship
34 appointment, that results in the unauthorized appropriation, sale, or
35 transfer of the property, income, resources, or trust funds of the
36 vulnerable adult for the benefit of a person or entity other than the
37 vulnerable adult; or

38 (c) Obtaining or using a vulnerable adult's property, income,
39 resources, or trust funds without lawful authority, by a person or
40 entity who knows or clearly should know that the vulnerable adult

1 lacks the capacity to consent to the release or use of his or her
2 property, income, resources, or trust funds.

3 (8) "Financial institution" has the same meaning as in RCW
4 30A.22.040 and 30A.22.041. For purposes of this chapter only,
5 "financial institution" also means a "broker-dealer" or "investment
6 adviser" as defined in RCW 21.20.005.

7 (9) "Hospital" means a facility licensed under chapter 70.41 or
8 71.12 RCW or a state hospital defined in chapter 72.23 RCW and any
9 employee, agent, officer, director, or independent contractor
10 thereof.

11 (10) "Incapacitated person" means a person who is at a
12 significant risk of personal or financial harm under ((RCW
13 11.88.010(1) (a), (b), (c), or (d))) chapter 11.130 RCW.

14 (11) "Individual provider" means a person under contract with the
15 department to provide services in the home under chapter 74.09 or
16 74.39A RCW.

17 (12) "Interested person" means a person who demonstrates to the
18 court's satisfaction that the person is interested in the welfare of
19 the vulnerable adult, that the person has a good faith belief that
20 the court's intervention is necessary, and that the vulnerable adult
21 is unable, due to incapacity, undue influence, or duress at the time
22 the petition is filed, to protect his or her own interests.

23 (13)(a) "Isolate" or "isolation" means to restrict a vulnerable
24 adult's ability to communicate, visit, interact, or otherwise
25 associate with persons of his or her choosing. Isolation may be
26 evidenced by acts including but not limited to:

27 (i) Acts that prevent a vulnerable adult from sending, making, or
28 receiving his or her personal mail, electronic communications, or
29 telephone calls; or

30 (ii) Acts that prevent or obstruct the vulnerable adult from
31 meeting with others, such as telling a prospective visitor or caller
32 that a vulnerable adult is not present, or does not wish contact,
33 where the statement is contrary to the express wishes of the
34 vulnerable adult.

35 (b) The term "isolate" or "isolation" may not be construed in a
36 manner that prevents a guardian or limited guardian from performing
37 his or her fiduciary obligations under chapter ((11.92)) 11.130 RCW
38 or prevents a hospital or facility from providing treatment
39 consistent with the standard of care for delivery of health services.

1 (14) "Mandated reporter" is an employee of the department; law
2 enforcement officer; social worker; professional school personnel;
3 individual provider; an employee of a facility; an operator of a
4 facility; an employee of a social service, welfare, mental health,
5 adult day health, adult day care, home health, home care, or hospice
6 agency; county coroner or medical examiner; Christian Science
7 practitioner; or health care provider subject to chapter 18.130 RCW.

8 (15) "Mechanical restraint" means any device attached or adjacent
9 to the vulnerable adult's body that he or she cannot easily remove
10 that restricts freedom of movement or normal access to his or her
11 body. "Mechanical restraint" does not include the use of devices,
12 materials, or equipment that are (a) medically authorized, as
13 required, and (b) used in a manner that is consistent with federal or
14 state licensing or certification requirements for facilities,
15 hospitals, or programs authorized under chapter 71A.12 RCW.

16 (16) "Neglect" means (a) a pattern of conduct or inaction by a
17 person or entity with a duty of care that fails to provide the goods
18 and services that maintain physical or mental health of a vulnerable
19 adult, or that fails to avoid or prevent physical or mental harm or
20 pain to a vulnerable adult; or (b) an act or omission by a person or
21 entity with a duty of care that demonstrates a serious disregard of
22 consequences of such a magnitude as to constitute a clear and present
23 danger to the vulnerable adult's health, welfare, or safety,
24 including but not limited to conduct prohibited under RCW 9A.42.100.

25 (17) "Permissive reporter" means any person, including, but not
26 limited to, an employee of a financial institution, attorney, or
27 volunteer in a facility or program providing services for vulnerable
28 adults.

29 (18) "Physical restraint" means the application of physical force
30 without the use of any device, for the purpose of restraining the
31 free movement of a vulnerable adult's body. "Physical restraint" does
32 not include (a) briefly holding without undue force a vulnerable
33 adult in order to calm or comfort him or her, or (b) holding a
34 vulnerable adult's hand to safely escort him or her from one area to
35 another.

36 (19) "Protective services" means any services provided by the
37 department to a vulnerable adult with the consent of the vulnerable
38 adult, or the legal representative of the vulnerable adult, who has
39 been abandoned, abused, financially exploited, neglected, or in a
40 state of self-neglect. These services may include, but are not

1 limited to case management, social casework, home care, placement,
2 arranging for medical evaluations, psychological evaluations, day
3 care, or referral for legal assistance.

4 (20) "Self-neglect" means the failure of a vulnerable adult, not
5 living in a facility, to provide for himself or herself the goods and
6 services necessary for the vulnerable adult's physical or mental
7 health, and the absence of which impairs or threatens the vulnerable
8 adult's well-being. This definition may include a vulnerable adult
9 who is receiving services through home health, hospice, or a home
10 care agency, or an individual provider when the neglect is not a
11 result of inaction by that agency or individual provider.

12 (21) "Social worker" means:

13 (a) A social worker as defined in RCW 18.320.010(2); or

14 (b) Anyone engaged in a professional capacity during the regular
15 course of employment in encouraging or promoting the health, welfare,
16 support, or education of vulnerable adults, or providing social
17 services to vulnerable adults, whether in an individual capacity or
18 as an employee or agent of any public or private organization or
19 institution.

20 (22) "Vulnerable adult" includes a person:

21 (a) Sixty years of age or older who has the functional, mental,
22 or physical inability to care for himself or herself; or

23 (b) Found incapacitated under chapter (~~(11.88)~~) 11.130 RCW; or

24 (c) Who has a developmental disability as defined under RCW
25 71A.10.020; or

26 (d) Admitted to any facility; or

27 (e) Receiving services from home health, hospice, or home care
28 agencies licensed or required to be licensed under chapter 70.127
29 RCW; or

30 (f) Receiving services from an individual provider; or

31 (g) Who self-directs his or her own care and receives services
32 from a personal aide under chapter 74.39 RCW.

33 (23) "Vulnerable adult advocacy team" means a team of three or
34 more persons who coordinate a multidisciplinary process, in
35 compliance with chapter 266, Laws of 2017 and the protocol governed
36 by RCW 74.34.320, for preventing, identifying, investigating,
37 prosecuting, and providing services related to abuse, neglect, or
38 financial exploitation of vulnerable adults.

1 **Sec. 736.** RCW 74.34.067 and 2013 c 263 s 3 are each amended to
2 read as follows:

3 (1) Where appropriate, an investigation by the department may
4 include a private interview with the vulnerable adult regarding the
5 alleged abandonment, abuse, financial exploitation, neglect, or self-
6 neglect.

7 (2) In conducting the investigation, the department shall
8 interview the complainant, unless anonymous, and shall use its best
9 efforts to interview the vulnerable adult or adults harmed, and,
10 consistent with the protection of the vulnerable adult shall
11 interview facility staff, any available independent sources of
12 relevant information, including if appropriate the family members of
13 the vulnerable adult.

14 (3) The department may conduct ongoing case planning and
15 consultation with: (a) Those persons or agencies required to report
16 under this chapter or submit a report under this chapter; (b)
17 consultants designated by the department; and (c) designated
18 representatives of Washington Indian tribes if client information
19 exchanged is pertinent to cases under investigation or the provision
20 of protective services. Information considered privileged by statute
21 and not directly related to reports required by this chapter must not
22 be divulged without a valid written waiver of the privilege.

23 (4) The department shall prepare and keep on file a report of
24 each investigation conducted by the department for a period of time
25 in accordance with policies established by the department.

26 (5) If the department has reason to believe that the vulnerable
27 adult has suffered from abandonment, abuse, financial exploitation,
28 neglect, or self-neglect, and lacks the ability or capacity to
29 consent, and needs the protection of a guardian, the department may
30 bring a guardianship action under chapter (~~(11.88)~~) 11.130 RCW.

31 (6) For purposes consistent with this chapter, the department,
32 the certified professional guardian board, and the office of public
33 guardianship may share information contained in reports and
34 investigations of the abuse, abandonment, neglect, self-neglect, and
35 financial exploitation of vulnerable adults. This information may be
36 used solely for (a) recruiting or appointing appropriate guardians
37 and (b) monitoring, or when appropriate, disciplining certified
38 professional or public guardians. Reports of abuse, abandonment,
39 neglect, self-neglect, and financial exploitation are confidential

1 under RCW 74.34.095 and other laws, and secondary disclosure of
2 information shared under this section is prohibited.

3 (7) When the investigation is completed and the department
4 determines that an incident of abandonment, abuse, financial
5 exploitation, neglect, or self-neglect has occurred, the department
6 shall inform the vulnerable adult of their right to refuse protective
7 services, and ensure that, if necessary, appropriate protective
8 services are provided to the vulnerable adult, with the consent of
9 the vulnerable adult. The vulnerable adult has the right to withdraw
10 or refuse protective services.

11 (8) The department's adult protective services division may enter
12 into agreements with federally recognized tribes to investigate
13 reports of abandonment, abuse, financial exploitation, neglect, or
14 self-neglect of vulnerable adults on property over which a federally
15 recognized tribe has exclusive jurisdiction. If the department has
16 information that abandonment, abuse, financial exploitation, or
17 neglect is criminal or is placing a vulnerable adult on tribal
18 property at potential risk of personal or financial harm, the
19 department may notify tribal law enforcement or another tribal
20 representative specified by the tribe. Upon receipt of the
21 notification, the tribe may assume jurisdiction of the matter.
22 Neither the department nor its employees may participate in the
23 investigation after the tribe assumes jurisdiction. The department,
24 its officers, and its employees are not liable for any action or
25 inaction of the tribe or for any harm to the alleged victim, the
26 person against whom the allegations were made, or other parties that
27 occurs after the tribe assumes jurisdiction. Nothing in this section
28 limits the department's jurisdiction and authority over facilities or
29 entities that the department licenses or certifies under federal or
30 state law.

31 (9) The department may photograph a vulnerable adult or their
32 environment for the purpose of providing documentary evidence of the
33 physical condition of the vulnerable adult or his or her environment.
34 When photographing the vulnerable adult, the department shall obtain
35 permission from the vulnerable adult or his or her legal
36 representative unless immediate photographing is necessary to
37 preserve evidence. However, if the legal representative is alleged to
38 have abused, neglected, abandoned, or exploited the vulnerable adult,
39 consent from the legal representative is not necessary. No such
40 consent is necessary when photographing the physical environment.

1 (10) When the investigation is complete and the department
2 determines that the incident of abandonment, abuse, financial
3 exploitation, or neglect has occurred, the department shall inform
4 the facility in which the incident occurred, consistent with
5 confidentiality requirements concerning the vulnerable adult,
6 witnesses, and complainants.

7 **Sec. 737.** RCW 74.34.135 and 2007 c 312 s 9 are each amended to
8 read as follows:

9 (1) When a petition for protection under RCW 74.34.110 is filed
10 by someone other than the vulnerable adult or the vulnerable adult's
11 full guardian over either the person or the estate, or both, and the
12 vulnerable adult for whom protection is sought advises the court at
13 the hearing that he or she does not want all or part of the
14 protection sought in the petition, then the court may dismiss the
15 petition or the provisions that the vulnerable adult objects to and
16 any protection order issued under RCW 74.34.120 or 74.34.130, or the
17 court may take additional testimony or evidence, or order additional
18 evidentiary hearings to determine whether the vulnerable adult is
19 unable, due to incapacity, undue influence, or duress, to protect his
20 or her person or estate in connection with the issues raised in the
21 petition or order. If an additional evidentiary hearing is ordered
22 and the court determines that there is reason to believe that there
23 is a genuine issue about whether the vulnerable adult is unable to
24 protect his or her person or estate in connection with the issues
25 raised in the petition or order, the court may issue a temporary
26 order for protection of the vulnerable adult pending a decision after
27 the evidentiary hearing.

28 (2) An evidentiary hearing on the issue of whether the vulnerable
29 adult is unable, due to incapacity, undue influence, or duress, to
30 protect his or her person or estate in connection with the issues
31 raised in the petition or order, shall be held within fourteen days
32 of entry of the temporary order for protection under subsection (1)
33 of this section. If the court did not enter a temporary order for
34 protection, the evidentiary hearing shall be held within fourteen
35 days of the prior hearing on the petition. Notice of the time and
36 place of the evidentiary hearing shall be personally served upon the
37 vulnerable adult and the respondent not less than six court days
38 before the hearing. When good faith attempts to personally serve the
39 vulnerable adult and the respondent have been unsuccessful, the court

1 shall permit service by mail, or by publication if the court
2 determines that personal service and service by mail cannot be
3 obtained. If timely service cannot be made, the court may set a new
4 hearing date. A hearing under this subsection is not necessary if the
5 vulnerable adult has been determined to be fully incapacitated over
6 either the person or the estate, or both, under the guardianship
7 laws, chapter ((11.88)) 11.130 RCW. If a hearing is scheduled under
8 this subsection, the protection order shall remain in effect pending
9 the court's decision at the subsequent hearing.

10 (3) At the hearing scheduled by the court, the court shall give
11 the vulnerable adult, the respondent, the petitioner, and in the
12 court's discretion other interested persons, the opportunity to
13 testify and submit relevant evidence.

14 (4) If the court determines that the vulnerable adult is capable
15 of protecting his or her person or estate in connection with the
16 issues raised in the petition, and the individual continues to object
17 to the protection order, the court shall dismiss the order or may
18 modify the order if agreed to by the vulnerable adult. If the court
19 determines that the vulnerable adult is not capable of protecting his
20 or her person or estate in connection with the issues raised in the
21 petition or order, and that the individual continues to need
22 protection, the court shall order relief consistent with RCW
23 74.34.130 as it deems necessary for the protection of the vulnerable
24 adult. In the entry of any order that is inconsistent with the
25 expressed wishes of the vulnerable adult, the court's order shall be
26 governed by the legislative findings contained in RCW 74.34.005.

27 **Sec. 738.** RCW 74.34.163 and 2007 c 312 s 10 are each amended to
28 read as follows:

29 Any vulnerable adult who has not been adjudicated fully
30 incapacitated under chapter ((11.88)) 11.130 RCW, or the vulnerable
31 adult's guardian, at any time subsequent to entry of a permanent
32 protection order under this chapter, may apply to the court for an
33 order to modify or vacate the order. In a hearing on an application
34 to dismiss or modify the protection order, the court shall grant such
35 relief consistent with RCW 74.34.110 as it deems necessary for the
36 protection of the vulnerable adult, including dismissal or
37 modification of the protection order.

1 **Sec. 739.** RCW 74.42.430 and 1980 c 184 s 12 are each amended to
2 read as follows:

3 The facility shall develop written guidelines governing:

- 4 (1) All services provided by the facility;
- 5 (2) Admission, transfer or discharge;
- 6 (3) The use of chemical and physical restraints, the personnel
7 authorized to administer restraints in an emergency, and procedures
8 for monitoring and controlling the use of the restraints;
- 9 (4) Procedures for receiving and responding to residents'
10 complaints and recommendations;
- 11 (5) Access to, duplication of, and dissemination of information
12 from the resident's record;
- 13 (6) Residents' rights, privileges, and duties;
- 14 (7) Procedures if the resident is adjudicated incompetent or
15 incapable of understanding his or her rights and responsibilities;
- 16 (8) When to recommend initiation of guardianship proceedings
17 under chapter ((11.88)) 11.130 RCW; ((and))
- 18 (9) Emergencies;
- 19 (10) Procedures for isolation of residents with infectious
20 diseases; and
- 21 (11) Procedures for residents to refuse treatment and for the
22 facility to document informed refusal.

23 The written guidelines shall be made available to the staff,
24 residents, members of residents' families, and the public.

25 **PART VIII**

26 **INTENT**

27 NEW SECTION. **Sec. 801.** A new section is added to chapter 11.130
28 RCW to read as follows:

29 It is the intent of the legislature to protect the liberty and
30 autonomy of all people of this state, and to enable them to exercise
31 their rights under the law to the maximum extent, consistent with the
32 capacity of each person. The legislature recognizes that people with
33 incapacities have unique abilities and needs, and that some people
34 with incapacities cannot exercise their rights or provide for their
35 basic needs without the help of a guardian. However, their liberty
36 and autonomy should be restricted through the guardianship process
37 only to the minimum extent necessary to adequately provide for their

1 own health or safety, or to adequately manage their financial
2 affairs.

3 **PART IX**
4 **TECHNICAL**

5 NEW SECTION. **Sec. 901.** Sections 601 through 612 of this act are
6 each added to chapter 11.130 RCW.

7 NEW SECTION. **Sec. 902.** Except for section 114 of this act, this
8 act takes effect January 1, 2021.

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