

SHB 1053 - S COMM AMD  
By Committee on Judiciary

ADOPTED AND ENGROSSED 4/5/11

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 11.88.020 and 1997 c 312 s 1 are each amended to read  
4 as follows:

5 (1) Any suitable person over the age of eighteen years, or any  
6 parent under the age of eighteen years or, if the petition is for  
7 appointment of a professional guardian, any individual or guardianship  
8 service that meets any certification requirements established by the  
9 administrator for the courts, may, if not otherwise disqualified, be  
10 appointed guardian or limited guardian of the person and/or the estate  
11 of an incapacitated person. A financial institution subject to the  
12 jurisdiction of the department of financial institutions and authorized  
13 to exercise trust powers, and a federally chartered financial  
14 institution when authorized to do so, may act as a guardian of the  
15 estate of an incapacitated person without having to meet the  
16 certification requirements established by the administrator for the  
17 courts. No person is qualified to serve as a guardian who is

18 (a) under eighteen years of age except as otherwise provided  
19 herein;

20 (b) of unsound mind;

21 (c) convicted of a felony or of a misdemeanor involving moral  
22 turpitude;

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

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

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

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

4 (3) If a guardian or limited guardian is not a certified  
5 professional guardian or financial institution authorized under this  
6 section, the guardian or limited guardian shall complete any  
7 standardized training video or web cast for lay guardians made  
8 available by the administrative office of the courts and the superior  
9 court where the petition is filed unless granted a waiver by the court  
10 under RCW 11.92.043 or 11.92.040. The training video or web cast must  
11 be provided at no cost to the guardian or limited guardian.

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

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

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

26 (1) Any person or entity may petition for the appointment of a  
27 qualified person, (~~trust company, national bank, or nonprofit~~  
28 ~~corporation~~) certified professional guardian, or financial institution  
29 authorized in RCW 11.88.020 as the guardian or limited guardian of an  
30 incapacitated person. No liability for filing a petition for  
31 guardianship or limited guardianship shall attach to a petitioner  
32 acting in good faith and upon reasonable basis. A petition for  
33 guardianship or limited guardianship shall state:

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

36 (b) The nature of the alleged incapacity in accordance with RCW  
37 11.88.010;

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

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

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

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

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

15 (h) The reason why the appointment of a guardian or limited  
16 guardian is sought and the interest of the petitioner in the  
17 appointment, and whether the appointment is sought as guardian or  
18 limited guardian of the person, the estate, or both;

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

23 (j) The nature and degree of the alleged incapacity and the  
24 specific areas of protection and assistance requested and the  
25 limitation of rights requested to be included in the court's order of  
26 appointment;

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

29 (l) Whether the petitioner is proposing a specific individual to  
30 act as guardian ad litem and, if so, the individual's knowledge of or  
31 relationship to any of the parties, and why the individual is proposed.

32 (2) The petition shall include evidence of successful completion of  
33 any training required under RCW 11.88.020 by the proposed guardian or  
34 limited guardian unless the petitioner requests expedited appointment  
35 due to emergent circumstances.

36 ((+2)) (3)(a) The attorney general may petition for the  
37 appointment of a guardian or limited guardian in any case in which

1 there is cause to believe that a guardianship is necessary and no  
2 private party is able and willing to petition.

3 (b) Prepayment of a filing fee shall not be required in any  
4 guardianship or limited guardianship brought by the attorney general.  
5 Payment of the filing fee shall be ordered from the estate of the  
6 incapacitated person at the hearing on the merits of the petition,  
7 unless in the judgment of the court, such payment would impose a  
8 hardship upon the incapacitated person, in which case the filing shall  
9 be waived.

10 ((+3)) (4) No filing fee shall be charged by the court for filing  
11 either a petition for guardianship or a petition for limited  
12 guardianship if the petition alleges that the alleged incapacitated  
13 person has total assets of a value of less than three thousand dollars.

14 ((+4)) (5)(a) Notice that a guardianship proceeding has been  
15 commenced shall be personally served upon the alleged incapacitated  
16 person and the guardian ad litem along with a copy of the petition for  
17 appointment of a guardian. Such notice shall be served not more than  
18 five court days after the petition has been filed.

19 (b) Notice under this subsection shall include a clear and easily  
20 readable statement of the legal rights of the alleged incapacitated  
21 person that could be restricted or transferred to a guardian by a  
22 guardianship order as well as the right to counsel of choice and to a  
23 jury trial on the issue of incapacity. Such notice shall be in  
24 substantially the following form and shall be in capital letters,  
25 double-spaced, and in a type size not smaller than ten-point type:

26 IMPORTANT NOTICE PLEASE READ CAREFULLY

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

- 30 (1) TO MARRY, DIVORCE, OR ENTER INTO OR END A STATE REGISTERED  
31 DOMESTIC PARTNERSHIP;
- 32 (2) TO VOTE OR HOLD AN ELECTED OFFICE;
- 33 (3) TO ENTER INTO A CONTRACT OR MAKE OR REVOKE A WILL;
- 34 (4) TO APPOINT SOMEONE TO ACT ON YOUR BEHALF;
- 35 (5) TO SUE AND BE SUED OTHER THAN THROUGH A GUARDIAN;
- 36 (6) TO POSSESS A LICENSE TO DRIVE;
- 37 (7) TO BUY, SELL, OWN, MORTGAGE, OR LEASE PROPERTY;
- 38 (8) TO CONSENT TO OR REFUSE MEDICAL TREATMENT;

1 (9) TO DECIDE WHO SHALL PROVIDE CARE AND ASSISTANCE;

2 (10) TO MAKE DECISIONS REGARDING SOCIAL ASPECTS OF YOUR LIFE.

3 UNDER THE LAW, YOU HAVE CERTAIN RIGHTS.

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

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

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

13 ((+5+)) (6) All petitions filed under the provisions of this  
14 section shall be heard within sixty days unless an extension of time is  
15 requested by a party or the guardian ad litem within such sixty day  
16 period and granted for good cause shown. If an extension is granted,  
17 the court shall set a new hearing date.

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

20 It shall be the duty of the guardian or limited guardian of the  
21 person:

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

28 (2) To file annually or, where a guardian of the estate has been  
29 appointed, at the time an account is required to be filed under RCW  
30 11.92.040, a report on the status of the incapacitated person, which  
31 shall include:

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

34 (b) The services or programs which the incapacitated person  
35 receives;

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

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

2 (e) Changes in the functional abilities of the incapacitated  
3 person;

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

5 (g) Any recommended changes in the scope of the authority of the  
6 guardian;

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

9 (i)(i) Evidence of the guardian or limited guardian's successful  
10 completion of any standardized training video or web cast for guardians  
11 or limited guardians made available by the administrative office of the  
12 courts and the superior court when the guardian or limited guardian:  
13 (A) Was appointed prior to July 24, 2011; (B) is not a certified  
14 professional guardian or financial institution authorized under RCW  
15 11.88.020; and (C) has not previously completed the requirements of RCW  
16 11.88.020(3). The training video or web cast must be provided at no  
17 cost to the guardian or limited guardian.

18 (ii) The superior court may, upon (A) petition by the guardian or  
19 limited guardian; or (B) any other method as provided by local court  
20 rule: (I) For good cause, waive this requirement for guardians  
21 appointed prior to July 24, 2011. Good cause shall require evidence  
22 that the guardian already possesses the requisite knowledge to serve as  
23 a guardian without completing the training. When determining whether  
24 there is good cause to waive the training requirement, the court shall  
25 consider, among other facts about the guardianship, whether the  
26 guardian is a family member caring for another family member with a  
27 developmental disability whose estate is worth three thousand dollars  
28 or less; the length of time the guardian has been serving the  
29 incapacitated person; whether the guardian has timely filed all  
30 required reports with the court; whether the guardian is monitored by  
31 other state or local agencies; and whether there have been any  
32 allegations of abuse, neglect, or a breach of fiduciary duty against  
33 the guardian; or (II) extend the time period for completion of the  
34 training requirement for ninety days; and

35 (j) Evidence of the guardian or limited guardian's successful  
36 completion of any additional or updated training video or web cast  
37 offered by the administrative office of the courts and the superior  
38 court as is required at the discretion of the superior court unless the

1 guardian or limited guardian is a certified professional guardian or  
2 financial institution authorized under RCW 11.88.020. The training  
3 video or web cast must be provided at no cost to the guardian or  
4 limited guardian.

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

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

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

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

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

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

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

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

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

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

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

18 (c) ~~((When the next report of the guardian is due;~~  
19 ~~(+d+))~~ The date the account or report shall be filed. The date of  
20 filing an account or report shall be within ninety days after the  
21 anniversary date of the appointment;

22 (d) A directive to the clerk of court to issue letters of  
23 guardianship;

24 (e) Whether the guardian ad litem shall continue acting as guardian  
25 ad litem;

26 ~~((+e+))~~ (f) Whether a review hearing shall be required upon the  
27 filing of the inventory;

28 ~~((+f+))~~ (g) Whether a review hearing is required upon filing the  
29 initial personal care plan;

30 (h) The authority of the guardian, if any, for investment and  
31 expenditure of the ward's estate; ~~((and~~

32 ~~(+g+))~~ (i) Names and addresses of those persons described in RCW  
33 11.88.090(5)(d), if any, whom the court believes should receive copies  
34 of further pleadings filed by the guardian with respect to the  
35 guardianship. The guardian, within ninety days from the date of the  
36 appointment, shall, in writing, notify the persons identified by the



1 court of their right to request special notice of proceedings as  
2 described in RCW 11.92.150; and

3 (j) A guardianship summary placed directly below the case caption  
4 or on a separate cover page in the following form, or a substantially  
5 similar form, containing the following information:

6 **GUARDIANSHIP SUMMARY**

7 Date Guardian Appointed: .....  
8 Due Date for Report and  
9 Accounting: .....  
10 Date of Next Hearing .....  
11 Bond Amount: \$.....  
12 Restricted Account  
13 Agreements Required .....  
14 Due Date for Inventory: .....  
15 Due Date for Care Plan: .....

16 Incapacitated Person      Guardian of: [ ]Estate [ ]  
17 (IP)                                      Person

<u>Name:</u>	<u>Name:</u>
<u>Address:</u>	<u>Address:</u>
<u>Phone:</u>	<u>Phone:</u>
<u>Facsimile:</u>	<u>Facsimile:</u>

<u>Interested Parties</u>	<u>Address</u>	<u>Relation to IP</u>

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

5 (4) In determining the disposition of a petition for appointment of  
6 a guardian or limited guardian of the estate only, the court shall  
7 consider whether the alleged incapacitated person is capable of giving  
8 informed medical consent or of making other personal decisions and, if  
9 not, whether a guardian or limited guardian of the person of the  
10 alleged incapacitated person should be appointed for that purpose.

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

14 If there is an existing medical power of attorney, the court must  
15 make a specific finding of fact regarding the continued validity of  
16 that medical power of attorney before appointing a guardian or limited  
17 guardian for the person.

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

20 (1) The person appointed by the court as either guardian or limited  
21 guardian of the person and/or estate of an incapacitated person(~~(τ)~~)  
22 shall file in writing with the court, within ninety days from the date  
23 of appointment, a notice designating a standby limited guardian or  
24 guardian to serve as limited guardian or guardian at the death or legal  
25 incapacity of the court-appointed guardian or limited guardian. The  
26 notice shall state the name, address, zip code, and telephone number of  
27 the designated standby or limited guardian. Notice of the guardian's  
28 designation of the standby guardian shall be given to the standby  
29 guardian, the incapacitated person and his or her spouse or domestic  
30 partner and adult children, any facility in which the incapacitated  
31 person resides, and any person entitled to special notice under RCW  
32 11.92.150 or any person entitled to receive pleadings pursuant to RCW  
33 11.88.095(2)(~~(g)~~) (i). Such standby guardian or limited guardian  
34 shall have all the powers, duties, and obligations of the regularly  
35 appointed guardian or limited guardian and in addition shall, within a  
36 period of thirty days from the death or adjudication of incapacity of  
37 the regularly appointed guardian or limited guardian, file with the

1 superior court in the county in which the guardianship or limited  
2 guardianship is then being administered, a petition for appointment of  
3 a substitute guardian or limited guardian. Upon the court's  
4 appointment of a new, substitute guardian or limited guardian, the  
5 standby guardian or limited guardian shall make an accounting and  
6 report to be approved by the court, and upon approval of the court, the  
7 standby guardian or limited guardian shall be released from all duties  
8 and obligations arising from or out of the guardianship or limited  
9 guardianship.

10 (2) Letters of guardianship shall be issued to the standby guardian  
11 or limited guardian upon filing an oath and posting a bond as required  
12 by RCW 11.88.100 as now or hereafter amended. The oath may be filed  
13 prior to the appointed guardian or limited guardian's death. Notice of  
14 such appointment shall be provided to the standby guardian, the  
15 incapacitated person, and any facility in which the incapacitated  
16 person resides. The provisions of RCW 11.88.100 through 11.88.110 as  
17 now or hereafter amended shall apply to standby guardians and limited  
18 guardians.

19 (3) In addition to the powers of a standby limited guardian or  
20 guardian as noted in subsection (1) of this section, the standby  
21 limited guardian or guardian shall have the authority to provide  
22 timely, informed consent to necessary medical procedures, as authorized  
23 in RCW 11.92.040 as now or hereafter amended, if the guardian or  
24 limited guardian cannot be located within four hours after the need for  
25 such consent arises.

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

28 A guardian or limited guardian may not act on behalf of the  
29 incapacitated person without valid letters of guardianship. Upon  
30 appointment and fulfilling all legal requirements to serve, as set  
31 forth in the court's order, the clerk shall issue letters of  
32 guardianship to a guardian or limited guardian appointed by the court  
33 in the following form, or a substantially similar form:

34 IN THE SUPERIOR COURT OF THE  
35 STATE OF WASHINGTON IN AND FOR THE  
36 COUNTY OF .....

1 IN THE MATTER OF Guardianship Cause No.  
2 THE .....  
3 GUARDIANSHIP OF  
4 .....  
5 Incapacitated Person LETTERS OF  
6 GUARDIANSHIP OR LIMITED  
7 GUARDIANSHIP  
8

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

10  
11 On the ..... day of ....., 20 ... the Court appointed ..... to serve as:

- 12  
13  Guardian of the Person  Full  Limited  
14  Guardian of the Estate  Full  Limited

15  
16 for ....., the incapacitated person, in the above referenced matter.

17  
18 The Guardian has fulfilled all legal requirements to serve, including, but not limited to: Taking and filing the oath;  
19 filing any bond consistent with the court's order; filing any blocked account agreement consistent with the court's order;  
20 and appointing a resident agent for a nonresident guardian.

21  
22 The Court, having found the Guardian duly qualified, now makes it known ..... is authorized as the Guardian  
23 for ..... designated in the Court's order as referenced above.

24  
25 The next filing and reporting deadline in this matter is on the ... day of .....

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

28  
29 State of Washington)

30 ) ss.

31 County of .....

32  
33 I, ....., Clerk of the Superior Court of said County and State, certify that this document represents true and  
34 correct Letters of Guardianship in the above entitled case, entered upon the record on this ..... day of .....

35  
36 The seal of Superior Court has been affixed and witnessed by my hand this ..... day of .....



1 (d) The amount of fees paid or to be paid to each of the following:  
2 (i) The guardian, (ii) lawyer or lawyers, (iii) accountant or  
3 accountants; and that the guardian believes the fees are reasonable and  
4 does not intend to obtain court approval of the amount of the fees or  
5 to submit a guardianship accounting to the court for approval. Subject  
6 to the requirement of notice as provided in this section, unless the  
7 minor petitions the court either for an order requiring the guardian to  
8 obtain court approval of the amount of fees paid or to be paid to the  
9 guardian, lawyers, or accountants, or for an order requiring an  
10 accounting, or both, within thirty days from the filing of the  
11 declaration of completion of guardianship, the guardian shall be  
12 automatically discharged without further order of the court. The  
13 guardian's powers will cease thirty days after filing the declaration  
14 of completion of guardianship. The declaration of completion of  
15 guardianship shall, at the time, be the equivalent of an entry of a  
16 decree terminating the guardianship, distributing the assets, and  
17 discharging the guardian for all legal intents and purposes.

18 Within five days of the date of filing the declaration of  
19 completion of guardianship, the guardian or the guardian's lawyer shall  
20 mail a copy of the declaration of completion to the minor together with  
21 a notice that shall be substantially as follows:

22  
23  
24  
25  
26  
27  
28

CAPTION OF CASE NOTICE OF FILING A  
DECLARATION OF  
COMPLETION OF  
GUARDIANSHIP

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

16 If you file and serve a petition within the period  
17 specified, the undersigned will request the court to fix a  
18 time and place for the hearing of your petition, and you will  
19 be notified of the time and place of the hearing, by mail, or  
20 by personal service, not less than ten days before the  
21 hearing on the petition.

22 DATED this ..... day of ....., 19...  
23 .....  
24 Guardian

25 If the minor, after reaching legal age, waives in writing the  
26 notice required by this section, the guardian will be automatically  
27 discharged without further order of the court and the declaration of  
28 completion of guardianship will be effective as an order terminating  
29 the guardianship without an accounting upon filing the declaration. If  
30 the guardian has been required to furnish a bond, and a declaration of  
31 completion of guardianship is filed according to this section, any bond  
32 furnished by the guardian shall be automatically discharged upon the  
33 discharge of the guardian.

34 (3) TERMINATION ON COURT ORDER. A guardianship or limited  
35 guardianship may be terminated by court order after such notice as the

1 court may require if the guardianship or limited guardianship is no  
2 longer necessary.

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

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

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

25 Within ninety days, unless the court orders a different deadline  
26 for good cause, after the termination of a guardianship for any reason,  
27 the guardian or limited guardian of the estate shall petition the court  
28 for an order settling his or her account as filed in accordance with  
29 RCW 11.92.040(2) with regard to any receipts, expenditures, and  
30 investments made and acts done by the guardian to the date of the  
31 termination. Upon the filing of the petition, the court shall set a  
32 date for the hearing of the petition after notice has been given in  
33 accordance with RCW 11.88.040. Any person interested may file  
34 objections to the petition or may appear at the time and place fixed  
35 for the hearing thereof and present his or her objections thereto. The  
36 court may take such testimony as it deems proper or necessary to



1 determine whether an order settling the account should be issued and  
2 the transactions of the guardian be approved, and the court may appoint  
3 a guardian ad litem to review the report.

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

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

16 It shall be the duty of the guardian or limited guardian of an  
17 estate:

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

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

29 (a) Identification of property of the guardianship estate as of the  
30 date of the last account or, in the case of the initial account, as of  
31 the date of inventory;

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

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

36 (d) Any adjustments to the guardianship estate required to

1 establish its present fair market value, including gains or losses on  
2 sale or other disposition and any mortgages, deeds of trust or other  
3 encumbrances against the guardianship estate; and

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

13 (3) The court in its discretion may allow reports at intervals of  
14 up to thirty-six months for estates with assets (exclusive of real  
15 property) having a value of not more than twice the homestead  
16 exemption. Notwithstanding contrary provisions of this section, the  
17 guardian or limited guardian of an estate need not file an annual  
18 report with the court if the funds of the guardianship are held for the  
19 benefit of a minor in a blocked account unless the guardian requests a  
20 withdrawal from such account, in which case the guardian shall provide  
21 a written verified account of the administration of the guardianship  
22 estate along with the guardian's petition for the withdrawal. The  
23 guardian or limited guardian shall report any substantial change in  
24 income or assets of the guardianship estate within thirty days of the  
25 occurrence of the change. A hearing shall be scheduled for court  
26 review and determination of provision for increased bond or other  
27 provision in accordance with RCW 11.88.100;

28 (4) If the court reviews an account or report filed by a guardian  
29 or limited guardian, a court order approving the account or report must  
30 contain a guardianship summary placed directly below the case caption  
31 or on a separate cover page in the following form, or a substantially  
32 similar form, containing the following information:

33 **GUARDIANSHIP SUMMARY**

34 Date Guardian Appointed: .....

35 Due Date for Report and

36 Accounting: .....

1 Date of Next Hearing: .....  
2 Bond Amount: \$.....  
3 Restricted Account  
4 Agreements Required .....

5 Incapacitated Person Guardian of: Estate Person  
6 (IP)

7 <u>Name:</u>	<u>Name:</u>
8 <u>Address:</u>	<u>Address:</u>
9 <u>Phone:</u>	<u>Phone:</u>
10 <u>Facsimile:</u>	<u>Facsimile:</u>

11 <u>Standby Guardian</u>	<u>Address</u>	<u>Relation to IP</u>
12		

13 <u>Interested Parties</u>	<u>Address</u>	<u>Relation to IP</u>
14		
15		
16		
17		
18		

19 (5) To protect and preserve the guardianship estate, to apply it as  
20 provided in this chapter, to account for it faithfully, to perform all  
21 of the duties required by law, and at the termination of the  
22 guardianship or limited guardianship, to deliver the assets of the  
23 incapacitated person to the persons entitled thereto. Except as  
24 provided to the contrary herein, the court may authorize a guardian or  
25 limited guardian to do anything that a trustee can do under the  
26 provisions of RCW 11.98.070 for a period not exceeding one year from  
27 the date of the order or for a period corresponding to the interval in

1 which the guardian's or limited guardian's report is required to be  
2 filed by the court pursuant to subsection (2) of this section,  
3 whichever period is longer;

4 ~~((+5))~~ (6) To invest and reinvest the property of the  
5 incapacitated person in accordance with the rules applicable to  
6 investment of trust estates by trustees as provided in chapter 11.100  
7 RCW, except that:

8 (a) No investments shall be made without prior order of the court  
9 in any property other than unconditional interest bearing obligations  
10 of this state or of the United States and in obligations the interest  
11 and principal of which are unconditionally guaranteed by the United  
12 States, and in share accounts or deposits which are insured by an  
13 agency of the United States government. Such prior order of the court  
14 may authorize specific investments, or, in the discretion of the court,  
15 may authorize the guardian or limited guardian to invest and reinvest  
16 as provided in chapter 11.100 RCW without further order of the court;

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

20 ~~((+6))~~ (7) To apply to the court no later than the filing of the  
21 inventory for an order authorizing disbursements on behalf of the  
22 incapacitated person: PROVIDED, HOWEVER, That the guardian or limited  
23 guardian of the estate, or the person, department, bureau, agency, or  
24 charitable organization having the care and custody of an incapacitated  
25 person, may apply to the court for an order directing the guardian or  
26 limited guardian of the estate to pay to the person, department,  
27 bureau, agency, or charitable organization having the care and custody  
28 of an incapacitated person, or if the guardian or limited guardian of  
29 the estate has the care and custody of the incapacitated person,  
30 directing the guardian or limited guardian of the estate to apply an  
31 amount weekly, monthly, quarterly, semi-annually, or annually, as the  
32 court may direct, to be expended in the care, maintenance, and  
33 education of the incapacitated person and of his or her dependents. In  
34 proper cases, the court may order payment of amounts directly to the  
35 incapacitated person for his or her maintenance or incidental expenses.  
36 The amounts authorized under this section may be decreased or increased  
37 from time to time by direction of the court. If payments are made to

1 another under an order of the court, the guardian or limited guardian  
2 of the estate is not bound to see to the application thereof;

3 (8) To provide evidence of the guardian or limited guardian's  
4 successful completion of any standardized training video or web cast  
5 for guardians or limited guardians made available by the administrative  
6 office of the courts and the superior court when the guardian or  
7 limited guardian: (a) Was appointed prior to July 24, 2011; (b) is not  
8 a certified professional guardian or financial institution authorized  
9 under RCW 11.88.020; and (c) has not previously completed the  
10 requirements of RCW 11.88.020(3). The training video or web cast must  
11 be provided at no cost to the guardian or limited guardian. The  
12 superior court may, upon (i) petition by the guardian or limited  
13 guardian; or (ii) any other method as provided by local court rule:  
14 (A) For good cause, waive this requirement for guardians appointed  
15 prior to July 24, 2011. Good cause shall require evidence that the  
16 guardian already possesses the requisite knowledge to serve as a  
17 guardian without completing the training. When determining whether  
18 there is good cause to waive the training requirement, the court shall  
19 consider, among other facts about the guardianship, whether the  
20 guardian is a family member caring for another family member with a  
21 developmental disability whose estate is worth three thousand dollars  
22 or less; the length of time the guardian has been serving the  
23 incapacitated person; whether the guardian has timely filed all  
24 required reports with the court; whether the guardian is monitored by  
25 other state or local agencies; and whether there have been any  
26 allegations of abuse, neglect, or a breach of fiduciary duty against  
27 the guardian; or (B) extend the time period for completion of the  
28 training requirement for ninety days; and

29 (9) To provide evidence of the guardian or limited guardian's  
30 successful completion of any additional or updated training video or  
31 web cast offered by the administrative office of the courts and the  
32 superior court as is required at the discretion of the superior court  
33 unless the guardian or limited guardian is a certified professional  
34 guardian or financial institution authorized under RCW 11.88.020. The  
35 training video or web cast must be provided at no cost to the guardian  
36 or limited guardian.

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

3       (1) Upon the filing of any intermediate guardianship or limited  
4 guardianship account or report required by statute, or of any  
5 intermediate account or report required by court rule or order, the  
6 guardian or limited guardian may petition the court for an order  
7 settling (~~(his or her)~~) the guardianship account or report with regard  
8 to any receipts, expenditures, and investments made and acts done by  
9 the guardian or limited guardian to the date of the interim report.

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

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

26       (4) If a guardian or limited guardian fails to file the account or  
27 report or fails to appear at a hearing, the court may enter an order to  
28 show cause and require the guardian or limited guardian to appear at a  
29 show cause hearing. At the show cause hearing the court may enter an  
30 order for one or more of the following actions:

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

33       (b) Appointing a guardian ad litem;

34       (c) Removing the guardian or limited guardian and appointing a  
35 successor;

36       (d) Requiring the completion of any approved guardianship training  
37 made available to the guardian by the court; or

1 (e) Providing other and further relief the court deems just and  
2 equitable.

3 (5) If the court has appointed a guardian ad litem, the order shall  
4 be final and binding upon the incapacitated person, subject only to the  
5 right of appeal as upon a final order; provided that at the time of  
6 final account of said guardian or limited guardian or within one year  
7 after the incapacitated person attains his or her majority any such  
8 interim account may be challenged by the incapacitated person on the  
9 ground of fraud.

10 ~~((2))~~ (6) The procedure established in (~~subsection (1) of~~) this  
11 section for financial accounts by guardians or limited guardians of the  
12 estate shall apply to personal care reports filed by guardians or  
13 limited guardians of the person under RCW 11.92.043."

**SHB 1053** - S COMM AMD  
By Committee on Judiciary

**ADOPTED 4/5/11**

14 On page 1, line 3 of the title, after "force;" strike the remainder  
15 of the title and insert "amending RCW 11.88.020, 11.88.030, 11.92.043,  
16 11.88.095, 11.88.125, 11.88.140, 11.92.053, 11.92.040, and 11.92.050;  
17 and adding a new section to chapter 11.88 RCW."

--- END ---