

SHB 1053 - S COMM AMD
By Committee on Judiciary

ADOPTED AS AMENDED 04/05/2011

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 for lay guardians made available by the
8 administrative office of the courts and the superior court where the
9 petition is filed unless granted a waiver by the court under RCW
10 11.92.043.

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

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

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

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

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

35 (b) The nature of the alleged incapacity in accordance with RCW
36 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 The petition shall include evidence of successful completion of any
33 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)(a) The attorney general may petition for the appointment of a
37 guardian or limited guardian in any case in which there is cause to

1 believe that a guardianship is necessary and no private party is able
2 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) No filing fee shall be charged by the court for filing either
11 a petition for guardianship or a petition for limited guardianship if
12 the petition alleges that the alleged incapacitated person has total
13 assets of a value of less than three thousand dollars.

14 (4)(a) Notice that a guardianship proceeding has been commenced
15 shall be personally served upon the alleged incapacitated person and
16 the guardian ad litem along with a copy of the petition for appointment
17 of a guardian. Such notice shall be served not more than five court
18 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) All petitions filed under the provisions of this section shall
14 be heard within sixty days unless an extension of time is requested by
15 a party or the guardian ad litem within such sixty day period and
16 granted for good cause shown. If an extension is granted, the court
17 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 for guardians or limited
11 guardians made available by the administrative office of the courts and
12 the superior court when the guardian or limited guardian: (A) Was
13 appointed prior to the effective date of this section; (B) is not a
14 certified professional guardian or financial institution authorized
15 under RCW 11.88.020; and (C) has not previously completed the
16 requirements of RCW 11.88.020(3).

17 (ii) The superior court may: (A) Waive this requirement for good
18 cause. When determining whether there is good cause to waive the
19 training requirement, the court shall consider, among other facts about
20 the guardianship, whether the guardian is a family member caring for a
21 developmentally disabled child or other family member whose estate is
22 worth two thousand dollars or less; the length of time the guardian has
23 been serving the incapacitated person; whether the guardian has timely
24 filed all required reports with the court; whether the guardian is
25 monitored by other state or local agencies; and whether there have been
26 any allegations of abuse, neglect, or a breach of fiduciary duty
27 against the guardian; or (B) extend the time period for completion of
28 the training requirement for ninety days, upon: (I) Petition by the
29 guardian or limited guardian; or (II) any other method as provided by
30 local court rule; and

31 (j) Evidence of the guardian or limited guardian's successful
32 completion of any additional or updated training offered by the
33 administrative office of the courts and the superior court as is
34 required at the discretion of the superior court unless the guardian or
35 limited guardian is a certified professional guardian or financial
36 institution authorized under RCW 11.88.020.

37 (3) To report to the court within thirty days any substantial

1 change in the incapacitated person's condition, or any changes in
2 residence of the incapacitated person.

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

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

- 27 (a) Therapy or other procedure which induces convulsion;
28 (b) Surgery solely for the purpose of psychosurgery;
29 (c) Other psychiatric or mental health procedures that restrict
30 physical freedom of movement, or the rights set forth in RCW
31 (~~71.05.370~~) 71.05.217.

32 A guardian, limited guardian, or standby guardian who believes
33 these procedures are necessary for the proper care and maintenance of
34 the incapacitated person shall petition the court for an order unless
35 the court has previously approved the procedure within the past thirty
36 days. The court may order the procedure only after an attorney is
37 appointed in accordance with RCW 11.88.045 if no attorney has

1 previously appeared, notice is given, and a hearing is held in
2 accordance with RCW 11.88.040.

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

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

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

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

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

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

15 ~~(d))~~ The date the account or report shall be filed. The date of
16 filing an account or report shall be within ninety days after the
17 anniversary date of the appointment;

18 (d) A directive to the clerk of court to issue letters of
19 guardianship;

20 (e) Whether the guardian ad litem shall continue acting as guardian
21 ad litem;

22 ~~((e))~~ (f) Whether a review hearing shall be required upon the
23 filing of the inventory;

24 ~~((f))~~ (g) Whether a review hearing is required upon filing the
25 initial personal care plan;

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

28 ~~(g))~~ (i) Names and addresses of those persons described in RCW
29 11.88.090(5)(d), if any, whom the court believes should receive copies
30 of further pleadings filed by the guardian with respect to the
31 guardianship. The guardian, within ninety days from the date of the
32 appointment, shall, in writing, notify the persons identified by the
33 court of their right to request special notice of proceedings as
34 described in RCW 11.92.150; and

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

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

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

10 If there is an existing medical power of attorney, the court must
11 make a specific finding of fact regarding the continued validity of
12 that medical power of attorney before appointing a guardian or limited
13 guardian for the person.

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

16 (1) The person appointed by the court as either guardian or limited
17 guardian of the person and/or estate of an incapacitated person(~~(7)~~)
18 shall file in writing with the court, within ninety days from the date
19 of appointment, a notice designating a standby limited guardian or
20 guardian to serve as limited guardian or guardian at the death or legal
21 incapacity of the court-appointed guardian or limited guardian. The
22 notice shall state the name, address, zip code, and telephone number of
23 the designated standby or limited guardian. Notice of the guardian's
24 designation of the standby guardian shall be given to the standby
25 guardian, the incapacitated person and his or her spouse or domestic
26 partner and adult children, any facility in which the incapacitated
27 person resides, and any person entitled to special notice under RCW
28 11.92.150 or any person entitled to receive pleadings pursuant to RCW
29 11.88.095(2)(~~(g)~~) (i). Such standby guardian or limited guardian
30 shall have all the powers, duties, and obligations of the regularly
31 appointed guardian or limited guardian and in addition shall, within a
32 period of thirty days from the death or adjudication of incapacity of
33 the regularly appointed guardian or limited guardian, file with the
34 superior court in the county in which the guardianship or limited
35 guardianship is then being administered, a petition for appointment of
36 a substitute guardian or limited guardian. Upon the court's
37 appointment of a new, substitute guardian or limited guardian, the

1 standby guardian or limited guardian shall make an accounting and
2 report to be approved by the court, and upon approval of the court, the
3 standby guardian or limited guardian shall be released from all duties
4 and obligations arising from or out of the guardianship or limited
5 guardianship.

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

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

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

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

30 IN THE SUPERIOR COURT OF THE
31 STATE OF WASHINGTON IN AND FOR THE
32 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 appointedto 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 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 for guardians or
5 limited guardians made available by the administrative office of the
6 courts and the superior court when the guardian or limited guardian:
7 (a) Was appointed prior to the effective date of this section; (b) is
8 not a certified professional guardian or financial institution
9 authorized under RCW 11.88.020; and (c) has not previously completed
10 the requirements of RCW 11.88.020(3). The superior court may: (i)
11 Waive this requirement for good cause. When determining whether there
12 is good cause to waive the training requirement, the court shall
13 consider, among other facts about the guardianship, whether the
14 guardian is a family member caring for a developmentally disabled child
15 or other family member whose estate is worth two thousand dollars or
16 less; the length of time the guardian has been serving the
17 incapacitated person; whether the guardian has timely filed all
18 required reports with the court; whether the guardian is monitored by
19 other state or local agencies; and whether there have been any
20 allegations of abuse, neglect, or a breach of fiduciary duty against
21 the guardian; or (ii) extend the time period for completion of the
22 training requirement for ninety days, upon: (A) Petition by the
23 guardian or limited guardian; or (B) any other method as provided by
24 local court rule; and

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

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

33 (1) Upon the filing of any intermediate guardianship or limited
34 guardianship account or report required by statute, or of any
35 intermediate account or report required by court rule or order, the
36 guardian or limited guardian may petition the court for an order

1 settling (~~his or her~~) the guardianship account or report with regard
2 to any receipts, expenditures, and investments made and acts done by
3 the guardian or limited guardian to the date of the interim report.

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

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

20 (4) If a guardian or limited guardian fails to file the account or
21 report or fails to appear at a hearing, the court may enter an order to
22 show cause and require the guardian or limited guardian to appear at a
23 show cause hearing. At the show cause hearing the court may enter an
24 order for one or more of the following actions:

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

27 (b) Appointing a guardian ad litem;

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

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

32 (e) Providing other and further relief the court deems just and
33 equitable.

34 (5) If the court has appointed a guardian ad litem, the order shall
35 be final and binding upon the incapacitated person, subject only to the
36 right of appeal as upon a final order; provided that at the time of
37 final account of said guardian or limited guardian or within one year

1 after the incapacitated person attains his or her majority any such
2 interim account may be challenged by the incapacitated person on the
3 ground of fraud.

4 ((+2)) (6) The procedure established in ((~~subsection (1) of~~)) this
5 section for financial accounts by guardians or limited guardians of the
6 estate shall apply to personal care reports filed by guardians or
7 limited guardians of the person under RCW 11.92.043."

SHB 1053 - S COMM AMD
By Committee on Judiciary

ADOPTED AS AMENDED 04/05/2011

8 On page 1, line 3 of the title, after "force;" strike the remainder
9 of the title and insert "amending RCW 11.88.020, 11.88.030, 11.92.043,
10 11.88.095, 11.88.125, 11.88.140, 11.92.053, 11.92.040, and 11.92.050;
11 and adding a new section to chapter 11.88 RCW."

EFFECT: Removes the language requiring that courts automatically hold a review hearing for accounts and reports filed by guardians and limited guardians.

Removes the requirement that letters of guardianship must expire and are renewable during the automatic review hearing by the court.

Removes the fee for filing accounts of guardianship estates.

Modifies the provision requiring a court to take action against a guardian that has failed to file a required report or account by instead allowing the court discretion to enter an order to show cause and require the guardian to appear at a show cause hearing. At the show cause hearing the court may enter an order for one or more of the listed actions.

Requires the court to consider certain facts about a guardianship when determining whether there is good cause to waive the training requirement for a guardian.

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