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**SENATE BILL 5114**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators O'Ban, Conway, and Wagoner

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1 AN ACT Relating to creating a guardianship pilot program for  
2 persons who are gravely disabled to provide them individualized  
3 treatment, supervision, and appropriate placement to support  
4 successful transition to the community; amending RCW 11.88.010;  
5 adding a new section to chapter 11.88 RCW; adding a new section to  
6 chapter 11.92 RCW; adding a new section to chapter 71.05 RCW; adding  
7 a new chapter to Title 11 RCW; creating a new section; and providing  
8 expiration dates.

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

10 **I. GUARDIANSHIP PILOT PROGRAM FOR PERSONS WHO ARE GRAVELY DISABLED**

11 NEW SECTION. **Sec. 101.** DEFINITIONS. The definitions in this  
12 section apply throughout this chapter unless the context clearly  
13 requires otherwise.

14 (1) "Gravely disabled" has the same meaning as defined in RCW  
15 71.05.020, except that a person is not "gravely disabled" if the  
16 person for whom guardianship is sought can survive safely without  
17 involuntary detention with the help of responsible family, friends,  
18 or others who, by indicating in writing, are both willing and able to  
19 help provide for the person's basic personal needs for food,  
20 clothing, or shelter.

1 (2) "Incapacitated person" means a person who has been  
2 involuntarily civilly committed for treatment under chapter 71.05 RCW  
3 at least twice within two years before the petition date for  
4 guardianship, is designated as gravely disabled, and is appointed a  
5 guardian under this chapter.

6 (3) "Mental health professional," "mental health service  
7 provider," "mental disorder," "professional person," and "secure  
8 detoxification facility," all have the same meaning as defined in RCW  
9 71.05.020.

10 (4) "Preexisting relationship" means the spouse, domestic  
11 partner, child, stepchild, parent, stepparent, grandparent, or  
12 sibling of the incapacitated person.

13 NEW SECTION. **Sec. 102.** DETERMINATION OF GRAVE DISABILITY. (1)

14 When a mental health professional or a professional person in charge  
15 of a treatment facility determines that a person in his or her care  
16 is gravely disabled, he or she may recommend guardianship to a  
17 guardian ad litem of the county of residence of the person before his  
18 or her admission as a patient in such facility.

19 (2) The mental health professional or professional person may  
20 recommend guardianship for a person without the person being an  
21 inpatient in such facility, if both of the following conditions are  
22 met: (a) The mental health professional, professional person, or  
23 another professional person designated by him or her has examined and  
24 evaluated the person and determined that he or she is gravely  
25 disabled; and (b) the mental health professional, professional  
26 person, or another professional person designated by him or her has  
27 determined that future examination on an inpatient basis is not  
28 necessary for a determination that the person is gravely disabled.

29 (3) If the guardian ad litem concurs with the recommendation, he  
30 or she must petition the superior court in the county of residence of  
31 the patient to establish guardianship unless a petition for  
32 guardianship has already been filed under section 103 of this act.

33 (4) If a thirty-day limited guardianship as authorized under  
34 section 104 of this act is indicated, it must be alternatively  
35 pleaded in the petition. The guardian ad litem or another county  
36 officer or employee designated by the county must act as the limited  
37 guardian.

1        NEW SECTION.    **Sec. 103.**    GUARDIANSHIP—REQUIREMENTS. Except as  
2 provided in section 102 of this act, any petitioner for a  
3 guardianship under this chapter must have a preexisting relationship  
4 with the person for whom guardianship is sought. Any guardian or  
5 limited guardian appointed under this chapter must reside in the same  
6 or adjacent county as the incapacitated person. If none reside in the  
7 same or adjacent county, the court must appoint a guardian that  
8 resides as close to the incapacitated person as possible. Public  
9 guardians and certified professional guardians are not eligible to be  
10 appointed as guardians or limited guardians under this chapter.

11        NEW SECTION.    **Sec. 104.**    LIMITED GUARDIANSHIP—APPOINTMENT AND  
12 DURATION. (1) The court may establish a limited guardianship for a  
13 period not to exceed thirty days and appoint a limited guardian on  
14 the basis of the comprehensive report of the guardian ad litem filed  
15 pursuant to section 108 of this act, or on the basis of an affidavit  
16 of the professional person or mental health professional who  
17 recommended guardianship stating the reasons for his or her  
18 recommendation, if the court is satisfied that the comprehensive  
19 report or affidavit shows the necessity for a limited guardianship.

20        (2) Except as provided in this section, all limited guardianships  
21 expire after thirty days, unless before that date the court conducts  
22 a hearing on the issue of whether or not the person for whom  
23 guardianship is sought is gravely disabled.

24        (3) If the person for whom guardianship is sought demands a court  
25 or jury trial on the issue of whether he or she is gravely disabled,  
26 the court may extend the limited guardianship until the date of the  
27 disposition of the issue by the court or jury trial, provided that  
28 the extension must not exceed a period of six months.

29        NEW SECTION.    **Sec. 105.**    LIMITED GUARDIANSHIP—REQUIREMENTS. (1) A  
30 limited guardian appointed under this chapter must determine what  
31 arrangements are necessary to provide the person with food, shelter,  
32 and care pending the determination of guardianship. The limited  
33 guardian must give preference to arrangements that allow the person  
34 to return to the person's home, family, or friends. If necessary, the  
35 limited guardian may require the person to be detained in a facility  
36 providing intensive treatment pending the determination of  
37 guardianship. Any person detained has a right to judicial review.

1 (2) The powers of the limited guardian are those granted in the  
2 letters of guardianship and may not be broader than the powers  
3 granted to a guardian.

4 (3) The court must order the limited guardian to take all  
5 reasonable steps to preserve the incapacitated person's previous  
6 place of residence. The limited guardian may not sell or relinquish  
7 on the incapacitated person's behalf any estate or interest in any  
8 real or personal property, including any lease or estate in real or  
9 personal property used as or within the incapacitated person's place  
10 of residence, without specific approval of the court, which may be  
11 granted only upon a finding based on a preponderance of the evidence  
12 that such action is necessary to avert irreparable harm to the  
13 incapacitated person. A finding of irreparable harm as to real  
14 property may be based upon a reasonable showing that such real  
15 property is vacant, that it cannot reasonably be rented, and that it  
16 is impossible or impractical to obtain fire or liability insurance on  
17 such property.

18 NEW SECTION. **Sec. 106.** LIMITED GUARDIANSHIP—SEVENTY-TWO HOUR  
19 HOLD. If a professional person in charge of a treatment facility  
20 providing intensive treatment recommends guardianship pursuant to  
21 section 102 of this act, the person for whom guardianship is sought  
22 may be held in that facility for a period not to exceed seventy-two  
23 hours beyond the designated period for intensive treatment if the  
24 additional time period is necessary for a filing of the petition for  
25 a limited guardianship and the establishment of the limited  
26 guardianship by the court.

27 NEW SECTION. **Sec. 107.** NOTICE BEFORE HEARING. Reasonable  
28 attempts must be made by the mental health professional to notify  
29 family members or any other person designated by the person for whom  
30 guardianship is sought of the time and place of the guardianship  
31 hearing. The person for whom the guardianship is sought must be  
32 advised by the mental health service provider treating the person  
33 that he or she may request that information about the time and place  
34 of the guardianship hearing not be given to family members only when  
35 the proposed guardian is not a family member. The request must be  
36 honored by the mental health professional. The person for whom  
37 guardianship is sought may not request that any proposed guardian not  
38 be advised of the time and place of the guardianship hearing.

1        NEW SECTION.     **Sec. 108.**     GUARDIAN AD LITEM—INVESTIGATION AND  
2 REPORT. (1) The guardian ad litem must investigate all available  
3 alternatives to guardianship recommended by a mental health  
4 professional under section 102 of this act and recommend guardianship  
5 to the court only if no suitable alternatives are available. The  
6 guardian ad litem must submit to the court a written report of  
7 investigation before the guardianship hearing. The report to the  
8 court must be comprehensive and contain all relevant aspects of the  
9 person's medical, psychological, financial, family, vocational, and  
10 social condition, and information obtained from the person's family  
11 members, close friends, social worker, or principal therapist. The  
12 report must also contain all available information concerning the  
13 person's real and personal property. The facilities providing  
14 intensive treatment or comprehensive evaluation must disclose any  
15 records or information that may facilitate the investigation. If the  
16 guardian ad litem recommends against guardianship, the guardian ad  
17 litem must set forth all alternatives available.

18        (2) The report required under this section must contain the  
19 guardian ad litem's recommendations concerning the powers to be  
20 granted to and the duties to be imposed upon the guardian, the legal  
21 disabilities to be imposed upon the incapacitated person, and the  
22 proper placement for the incapacitated person pursuant to section 112  
23 of this act.

24        (3) A copy of the report must be transmitted to the individual  
25 who originally recommended guardianship, to the person or agency, if  
26 any, recommended to serve as guardian, and to the person recommended  
27 for guardianship. The court may receive the report in evidence and  
28 read and consider it in rendering its judgment.

29        NEW SECTION.     **Sec. 109.**     GUARDIAN AD LITEM—REQUIREMENTS. Any  
30 guardian ad litem involved in the investigation and reporting process  
31 under section 108 of this act must meet specific training  
32 requirements and have certain knowledge regarding guardianships for  
33 persons that are gravely disabled.

34        NEW SECTION.     **Sec. 110.**     ADDITIONAL CLINICAL ASSESSMENT. Before a  
35 guardianship can be established under this chapter, an independent  
36 clinical assessment must be performed by a mental health professional  
37 or other professional person that has not been directly involved with  
38 or treated the person for whom guardianship is sought in order to

1 best address the person's behavioral health needs. This assessment  
2 must supplement the report of the guardian ad litem required under  
3 section 108 of this act.

4 NEW SECTION. **Sec. 111.** TREATMENT PLAN. (1) Within ten days  
5 after guardianship of the incapacitated person has been established  
6 under this chapter, there must be an individualized treatment plan  
7 unless treatment is specifically found to be not appropriate by the  
8 court. The treatment plan must be developed by the mental health  
9 service provider. The person responsible for developing the treatment  
10 plan must encourage the participation of the incapacitated person and  
11 the incapacitated person's family members, when appropriate, in the  
12 development, implementation, revision, and review of the treatment  
13 plan. The individualized treatment plan must specify goals for the  
14 individual's treatment, the criteria by which accomplishment of the  
15 goals can be judged, and a plan for review of the progress of  
16 treatment. The goals of the treatment plan must be equivalent to  
17 reducing or eliminating the behavioral manifestations of grave  
18 disability. If a treatment plan is not developed, the matter must be  
19 referred to the court by the mental health service provider or  
20 professional person, the guardian, or the attorney of record for the  
21 incapacitated person.

22 (2) When the progress review determines that the goals have been  
23 reached and the incapacitated person is no longer gravely disabled, a  
24 person designated by the county must report this determination to the  
25 court and the guardianship must be terminated by the court.

26 (3) If the guardian fails to report to the court that the  
27 incapacitated person is no longer gravely disabled, the matter must  
28 be referred to the court by the mental health service provider, or  
29 the attorney of record for the incapacitated person.

30 NEW SECTION. **Sec. 112.** PLACEMENTS. (1) When ordered by the  
31 court after the hearing required under this section, a guardian  
32 appointed pursuant to this chapter must place the incapacitated  
33 person in a less restrictive alternative treatment placement as  
34 described in RCW 71.05.585 or in a placement that achieves the  
35 purposes of treatment of the incapacitated person and protection of  
36 the public, as designated by the court. The placement may include an  
37 evaluation or treatment facility or a secure detoxification facility.

1 (2) An appointed guardian may, if specified in the court order,  
2 require the incapacitated person to receive treatment related  
3 specifically to remedying or preventing the recurrence of the  
4 incapacitated person being gravely disabled, or to require the  
5 incapacitated person to receive routine medical treatment unrelated  
6 to remedying or preventing the recurrence of the incapacitated person  
7 being gravely disabled. Except in emergency cases in which the  
8 incapacitated person faces loss of life or serious bodily injury,  
9 surgery must not be performed upon the incapacitated person without  
10 the incapacitated person's prior consent or a court order  
11 specifically authorizing that surgery.

12 (3) (a) For an incapacitated person who is not to be placed in the  
13 person's own home or the home of a relative, first priority must be  
14 placement in a suitable facility as close as possible to the person's  
15 home or the home of a relative. For the purposes of this section,  
16 "suitable facility" means a less restrictive residential treatment  
17 placement available and necessary to achieve the purpose of  
18 treatment. At the time the court considers the report of the guardian  
19 ad litem specified in section 108 of this act, the court must  
20 consider available placement alternatives. After considering all the  
21 evidence, the court must determine the least restrictive and most  
22 appropriate alternative placement for the incapacitated person. The  
23 court must also determine those persons to be notified of a change of  
24 placement.

25 (b) For an incapacitated person who is gravely disabled and does  
26 not qualify for placement under (a) of this subsection, first  
27 priority must be placement in a facility that achieves the purposes  
28 of treatment of the incapacitated person and protection of the  
29 public. The court must determine the most appropriate placement for  
30 the incapacitated person. The court must also determine those persons  
31 to be notified of a change of placement, and additionally require the  
32 guardian to notify the district attorney or attorney representing the  
33 originating county before any change of placement.

34 (c) For any incapacitated person, if requested, the local mental  
35 health service provider must assist the guardian or the court in  
36 selecting a placement facility for the incapacitated person. When an  
37 incapacitated person who is receiving services from the local mental  
38 health professional is placed, the guardian must inform the local  
39 mental health service provider of the facility's location and any  
40 movement of the incapacitated person to another facility.

1 (4) (a) Except for an incapacitated person who is gravely disabled  
2 and is placed under subsection (3) (a) of this section, the guardian  
3 may transfer the incapacitated person to a less restrictive  
4 alternative placement without a further hearing and court approval.  
5 If a guardian has reasonable cause to believe that the incapacitated  
6 person is in need of immediate more restrictive placement because the  
7 condition of the incapacitated person has so changed that the  
8 incapacitated person poses an immediate and substantial danger to  
9 himself or herself or others, the guardian may place the  
10 incapacitated person in a more restrictive facility or hospital. If  
11 the change of placement is to a placement more restrictive than the  
12 court-determined placement, the guardian must provide written notice  
13 of the change of placement and the reason for the change to the  
14 court, the incapacitated person's attorney, and any other persons  
15 designated by the court pursuant to subsection (3) of this section.

16 (b) For an incapacitated person who is gravely disabled and is  
17 placed under subsection (3) (b) of this section, the guardian may not  
18 transfer the incapacitated person without providing written notice of  
19 the proposed change of placement and the reason for the change to the  
20 court, the incapacitated person's attorney, the district attorney of  
21 the county that made the commitment, and any other persons designated  
22 by the court to receive notice. If any person designated to receive  
23 notice objects to the proposed transfer within ten days after  
24 receiving notice, the matter must be set for a further hearing and  
25 court approval. The notification and hearing is not required for the  
26 transfer of persons between state hospitals.

27 (c) At a hearing where the guardian is seeking placement to a  
28 less restrictive alternative placement under (a) of this subsection,  
29 the placement may not be approved if it is determined by a  
30 preponderance of the evidence that the placement poses a threat to  
31 the safety of the public, the incapacitated person, or any other  
32 individual.

33 NEW SECTION. **Sec. 113.** RETRIEVAL AND REMOVAL OF INCAPACITATED  
34 PERSON. When any incapacitated person placed into a facility under  
35 this chapter leaves the facility without the approval of the guardian  
36 or the person in charge of the facility, or when the guardian  
37 appointed under this chapter deems it necessary to remove the  
38 incapacitated person to the mental health service provider, the  
39 guardian may take the incapacitated person into custody and return



1 the person to the facility or remove the person to the mental health  
2 service provider. A guardian or guardian's designee may request a  
3 peace officer to detain the incapacitated person and return the  
4 person to the facility in which the person was placed or to transfer  
5 the person to the mental health service provider. Such request must  
6 be in writing and be accompanied by a certified copy of the letters  
7 of guardianship showing the person requesting detention and transfer  
8 to be the guardian appointed under this chapter as guardian of the  
9 person sought to be detained. When possible, any person charged with  
10 apprehension of an incapacitated person under this section must dress  
11 in plain clothes and travel in an unmarked vehicle.

12 NEW SECTION. **Sec. 114.** OUTPATIENT TREATMENT. Any guardian who  
13 places the incapacitated person in an inpatient facility pursuant to  
14 section 112 of this act may also require the incapacitated person to  
15 undergo outpatient treatment. Before doing so, the guardian must  
16 obtain the agreement of the mental health service provider that the  
17 incapacitated person will receive outpatient treatment and that the  
18 person in charge of the facility will designate a person to be the  
19 treatment case manager of the incapacitated person. The person in  
20 charge of this facility must notify the mental health service  
21 provider or designee of such agreement. At ninety-day intervals  
22 following the commencement of the outpatient treatment, the treatment  
23 case manager must report in writing to the guardian and to the person  
24 in charge of the mental health facility setting forth the status and  
25 progress of the incapacitated person.

26 NEW SECTION. **Sec. 115.** PLACEMENT UPON FACILITY RELEASE. (1) A  
27 guardian appointed under this chapter must find an alternative  
28 placement for the incapacitated person within seven days after the  
29 guardian is notified by the professional person in charge of the  
30 facility serving the incapacitated person that the incapacitated  
31 person no longer needs the care or treatment offered by that  
32 facility.

33 (2) If unusual conditions or circumstances preclude alternative  
34 placement of the incapacitated person within seven days, the guardian  
35 must find such placement within thirty days.

36 (3) If alternative placement cannot be found at the end of the  
37 thirty-day period, the guardian must confer with the professional

1 person in charge of the facility who must determine the earliest  
2 practicable date when such alternative placement may be obtained.

3 NEW SECTION. **Sec. 116.** GUARDIANSHIP TERMINATION. (1) A  
4 guardianship initiated under this chapter automatically terminates  
5 one year after the appointment of the guardian by the superior court.  
6 The period of service of a temporary guardian must not be included in  
7 the one-year period. If the guardian has been appointed as guardian  
8 of the estate as well, the guardian must, for a reasonable time,  
9 continue to have such power and authority over the estate as the  
10 superior court, on petition by the guardian, may deem necessary under  
11 chapter 11.88 RCW. If, upon the termination of an initial or a  
12 succeeding period of guardianship, the guardian determines that  
13 guardianship is still required, the guardian may petition the  
14 superior court for his or her reappointment as guardian for a  
15 succeeding one-year period. The petition must include the opinion of  
16 two psychiatrists or psychologists who have at least five years of  
17 postgraduate experience in the diagnosis and treatment of emotional  
18 and mental disorders that the incapacitated person is still gravely  
19 disabled. One of these opinions must be from a psychiatrist or  
20 psychologist who is not the treating mental health professional. If  
21 the guardian is unable to obtain the opinion of two psychiatrists or  
22 psychologists, the guardian must request that the court appoint them.

23 (2) Any facility in which an incapacitated person is placed must  
24 release the incapacitated person at the person's request when the  
25 guardianship terminates. A petition for reappointment filed by the  
26 guardian must be transmitted to the facility at least thirty days  
27 before the automatic termination date. The facility may detain the  
28 incapacitated person after the end of the termination date only if  
29 the guardianship proceedings have not been completed and the court  
30 orders the incapacitated person to be held until the proceedings have  
31 been completed.

32 NEW SECTION. **Sec. 117.** NOTICE OF TERMINATION. (1) The clerk of  
33 the superior court must notify each guardian, the incapacitated  
34 person and the person in charge of the facility in which the  
35 incapacitated person resides, and the incapacitated person's  
36 attorney, at least sixty days before the termination of the one-year  
37 period. If the guardian is a private party, the clerk of the superior  
38 court must also notify the mental health service provider and the

1 guardian ad litem at least sixty days before the termination of the  
2 one-year period. Notification must be delivered by first-class mail,  
3 personal delivery, or electronic means and be in substantially the  
4 following form:

5 In the Superior Court of the State of Washington in and  
6 for the County of.....

7

8 In the Matter of the Guardianship of  
9 ..... Guardianship Cause No. ....  
10 Notice of Termination  
11 of Guardianship  
12

13 The people of the State of Washington to:  
14

15 (Incapacitated person, incapacitated person's attorney, guardian, and professional person in charge of the facility in which  
16 the incapacitated person resides, county mental health service provider, and guardian ad litem.)

17 The one-year guardianship established for . . . . . pursuant to  
18 chapter 11.--- RCW (the new chapter created in section 301 of this  
19 act) on . . . . . will terminate on . . . . . If the  
20 guardian, . . . . ., wishes to reestablish guardianship for another  
21 year, he or she must petition the court by . . . . . Subject to a  
22 request for a court hearing by jury trial the judge may, on his or  
23 her own motion, accept or reject the guardian's petition.

24 If the guardian petitions to reestablish guardianship, the  
25 incapacitated person, the professional person in charge of the  
26 facility in which he or she resides, the incapacitated person's  
27 attorney, and, if the guardian is a private party, the county mental  
28 health service provider, and the guardian ad litem must be notified.

29 If any of them request it, there must be a court hearing or a jury  
30 trial, whichever is requested, on the issue of whether the  
31 incapacitated person is still gravely disabled and in need of  
32 guardianship. If the private guardian does not petition for  
33 reappointment, the guardian ad litem may recommend another guardian.  
34 Such a petition is considered a petition for reappointment as  
35 guardian.

36 Clerk of the Superior Court  
37 ..... by ..... Deputy .....

1 (2) Subject to a request for a court hearing or jury trial, the  
2 judge may, on his or her own motion, accept or reject the guardian's  
3 petition. If the guardian does not petition to reestablish  
4 guardianship at or before the termination of the one-year period, the  
5 court must issue a decree terminating guardianship. The decree must  
6 be delivered to the guardian and the incapacitated person by first-  
7 class mail, personal delivery, or electronic means.

8 NEW SECTION. **Sec. 118.** RETROACTIVE APPOINTMENT. If the guardian  
9 continues in good faith to act within the powers granted in the  
10 original letters of guardianship beyond the one-year period, the  
11 guardian may petition for and must be granted letters ratifying the  
12 acts as guardian beyond the one-year period. The letters must provide  
13 for a retroactive appointment of the guardian to provide continuity  
14 of authority in those cases when the guardian did not apply in time  
15 for reappointment.

16 **II. AUTHORITY OF GUARDIANS TO INVOLUNTARILY COMMIT INCAPACITATED**  
17 **PERSONS**

18 **Sec. 201.** RCW 11.88.010 and 2016 c 209 s 403 are each amended to  
19 read as follows:

20 (1) The superior court of each county shall have power to appoint  
21 guardians for the persons and/or estates of incapacitated persons,  
22 and guardians for the estates of nonresidents of the state who have  
23 property in the county needing care and attention.

24 (a) For purposes of this chapter, a person may be deemed  
25 incapacitated as to person when the superior court determines the  
26 individual: (i) Has a significant risk of personal harm based upon a  
27 demonstrated inability to adequately provide for nutrition, health,  
28 housing, or physical safety; or (ii) for purposes of chapter 11.---  
29 RCW (the new chapter created in section 301 of this act), is gravely  
30 disabled as defined in RCW 71.05.020.

31 (b) For purposes of this chapter, a person may be deemed  
32 incapacitated as to the person's estate when the superior court  
33 determines the individual is at significant risk of financial harm  
34 based upon a demonstrated inability to adequately manage property or  
35 financial affairs.

36 (c) A determination of incapacity is a legal not a medical  
37 decision, based upon a demonstration of management insufficiencies

1 over time in the area of person or estate. Except as provided in  
2 (a)(ii) of this subsection, age, eccentricity, poverty, or medical  
3 diagnosis alone shall not be sufficient to justify a finding of  
4 incapacity.

5 (d) A person may also be determined incapacitated if he or she is  
6 under the age of majority as defined in RCW 26.28.010.

7 (e) For purposes of giving informed consent for health care  
8 pursuant to RCW 7.70.050 and 7.70.065, an "incompetent" person is any  
9 person who is (i) incompetent by reason of mental illness,  
10 developmental disability, senility, habitual drunkenness, excessive  
11 use of drugs, or other mental incapacity, of either managing his or  
12 her property or caring for himself or herself, or both, or (ii)  
13 incapacitated as defined in (a), (b), or (d) of this subsection.

14 (f) For purposes of the terms "incompetent," "disabled," or "not  
15 legally competent," as those terms are used in the Revised Code of  
16 Washington to apply to persons incapacitated under this chapter,  
17 those terms shall be interpreted to mean "incapacitated" persons for  
18 purposes of this chapter.

19 (2) The superior court for each county shall have power to  
20 appoint limited guardians for the persons and estates, or either  
21 thereof, of incapacitated persons, who by reason of their incapacity  
22 have need for protection and assistance, but who are capable of  
23 managing some of their personal and financial affairs. After  
24 considering all evidence presented as a result of such investigation,  
25 the court shall impose, by order, only such specific limitations and  
26 restrictions on an incapacitated person to be placed under a limited  
27 guardianship as the court finds necessary for such person's  
28 protection and assistance. A person shall not be presumed to be  
29 incapacitated nor shall a person lose any legal rights or suffer any  
30 legal disabilities as the result of being placed under a limited  
31 guardianship, except as to those rights and disabilities specifically  
32 set forth in the court order establishing such a limited  
33 guardianship. In addition, the court order shall state the period of  
34 time for which it shall be applicable.

35 (3) Venue for petitions for guardianship or limited guardianship  
36 shall lie in the county wherein the alleged incapacitated person is  
37 domiciled, or if such person resides in a facility supported in whole  
38 or in part by local, state, or federal funding sources, in either the  
39 county where the facility is located, the county of domicile prior to  
40 residence in the supported facility, or the county where a parent or

1 spouse or domestic partner of the alleged incapacitated person is  
2 domiciled.

3 If the alleged incapacitated person's residency has changed  
4 within one year of the filing of the petition, any interested person  
5 may move for a change of venue for any proceedings seeking the  
6 appointment of a guardian or a limited guardian under this chapter to  
7 the county of the alleged incapacitated person's last place of  
8 residence of one year or more. The motion shall be granted when it  
9 appears to the court that such venue would be in the best interests  
10 of the alleged incapacitated person and would promote more complete  
11 consideration of all relevant matters.

12 (4) Under RCW 11.125.080, a principal may nominate, by a durable  
13 power of attorney, the guardian or limited guardian of his or her  
14 estate or person for consideration by the court if guardianship  
15 proceedings for the principal's person or estate are thereafter  
16 commenced. The court shall make its appointment in accordance with  
17 the principal's most recent nomination in a durable power of attorney  
18 except for good cause or disqualification.

19 (5) Imposition of a guardianship for an incapacitated person  
20 shall not result in the loss of the right to vote unless the court  
21 determines that the person is incompetent for purposes of rationally  
22 exercising the franchise in that the individual lacks the capacity to  
23 understand the nature and effect of voting such that she or he cannot  
24 make an individual choice. The court order establishing guardianship  
25 shall specify whether or not the individual retains voting rights.  
26 When a court determines that the person is incompetent for the  
27 purpose of rationally exercising the right to vote, the court shall  
28 notify the appropriate county auditor.

29 NEW SECTION. **Sec. 202.** This act only applies to the most  
30 populous county east of the crest of the Cascade mountains and to any  
31 county west of the crest of the Cascade mountains with a population  
32 between seven hundred fifty thousand and one million.

33 NEW SECTION. **Sec. 203.** A new section is added to chapter 11.88  
34 RCW to read as follows:

35 The provisions of this chapter apply and supplement, but do not  
36 supersede, the provisions of chapter 11.--- RCW (the new chapter  
37 created in section 301 of this act). If there is any conflict between  
38 the provisions of this chapter and chapter 11.--- RCW (the new

1 chapter created in section 301 of this act), chapter 11.--- RCW (the  
2 new chapter created in section 301 of this act) supersedes.

3 NEW SECTION. **Sec. 204.** A new section is added to chapter 11.92  
4 RCW to read as follows:

5 The provisions of this chapter apply and supplement, but do not  
6 supersede, the provisions of chapter 11.--- RCW (the new chapter  
7 created in section 301 of this act). If there is any conflict between  
8 the provisions of this chapter and chapter 11.--- RCW (the new  
9 chapter created in section 301 of this act), chapter 11.--- RCW (the  
10 new chapter created in section 301 of this act) supersedes.

11 NEW SECTION. **Sec. 205.** A new section is added to chapter 71.05  
12 RCW to read as follows:

13 The provisions of this chapter apply and supplement, but do not  
14 supersede, the provisions of chapter 11.--- RCW (the new chapter  
15 created in section 301 of this act). If there is any conflict between  
16 the provisions of this chapter and chapter 11.--- RCW (the new  
17 chapter created in section 301 of this act), chapter 11.--- RCW (the  
18 new chapter created in section 301 of this act) supersedes.

19 NEW SECTION. **Sec. 206.** (1) The administrative office of the  
20 courts, in collaboration with the counties described under section  
21 202 of this act, must establish a work group to conduct an evaluation  
22 of the effectiveness of the implementation of chapter 11.--- RCW (the  
23 new chapter created in section 301 of this act) in addressing the  
24 needs of persons who are gravely disabled. The evaluation must  
25 include an assessment of the number and status of persons who have  
26 been appointed guardians under chapter 11.--- RCW (the new chapter  
27 created in section 301 of this act), the effectiveness of these  
28 guardianships in addressing short and long-term needs of those  
29 persons, and the impact of these guardianships on existing  
30 guardianships under chapter 11.88 RCW and on mental health programs  
31 within each participating county. The work group may include  
32 representatives from the health care authority, department of social  
33 and health services, department of commerce, participating county  
34 mental health service providers, law enforcement, and disability  
35 rights advocacy groups. The administrative office of the courts must  
36 submit a report to the legislature on the results of the evaluation,

1 including any recommendations for future legislation, by December 31,  
2 2024.

3 (2) This section expires January 1, 2025.

4 **III. MISCELLANEOUS PROVISIONS**

5 NEW SECTION. **Sec. 301.** Sections 101 through 118 and 202 of this  
6 act constitute a new chapter in Title 11 RCW.

7 NEW SECTION. **Sec. 302.** Except for section 206 of this act, this  
8 act expires July 1, 2024.

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