
SUBSTITUTE SENATE BILL 6287

State of Washington**66th Legislature****2020 Regular Session**

By Senate Law & Justice (originally sponsored by Senators Pedersen, Holy, Dhingra, Rivers, Kuderer, Salomon, Conway, Keiser, and Wilson, C.)

READ FIRST TIME 01/31/20.

1 AN ACT Relating to guardianships and conservatorships; amending
2 RCW 11.130.185, 11.130.190, 11.130.195, 11.130.205, 11.130.210,
3 11.130.215, 11.130.220, 11.130.225, 11.130.230, 11.130.240,
4 11.130.245, 11.130.250, 11.130.915, 13.34.062, 13.34.110, 13.34.136,
5 13.34.145, 13.34.155, 13.34.210, 13.50.100, 11.130.275, 11.130.285,
6 11.130.290, 11.130.320, 11.130.330, 11.130.335, 11.130.340,
7 11.130.345, 11.130.355, 11.130.360, 11.130.365, 11.130.370,
8 11.130.385, 11.130.390, 11.130.410, 11.130.415, 11.130.420,
9 11.130.425, 11.130.430, 11.130.435, 11.130.505, 11.130.515,
10 11.130.520, 11.130.530, 11.130.550, 11.130.670, 11.130.010,
11 11.130.035, 11.130.040, 11.130.100, 11.130.105, 11.130.115,
12 11.130.140, 11.130.265, 11.130.280, 11.130.380, 11.130.605,
13 11.130.080, 11.130.120, 11.130.295, 11.130.570, 11.130.585,
14 11.130.600, 11.130.625, 11.130.610, 11.130.615, 11.125.080, 2.72.005,
15 2.72.020, 2.72.030, 11.28.120, 11.90.020, 11.90.230, 11.90.250,
16 11.90.400, 11.90.410, 2.56.150, 4.16.190, 7.28.090, 7.36.020,
17 9.35.005, 9A.44.010, 11.02.005, 11.28.185, 11.76.080, 11.86.021,
18 11.90.210, 11.96A.050, 11.96A.080, 11.96A.120, 11.96A.130,
19 11.96A.150, 11.96A.220, 11.103.030, 11.107.060, 11.120.140,
20 11.125.400, 11.125.410, 13.32A.160, 13.34.270, 25.15.131, 29A.08.515,
21 70.58A.010, 70.97.040, 71.05.360, 71.32.020, 71A.16.030, 73.36.050,
22 74.34.020, 74.34.067, 74.34.135, 74.34.163, and 74.42.430; reenacting

1 and amending RCW 13.34.030, 2.72.010, 7.70.065, and 18.20.020; adding
2 new sections to chapter 11.130 RCW; and providing an effective date.

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

4 **PART I**
5 **GUARDIANSHIP OF MINORS**

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

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

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

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

15 (b) All parental rights have been terminated; or

16 (c) There is clear and convincing evidence that no parent of the
17 minor is willing or able to exercise (~~the powers the court is~~
18 ~~granting the guardian~~) parenting functions as defined in RCW
19 26.09.004.

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

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

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

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

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

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

1 least seven hundred thirty days during the five years immediately
2 before the filing of the petition;

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

5 (e) ~~((The reason guardianship is sought and would be in the best
6 interest of the minor))~~ The legal basis for the guardianship. Factual
7 reasons why the guardianship is sought and would be in the best
8 interest of the minor shall be set out in a separate supplemental
9 declaration;

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

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

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

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

21 (j) Whether any other proceeding concerning the care or custody
22 of the minor is pending in any court in this state or another
23 jurisdiction.

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

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

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

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

37 (a) Serve notice of the date, time, and place of the hearing,
38 together with a copy of the petition and supplemental declaration,
39 personally on each of the following that is not the petitioner:

1 (i) The minor, if the minor (~~(will be)~~) is twelve years of age or
2 older (~~(at the time of the hearing)~~). The court may, upon a showing
3 of good cause, order that information concerning the reasons for the
4 guardianship contained in the petition, the supplemental declaration,
5 and all subsequently filed pleadings and evidence by any party, not
6 be served on the minor if the minor is unrepresented. A minor
7 entitled to service under this subsection may request access to the
8 court pleadings and evidence filed in the court record;

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

11 ~~(iii) (Any adult with whom the minor resides;~~

12 ~~(iv) Each person that had primary care or custody of the minor~~
13 ~~for at least sixty days during the two years immediately before the~~
14 ~~filing of the petition or for at least seven hundred thirty days~~
15 ~~during the five years immediately before the filing of the petition;~~
16 ~~and~~

17 ~~(v))~~ Any guardian or person with nonparental custody of the
18 minor issued under chapter 26.10 RCW; and

19 (iv) Any other person the court determines should receive
20 personal service of notice; and

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

24 ~~((i))~~ (A) Any adult with primary care and custody of the minor
25 who is not a parent, guardian, or person with nonparental custody
26 issued under chapter 26.10 RCW;

27 (B) Each person that had primary care or custody of the minor for
28 at least sixty days during the two years immediately before the
29 filing of the petition or for at least seven hundred thirty days
30 during the five years immediately before the filing of the petition,
31 if known;

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

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

35 ~~((iii))~~ (E) Each grandparent and adult sibling of the minor, if
36 known;

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

39 ~~((v))~~ (G) Any other person the court determines.

1 (ii) The court may waive notice to persons listed under (b)(i) of
2 this subsection for good cause. The court may waive any notice
3 requirement under (b)(i) of this subsection when the minor who is the
4 subject of the petition is an unaccompanied immigrant child.

5 (2) Notice required by subsection (1) of this section must
6 include a statement of the right to request appointment of an
7 attorney for the minor or object to appointment of a guardian and a
8 description of the nature, purpose, and consequences of appointment
9 of a guardian. Notice for the minor must specifically state all
10 rights retained by the minor including the right to request counsel,
11 the right to attend, and the right to participate.

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

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

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

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

24 (a) Interview the petitioner and the minor;

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

27 (c) Investigate any other matter relating to the petition the
28 court directs; and

29 (d) Ascertain whether the parent consents to the guardian for the
30 minor.

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

33 (1) The court shall allow a minor who is the subject of a hearing
34 under RCW 11.130.195 to attend the hearing and allow the minor to
35 participate in the hearing unless the court determines (~~(, by clear~~
36 ~~and convincing evidence presented at the hearing or a separate~~
37 ~~hearing,)) that:~~

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

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

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

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

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

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

14 (1) Before granting any order (~~regarding the custody of a~~
15 ~~child~~) under this chapter, the court must consult the judicial
16 information system, if available, to determine the existence of any
17 information and proceedings that are relevant to the placement of the
18 child.

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

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

22 (b) Require the petitioner to provide the results of an
23 examination of state and national criminal identification data
24 provided by the Washington state patrol criminal identification
25 system as described in chapter 43.43 RCW for the petitioner and adult
26 members of the petitioner's household.

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

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

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

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

1 (b) If multiple parents have nominated different persons to serve
2 as guardian, the court shall appoint the nominee whose appointment is
3 in the best interest of the minor, unless the court finds that
4 appointment of none of the nominees is in the best interest of the
5 minor.

6 (c) If a guardian is not appointed under (a) or (b) of this
7 subsection, the court shall appoint the person nominated by the minor
8 if the minor is twelve years of age or older unless the court finds
9 that appointment is contrary to the best interest of the minor. In
10 that case, the court shall appoint as guardian a person whose
11 appointment is in the best interest of the minor.

12 (3) In the interest of maintaining or encouraging involvement by
13 a minor's parent in the minor's life, developing self-reliance of the
14 minor, or for other good cause, the court, at the time of appointment
15 of a guardian for the minor or later, on its own or on motion of the
16 minor or other interested person, may create a limited guardianship
17 by limiting the powers otherwise granted by this article to the
18 guardian. Following the same procedure, the court may grant
19 additional powers or withdraw powers previously granted.

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

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

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

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

34 (c) The court has removed the guardian.

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

38 (7) An order granting guardianship for a minor must direct the
39 clerk of the court to issue letters of office to the guardian

1 containing an expiration date which should be the minor's eighteenth
2 birthday.

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

5 (1) A standby guardian appointed under this section may act as
6 guardian, with all duties and powers of a guardian under RCW
7 11.130.230 and 11.130.235, when no parent of the minor is willing or
8 able to exercise the duties and powers granted to the guardian.

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

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

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

18 (b) Finding that, within two years after the appointment, no
19 parent of the minor likely will be able or willing to ~~((care for or~~
20 ~~make decisions with respect to the minor not later than two years~~
21 ~~after the appointment))~~ perform parenting functions as defined in RCW
22 26.09.004.

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

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

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

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

31 (ii) Each parent of the minor;

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

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

34 (b) Include with the copy of the petition served under (a) of
35 this subsection a statement of the right to request appointment of an
36 attorney for the minor or to object to appointment of the standby
37 guardian, and a description of the nature, purpose, and consequences
38 of appointment of a standby guardian.

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

8 (7) A person entitled to notice under subsection (5) of this
9 section, not later than sixty days after service of the petition and
10 statement, may object to appointment of the standby guardian by
11 filing an objection with the court and giving notice of the objection
12 to each other person entitled to notice under subsection (5) of this
13 section.

14 (~~(7)~~) (8) If an objection is filed under subsection (~~(6)~~) (7)
15 of this section, the court shall hold a hearing to determine whether
16 a standby guardian should be appointed and, if so, the person that
17 should be appointed. If no objection is filed, the court may make the
18 appointment.

19 (~~(8)~~) (9) The court may not grant a petition for a standby
20 guardian of the minor if notice substantially complying with
21 subsection (5) of this section is not served on:

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

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

26 (~~(9)~~) (10) If a petitioner is unable to serve notice under
27 subsection (5) of this section on a parent of the minor or alleges
28 that a parent of the minor waived the right to notice under this
29 section, the court shall appoint a court visitor who shall:

30 (a) Interview the petitioner and the minor;

31 (b) If the petitioner alleges the parent cannot be located and
32 served, ascertain whether the parent cannot be located with due
33 diligence; and

34 (c) Investigate any other matter relating to the petition the
35 court directs.

36 (~~(10)~~) (11) If the court finds under subsection (3) of this
37 section that a standby guardian should be appointed, the following
38 rules apply:

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

4 (b) If the parents have nominated different persons to serve as
5 standby guardian, the court shall appoint the nominee whose
6 appointment is in the best interest of the minor, unless the court
7 finds that appointment of none of the nominees is in the best
8 interest of the minor.

9 (~~(11)~~) (12) An order appointing a standby guardian under this
10 section must state that each parent of the minor is entitled to
11 notice, and identify any other person entitled to notice, if:

12 (a) The standby guardian assumes the duties and powers of the
13 guardian;

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

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

16 (d) The court removes the guardian.

17 (~~(12)~~) (13) Before assuming the duties and powers of a
18 guardian, a standby guardian must file with the court an acceptance
19 of appointment as guardian and give notice of the acceptance to:

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

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

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

26 (~~(13)~~) (14) A person that receives notice under subsection
27 (~~(12)~~) (13) of this section or any other person interested in the
28 welfare of the minor may file with the court an objection to the
29 standby guardian's assumption of duties and powers of a guardian. The
30 court shall hold a hearing if the objection supports a reasonable
31 belief that the conditions for assumption of duties and powers have
32 not been satisfied.

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

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

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

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

3 (2) The duration of authority of an emergency guardian for a
4 minor may not exceed sixty days and the emergency guardian may
5 exercise only the powers specified in the order of appointment. The
6 emergency guardian's authority may be extended once for not more than
7 sixty days if the court finds that the conditions for appointment of
8 an emergency guardian in subsection (1) of this section continue.

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

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

14 (b) Any attorney appointed under RCW 11.130.200;

15 (c) Each parent of the minor;

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

18 (e) Any other person the court determines.

19 (4) The court may appoint an emergency guardian for a minor
20 without notice under subsection (3) of this section and a hearing
21 only if the court finds from an affidavit or testimony that the
22 minor's health, safety, or welfare will be substantially harmed
23 before a hearing with notice on the appointment can be held. If the
24 court appoints an emergency guardian without notice to an
25 unrepresented minor or the attorney for a represented minor, notice
26 of the appointment must be given not later than forty-eight hours
27 after the appointment to the individuals listed in subsection (3) of
28 this section. Not later than five days after the appointment, the
29 court shall hold a hearing on the appropriateness of the appointment.

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

33 (6) The court may remove an emergency guardian appointed under
34 this section at any time. The emergency guardian shall make any
35 report the court requires.

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

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

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

6 (1) A guardian for a minor is a fiduciary. Except as otherwise
7 limited by the court, a guardian for a minor has the duties and
8 responsibilities of a parent regarding the minor's support, care,
9 education, health, safety, and welfare. A guardian shall act in the
10 minor's best interest and exercise reasonable care, diligence, and
11 prudence.

12 (2) A guardian for a minor shall:

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

16 (b) Take reasonable care of the minor's personal effects and
17 bring a proceeding for a conservatorship or protective arrangement
18 instead of conservatorship if necessary to protect other property of
19 the minor;

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

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

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

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

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

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

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

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

4 (b) When the court finds that the ((standard)) basis in RCW
5 11.130.185 for appointment of a guardian ((is not satisfied)) no
6 longer exists, unless the court finds that:

7 (i) Termination of the guardianship would be harmful to the
8 minor; and

9 (ii) The minor's interest in the continuation of the guardianship
10 outweighs the interest of any parent of the minor in restoration of
11 the parent's right to make decisions for the minor.

12 (2) A minor subject to guardianship or a person interested in the
13 welfare of the minor, including a parent, may petition the court to
14 terminate the guardianship, modify the guardianship, remove the
15 guardian and appoint a successor guardian, or remove a standby
16 guardian and appoint a different standby guardian.

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

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

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

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

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

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

37 (1) This chapter does not affect the validity of any court order
38 issued under chapter 26.10 RCW prior to January 1, 2021. Orders
39 issued under chapter 26.10 RCW prior to January 1, 2021, remain in

1 effect and do not need to be reissued in a new order under this
2 chapter.

3 (2) All orders issued under chapter 26.10 RCW prior to the
4 effective date of chapter 437, Laws of 2019 remain operative after
5 the effective date of chapter 437, Laws of 2019. After the effective
6 date of chapter 437, Laws of 2019, if an order issued under chapter
7 26.10 RCW is modified, the modification is subject to the
8 requirements of this chapter.

9 NEW SECTION. Sec. 112. A new section is added to chapter 11.130
10 RCW to read as follows:

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

15 (2) In a proceeding under this chapter either party may file a
16 motion for a temporary restraining order or preliminary injunction,
17 providing relief proper in the circumstances, and restraining or
18 enjoining another party from:

19 (a) Molesting or disturbing the peace of the other party or of
20 any child;

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

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

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

26 (3) Either party may request a domestic violence protection order
27 under chapter 26.50 RCW or an antiharassment protection order under
28 chapter 10.14 RCW on a temporary basis by filing an appropriate
29 separate civil cause of action. The petitioner shall inform the court
30 of the existence of the action under this title. The court shall set
31 all future protection hearings on the guardianship calendar to be
32 heard concurrent with the action under this title and the clerk shall
33 relate the cases in the case management system. The court may grant
34 any of the relief provided in RCW 26.50.060 except relief pertaining
35 to residential provisions for the children which provisions shall be
36 provided for under this chapter, and any of the relief provided in
37 RCW 10.14.080. Ex parte orders issued under this subsection shall be
38 effective for a fixed period not to exceed fourteen days, or upon

1 court order, not to exceed twenty-four days if necessary to ensure
2 that all temporary motions in the case can be heard at the same time.

3 (4) In issuing the order, the court shall consider the provisions
4 of RCW 9.41.800, and shall order the respondent to surrender, and
5 prohibit the respondent from possessing, all firearms, dangerous
6 weapons, and any concealed pistol license as required in RCW
7 9.41.800. Such orders may only be made in the civil protection case
8 related to the action under this title.

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

14 (6) The court may issue a temporary restraining order or
15 preliminary injunction and an order for temporary support in such
16 amounts and on such terms as are just and proper in the
17 circumstances.

18 (7) A temporary order, temporary restraining order, or
19 preliminary injunction:

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

22 (b) May be revoked or modified;

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

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

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

1 debt with the court, and by mailing a copy of the affidavit to the
2 parties or their attorney prior to the date of the final proceeding.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (a) Has been abandoned;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 "NOTICE

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

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

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

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

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

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

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

38 5. You have a right to a case conference to develop a written
39 service agreement following the shelter care hearing. The service

1 agreement may not conflict with the court's order of shelter care.
2 You may request that a multidisciplinary team, family group
3 conference, or prognostic staffing be convened for your child's case.
4 You may participate in these processes with your counsel present.

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

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

16 (2) Enroll the child in school;

17 (3) Request the school transfer records;

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

19 (5) Attend parent or teacher conferences;

20 (6) Excuse absences;

21 (7) Grant permission for extracurricular activities;

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

25 (9) Complete or update school emergency records.

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

38 8. Primary and secondary permanency plans are intended to run at
39 the same time so that your child will have a permanent home as
40 quickly as possible. Absent good cause, and when appropriate, the

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

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

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

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

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

37 (4) Reasonable efforts to advise and to give notice, as required
38 in this section, shall include, at a minimum, investigation of the
39 whereabouts of the parent, guardian, or legal custodian. If such

1 reasonable efforts are not successful, or the parent, guardian, or
2 legal custodian does not appear at the shelter care hearing, the
3 petitioner shall testify at the hearing or state in a declaration:

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

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

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

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

19 (2) The court in a fact-finding hearing may consider the history
20 of past involvement of child protective services or law enforcement
21 agencies with the family for the purpose of establishing a pattern of
22 conduct, behavior, or inaction with regard to the health, safety, or
23 welfare of the child on the part of the child's parent, guardian, or
24 legal custodian, or for the purpose of establishing that reasonable
25 efforts have been made by the department to prevent or eliminate the
26 need for removal of the child from the child's home. No report of
27 child abuse or neglect that has been destroyed or expunged under RCW
28 26.44.031 may be used for such purposes.

29 (3) (a) The parent, guardian, or legal custodian of the child may
30 waive his or her right to a fact-finding hearing by stipulating or
31 agreeing to the entry of an order of dependency establishing that the
32 child is dependent within the meaning of RCW 13.34.030. The parent,
33 guardian, or legal custodian may also stipulate or agree to an order
34 of disposition pursuant to RCW 13.34.130 at the same time. Any
35 stipulated or agreed order of dependency or disposition must be
36 signed by the parent, guardian, or legal custodian and his or her
37 attorney, unless the parent, guardian, or legal custodian has waived
38 his or her right to an attorney in open court, and by the petitioner
39 and the attorney, guardian ad litem, or court-appointed special

1 advocate for the child, if any. If the department is not the
2 petitioner and is required by the order to supervise the placement of
3 the child or provide services to any party, the department must also
4 agree to and sign the order.

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

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

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

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

29 (iii) The parent, guardian, or legal custodian understands that
30 the entry of the stipulated or agreed order of dependency is an
31 admission that the child is dependent within the meaning of RCW
32 13.34.030 and shall have the same legal effect as a finding by the
33 court that the child is dependent by at least a preponderance of the
34 evidence, and that the parent, guardian, or legal custodian shall not
35 have the right in any subsequent proceeding for termination of
36 parental rights (~~(or dependency guardianship)~~) pursuant to this
37 chapter or (~~(nonparental custody)~~) guardianship pursuant to (~~chapter~~
38 ~~26.10~~) chapters 13.36 or 11.130 RCW to challenge or dispute the fact
39 that the child was found to be dependent; and

1 (iv) The parent, guardian, or legal custodian knowingly and
2 willingly stipulated and agreed to and signed the order or orders,
3 without duress, and without misrepresentation or fraud by any other
4 party.

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

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

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

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

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

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

20 The permanency plan shall include:

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

1 (b) Unless the court has ordered, pursuant to RCW 13.34.130(8),
2 that a termination petition be filed, a specific plan as to where the
3 child will be placed, what steps will be taken to return the child
4 home, what steps the department will take to promote existing
5 appropriate sibling relationships and/or facilitate placement
6 together or contact in accordance with the best interests of each
7 child, and what actions the department will take to maintain parent-
8 child ties. All aspects of the plan shall include the goal of
9 achieving permanence for the child.

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

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

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

34 (ii) (A) Visitation is the right of the family, including the
35 child and the parent, in cases in which visitation is in the best
36 interest of the child. Early, consistent, and frequent visitation is
37 crucial for maintaining parent-child relationships and making it
38 possible for parents and children to safely reunify. The department
39 shall encourage the maximum parent and child and sibling contact
40 possible, when it is in the best interest of the child, including

1 regular visitation and participation by the parents in the care of
2 the child while the child is in placement.

3 (B) Visitation shall not be limited as a sanction for a parent's
4 failure to comply with court orders or services where the health,
5 safety, or welfare of the child is not at risk as a result of the
6 visitation.

7 (C) Visitation may be limited or denied only if the court
8 determines that such limitation or denial is necessary to protect the
9 child's health, safety, or welfare. When a parent or sibling has been
10 identified as a suspect in an active criminal investigation for a
11 violent crime that, if the allegations are true, would impact the
12 safety of the child, the department shall make a concerted effort to
13 consult with the assigned law enforcement officer in the criminal
14 case before recommending any changes in parent/child or child/sibling
15 contact. In the event that the law enforcement officer has
16 information pertaining to the criminal case that may have serious
17 implications for child safety or well-being, the law enforcement
18 officer shall provide this information to the department during the
19 consultation. The department may only use the information provided by
20 law enforcement during the consultation to inform family visitation
21 plans and may not share or otherwise distribute the information to
22 any person or entity. Any information provided to the department by
23 law enforcement during the consultation is considered investigative
24 information and is exempt from public inspection pursuant to RCW
25 42.56.240. The results of the consultation shall be communicated to
26 the court.

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

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

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

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

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

8 (vi) Unless it is not in the best interests of the child,
9 whenever practical, the plan should ensure the child remains enrolled
10 in the school the child was attending at the time the child entered
11 foster care.

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

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

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

1 (4) If the court determines that the continuation of reasonable
2 efforts to prevent or eliminate the need to remove the child from his
3 or her home or to safely return the child home should not be part of
4 the permanency plan of care for the child, reasonable efforts shall
5 be made to place the child in a timely manner and to complete
6 whatever steps are necessary to finalize the permanent placement of
7 the child.

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

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

32 (7) For purposes related to permanency planning(~~(+~~
33 ~~(a) "Guardianship")~~), "guardianship" means a ~~((dependency~~
34 ~~guardianship or a legal))~~ guardianship pursuant to chapter ~~((11.88))~~
35 13.36 RCW or a guardianship of a minor pursuant to RCW 11.130.215, or
36 equivalent laws of another state or a federally recognized Indian
37 tribe.

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

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

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

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

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

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

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

37 (2) No later than ten working days prior to the permanency
38 planning hearing, the agency having custody of the child shall submit

1 a written permanency plan to the court and shall mail a copy of the
2 plan to all parties and their legal counsel, if any.

3 (3) When the youth is at least age seventeen years but not older
4 than seventeen years and six months, the department shall provide the
5 youth with written documentation which explains the availability of
6 extended foster care services and detailed instructions regarding how
7 the youth may access such services after he or she reaches age
8 eighteen years.

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

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

22 (b) In cases where the primary permanency planning goal has not
23 been achieved, the court shall inquire regarding the reasons why the
24 primary goal has not been achieved and determine what needs to be
25 done to make it possible to achieve the primary goal. The court shall
26 review the permanency plan prepared by the agency and make explicit
27 findings regarding each of the following:

28 (i) The continuing necessity for, and the safety and
29 appropriateness of, the placement;

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

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

36 (iv) The progress toward eliminating the causes for the child's
37 placement outside of his or her home and toward returning the child
38 safely to his or her home or obtaining a permanent placement for the
39 child;

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

4 (vi) If the child has been placed outside of his or her home for
5 fifteen of the most recent twenty-two months, not including any
6 period during which the child was a runaway from the out-of-home
7 placement or the first six months of any period during which the
8 child was returned to his or her home for a trial home visit, the
9 appropriateness of the permanency plan, whether reasonable efforts
10 were made by the department to achieve the goal of the permanency
11 plan, and the circumstances which prevent the child from any of the
12 following:

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

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

16 (C) Being placed for adoption;

17 (D) Being placed with a guardian;

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

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

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

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

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

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

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

37 (v) What efforts the department has made to prepare the child to
38 return home or be placed with a fit and willing relative as defined
39 in RCW 13.34.030, a Title 13 RCW (~~legal~~) guardian, a guardian

1 pursuant to RCW 11.130.215, an adoptive parent, or in a foster family
2 home.

3 (5) Following this inquiry, at the permanency planning hearing,
4 the court shall order the department to file a petition seeking
5 termination of parental rights if the child has been in out-of-home
6 care for fifteen of the last twenty-two months since the date the
7 dependency petition was filed unless the court makes a good cause
8 exception as to why the filing of a termination of parental rights
9 petition is not appropriate. Any good cause finding shall be reviewed
10 at all subsequent hearings pertaining to the child.

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

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

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

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

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

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

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

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

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

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

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

10 (iv) Information provided by individuals or agencies in a
11 reasonable position to assist the court in making this assessment,
12 including but not limited to the parent's attorney, correctional and
13 mental health personnel, or other individuals providing services to
14 the parent;

15 (v) Limitations in the parent's access to family support
16 programs, therapeutic services, and visiting opportunities,
17 restrictions to telephone and mail services, inability to participate
18 in foster care planning meetings, and difficulty accessing lawyers
19 and participating meaningfully in court proceedings; and

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

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

27 (6)(a) If the permanency plan identifies independent living as a
28 goal, the court at the permanency planning hearing shall make a
29 finding that the provision of services to assist the child in making
30 a transition from foster care to independent living will allow the
31 child to manage his or her financial, personal, social, educational,
32 and nonfinancial affairs prior to approving independent living as a
33 permanency plan of care. The court will inquire whether the child has
34 been provided information about extended foster care services.

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

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

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

7 (a) Enter a finding regarding whether the foster parent or
8 relative was informed of the hearing as required in RCW 74.13.280,
9 13.34.215(6), and 13.34.096; and

10 (b) If the department is recommending a placement other than the
11 child's current placement with a foster parent, relative, or other
12 suitable person, enter a finding as to the reasons for the
13 recommendation for a change in placement.

14 (8) In all cases, at the permanency planning hearing, the court
15 shall:

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

18 (ii) Modify the permanency plan, and order implementation of the
19 modified plan; and

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

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

26 (9) Following the first permanency planning hearing, the court
27 shall hold a further permanency planning hearing in accordance with
28 this section at least once every twelve months until a permanency
29 planning goal is achieved or the dependency is dismissed, whichever
30 occurs first.

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

34 (11) If the court orders the child returned home, casework
35 supervision by the department shall continue for at least six months,
36 at which time a review hearing shall be held pursuant to RCW
37 13.34.138, and the court shall determine the need for continued
38 intervention.

39 (12) The juvenile court may hear a petition for permanent legal
40 custody when: (a) The court has ordered implementation of a

1 permanency plan that includes permanent legal custody; and (b) the
2 party pursuing the permanent legal custody is the party identified in
3 the permanency plan as the prospective legal custodian. During the
4 pendency of such proceeding, the court shall conduct review hearings
5 and further permanency planning hearings as provided in this chapter.
6 At the conclusion of the legal guardianship or permanent legal
7 custody proceeding, a juvenile court hearing shall be held for the
8 purpose of determining whether dependency should be dismissed. If a
9 guardianship or permanent custody order has been entered, the
10 dependency shall be dismissed.

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

15 (14) Nothing in this chapter may be construed to limit the
16 ability of the agency that has custody of the child to file a
17 petition for termination of parental rights or a guardianship
18 petition at any time following the establishment of dependency. Upon
19 the filing of such a petition, a fact-finding hearing shall be
20 scheduled and held in accordance with this chapter unless the
21 department requests dismissal of the petition prior to the hearing or
22 unless the parties enter an agreed order terminating parental rights,
23 establishing guardianship, or otherwise resolving the matter.

24 (15) The approval of a permanency plan that does not contemplate
25 return of the child to the parent does not relieve the department of
26 its obligation to provide reasonable services, under this chapter,
27 intended to effectuate the return of the child to the parent,
28 including but not limited to, visitation rights. The court shall
29 consider the child's relationships with siblings in accordance with
30 RCW 13.34.130.

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

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

36 (1) The court hearing the dependency petition may hear and
37 determine issues related to (~~chapter 26.10 RCW~~) a guardianship of a
38 minor under RCW 11.130.215 in a dependency proceeding as necessary to
39 facilitate a permanency plan for the child or children as part of the

1 dependency disposition order or a dependency review order or as
2 otherwise necessary to implement a permanency plan of care for a
3 child. Any modification or establishment of a guardianship of a minor
4 must be made in conformity with the standards in chapter 11.130 RCW.
5 The parents, guardians, or legal custodian of the child must agree,
6 subject to court approval, to establish or modify a ~~((permanent~~
7 ~~eustody order))~~ guardianship of a minor, but the court may decide any
8 contested issues implementing the guardianship. This agreed ~~((order))~~
9 guardianship of a minor may have the concurrence of the other parties
10 to the dependency, the guardian ad litem of the child, and the child
11 if age twelve or older, and must also be in the best interests of the
12 child. If the petitioner for a ~~((eustody))~~ guardianship of a minor
13 order under ~~((chapter 26.10))~~ RCW 11.130.215 is not a party to the
14 dependency proceeding, he or she must agree on the record or by the
15 filing of a declaration to the entry of a ~~((eustody order))~~
16 guardianship of a minor. Once ~~((a))~~ a guardianship of a minor order
17 is entered under ~~((chapter 26.10))~~ RCW 11.130.215, and the dependency
18 petition dismissed, the department shall not continue to supervise
19 the placement.

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

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

29 (c) Unless the whereabouts of one of the parents is unknown to
30 either the department or the court, the parents must agree, subject
31 to court approval, to establish the parenting plan or modify an
32 existing parenting plan.

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

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

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

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

6 (f) The dependency court may interview the child in chambers to
7 ascertain the child's wishes as to the child's residential schedule
8 in a proceeding for the entry or modification of a parenting plan
9 under this section. The court may permit counsel to be present at the
10 interview. The court shall cause a record of the interview to be made
11 and to become part of the court record of the dependency case and the
12 case under chapter 26.09, 26.26A, or 26.26B RCW.

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

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

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

29 ~~(4))~~ Any order entered in the dependency court establishing or
30 modifying a ~~((permanent legal custody order))~~ guardianship of a minor
31 under RCW 11.130.215, parenting plan, or residential schedule under
32 chapter 26.09, ~~((26.10,))~~ 26.26A, or 26.26B RCW shall also be filed
33 in the chapter 11.130, 26.09, ~~((26.10,))~~ 26.26A, or 26.26B RCW action
34 by the moving or prevailing party. If the petitioning or moving party
35 has been found indigent and appointed counsel at public expense in
36 the dependency proceeding, no filing fees shall be imposed by the
37 clerk. Once filed, any guardianship of a minor order, parenting plan,
38 or residential schedule establishing or modifying permanent legal
39 custody of a child shall survive dismissal of the dependency
40 proceeding.

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

3 If, upon entering an order terminating the parental rights of a
4 parent, there remains no parent having parental rights, the court
5 shall commit the child to the custody of the department willing to
6 accept custody for the purpose of placing the child for adoption. If
7 an adoptive home has not been identified, the department shall place
8 the child in a licensed foster home, or take other suitable measures
9 for the care and welfare of the child. The custodian shall have
10 authority to consent to the adoption of the child consistent with
11 chapter 26.33 RCW, the marriage of the child, the enlistment of the
12 child in the armed forces of the United States, necessary surgical
13 and other medical treatment for the child, and to consent to such
14 other matters as might normally be required of the parent of the
15 child.

16 If a child has not been adopted within six months after the date
17 of the order and a guardianship of the child under chapter 13.36 RCW
18 or (~~chapter 11.88 RCW, or a permanent custody order under chapter~~
19 ~~26.10 RCW,~~) a guardianship of a minor under RCW 11.130.215 has not
20 been entered by the court, the court shall review the case every six
21 months until a decree of adoption is entered. The department shall
22 take reasonable steps to ensure that the child maintains
23 relationships with siblings as provided in RCW 13.34.130(~~((+6))~~) (7)
24 and shall report to the court the status and extent of such
25 relationships.

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

28 (1) This section governs records not covered by RCW 13.50.050,
29 13.50.260, and 13.50.270.

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

32 (3) Records retained or produced by any juvenile justice or care
33 agency may be released to other participants in the juvenile justice
34 or care system only when an investigation or case involving the
35 juvenile in question is being pursued by the other participant or
36 when that other participant is assigned the responsibility of
37 supervising the juvenile. Records covered under this section and
38 maintained by the juvenile courts which relate to the official
39 actions of the agency may be entered in the statewide judicial

1 information system. However, truancy records associated with a
2 juvenile who has no other case history, and records of a juvenile's
3 parents who have no other case history, shall be removed from the
4 judicial information system when the juvenile is no longer subject to
5 the compulsory attendance laws in chapter 28A.225 RCW. A county clerk
6 is not liable for unauthorized release of this data by persons or
7 agencies not in his or her employ or otherwise subject to his or her
8 control, nor is the county clerk liable for inaccurate or incomplete
9 information collected from litigants or other persons required to
10 provide identifying data pursuant to this section.

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

16 (a) Information that may be released shall be limited to
17 information regarding investigations in which: (i) The juvenile was
18 an alleged victim of abandonment or abuse or neglect; or (ii) the
19 petitioner for custody of the juvenile, or any individual aged
20 sixteen or older residing in the petitioner's household, is the
21 subject of a founded or currently pending child protective services
22 investigation made by the department of social and health services or
23 the department of children, youth, and families subsequent to October
24 1, 1998.

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

30 (5) Any disclosure of records or information by the department of
31 social and health services or the department of children, youth, and
32 families, pursuant to this section shall not be deemed a waiver of
33 any confidentiality or privilege attached to the records or
34 information by operation of any state or federal statute or
35 regulation, and any recipient of such records or information shall
36 maintain it in such a manner as to comply with such state and federal
37 statutes and regulations and to protect against unauthorized
38 disclosure.

39 (6) A contracting agency or service provider of the department of
40 social and health services or the department of children, youth, and

1 families, that provides counseling, psychological, psychiatric, or
2 medical services may release to the office of the family and
3 children's ombuds information or records relating to services
4 provided to a juvenile who is dependent under chapter 13.34 RCW
5 without the consent of the parent or guardian of the juvenile, or of
6 the juvenile if the juvenile is under the age of thirteen years,
7 unless such release is otherwise specifically prohibited by law.

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

12 (a) If it is determined by the agency that release of this
13 information is likely to cause severe psychological or physical harm
14 to the juvenile or his or her parents the agency may withhold the
15 information subject to other order of the court: PROVIDED, That if
16 the court determines that limited release of the information is
17 appropriate, the court may specify terms and conditions for the
18 release of the information; or

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

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

32 (8) A juvenile or his or her parent denied access to any records
33 following an agency determination under subsection (7) of this
34 section may file a motion in juvenile court requesting access to the
35 records. The court shall grant the motion unless it finds access may
36 not be permitted according to the standards found in subsection
37 (7)(a) and (b) of this section.

38 (9) The person making a motion under subsection (8) of this
39 section shall give reasonable notice of the motion to all parties to

1 the original action and to any agency whose records will be affected
2 by the motion.

3 (10) Subject to the rules of discovery in civil cases, any party
4 to a proceeding seeking a declaration of dependency or a termination
5 of the parent-child relationship and any party's counsel and the
6 guardian ad litem of any party, shall have access to the records of
7 any natural or adoptive child of the parent, subject to the
8 limitations in subsection (7) of this section. A party denied access
9 to records may request judicial review of the denial. If the party
10 prevails, he or she shall be awarded attorneys' fees, costs, and an
11 amount not less than five dollars and not more than one hundred
12 dollars for each day the records were wrongfully denied.

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

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

18 Any order for the relocation of a minor under a guardianship must
19 comply with the notice requirements of RCW 26.09.430 through
20 26.09.490.

21 **PART II**
22 **GUARDIANSHIPS OF ADULTS**

23 **Sec. 201.** RCW 11.130.275 and 2019 c 437 s 303 are each amended
24 to read as follows:

25 (1) All petitions filed under RCW 11.130.270 for appointment of a
26 guardian for an adult shall be heard within sixty-days unless an
27 extension of time is requested by a party or the visitor within such
28 sixty-day period and granted for good cause shown. If an extension is
29 granted, the court shall set a new hearing date.

30 (2) (a) A copy of a petition under RCW 11.130.270 and notice of a
31 hearing on the petition must be served personally on the respondent
32 and the court visitor appointed under RCW 11.130.280 not more than
33 five court days after the petition under RCW 11.130.270 has been
34 filed. ~~((The notice must inform the respondent of the respondent's
35 rights at the hearing, including the right to an attorney and to
36 attend the hearing. The notice must include a description of the
37 nature, purpose, and consequences of granting the petition.))~~

1 (b) Notice under this subsection shall include a clear and easily
2 readable statement of the legal rights of the respondent that could
3 be restricted or transferred to a guardian by a guardianship order as
4 well as the right to counsel of choice and to a jury trial on the
5 issue of legal capacity. Such notice must be in substantially the
6 same form as set forth in section 322 of this act and must be double-
7 spaced and in a type size not smaller than sixteen point font. The
8 court may not grant the petition if notice substantially complying
9 with this subsection is not served on the respondent.

10 (3) In a proceeding on a petition under RCW 11.130.270, the
11 notice required under subsection (2) of this section must be given to
12 the persons required to be listed in the petition under RCW
13 11.130.270(2) (a) through (c) and any other person interested in the
14 respondent's welfare the court determines. Failure to give notice
15 under this subsection does not preclude the court from appointing a
16 guardian.

17 (4) After the appointment of a guardian, notice of a hearing on a
18 petition for an order under this article, together with a copy of the
19 petition, must be given to:

- 20 (a) The adult subject to guardianship;
- 21 (b) The guardian; and
- 22 (c) Any other person the court determines.

23 **Sec. 202.** RCW 11.130.285 and 2019 c 437 s 305 are each amended
24 to read as follows:

25 (1)(a) The respondent shall have the right to be represented by a
26 willing attorney of their choosing at any stage in guardianship
27 proceedings. Any attorney purporting to represent a respondent or
28 person subject to guardianship shall petition the court to be
29 appointed to represent the respondent or person subject to
30 guardianship.

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

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

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

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

3 (C) The respondent does not have practical access to funds with
4 which to pay an attorney. If the respondent can afford an attorney
5 but lacks practical access to funds, the court must provide an
6 attorney and may impose a reimbursement requirement as part of a
7 final order.

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

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

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

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

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

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

27 **Sec. 203.** RCW 11.130.290 and 2019 c 437 s 306 are each amended
28 to read as follows:

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

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

33 ~~(b) In other cases, unless the court finds that it has sufficient~~
34 ~~information to determine the respondent's needs and abilities without~~
35 ~~the evaluation.)) On receipt of a petition under RCW 11.130.270 and~~

36 at the time the court appoints a court visitor under RCW 11.130.280,
37 the court shall order a professional evaluation of the respondent.

38 (2) ~~((If the court orders an evaluation under subsection (1) of~~
39 ~~this section, the)) The respondent must be examined by a physician~~

1 licensed to practice under chapter 18.71 or 18.57 RCW, psychologist
2 licensed under chapter 18.83 RCW, (~~(or)~~) advanced registered nurse
3 practitioner licensed under chapter 18.79 RCW, or physician assistant
4 licensed under chapter 18.71A RCW selected by the court visitor who
5 is qualified to evaluate the respondent's alleged cognitive and
6 functional abilities and limitations and will not be advantaged or
7 disadvantaged by a decision to grant the petition or otherwise have a
8 conflict of interest. (~~The individual conducting the evaluation~~
9 ~~promptly shall file [a] report in a record with the court.~~) If the
10 respondent opposes the professional selected by the court visitor,
11 the court visitor shall obtain a professional evaluation from the
12 professional selected by the respondent. The court visitor, after
13 receiving a professional evaluation from the individual selected by
14 the respondent, may obtain a supplemental evaluation from a different
15 professional.

16 (3) The individual conducting the evaluation shall provide the
17 completed evaluation report to the court visitor within thirty days
18 of the examination of the respondent. The court visitor shall file
19 the report in a sealed record with the court. Unless otherwise
20 directed by the court, the report must contain:

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

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

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

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

29 ~~(d))~~ (e) A description of the respondent's current medications,
30 and the effect of the medications on the respondent's cognitive and
31 functional abilities;

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

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

35 ~~((3) The))~~ (4) If the respondent (~~may decline~~) declines to
36 participate in an evaluation ordered under subsection (1) of this
37 section, the court may proceed with the hearing under RCW 11.130.275
38 if the court finds that it has sufficient information to determine
39 the respondent's needs and abilities without the professional
40 evaluation.

1 **Sec. 204.** RCW 11.130.320 and 2019 c 437 s 312 are each amended
2 to read as follows:

3 (1) A person interested in an adult's welfare, including the
4 adult for whom the order is sought, may petition for appointment of
5 an emergency guardian for the adult.

6 (2) An emergency petition under subsection (1) of this section
7 must state the petitioner's name, principal residence, and current
8 street address, if different, and to the extent known, the following:

9 (a) The respondent's name, age, principal residence and current
10 street address, if different;

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

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

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

19 (iii) Adult stepchildren whom the respondent actively parented
20 during the stepchildren's minor years and with whom the respondent
21 had an ongoing relationship in the two-year period immediately before
22 the filing of the emergency petition;

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

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

26 (ii) Any attorney currently representing the respondent;

27 (iii) Any representative payee appointed by the social security
28 administration for the respondent;

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

31 (v) A trustee or custodian of a trust or custodianship of which
32 the respondent is a beneficiary;

33 (vi) Any fiduciary for the respondent appointed by the department
34 of veterans affairs;

35 (vii) An agent designated under a power of attorney for health
36 care in which the respondent is identified as the principal;

37 (viii) An agent designated under a power of attorney for finances
38 in which the respondent is identified as the principal;

39 (ix) A person nominated as guardian by the respondent;

1 (x) A person nominated as guardian by the respondent's parent or
2 spouse or domestic partner in a will or other signed record;

3 (xi) A proposed emergency guardian, and the reason the proposed
4 emergency guardian should be selected; and

5 (xii) A person known to have routinely assisted the respondent
6 with decision making during the six months immediately before the
7 filing of the emergency petition;

8 (d) The reason an emergency guardianship is necessary, including
9 a specific description of:

10 (i) The nature and extent of the emergency situation;

11 (ii) The nature and extent of the respondent's alleged emergency
12 need that arose because of the emergency situation;

13 (iii) The substantial and irreparable harm to the respondent's
14 health, safety, welfare, or rights that is likely to be prevented by
15 the appointment of an emergency guardian;

16 (iv) All protective arrangements or other less restrictive
17 alternatives that have been considered or implemented to meet the
18 respondent's alleged emergency need instead of emergency
19 guardianship;

20 (v) If no protective arrangements or other less restrictive
21 alternatives have been considered or implemented instead of emergency
22 guardianship, the reason they have not been considered or
23 implemented; and

24 (vi) The reason a protective arrangement or other less
25 restrictive alternative instead of emergency guardianship is
26 insufficient to meet the respondent's alleged emergency need;

27 (e) The reason the petitioner believes that a basis for
28 appointment of a guardian under RCW 11.130.265 exists;

29 (f) Whether the petitioner intends to also seek guardianship for
30 an adult under RCW 11.130.270;

31 (g) The reason the petitioner believes that no other person
32 appears to have authority and willingness to act to address the
33 respondent's identified needs caused by the emergency circumstances;

34 (h) The specific powers to be granted to the proposed emergency
35 guardian and a description of how those powers will be used to meet
36 the respondent's alleged emergency need;

37 (i) If the respondent has property other than personal effects, a
38 general statement of the respondent's property, with an estimate of
39 its value, including any insurance or pension, and the source and
40 amount of other anticipated income or receipts; and

1 (j) Whether the respondent needs an interpreter, translator, or
2 other form of support to communicate effectively with the court or
3 understand court proceedings.

4 (3) The requirements of RCW 11.130.090 apply to an emergency
5 guardian appointed for an adult with the following exceptions for any
6 proposed emergency guardian required to complete the training under
7 RCW 11.130.090:

8 (a) The proposed emergency guardian shall present evidence of the
9 successful completion of the required training video or web cast to
10 the court no later than the hearing on the petition for appointment
11 of an emergency guardian for an adult; and

12 (b) The superior court may defer the completion of the training
13 requirement to a date no later than fourteen days after appointment
14 if the petitioner requests an extension of time to complete the
15 training due to emergent circumstances beyond the control of
16 petitioner.

17 (4) On its own after a petition has been filed under RCW
18 11.130.270, or on petition (~~by a person interested in an adult's~~
19 welfare)) for appointment of an emergency guardian for an adult, the
20 court may appoint an emergency guardian for the adult if the court
21 (~~finds~~) makes specific findings based on clear and convincing
22 evidence that:

23 (a) (~~Appointment~~) An emergency exists such that appointment of
24 an emergency guardian is likely to prevent substantial and
25 irreparable harm to the (~~adult's physical~~) respondent's health,
26 safety, (~~or~~) welfare, or rights;

27 (b) The respondent's identified needs caused by the emergency
28 cannot be met by a protective arrangement or other less restrictive
29 alternative instead of emergency guardianship;

30 (c) No other person appears to have authority and willingness to
31 act (~~in the~~) to address the respondent's identified needs caused by
32 the emergency circumstances; and

33 (~~e~~) (d) There is reason to believe that a basis for
34 appointment of a guardian under RCW 11.130.265 exists.

35 (~~2~~) (5) If the court acts on its own to appoint an emergency
36 guardian after a petition has been filed under RCW 11.130.270, all
37 requirements of this section shall be met.

38 (6) A court order appointing an emergency guardian for an adult
39 shall:

1 (a) Grant only the specific powers necessary to meet the adult's
2 identified emergency need and to prevent substantial and irreparable
3 harm to the adult's health, safety, welfare, or rights;

4 (b) State that the emergency guardian is prohibited from
5 delegating the powers granted to the emergency guardian in the order
6 of appointment;

7 (c) Include a specific finding that clear and convincing evidence
8 established that an emergency exists such that appointment of an
9 emergency guardian is likely to prevent substantial and irreparable
10 harm to the respondent's health, safety, welfare, or rights;

11 (d) Include a specific finding that the identified emergency need
12 of the respondent cannot be met by a protective arrangement instead
13 of guardianship or other less restrictive alternative, including any
14 relief available under chapter 74.34 RCW or use of appropriate
15 supportive services, technological assistance, or supported decision
16 making;

17 (e) Include a specific finding that clear and convincing evidence
18 established the respondent was given proper notice of the hearing on
19 the petition;

20 (f) State that the adult subject to emergency guardianship
21 retains all rights the adult enjoyed prior to the emergency
22 guardianship with the exception of the rights not retained during the
23 period of emergency guardianship;

24 (g) Include the date that the sixty-day period of emergency
25 guardianship ends, and the date the emergency guardian's report,
26 required by this section, is due to the court; and

27 (h) Identify any person or notice party that subsequently is
28 entitled to:

29 (i) Notice of the rights of the adult;

30 (ii) Notice of a change in the primary dwelling of the adult;

31 (iii) Notice of the removal of the guardian;

32 (iv) A copy of the emergency guardian's plan and the emergency
33 guardian's report under this section;

34 (v) Access to court records relating to the emergency
35 guardianship;

36 (vi) Notice of the death or significant change in the condition
37 of the adult;

38 (vii) Notice that the court has limited or modified the powers of
39 the emergency guardian; and

40 (viii) Notice of the removal of the emergency guardian.

1 (7) A spouse, a domestic partner, and adult children of an adult
2 subject to emergency guardianship are entitled to notice under this
3 section unless the court orders otherwise based on good cause. Good
4 cause includes the court's determination that notice would be
5 contrary to the preferences or prior directions of the adult subject
6 to emergency guardianship.

7 (8) The duration of authority of an emergency guardian for an
8 adult (~~may~~) shall not exceed sixty days, and the emergency guardian
9 (~~may~~) shall exercise only the powers specified in the order of
10 appointment. (~~The~~) Upon a motion by the emergency guardian, with
11 notice served upon all applicable notice parties, the emergency
12 guardian's authority may be extended once for not more than sixty
13 days if the court finds that the conditions for appointment of an
14 emergency guardian in subsection (~~(1)~~) (4) of this section
15 continue.

16 (~~(3)~~) (9) Immediately on filing of a petition for appointment
17 of an emergency guardian for an adult, the court shall appoint an
18 attorney to represent the respondent in the proceeding. (~~Except as~~
19 otherwise provided in subsection (4) of this section, reasonable) At
20 least fourteen days' notice of the date, time, and place of a hearing
21 on the petition must be given to the respondent, the respondent's
22 attorney, and any other (~~person the court determines~~) notice party.
23 A copy of the emergency petition and notice of a hearing on the
24 petition must be served personally on the respondent and the
25 respondent's attorney not more than two court days after the petition
26 has been filed. The notice must inform the respondent of the
27 respondent's rights at the hearing, including the right to an
28 attorney and to attend the hearing. The notice must include a
29 description of the nature, purpose, and consequences of granting the
30 emergency petition. The court shall not grant the emergency petition
31 if notice substantially complying with this subsection is not served
32 on the respondent.

33 (~~(4)~~ The court may appoint an emergency guardian for an adult
34 without notice to the adult and any attorney for the adult only if
35 the court finds from an affidavit or testimony that the respondent's
36 physical health, safety, or welfare will be substantially harmed
37 before a hearing with notice on the appointment can be held. If the
38 court appoints an emergency guardian without giving notice under
39 subsection (3) of this section, the court must:

1 ~~(a) Give notice of the appointment not later than forty-eight~~
2 ~~hours after the appointment to:~~

3 ~~(i) The respondent;~~

4 ~~(ii) The respondent's attorney; and~~

5 ~~(iii) Any other person the court determines; and~~

6 ~~(b) Hold a hearing on the appropriateness of the appointment not~~
7 ~~later than five days after the appointment.~~

8 ~~(5)) (10) On receipt of a petition for appointment of emergency~~
9 ~~guardian for an adult, the court shall appoint a court visitor.~~
10 ~~Notice of appointment of the court visitor must be served upon the~~
11 ~~court visitor within two days of appointment. The court visitor must~~
12 ~~be an individual with training or experience in the type of~~
13 ~~abilities, limitations, and needs alleged in the emergency petition.~~
14 ~~The court, in the order appointing a court visitor, shall specify the~~
15 ~~hourly rate the visitor may charge for his or her services, and shall~~
16 ~~specify the maximum amount the court visitor may charge without~~
17 ~~additional court review and approval.~~

18 ~~(a) The court visitor shall within two days of service of notice~~
19 ~~of appointment file with the court and serve, either personally or by~~
20 ~~certified mail with return receipt, the respondent or the~~
21 ~~respondent's legal counsel, the petitioner or the petitioner's legal~~
22 ~~counsel, and any notice party with a statement including the court~~
23 ~~visitor's: Training relating to the duties as a court visitor;~~
24 ~~criminal history as defined in RCW 9.94A.030 for the period covering~~
25 ~~ten years prior to the appointment; hourly rate, if compensated;~~
26 ~~contact, if any, with a party to the proceeding prior to appointment;~~
27 ~~and apparent or actual conflicts of interest.~~

28 ~~(b) A court visitor appointed under this section shall use due~~
29 ~~diligence to attempt to interview the respondent in person and, in a~~
30 ~~manner the respondent is best able to understand:~~

31 ~~(i) Explain to the respondent the substance of the emergency~~
32 ~~petition, the nature, purpose, and effect of the proceeding, the~~
33 ~~respondent's rights at the hearing on the petition, and the proposed~~
34 ~~specific powers and duties of the proposed guardian as stated in the~~
35 ~~emergency petition;~~

36 ~~(ii) Determine the respondent's views about the emergency~~
37 ~~appointment sought by the petitioner, including views about a~~
38 ~~proposed emergency guardian, the emergency guardian's proposed powers~~
39 ~~and duties, and the scope and duration of the proposed emergency~~
40 ~~guardianship; and~~

1 (iii) Inform the respondent that all costs and expenses of the
2 proceeding, including but not limited to the respondent's attorneys'
3 fees, the appointed guardian's fees, and the appointed guardian's
4 attorneys' fees, will be paid from the respondent's assets upon
5 approval by the court.

6 (c) The court visitor appointed under this section shall:

7 (i) Interview the petitioner and proposed emergency guardian;

8 (ii) Use due diligence to attempt to visit the respondent's
9 present dwelling;

10 (iii) Use due diligence to attempt to obtain information from any
11 physician or other person known to have treated, advised, or assessed
12 the respondent's relevant physical or mental condition; and

13 (iv) Investigate the allegations in the emergency petition and
14 any other matter relating to the emergency petition the court
15 directs.

16 (d) A court visitor appointed under this section shall file a
17 report in a record with the court and provide a copy of the report to
18 the respondent, petitioner, and any notice party at least seven days
19 prior to the hearing on the emergency petition, which must include:

20 (i) A summary of self-care and independent living tasks the
21 respondent can manage without assistance or with existing supports,
22 could manage with the assistance of appropriate supportive services,
23 technological assistance, or supported decision making, and cannot
24 manage;

25 (ii) A recommendation regarding the appropriateness of emergency
26 guardianship, including whether a protective arrangement instead of
27 guardianship or other less restrictive alternative for meeting the
28 respondent's needs is available, and if an emergency guardianship is
29 recommended;

30 (iii) A detailed summary of the alleged emergency and the
31 substantial and irreparable harm to the respondent's health, safety,
32 welfare, or rights that is likely to be prevented by the appointment
33 of an emergency guardian;

34 (iv) A statement as to whether the alleged emergency and the
35 respondent's alleged needs are likely to require an extension of
36 sixty days as authorized under this section;

37 (v) The specific powers to be granted to the emergency guardian
38 and how the specific powers will address the alleged emergency and
39 the respondent's alleged need;

1 (vi) A recommendation regarding the appropriateness of an ongoing
2 guardianship for an adult, including whether a protective arrangement
3 instead of guardianship or other less restrictive alternative for
4 meeting the respondent's needs is available;

5 (vii) A statement of the qualifications of the proposed emergency
6 guardian and whether the respondent approves or disapproves of the
7 proposed emergency guardian, and the reasons for such approval or
8 disapproval;

9 (viii) A recommendation whether a professional evaluation under
10 RCW 11.130.290 is necessary;

11 (ix) A statement whether the respondent is able to attend a
12 hearing at the location court proceedings typically are held;

13 (x) A statement whether the respondent is able to participate in
14 a hearing which identifies any technology or other form of support
15 that would enhance the respondent's ability to participate;

16 (xi) A statement, as needed when the petition seeks emergency
17 authority to change the respondent's place of dwelling, as to whether
18 the proposed dwelling meets the respondent's needs and whether the
19 respondent has expressed a preference as to residence; and

20 (xii) Any other matter the court directs.

21 (11) An emergency guardian shall:

22 (a) Comply with the requirements of RCW 11.130.325, the
23 requirements regarding the adult's right to association under RCW
24 11.130.335, and the requirements of this chapter that pertain to the
25 rights of an adult subject to guardianship;

26 (b) Not delegate any of the powers granted in the petition for
27 appointment of an emergency guardian;

28 (c) Not have authority to make decisions or take actions that a
29 guardian for an adult is prohibited by law from having; and

30 (d) Be subject to the same special limitations on a guardian's
31 power that apply to a guardian for an adult.

32 (12) Appointment of an emergency guardian under this section is
33 not a determination that a basis exists for appointment of a guardian
34 under RCW 11.130.265.

35 ((+6)) (13) The court may remove an emergency guardian appointed
36 under this section at any time.

37 (14) The emergency guardian shall file a report in a record with
38 the court and provide a copy of the report to the adult subject to
39 emergency guardianship, and any notice party no later than forty-five
40 days after appointment. The report shall include specific and updated

1 information regarding the emergency alleged in the emergency
2 petition, the adult's emergency needs, all actions and decisions by
3 the emergency guardian, and a recommendation as to whether a guardian
4 for an adult should be appointed. If the appointment of the emergency
5 guardian is extended for an additional sixty days, the emergency
6 guardian shall file a second report in a record with the court and
7 provide a copy of the report to the adult subject to emergency
8 guardianship, and any notice party no later than forty-five days
9 after appointment, which shall include the same information required
10 for the first report. The emergency guardian shall make any other
11 report the court requires.

12 (15) The court shall issue letters of emergency guardianship to
13 the emergency guardian in compliance with RCW 11.130.040. Such
14 letters shall be issued on an expedited basis.

15 **Sec. 205.** RCW 11.130.330 and 2019 c 437 s 314 are each amended
16 to read as follows:

17 (1) Except as limited by court order, a guardian for an adult
18 may:

19 (a) Apply for and receive funds and benefits as a representative
20 payee or an authorized representative or protective payee for the
21 support of the adult, unless a conservator is appointed for the adult
22 and the application or receipt is within the powers of the
23 conservator;

24 (b) Unless inconsistent with a court order, establish the adult's
25 place of dwelling;

26 (c) Consent to health or other care, treatment, or service for
27 the adult;

28 (d) If a conservator for the adult has not been appointed,
29 commence a proceeding, including an administrative proceeding, or
30 take other appropriate action to compel another person to support the
31 adult or pay funds for the adult's benefit;

32 (e) To the extent reasonable, delegate to the adult
33 responsibility for a decision affecting the adult's well-being; and

34 (f) Receive personally identifiable health care information
35 regarding the adult.

36 (2) The court by specific order may authorize a guardian for an
37 adult to consent to the adoption of the adult.

38 (3) The court by specific order may authorize a guardian for an
39 adult to:

1 (a) Consent or withhold consent to the marriage of the adult if
2 the adult's right to marry has been removed under RCW 11.130.310;

3 (b) Petition for divorce, dissolution, or annulment of marriage
4 of the adult or a declaration of invalidity of the adult's marriage;
5 or

6 (c) Support or oppose a petition for divorce, dissolution, or
7 annulment of marriage of the adult or a declaration of invalidity of
8 the adult's marriage.

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

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

17 (a) Select a residential setting the guardian believes the adult
18 would select if the adult were able, in accordance with the decision-
19 making standard in RCW 11.130.325 (4) and (5). If the guardian does
20 not know and cannot reasonably determine what setting the adult
21 subject to guardianship probably would choose if able, or the
22 guardian reasonably believes the decision the adult would make would
23 unreasonably harm or endanger the welfare or personal or financial
24 interests of the adult, the guardian shall choose in accordance with
25 RCW 11.130.325(5) a residential setting that is consistent with the
26 adult's best interest;

27 (b) In selecting among residential settings, give priority to a
28 residential setting in a location that will allow the adult to
29 interact with persons important to the adult and meet the adult's
30 needs in the least restrictive manner reasonably feasible unless to
31 do so would be inconsistent with the decision-making standard in RCW
32 11.130.325 (4) and (5);

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

35 (i) Give notice of the change to the court, the adult, and any
36 (~~person identified as entitled to the notice in the court order~~
37 ~~appointing the guardian or a subsequent order~~) other notice party;
38 and

1 (ii) Include in the notice the address and nature of the new
2 dwelling and state whether the adult received advance notice of the
3 change and whether the adult objected to the change;

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

8 (i) The establishment or move is in the guardian's plan under RCW
9 11.130.340;

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

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

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

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

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

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

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

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

29 (a) Involve the adult in decision making to the extent reasonably
30 feasible, including, when practicable, by encouraging and supporting
31 the adult in understanding the risks and benefits of health care
32 options;

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

36 (c) Take into account:

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

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

1 (7) Notwithstanding subsection (1)(b) of this section no
2 (~~residential treatment facility~~) care setting which provides
3 nursing or other care may detain a person within such facility
4 against their will. Any court order, other than an order issued in
5 accordance with the involuntary treatment provisions of
6 chapters 10.77, 71.05, and 72.23 RCW, which purports to authorize
7 such involuntary detention or purports to authorize a guardian or
8 limited guardian to consent to such involuntary detention on behalf
9 of an individual subject to a guardianship shall be void and of no
10 force or effect. (~~This section does not apply to the detention of a
11 minor as provided in chapter 71.34 RCW.~~)

12 (8) Nothing in this section shall be construed to require a court
13 order authorizing placement of an incapacitated person in a
14 (~~residential treatment facility~~) care setting if such order is not
15 otherwise required by law: PROVIDED, That notice of any residential
16 placement of an individual subject to a guardianship shall be served,
17 either before or after placement, by the guardian or limited guardian
18 on such individual, any court visitor of record, any guardian ad
19 litem of record, and any attorney of record.

20 **Sec. 206.** RCW 11.130.335 and 2019 c 437 s 315 are each amended
21 to read as follows:

22 (1) (~~Unless authorized by the court by specific order, a~~) A
23 guardian for an adult does not have the power to revoke or amend a
24 power of attorney for health care or power of attorney for finances
25 executed by the adult. If a power of attorney for health care is in
26 effect, unless there is a court order to the contrary, a health care
27 decision of an agent takes precedence over that of the guardian and
28 the guardian shall cooperate with the agent to the extent feasible.
29 If a power of attorney for finances is in effect, unless there is a
30 court order to the contrary, a decision by the agent which the agent
31 is authorized to make under the power of attorney for finances takes
32 precedence over that of the guardian and the guardian shall cooperate
33 with the agent to the extent feasible. The court has authority to
34 revoke or amend any power of attorney executed by the adult.

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

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

5 (a) Therapy or other procedure to induce convulsion;

6 (b) Surgery solely for the purpose of psychosurgery; or

7 (c) Other psychiatric or mental health procedures that restrict
8 physical freedom of movement or the rights set forth in RCW
9 71.05.217.

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

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

18 (a) Except as otherwise provided in this section, a person under
19 a guardianship, conservatorship, or other protective arrangement
20 retains the right to associate with other persons of the (~~person~~
21 ~~under a guardianship's~~) person's choosing. This right includes, but
22 is not limited to, the right to freely communicate and interact with
23 other persons, whether through in-person visits, telephone calls,
24 electronic communication, personal mail, or other means. If the
25 person under a guardianship is unable to express consent for
26 communication, visitation, or interaction with another person, or is
27 otherwise unable to make a decision regarding association with
28 another person, a guardian of a person under a guardianship, whether
29 full or limited, must:

30 (i) Personally inform the person under a guardianship of the
31 decision under consideration, using plain language, in a manner
32 calculated to maximize the understanding of the person under a
33 guardianship;

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

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

39 (b) A guardian or limited guardian may not restrict a person
40 under a guardianship's right to communicate, visit, interact, or

1 otherwise associate with persons of the person under a guardianship's
2 choosing, unless:

3 (i) The restriction is specifically authorized by the
4 guardianship court in the court order establishing or modifying the
5 guardianship or limited guardianship under this chapter (~~(11.130~~
6 ~~RCW)~~);

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

11 (iii)(A) The guardian or limited guardian has good cause to
12 believe that there is an immediate need to restrict a person under a
13 guardianship's right to communicate, visit, interact, or otherwise
14 associate with persons of the person under a guardianship's choosing
15 in order to protect the person under a guardianship from abuse,
16 neglect, abandonment, or financial exploitation, as those terms are
17 defined in RCW 74.34.020, or to protect the person under a
18 guardianship from activities that unnecessarily impose significant
19 distress on the person under a guardianship; and

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

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

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

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

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

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

1 **Sec. 207.** RCW 11.130.340 and 2019 c 437 s 317 are each amended
2 to read as follows:

3 (1) A guardian for an adult, not later than ninety days after
4 appointment, shall file with the court a plan for the care of the
5 adult and shall provide a copy of the plan to the adult subject to
6 guardianship(~~(, a person entitled to notice under RCW 11.130.310(5)~~
7 ~~or a subsequent order,~~) and any other (~~person the court~~
8 ~~determines~~) notice party. The plan must be based on the needs of the
9 adult and take into account the best interest of the adult as well as
10 the adult's preferences, values, and prior directions, to the extent
11 known to or reasonably ascertainable by the guardian. The guardian
12 shall include in the plan:

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

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

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

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

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

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

27 (g) A statement or list of the amount the guardian proposes to
28 charge for each service the guardian anticipates providing to the
29 adult.

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

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

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

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

13 **Sec. 208.** RCW 11.130.345 and 2019 c 437 s 318 are each amended
14 to read as follows:

15 (1) A guardian for an adult shall file with the court by the date
16 established by the court a report in a record regarding the condition
17 of the adult and accounting for funds and other property in the
18 guardian's possession or subject to the guardian's control. The
19 guardian shall provide a copy of the report to the adult subject to
20 guardianship(~~(, a person entitled to notice under RCW 11.130.310(5)~~
21 ~~or a subsequent order,~~) and any other (~~(person the court~~
22 ~~determines)~~) notice party.

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

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

26 (b) The living arrangements of the adult during the reporting
27 period;

28 (c) A summary of the supported decision making, technological
29 assistance, medical services, educational and vocational services,
30 and other supports and services provided to the adult and the
31 guardian's opinion as to the adequacy of the adult's care;

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

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

35 (f) The extent to which the adult has participated in decision
36 making;

37 (g) If the adult is living in (~~(an evaluation and treatment~~
38 ~~facility or living in a facility that provides the adult with health~~
39 ~~care or other personal services)) a care setting, whether the~~

1 guardian considers the facility's current plan for support, care,
2 treatment, or habilitation consistent with the adult's preferences,
3 values, prior directions, and best interests;

4 (h) Anything of more than de minimis value which the guardian,
5 any individual who resides with the guardian, or the spouse, domestic
6 partner, parent, child, or sibling of the guardian has received from
7 an individual providing goods or services to the adult. A
8 professional guardian must abide by the standards of practice
9 regarding the acceptance of gifts;

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

12 (j) Any business relation the guardian has with a person the
13 guardian has paid or that has benefited from the property of the
14 adult;

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

18 (l) Plans for future care and support of the adult;

19 (m) A recommendation as to the need for continued guardianship
20 and any recommended change in the scope of the guardianship; and

21 (n) Whether any co-guardian or successor guardian appointed to
22 serve when a designated event occurs is alive and able to serve.

23 (3) The court may appoint a court visitor to review a report
24 submitted under this section or a guardian's plan submitted under RCW
25 11.130.340, interview the guardian or adult subject to guardianship,
26 or investigate any other matter involving the guardianship.

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

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

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

38 (b) The guardianship should continue; and

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

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

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

6 (b) May require additional information from the guardian;

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

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

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

16 (8) A guardian for an adult must petition the court for approval
17 of a report filed under this section. The court after review may
18 approve the report. If the court approves the report, there is a
19 rebuttable presumption the report is accurate as to a matter
20 adequately disclosed in the report.

21 (9) If the court approves a report filed under this section, the
22 order approving the report shall set the due date for the filing of
23 the next report to be filed under this section. The court may set the
24 review interval at annual, biennial, or triennial with the report due
25 date to be within ninety days of the anniversary date of appointment.
26 When determining the report interval, the court can consider: The
27 length of time the guardian has been serving the person under
28 guardianship; whether the guardian has timely filed all required
29 reports with the court; whether the guardian is monitored by other
30 state or local agencies; and whether there have been any allegations
31 of abuse, neglect, or a breach of fiduciary duty against the
32 guardian.

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

37 (11) If the court approves a report filed under this section, the
38 order approving the report shall direct the clerk of the court to
39 reissue letters of office in the form or substantially in the same
40 form as set forth in RCW 11.130.660 to the guardian containing an

1 expiration date which will be within one hundred twenty days after
2 the date the court directs the guardian file its next report.

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

5 **Sec. 209.** RCW 11.130.355 and 2019 c 437 s 320 are each amended
6 to read as follows:

7 (1) An adult subject to guardianship, the guardian for the adult,
8 or a person interested in the welfare of the adult may petition for:

9 (a) Termination of the guardianship on the ground that a basis
10 for appointment under RCW 11.130.265 does not exist or termination
11 would be in the best interest of the adult or for other good cause;
12 or

13 (b) Modification of the guardianship on the ground that the
14 extent of protection or assistance granted is not appropriate or for
15 other good cause.

16 (2) The court shall hold a hearing to determine whether
17 termination or modification of a guardianship for an adult is
18 appropriate on:

19 (a) Petition under subsection (1) of this section that contains
20 allegations that, if true, would support a reasonable belief that
21 termination or modification of the guardianship may be appropriate,
22 but the court may decline to hold a hearing if a petition based on
23 the same or substantially similar facts was filed during the
24 preceding six months;

25 (b) Communication from the adult, guardian, or person interested
26 in the welfare of the adult which supports a reasonable belief that
27 termination or modification of the guardianship may be appropriate,
28 including because of change to the legal capacity or functional needs
29 of the adult or the availability of supports or services (~~(available~~
30 ~~to)) for the adult (~~(have changed)~~);~~

31 (c) A report from a guardian or conservator which indicates that
32 termination or modification may be appropriate because of change to
33 the legal capacity or functional needs of the adult or the
34 availability of supports or services (~~(available to)) for the adult~~

35 (~~(have changed)~~) or a protective arrangement instead of guardianship
36 or other less restrictive alternative for meeting the adult's needs
37 is available; or

38 (d) A determination by the court that a hearing would be in the
39 best interest of the adult.

1 (3) Notice of a petition under subsection (2)(a) of this section
2 must be given to the adult subject to guardianship, the guardian, and
3 any other person the court determines.

4 (4) On presentation of prima facie evidence for termination of a
5 guardianship for an adult, the court shall order termination unless
6 it is proven that a basis for appointment of a guardian under RCW
7 11.130.265 exists.

8 (5) The court shall modify the powers granted to a guardian for
9 an adult if the powers are excessive or inadequate (~~due to a~~)
10 because of change (~~in~~) to the legal capacity, abilities (~~or~~),
11 limitations, or functional needs of the adult, the adult's supports,
12 or other circumstances.

13 (6) Unless the court otherwise orders for good cause, before
14 terminating or modifying a guardianship for an adult, the court shall
15 follow the same procedures to safeguard the rights of the adult which
16 apply to a petition for guardianship.

17 (7) An adult subject to guardianship who seeks to terminate or
18 modify the terms of the guardianship has the right to choose an
19 attorney to represent the adult in the matter. The court shall award
20 reasonable attorneys' fees to the attorney for the adult as provided
21 in RCW 11.130.100.

22 **Sec. 210.** RCW 11.130.360 and 2019 c 437 s 401 are each amended
23 to read as follows:

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

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

31 (b) Either:

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

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

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

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

4 (a) The adult (~~is unable to manage property or financial affairs~~
5 ~~because~~) respondent:

6 (i) (~~Of a limitation in the adult's ability~~) lacks the legal
7 capacity to receive and evaluate information or make or communicate
8 decisions, even with the use of appropriate supportive services,
9 technological assistance, or supported decision making, in order to
10 adequately manage property or financial affairs; or

11 (ii) (~~The~~) Is unable to adequately manage property or financial
12 affairs because the adult respondent is missing, detained, or unable
13 to return to the United States;

14 (b) Appointment is necessary to:

15 (i) (~~Avoid~~) Prevent significant harm to the (~~adult~~) adult's
16 health, safety, welfare, or rights or significant dissipation of the
17 property of the adult; or

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

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

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

32 (4) A determination that the adult respondent lacks the legal
33 capacity necessary to adequately manage property or financial affairs
34 is a legal decision, not a medical decision. The determination must
35 be based on a demonstration of management insufficiencies over time
36 in the area of property or financial affairs. Age, eccentricity,
37 poverty, or medical diagnosis alone are not sufficient to justify a
38 determination that the adult respondent lacks legal capacity.

39 (5) For purposes of this section, an adult who resides in a long-
40 term care facility, resides in another care setting, or is the

1 subject of an involuntary commitment order is not considered missing
2 or detained.

3 **Sec. 211.** RCW 11.130.365 and 2019 c 437 s 402 are each amended
4 to read as follows:

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

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

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

12 (c) The guardian for the individual.

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

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

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

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

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

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

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

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

38 (ii) Any attorney currently representing the respondent;

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

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

5 (v) A trustee or custodian of a trust or custodianship of which
6 the respondent is a beneficiary;

7 (vi) The fiduciary appointed for the respondent by the department
8 of veterans affairs;

9 (vii) An agent designated under a power of attorney for health
10 care in which the respondent is identified as the principal;

11 (viii) An agent designated under a power of attorney for finances
12 in which the respondent is identified as the principal;

13 (ix) A person known to have routinely assisted the respondent
14 with decision making in the six-month period immediately before the
15 filing of the petition;

16 (x) Any proposed conservator, including a person nominated by the
17 respondent, if the respondent is twelve years of age or older; and

18 (xi) If the individual for whom a conservator is sought is a
19 minor:

20 (A) An adult not otherwise listed with whom the minor resides;
21 and

22 (B) Each person not otherwise listed that had primary care or
23 custody of the minor for at least sixty days during the two years
24 immediately before the filing of the petition or for at least seven
25 hundred thirty days during the five years immediately before the
26 filing of the petition;

27 (d) A general statement of the respondent's property with an
28 estimate of its value, including any insurance or pension, and the
29 source and amount of other anticipated income or receipts;

30 (e) The reason conservatorship is necessary, including a brief
31 description of:

32 (i) The nature and extent of the respondent's alleged need;

33 (ii) If the petition alleges the respondent is missing, detained,
34 or unable to return to the United States, the relevant circumstances,
35 including the time and nature of the disappearance or detention and
36 any search or inquiry concerning the respondent's whereabouts;

37 (iii) Any protective arrangement instead of conservatorship or
38 other less restrictive alternative for meeting the respondent's
39 alleged need which has been considered or implemented;

1 (iv) If no protective arrangement or other less restrictive
2 alternatives have been considered or implemented, the reason it has
3 not been considered or implemented; and

4 (v) The reason a protective arrangement or other less restrictive
5 alternative is insufficient to meet the respondent's need;

6 (f) Whether the petitioner seeks a limited conservatorship or a
7 full conservatorship;

8 (g) If the petitioner seeks a full conservatorship, the reason a
9 limited conservatorship or protective arrangement instead of
10 conservatorship is not appropriate;

11 (h) If the petition includes the name of a proposed conservator,
12 the reason the proposed conservator should be appointed;

13 (i) If the petition is for a limited conservatorship, a
14 description of the property to be placed under the conservator's
15 control and any requested limitation on the authority of the
16 conservator;

17 (j) Whether the respondent needs an interpreter, translator, or
18 other form of support to communicate effectively with the court or
19 understand court proceedings; and

20 (k) The name and address of an attorney representing the
21 petitioner, if any.

22 **Sec. 212.** RCW 11.130.370 and 2019 c 437 s 403 are each amended
23 to read as follows:

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

29 (2) (a) A copy of a petition under RCW 11.130.365 and notice of a
30 hearing on the petition must be served personally on the respondent
31 ~~((and)),~~ the court visitor appointed under RCW 11.130.380, and the
32 appointed or proposed guardian not more than five court days after
33 the petition under RCW 11.130.365 has been filed. If the respondent's
34 whereabouts are unknown or personal service cannot be made, service
35 on the respondent must be made by publication. ~~((The notice must~~
36 ~~inform the respondent of the respondent's rights at the hearing,~~
37 ~~including the right to an attorney and to attend the hearing. The~~
38 ~~notice must include a description of the nature, purpose, and~~
39 ~~consequences of granting the petition.))~~

1 (b) Notice under this subsection shall include a clear and easily
2 readable statement of the legal rights for an adult respondent that
3 could be restricted or transferred to a conservator by a
4 conservatorship order as well as the right to counsel of choice and
5 to a jury trial on the issue of legal capacity. Such notice must be
6 in substantially the same form as set forth in section 322 of this
7 act and must be double-spaced and in a type size not smaller than
8 sixteen point font. The court may not grant ((~~a~~)) the petition ((~~for~~
9 ~~appointment of a conservator~~)) if notice substantially complying with
10 this subsection is not served on the respondent.

11 (3) In a proceeding on a petition under RCW 11.130.365, the
12 notice required under subsection (2) of this section must be ((~~given~~
13 ~~to~~)) served upon the persons required to be listed in the petition
14 under RCW 11.130.365(2) (a) through (c) and any other ((~~person~~
15 ~~interested in the respondent's welfare the court determines~~)) notice
16 party. Failure to give notice under this subsection does not preclude
17 the court from appointing a conservator.

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

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

24 (b) The conservator; and

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

27 **Sec. 213.** RCW 11.130.385 and 2019 c 437 s 406 are each amended
28 to read as follows:

29 (1)(a) The respondent shall have the right to be represented by a
30 willing attorney of their choosing at any stage in conservatorship
31 proceedings. Any attorney purporting to represent a respondent or
32 person subject to conservatorship shall petition the court to be
33 appointed to represent the respondent or person subject to
34 conservatorship.

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

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

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

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

6 (C) The respondent does not have practical access to funds with
7 which to pay an attorney. If the respondent can afford an attorney
8 but lacks practical access to funds, the court must provide an
9 attorney and may impose a reimbursement requirement as part of a
10 final order.

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

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

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

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

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

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

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

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

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

36 (c) The court otherwise determines the parent needs
37 representation.

38 **Sec. 214.** RCW 11.130.390 and 2019 c 437 s 407 are each amended
39 to read as follows:

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

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

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

10 (2) ~~((If the court orders an evaluation under subsection (1) of~~
11 ~~this section, the)) The respondent must be examined by a physician~~
12 ~~licensed to practice under chapter 18.71 or 18.57 RCW, psychologist~~
13 ~~licensed under chapter 18.83 RCW, ~~((or))~~ advanced registered nurse~~
14 ~~practitioner licensed under chapter 18.79 RCW, or physician assistant~~
15 ~~licensed under chapter 18.71A RCW, selected by the court visitor who~~
16 ~~is qualified to evaluate the respondent's alleged cognitive and~~
17 ~~functional abilities and limitations and will not be advantaged or~~
18 ~~disadvantaged by a decision to grant the petition or otherwise have a~~
19 ~~conflict of interest. If the respondent opposes the professional~~
20 ~~selected by the court visitor, the court visitor shall obtain a~~
21 ~~professional evaluation from the professional selected by the~~
22 ~~respondent. The court visitor, after receiving a professional~~
23 ~~evaluation from the individual selected by the respondent, may obtain~~
24 ~~a supplemental evaluation from a different professional.~~

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

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

30 (b) A description of the nature, type, and extent of the
31 ~~respondent's cognitive and functional abilities and limitations with~~
32 ~~regard to the management of the respondent's property and financial~~
33 ~~affairs;~~

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

37 ~~((e))~~ (d) A prognosis for improvement with regard to the
38 ~~ability to manage the respondent's property and financial affairs;~~
39 ~~((and~~

1 ~~(d))~~ (e) A description of the respondent's current medications,
2 and the effect of the medications on the respondent's cognitive and
3 functional abilities;

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

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

7 ~~((3)A))~~ (4) If the respondent ((may decline)) declines to
8 participate in an evaluation ordered under subsection (1) of this
9 section, the court may proceed with the hearing under RCW 11.130.370
10 if the court finds that it has sufficient information to determine
11 the respondent's needs and abilities without the professional
12 evaluation.

13 (5) A professional evaluation is not required if a petition for
14 appointment of a conservator under RCW 11.130.360 is for a
15 conservator for the property or financial affairs of a minor or for
16 an adult missing, detained, or unable to return to the United States.

17 **Sec. 215.** RCW 11.130.410 and 2019 c 437 s 409 are each amended
18 to read as follows:

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

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

25 (b) Either:

26 (i) The petition for conservatorship is dismissed; or

27 (ii) The conservatorship is terminated.

28 (2) An individual subject to a proceeding for a conservatorship,
29 whether or not a conservator is appointed, an attorney designated by
30 the individual, and a person entitled to notice under RCW
31 11.130.420(6) or a subsequent order may access court records of the
32 proceeding and resulting conservatorship, including the conservator's
33 plan under RCW 11.130.510 and the conservator's report under RCW
34 11.130.530. A person not otherwise entitled access to court records
35 under this section for good cause may petition the court for access
36 to court records of the conservatorship, including the conservator's
37 plan and report. The court shall grant access if access is in the
38 best interest of the respondent or individual subject to

1 conservatorship or furthers the public interest and does not endanger
2 the welfare or financial interests of the respondent or individual.

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

6 (a) The court;

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

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

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

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

17 **Sec. 216.** RCW 11.130.415 and 2019 c 437 s 410 are each amended
18 to read as follows:

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

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

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

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

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

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

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

35 (2) If two or more persons have equal priority under subsection
36 (1) of this section, the court shall select as conservator the person
37 the court considers best qualified. In determining the best qualified
38 person, the court shall consider the person's relationship with the
39 respondent, the person's skills, the expressed wishes of the

1 respondent, the extent to which the person and the respondent have
2 similar values and preferences, and the likelihood the person will be
3 able to perform the duties of a conservator successfully.

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

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

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

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

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

22 **Sec. 217.** RCW 11.130.420 and 2019 c 437 s 411 are each amended
23 to read as follows:

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

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

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

33 (a) Include a specific finding that clear and convincing evidence
34 has established that the identified needs of the respondent cannot be
35 met by a protective arrangement instead of conservatorship or other
36 less restrictive alternatives, including use of appropriate
37 supportive services, technological assistance, or supported decision
38 making; and

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

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

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

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

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

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

18 (c) Notice that the conservator has delegated a power that
19 requires court approval under RCW 11.130.435 or substantially all
20 powers of the conservator;

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

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

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

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

28 (h) Notice of the death or significant change in the condition of
29 the individual;

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

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

33 (7) If an individual subject to conservatorship is an adult, the
34 spouse, domestic partner, and adult children of the adult subject to
35 conservatorship are entitled under subsection (6) of this section to
36 notice unless the court (~~determines~~) orders otherwise based on good
37 cause. Good cause includes the court's determination that notice
38 would be contrary to the preferences or prior directions of the adult
39 subject to conservatorship (~~or not in the best interest of the~~
40 adult)).

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

5 (9) All orders establishing a conservatorship for an adult must
6 contain:

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

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

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

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

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

19 (f) The date the limited conservator or conservator must file its
20 report under RCW 11.130.530. The due date of the filing of the report
21 shall be within ninety days after the anniversary date of the
22 appointment;

23 (g) The date for the court to review the report under RCW
24 11.130.530 and enter its order. The court shall conduct the review
25 within one hundred twenty days after the anniversary date of the
26 appointment.

27 **Sec. 218.** RCW 11.130.425 and 2019 c 437 s 412 are each amended
28 to read as follows:

29 (1) A conservator appointed under RCW 11.130.420 shall give to
30 the individual subject to conservatorship and to all other persons
31 (~~given~~) entitled to notice pursuant to an order under RCW
32 (~~11.130.370~~) 11.130.420(6) or a subsequent order a copy of the
33 order of appointment, together with notice of the right to request
34 termination or modification. The order and notice must be given not
35 later than fourteen days after the appointment.

36 (2) Not later than thirty days after appointment of a conservator
37 under RCW 11.130.420, the conservator shall give to the individual
38 subject to conservatorship and any other person entitled to notice
39 under RCW 11.130.420(6) a statement of the rights of the individual

1 subject to conservatorship and procedures to seek relief if the
2 individual is denied those rights. The statement must be in plain
3 language, in at least sixteen-point font, and to the extent feasible,
4 in a language in which the individual subject to conservatorship is
5 proficient. The statement must notify the individual subject to
6 conservatorship of the right to:

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

10 (b) Participate in decision making to the extent reasonably
11 feasible;

12 (c) Receive a copy of the conservator's plan under RCW
13 11.130.510, the conservator's inventory under RCW 11.130.515, and the
14 conservator's report under RCW 11.130.530; and

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

16 (3) If a conservator is appointed for the reasons stated in RCW
17 11.130.360(2)(a)(ii) and the individual subject to conservatorship is
18 missing, notice under this section to the individual is not required.

19 **Sec. 219.** RCW 11.130.430 and 2019 c 437 s 413 are each amended
20 to read as follows:

21 (1) A person interested in an individual's welfare, including the
22 individual for whom the order is sought, may petition for appointment
23 of an emergency conservator for the individual.

24 (2) An emergency petition under subsection (1) of this section
25 must state the petitioner's name, principal residence, and current
26 street address, if different, and to the extent known, the following:

27 (a) The respondent's name, age, principal residence and current
28 street address, if different;

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

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

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

37 (iii) Adult stepchildren whom the respondent actively parented
38 during the stepchildren's minor years and with whom the respondent

1 had an ongoing relationship in the two-year period immediately before
2 the filing of the emergency petition;

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

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

6 (ii) Any attorney currently representing the respondent;

7 (iii) Any representative payee appointed by the social security
8 administration for the respondent;

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

11 (v) A trustee or custodian of a trust or custodianship of which
12 the respondent is a beneficiary;

13 (vi) Any fiduciary for the respondent appointed by the department
14 of veterans affairs;

15 (vii) An agent designated under a power of attorney for health
16 care in which the respondent is identified as the principal;

17 (viii) An agent designated under a power of attorney for finances
18 in which the respondent is identified as the principal;

19 (ix) A person nominated as conservator by the respondent;

20 (x) A person nominated as conservator by the respondent's parent
21 or spouse or domestic partner in a will or other signed record;

22 (xi) A proposed emergency conservator, and the reason the
23 proposed emergency conservator should be selected; and

24 (xii) A person known to have routinely assisted the respondent
25 with decision making during the six months immediately before the
26 filing of the emergency petition;

27 (d) The reason an emergency conservatorship is necessary,
28 including a specific description of:

29 (i) The nature and extent of the emergency situation;

30 (ii) The nature and extent of the respondent's alleged emergency
31 need that arose because of the emergency situation;

32 (iii) The substantial and irreparable harm to the respondent's
33 health, safety, welfare, or rights that is likely to be prevented by
34 the appointment of an emergency conservator;

35 (iv) All protective arrangements or other less restrictive
36 alternatives that have been considered or implemented to meet the
37 respondent's alleged emergency need instead of emergency
38 conservatorship;

39 (v) If no protective arrangements or other less restrictive
40 alternatives have been considered or implemented instead of emergency

1 conservatorship, the reason they have not been considered or
2 implemented; and

3 (vi) The reason a protective arrangement or other less
4 restrictive alternative instead of emergency conservatorship is
5 insufficient to meet the respondent's alleged emergency need;

6 (e) The reason the petitioner believes that a basis for
7 appointment of a conservator under RCW 11.130.360 exists;

8 (f) Whether the petitioner intends to also seek conservatorship
9 for an individual under RCW 11.130.365;

10 (g) The reason the petitioner believes that no other person
11 appears to have authority and willingness to act to address the
12 respondent's identified needs caused by the emergency circumstances;

13 (h) The specific powers to be granted to the proposed emergency
14 conservator and a description of how those powers will be used to
15 meet the respondent's alleged emergency need;

16 (i) If the respondent has property other than personal effects, a
17 general statement of the respondent's property, with an estimate of
18 its value, including any insurance or pension, and the source and
19 amount of other anticipated income or receipts; and

20 (j) Whether the respondent needs an interpreter, translator, or
21 other form of support to communicate effectively with the court or
22 understand court proceedings.

23 (3) The requirements of RCW 11.130.090 apply to an emergency
24 conservator appointed for an individual with the following exceptions
25 for any proposed emergency conservator required to complete the
26 training under RCW 11.130.090:

27 (a) The proposed emergency conservator shall present evidence of
28 the successful completion of the required training video or web cast
29 to the court no later than the hearing on the petition for
30 appointment of an emergency conservator for an individual; and

31 (b) The superior court may defer the completion of the training
32 requirement to a date no later than fourteen days after appointment
33 if the petitioner requests an extension of time to complete the
34 training due to emergent circumstances beyond the control of
35 petitioner.

36 (4) On its own or on petition (~~by a person interested in an~~
37 individual's welfare)) for appointment of an emergency conservator
38 for an individual after a petition has been filed under RCW
39 11.130.365, the court may appoint an emergency conservator for the

1 individual if the court (~~(finds)~~) makes specific findings based on
2 clear and convincing evidence that:

3 (a) (~~(Appointment)~~) An emergency exists such that appointment of
4 an emergency conservator is likely to prevent substantial and
5 irreparable harm to the (~~(individual's)~~) respondent's property or
6 financial interests;

7 (b) The respondent's identified needs caused by the emergency
8 cannot be met by a protective arrangement or other less restrictive
9 alternative instead of emergency conservatorship;

10 (c) No other person appears to have authority and willingness to
11 act (~~(in the)~~) to address the respondent's identified needs caused by
12 the emergency circumstances; and

13 (~~(e)~~) (d) There is reason to believe that a basis for
14 appointment of a conservator under RCW 11.130.360 exists.

15 (~~(2)~~) (5) If the court acts on its own to appoint an emergency
16 conservator after a petition has been filed under RCW 11.130.365, all
17 requirements of this section shall be met.

18 (6) A court order appointing an emergency conservator for an
19 individual shall:

20 (a) Grant only the specific powers necessary to meet the
21 individual's identified emergency need and to prevent substantial and
22 irreparable harm to the individual's property or financial interests;

23 (b) State that the emergency conservator is prohibited from
24 delegating the powers granted to the emergency conservator in the
25 order of appointment;

26 (c) Include a specific finding that clear and convincing evidence
27 established that an emergency exists such that appointment of an
28 emergency conservator is likely to prevent substantial and
29 irreparable harm to the respondent's property or financial interests;

30 (d) Include a specific finding that the identified emergency need
31 of the respondent cannot be met by a protective arrangement instead
32 of conservatorship or other less restrictive alternative, including
33 any relief available under chapter 74.34 RCW or use of appropriate
34 supportive services, technological assistance, or supported decision
35 making;

36 (e) Include a specific finding that clear and convincing evidence
37 established the respondent was given proper notice of the hearing on
38 the petition;

39 (f) State that the individual subject to emergency
40 conservatorship retains all rights the individual enjoyed prior to

1 the emergency conservatorship with the exception of the rights not
2 retained during the period of emergency conservatorship;

3 (g) Include the date that the sixty-day period of emergency
4 conservatorship ends, and the date the emergency conservator's
5 report, required by this section, is due to the court; and

6 (h) Identify any person or notice party that subsequently is
7 entitled to:

8 (i) Notice of the rights of the individual;

9 (ii) Notice of a change in the primary dwelling of the
10 individual;

11 (iii) Notice of the removal of the conservator;

12 (iv) A copy of the emergency conservator's plan and the emergency
13 conservator's report under this section;

14 (v) Access to court records relating to the emergency
15 conservatorship;

16 (vi) Notice of the death or significant change in the condition
17 of the individual;

18 (vii) Notice that the court has limited or modified the powers of
19 the emergency conservator; and

20 (viii) Notice of the removal of the emergency conservator.

21 (7) A spouse, a domestic partner, and adult children of an adult
22 subject to emergency conservatorship are entitled to notice under
23 this section unless the court orders otherwise based on good cause.
24 Good cause includes the court's determination that notice would be
25 contrary to the preferences or prior directions of the individual
26 subject to emergency conservatorship.

27 (8) The duration of authority of an emergency conservator (~~may~~)
28 shall not exceed sixty days and the emergency conservator (~~may~~)
29 shall exercise only the powers specified in the order of appointment.
30 (~~The~~) Upon a motion by the emergency conservator, with notice
31 served upon all applicable notice parties, the emergency
32 conservator's authority may be extended once for not more than sixty
33 days if the court finds that the conditions for appointment of an
34 emergency conservator under subsection (~~(1)~~) (4) of this section
35 continue.

36 (~~(3)~~) (9) Immediately on filing of a petition for an emergency
37 conservator, the court shall appoint an attorney to represent the
38 respondent in the proceeding. (~~Except as otherwise provided in~~
39 subsection (4) of this section, reasonable) At least fourteen days'
40 notice of the date, time, and place of a hearing on the petition must

1 be given to the respondent, the respondent's attorney, and any other
2 (~~person the court determines~~) notice party. A copy of the emergency
3 petition and notice of a hearing on the petition must be served
4 personally on the respondent and the respondent's attorney not more
5 than two court days after the petition has been filed. The notice
6 must inform the respondent of the respondent's rights at the hearing,
7 including the right to an attorney and to attend the hearing. The
8 notice must include a description of the nature, purpose, and
9 consequences of granting the emergency petition. The court shall not
10 grant the emergency petition if notice substantially complying with
11 this subsection is not served on the respondent.

12 ~~((4) The court may appoint an emergency conservator without~~
13 ~~notice to the respondent and any attorney for the respondent only if~~
14 ~~the court finds from an affidavit or testimony that the respondent's~~
15 ~~property or financial interests will be substantially and irreparably~~
16 ~~harmed before a hearing with notice on the appointment can be held.~~
17 ~~If the court appoints an emergency conservator without giving notice~~
18 ~~under subsection (3) of this section, the court must give notice of~~
19 ~~the appointment not later than forty-eight hours after the~~
20 ~~appointment to:~~

21 ~~(a) The respondent;~~

22 ~~(b) The respondent's attorney; and~~

23 ~~(c) Any other person the court determines.~~

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

26 ~~(6))~~ (10) On receipt of a petition for appointment of emergency
27 conservator for an individual, the court shall appoint a court
28 visitor. Notice of appointment of the court visitor must be served
29 upon the court visitor within two days of appointment. The court
30 visitor must be an individual with training or experience in the type
31 of abilities, limitations, and needs alleged in the emergency
32 petition. The court, in the order appointing a court visitor, shall
33 specify the hourly rate the visitor may charge for his or her
34 services, and shall specify the maximum amount the court visitor may
35 charge without additional court review and approval.

36 (a) The court visitor shall within two days of service of notice
37 of appointment file with the court and serve, either personally or by
38 certified mail with return receipt, the respondent or the
39 respondent's legal counsel, the petitioner or the petitioner's legal
40 counsel, and any notice party with a statement including the court

1 visitor's: Training relating to the duties as a court visitor;
2 criminal history as defined in RCW 9.94A.030 for the period covering
3 ten years prior to the appointment; hourly rate, if compensated;
4 contact, if any, with a party to the proceeding prior to appointment;
5 and apparent or actual conflicts of interest.

6 (b) A court visitor appointed under this section shall use due
7 diligence to attempt to interview the respondent in person and, in a
8 manner the respondent is best able to understand:

9 (i) Explain to the respondent the substance of the emergency
10 petition, the nature, purpose, and effect of the proceeding, the
11 respondent's rights at the hearing on the petition, and the proposed
12 specific powers and duties of the proposed conservator as stated in
13 the emergency petition;

14 (ii) Determine the respondent's views about the emergency
15 appointment sought by the petitioner, including views about a
16 proposed emergency conservator, the emergency conservator's proposed
17 powers and duties, and the scope and duration of the proposed
18 emergency conservatorship; and

19 (iii) Inform the respondent that all costs and expenses of the
20 proceeding, including but not limited to the respondent's attorneys'
21 fees, the appointed conservator's fees, and the appointed
22 conservator's attorneys' fees, will be paid from the respondent's
23 assets upon approval by the court.

24 (c) The court visitor appointed under this section shall:

25 (i) Interview the petitioner and proposed emergency conservator;

26 (ii) Use due diligence to attempt to visit the respondent's
27 present dwelling;

28 (iii) Use due diligence to attempt to obtain information from any
29 physician or other person known to have treated, advised, or assessed
30 the respondent's relevant physical or mental condition; and

31 (iv) Investigate the allegations in the emergency petition and
32 any other matter relating to the emergency petition the court
33 directs.

34 (d) A court visitor appointed under this section shall file a
35 report in a record with the court and provide a copy of the report to
36 the respondent, petitioner, and any notice party at least seven days
37 prior to the hearing on the emergency petition, which must include:

38 (i) A recommendation regarding the appropriateness of emergency
39 conservatorship, including whether a protective arrangement instead
40 of conservatorship or other less restrictive alternative for meeting

1 the respondent's needs is available, and if an emergency
2 conservatorship is recommended;

3 (ii) A detailed summary of the alleged emergency and the
4 substantial and irreparable harm to the respondent's health, safety,
5 welfare, or rights that is likely to be prevented by the appointment
6 of an emergency conservator;

7 (iii) A statement as to whether the alleged emergency and the
8 respondent's alleged needs are likely to require an extension of
9 sixty days as authorized under this section;

10 (iv) The specific powers to be granted to the emergency
11 conservator and how the specific powers will address the alleged
12 emergency and the respondent's alleged need;

13 (v) A recommendation regarding the appropriateness of an ongoing
14 conservatorship for an individual, including whether a protective
15 arrangement instead of conservatorship or other less restrictive
16 alternative for meeting the respondent's needs is available;

17 (vi) A statement of the qualifications of the proposed emergency
18 conservator and whether the respondent approves or disapproves of the
19 proposed emergency conservator, and the reasons for such approval or
20 disapproval;

21 (vii) A recommendation whether a professional evaluation under
22 RCW 11.130.390 is necessary;

23 (viii) A statement whether the respondent is able to attend a
24 hearing at the location court proceedings typically are held;

25 (ix) A statement whether the respondent is able to participate in
26 a hearing which identifies any technology or other form of support
27 that would enhance the respondent's ability to participate; and

28 (x) Any other matter the court directs.

29 (11) An emergency conservator shall:

30 (a) Comply with the requirements of RCW 11.130.505 and the
31 requirements of this chapter that pertain to the rights of an
32 individual subject to conservatorship;

33 (b) Not delegate any of the powers granted in the petition for
34 appointment of an emergency conservator;

35 (c) Not have authority to make decisions or take actions that a
36 conservator for an individual is prohibited by law from having; and

37 (d) Be subject to the same special limitations on a conservator's
38 power that apply to a conservator for an individual.

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

4 ~~((7))~~ (13) The court may remove an emergency conservator
5 appointed under this section at any time.

6 (14) The emergency conservator shall file a report in a record
7 with the court and provide a copy of the report to the individual
8 subject to emergency conservatorship, and any notice party no later
9 than forty-five days after appointment. The report shall include
10 specific and updated information regarding the emergency alleged in
11 the emergency petition, the individual's emergency needs, all actions
12 and decisions by the emergency conservator, and a recommendation as
13 to whether a conservator for an individual should be appointed. If
14 the appointment of the emergency conservator is extended for an
15 additional sixty days, the emergency conservator shall file a second
16 report in a record with the court and provide a copy of the report to
17 the individual subject to emergency conservatorship, and any notice
18 party no later than forty-five days after appointment, which shall
19 include the same information required for the first report. The
20 emergency conservator shall make any other report the court requires.

21 (15) The court shall issue letters of emergency conservatorship
22 to the emergency conservator in compliance with RCW 11.130.040.

23 **Sec. 220.** RCW 11.130.435 and 2019 c 437 s 414 are each amended
24 to read as follows:

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

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

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

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

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

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

37 ~~((e))~~ (f) Create a revocable or irrevocable trust of property
38 of the conservatorship estate, whether or not the trust extends

1 beyond the duration of the conservatorship, or revoke or amend a
2 trust revocable by the individual subject to conservatorship;

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

6 ~~((g))~~ (h) Exercise a right to a quasi-community property share
7 under RCW 26.16.230 or a right to an elective share under other law
8 in the estate of a deceased spouse or domestic partner of the
9 individual subject to conservatorship or renounce or disclaim a
10 property interest;

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

16 ~~(i))~~ (j) Make, modify, amend, or revoke the will of the
17 individual subject to conservatorship in compliance with chapter
18 11.12 RCW;

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

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

26 (m) Subdivide or develop land, dedicate land to public use, make
27 or obtain the vacation of a plat and adjust a boundary, adjust a
28 difference in valuation of land, exchange or partition land by giving
29 or receiving consideration, and dedicate an easement to public use
30 without consideration;

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

34 (o) Structure the finances of the individual subject to
35 conservatorship to establish eligibility for a public benefit
36 including by making gifts consistent with the individual's
37 preferences, values, and prior directions, if the conservator's
38 action does not jeopardize the individual's welfare and otherwise is
39 consistent with the conservator's duties.

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

5 (3) To determine under subsection (2) of this section the
6 decision the individual subject to conservatorship would make if
7 able, the court shall consider the individual's prior or current
8 directions, preferences, opinions, values, and actions, to the extent
9 actually known or reasonably ascertainable by the conservator. The
10 court also shall consider:

11 (a) The financial needs of the individual subject to
12 conservatorship and individuals who are in fact dependent on the
13 individual subject to conservatorship for support, and the interests
14 of creditors of the individual;

15 (b) Possible reduction of income, estate, inheritance, or other
16 tax liabilities;

17 (c) Eligibility for governmental assistance;

18 (d) The previous pattern of giving or level of support provided
19 by the individual;

20 (e) Any existing estate plan or lack of estate plan of the
21 individual;

22 (f) The life expectancy of the individual and the probability the
23 conservatorship will terminate before the individual's death; and

24 (g) Any other relevant factor.

25 (4) A conservator may not revoke or amend a power of attorney for
26 finances executed by the individual subject to conservatorship. If a
27 power of attorney for finances is in effect, a decision of the agent
28 within the scope of the agent's authority takes precedence over that
29 of the conservator, unless the court orders otherwise. The court has
30 authority to revoke or amend any power of attorney executed by the
31 adult.

32 **Sec. 221.** RCW 11.130.505 and 2019 c 437 s 418 are each amended
33 to read as follows:

34 (1) A conservator is a fiduciary and has duties of prudence and
35 loyalty to the individual subject to conservatorship.

36 (2) A conservator shall promote the self-determination of the
37 individual subject to conservatorship and, to the extent feasible,
38 encourage the individual to participate in decisions, act on the

1 individual's own behalf, and develop or regain the capacity to manage
2 the individual's personal affairs.

3 (3) In making a decision for an individual subject to
4 conservatorship, the conservator shall make the decision the
5 conservator reasonably believes the individual would make if able,
6 unless doing so would fail to preserve the resources needed to
7 maintain the individual's well-being and lifestyle or otherwise
8 unreasonably harm or endanger the welfare or personal or financial
9 interests of the individual. To determine the decision the individual
10 would make if able, the conservator shall consider the individual's
11 prior or current directions, preferences, opinions, values, and
12 actions, to the extent actually known or reasonably ascertainable by
13 the conservator.

14 (4) If a conservator cannot make a decision under subsection (3)
15 of this section because the conservator does not know and cannot
16 reasonably determine the decision the individual subject to
17 conservatorship probably would make if able, or the conservator
18 reasonably believes the decision the individual would make would fail
19 to preserve resources needed to maintain the individual's well-being
20 and lifestyle or otherwise unreasonably harm or endanger the welfare
21 or personal or financial interests of the individual, the conservator
22 shall act in accordance with the best interests of the individual. In
23 determining the best interests of the individual, the conservator
24 shall consider:

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

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

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

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

35 (a) The circumstances of the individual subject to
36 conservatorship and the conservatorship estate;

37 (b) General economic conditions;

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

39 (d) The expected tax consequences of an investment decision or
40 strategy;

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

3 (f) The expected total return from income and appreciation of
4 capital;

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

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

9 (6) The propriety of a conservator's investment and management of
10 the conservatorship estate is determined in light of the facts and
11 circumstances existing when the conservator decides or acts and not
12 by hindsight.

13 (7) A conservator shall make a reasonable effort to verify facts
14 relevant to the investment and management of the conservatorship
15 estate.

16 (8) A conservator that has special skills or expertise, or is
17 named conservator in reliance on the conservator's representation of
18 special skills or expertise, has a duty to use the special skills or
19 expertise in carrying out the conservator's duties.

20 (9) In investing, selecting specific property for distribution,
21 and invoking a power of revocation or withdrawal for the use or
22 benefit of the individual subject to conservatorship, a conservator
23 shall consider any estate plan of the individual known or reasonably
24 ascertainable to the conservator and may examine the will or other
25 donative, nominative, or appointive instrument of the individual.

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

30 (a) The property lacks sufficient equity; or

31 (b) Insuring the property would unreasonably dissipate the
32 conservatorship estate or otherwise not be in the best interest of
33 the individual.

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

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

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

5 (14) A conservator shall notify the court within thirty days of
6 any substantial change in the value of the property of the person
7 subject to conservatorship and shall provide a copy of the notice to
8 the person subject to guardianship, a person entitled to notice under
9 RCW ((~~11.130.370~~)) 11.130.420(6) or a subsequent court order, and any
10 other person the court has determined is entitled to notice and
11 schedule a hearing for the court to review the adequacy of the bond
12 or other verified receipt under RCW 11.130.445 and 11.130.500.

13 **Sec. 222.** RCW 11.130.515 and 2019 c 437 s 420 are each amended
14 to read as follows:

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

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

25 (3) A conservator shall keep records of the administration of the
26 conservatorship estate and make them available for examination on
27 reasonable request of the individual subject to conservatorship, a
28 guardian for the individual, or any other person the conservator or
29 the court determines.

30 **Sec. 223.** RCW 11.130.520 and 2019 c 437 s 421 are each amended
31 to read as follows:

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

37 (2) A conservator, acting reasonably and consistent with the
38 fiduciary duties of the conservator to accomplish the purpose of the

1 conservatorship, without specific court authorization or
2 confirmation, may with respect to the conservatorship estate:

3 (a) Collect, hold, and retain property, including property in
4 which the conservator has a personal interest and real property in
5 another state, until the conservator determines disposition of the
6 property should be made;

7 (b) Receive additions to the conservatorship estate;

8 (c) Continue or participate in the operation of a business or
9 other enterprise;

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

12 (e) Invest assets;

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

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

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

22 ~~(i) Subdivide or develop land, dedicate land to public use, make
23 or obtain the vacation of a plat and adjust a boundary, adjust a
24 difference in valuation of land, exchange or partition land by giving
25 or receiving consideration, and dedicate an easement to public use
26 without consideration;~~

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

30 ~~(k))~~ Enter into a lease or arrangement for exploration and
31 removal of minerals or other natural resources or a pooling or
32 unitization agreement;

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

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

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

39 ~~((o))~~ (k) Sell or exercise a stock subscription or conversion
40 right;

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

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

7 ~~((r))~~ (n) Insure:

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

10 (ii) The conservator against liability with respect to a third
11 person;

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

14 ~~((t))~~ (p) Advance funds for the protection of the
15 conservatorship estate or the individual subject to conservatorship
16 and all expenses, losses, and liability sustained in the
17 administration of the conservatorship estate or because of holding
18 any property for which the conservator has a lien on the
19 conservatorship estate;

20 ~~((u))~~ (q) Pay or contest a claim, settle a claim by or against
21 the conservatorship estate or the individual subject to
22 conservatorship by compromise, arbitration, or otherwise, or release,
23 in whole or in part, a claim belonging to the conservatorship estate
24 to the extent the claim is uncollectible;

25 ~~((v))~~ (r) Pay a tax, assessment, compensation of the
26 conservator or any guardian, and other expense incurred in the
27 collection, care, administration, and protection of the
28 conservatorship estate;

29 ~~((w))~~ (s) Pay a sum distributable to the individual subject to
30 conservatorship or an individual who is in fact dependent on the
31 individual subject to conservatorship by paying the sum to the
32 distributee or for the use of the distributee:

33 (i) To the guardian for the distributee;

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

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

1 ~~((x))~~ (t) Bring or defend an action, claim, or proceeding in
2 any jurisdiction for the protection of the conservatorship estate or
3 the conservator in the performance of the conservator's duties; and
4 ~~((y) Structure the finances of the individual subject to
5 conservatorship to establish eligibility for a public benefit,
6 including by making gifts consistent with the individual's
7 preferences, values, and prior directions, if the conservator's
8 action does not jeopardize the individual's welfare and otherwise is
9 consistent with the conservator's duties; and~~
10 ~~(z))~~ (u) Execute and deliver any instrument that will accomplish
11 or facilitate the exercise of a power of the conservator.

12 **Sec. 224.** RCW 11.130.530 and 2019 c 437 s 423 are each amended
13 to read as follows:

14 (1) A conservator shall file with the court by the date
15 established by the court a report in a record regarding the
16 administration of the conservatorship estate unless the court
17 otherwise directs, on resignation or removal, on termination of the
18 conservatorship, and at any other time the court directs.

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

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

24 (b) A list of the services provided to the individual subject to
25 conservatorship;

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

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

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

36 (f) Anything of more than de minimis value which the conservator,
37 any individual who resides with the conservator, or the spouse,
38 domestic partner, parent, child, or sibling of the conservator has

1 received from a person providing goods or services to the individual
2 subject to conservatorship;

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

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

8 (3) The court may appoint a court visitor to review a report
9 under this section or conservator's plan under RCW 11.130.510,
10 interview the individual subject to conservatorship or conservator,
11 or investigate any other matter involving the conservatorship. In
12 connection with the report, the court may order the conservator to
13 submit the conservatorship estate to appropriate examination in a
14 manner the court directs.

15 (4) Notice of the filing under this section of a conservator's
16 report, together with a copy of the report, must be provided to the
17 individual subject to conservatorship, a person entitled to notice
18 under RCW 11.130.420(6) or a subsequent order, and other persons the
19 court determines. The notice and report must be given not later than
20 fourteen days after filing.

21 (5) The court shall establish procedures for monitoring a report
22 submitted under this section and review each report at least annually
23 to determine whether:

24 (a) The reports provide sufficient information to establish the
25 conservator has complied with the conservator's duties;

26 (b) The conservatorship should continue; and

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

28 (6) If the court determines there is reason to believe a
29 conservator has not complied with the conservator's duties or the
30 conservatorship should not continue, the court:

31 (a) Shall notify the individual subject to conservatorship, the
32 conservator, and any other person entitled to notice under RCW
33 11.130.420(6) or a subsequent order;

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

35 (c) May appoint a court visitor to interview the individual
36 subject to conservatorship or conservator or investigate any matter
37 involving the conservatorship; and

38 (d) Consistent with RCW 11.130.565 and 11.130.570, may hold a
39 hearing to consider removal of the conservator, termination of the

1 conservatorship, or a change in the powers granted to the conservator
2 or terms of the conservatorship.

3 (7) If the court has reason to believe fees requested by a
4 conservator are not reasonable, the court shall hold a hearing to
5 determine whether to adjust the requested fees.

6 (8) A conservator must petition the court for approval of a
7 report filed under this section. The court after review may approve
8 the report. If the court approves the report, there is a rebuttable
9 presumption the report is accurate as to a matter adequately
10 disclosed in the report.

11 (9) An order, after notice and hearing, approving an interim
12 report of a conservator filed under this section adjudicates
13 liabilities concerning a matter adequately disclosed in the report,
14 as to a person given notice of the report or accounting.

15 (10) If the court approves a report filed under this section, the
16 order approving the report shall set the due date for the filing of
17 the next report to be filed under this section. The court may set the
18 review at annual, biennial, or triennial intervals with the report
19 due date to be within ninety days of the anniversary date of
20 appointment. When determining the report interval, the court can
21 consider: The length of time the conservator has been serving the
22 person under conservatorship; whether the conservator has timely
23 filed all required reports with the court; whether the conservator is
24 monitored by other state or local agencies; the income of the person
25 subject to conservatorship; the value of the property of the person
26 subject to conservatorship; the adequacy of the bond and other
27 verified receipt; and whether there have been any allegations of
28 abuse, neglect, or a breach of fiduciary duty against the
29 conservator.

30 (11) If the court approves a report filed under this section, the
31 order approving the report shall contain a conservatorship summary or
32 accompanied by a conservatorship summary in the form or substantially
33 in the same form as set forth in RCW 11.130.665.

34 (12) If the court approves a report filed under this section, the
35 order approving the report shall direct the clerk of the court to
36 reissue letters of office in the form or substantially in the same
37 form as set forth in RCW 11.130.660 to the conservator containing an
38 expiration date which will be within one hundred (~~twenty~~) eighty
39 days after the date the court directs the conservator file its next
40 report.

1 (13) An order, after notice and hearing, approving a final report
2 filed under this section discharges the conservator from all
3 liabilities, claims, and causes of action by a person given notice of
4 the report and the hearing as to a matter adequately disclosed in the
5 report.

6 (14) Any requirement to establish a monitoring program under this
7 section is subject to appropriation.

8 **Sec. 225.** RCW 11.130.550 and 2019 c 437 s 427 are each amended
9 to read as follows:

10 (1) ~~((If an individual subject to conservatorship dies, the~~
11 ~~conservator shall deliver))~~ Upon the death of an individual subject
12 to conservatorship, a conservator shall:

13 (a) Have authority to disburse or commit those funds under the
14 control of the conservator as are prudent and within the means of the
15 estate for the disposition of the deceased individual subject to
16 conservatorship's remains. Consent for such arrangement must be
17 secured according to RCW 68.50.160. If no person authorized by RCW
18 68.50.160 accepts responsibility for giving consent, the conservator
19 may consent, subject to the provisions of this section and to the
20 known directives of the deceased individual subject to
21 conservatorship. Reasonable financial commitments made by a
22 conservator pursuant to this section are binding against the estate
23 of the deceased individual subject to conservatorship;

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

28 (2) If forty days after the death of an individual subject to
29 conservatorship no personal representative has been appointed and no
30 application or petition for appointment is before the court, the
31 conservator may apply to exercise the powers and duties of a personal
32 representative to administer and distribute the decedent's estate.
33 The conservator shall give notice of his or her appointment and the
34 pendency of any probate proceedings as provided in RCW 11.28.237 and
35 shall also give notice to a person nominated as personal
36 representative by a will of the decedent of which the conservator is
37 aware. The court may grant the application if there is no objection
38 and endorse the letters of office to note that the individual

1 formerly subject to conservatorship is deceased and the conservator
2 has acquired the powers and duties of a personal representative.

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

6 NEW SECTION. **Sec. 226.** A new section is added to chapter 11.130
7 RCW to read as follows:

8 CONSERVATOR ACCESS TO CERTAIN HELD ASSETS. (1) For purposes of
9 this section, "institution" means all financial institutions as
10 defined in RCW 30A.22.041, all insurance companies holding a
11 certificate of authority under chapter 48.05 RCW, or any agent who
12 constitutes a salesperson or broker-dealer of securities under the
13 definitions of RCW 21.20.005, individually and collectively.

14 (2) Institutions shall provide the conservator access and control
15 over the assets described in (a)(vii) of this subsection, including
16 but not limited to delivery of the asset to the conservator, upon
17 receipt of the following:

18 (a) An affidavit containing as an attachment a true and correct
19 copy of the conservator's letters of conservatorship and stating:

20 (i) That as of the date of the affidavit, the affiant is a duly
21 appointed conservator with authority over assets held by the
22 institution but owned or subject to withdrawal or delivery to a
23 client or depositor of the institution;

24 (ii) The cause number of the conservatorship;

25 (iii) The name of the person under conservatorship and the name
26 of the client or depositor, which names must be the same;

27 (iv) The account or the safety deposit box number or numbers;

28 (v) The address of the client or depositor;

29 (vi) The name and address of the affiant-conservator being
30 provided assets or access to assets;

31 (vii) A description of and the value of the asset or assets, or,
32 where the value cannot be readily ascertained, a reasonable estimate
33 thereof, and a statement that the conservator receives delivery or
34 control of each asset solely in its capacity as conservator;

35 (viii) The date the conservator assumed control over the assets;
36 and

37 (ix) That a true and correct copy of the letters of
38 conservatorship duly issued by a court to the conservator is attached
39 to the affidavit; and

1 (b) An envelope, with postage prepaid, addressed to the clerk of
2 the court issuing the letters of conservatorship. The affidavit must
3 be sent in the envelope by the institution to the clerk of the court
4 together with a statement signed by an agent of the institution that
5 the description of the asset set forth in the affidavit appears to be
6 accurate, and confirming in the case of cash assets, the value of the
7 asset.

8 (3) Any conservator provided with access to a safe deposit box
9 pursuant to subsection (1) of this section shall make an inventory of
10 the contents of the box and attach this inventory to the affidavit
11 before the affidavit is sent to the clerk of the court and before the
12 contents of the box are released to the conservator. Any inventory
13 must be prepared in the presence of an employee of the institution
14 and the statement of the institution required under subsection (1) of
15 this section must include a statement executed by the employee that
16 the inventory appears to be accurate. The institution may require
17 payment by the conservator of any fees or charges then due in
18 connection with the asset or account and of a reasonable fee for
19 witnessing preparation of the inventory and preparing the statement
20 required by this subsection or subsection (1) of this section.

21 (4) Any institution to which an affidavit complying with
22 subsection (1) of this section is submitted may rely on the affidavit
23 without inquiry and is not subject to any liability of any nature
24 whatsoever to any person whatsoever, including but not limited to the
25 institution's client or depositor or any other person with an
26 ownership or other interest in or right to the asset, for the
27 reliance or for providing the conservator access and control over the
28 asset, including but not limited to delivery of the asset to the
29 conservator.

30 **Sec. 227.** RCW 11.130.670 and 2019 c 437 s 701 are each amended
31 to read as follows:

32 (1) The certified professional guardianship board must resolve
33 grievances against professional guardians and/or conservators within
34 a reasonable time for alleged violations of the certified
35 professional guardianship board's standards of practice, statutes,
36 regulations, or rules, that relate to the conduct of a certified
37 professional guardian or conservator.

38 (a) All grievances must initially be reviewed within thirty days
39 by certified professional guardianship board members, or a subset

1 thereof, to determine if the grievance is complete, states facts that
2 ((allege)) describe a violation of the standards of practice,
3 statutes, regulations, or rules, and relates to the conduct of a
4 professional guardian and/or conservator, before ((any investigation
5 ~~or~~)) investigating, requesting a response ((is requested)) from the
6 professional guardian or conservator, or forwarding to the superior
7 courts. ((Grievances)) To be complete, grievances must provide
8 sufficient details of the alleged conduct to demonstrate that a
9 violation of the statute, regulation, standard of practice, or rule,
10 relating to the conduct of a certified professional guardian or
11 conservator could have occurred, the dates ((or)) the alleged
12 ((violations)) conduct occurred, and must be signed and dated by the
13 person filing the grievance. Grievance investigations by the board
14 are limited to the allegations contained in the grievance unless,
15 after review by a majority of the members of the certified
16 professional guardianship board, further investigation is justified.

17 (b) If the certified professional guardianship board determines
18 the grievance is complete, states facts that allege a violation of
19 the certified professional guardianship board's standards of
20 practice, and relates to the conduct of a professional guardian
21 and/or conservator, the certified professional guardianship board
22 must forward that grievance within ten days to the superior court for
23 that guardianship or conservatorship and to the professional guardian
24 and/or conservator. The court must review the matter as set forth in
25 RCW 11.130.140, and must direct the clerk of the court to send a copy
26 of the order entered under this section to the certified professional
27 guardianship board. The certified professional guardianship board
28 must accept as facts any finding of fact contained in the order. The
29 certified professional guardianship board must act consistently with
30 any finding of fact issued in that order.

31 (2) Grievances received by the certified professional
32 guardianship board must be ((resolved)) investigated and the
33 resolution determined and in process within one hundred eighty days
34 of receipt. The one hundred eighty days is tolled during any period
35 of time when:

36 (a) The certified professional guardianship board has provided a
37 certified professional guardian or conservator an opportunity to
38 respond to a grievance against the certified professional guardian or
39 conservator and the certified professional guardianship board is

1 awaiting the certified professional guardian or conservator's
2 response;

3 (b) The certified professional guardianship board has forwarded a
4 grievance to the superior court for review under subsection (1)(b) of
5 this section and is awaiting receipt of the court's entered order
6 with findings; or

7 (c) A certified professional guardianship board disciplinary
8 hearing has been requested or is in process and during the time of
9 posthearing board review of the hearing officer's recommendations
10 through issuance of a final certified professional guardianship
11 board's order on the matter.

12 (3) If the grievance cannot be resolved within one hundred eighty
13 days, the certified professional guardianship board must notify the
14 professional guardian and/or conservator. The professional guardian
15 or conservator may propose a resolution of the grievance with facts
16 and/or arguments. The certified professional guardianship board may
17 accept the proposed resolution or determine that an additional ninety
18 days are needed to review the grievance. If the certified
19 professional guardianship board has not resolved the grievance within
20 the additional ninety days the professional guardian or conservator
21 may:

22 (a) File a motion for a court order to compel the certified
23 professional guardianship board to resolve the grievance within a
24 reasonable time; or

25 (b) Move for the superior court to resolve the grievance instead
26 of being resolved by the certified professional guardianship board.

27 (4) The superior court has authority to enforce the certified
28 professional guardianship board's standards of practice in this
29 article to the extent those standards are related to statutory or
30 fiduciary duties of guardians and conservators.

31 (5) Any unresolved grievances filed with the certified
32 professional guardianship board (~~at the time of~~) one year or more
33 before January 1, 2021, must be forwarded to the superior court for
34 that guardianship or conservatorship for review by the superior court
35 as set forth in RCW 11.130.140 if the grievance is not in process of
36 a hearing or final resolution.

37 NEW SECTION. Sec. 228. A new section is added to chapter 11.130
38 RCW to read as follows:

1 For the purposes of this chapter, an adult is presumed to have
2 legal capacity.

3 **PART III**
4 **OTHER PROVISIONS**

5 **Sec. 301.** RCW 11.130.010 and 2019 c 437 s 102 are each amended
6 to read as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

9 (1) "Adult" means an individual at least eighteen years of age or
10 an emancipated individual under eighteen years of age.

11 (2) "Adult subject to conservatorship" means an adult for whom a
12 conservator has been appointed under this chapter.

13 (3) "Adult subject to guardianship" means an adult for whom a
14 guardian has been appointed under this chapter.

15 (4) "Claim" includes a claim against an individual or
16 conservatorship estate, whether arising in contract, tort, or
17 otherwise.

18 (5) "Conservator" means a person appointed by a court to make
19 decisions with respect to the property or financial affairs of an
20 individual subject to conservatorship. The term includes a co-
21 conservator.

22 (6) "Conservatorship estate" means the property subject to
23 conservatorship under this chapter.

24 (7) "Court visitor" means the person appointed by the court
25 pursuant to RCW 11.130.280(1) or 11.130.380(1).

26 (8) "Evaluation and treatment facility" has the same meaning as
27 provided in RCW 71.05.020.

28 ~~((+8))~~ (9) "Full conservatorship" means a conservatorship that
29 grants the conservator all powers available under this chapter.

30 ~~((+9))~~ (10) "Full guardianship" means a guardianship that grants
31 the guardian all powers available under this chapter.

32 ~~((+10))~~ (11) "Guardian" means a person appointed by the court to
33 make decisions with respect to the personal affairs of an individual.
34 The term includes a co-guardian but does not include a guardian ad
35 litem.

36 ~~((+11))~~ (12) "Guardian ad litem" means a person appointed to
37 inform the court about, and to represent, the needs and best
38 interests of ~~((an individual))~~ a minor.

1 ~~((12))~~ (13) "Individual subject to conservatorship" means an
2 adult or minor for whom a conservator has been appointed under this
3 chapter.

4 ~~((13))~~ (14) "Individual subject to guardianship" means an adult
5 or minor for whom a guardian has been appointed under this chapter.

6 ~~((14))~~ (15) "Less restrictive alternative" means an approach to
7 meeting an individual's needs which restricts fewer rights of the
8 individual than would the appointment of a guardian or conservator.
9 The term includes supported decision making, appropriate
10 technological assistance, appointment of a representative payee, and
11 appointment of an agent by the individual, including appointment
12 under a power of attorney for health care or power of attorney for
13 finances.

14 ~~((15))~~ (16) "Letters of office" means a record issued by a
15 court certifying a guardian's or conservator's authority to act.

16 ~~((16))~~ (17) "Limited conservatorship" means a conservatorship
17 that grants the conservator less than all powers available under this
18 chapter, grants powers over only certain property, or otherwise
19 restricts the powers of the conservator.

20 ~~((17))~~ (18) "Limited guardianship" means a guardianship that
21 grants the guardian less than all powers available under this chapter
22 or otherwise restricts the powers of the guardian.

23 ~~((18))~~ (19) "Long-term care facility" has the same meaning as
24 provided in RCW 70.129.010.

25 ~~((19))~~ (20) "Minor" means an unemancipated individual under
26 eighteen years of age.

27 ~~((20))~~ (21) "Minor subject to conservatorship" means a minor
28 for whom a conservator has been appointed under this chapter.

29 ~~((21))~~ (22) "Minor subject to guardianship" means a minor for
30 whom a guardian has been appointed under this chapter.

31 ~~((22))~~ (23) "Notice party" means a person entitled to notice
32 under this chapter or otherwise determined by the court to be
33 entitled to notice.

34 (24) "Parent" does not include an individual whose parental
35 rights have been terminated.

36 ~~((23))~~ (25) "Person" means an individual, estate, business or
37 nonprofit entity, public corporation, government or governmental
38 subdivision, agency, or instrumentality, or other legal entity.

39 ~~((24))~~ (26) "Professional guardian or conservator" means a
40 guardian or conservator appointed under this chapter who is not a

1 relative of the person subject to guardianship or conservatorship
2 established under this chapter and who charges fees for carrying out
3 the duties of court-appointed guardian or conservator for three or
4 more persons.

5 ~~((25))~~ (27) "Property" includes tangible and intangible
6 property.

7 ~~((26))~~ (28) "Protective arrangement instead of conservatorship"
8 means a court order entered under RCW 11.130.590.

9 ~~((27))~~ (29) "Protective arrangement instead of guardianship"
10 means a court order entered under RCW 11.130.585.

11 ~~((28))~~ (30) "Protective arrangement under Article 5 of this
12 chapter" means a court order entered under RCW 11.130.585 or
13 11.130.590.

14 ~~((29))~~ (31) "Record," used as a noun, means information that is
15 inscribed on a tangible medium or that is stored in an electronic or
16 other medium and is retrievable in perceivable form.

17 ~~((30))~~ (32) "Relative" means any person related by blood or by
18 law to the person subject to guardianship, conservatorship, or other
19 protective arrangements.

20 ~~((31))~~ (33) "Respondent" means an individual for whom
21 appointment of a guardian or conservator or a protective arrangement
22 instead of guardianship or conservatorship is sought.

23 ~~((32))~~ (34) "Sign" means, with present intent to authenticate
24 or adopt a record:

25 (a) To execute or adopt a tangible symbol; or

26 (b) To attach to or logically associate with the record an
27 electronic symbol, sound, or process.

28 ~~((33))~~ (35) "Special agent" means the person appointed by the
29 court pursuant to RCW 11.130.375 or 11.130.635.

30 ~~((34))~~ (36) "Standby guardian" means a person appointed by the
31 court under RCW 11.130.220.

32 ~~((35))~~ (37) "State" means a state of the United States, the
33 District of Columbia, Puerto Rico, the United States Virgin Islands,
34 or any territory or insular possession subject to the jurisdiction of
35 the United States. The term includes a federally recognized Indian
36 tribe.

37 ~~((36))~~ (38) "Supported decision making" means assistance from
38 one or more persons of an individual's choosing in understanding the
39 nature and consequences of potential personal and financial
40 decisions, which enables the individual to make the decisions, and in

1 communicating a decision once made if consistent with the
2 individual's wishes.

3 ~~((37))~~ (39) "Verified receipt" is a verified receipt signed by
4 the custodian of funds stating that a savings and loan association or
5 bank, trust company, escrow corporation, or other corporations
6 approved by the court hold the cash or securities of the individual
7 subject to conservatorship subject to withdrawal only by order of the
8 court.

9 ~~((38))~~ (40) "Visitor" means ~~((the person appointed by the court
10 pursuant to RCW 11.130.280(1) or 11.130.380(1)))~~ a court visitor.

11 **Sec. 302.** RCW 11.130.035 and 2019 c 437 s 107 are each amended
12 to read as follows:

13 (1) Except as otherwise provided in this chapter, the rules of
14 evidence and civil procedure, including rules concerning appellate
15 review, govern a proceeding under this chapter.

16 (2) If proceedings for a guardianship, conservatorship, or
17 protective arrangement under Article 5 of this chapter for the same
18 individual are commenced or pending in the same court, the
19 proceedings may be consolidated.

20 (3) ~~((A))~~ An adult respondent may demand a jury trial in a
21 proceeding under this chapter on the issue ~~((whether a basis exists
22 for appointment of a guardian or conservator))~~ of legal capacity.

23 (4) Upon the motion of the respondent or the court visitor, prior
24 to the appointment of a guardian or a conservator or the
25 establishment of a protective arrangement for an adult, or upon the
26 motion of the respondent, guardian, conservator, or any notice party
27 subsequent to such appointment, whenever it appears that the
28 respondent could benefit from mediation, the court may require the
29 respondent, guardian, conservator, and any notice party to
30 participate in mediation pursuant to RCW 11.96A.300.

31 **Sec. 303.** RCW 11.130.040 and 2019 c 437 s 108 are each amended
32 to read as follows:

33 (1) The court shall issue letters of guardianship to a guardian
34 on filing by the guardian of an acceptance of appointment.

35 (2) The court shall issue letters of conservatorship to a
36 conservator on filing by the conservator of an acceptance of
37 appointment and filing of any required bond or compliance with any
38 other verified receipt required by the court.

1 (3) Limitations on the powers of a guardian or conservator or on
2 the property subject to conservatorship must be (~~stated on the~~
3 ~~letters of office~~) included on the form prescribed by RCW
4 11.130.660.

5 (4) The court at any time may limit the powers conferred on a
6 guardian or conservator. The court shall issue new letters of office
7 to reflect the limitation.

8 (5) A guardian or conservator may not act on behalf of a person
9 under guardianship or conservatorship without valid letters of
10 office.

11 (6) The clerk of the superior court shall issue letters of
12 guardianship or conservatorship in or substantially in the same form
13 as set forth in RCW 11.130.660.

14 (7) Letters of office issued to a guardian or conservator who is
15 a nonresident of this state must include the name and contact
16 information for the resident agent of the guardian or conservator,
17 appointed pursuant to RCW 11.130.090(1)(c).

18 (8) This chapter does not affect the validity of letters of
19 office issued under chapter 11.88 RCW prior to January 1, 2021.

20 **Sec. 304.** RCW 11.130.100 and 2019 c 437 s 120 are each amended
21 to read as follows:

22 (1) Unless otherwise compensated or reimbursed, an attorney for a
23 respondent in a proceeding under this chapter is entitled to
24 reasonable compensation for services and reimbursement of reasonable
25 expenses from the property of the respondent.

26 (2) Unless otherwise compensated or reimbursed, an attorney or
27 other person whose services resulted in an order beneficial to an
28 individual subject to guardianship or conservatorship or for whom a
29 protective arrangement under Article 5 of this chapter was ordered is
30 entitled to reasonable compensation for services and reimbursement of
31 reasonable expenses from the property of the individual.

32 (~~The court must approve compensation and expenses payable~~
33 ~~under this section before payment. Approval is not required before a~~
34 ~~service is provided or an expense is incurred.~~

35 (~~If the court dismisses a petition under this chapter and~~
36 ~~determines the petition was filed in bad faith, the court may assess~~
37 ~~the cost of any court-ordered professional evaluation or visitor~~
38 ~~against the petitioner.~~

1 ~~(5))~~) Where the person subject to guardianship or conservatorship
2 is a department of social and health services client, or health care
3 authority client, and is required to contribute a portion of their
4 income towards the cost of long-term care services or room and board,
5 the amount of compensation or reimbursement shall not exceed the
6 amount allowed by the department of social and health services or
7 health care authority by rule.

8 ~~((6))~~) (4) Where the person subject to guardianship or
9 conservatorship receives guardianship, conservatorships, or other
10 protective services from the office of public guardianship, the
11 amount of compensation or reimbursement shall not exceed the amount
12 allowed by the office of public guardianship.

13 ~~((7))~~) (5) The court must approve compensation and expenses
14 payable under this section before payment. Approval is not required
15 before a service is provided or an expense is incurred.

16 ~~((8))~~) (6) If the court dismisses a petition under this chapter
17 and determines the petition was filed in bad faith, the court may
18 assess the cost of any court-ordered professional evaluation or court
19 visitor against the petitioner.

20 **Sec. 305.** RCW 11.130.105 and 2019 c 437 s 121 are each amended
21 to read as follows:

22 (1) Subject to court approval, a guardian is entitled to
23 reasonable compensation for services as guardian and to reimbursement
24 for room, board, clothing, and other appropriate expenses advanced
25 for the benefit of the individual subject to guardianship. ~~((If a~~
26 ~~conservator, other than the guardian or a person affiliated with the~~
27 ~~guardian, is appointed for the individual, reasonable compensation~~
28 ~~and reimbursement to the guardian may be approved and paid by the~~
29 ~~conservator without court approval.)) The court shall determine if
30 the fees charged by a guardian and conservator are just and
31 reasonable.~~

32 (2) Subject to court approval, a conservator is entitled to
33 reasonable compensation for services and reimbursement for
34 appropriate expenses from the property of the individual subject to
35 conservatorship.

36 (3) In determining reasonable compensation for a guardian or
37 conservator, the court, or a conservator in determining reasonable
38 compensation for a guardian as provided in subsection (1) of this
39 section, shall approve compensation that shall not exceed the typical

1 amounts paid for comparable services in the community, at a rate for
2 which the service can be performed in the most efficient and cost-
3 effective manner, considering:

4 (a) The necessity and quality of the services provided;

5 (b) The experience, training, professional standing, and skills
6 of the guardian or conservator;

7 (c) The difficulty of the services performed, including the
8 degree of skill and care required;

9 (d) The conditions and circumstances under which a service was
10 performed, including whether the service was provided outside regular
11 business hours or under dangerous or extraordinary conditions;

12 (e) The effect of the services on the individual subject to
13 guardianship or conservatorship;

14 (f) The extent to which the services provided were or were not
15 consistent with the guardian's plan under RCW 11.130.340 or
16 conservator's plan under RCW 11.130.510; and

17 (g) The fees customarily paid to a person that performs a like
18 service in the community.

19 (4) A guardian or conservator need not use personal funds of the
20 guardian or conservator for the expenses of the individual subject to
21 guardianship or conservatorship.

22 (5) Where the person subject to guardianship or conservatorship
23 is a department of social and health services client, or health care
24 authority client, and is required to contribute a portion of their
25 income towards the cost of long-term care services or room and board,
26 the amount of compensation or reimbursement shall not exceed the
27 amount allowed by the department of social and health services or
28 health care authority by rule.

29 (6) Where the person subject to guardianship or conservatorship
30 receives guardianship, conservatorship, or other protective services
31 from the office of public guardianship, the amount of compensation or
32 reimbursement shall not exceed the amount allowed by the office of
33 public guardianship.

34 (7) If an individual subject to guardianship or conservatorship
35 seeks to modify or terminate the guardianship or conservatorship or
36 remove the guardian or conservator, the court may order compensation
37 to the guardian or conservator for time spent opposing modification,
38 termination, or removal only to the extent the court determines the
39 opposition was reasonably necessary to protect the interests of the
40 individual subject to guardianship or conservatorship.

1 **Sec. 306.** RCW 11.130.115 and 2019 c 437 s 123 are each amended
2 to read as follows:

3 (1) A guardian or conservator may petition the court for
4 instruction concerning fiduciary responsibility or ratification of a
5 particular act related to the guardianship or conservatorship.

6 (2) (~~On reasonable notice and hearing on~~) Fourteen days after
7 notice of a petition under subsection (1) of this section, the court
8 may give an instruction and issue an appropriate order.

9 (3) The petitioner must provide reasonable notice of the petition
10 and hearing to the individual subject to a guardianship or
11 conservatorship.

12 **Sec. 307.** RCW 11.130.140 and 2019 c 437 s 128 are each amended
13 to read as follows:

14 (1) An individual who is subject to guardianship or
15 conservatorship, or person interested in the welfare of an individual
16 subject to guardianship or conservatorship, that reasonably believes
17 the guardian or conservator is breaching the guardian's or
18 conservator's fiduciary duty or otherwise acting in a manner
19 inconsistent with this chapter may file a grievance in a record with
20 the court. In addition, an unrepresented person or entity may submit
21 a complaint to the court.

22 (2) Subject to subsection (3) of this section, after receiving a
23 grievance under subsection (1) of this section, the court:

24 (a) Shall promptly review the grievance against a guardian and
25 shall act to protect the autonomy, values, preferences, and
26 independence of the individual subject to guardianship or
27 conservatorship;

28 (b) Shall schedule a hearing if the individual subject to
29 guardianship or conservatorship is an adult and the grievance
30 supports a reasonable belief that:

31 (i) Removal of the guardian and appointment of a successor may be
32 appropriate under RCW 11.130.350;

33 (ii) Termination or modification of the guardianship may be
34 appropriate under RCW 11.130.355;

35 (iii) Removal of the conservator and appointment of a successor
36 may be appropriate under RCW 11.130.565;

37 (iv) Termination or modification of the conservatorship may be
38 appropriate under RCW 11.130.570; or

1 (v) A hearing is necessary to resolve the allegations set forth
2 in the grievance; and

3 (c) May take any action supported by the evidence, including:

4 (i) Ordering the guardian or conservator to provide the court a
5 report, accounting, inventory, updated plan, or other information;

6 (ii) Appointing a (~~guardian ad litem~~) court visitor;

7 (iii) Appointing an attorney for the individual subject to
8 guardianship or conservatorship; or

9 (iv) Holding a hearing.

10 (3) The court may decline to act under subsection (2) of this
11 section if a similar grievance was filed within the six months
12 preceding the filing of the current grievance and the court followed
13 the procedures of subsection (2) of this section in considering the
14 earlier grievance; and may levy necessary sanctions, including but
15 not limited to the imposition of reasonable attorney fees, costs,
16 striking pleadings, or other appropriate relief, if after
17 consideration the court finds that the grievance is made for reason
18 to harass, delay, with malice, or other bad faith.

19 (4) In any court action under this section where the court finds
20 the professional guardian or conservator breached a fiduciary duty,
21 the court must direct the clerk of the court to send a copy of the
22 order entered under this section to the certified professional
23 guardianship board.

24 (5) A court shall not dismiss a grievance that has been filed
25 against a guardian or conservator due to an inability to resolve the
26 grievance in a timely manner.

27 **Sec. 308.** RCW 11.130.265 and 2019 c 437 s 301 are each amended
28 to read as follows:

29 (1) On petition and after notice and hearing, the court may:

30 (a) Appoint a guardian for an adult if the court finds by clear
31 and convincing evidence that:

32 (i) The respondent lacks the (~~ability to meet essential~~
33 ~~requirements for physical health, safety, or self-care because the~~
34 ~~respondent is unable~~) legal capacity necessary to receive and
35 evaluate information or make or communicate decisions, even with
36 appropriate supportive services, technological assistance, or
37 supported decision making, in order to meet essential requirements
38 for physical health, safety, or self-care; ((and))

1 (ii) Appointment is necessary to prevent significant risk of harm
2 to the adult respondent's health, safety, or personal affairs; and

3 (iii) The respondent's identified needs cannot be met by a
4 protective arrangement instead of guardianship or other less
5 restrictive alternative; or

6 (b) With appropriate findings, treat the petition as one for a
7 conservatorship under Article 4 of this chapter or protective
8 arrangement under Article 5 of this chapter, issue any appropriate
9 order, or dismiss the proceeding.

10 (2) The court shall grant a guardian appointed under subsection
11 (1) of this section only those powers necessitated by the
12 (~~demonstrated~~) identified needs and limitations of the respondent
13 and issue orders that will encourage development of the respondent's
14 maximum self-determination and independence. The court (~~may~~) shall
15 not establish a full guardianship if a limited guardianship,
16 protective arrangement instead of guardianship, or other less
17 restrictive alternative would meet the needs of the respondent.

18 (3) A determination by the court regarding the adult respondent's
19 legal capacity is a legal decision, not a medical decision. The
20 determination must be based on a demonstration of management
21 insufficiencies over time in the area of physical or mental health,
22 safety, or self-care. Age, eccentricity, poverty, or medical
23 diagnosis alone are not sufficient to justify a determination that
24 the respondent lacks legal capacity.

25 **Sec. 309.** RCW 11.130.280 and 2019 c 437 s 304 are each amended
26 to read as follows:

27 (1) On receipt of a petition under RCW 11.130.270 for appointment
28 of a guardian for an adult, the court shall appoint a court visitor.
29 The court visitor must be an individual with training or experience
30 in the type of abilities, limitations, and needs alleged in the
31 petition.

32 (2) The court, in the order appointing a court visitor, shall
33 specify the hourly rate the court visitor may charge for his or her
34 services, and shall specify the maximum amount the court visitor may
35 charge without additional court review and approval. The fee shall be
36 charged to the person subject to a guardianship or conservatorship
37 proceeding unless the court finds that such payment would result in
38 substantial hardship upon such person, in which case the county shall
39 be responsible for such costs: PROVIDED, That the court may charge

1 such fee to the petitioner, the person subject to a guardianship or
2 conservatorship proceeding, or any person who has appeared in the
3 action; or may allocate the fee, as it deems just. If the petition is
4 found to be frivolous or not brought in good faith, the court visitor
5 fee shall be charged to the petitioner. The court shall not be
6 required to provide for the payment of a fee to any salaried employee
7 of a public agency.

8 (3) (a) The court visitor appointed under subsection (1) of this
9 section shall within five days of receipt of notice of appointment
10 file with the court and serve, either personally or by certified mail
11 with return receipt, the respondent or his or her legal counsel, the
12 petitioner or his or her legal counsel, and any interested party
13 entitled to notice under RCW 11.130.080 with a statement including:
14 His or her training relating to the duties as a court visitor; his or
15 her criminal history as defined in RCW 9.94A.030 for the period
16 covering ten years prior to the appointment; his or her hourly rate,
17 if compensated; whether the court visitor has had any contact with a
18 party to the proceeding prior to his or her appointment; and whether
19 he or she has an apparent conflict of interest. Within three days of
20 the later of the actual service or filing of the court visitor's
21 statement, any party may set a hearing and file and serve a motion
22 for an order to show cause why the court visitor should not be
23 removed for one of the following three reasons:

24 (i) Lack of expertise necessary for the proceeding;

25 (ii) An hourly rate higher than what is reasonable for the
26 particular proceeding; or

27 (iii) A conflict of interest.

28 (b) Notice of the hearing shall be provided to the court visitor
29 and all parties. If, after a hearing, the court enters an order
30 replacing the court visitor, findings shall be included, expressly
31 stating the reasons for the removal. If the court visitor is not
32 removed, the court has the authority to assess to the moving party
33 attorneys' fees and costs related to the motion. The court shall
34 assess attorneys' fees and costs for frivolous motions.

35 (4) A court visitor appointed under subsection (1) of this
36 section shall interview the respondent in person and, in a manner the
37 respondent is best able to understand:

38 (a) Explain to the respondent the substance of the petition, the
39 nature, purpose, and effect of the proceeding, the respondent's

1 rights at the hearing on the petition, and the general powers and
2 duties of a guardian;

3 (b) Determine the respondent's views about the appointment sought
4 by the petitioner, including views about a proposed guardian, the
5 guardian's proposed powers and duties, and the scope and duration of
6 the proposed guardianship; and

7 (c) Inform the respondent that all costs and expenses of the
8 proceeding, including the respondent's attorney's fees, may be paid
9 from the respondent's assets.

10 (5) The court visitor appointed under subsection (1) of this
11 section shall:

12 (a) Interview the petitioner and proposed guardian, if any;

13 (b) Visit the respondent's present dwelling and any dwelling in
14 which it is reasonably believed the respondent will live if the
15 appointment is made;

16 (c) Obtain information from any physician or other person known
17 to have treated, advised, or assessed the respondent's relevant
18 physical or mental condition; and

19 (d) Investigate the allegations in the petition and any other
20 matter relating to the petition the court directs.

21 (6) A court visitor appointed under subsection (1) of this
22 section shall file a report in a record with the court and provide a
23 copy of the report to the respondent, petitioner, and any interested
24 party entitled to notice under RCW 11.130.080 at least fifteen days
25 prior to the hearing on the petition filed under RCW 11.130.270,
26 which must include:

27 (a) A summary of self-care and independent living tasks the
28 respondent can manage without assistance or with existing supports,
29 could manage with the assistance of appropriate supportive services,
30 technological assistance, or supported decision making, and cannot
31 manage;

32 (b) A recommendation regarding the appropriateness of
33 guardianship, including whether a protective arrangement instead of
34 guardianship or other less restrictive alternative for meeting the
35 respondent's needs is available and:

36 (i) If a guardianship is recommended, whether it should be full
37 or limited; and

38 (ii) If a limited guardianship is recommended, the powers to be
39 granted to the guardian;

1 (c) A statement of the qualifications of the proposed guardian
2 and whether the respondent approves or disapproves of the proposed
3 guardian;

4 (d) A statement whether the proposed dwelling meets the
5 respondent's needs and whether the respondent has expressed a
6 preference as to residence;

7 (e) A (~~recommendation whether~~) statement whether the respondent
8 declined a professional evaluation under RCW 11.130.290 (~~is~~
9 ~~necessary~~) and what other information is available to determine the
10 respondent's needs and abilities without the professional evaluation;

11 (f) A statement whether the respondent is able to attend a
12 hearing at the location court proceedings typically are held;

13 (g) A statement whether the respondent is able to participate in
14 a hearing and which identifies any technology or other form of
15 support that would enhance the respondent's ability to participate;
16 and

17 (h) Any other matter the court directs.

18 (7) The appointment of a court visitor has no effect on the
19 determination of the adult respondent's legal capacity and does not
20 overcome the presumption of legal capacity or full legal and civil
21 rights of the adult respondent.

22 **Sec. 310.** RCW 11.130.380 and 2019 c 437 s 405 are each amended
23 to read as follows:

24 (1) If the respondent in a proceeding to appoint a conservator is
25 a minor, the court may appoint a court visitor to investigate a
26 matter related to the petition or inform the minor or a parent of the
27 minor about the petition or a related matter.

28 (2) If the respondent in a proceeding to appoint a conservator is
29 an adult, the court shall appoint a court visitor. The duties and
30 reporting requirements of the court visitor are limited to the relief
31 requested in the petition. The court visitor must be an individual
32 with training or experience in the type of abilities, limitations,
33 and needs alleged in the petition.

34 (3) The court, in the order appointing court visitor, shall
35 specify the hourly rate the court visitor may charge for his or her
36 services, and shall specify the maximum amount the court visitor may
37 charge without additional court review and approval. The fee shall be
38 charged to the person subject to a guardianship or conservatorship
39 proceeding unless the court finds that such payment would result in

1 substantial hardship upon such person, in which case the county shall
2 be responsible for such costs: PROVIDED, That the court may charge
3 such fee to the petitioner, the person subject to a guardianship or
4 conservatorship proceeding, or any person who has appeared in the
5 action; or may allocate the fee, as it deems just. If the petition is
6 found to be frivolous or not brought in good faith, the court visitor
7 fee shall be charged to the petitioner. The court shall not be
8 required to provide for the payment of a fee to any salaried employee
9 of a public agency.

10 (4) (a) The court visitor appointed under subsection (1) or (2) of
11 this section shall within five days of receipt of notice of
12 appointment file with the court and serve, either personally or by
13 certified mail with return receipt, the respondent or his or her
14 legal counsel, the petitioner or his or her legal counsel, and any
15 interested party entitled to notice under RCW 11.130.080 with a
16 statement including: His or her training relating to the duties as a
17 court visitor; his or her criminal history as defined in RCW
18 9.94A.030 for the period covering ten years prior to the appointment;
19 his or her hourly rate, if compensated; whether the (~~guardian-ad~~
20 ~~litem~~) court visitor has had any contact with a party to the
21 proceeding prior to his or her appointment; and whether he or she has
22 an apparent conflict of interest. Within three days of the later of
23 the actual service or filing of the court visitor's statement, any
24 party may set a hearing and file and serve a motion for an order to
25 show cause why the court visitor should not be removed for one of the
26 following three reasons:

27 (i) Lack of expertise necessary for the proceeding;

28 (ii) An hourly rate higher than what is reasonable for the
29 particular proceeding; or

30 (iii) A conflict of interest.

31 (b) Notice of the hearing shall be provided to the court visitor
32 and all parties. If, after a hearing, the court enters an order
33 replacing the court visitor, findings shall be included, expressly
34 stating the reasons for the removal. If the court visitor is not
35 removed, the court has the authority to assess to the moving party
36 attorneys' fees and costs related to the motion. The court shall
37 assess attorneys' fees and costs for frivolous motions.

38 (5) A court visitor appointed under subsection (2) of this
39 section for an adult shall interview the respondent in person and in
40 a manner the respondent is best able to understand:

1 (a) Explain to the respondent the substance of the petition, the
2 nature, purpose, and effect of the proceeding, the respondent's
3 rights at the hearing on the petition, and the general powers and
4 duties of a conservator;

5 (b) Determine the respondent's views about the appointment sought
6 by the petitioner, including views about a proposed conservator, the
7 conservator's proposed powers and duties, and the scope and duration
8 of the proposed conservatorship; and

9 (c) Inform the respondent that all costs and expenses of the
10 proceeding, including respondent's attorneys' fees, may be paid from
11 the respondent's assets.

12 (6) A court visitor appointed under subsection (2) of this
13 section for an adult shall:

14 (a) Interview the petitioner and proposed conservator, if any;

15 (b) Review financial records of the respondent, if relevant to
16 the court visitor's recommendation under subsection (7)(b) of this
17 section;

18 (c) Investigate whether the respondent's needs could be met by a
19 protective arrangement instead of conservatorship or other less
20 restrictive alternative and, if so, identify the arrangement or other
21 less restrictive alternative; and

22 (d) Investigate the allegations in the petition and any other
23 matter relating to the petition the court directs.

24 (7) A court visitor appointed under subsection (2) of this
25 section for an adult shall file a report in a record with the court
26 and provide a copy of the report to the respondent, petitioner, and
27 any interested party entitled to notice under RCW 11.130.080 at least
28 fifteen days prior to the hearing on the petition filed under RCW
29 11.130.365, which must include:

30 (a) A recommendation:

31 (i) Regarding the appropriateness of conservatorship, or whether
32 a protective arrangement instead of conservatorship or other less
33 restrictive alternative for meeting the respondent's needs is
34 available;

35 (ii) If a conservatorship is recommended, whether it should be
36 full or limited;

37 (iii) If a limited conservatorship is recommended, the powers to
38 be granted to the conservator, and the property that should be placed
39 under the conservator's control; and

1 (iv) If a conservatorship is recommended, the amount of the bond
2 or other verified receipt needed under RCW 11.130.445 and 11.130.500;

3 (b) A statement of the qualifications of the proposed conservator
4 and whether the respondent approves or disapproves of the proposed
5 conservator;

6 (c) A (~~recommendation whether~~) statement whether the respondent
7 declined a professional evaluation under RCW 11.130.390 (~~is~~
8 ~~necessary~~) and what other information is available to determine the
9 respondent's needs and abilities without the professional evaluation;

10 (d) A statement whether the respondent is able to attend a
11 hearing at the location court proceedings typically are held;

12 (e) A statement whether the respondent is able to participate in
13 a hearing and which identifies any technology or other form of
14 support that would enhance the respondent's ability to participate;
15 and

16 (f) Any other matter the court directs.

17 (8) The appointment of a court visitor has no effect on the
18 determination of the adult respondent's legal capacity and does not
19 overcome the presumption of legal capacity or full legal and civil
20 rights of the adult respondent.

21 **Sec. 311.** RCW 11.130.605 and 2019 c 437 s 506 are each amended
22 to read as follows:

23 (1) On filing of a petition under RCW 11.130.580 for a protective
24 arrangement instead of guardianship, the court shall appoint a court
25 visitor. The court visitor must be an individual with training or
26 experience in the type of abilities, limitations, and needs alleged
27 in the petition.

28 (2) On filing of a petition under RCW 11.130.580 for a protective
29 arrangement instead of conservatorship for a minor, the court may
30 appoint a court visitor to investigate a matter related to the
31 petition or inform the minor or a parent of the minor about the
32 petition or a related matter.

33 (3) On filing of a petition under RCW 11.130.580 or a protective
34 arrangement instead of conservatorship for an adult, the court shall
35 appoint a court visitor unless the respondent is represented by an
36 attorney appointed by the court. The court visitor must be an
37 individual with training or experience in the types of abilities,
38 limitations, and needs alleged in the petition.

1 (4) The court, in the order appointing a court visitor, shall
2 specify the hourly rate the court visitor may charge for his or her
3 services, and shall specify the maximum amount the court visitor may
4 charge without additional court review and approval. The fee shall be
5 charged to the person subject to a guardianship or conservatorship
6 proceeding unless the court finds that such payment would result in
7 substantial hardship upon such person, in which case the county shall
8 be responsible for such costs: PROVIDED, That the court may charge
9 such fee to the petitioner, the person subject to a guardianship or
10 conservatorship proceeding, or any person who has appeared in the
11 action; or may allocate the fee, as it deems just. If the petition is
12 found to be frivolous or not brought in good faith, the court visitor
13 fee shall be charged to the petitioner. The court shall not be
14 required to provide for the payment of a fee to any salaried employee
15 of a public agency.

16 (5) (a) The court visitor appointed under subsection (1) or (3) of
17 this section shall within five days of receipt of notice of
18 appointment file with the court and serve, either personally or by
19 certified mail with return receipt, the respondent or his or her
20 legal counsel, the petitioner or his or her legal counsel, and any
21 interested party entitled to notice under RCW 11.130.080 with a
22 statement including: His or her training relating to the duties as a
23 court visitor; his or her criminal history as defined in RCW
24 9.94A.030 for the period covering ten years prior to the appointment;
25 his or her hourly rate, if compensated; whether the ((~~guardian-ad~~
26 ~~litem~~)) court visitor has had any contact with a party to the
27 proceeding prior to his or her appointment; and whether he or she has
28 an apparent conflict of interest. Within three days of the later of
29 the actual service or filing of the court visitor's statement, any
30 party may set a hearing and file and serve a motion for an order to
31 show cause why the court visitor should not be removed for one of the
32 following three reasons:

33 (i) Lack of expertise necessary for the proceeding;

34 (ii) An hourly rate higher than what is reasonable for the
35 particular proceeding; or

36 (iii) A conflict of interest.

37 (b) Notice of the hearing shall be provided to the court visitor
38 and all parties. If, after a hearing, the court enters an order
39 replacing the court visitor, findings shall be included, expressly
40 stating the reasons for the removal. If the court visitor is not

1 removed, the court has the authority to assess to the moving party
2 attorneys' fees and costs related to the motion. The court shall
3 assess attorneys' fees and costs for frivolous motions.

4 (6) A court visitor appointed under subsection (1) or (3) of this
5 section shall interview the respondent in person and in a manner the
6 respondent is best able to understand:

7 (a) Explain to the respondent the substance of the petition, the
8 nature, purpose, and effect of the proceeding, and the respondent's
9 rights at the hearing on the petition;

10 (b) Determine the respondent's views with respect to the order
11 sought;

12 (c) Inform the respondent that all costs and expenses of the
13 proceeding, including respondent's attorneys' fees, may be paid from
14 the respondent's assets;

15 (d) If the petitioner seeks an order related to the dwelling of
16 the respondent, visit the respondent's present dwelling and any
17 dwelling in which it is reasonably believed the respondent will live
18 if the order is granted;

19 (e) If a protective arrangement instead of guardianship is
20 sought, obtain information from any physician or other person known
21 to have treated, advised, or assessed the respondent's relevant
22 physical or mental condition;

23 (f) If a protective arrangement instead of conservatorship is
24 sought, review financial records of the respondent, if relevant to
25 the court visitor's recommendation under subsection (7)(b) of this
26 section; and

27 (g) Investigate the allegations in the petition and any other
28 matter relating to the petition the court directs.

29 (7) A court visitor under subsection (1), (2), or (3) of this
30 section promptly shall file a report in a record with the court and
31 provide a copy of the report to the respondent, petitioner, and any
32 interested party entitled to notice under RCW 11.130.580 (1) through
33 (3), at least fifteen days prior to the hearing on the petition filed
34 under RCW 11.130.585, 11.130.590, or 11.130.595, which must include:

35 (a) To the extent relevant to the order sought, a summary of
36 self-care, independent living tasks, and financial management tasks
37 the respondent:

38 (i) Can manage without assistance or with existing supports;

39 (ii) Could manage with the assistance of appropriate supportive
40 services, technological assistance, or supported decision making; and

- 1 (iii) Cannot manage;
- 2 (b) A recommendation regarding the appropriateness of the
3 protective arrangement sought and whether a less restrictive
4 alternative for meeting the respondent's needs is available;
- 5 (c) If the petition seeks to change the physical location of the
6 dwelling of the respondent, a statement whether the proposed dwelling
7 meets the respondent's needs and whether the respondent has expressed
8 a preference as to the respondent's dwelling;
- 9 (d) A ~~((recommendation whether))~~ statement whether the respondent
10 declined a professional evaluation under RCW 11.130.615 ~~((is~~
11 ~~necessary))~~ and what other information is available to determine the
12 respondent's needs and abilities without the professional evaluation;
- 13 (e) A statement whether the respondent is able to attend a
14 hearing at the location court proceedings typically are held;
- 15 (f) A statement whether the respondent is able to participate in
16 a hearing and which identifies any technology or other form of
17 support that would enhance the respondent's ability to participate;
18 and
- 19 (g) Any other matter the court directs.

20 **Sec. 312.** RCW 11.130.080 and 2019 c 437 s 116 are each amended
21 to read as follows:

22 (1) A person may file with the court a request for notice under
23 this chapter if the person is:

24 (a) Not otherwise entitled to notice; and

25 (b) Interested in the welfare of a respondent, individual subject
26 to guardianship or conservatorship, or individual subject to a
27 protective arrangement under Article 5 of this chapter.

28 (2) A request under subsection (1) of this section must include a
29 statement showing the interest of the person making the request and
30 the address of the person or an attorney for the person to whom
31 notice is to be given.

32 (3) If the court approves a request under subsection (1) of this
33 section, the ~~((court))~~ approved individual shall give notice of the
34 approval to the guardian or conservator, if one has been appointed,
35 or the respondent if no guardian or conservator has been appointed.

36 **Sec. 313.** RCW 11.130.120 and 2019 c 437 s 124 are each amended
37 to read as follows:

1 (1) A person must not recognize the authority of a guardian or
2 conservator to act on behalf of an individual subject to guardianship
3 or conservatorship if:

4 (a) The person has actual knowledge or a reasonable belief that
5 the letters of office of the guardian or conservator are invalid or
6 the conservator or guardian is exceeding or improperly exercising
7 authority granted by the court; or

8 (b) The person has actual knowledge that the individual subject
9 to guardianship or conservatorship is subject to physical or
10 financial abuse, neglect, exploitation, or abandonment by the
11 guardian or conservator or a person acting for or with the guardian
12 or conservator.

13 (2) A person may refuse to recognize the authority of a guardian
14 or conservator to act on behalf of an individual subject to
15 guardianship or conservatorship if:

16 (a) The guardian's or conservator's proposed action would be
17 inconsistent with this chapter; or

18 (b) The person makes, or has actual knowledge that another person
19 has made, a report to the department of children, youth, and families
20 or the department of social and health services stating a good-faith
21 belief that the individual subject to guardianship or conservatorship
22 is subject to physical or financial abuse, neglect, exploitation, or
23 abandonment by the guardian or conservator or a person acting for or
24 with the guardian or conservator.

25 (3) A person that refuses to accept the authority of a guardian
26 or conservator in accordance with subsection (2) of this section may
27 report the refusal and the reason for refusal to the court. The court
28 on receiving the report shall consider whether removal of the
29 guardian or conservator or other action is appropriate.

30 (4) A guardian or conservator may petition the court to require a
31 third party to accept a decision made by the guardian or conservator
32 on behalf of the individual subject to guardianship or
33 conservatorship.

34 (5) If the court determines that a third party has failed to
35 recognize the legitimate authority of a guardian or conservator, or
36 requires a third party to accept a decision made by the guardian on
37 behalf of the individual subject to guardianship, the court may order
38 that third party to compensate the guardian or conservator, for the
39 time spent only to the extent the court determines the opposition was

1 reasonably necessary to protect the interests of the individual
2 subject to guardianship.

3 **Sec. 314.** RCW 11.130.295 and 2019 c 437 s 307 are each amended
4 to read as follows:

5 (1) Except as otherwise provided in subsection (2) of this
6 section, a hearing under RCW 11.130.275 may not proceed unless the
7 respondent attends the hearing. If it is not reasonably feasible for
8 the respondent to attend a hearing at the location court proceedings
9 typically are held, the court shall make reasonable efforts to hold
10 the hearing at an alternative location convenient to the respondent
11 or allow the respondent to attend the hearing using real-time audio-
12 visual technology.

13 (2) A hearing under RCW 11.130.275 may proceed without the
14 respondent in attendance if the court finds by clear and convincing
15 evidence that:

16 (a) The respondent (~~(consistently and repeatedly)~~) has refused to
17 attend the hearing after having been fully informed of the right to
18 attend and the potential consequences of failing to do so; or

19 (b) There is no practicable way for the respondent to attend and
20 participate in the hearing even with appropriate supportive services
21 and technological assistance.

22 (3) The respondent may be assisted in a hearing under RCW
23 11.130.275 by a person or persons of the respondent's choosing,
24 assistive technology, or an interpreter or translator, or a
25 combination of these supports. If assistance would facilitate the
26 respondent's participation in the hearing, but is not otherwise
27 available to the respondent, the court shall make reasonable efforts
28 to provide it.

29 (4) The respondent has a right to choose an attorney to represent
30 the respondent at a hearing under RCW 11.130.275.

31 (5) At a hearing held under RCW 11.130.275, the respondent may:

32 (a) Present evidence and subpoena witnesses and documents;

33 (b) Examine witnesses, including any court-appointed evaluator
34 and the court visitor; and

35 (c) Otherwise participate in the hearing.

36 (6) Unless excused by the court for good cause, a proposed
37 guardian shall attend a hearing under RCW 11.130.275.

38 (7) A hearing under RCW 11.130.275 must be closed on request of
39 the respondent and a showing of good cause.

1 (8) Any person may request to participate in a hearing under RCW
2 11.130.275. The court may grant the request, with or without a
3 hearing, on determining that the best interest of the respondent will
4 be served. The court may impose appropriate conditions on the
5 person's participation.

6 **Sec. 315.** RCW 11.130.570 and 2019 c 437 s 431 are each amended
7 to read as follows:

8 (1) A conservatorship for a minor terminates on the earliest of:

9 (a) A court order terminating the conservatorship;

10 (b) The minor becoming an adult or, if the minor consents or the
11 court finds by clear and convincing evidence that substantial harm to
12 the minor's interests is otherwise likely, attaining twenty-one years
13 of age;

14 (c) Emancipation of the minor; or

15 (d) Death of the minor.

16 (2) A conservatorship for an adult terminates on order of the
17 court or when the adult dies.

18 (3) An individual subject to conservatorship, the conservator, or
19 a person interested in the welfare of the individual may petition
20 for:

21 (a) Termination of the conservatorship on the ground that a basis
22 for appointment under RCW 11.130.360 does not exist or termination
23 would be in the best interest of the individual or for other good
24 cause; or

25 (b) Modification of the conservatorship on the ground that the
26 extent of protection or assistance granted is not appropriate or for
27 other good cause.

28 (4) The court shall hold a hearing to determine whether
29 termination or modification of a conservatorship is appropriate on:

30 (a) Petition under subsection (3) of this section that contains
31 allegations that, if true, would support a reasonable belief that
32 termination or modification of the conservatorship may be
33 appropriate, but the court may decline to hold a hearing if a
34 petition based on the same or substantially similar facts was filed
35 within the preceding six months;

36 (b) A communication from the individual subject to
37 conservatorship, conservator, or person interested in the welfare of
38 the individual which supports a reasonable belief that termination or
39 modification of the conservatorship may be appropriate, including

1 because of change to the legal capacity or functional needs of the
2 individual or the availability of supports or services (~~(available~~
3 ~~to)~~) for the individual (~~(have changed)~~);

4 (c) A report from a guardian or conservator which indicates that
5 termination or modification may be appropriate because of change to
6 the legal capacity or functional needs or supports or the
7 availability of services (~~(available to)~~) for the individual (~~(have~~
8 ~~changed)~~) or a protective arrangement instead of conservatorship or
9 other less restrictive alternative is available; or

10 (d) A determination by the court that a hearing would be in the
11 best interest of the individual.

12 (5) Notice of a petition under subsection (3) of this section
13 must be given to the individual subject to conservatorship, the
14 conservator, and any such other person the court determines.

15 (6) On presentation of prima facie evidence for termination of a
16 conservatorship, the court shall order termination unless it is
17 proven that a basis for appointment of a conservator under RCW
18 11.130.360 exists.

19 (7) The court shall modify the powers granted to a conservator if
20 the powers are excessive or inadequate (~~(due to a)~~) because of change
21 (~~(in)~~) to the legal capacity, abilities (~~(or)~~), limitations, or
22 functional needs of the individual subject to conservatorship, the
23 individual's supports, or other circumstances.

24 (8) Unless the court otherwise orders for good cause, before
25 terminating a conservatorship, the court shall follow the same
26 procedures to safeguard the rights of the individual subject to
27 conservatorship which apply to a petition for conservatorship.

28 (9) An individual subject to conservatorship who seeks to
29 terminate or modify the terms of the conservatorship has the right to
30 choose an attorney to represent the individual in this matter. The
31 court shall award reasonable attorneys' fees to the attorney as
32 provided in RCW 11.130.100.

33 (10) On termination of a conservatorship other than by reason of
34 the death of the individual subject to conservatorship, property of
35 the conservatorship estate passes to the individual. The order of
36 termination must direct the conservator to file a final report and
37 petition for discharge on approval by the court of the final report.

38 (11) On termination of a conservatorship by reason of the death
39 of the individual subject to conservatorship, the conservator shall
40 file a final report and petition for discharge on approval by the

1 court of the final report within ninety days of death of the person
2 subject to conservatorship. On approval of the final report, the
3 conservator shall proceed expeditiously to distribute the
4 conservatorship estate to the individual's estate or as otherwise
5 ordered by the court. The conservator may take reasonable measures
6 necessary to preserve the conservatorship estate until distribution
7 can be made.

8 (12) The court shall issue a final order of discharge on the
9 approval by the court of the final report and satisfaction by the
10 conservator of any other condition the court imposed on the
11 conservator's discharge.

12 **Sec. 316.** RCW 11.130.585 and 2019 c 437 s 502 are each amended
13 to read as follows:

14 (1) After the hearing on a petition under RCW 11.130.270 for a
15 guardianship or under RCW 11.130.580(2) for a protective arrangement
16 instead of guardianship, the court may issue an order under
17 subsection (2) of this section for a protective arrangement instead
18 of guardianship if the court finds by clear and convincing evidence
19 that:

20 (a) The respondent lacks the ability to meet essential
21 requirements for physical health, safety, or self-care because the
22 respondent is unable to receive and evaluate information or make or
23 communicate decisions, even with appropriate supportive services,
24 technological assistance, or supported decision making; and

25 (b) The respondent's identified needs cannot be met by a less
26 restrictive alternative.

27 (2) If the court makes the findings under subsection (1) of this
28 section, the court, instead of appointing a guardian, may:

29 (a) Authorize or direct a transaction necessary to meet the
30 respondent's need for health, safety, or care, including:

31 (i) A particular medical treatment or refusal of a particular
32 medical treatment; or

33 (ii) ~~((A move to a specified place of dwelling; or~~
34 ~~(iii)))~~ Visitation or supervised visitation between the
35 respondent and another person;

36 (b) Restrict access to the respondent by a specified person whose
37 access places the respondent at serious risk of physical,
38 psychological, or financial harm; and

1 (c) Reorder other arrangements on a limited basis that are
2 appropriate.

3 (3) In deciding whether to issue an order under this section, the
4 court shall consider the factors under RCW 11.130.330 and 11.130.335
5 that a guardian must consider when making a decision on behalf of an
6 adult subject to guardianship.

7 **Sec. 317.** RCW 11.130.600 and 2019 c 437 s 505 are each amended
8 to read as follows:

9 (1) All petitions filed under RCW 11.130.595 for (~~appointment of~~
10 ~~a guardian for an adult~~) the establishment of a protective
11 arrangement shall be heard within sixty days unless an extension of
12 time is requested by a party or the court visitor within such sixty-
13 day period and granted for good cause shown.

14 (2) (a) A copy of a petition under RCW 11.130.580 and notice of a
15 hearing on the petition must be served personally on the respondent
16 and the court visitor appointed under RCW 11.130.605 not more than
17 five court days after the petition under RCW 11.130.595 has been
18 filed.

19 (b) A copy of a petition under RCW 11.130.580 and notice of a
20 hearing on the petition must be served personally on the respondent
21 and the court visitor appointed under RCW 11.130.605 not more than
22 five court days after the petition under RCW 11.130.595 has been
23 filed. The notice must inform the respondent of the respondent's
24 rights at the hearing, including the right to an attorney and to
25 attend the hearing. The notice must include a description of the
26 nature, purpose, and consequences of granting the petition for a
27 protective arrangement. The court may not grant the petition if
28 notice substantially complying with this subsection is not served on
29 the respondent.

30 (3) In a proceeding on a petition under RCW 11.130.580, the
31 notice required under subsection (2) of this section must be given to
32 the persons required to be listed in the petition under RCW
33 11.130.595 (1) through (3) and any other person interested in the
34 respondent's welfare the court determines. Failure to give notice
35 under this subsection does not preclude the court from granting the
36 petition.

37 (4) After the court has ordered a protective arrangement under
38 this article, notice of a hearing on a petition filed under this

1 chapter, together with a copy of the petition, must be given to the
2 respondent and any other person the court determines.

3 **Sec. 318.** RCW 11.130.625 and 2019 c 437 s 510 are each amended
4 to read as follows:

5 The (~~court~~) petitioner shall give notice of an order under this
6 article to the individual who is subject to the protective
7 arrangement instead of guardianship or conservatorship, a person
8 whose access to the individual is restricted by the order, and any
9 other person the court determines.

10 **Sec. 319.** RCW 11.130.610 and 2019 c 437 s 507 are each amended
11 to read as follows:

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

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

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

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

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

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

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

37 (iii) An attorney must be provided under this subsection (1)(c)
38 as soon as practicable after a petition is filed and long enough

1 before any final hearing to allow adequate time for consultation and
2 preparation. Absent a convincing showing in the record to the
3 contrary, a period of less than three weeks is presumed by a
4 reviewing court to be inadequate time for consultation and
5 preparation.

6 (2) An attorney representing the respondent in a proceeding under
7 this article shall:

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

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

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

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

18 (a) The parent objects to the entry of an order for a protective
19 arrangement instead of guardianship or conservatorship;

20 (b) The court determines that counsel is needed to ensure that
21 consent to the entry of an order for a protective arrangement is
22 informed; or

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

25 **Sec. 320.** RCW 11.130.615 and 2019 c 437 s 508 are each amended
26 to read as follows:

27 ~~(1) ((At or before a hearing on a petition under this article for~~
28 ~~a protective arrangement, the court shall order a professional~~
29 ~~evaluation of the respondent:~~

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

31 ~~(b) In other cases, unless the court finds that it has sufficient~~
32 ~~information to determine the respondent's needs and abilities without~~
33 ~~the evaluation.~~

34 ~~(2) If the court orders an evaluation under subsection (1) of~~
35 ~~this section, the respondent must be examined by a licensed~~
36 ~~physician, psychologist, social worker, or other individual appointed~~
37 ~~by the court who is qualified to evaluate the respondent's alleged~~
38 ~~cognitive and functional abilities and limitations and will not be~~
39 ~~advantaged or disadvantaged by a decision to grant the petition or~~

1 otherwise have a conflict of interest. The individual conducting the
2 evaluation promptly shall file a report in a record with the court.
3 Unless otherwise directed by the court, the report must contain:

4 (a) A description of the nature, type, and extent of the
5 respondent's cognitive and functional abilities and limitations;

6 (b) An evaluation of the respondent's mental and physical
7 condition and, if appropriate, educational potential, adaptive
8 behavior, and social skills;

9 (c) A prognosis for improvement, including with regard to the
10 ability to manage the respondent's property and financial affairs if
11 a limitation in that ability is alleged, and recommendation for the
12 appropriate treatment, support, or habilitation plan; and

13 (d) The date of the examination on which the report is based.

14 (3) ~~The respondent may decline~~) On receipt of a petition under
15 RCW 11.130.595 and at the time the court appoints a court visitor
16 under RCW 11.130.605, the court shall order a professional evaluation
17 of the respondent.

18 (2) The respondent must be examined by a physician licensed to
19 practice under chapter 18.71 or 18.57 RCW, psychologist licensed
20 under chapter 18.83 RCW, advanced registered nurse practitioner
21 licensed under chapter 18.79 RCW, or physician assistant licensed
22 under chapter 18.71A RCW selected by the court visitor who is
23 qualified to evaluate the respondent's alleged cognitive and
24 functional abilities and limitations and will not be advantaged or
25 disadvantaged by a decision to grant the petition or otherwise have a
26 conflict of interest. If the respondent opposes the professional
27 selected by the court visitor, the court visitor shall obtain a
28 professional evaluation from the professional selected by the
29 respondent. The court visitor, after receiving a professional
30 evaluation from the individual selected by the respondent, may obtain
31 a supplemental evaluation from a different professional.

32 (3) The individual conducting the evaluation shall provide the
33 completed evaluation report to the court visitor within thirty days
34 of the examination of the respondent. The court visitor shall file
35 the report in a sealed record with the court. Unless otherwise
36 directed by the court, the report must contain:

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

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

1 (c) An evaluation of the respondent's mental and physical
2 condition and, if appropriate, education potential, adaptive
3 behavior, and social skills;

4 (d) A prognosis for improvement and recommendation for the
5 appropriate treatment, support, or habilitation plan;

6 (e) A description of the respondent's current medications, and
7 the effect of the medications on the respondent's cognitive and
8 functional abilities;

9 (f) Identification of persons with whom the professional has met
10 or spoken with regarding the respondent; and

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

12 (4) If the respondent declines to participate in an evaluation
13 ordered under subsection (1) of this section, the court may proceed
14 with the hearing under RCW 11.130.600 if the court finds that it has
15 sufficient information to determine the respondent's needs and
16 abilities without the professional evaluation.

17 **Sec. 321.** RCW 11.125.080 and 2019 c 437 s 316 are each amended
18 to read as follows:

19 (1) In a power of attorney, a principal may nominate a
20 (~~guardian~~) conservator of the (~~principal's~~) estate or guardian of
21 the (~~principal's~~) person for consideration by the court if
22 protective proceedings for the principal's estate or person are begun
23 after the principal executes the power of attorney. Except for good
24 cause shown or disqualification, the court shall make its appointment
25 in accordance with the principal's most recent nomination.

26 (2) If, after a principal executes a power of attorney, a court
27 appoints a (~~guardian of the principal's estate or other fiduciary~~
28 ~~charged with the management of all of the principal's property, the~~
29 ~~power of attorney remains in effect subject to the provisions of RCW~~
30 ~~11.130.335(1).)~~ conservator of the estate or other fiduciary charged
31 with the management of some or all of the principal's property, the
32 agent is accountable to the fiduciary as well as to the principal.
33 The power of attorney is not terminated and the agent's authority
34 continues, subject to the provisions of RCW 11.130.335(1) and
35 11.130.435(4), unless limited, suspended, or terminated by the court.

36 (3) If, after a principal executes a power of attorney (~~, a court~~
37 ~~appoints a guardian of the principal's estate or other fiduciary~~
38 ~~charged with the management of some but not all of the principal's~~
39 ~~property, the power of attorney shall not terminate or be modified,~~

1 ~~except to the extent ordered by the court.)~~) that includes health
2 care decisions, a court appoints a guardian of the person, the agent
3 is accountable to the fiduciary as well as to the principal. The
4 power of attorney is not terminated and the agent's authority
5 continues, subject to the provisions of RCW 11.130.335(1) and
6 11.130.435(4), unless limited, suspended, or terminated by the court.

7 NEW SECTION. Sec. 322. A new section is added to chapter 11.130
8 RCW to read as follows:

9 This form must be used to notify an adult respondent of the
10 respondent's rights that could be restricted if a guardianship
11 petition under RCW 11.130.270 or a conservatorship petition under RCW
12 11.130.365 is granted.

13 IMPORTANT NOTICE

14 PLEASE READ CAREFULLY

15 A petition to have a guardian or conservator appointed for you
16 has been filed in the . . . county superior court by . . . If a
17 guardian or conservator is appointed, you could lose one or more of
18 the following rights:

- 19 (1) To marry, divorce, or enter into or end a state registered
20 domestic partnership;
21 (2) To vote or hold an elected office;
22 (3) To enter into a contract or make or revoke a will;
23 (4) To appoint someone to act on your behalf;
24 (5) To sue and be sued other than through a guardian;
25 (6) To possess a license to drive;
26 (7) To buy, sell, own, mortgage, or lease property;
27 (8) To consent to or refuse medical treatment;
28 (9) To decide who shall provide care and assistance;
29 (10) To make decisions regarding social aspects of your life.

30 Under the law, you have certain rights.

31 You have the right to be represented by a lawyer of your own
32 choosing. The court will appoint a lawyer to represent you if you are
33 unable to pay or payment would result in a substantial hardship to
34 you.

35 You have the right to ask for a jury trial on the issue of
36 capacity.

37 You have the right to be present in court and testify when the
38 hearing is held to decide whether or not you need a guardian or

1 conservator. If a court visitor is appointed, you have the right to
2 request the court to replace that person.

3 You have the right to ask the court to establish a protective
4 arrangement instead of a guardianship or conservatorship.

5 **PART IV**

6 **OFFICE OF PUBLIC GUARDIANSHIP**

7 **Sec. 401.** RCW 2.72.005 and 2019 c 215 s 1 are each amended to
8 read as follows:

9 (1) In establishing an office of public guardianship and
10 conservatorship, the legislature intends to promote the availability
11 of guardianship, conservatorship, and alternate services that provide
12 support for decision making for individuals who need them and for
13 whom adequate services may otherwise be unavailable. The legislature
14 reaffirms its commitment to treat liberty and autonomy as paramount
15 values for all Washington residents and to authorize public
16 guardianship and conservatorship only to the minimum extent necessary
17 to provide for health or safety, or to manage financial affairs, when
18 the legal conditions for appointment of a guardian or conservator are
19 met. It does not intend to alter those legal conditions or to expand
20 judicial authority to determine that any individual (~~is~~
21 ~~incapacitated~~) may be subject to guardianship or conservatorship.

22 (2) The legislature further recognizes that (~~services that~~
23 ~~support~~) decision making assistance for people who have limited
24 capacity can preserve individual liberty and provide effective
25 support responsive to individual needs and wishes. The legislature
26 also recognizes that these services may be less expensive than
27 guardianship and conservatorship for the state, the courts, and for
28 individuals with limited capacity and their families.

29 **Sec. 402.** RCW 2.72.010 and 2019 c 215 s 2 are each reenacted and
30 amended to read as follows:

31 The definitions in this section apply throughout this chapter
32 unless the context clearly requires otherwise.

33 (1) (~~"Attorney-in-fact" means an agent authorized by an~~
34 ~~individual to act on his or her behalf pursuant to a power of~~
35 ~~attorney.~~) "Agent" means a person granted authority to act for a
36 principal under a power of attorney.

1 (2) "Contract service provider" means a public guardian or public
2 conservator providing services under contract with the office of
3 public guardianship and conservatorship. Any public guardian or
4 public conservator providing such services must be certified by the
5 certified professional guardian board established by the supreme
6 court.

7 (3) "Estate administration" means services provided for a fee to
8 the estate of an individual who died at age eighteen or older, in
9 circumstances where a contract service provider is granted letters
10 under RCW 11.28.120(7).

11 (4) "Long-term care services" means services provided through the
12 department of social and health services either in a hospital or
13 skilled nursing facility, or in another setting under a home and
14 community-based waiver authorized under 42 U.S.C. Sec. 1396n.

15 ~~((3))~~ (5) "Office" means the office of public guardianship and
16 conservatorship.

17 ~~((4))~~ (6) "Public conservator" means an individual or entity
18 appointed by a court to make decisions with respect to property or
19 financial affairs of an individual subject to conservatorship, and
20 who provides these services under contract with the office of public
21 guardianship and conservatorship.

22 (7) "Public guardian" means an individual or entity (~~providing~~
23 ~~public guardianship services~~) appointed by the court to make
24 decisions with respect to the personal affairs of an individual, and
25 who provides these services under contract with the office of public
26 guardianship and conservatorship.

27 ~~((5) "Public guardianship services" means the services provided~~
28 ~~by a guardian or limited guardian appointed under chapters 11.88 and~~
29 ~~11.92 RCW, who is compensated under a contract with the office of~~
30 ~~public guardianship.~~

31 ~~(6))~~ (8) "Representative payee" means the designated agent for a
32 recipient of government benefits whom a government agency has
33 determined to be incapable of managing his or her benefits.

34 ~~((7) "Supported decision-making"))~~ (9) "Decision-making
35 assistance" means support for an individual with diminished decision-
36 making ability in making decisions affecting health or safety or to
37 manage financial affairs. Assistance includes, without limitation,
38 acting as a representative payee, an (~~attorney-in-fact~~) agent, a
39 trustee, (~~or~~) a public guardian, or a public conservator.

1 ~~((8))~~ (10) "Trustee" means a person or organization named in a
2 trust agreement to handle trust property for the benefit of one or
3 more beneficiaries in accordance with the terms of the agreement.

4 **Sec. 403.** RCW 2.72.020 and 2019 c 215 s 3 are each amended to
5 read as follows:

6 (1) There is created an office of public guardianship and
7 conservatorship within the administrative office of the courts.

8 (2) The supreme court shall appoint a public guardianship and
9 conservatorship administrator to establish and administer a public
10 guardianship, public conservatorship, ~~((supported))~~ decision-making
11 assistance, and estate administration program in the office of public
12 guardianship and conservatorship. The public guardianship and
13 conservatorship administrator serves at the pleasure of the supreme
14 court.

15 **Sec. 404.** RCW 2.72.030 and 2019 c 215 s 4 are each amended to
16 read as follows:

17 The public guardianship and conservatorship administrator is
18 authorized to establish and administer a public guardianship, public
19 conservatorship, ~~((supported))~~ decision-making assistance, and estate
20 administration program as follows:

21 (1)(a) The office shall contract with ~~((public or private~~
22 ~~entities or individuals to provide:~~

23 ~~(i) Public guardianship, supported decision-making assistance,~~
24 ~~and estate administration services to))~~ certified professional
25 guardians and conservators or certified professional guardian and
26 conservator agencies to provide public guardianship, public
27 conservatorship, decision-making assistance, and estate
28 administration services to persons age eighteen or older whose income
29 does not exceed two hundred percent of the federal poverty level
30 determined annually by the United States department of health and
31 human services or who are receiving long-term care services through
32 the Washington state department of social and health services ~~((~~

33 ~~(ii) Supported decision-making services for a fee to persons age~~
34 ~~eighteen or older)),~~ when there is no one else qualified who is
35 willing and able to serve ~~((~~ and

36 ~~(iii) Estate administration services for a fee to the estate of~~
37 ~~an individual who died at age eighteen or older, in circumstances~~

1 ~~where a service provider under contract with the office of public~~
2 ~~guardianship is granted letters under RCW 11.28.120(7))~~).

3 (b) Neither the public guardianship and conservatorship
4 administrator nor the office may act as public guardian or (~~limited~~
5 ~~guardian~~) conservator or act in any other representative capacity
6 for any individual.

7 (c) The primary function of the office is to contract for public
8 guardianship, public conservatorship, (~~supported~~) decision-making
9 assistance, and estate administration services that are provided in a
10 manner consistent with the requirements of this chapter. The office
11 is subject to audit by the state auditor.

12 (d) Public guardianship, public conservatorship, (~~supported~~)
13 decision-making assistance, and estate administration service
14 contracts are dependent upon legislative appropriation. This chapter
15 does not create an entitlement.

16 (2) The office shall adopt and maintain eligibility criteria to
17 enable it to serve individuals with the greatest need when the number
18 of cases in which courts propose to appoint a public guardian or
19 conservator exceeds the number of cases in which (~~public~~
20 ~~guardianship and supported decision-making assistance~~) services can
21 be provided. In adopting such criteria, the office may consider
22 factors including, but not limited to, the following: Whether an
23 individual with diminished decision-making ability is at significant
24 risk of harm from abuse, exploitation, abandonment, neglect, or self-
25 neglect; and whether an individual with diminished decision-making
26 ability is in imminent danger of loss or significant reduction in
27 public services that are necessary for the individual to live
28 successfully in the most integrated and least restrictive environment
29 that is appropriate in light of the individual's needs and values.

30 (3) The office shall adopt minimum standards of practice for
31 public guardians, public conservators, and other contract service
32 providers providing public guardianship, public conservatorship,
33 (~~supported~~) decision-making assistance, and estate administration
34 services. (~~Any public guardian providing such public guardianship~~
35 ~~services must be certified by the certified professional guardian~~
36 ~~board established by the supreme court.~~)

37 (4) The office shall require a public guardian or conservator to
38 visit each (~~incapacitated person~~) individual subject to
39 guardianship or conservatorship for which public guardianship or

1 conservatorship services are provided no less than monthly to be
2 eligible for compensation.

3 (5) The office shall not petition for appointment of a public
4 guardian or conservator for any individual. It may develop a proposal
5 for the legislature to make affordable legal assistance available to
6 petition for guardianships or conservatorships.

7 (6) The office shall develop and adopt a case-weighting system
8 designed to balance the increasing need for access to guardianship
9 and conservatorship services, while effectively managing public
10 guardian and conservator caseloads and providing appropriate supports
11 for individuals on that caseload.

12 (a) The standard caseload limit for a contract service provider
13 must be no more than twenty (~~incapacitated~~) persons placed under a
14 guardianship per certified professional guardian or conservator. The
15 office may authorize adjustments to the standard caseload limit on a
16 case-by-case basis, and payment for services to a contract service
17 provider that serves more than twenty (~~incapacitated~~) persons
18 placed under a guardianship per professional guardian or conservator
19 is subject to review by the office. In evaluating caseload size, the
20 office shall consider the expected activities, time, and demands
21 involved, as well as the available support for each case.

22 (b) (~~Caseload~~) Adjusted caseload limits must not exceed thirty-
23 six cases. The office shall not authorize payment for services for
24 any contract service provider that fails to comply with the
25 (~~standard~~) adjusted caseload limit guidelines.

26 (c) The office shall develop case-weighting guidelines to include
27 a process for adjusting caseload limits, relevant policies and
28 procedures, and recommendations for changes in court rules which may
29 be appropriate for the implementation of the system.

30 (d) By December 1, 2019, the office must submit to the
31 legislature a report detailing the final case-weighting system and
32 guidelines, and implementation progress and recommendations. The
33 report must be made available to the public.

34 (e) The administrative office of the courts shall notify the
35 superior courts of the policies contained in the final case-weighting
36 system.

37 (7) The office shall monitor and oversee the use of state funding
38 to ensure compliance with this chapter.

39 (8) The office shall collect uniform and consistent basic data
40 elements regarding service delivery. This data shall be made

1 available to the legislature and supreme court in a format that is
2 not identifiable by individual (~~(incapacitated person)~~) subject to
3 guardianship or conservatorship to protect confidentiality.

4 (9) The office shall require contract service providers to seek
5 reimbursement of fees from program clients who are receiving long-
6 term care services through the department of social and health
7 services to the extent, and only to the extent, that such
8 reimbursement may be paid, consistent with an order of the superior
9 court, from income that would otherwise be required by the department
10 to be paid toward the cost of the client's care. Fees reimbursed
11 shall be remitted by the contract service provider to the office
12 unless a different disposition is directed by the public guardianship
13 and conservatorship administrator.

14 (10) Fees may be collected from the estate when the
15 (~~(decedent's)~~) decedent's income prior to death exceeded two hundred
16 percent of the federal poverty level, determined annually by the
17 United States department of health and human services, based on a fee
18 schedule established by the office that must be published annually.

19 (11) The office shall require public (~~(guardianship providers)~~)
20 guardians or conservators to certify annually that for each
21 individual served they have reviewed the need for continued public
22 guardianship (~~(services)~~) or conservatorship and the appropriateness
23 of limiting, or further limiting, the authority of the public
24 guardian or conservator under the applicable (~~(guardianship)~~) order,
25 and that where termination or modification of a guardianship or
26 conservatorship order appears warranted, the superior court has been
27 asked to take the corresponding action.

28 (12) The office shall adopt a process for receipt and
29 consideration of and response to complaints against the office and
30 (~~(contracted)~~) contract service providers of public guardianship,
31 public conservatorship, (~~(supported)~~) decision-making assistance, and
32 estate administration (~~(services)~~). The process shall include
33 investigation in cases in which investigation appears warranted in
34 the judgment of the administrator.

35 (13) The office shall develop standardized forms and reporting
36 instruments that may include, but are not limited to, intake, initial
37 assessment, guardianship care plan, decisional accounting, staff time
38 logs, changes in condition or abilities of an (~~(incapacitated~~
39 ~~person)~~) individual subject to guardianship or conservatorship, and

1 values history. The office shall collect and analyze the data
2 gathered from these reports.

3 (14) The office shall identify training needs for contract
4 service providers it contracts with, and shall make recommendations
5 to the supreme court, the certified professional guardian board, and
6 the legislature for improvements in training. The office may offer
7 training to individuals providing services pursuant to this chapter,
8 to individuals who, in the judgment of the administrator or the
9 administrator's designee, are likely to provide such services in the
10 future, to lay guardians or conservators, and to the family and
11 friends of individuals subject to guardianship or conservatorship.

12 (15) The office shall establish a system for monitoring the
13 performance of contract service providers, and office staff shall
14 make in-home visits to a randomly selected sample of public
15 guardianship, public conservatorship, and (~~supported~~) decision-
16 making assistance clients. The office may conduct further monitoring,
17 including in-home visits, as the administrator deems appropriate. For
18 monitoring purposes, office staff shall have access to any
19 information relating to a public guardianship, public
20 conservatorship, (~~supported~~) decision-making assistance, and estate
21 administration client that is available to the guardian or
22 conservator.

23 **Sec. 405.** RCW 11.28.120 and 2019 c 215 s 5 are each amended to
24 read as follows:

25 Administration of an estate if the decedent died intestate or if
26 the personal representative or representatives named in the will
27 declined or were unable to serve shall be granted to some one or more
28 of the persons hereinafter mentioned, and they shall be respectively
29 entitled in the following order:

30 (1) The surviving spouse or state registered domestic partner, or
31 such person as he or she may request to have appointed.

32 (2) The next of kin in the following order: (a) Child or
33 children; (b) father or mother; (c) brothers or sisters; (d)
34 grandchildren; (e) nephews or nieces.

35 (3) The trustee named by the decedent in an inter vivos trust
36 instrument, testamentary trustee named in the will, guardian (~~of the~~
37 ~~person or estate~~) of the decedent, conservator of the decedent, or
38 (~~attorney-in-fact~~) an agent named in a durable power of attorney
39 appointed by the decedent, if any such a fiduciary controlled or

1 potentially controlled substantially all of the decedent's probate
2 and nonprobate assets.

3 (4) One or more of the beneficiaries or transferees of the
4 decedent's probate or nonprobate assets.

5 (5) (a) The director of revenue, or the director's designee, for
6 those estates having property subject to the provisions of chapter
7 11.08 RCW; however, the director may waive this right.

8 (b) The secretary of the department of social and health services
9 for those estates owing debts for long-term care services as defined
10 in RCW 74.39A.008; however the secretary may waive this right.

11 (6) One or more of the principal creditors.

12 (7) If the persons so entitled shall fail for more than forty
13 days after the death of the decedent to present a petition for
14 letters of administration, or if it appears to the satisfaction of
15 the court that there is no next of kin, as above specified eligible
16 to appointment, or they waive their right, and there are no principal
17 creditor or creditors, or such creditor or creditors waive their
18 right, then the court may appoint a contract service provider (~~under~~
19 ~~contract~~) with the office of public guardianship and conservatorship
20 under chapter 2.72 RCW or any suitable person to administer such
21 estate.

22 **PART V**

23 **UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS ACT**

24 **Sec. 501.** RCW 11.90.020 and 2009 c 81 s 2 are each amended to
25 read as follows:

26 In this chapter:

27 (1) "Adult" means an individual who has attained eighteen years
28 of age.

29 (2) (~~"Guardian of the estate"~~) "Conservator" means a person
30 appointed by the court to administer the property of an adult,
31 including a person appointed under chapter 11.130 RCW, and includes a
32 conservator appointed by the court in another state.

33 (3) (~~"Guardian of the person" or "guardian"~~) "Guardian" means a
34 person appointed by the court to make decisions regarding the person
35 of an adult, including a person appointed under chapter 11.130 RCW,
36 and includes a guardian appointed by the court in another state.

37 (4) "Guardianship order" means an order appointing a guardian
38 (~~of the person or guardian of the estate~~).

1 (5) "Guardianship proceeding" means a judicial proceeding in
2 which an order for the appointment of a guardian (~~(of the person or~~
3 ~~guardian of the estate)~~) is sought or has been issued.

4 (6) (~~("Incapacitated person" means an adult for whom a guardian~~
5 ~~of the person or guardian of the estate has been appointed.~~

6 ~~(7))~~ "Party" means the respondent, petitioner, guardian (~~(of the~~
7 ~~person or guardian of the estate)~~), conservator, or any other person
8 allowed by the court to participate in a guardianship or protective
9 proceeding.

10 (~~(8))~~ (7) "Person," except in the term (~~(incapacitated)~~) person
11 under a guardianship, person under a conservatorship, or protected
12 person, means an individual, corporation, business trust, estate,
13 trust, partnership, limited liability company, association, joint
14 venture, public corporation, government or governmental subdivision,
15 agency, or instrumentality, or any other legal or commercial entity.

16 (8) "Person subject to a guardianship" means an adult for whom a
17 guardian has been appointed.

18 (9) "Protected person" means an adult for whom a protective order
19 has been issued.

20 (10) "Protective order" means an order appointing a (~~(guardian of~~
21 ~~the estate)~~) conservator or other order related to management of an
22 adult's property(~~(, including an order issued by a court in another~~
23 ~~state appointing a conservator)~~).

24 (11) "Protective proceeding" means a judicial proceeding in which
25 a protective order is sought or has been issued.

26 (12) "Record" means information that is inscribed on a tangible
27 medium or that is stored in an electronic or other medium and is
28 retrievable in perceivable form.

29 (13) "Respondent" means an adult for whom a protective order or
30 the appointment of a guardian (~~(of the person)~~) is sought.

31 (14) "State" means a state of the United States, the District of
32 Columbia, Puerto Rico, the United States Virgin Islands, a federally
33 recognized Indian tribe, or any territory or insular possession
34 subject to the jurisdiction of the United States.

35 **Sec. 502.** RCW 11.90.230 and 2009 c 81 s 10 are each amended to
36 read as follows:

37 (1) A court of this state lacking jurisdiction under RCW
38 11.90.220 has special jurisdiction to do any of the following:

1 (a) ~~((In an emergency, process a petition under RCW 11.88.090 for~~
2 ~~appointment of a guardian for a respondent who is physically present~~
3 ~~in this state, for a term not exceeding ninety days;)) Appoint a
4 guardian in an emergency for a term not exceeding sixty days for a
5 respondent who is physically present in this state;~~

6 (b) Issue a protective order with respect to ~~((a respondent's))~~
7 real or tangible personal property located in this state if a
8 petition for appointment of a guardian or a conservator for the
9 respondent is pending or has been approved in another state;

10 (c) Appoint a guardian ~~((of the person or guardian of the~~
11 ~~estate)) or conservator for ~~((an incapacitated))~~ a person under a
12 guardianship, person under a conservatorship, or protected person for
13 whom a provisional order to transfer the proceeding from another
14 state has been issued under procedures similar to RCW 11.90.400.~~

15 (2) If a petition for the appointment of a guardian in an
16 emergency is brought in this state and this state was not the
17 respondent's home state on the date the petition was filed, the court
18 shall dismiss the proceeding at the request of the court of the home
19 state, if any, whether dismissal is requested before or after the
20 emergency appointment.

21 **Sec. 503.** RCW 11.90.250 and 2009 c 81 s 12 are each amended to
22 read as follows:

23 (1) A court of this state having jurisdiction under RCW 11.90.220
24 to appoint a guardian or issue a protective order may decline to
25 exercise its jurisdiction if it determines at any time that a court
26 of another state is a more appropriate forum.

27 (2) If a court of this state declines to exercise its
28 jurisdiction under subsection (1) of this section, it shall either
29 dismiss or stay the proceeding. The court may impose any condition
30 the court considers just and proper, including the condition that a
31 petition for the appointment of a guardian or issuance of a
32 protective order be filed promptly in another state.

33 (3) In determining whether it is an appropriate forum, the court
34 shall consider all relevant factors, including:

35 (a) Any expressed preference of the respondent;

36 (b) Whether abuse, neglect, or exploitation of the respondent has
37 occurred or is likely to occur and which state could best protect the
38 respondent from the abuse, neglect, or exploitation;

1 (c) The length of time the respondent was physically present in
2 or was a legal resident of this or another state;

3 (d) The distance of the respondent from the court in each state;

4 (e) The financial circumstances of the respondent's estate;

5 (f) The nature and location of the evidence;

6 (g) The ability of the court in each state to decide the issue
7 expeditiously and the procedures necessary to present evidence;

8 (h) The familiarity of the court of each state with the facts and
9 issues in the proceeding; and

10 (i) If an appointment were made, the court's ability to monitor
11 the conduct of the guardian (~~(of the person or guardian of the~~
12 ~~estate)) or conservator.~~

13 **Sec. 504.** RCW 11.90.400 and 2009 c 81 s 16 are each amended to
14 read as follows:

15 (1) A guardian (~~(of the person or guardian of the estate)) or~~
16 ~~conservator~~ appointed in this state may petition the court to
17 transfer the guardianship or conservatorship to another state.

18 (2) Notice of a petition under subsection (1) of this section
19 must be given to the persons that would be entitled to notice of a
20 petition in this state for the appointment of a guardian (~~(of the~~
21 ~~person or guardian of the estate)) or conservator.~~

22 (3) On the court's own motion or on request of the guardian (~~(of~~
23 ~~the person or guardian of the estate)) or conservator, the
24 (~~(incapacitated)) person under a guardianship, person under a~~
25 ~~conservatorship~~, or protected person, or other person required to be
26 notified of the petition, the court shall hold a hearing on a
27 petition filed pursuant to subsection (1) of this section.~~

28 (4) The court shall issue an order provisionally granting a
29 petition to transfer a guardianship and shall direct the guardian
30 (~~(of the person or guardian of the estate)) to petition for~~
31 guardianship in the other state if the court is satisfied that the
32 guardianship will be accepted by the court in the other state and the
33 court finds that:

34 (a) The (~~(incapacitated)) person under a guardianship is~~
35 physically present in or is reasonably expected to move permanently
36 to the other state;

37 (b) An objection to the transfer has not been made or, if an
38 objection has been made, the objector has not established that the

1 transfer would be contrary to the interests of the ((incapacitated))
2 person under a guardianship; and

3 (c) Plans for care and services for the ((incapacitated)) person
4 under a guardianship in the other state are reasonable and
5 sufficient.

6 (5) The court shall issue a provisional order granting a petition
7 to transfer a ((guardianship of the estate)) conservatorship and
8 shall direct the ((guardian of the estate)) conservator to petition
9 for ((guardianship of the estate or)) conservatorship in the other
10 state if the court is satisfied that the ((guardianship of the
11 estate)) conservatorship will be accepted by the court of the other
12 state and the court finds that:

13 (a) The protected person is physically present in or is
14 reasonably expected to move permanently to the other state, or the
15 protected person has a significant connection to the other state
16 considering the factors in RCW 11.90.200(2);

17 (b) An objection to the transfer has not been made or, if an
18 objection has been made, the objector has not established that the
19 transfer would be contrary to the interests of the protected person;
20 and

21 (c) Adequate arrangements will be made for management of the
22 protected person's property.

23 (6) The court shall issue a final order confirming the transfer
24 and terminating the guardianship ((of the person or guardianship of
25 the estate)) or conservatorship upon its receipt of:

26 (a) A provisional order accepting the proceeding from the court
27 to which the proceeding is to be transferred which is issued under
28 provisions similar to RCW 11.90.410; and

29 (b) The documents required to terminate a guardianship ((of the
30 person or guardianship of the estate)) or conservatorship in this
31 state.

32 **Sec. 505.** RCW 11.90.410 and 2009 c 81 s 17 are each amended to
33 read as follows:

34 (1) To confirm transfer of a guardianship or conservatorship
35 transferred to this state under provisions similar to RCW 11.90.400,
36 the guardian or conservator must petition the court in this state to
37 accept the guardianship or conservatorship. The petition must include
38 a certified copy of the other state's provisional order of transfer.

1 (2) Notice of a petition under subsection (1) of this section
2 must be given to those persons that would be entitled to notice if
3 the petition were a petition for the appointment of a guardian or
4 issuance of a protective order in both the transferring state and
5 this state. The notice must be given in the same manner as notice is
6 required to be given in this state.

7 (3) On the court's own motion or on request of the guardian or
8 conservator, the ~~((incapacitated))~~ person under a guardianship,
9 person under a conservatorship, or protected person, or other person
10 required to be notified of the proceeding, the court shall hold a
11 hearing on a petition filed pursuant to subsection (1) of this
12 section.

13 (4) The court shall issue an order provisionally granting a
14 petition filed under subsection (1) of this section unless:

15 (a) An objection is made and the objector establishes that
16 transfer of the proceeding would be contrary to the interests of the
17 ~~((incapacitated))~~ person under a guardianship, person under a
18 conservatorship, or protected person; or

19 (b) The guardian or conservator is ineligible for appointment in
20 this state.

21 (5) The court shall issue a final order accepting the proceeding
22 and appointing the guardian or conservator as guardian ~~((of the~~
23 ~~person or guardian of the estate))~~ or conservator in this state upon
24 its receipt from the court from which the proceeding is being
25 transferred of a final order issued under provisions similar to RCW
26 11.90.400 transferring the proceeding to this state.

27 (6) Not later than ninety days after issuance of a final order
28 accepting transfer of a guardianship or conservatorship, the court
29 shall determine whether the guardianship ~~((of the person or~~
30 ~~guardianship of the estate))~~ or conservatorship needs to be modified
31 to conform to the law of this state.

32 (7) In granting a petition under this section, the court shall
33 recognize a guardianship or conservatorship order from the other
34 state, including the determination of the ~~((incapacitated))~~ person
35 under a guardianship, person under a conservatorship, or protected
36 person's incapacity and the appointment of the guardian or
37 conservator.

38 (8) The denial by a court of this state of a petition to accept a
39 guardianship or conservatorship transferred from another state does
40 not affect the ability of the guardian or conservator to seek

1 appointment as guardian or (~~guardian of the estate~~) conservator in
2 this state if the court has jurisdiction to make an appointment other
3 than by reason of the provisional order of transfer.

4 **PART VI**

5 **SUPPORTED DECISION-MAKING AGREEMENTS**

6 NEW SECTION. **Sec. 601.** DEFINITIONS. The definitions in this
7 section apply throughout this section and sections 602 through 612 of
8 this act unless the context clearly requires otherwise.

9 (1) "Disability" means, with respect to an individual, a physical
10 or mental impairment that substantially limits one or more major life
11 activities.

12 (2) "Supported decision-making agreement" is an agreement between
13 an adult with a disability and one or more supporters entered into
14 under this chapter.

15 (3) "Supporter" means an adult who has entered into a supported
16 decision-making agreement with an adult with a disability.

17 NEW SECTION. **Sec. 602.** PURPOSE. The purpose of sections 601
18 through 612 of this act is to recognize a less restrictive
19 alternative to guardianship for adults with disabilities who need
20 assistance with decisions regarding daily living.

21 NEW SECTION. **Sec. 603.** PRESUMPTION OF CAPACITY. (1) All adults
22 are presumed to be capable of managing their affairs and to have
23 legal capacity.

24 (2) The manner in which an adult communicates with others is not
25 grounds for deciding that the adult is incapable of managing the
26 adult's affairs.

27 (3) Execution of a supported decision-making agreement may not be
28 used as evidence of incapacity and does not preclude the ability of
29 the adult who has entered into such an agreement to act independently
30 of the agreement.

31 NEW SECTION. **Sec. 604.** SCOPE OF SUPPORTED DECISION-MAKING
32 AGREEMENT. An adult with a disability may voluntarily, without undue
33 influence or coercion, enter into a supported decision-making
34 agreement with a supporter under which the adult with a disability
35 authorizes the supporter to do any or all of the following:

1 (1) Provide supported decision-making, including assistance in
2 understanding the options, responsibilities, and consequences of the
3 adult's life decisions, without making those decisions on behalf of
4 the adult with a disability;

5 (2) Assist the adult in accessing, collecting, and obtaining
6 information that is relevant to a given life decision, including
7 medical, psychological, financial, educational, or treatment records,
8 from any person;

9 (3) Assist the adult with a disability in understanding the
10 information described in subsection (2) of this section; and

11 (4) Assist the adult in communicating the adult's decisions to
12 appropriate persons.

13 NEW SECTION. **Sec. 605.** AUTHORITY OF SUPPORTER. A supporter may
14 exercise the authority granted to the supporter in the supported
15 decision-making agreement.

16 NEW SECTION. **Sec. 606.** TERM OF AGREEMENT. (1) Except as
17 provided by subsection (2) of this section, the supported decision-
18 making agreement extends until terminated by either party or by the
19 terms of the agreement.

20 (2) The supported decision-making agreement is terminated if:

21 (a) The department of social and health services finds that the
22 adult with a disability has been abused, neglected, or exploited by
23 the supporter;

24 (b) The supporter is found criminally liable for conduct
25 described in (a) of this subsection;

26 (c) The person with a disability gives notice to the supporter
27 orally, in writing, through an assistive technology device, or by any
28 other means or act showing a specific intent to terminate the
29 agreement; or

30 (d) The supporter provides written notice of the supporter's
31 resignation to the person with a disability. If a supported decision-
32 making agreement includes more than one supporter, each supporter can
33 terminate the agreement only as to that supporter.

34 NEW SECTION. **Sec. 607.** DISQUALIFICATION OF SUPPORTER. The
35 following are disqualified from acting as a supporter:

1 (1) A person who is an employer or employee of the adult with a
2 disability, unless the person is an immediate family member of the
3 adult with a disability;

4 (2) A person directly providing paid support services to the
5 adult with a disability, unless the person is an immediate family
6 member of the adult with a disability; and

7 (3) An individual against whom the person with a disability has
8 obtained an order of protection from abuse, or an individual who is
9 the subject of a civil or criminal order prohibiting contact with the
10 adult with a disability.

11 NEW SECTION. **Sec. 608.** ACCESS TO PERSONAL INFORMATION. (1) A
12 supporter is only authorized to assist the adult with a disability in
13 accessing, collecting, or obtaining information that is relevant to a
14 decision authorized under the supported decision-making agreement.

15 (2) If a supporter assists an adult with a disability in
16 accessing, collecting, or obtaining personal information, including
17 protected health information under the federal health insurance
18 portability and accountability act of 1996, P.L. 104-191, or
19 educational records under the federal family educational rights and
20 privacy act of 1974, 20 U.S.C. Sec. 1232g, the supporter shall ensure
21 the information is kept privileged and confidential, as applicable,
22 and is not subject to unauthorized access, use, or disclosure.

23 (3) The existence of a supported decision-making agreement does
24 not preclude an adult with a disability from seeking personal
25 information without the assistance of a supporter.

26 NEW SECTION. **Sec. 609.** AUTHORIZING AND WITNESSING OF SUPPORTED
27 DECISION-MAKING AGREEMENT. (1) A supported decision-making agreement
28 must be in writing, dated, and signed voluntarily, without coercion
29 or undue influence, by the adult with a disability and the supporter
30 in the presence of two or more subscribing witnesses or a notary
31 public.

32 (2) If signed before two witnesses, the attesting witnesses must
33 be at least eighteen years of age.

34 (3) The witnesses required by subsection (1) of this section may
35 not be any of the following:

36 (a) A supporter for the person with a disability;

37 (b) An employee or agent of a supporter named in the supported
38 decision-making agreement;

1 (c) A paid provider of services to the person with a disability;
2 or
3 (d) Any person who does not understand the type of communication
4 the person with a disability uses, unless an individual who
5 understands the person with a disability's means of communication is
6 present to assist during the execution of the supported decision-
7 making agreement.

8 NEW SECTION. **Sec. 610.** FORM OF SUPPORTED DECISION-MAKING
9 AGREEMENT. (1) Subject to subsection (2) of this section, a supported
10 decision-making agreement is valid only if it is in substantially the
11 following form:

12 SUPPORTED DECISION-MAKING AGREEMENT

13 Appointment of Supporter

14 I, (name of supported adult), make this agreement of my
15 own free will.

16 I agree and designate that:

- 17 Name: (name of supporter)
- 18 Address: (address of supporter)
- 19 Phone Number: (phone number of supporter)
- 20 Email Address: (email address of supporter)

21 is my supporter.

22 My supporter may help me with making everyday life decisions
23 relating to the following:

- 24 (Y/N) Obtaining food, clothing, and shelter.
- 25 (Y/N) Taking care of my health.
- 26 (Y/N) Managing my financial affairs.
- 27 (Y/N) Other matters: (specify).

28 My supporter is not allowed to make decisions for me. To help
29 me with my decisions, my supporter may:

- 30 1. Help me access, collect, or obtain information
31 that is relevant to a decision, including medical,
32 psychological, financial, educational, or treatment
33 records;
- 34 2. Help me understand my options so I can make an
35 informed decision; and
- 36 3. Help me communicate my decision to appropriate
37 persons.

1 (Y/N) A release allowing my supporter to see
2 protected health information under the Health Insurance
3 Portability and Accountability Act of 1996, P.L. 104-191,
4 is attached.

5 (Y/N) A release allowing my supporter to see
6 educational records under the Family Educational Rights
7 and Privacy Act of 1974, 20 U.S.C. Sec. 1232g, is
8 attached.

9 Effective Date of Supported Decision-Making Agreement
10 This supported decision-making agreement is effective
11 immediately and will continue until (insert date) or
12 until the agreement is terminated by my supporter or me or by
13 operation of law.

14 Signed this (day) day of (month), (year)

15 Consent of Supporter

16 I, (name of supporter), acknowledge my responsibilities
17 and consent to act as a supporter under this agreement.

18 (Signature of supporter)

19 (Printed name of supporter)

20 Supporter

21 (Signature of supported adult)

22 (Printed name of supported adult)

23 Supported Adult

24 (Signature of witness 1)

25 (Printed name of witness 1)

26 Witness 1

27 (Signature of witness 2)

28 (Printed name of witness 2)

29 Witness 2

30 State of

31 County of

32 This record was acknowledged before me on (date)
33 by (name(s) of individuals).

34

(Signature of notary
public)

(Stamp)

.....
(Title of office)

My commission expires:

.....
(Date)

9 WARNING: PROTECTION FOR THE ADULT WITH A DISABILITY
10 IF A PERSON WHO RECEIVES A COPY OF THIS AGREEMENT OR IS AWARE
11 OF THE EXISTENCE OF THIS AGREEMENT HAS CAUSE TO BELIEVE THAT
12 THE ADULT WITH A DISABILITY IS BEING ABUSED, NEGLECTED, OR
13 EXPLOITED BY THE SUPPORTER, THE PERSON SHALL REPORT THE
14 ALLEGED ABUSE, NEGLECT, OR EXPLOITATION TO THE DEPARTMENT OF
15 SOCIAL AND HEALTH SERVICES BY CALLING THE ABUSE HOTLINE AT
16 1-800-END-HARM.

17 (2) A supported decision-making agreement may be in any form not
18 inconsistent with subsection (1) of this section and the other
19 requirements of this chapter.

20 NEW SECTION. **Sec. 611.** RELIANCE ON AGREEMENT—LIMITATION OF
21 LIABILITY. (1) A person who receives the original or a copy of a
22 supported decision-making agreement shall rely on the agreement.

23 (2) A person is not subject to criminal or civil liability and
24 has not engaged in professional misconduct for an act or omission if
25 the act or omission is done in good faith and in reliance on a
26 supported decision-making agreement.

27 NEW SECTION. **Sec. 612.** REPORTING OF SUSPECTED ABUSE, NEGLECT,
28 OR EXPLOITATION. If a person who receives a copy of a supported
29 decision-making agreement or is aware of the existence of a supported
30 decision-making agreement has cause to believe that the adult with a
31 disability is being abused, neglected, or exploited by the supporter,
32 the person shall report the alleged abuse, neglect, or exploitation
33 to the department of social and health services, except where the
34 person is exempted from requirements to report abuse due to a
35 confidential relationship recognized in statute, regulation, or
36 professional standards.

1 **PART VII**

2 **TECHNICAL CORRECTIONS**

3 **Sec. 701.** RCW 2.56.150 and 2005 c 282 s 9 are each amended to
4 read as follows:

5 (1) The administrator for the courts shall review the
6 advisability and feasibility of the statewide mandatory use of court-
7 appointed special advocates as described in RCW 26.12.175 to act as
8 guardians ad litem in appropriate cases under Titles 13 and 26 RCW.
9 The review must explore the feasibility of obtaining various sources
10 of private and public funding to implement statewide mandatory use of
11 court-appointed special advocates, such as grants and donations,
12 instead of or in combination with raising court fees or assessments.

13 (2) The administrator shall also conduct a study on the
14 feasibility and desirability of requiring all persons who act as
15 guardians ad litem under Titles 11, 13, and 26 RCW to be certified as
16 qualified guardians ad litem prior to their eligibility for
17 appointment.

18 (3) In conducting the review and study the administrator shall
19 consult with: (a) The presidents or directors of all public benefit
20 nonprofit corporations that are eligible to receive state funds under
21 RCW 43.330.135; (b) the attorney general, or a designee; (c) the
22 secretary of the department of social and health services, or a
23 designee; (d) the superior court judges' association; (e) the
24 Washington state bar association; (f) public defenders who represent
25 children under Title 13 or 26 RCW; (g) private attorneys who
26 represent parents under Title 13 or 26 RCW; (h) professionals who
27 evaluate families for the purposes of determining the custody or
28 placement decisions of children; (i) the office of financial
29 management; (j) persons who act as volunteer or compensated guardians
30 ad litem; and (k) parents who have dealt with guardians ad litem in
31 court cases. For the purposes of studying the feasibility of a
32 certification requirement for guardians ad litem acting under Title
33 11 RCW the administrator shall consult with the advisory group formed
34 under RCW (~~11.88.090~~) 11.130.155.

35 (4) The administrator shall also conduct a review of problems and
36 concerns about the role of guardians ad litem in actions under Titles
37 11, 13, and 26 RCW and recommend alternatives to strengthen judicial
38 oversight of guardians ad litem and ensure fairness and impartiality

1 of the process. The administrator must accept and obtain comments
2 from parties designated in subsection (3) of this section.

3 **Sec. 702.** RCW 4.16.190 and 2006 c 8 s 303 are each amended to
4 read as follows:

5 (1) Unless otherwise provided in this section, if a person
6 entitled to bring an action mentioned in this chapter, except for a
7 penalty or forfeiture, or against a sheriff or other officer, for an
8 escape, be at the time the cause of action accrued either under the
9 age of eighteen years, or incompetent or disabled to such a degree
10 that he or she cannot understand the nature of the proceedings, such
11 incompetency or disability as determined according to chapter
12 (~~11.88~~) 11.130 RCW, or imprisoned on a criminal charge prior to
13 sentencing, the time of such disability shall not be a part of the
14 time limited for the commencement of action.

15 (2) Subsection (1) of this section with respect to a person under
16 the age of eighteen years does not apply to the time limited for the
17 commencement of an action under RCW 4.16.350.

18 **Sec. 703.** RCW 7.28.090 and 1977 ex.s. c 80 s 7 are each amended
19 to read as follows:

20 RCW 7.28.070 and 7.28.080 shall not extend to lands or tenements
21 owned by the United States or this state, nor to school lands, nor to
22 lands held for any public purpose. Nor shall they extend to lands or
23 tenements when there shall be an adverse title to such lands or
24 tenements, and the holder of such adverse title is a person under
25 eighteen years of age, or (~~incompetent within the meaning of RCW~~
26 ~~11.88.010: PROVIDED, Such~~) has been placed under a guardianship
27 under RCW 11.130.265. However, such persons as aforesaid shall
28 commence an action to recover such lands or tenements so possessed as
29 aforesaid, within three years after the several disabilities herein
30 enumerated shall cease to exist, and shall prosecute such action to
31 judgment, or in case of vacant and unoccupied land shall, within the
32 time last aforesaid, pay to the person or persons who have paid the
33 same for his or her betterments, and the taxes, with interest on said
34 taxes at the legal rate per annum that have been paid on said vacant
35 and unimproved land.

36 **Sec. 704.** RCW 7.36.020 and 2008 c 6 s 801 are each amended to
37 read as follows:

1 Writs of habeas corpus shall be granted in favor of parents,
2 guardians, limited guardians where appropriate, spouses or domestic
3 partners, and next of kin, and to enforce the rights, and for the
4 protection of ~~((infants and incompetent or disabled persons within
5 the meaning of RCW 11.88.010))~~ minors and persons who have been
6 placed under a guardianship under RCW 11.130.265; and the proceedings
7 shall in all cases conform to the provisions of this chapter.

8 **Sec. 705.** RCW 7.70.065 and 2019 c 232 s 8 and 2019 c 209 s 1 are
9 each reenacted and amended to read as follows:

10 (1) Informed consent for health care for a patient who is ~~((not
11 competent, as defined in RCW 11.88.010(1)(e)))~~ a minor or, to consent
12 may be obtained from a person authorized to consent on behalf of such
13 patient.

14 (a) Persons authorized to provide informed consent to health care
15 on behalf of a patient who ~~((is not competent to consent, based upon
16 a reason other than incapacity as defined in RCW 11.88.010(1)(d)))~~
17 has been placed under a guardianship under RCW 11.130.265 a minor or,
18 shall be a member of one of the following classes of persons in the
19 following order of priority:

20 (i) The appointed guardian of the patient, if any;

21 (ii) The individual, if any, to whom the patient has given a
22 durable power of attorney that encompasses the authority to make
23 health care decisions;

24 (iii) The patient's spouse or state registered domestic partner;

25 (iv) Children of the patient who are at least eighteen years of
26 age;

27 (v) Parents of the patient;

28 (vi) Adult brothers and sisters of the patient;

29 (vii) Adult grandchildren of the patient who are familiar with
30 the patient;

31 (viii) Adult nieces and nephews of the patient who are familiar
32 with the patient;

33 (ix) Adult aunts and uncles of the patient who are familiar with
34 the patient; and

35 (x) (A) An adult who:

36 (I) Has exhibited special care and concern for the patient;

37 (II) Is familiar with the patient's personal values;

38 (III) Is reasonably available to make health care decisions;

1 (IV) Is not any of the following: A physician to the patient or
2 an employee of the physician; the owner, administrator, or employee
3 of a health care facility, nursing home, or long-term care facility
4 where the patient resides or receives care; or a person who receives
5 compensation to provide care to the patient; and

6 (V) Provides a declaration under (a)(x)(B) of this subsection.

7 (B) An adult who meets the requirements of (a)(x)(A) of this
8 subsection shall provide a declaration, which is effective for up to
9 six months from the date of the declaration, signed and dated under
10 penalty of perjury pursuant to (~~RCW 9A.72.085~~) chapter 5.50 RCW,
11 that recites facts and circumstances demonstrating that he or she is
12 familiar with the patient and that he or she:

13 (I) Meets the requirements of (a)(x)(A) of this subsection;

14 (II) Is a close friend of the patient;

15 (III) Is willing and able to become involved in the patient's
16 health care;

17 (IV) Has maintained such regular contact with the patient as to
18 be familiar with the patient's activities, health, personal values,
19 and morals; and

20 (V) Is not aware of a person in a higher priority class willing
21 and able to provide informed consent to health care on behalf of the
22 patient.

23 (C) A health care provider may, but is not required to, rely on a
24 declaration provided under (a)(x)(B) of this subsection. The health
25 care provider or health care facility where services are rendered is
26 immune from suit in any action, civil or criminal, or from
27 professional or other disciplinary action when such reliance is based
28 on a declaration provided in compliance with (a)(x)(B) of this
29 subsection.

30 (b) If the health care provider seeking informed consent for
31 proposed health care of the patient who (~~is not competent to consent~~
32 ~~under RCW 11.88.010(1)(c), other than a person determined to be~~
33 ~~incapacitated because he or she is under the age of majority and who~~
34 ~~is not otherwise authorized to provide informed consent~~) has been
35 placed under a guardianship under RCW 11.130.265, makes reasonable
36 efforts to locate and secure authorization from a competent person in
37 the first or succeeding class and finds no such person available,
38 authorization may be given by any person in the next class in the
39 order of descending priority. However, no person under this section
40 may provide informed consent to health care:

1 (i) If a person of higher priority under this section has refused
2 to give such authorization; or

3 (ii) If there are two or more individuals in the same class and
4 the decision is not unanimous among all available members of that
5 class.

6 (c) Before any person authorized to provide informed consent on
7 behalf of a patient (~~((not competent to consent under RCW
8 11.88.010(1)(e), other than a person determined to be incapacitated
9 because he or she is under the age of majority and who is not
10 otherwise authorized to provide informed consent))~~ who has been
11 placed under a guardianship under RCW 11.130.265, exercises that
12 authority, the person must first determine in good faith that that
13 patient, if competent, would consent to the proposed health care. If
14 such a determination cannot be made, the decision to consent to the
15 proposed health care may be made only after determining that the
16 proposed health care is in the patient's best interests.

17 (d) No rights under Washington's death with dignity act, chapter
18 70.245 RCW, may be exercised through a person authorized to provide
19 informed consent to health care on behalf of a patient (~~((not
20 competent to consent under RCW 11.88.010(1)(e)))~~ who is a minor or
21 has been placed under a guardianship under RCW 11.130.265.

22 (2) Informed consent for health care, including mental health
23 care, for a patient who (~~((is not competent, as defined in RCW
24 11.88.010(1)(e), because he or she))~~ is under the age of majority and
25 who is not otherwise authorized to provide informed consent, may be
26 obtained from a person authorized to consent on behalf of such a
27 patient.

28 (a) Persons authorized to provide informed consent to health
29 care, including mental health care, on behalf of a patient who (~~((is
30 incapacitated, as defined in RCW 11.88.010(1)(e), because he or she))~~
31 is under the age of majority and who is not otherwise authorized to
32 provide informed consent, shall be a member of one of the following
33 classes of persons in the following order of priority:

34 (i) The appointed guardian, or legal custodian authorized
35 pursuant to Title 26 RCW, of the minor patient, if any;

36 (ii) A person authorized by the court to consent to medical care
37 for a child in out-of-home placement pursuant to chapter 13.32A or
38 13.34 RCW, if any;

39 (iii) Parents of the minor patient;

1 (iv) The individual, if any, to whom the minor's parent has given
2 a signed authorization to make health care decisions for the minor
3 patient; and

4 (v) A competent adult representing himself or herself to be a
5 relative responsible for the health care of such minor patient or a
6 competent adult who has signed and dated a declaration under penalty
7 of perjury pursuant to chapter 5.50 RCW stating that the adult person
8 is a relative responsible for the health care of the minor patient.
9 Such declaration shall be effective for up to six months from the
10 date of the declaration.

11 (b) (i) Informed consent for health care on behalf of a patient
12 who (~~is incapacitated, as defined in RCW 11.88.010(1)(e), because he~~
13 ~~or she~~) is under the age of majority and who is not otherwise
14 authorized to provide informed consent may be obtained from a school
15 nurse, school counselor, or homeless student liaison when:

16 (A) Consent is necessary for nonemergency, outpatient, primary
17 care services, including physical examinations, vision examinations
18 and eyeglasses, dental examinations, hearing examinations and hearing
19 aids, immunizations, treatments for illnesses and conditions, and
20 routine follow-up care customarily provided by a health care provider
21 in an outpatient setting, excluding elective surgeries;

22 (B) The minor patient meets the definition of a "homeless child
23 or youth" under the federal McKinney-Vento homeless education
24 assistance improvements act of 2001, P.L. 107-110, January 8, 2002,
25 115 Stat. 2005; and

26 (C) The minor patient is not under the supervision or control of
27 a parent, custodian, or legal guardian, and is not in the care and
28 custody of the department of social and health services.

29 (ii) A person authorized to consent to care under this subsection
30 (2) (b) and the person's employing school or school district are not
31 subject to administrative sanctions or civil damages resulting from
32 the consent or nonconsent for care, any care, or payment for any
33 care, rendered pursuant to this section. Nothing in this section
34 prevents a health care facility or a health care provider from
35 seeking reimbursement from other sources for care provided to a minor
36 patient under this subsection (2) (b).

37 (iii) Upon request by a health care facility or a health care
38 provider, a person authorized to consent to care under this
39 subsection (2) (b) must provide to the person rendering care a
40 declaration signed and dated under penalty of perjury pursuant to

1 chapter 5.50 RCW stating that the person is a school nurse, school
2 counselor, or homeless student liaison and that the minor patient
3 meets the elements under (b)(i) of this subsection. The declaration
4 must also include written notice of the exemption from liability
5 under (b)(ii) of this subsection.

6 (c) A health care provider may, but is not required to, rely on
7 the representations or declaration of a person claiming to be a
8 relative responsible for the care of the minor patient, under (a)(v)
9 of this subsection, or a person claiming to be authorized to consent
10 to the health care of the minor patient under (b) of this subsection,
11 if the health care provider does not have actual notice of the
12 falsity of any of the statements made by the person claiming to be a
13 relative responsible for the health care of the minor patient, or
14 person claiming to be authorized to consent to the health care of the
15 minor patient.

16 (d) A health care facility or a health care provider may, in its
17 discretion, require documentation of a person's claimed status as
18 being a relative responsible for the health care of the minor
19 patient, or a person claiming to be authorized to consent to the
20 health care of the minor patient under (b) of this subsection.
21 However, there is no obligation to require such documentation.

22 (e) The health care provider or health care facility where
23 services are rendered shall be immune from suit in any action, civil
24 or criminal, or from professional or other disciplinary action when
25 such reliance is based on a declaration signed under penalty of
26 perjury pursuant to chapter 5.50 RCW stating that the adult person is
27 a relative responsible for the health care of the minor patient under
28 (a)(v) of this subsection, or a person claiming to be authorized to
29 consent to the health care of the minor patient under (b) of this
30 subsection.

31 (3) For the purposes of this section, "health care," "health care
32 provider," and "health care facility" shall be defined as established
33 in RCW 70.02.010.

34 (4) A person who knowingly provides a false declaration under
35 this section shall be subject to criminal penalties under chapter
36 9A.72 RCW.

37 **Sec. 706.** RCW 9.35.005 and 2017 c 4 s 3 are each amended to read
38 as follows:

1 The definitions in this section apply throughout this chapter
2 unless the context clearly requires otherwise.

3 (1) "Financial information" means any of the following
4 information identifiable to the individual that concerns the amount
5 and conditions of an individual's assets, liabilities, or credit:

6 (a) Account numbers and balances;

7 (b) Transactional information concerning an account; and

8 (c) Codes, passwords, social security numbers, tax identification
9 numbers, driver's license or permit numbers, state identicard numbers
10 issued by the department of licensing, and other information held for
11 the purpose of account access or transaction initiation.

12 (2) "Financial information repository" means a person engaged in
13 the business of providing services to customers who have a credit,
14 deposit, trust, stock, or other financial account or relationship
15 with the person.

16 (3) "Means of identification" means information or an item that
17 is not describing finances or credit but is personal to or
18 identifiable with an individual or other person, including: A current
19 or former name of the person, telephone number, an electronic
20 address, or identifier of the individual or a member of his or her
21 family, including the ancestor of the person; information relating to
22 a change in name, address, telephone number, or electronic address or
23 identifier of the individual or his or her family; a social security,
24 driver's license, or tax identification number of the individual or a
25 member of his or her family; and other information that could be used
26 to identify the person, including unique biometric data.

27 (4) "Person" means a person as defined in RCW 9A.04.110.

28 (5) "Senior" means a person over the age of sixty-five.

29 (6) "Victim" means a person whose means of identification or
30 financial information has been used or transferred with the intent to
31 commit, or to aid or abet, any unlawful activity.

32 (7) "Vulnerable individual" means a person:

33 ~~((i) [(a)])~~ (a) Sixty years of age or older who has the
34 functional, mental, or physical inability to care for himself or
35 herself;

36 ~~((ii) [(b)] Found incapacitated under chapter 11.88)~~ (b) Who
37 has been placed under a guardianship under chapter 11.130 RCW;

38 ~~((iii) [(c)])~~ (c) Who has a developmental disability as defined
39 under RCW 71A.10.020;

40 ~~((iv) [(d)])~~ (d) Admitted to any facility;

1 (~~(v)~~—~~(e)~~) (e) Receiving services from home health, hospice,
2 or home care agencies licensed or required to be licensed under
3 chapter 70.127 RCW;

4 (~~(vi)~~—~~(f)~~) (f) Receiving services from an individual provider
5 as defined in RCW 74.39A.240; or

6 (~~(vii)~~—~~(g)~~) (g) Who self-directs his or her own care and
7 receives services from a personal aide under chapter 74.39 RCW.

8 **Sec. 707.** RCW 9A.44.010 and 2007 c 20 s 3 are each amended to
9 read as follows:

10 As used in this chapter:

11 (1) "Sexual intercourse" (a) has its ordinary meaning and occurs
12 upon any penetration, however slight, and

13 (b) Also means any penetration of the vagina or anus however
14 slight, by an object, when committed on one person by another,
15 whether such persons are of the same or opposite sex, except when
16 such penetration is accomplished for medically recognized treatment
17 or diagnostic purposes, and

18 (c) Also means any act of sexual contact between persons
19 involving the sex organs of one person and the mouth or anus of
20 another whether such persons are of the same or opposite sex.

21 (2) "Sexual contact" means any touching of the sexual or other
22 intimate parts of a person done for the purpose of gratifying sexual
23 desire of either party or a third party.

24 (3) "Married" means one who is legally married to another, but
25 does not include a person who is living separate and apart from his
26 or her spouse and who has filed in an appropriate court for legal
27 separation or for dissolution of his or her marriage.

28 (4) "Mental incapacity" is that condition existing at the time of
29 the offense which prevents a person from understanding the nature or
30 consequences of the act of sexual intercourse whether that condition
31 is produced by illness, defect, the influence of a substance or from
32 some other cause.

33 (5) "Physically helpless" means a person who is unconscious or
34 for any other reason is physically unable to communicate
35 unwillingness to an act.

36 (6) "Forcible compulsion" means physical force which overcomes
37 resistance, or a threat, express or implied, that places a person in
38 fear of death or physical injury to herself or himself or another

1 person, or in fear that she or he or another person will be
2 kidnapped.

3 (7) "Consent" means that at the time of the act of sexual
4 intercourse or sexual contact there are actual words or conduct
5 indicating freely given agreement to have sexual intercourse or
6 sexual contact.

7 (8) "Significant relationship" means a situation in which the
8 perpetrator is:

9 (a) A person who undertakes the responsibility, professionally or
10 voluntarily, to provide education, health, welfare, or organized
11 recreational activities principally for minors;

12 (b) A person who in the course of his or her employment
13 supervises minors; or

14 (c) A person who provides welfare, health or residential
15 assistance, personal care, or organized recreational activities to
16 frail elders or vulnerable adults, including a provider, employee,
17 temporary employee, volunteer, or independent contractor who supplies
18 services to long-term care facilities licensed or required to be
19 licensed under chapter 18.20, 18.51, 72.36, or 70.128 RCW, and home
20 health, hospice, or home care agencies licensed or required to be
21 licensed under chapter 70.127 RCW, but not including a consensual
22 sexual partner.

23 (9) "Abuse of a supervisory position" means:

24 (a) To use a direct or indirect threat or promise to exercise
25 authority to the detriment or benefit of a minor; or

26 (b) To exploit a significant relationship in order to obtain the
27 consent of a minor.

28 (10) "Person with a developmental disability," for purposes of
29 RCW 9A.44.050(1)(c) and 9A.44.100(1)(c), means a person with a
30 developmental disability as defined in RCW 71A.10.020.

31 (11) "Person with supervisory authority," for purposes of RCW
32 9A.44.050(1)(c) or (e) and 9A.44.100(1)(c) or (e), means any
33 proprietor or employee of any public or private care or treatment
34 facility who directly supervises developmentally disabled, mentally
35 disordered, or chemically dependent persons at the facility.

36 (12) "Person with a mental disorder" for the purposes of RCW
37 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person with a "mental
38 disorder" as defined in RCW 71.05.020.

1 (13) "Person with a chemical dependency" for purposes of RCW
2 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person who is "chemically
3 dependent" as defined in RCW 70.96A.020(~~(4)~~).

4 (14) "Health care provider" for purposes of RCW 9A.44.050 and
5 9A.44.100 means a person who is, holds himself or herself out to be,
6 or provides services as if he or she were: (a) A member of a health
7 care profession under chapter 18.130 RCW; or (b) registered under
8 chapter 18.19 RCW or licensed under chapter 18.225 RCW, regardless of
9 whether the health care provider is licensed, certified, or
10 registered by the state.

11 (15) "Treatment" for purposes of RCW 9A.44.050 and 9A.44.100
12 means the active delivery of professional services by a health care
13 provider which the health care provider holds himself or herself out
14 to be qualified to provide.

15 (16) "Frail elder or vulnerable adult" means a person sixty years
16 of age or older who has the functional, mental, or physical inability
17 to care for himself or herself. "Frail elder or vulnerable adult"
18 also includes a person (~~(found incapacitated under chapter 11.88)~~)
19 who has been placed under a guardianship under chapter 11.130 RCW, a
20 person over eighteen years of age who has a developmental disability
21 under chapter 71A.10 RCW, a person admitted to a long-term care
22 facility that is licensed or required to be licensed under chapter
23 18.20, 18.51, 72.36, or 70.128 RCW, and a person receiving services
24 from a home health, hospice, or home care agency licensed or required
25 to be licensed under chapter 70.127 RCW.

26 **Sec. 708.** RCW 11.02.005 and 2018 c 22 s 6 are each amended to
27 read as follows:

28 When used in this title, unless otherwise required from the
29 context:

30 (1) "Administrator" means a personal representative of the estate
31 of a decedent and the term may be used in lieu of "personal
32 representative" wherever required by context.

33 (2) "Codicil" means a will that modifies or partially revokes an
34 existing earlier will. A codicil need not refer to or be attached to
35 the earlier will.

36 (3) "Degree of kinship" means the degree of kinship as computed
37 according to the rules of the civil law; that is, by counting upward
38 from the intestate to the nearest common ancestor and then downward

1 to the relative, the degree of kinship being the sum of these two
2 counts.

3 (4) "Executor" means a personal representative of the estate of a
4 decedent appointed by will and the term may be used in lieu of
5 "personal representative" wherever required by context.

6 (5) "Guardian" or "limited guardian" means a personal
7 representative of the person or estate of (~~an incompetent or~~
8 ~~disabled~~) a person ((as defined in RCW 11.88.010)) who has been
9 placed under a guardianship under chapter 11.130 RCW and the term may
10 be used in lieu of "personal representative" wherever required by
11 context.

12 (6) "Heirs" denotes those persons, including the surviving spouse
13 or surviving domestic partner, who are entitled under the statutes of
14 intestate succession to the real and personal property of a decedent
15 on the decedent's death intestate.

16 (7) "Internal revenue code" means the United States internal
17 revenue code of 1986, as amended or renumbered as of January 1, 2001.

18 (8) "Issue" means all the lineal descendants of an individual. An
19 adopted individual is a lineal descendant of each of his or her
20 adoptive parents and of all individuals with regard to which each
21 adoptive parent is a lineal descendant. A child conceived prior to
22 the death of a parent but born after the death of the deceased parent
23 is considered to be the surviving issue of the deceased parent for
24 purposes of this title.

25 (9) "Net estate" refers to the real and personal property of a
26 decedent exclusive of homestead rights, exempt property, the family
27 allowance and enforceable claims against, and debts of, the deceased
28 or the estate.

29 (10) "Nonprobate asset" means those rights and interests of a
30 person having beneficial ownership of an asset that pass on the
31 person's death under a written instrument or arrangement other than
32 the person's will. "Nonprobate asset" includes, but is not limited
33 to, a right or interest passing under a joint tenancy with right of
34 survivorship, joint bank account with right of survivorship, transfer
35 on death deed, payable on death or trust bank account, transfer on
36 death security or security account, deed or conveyance if possession
37 has been postponed until the death of the person, trust of which the
38 person is grantor and that becomes effective or irrevocable only upon
39 the person's death, community property agreement, individual
40 retirement account or bond, or note or other contract the payment or

1 performance of which is affected by the death of the person.
2 "Nonprobate asset" does not include: A payable-on-death provision of
3 a life insurance policy, annuity, or other similar contract, or of an
4 employee benefit plan; a right or interest passing by descent and
5 distribution under chapter 11.04 RCW; a right or interest if, before
6 death, the person has irrevocably transferred the right or interest,
7 the person has waived the power to transfer it or, in the case of
8 contractual arrangement, the person has waived the unilateral right
9 to rescind or modify the arrangement; or a right or interest held by
10 the person solely in a fiduciary capacity. For the definition of
11 "nonprobate asset" relating to revocation of a provision for a former
12 spouse upon dissolution of marriage or declaration of invalidity of
13 marriage, RCW 11.07.010(5) applies. For the definition of "nonprobate
14 asset" relating to testamentary disposition of nonprobate assets, see
15 RCW 11.11.010(7).

16 (11) "Personal representative" includes executor, administrator,
17 special administrator, and guardian or limited guardian and special
18 representative.

19 (12) "Real estate" includes, except as otherwise specifically
20 provided herein, all lands, tenements, and hereditaments, and all
21 rights thereto, and all interest therein possessed and claimed in fee
22 simple, or for the life of a third person.

23 (13) "Representation" refers to a method of determining
24 distribution in which the takers are in unequal degrees of kinship
25 with respect to a decedent, and is accomplished as follows: After
26 first determining who, of those entitled to share in the estate, are
27 in the nearest degree of kinship, the estate is divided into equal
28 shares, the number of shares being the sum of the number of persons
29 who survive the decedent who are in the nearest degree of kinship and
30 the number of persons in the same degree of kinship who died before
31 the decedent but who left issue surviving the decedent; each share of
32 a deceased person in the nearest degree must be divided among those
33 of the deceased person's issue who survive the decedent and have no
34 ancestor then living who is in the line of relationship between them
35 and the decedent, those more remote in degree taking together the
36 share which their ancestor would have taken had he or she survived
37 the decedent.

38 (14) References to "section 2033A" of the internal revenue code
39 in wills, trust agreements, powers of appointment, beneficiary
40 designations, and other instruments governed by or subject to this

1 title are deemed to refer to the comparable or corresponding
2 provisions of section 2057 of the internal revenue code, as added by
3 section 6006(b) of the internal revenue service restructuring act of
4 1998 (H.R. 2676, P.L. 105-206); and references to the section 2033A
5 "exclusion" are deemed to mean the section 2057 deduction.

6 (15) "Settlor" has the same meaning as provided for "trustor" in
7 this section.

8 (16) "Special administrator" means a personal representative of
9 the estate of a decedent appointed for limited purposes and the term
10 may be used in lieu of "personal representative" wherever required by
11 context.

12 (17) "Surviving spouse" or "surviving domestic partner" does not
13 include an individual whose marriage to or state registered domestic
14 partnership with the decedent has been terminated, dissolved, or
15 invalidated unless, by virtue of a subsequent marriage or state
16 registered domestic partnership, he or she is married to or in a
17 domestic partnership with the decedent at the time of death. A decree
18 of separation that does not terminate the status of spouses or
19 domestic partners is not a dissolution or invalidation for purposes
20 of this subsection.

21 (18) "Trustee" means an original, added, or successor trustee and
22 includes the state, or any agency thereof, when it is acting as the
23 trustee of a trust to which chapter 11.98 RCW applies.

24 (19) "Trustor" means a person, including a testator, who creates,
25 or contributes property to, a trust.

26 (20) "Will" means an instrument validly executed as required by
27 RCW 11.12.020.

28 Words that import the singular number may also be applied to the
29 plural of persons and things.

30 Words importing the masculine gender only may be extended to
31 females also.

32 **Sec. 709.** RCW 11.28.185 and 2008 c 6 s 915 are each amended to
33 read as follows:

34 When the terms of the decedent's will manifest an intent that the
35 personal representative appointed to administer the estate shall not
36 be required to furnish bond or other security, or when the personal
37 representative is the surviving spouse or surviving domestic partner
38 of the decedent and it appears to the court that the entire estate,
39 after provision for expenses and claims of creditors, will be

1 distributable to such spouse or surviving domestic partner, then such
2 personal representative shall not be required to give bond or other
3 security as a condition of appointment. In all cases where a bank or
4 trust company authorized to act as personal representative is
5 appointed as personal representative, no bond shall be required. In
6 all other cases, unless waived by the court, the personal
7 representative shall give such bond or other security, in such amount
8 and with such surety or sureties, as the court may direct.

9 Every person required to furnish bond must, before receiving
10 letters testamentary or of administration, execute a bond to the
11 state of Washington conditioned that the personal representative
12 shall faithfully execute the duty of the trust according to law.

13 The court may at any time after appointment of the personal
14 representative require said personal representative to give a bond or
15 additional bond, the same to be conditioned and to be approved as
16 provided in this section; or the court may allow a reduction of the
17 bond upon a proper showing.

18 In lieu of bond, the court may in its discretion, substitute
19 other security or financial arrangements, such as provided under RCW
20 (~~11.88.105~~) 11.130.445, or as the court may deem adequate to
21 protect the assets of the estate.

22 **Sec. 710.** RCW 11.76.080 and 2008 c 6 s 806 are each amended to
23 read as follows:

24 If there be any alleged incapacitated person (~~as defined in RCW~~
25 ~~11.88.010~~) interested in the estate who has no legally appointed
26 guardian or limited guardian, the court:

27 (1) At any stage of the proceeding in its discretion and for such
28 purpose or purposes as it shall indicate, may appoint; and

29 (2) For hearings held under RCW 11.54.010, 11.68.041, 11.68.100,
30 and 11.76.050 or for entry of an order adjudicating testacy or
31 intestacy and heirship when no personal representative is appointed
32 to administer the estate of the decedent, shall appoint some
33 disinterested person as guardian ad litem to represent the allegedly
34 incapacitated person with reference to any petition, proceeding
35 report, or adjudication of testacy or intestacy without the
36 appointment of a personal representative to administer the estate of
37 decedent in which the alleged incapacitated person may have an
38 interest, who, on behalf of the alleged incapacitated person, may
39 contest the same as any other person interested might contest it, and

1 who shall be allowed by the court reasonable compensation for his or
2 her services: PROVIDED, HOWEVER, That where a surviving spouse or
3 surviving domestic partner is the sole beneficiary under the terms of
4 a will, the court may grant a motion by the personal representative
5 to waive the appointment of a guardian ad litem for a person who is
6 the minor child of the surviving spouse or surviving domestic partner
7 and the decedent and who is incapacitated solely for the reason of
8 his or her being under eighteen years of age.

9 **Sec. 711.** RCW 11.86.021 and 2016 c 209 s 402 are each amended to
10 read as follows:

11 (1) A beneficiary may disclaim an interest in whole or in part,
12 or with reference to specific parts, shares or assets, in the manner
13 provided in RCW 11.86.031.

14 (2) Likewise, a beneficiary may so disclaim through an agent or
15 attorney so authorized by written instrument.

16 (3) A personal representative, guardian, attorney-in-fact if
17 authorized under a durable power of attorney under chapter 11.125
18 RCW, or other legal representative of the estate of a minor,
19 incompetent, or deceased beneficiary, may so disclaim on behalf of
20 the beneficiary, with or without court order, if:

21 (a) The legal representative deems the disclaimer to be in the
22 best interests of those interested in the estate of the beneficiary
23 and of those who take the disclaimed interest because of the
24 disclaimer, and not detrimental to the best interests of the
25 beneficiary; and

26 (b) In the case of a guardian, no order has been issued under
27 (~~RCW 11.92.140~~) chapter 11.130 RCW determining that the disclaimer
28 is not in the best interests of the beneficiary.

29 **Sec. 712.** RCW 11.90.210 and 2009 c 81 s 8 are each amended to
30 read as follows:

31 This chapter provides the exclusive jurisdictional basis for a
32 court of this state to appoint a guardian or issue a protective order
33 for an adult under (~~chapters 11.88 and 11.92~~) chapter 11.130 RCW.

34 **Sec. 713.** RCW 11.96A.050 and 2013 c 272 s 3 are each amended to
35 read as follows:

36 (1) Venue for proceedings pertaining to trusts is:

1 (a) For testamentary trusts established under wills probated in
2 the state of Washington, in the superior court of the county where
3 the probate of the will is being administered or was completed or, in
4 the alternative, the superior court of the county where any qualified
5 beneficiary of the trust as defined in RCW 11.98.002 resides, the
6 county where any trustee resides or has a place of business, or the
7 county where any real property that is an asset of the trust is
8 located; and

9 (b) For all other trusts, in the superior court of the county
10 where any qualified beneficiary of the trust as defined in RCW
11 11.98.002 resides, the county where any trustee resides or has a
12 place of business, or the county where any real property that is an
13 asset of the trust is located. If no county has venue for proceedings
14 pertaining to a trust under the preceding sentence, then in any
15 county.

16 (2) A party to a proceeding pertaining to a trust may request
17 that venue be changed. If the request is made within four months of
18 the giving of the first notice of a proceeding pertaining to the
19 trust, except for good cause shown, venue must be moved to the county
20 with the strongest connection to the trust as determined by the
21 court, considering such factors as the residence of a qualified
22 beneficiary of the trust as defined in RCW 11.98.002, the residence
23 or place of business of a trustee, and the location of any real
24 property that is an asset of the trust.

25 (3) Venue for proceedings subject to chapter (~~11.88 or 11.92~~)
26 11.130 RCW must be determined under the provisions of those chapters.

27 (4) Venue for proceedings pertaining to the probate of wills, the
28 administration and disposition of a decedent's property, including
29 nonprobate assets, and any other matter not identified in subsection
30 (1), (2), or (3) of this section, must be in any county in the state
31 of Washington that the petitioner selects. A party to a proceeding
32 may request that venue be changed if the request is made within four
33 months of the mailing of the notice of appointment and pendency of
34 probate required by RCW 11.28.237, and except for good cause shown,
35 venue must be moved as follows:

36 (a) If the decedent was a resident of the state of Washington at
37 the time of death, to the county of the decedent's residence; or

38 (b) If the decedent was not a resident of the state of Washington
39 at the time of death, to any of the following:

40 (i) Any county in which any part of the probate estate might be;

1 (ii) If there are no probate assets, any county where any
2 nonprobate asset might be; or

3 (iii) The county in which the decedent died.

4 (5) Once letters testamentary or of administration have been
5 granted in the state of Washington, all orders, settlements, trials,
6 and other proceedings under this title must be had or made in the
7 county in which such letters have been granted unless venue is moved
8 as provided in subsection (4) of this section.

9 (6) Venue for proceedings pertaining to powers of attorney must
10 be in the superior court of the county of the principal's residence,
11 except for good cause shown.

12 (7) If venue is moved, an action taken before venue is changed is
13 not invalid because of the venue.

14 (8) Any request to change venue that is made more than four
15 months after the commencement of the action may be granted in the
16 discretion of the court.

17 **Sec. 714.** RCW 11.96A.080 and 1999 c 42 s 301 are each amended to
18 read as follows:

19 (1) Subject to the provisions of RCW 11.96A.260 through
20 11.96A.320, any party may have a judicial proceeding for the
21 declaration of rights or legal relations with respect to any matter,
22 as defined by RCW 11.96A.030; the resolution of any other case or
23 controversy that arises under the Revised Code of Washington and
24 references judicial proceedings under this title; or the
25 determination of the persons entitled to notice under RCW 11.96A.110
26 or 11.96A.120.

27 (2) The provisions of this chapter apply to disputes arising in
28 connection with estates of incapacitated persons unless otherwise
29 covered by (~~chapters 11.88 and 11.92~~) chapter 11.130 RCW. The
30 provisions of this chapter shall not supersede, but shall supplement,
31 any otherwise applicable provisions and procedures contained in this
32 title, including without limitation those contained in chapter 11.20,
33 11.24, 11.28, 11.40, 11.42, or 11.56 RCW. The provisions of this
34 chapter shall not apply to actions for wrongful death under chapter
35 4.20 RCW.

36 **Sec. 715.** RCW 11.96A.120 and 2013 c 272 s 5 are each amended to
37 read as follows:

1 (1) Notice to a person who may represent and bind another person
2 under this section has the same effect as if notice were given
3 directly to the other person.

4 (2) The consent of a person who may represent and bind another
5 person under this section is binding on the person represented unless
6 the person represented objects to the representation before the
7 consent would otherwise have become effective.

8 (3) The following limitations on the ability to serve as a
9 virtual representative apply:

10 (a) A trustor may not represent and bind a beneficiary under this
11 section with respect to the termination and modification of an
12 irrevocable trust; and

13 (b) Representation of an incapacitated trustor with respect to
14 his or her powers over a trust is subject to the provisions of RCW
15 11.103.030, and chapters 11.96A(~~(7, 11.88, and 11.92)~~) and 11.130 RCW.

16 (4) To the extent there is no conflict of interest between the
17 representative and the person represented or among those being
18 represented with respect to the particular question or dispute:

19 (a) A guardian may represent and bind the estate that the
20 guardian controls, subject to chapters 11.96A(~~(7, 11.88, and 11.92)~~)
21 and 11.130 RCW;

22 (b) A guardian of the person may represent and bind the
23 incapacitated person if a guardian of the incapacitated person's
24 estate has not been appointed;

25 (c) An agent having authority to act with respect to the
26 particular question or dispute may represent and bind the principal;

27 (d) A trustee may represent and bind the beneficiaries of the
28 trust;

29 (e) A personal representative of a decedent's estate may
30 represent and bind persons interested in the estate; and

31 (f) A parent may represent and bind the parent's minor or unborn
32 child or children if a guardian for the child or children has not
33 been appointed.

34 (5) Unless otherwise represented, a minor, incapacitated, or
35 unborn individual, or a person whose identity or location is unknown
36 and not reasonably ascertainable, may be represented by and bound by
37 another having a substantially identical interest with respect to the
38 particular question or dispute, but only to the extent there is no
39 conflict of interest between the representative and the person
40 represented with regard to the particular question or dispute.

1 (6) Where an interest has been given to persons who comprise a
2 certain class upon the happening of a certain event, the living
3 persons who would constitute the class as of the date the
4 representation is to be determined may virtually represent all other
5 members of the class as of that date, but only to the extent that
6 there is no conflict of interest between the representative and the
7 person(s) represented with regard to the particular question or
8 dispute.

9 (7) Where an interest has been given to a living person, and the
10 same interest, or a share in it, is to pass to the surviving spouse
11 or surviving domestic partner or to persons who are, or might be, the
12 heirs, issue, or other kindred of that living person or the
13 distributees of the estate of that living person upon the happening
14 of a future event, that living person may virtually represent the
15 surviving spouse or surviving domestic partner, heirs, issue, or
16 other kindred of the person, and the distributees of the estate of
17 the person, but only to the extent that there is no conflict of
18 interest between the representative and the person(s) represented
19 with regard to the particular question or dispute.

20 (8) Except as otherwise provided in subsection (7) of this
21 section, where an interest has been given to a person or a class of
22 persons, or both, upon the happening of any future event, and the
23 same interest or a share of the interest is to pass to another person
24 or class of persons, or both, upon the happening of an additional
25 future event, the living person or persons who would take the
26 interest upon the happening of the first event may virtually
27 represent the persons and classes of persons who might take on the
28 happening of the additional future event, but only to the extent that
29 there is no conflict of interest between the representative and the
30 person(s) represented with regard to the particular question or
31 dispute.

32 (9) To the extent there is no conflict of interest between the
33 holder of the power of appointment and the persons represented with
34 respect to the particular question or dispute, the holder of a
35 lifetime or testamentary power of appointment may virtually represent
36 and bind persons who are permissible appointees or takers in default
37 (but only to the extent that they are permissible appointees in the
38 case of a limited power of appointment) under the power, and who are
39 not permissible distributees as defined in RCW 11.98.002.

1 (10) The attorney general may virtually represent and bind a
2 charitable organization if:

3 (a) The charitable organization is not a qualified beneficiary as
4 defined in RCW 11.98.002 specified in the trust instrument or acting
5 as trustee; or

6 (b) The charitable organization is a qualified beneficiary, but
7 is not a permissible distributee, as those terms are defined in RCW
8 11.98.002, and its beneficial interest in the trust is subject to
9 change by the trustor or by a person designated by the trustor.

10 (11) An action taken by the court is conclusive and binding upon
11 each person receiving actual or constructive notice or who is
12 otherwise represented under this section.

13 (12) This section is intended to adopt the common law concept of
14 virtual representation. This section supplements the common law
15 relating to the doctrine of virtual representation and may not be
16 construed as limiting the application of that common law doctrine.

17 **Sec. 716.** RCW 11.96A.130 and 1999 c 42 s 306 are each amended to
18 read as follows:

19 Nothing in this chapter eliminates the requirement to give notice
20 to a person who has requested special notice under RCW 11.28.240 or
21 (~~11.92.150~~) notice under RCW 11.130.080.

22 **Sec. 717.** RCW 11.96A.150 and 2007 c 475 s 5 are each amended to
23 read as follows:

24 (1) Either the superior court or any court on an appeal may, in
25 its discretion, order costs, including reasonable attorneys' fees, to
26 be awarded to any party: (a) From any party to the proceedings; (b)
27 from the assets of the estate or trust involved in the proceedings;
28 or (c) from any nonprobate asset that is the subject of the
29 proceedings. The court may order the costs, including reasonable
30 attorneys' fees, to be paid in such amount and in such manner as the
31 court determines to be equitable. In exercising its discretion under
32 this section, the court may consider any and all factors that it
33 deems to be relevant and appropriate, which factors may but need not
34 include whether the litigation benefits the estate or trust involved.

35 (2) This section applies to all proceedings governed by this
36 title, including but not limited to proceedings involving trusts,
37 decedent's estates and properties, and guardianship matters. This
38 section shall not be construed as being limited by any other specific

1 statutory provision providing for the payment of costs, including RCW
2 11.68.070 and 11.24.050, unless such statute specifically provides
3 otherwise. This section shall apply to matters involving guardians
4 and guardians ad litem (~~and shall not be limited or controlled by~~
5 ~~the provisions of RCW 11.88.090(10)~~)).

6 **Sec. 718.** RCW 11.96A.220 and 1999 c 42 s 402 are each amended to
7 read as follows:

8 RCW 11.96A.210 through 11.96A.250 shall be applicable to the
9 resolution of any matter, as defined by RCW 11.96A.030, other than
10 matters subject to chapter (~~11.88 or 11.92~~) 11.130 RCW, or a trust
11 for a minor or other incapacitated person created at its inception by
12 the judgment or decree of a court unless the judgment or decree
13 provides that RCW 11.96A.210 through 11.96A.250 shall be applicable.
14 If all parties agree to a resolution of any such matter, then the
15 agreement shall be evidenced by a written agreement signed by all
16 parties. Subject to the provisions of RCW 11.96A.240, the written
17 agreement shall be binding and conclusive on all persons interested
18 in the estate or trust. The agreement shall identify the subject
19 matter of the dispute and the parties. If the agreement or a
20 memorandum of the agreement is to be filed with the court under RCW
21 11.96A.230, the agreement may, but need not, include provisions
22 specifically addressing jurisdiction, governing law, the waiver of
23 notice of the filing as provided in RCW 11.96A.230, and the discharge
24 of any special representative who has acted with respect to the
25 agreement.

26 If a party who virtually represents another under RCW 11.96A.120
27 signs the agreement, then the party's signature constitutes the
28 signature of all persons whom the party virtually represents, and all
29 the virtually represented persons shall be bound by the agreement.

30 **Sec. 719.** RCW 11.103.030 and 2016 c 209 s 404 are each amended
31 to read as follows:

32 (1) Unless the terms of a trust expressly provide that the trust
33 is revocable, the trustor may not revoke or amend the trust.

34 (2) If a revocable trust is created or funded by more than one
35 trustor and unless the trust agreement provides otherwise:

36 (a) To the extent the trust consists of community property, the
37 trust may be revoked by either spouse or either domestic partner

1 acting alone but may be amended only by joint action of both spouses
2 or both domestic partners;

3 (b) To the extent the trust consists of property other than
4 community property, each trustor may revoke or amend the trust with
5 regard to the portion of the trust property attributable to that
6 trustor's contribution;

7 (c) The character of community property or separate property is
8 unaffected by its transfer to and from a revocable trust; and

9 (d) Upon the revocation or amendment of the trust by fewer than
10 all of the trustors, the trustee must promptly notify the other
11 trustors of the revocation or amendment.

12 (3) The trustor may revoke or amend a revocable trust:

13 (a) By substantial compliance with a method provided in the terms
14 of the trust; or

15 (b) (i) If the terms of the trust do not provide a method or the
16 method provided in the terms is not expressly made exclusive, by:

17 (A) A later will or codicil that expressly refers to the trust or
18 specifically devises property that would otherwise have passed
19 according to the terms of the trust; or

20 (B) A written instrument signed by the trustor evidencing intent
21 to revoke or amend.

22 (ii) The requirements of chapter 11.11 RCW do not apply to
23 revocation or amendment of a revocable trust under (b) (i) of this
24 subsection.

25 (4) Upon revocation of a revocable trust, the trustee must
26 deliver the trust property as the trustor directs.

27 (5) A trustor's powers with respect to the revocation or
28 amendment of a trust or distribution of the property of a trust may
29 be exercised by the trustor's agent under a power of attorney only to
30 the extent specified in the power of attorney document, as provided
31 in RCW 11.125.240 and to the extent consistent with or expressly
32 authorized by the trust agreement.

33 (6) A guardian of the trustor may exercise a trustor's powers
34 with respect to revocation, amendment, or distribution of trust
35 property only with the approval of the court supervising the
36 guardianship pursuant to (~~RCW 11.92.140~~) chapter 11.130 RCW.

37 (7) A trustee who does not know that a trust has been revoked or
38 amended is not liable to the trustor or trustor's successors in
39 interest for distributions made and other actions taken on the
40 assumption that the trust had not been amended or revoked.

1 (8) This section does not limit or affect operation of RCW
2 11.96A.220 through 11.96A.240.

3 **Sec. 720.** RCW 11.107.060 and 2017 c 29 s 6 are each amended to
4 read as follows:

5 (1) The definitions in this subsection apply throughout this
6 section unless the context clearly requires otherwise.

7 (a) "Beneficiary with a disability" means a beneficiary of the
8 first trust who the trustee believes may qualify for governmental
9 benefits based on disability, whether or not the beneficiary
10 currently receives those benefits or is an individual who (~~is~~
11 ~~incapacitated within the meaning of RCW 11.88.010~~) has been placed
12 under a guardianship under chapter 11.130 RCW.

13 (b) "Governmental benefits" means financial aid or services from
14 a state, federal, or other public agency.

15 (c) "Special needs trust" means a trust the trustee believes
16 would not be considered a resource for purposes of determining
17 whether the beneficiary with a disability is eligible for
18 governmental benefits.

19 (2) A trustee may exercise the decanting power under RCW
20 11.107.020 and 11.107.030 over the property of the first trust as if
21 the trustee had authority to distribute principal to a beneficiary
22 with a disability subject to expanded discretion if:

23 (a) The second trust is a special needs trust that benefits the
24 beneficiary with a disability; and

25 (b) The trustee determines that exercise of the decanting power
26 will further the purposes of the first trust.

27 (3) In an exercise of the decanting power under this section, the
28 following rules apply:

29 (a) The provisions of the second trust for a beneficiary with a
30 disability may:

31 (i) Meet the medicaid law requirements for an account in a pooled
32 trust for a beneficiary with a disability under 42 U.S.C. Sec.
33 1369p(d)(4)(C), as amended, including requiring a payback to the
34 state of medicaid expenditures of funds not retained by the pooled
35 trust; or

36 (ii) Meet the medicaid law requirements for a trust for the sole
37 benefit of a beneficiary with a disability under age sixty-five under
38 42 U.S.C. Sec. 1369(d)(4)(A), as amended, including requiring a
39 payback to the state of medicaid expenditures.

1 (b) RCW 11.107.020(1)(a)(iii) does not apply to the interests of
2 the beneficiary with a disability.

3 (c) Except as affected by any change to the interests of the
4 beneficiary with a disability, the second trusts, in the aggregate,
5 must grant each other beneficiary of the first trust beneficial
6 interests in the second trusts which are substantially similar to the
7 beneficiary's beneficial interests in the first trust unless
8 inconsistent with (a)(i) or (ii) of this subsection (3).

9 **Sec. 721.** RCW 11.120.140 and 2016 c 140 s 14 are each amended to
10 read as follows:

11 (1) Unless otherwise ordered by the court, a guardian appointed
12 (~~(due to a finding of incapacity under RCW 11.88.010(1))~~) under
13 chapter 11.130 RCW has the right to access an incapacitated person's
14 digital assets other than the content of electronic communications.

15 (2) Unless otherwise ordered by the court or directed by the
16 user, a custodian shall disclose to a guardian the catalogue of
17 electronic communications sent or received by an incapacitated person
18 and any digital assets, other than the content of electronic
19 communications, if the guardian gives the custodian:

20 (a) A written request for disclosure in physical or electronic
21 form;

22 (b) Certified copies of letters of guardianship and the court
23 order appointing the guardian; and

24 (c) If requested by the custodian:

25 (i) A number, user name, address, or other unique subscriber or
26 account identifier assigned by the custodian to identify the account
27 of the person; or

28 (ii) Evidence linking the account to the incapacitated person.

29 (3) A guardian may request a custodian of the incapacitated
30 person's digital assets to suspend or terminate an account of the
31 incapacitated person for good cause. A request made under this
32 section must be accompanied by certified copies of letters of
33 guardianship and the court order appointing the guardian.

34 **Sec. 722.** RCW 11.125.400 and 2016 c 209 s 217 are each amended
35 to read as follows:

36 Unless the power of attorney otherwise provides, where language
37 in a power of attorney grants general authority with respect to
38 health care matters:

1 (1) The agent shall be authorized to act as the principal's
2 personal representative pursuant to the health insurance portability
3 and accountability act, sections 1171 through 1179 of the social
4 security act, 42 U.S.C. Sec. 1320d, as amended, and applicable
5 regulations for all purposes thereunder, including but not limited to
6 accessing and acquiring the principal's health care related
7 information.

8 (2) The agent shall be authorized to provide informed consent for
9 health care decisions on the principal's behalf. If a principal has
10 appointed more than one agent with authority to make mental health
11 treatment decisions in accordance with a directive under chapter
12 71.32 RCW, to the extent of any conflict, the most recently appointed
13 agent shall be treated as the principal's agent for mental health
14 treatment decisions unless provided otherwise in either appointment.

15 (3) Unless he or she is the spouse, state registered domestic
16 partner, father or mother, or adult child or brother or sister of the
17 principal, none of the following persons may act as the agent for the
18 principal: Any of the principal's physicians, the physicians'
19 employees, or the owners, administrators, or employees of the health
20 care facility or long-term care facility as defined in RCW 43.190.020
21 where the principal resides or receives care. Except when the
22 principal has consented in a mental health advance directive executed
23 under chapter 71.32 RCW to inpatient admission or electroconvulsive
24 therapy, this authorization is subject to the same limitations as
25 those that apply to a guardian under ((~~RCW 11.92.043(5) (a) through~~
26 ~~(c) and 11.92.190~~)) chapter 11.130 RCW.

27 **Sec. 723.** RCW 11.125.410 and 2016 c 209 s 218 are each amended
28 to read as follows:

29 Unless the power of attorney otherwise provides, the following
30 general provisions shall apply to any power of attorney making
31 reference to the care of the principal's minor children:

32 (1) A parent or guardian, through a power of attorney, may
33 authorize an agent to make health care decisions on behalf of one or
34 more of his or her children, or children for whom he or she is the
35 legal guardian, who are under the age of majority as defined in RCW
36 26.28.015, to be effective if the child has no other parent or legal
37 representative readily available and authorized to give such consent.

38 (2) A principal may further nominate a guardian or guardians of
39 the person, or of the estate or both, of a minor child, whether born

1 at the time of making the durable power of attorney or afterwards, to
2 continue during the disability of the principal, during the minority
3 of the child or for any less time by including such a provision in
4 his or her power of attorney.

5 (3) The authority of any guardian of the person of any minor
6 child shall supersede the authority of a designated agent to make
7 health care decisions for the minor only after such designated
8 guardian has been appointed by the court.

9 (4) In the event a conflict between the provisions of a will
10 nominating a testamentary guardian under (~~the authority of RCW~~
11 ~~11.88.080~~) chapter 11.130 RCW and the nomination of a guardian under
12 the authority of this statute, the most recent designation shall
13 control.

14 **Sec. 724.** RCW 13.32A.160 and 2019 c 124 s 1 are each amended to
15 read as follows:

16 (1) When a proper child in need of services petition to approve
17 an out-of-home placement is filed under RCW 13.32A.120, 13.32A.140,
18 or 13.32A.150 the juvenile court shall: (a)(i) Schedule a fact-
19 finding hearing to be held: (A) For a child who resides in a place
20 other than his or her parent's home and other than an out-of-home
21 placement, within five calendar days unless the last calendar day is
22 a Saturday, Sunday, or holiday, in which case the hearing shall be
23 held on the preceding judicial day; or (B) for a child living at home
24 or in an out-of-home placement, within ten days; and (ii) notify the
25 parent, child, and the department of such date; (b) notify the parent
26 of the right to be represented by counsel and, if indigent, to have
27 counsel appointed for him or her by the court; (c) appoint legal
28 counsel for the child; (d) inform the child and his or her parent of
29 the legal consequences of the court approving or disapproving a child
30 in need of services petition; (e) notify the parents of their rights
31 under this chapter and chapters (~~11.88~~) 11.130, 13.34, and 71.34
32 RCW, including the right to file an at-risk youth petition, the right
33 to submit an application for admission of their child to a treatment
34 facility for alcohol, chemical dependency, or mental health
35 treatment, and the right to file a guardianship petition; and (f)
36 notify all parties, including the department, of their right to
37 present evidence at the fact-finding hearing.

38 (2) Upon filing of a child in need of services petition, the
39 child may be placed, if not already placed, by the department in a

1 crisis residential center, HOPE center, foster family home, group
2 home facility licensed under chapter 74.15 RCW, or any other suitable
3 residence to be determined by the department. The court may place a
4 child in a crisis residential center for a temporary out-of-home
5 placement as long as the requirements of RCW 13.32A.125 are met.

6 (3) If the child has been placed in a foster family home or group
7 care facility under chapter 74.15 RCW, the child shall remain there,
8 or in any other suitable residence as determined by the department,
9 pending resolution of the petition by the court. Any placement may be
10 reviewed by the court within three judicial days upon the request of
11 the juvenile or the juvenile's parent.

12 **Sec. 725.** RCW 13.34.270 and 2019 c 470 s 1 are each amended to
13 read as follows:

14 (1) Whenever the department of social and health services places
15 a child with a developmental disability in out-of-home care pursuant
16 to RCW 74.13.350, the department shall obtain a judicial
17 determination within one hundred eighty days of the placement that
18 continued placement is in the best interests of the child. If the
19 child's out-of-home placement ends before one hundred eighty days
20 have elapsed, no judicial determination is required.

21 (2) To obtain the judicial determination, the department shall
22 file a petition alleging that there is located or residing within the
23 county a child who has a developmental disability and that the child
24 has been placed in out-of-home care pursuant to RCW 74.13.350. The
25 petition shall request that the court review the child's placement,
26 make a determination whether continued placement is in the best
27 interests of the child, and take other necessary action as provided
28 in this section. The petition shall contain the name, date of birth,
29 and residence of the child and the names and residences of the
30 child's parent or legal guardian who has agreed to the child's
31 placement in out-of-home care. Reasonable attempts shall be made by
32 the department to ascertain and set forth in the petition the
33 identity, location, and custodial status of any parent who is not a
34 party to the placement agreement and why that parent cannot assume
35 custody of the child.

36 (3) Upon filing of the petition, the clerk of the court shall
37 schedule the petition for a hearing to be held no later than fourteen
38 calendar days after the petition has been filed. The department shall
39 provide notification of the time, date, and purpose of the hearing to

1 the parent or legal guardian who has agreed to the child's placement
2 in out-of-home care. The department shall also make reasonable
3 attempts to notify any parent who is not a party to the placement
4 agreement, if the parent's identity and location is known.
5 Notification under this section may be given by the most expedient
6 means, including but not limited to, mail, personal service, and
7 telephone.

8 (4) The court shall appoint a guardian ad litem for the child as
9 provided in RCW 13.34.100, unless the court for good cause finds the
10 appointment unnecessary.

11 (5) Permanency planning hearings shall be held as provided in
12 this section. At the hearing, the court shall review whether the
13 child's best interests are served by continued out-of-home placement
14 and determine the future legal status of the child.

15 (a) For children age ten and under, a permanency planning hearing
16 shall be held in all cases where the child has remained in out-of-
17 home care for at least nine months and an adoption decree or
18 guardianship order under chapter (~~11.88~~) 11.130 RCW has not
19 previously been entered. The hearing shall take place no later than
20 twelve months following commencement of the child's current placement
21 episode.

22 (b) For children over age ten, a permanency planning hearing
23 shall be held in all cases where the child has remained in out-of-
24 home care for at least fifteen months and an adoption decree or
25 guardianship order under chapter (~~11.88~~) 11.130 RCW has not
26 previously been entered. The hearing shall take place no later than
27 eighteen months following commencement of the current placement
28 episode.

29 (c) No later than ten working days before the permanency planning
30 hearing, the department shall submit a written permanency plan to the
31 court and shall mail a copy of the plan to all parties. The plan
32 shall be directed toward securing a safe, stable, and permanent home
33 for the child as soon as possible. The plan shall identify one of the
34 following outcomes as the primary goal and may also identify
35 additional outcomes as alternative goals: Return of the child to the
36 home of the child's parent or legal guardian; adoption; guardianship;
37 or long-term out-of-home care, until the child is age eighteen, with
38 a written agreement between the parties and the child's care
39 provider.

1 (d) If a goal of long-term out-of-home care has been achieved
2 before the permanency planning hearing, the court shall review the
3 child's status to determine whether the placement and the plan for
4 the child's care remains appropriate. In cases where the primary
5 permanency planning goal has not been achieved, the court shall
6 inquire regarding the reasons why the primary goal has not been
7 achieved and determine what needs to be done to make it possible to
8 achieve the primary goal.

9 (e) Following the first permanency planning hearing, the court
10 shall hold a further permanency planning hearing in accordance with
11 this section at least once every twelve months until a permanency
12 planning goal is achieved or the voluntary placement agreement is
13 terminated.

14 (6) Any party to the voluntary placement agreement may terminate
15 the agreement at any time. Upon termination of the agreement, the
16 child shall be returned to the care of the child's parent or legal
17 guardian, unless the child has been taken into custody pursuant to
18 RCW 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW
19 13.34.060, or placed in foster care pursuant to RCW 13.34.130. The
20 department shall notify the court upon termination of the voluntary
21 placement agreement and return of the child to the care of the
22 child's parent or legal guardian. Whenever a voluntary placement
23 agreement is terminated, an action under this section shall be
24 dismissed.

25 (7) When state or federal funds are expended for the care and
26 maintenance of a child with a developmental disability, placed in
27 care as a result of an action under this chapter, the department
28 shall refer the case to the division of child support, unless the
29 department finds that there is good cause not to pursue collection of
30 child support against the parent or parents of the child.

31 (8) This section does not prevent the department of children,
32 youth, and families from filing a dependency petition if there is
33 reason to believe that the child is a dependent child as defined in
34 RCW 13.34.030. An action filed under this section shall be dismissed
35 upon the filing of a dependency petition regarding a child who is the
36 subject of the action under this section.

37 (9) For purposes of this section, unless the context clearly
38 requires otherwise, "department" means the department of social and
39 health services.

1 **Sec. 726.** RCW 18.20.020 and 2012 c 10 s 2 are each reenacted and
2 amended to read as follows:

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

5 (1) "Adult day services" means care and services provided to a
6 nonresident individual by the assisted living facility on the
7 assisted living facility premises, for a period of time not to exceed
8 ten continuous hours, and does not involve an overnight stay.

9 (2) "Assisted living facility" means any home or other
10 institution, however named, which is advertised, announced, or
11 maintained for the express or implied purpose of providing housing,
12 basic services, and assuming general responsibility for the safety
13 and well-being of the residents, and may also provide domiciliary
14 care, consistent with chapter 142, Laws of 2004, to seven or more
15 residents after July 1, 2000. However, an assisted living facility
16 that is licensed for three to six residents prior to or on July 1,
17 2000, may maintain its assisted living facility license as long as it
18 is continually licensed as an assisted living facility. "Assisted
19 living facility" shall not include facilities certified as group
20 training homes pursuant to RCW 71A.22.040, nor any home, institution
21 or section thereof which is otherwise licensed and regulated under
22 the provisions of state law providing specifically for the licensing
23 and regulation of such home, institution or section thereof. Nor
24 shall it include any independent senior housing, independent living
25 units in continuing care retirement communities, or other similar
26 living situations including those subsidized by the department of
27 housing and urban development.

28 (3) "Basic services" means housekeeping services, meals,
29 nutritious snacks, laundry, and activities.

30 (4) "Department" means the state department of social and health
31 services.

32 (5) "Domiciliary care" means: Assistance with activities of daily
33 living provided by the assisted living facility either directly or
34 indirectly; or health support services, if provided directly or
35 indirectly by the assisted living facility; or intermittent nursing
36 services, if provided directly or indirectly by the assisted living
37 facility.

38 (6) "General responsibility for the safety and well-being of the
39 resident" means the provision of the following: Prescribed general
40 low sodium diets; prescribed general diabetic diets; prescribed

1 mechanical soft foods; emergency assistance; monitoring of the
2 resident; arranging health care appointments with outside health care
3 providers and reminding residents of such appointments as necessary;
4 coordinating health care services with outside health care providers
5 consistent with RCW 18.20.380; assisting the resident to obtain and
6 maintain glasses, hearing aids, dentures, canes, crutches, walkers,
7 wheelchairs, and assistive communication devices; observation of the
8 resident for changes in overall functioning; blood pressure checks as
9 scheduled; responding appropriately when there are observable or
10 reported changes in the resident's physical, mental, or emotional
11 functioning; or medication assistance as permitted under RCW
12 69.41.085 and as defined in RCW 69.41.010.

13 (7) "Legal representative" means a person or persons identified
14 in RCW 7.70.065 who may act on behalf of the resident pursuant to the
15 scope of their legal authority. The legal representative shall not be
16 affiliated with the licensee, assisted living facility, or management
17 company, unless the affiliated person is a family member of the
18 resident.

19 (8) "Nonresident individual" means a person who resides in
20 independent senior housing, independent living units in continuing
21 care retirement communities, or in other similar living environments
22 or in an unlicensed room located within an assisted living facility.
23 Nothing in this chapter prohibits nonresidents from receiving one or
24 more of the services listed in RCW 18.20.030(5) or requires licensure
25 as an assisted living facility when one or more of the services
26 listed in RCW 18.20.030(5) are provided to nonresidents. A
27 nonresident individual may not receive domiciliary care, as defined
28 in this chapter, directly or indirectly by the assisted living
29 facility and may not receive the items and services listed in
30 subsection (6) of this section, except during the time the person is
31 receiving adult day services as defined in this section.

32 (9) "Person" means any individual, firm, partnership,
33 corporation, company, association, or joint stock association, and
34 the legal successor thereof.

35 (10) "Resident" means an individual who is not related by blood
36 or marriage to the operator of the assisted living facility, and by
37 reason of age or disability, chooses to reside in the assisted living
38 facility and receives basic services and one or more of the services
39 listed under general responsibility for the safety and well-being of
40 the resident and may receive domiciliary care or respite care

1 provided directly or indirectly by the assisted living facility and
2 shall be permitted to receive hospice care through an outside service
3 provider when arranged by the resident or the resident's legal
4 representative under RCW 18.20.380.

5 (11) "Resident applicant" means an individual who is seeking
6 admission to a licensed assisted living facility and who has
7 completed and signed an application for admission, or such
8 application for admission has been completed and signed in their
9 behalf by their legal representative if any, and if not, then the
10 designated representative if any.

11 (12) "Resident's representative" means a person designated
12 voluntarily by a competent resident, in writing, to act in the
13 resident's behalf concerning the care and services provided by the
14 assisted living facility and to receive information from the assisted
15 living facility, if there is no legal representative. The resident's
16 competence shall be determined using the criteria in ((RCW
17 ~~11.88.010(1)(e))~~) chapter 11.130 RCW. The resident's representative
18 may not be affiliated with the licensee, assisted living facility, or
19 management company, unless the affiliated person is a family member
20 of the resident. The resident's representative shall not have
21 authority to act on behalf of the resident once the resident is no
22 longer competent.

23 (13) "Secretary" means the secretary of social and health
24 services.

25 **Sec. 727.** RCW 25.15.131 and 2015 c 188 s 28 are each amended to
26 read as follows:

27 (1) A person is dissociated as a member of a limited liability
28 company upon the occurrence of one or more of the following events:

29 (a) The member dies or withdraws by voluntary act from the
30 limited liability company as provided in subsection (2) of this
31 section;

32 (b) The transfer of all of the member's transferable interest in
33 the limited liability company;

34 (c) The member is removed as a member in accordance with the
35 limited liability company agreement;

36 (d) The occurrence of an event upon which the member ceases to be
37 a member under the limited liability company agreement;

38 (e) The person is a corporation, limited liability company,
39 general partnership, or limited partnership, and the person is

1 removed as a member by the unanimous consent of the other members,
2 which may be done under this subsection (1)(e) only if:

3 (i) The person has filed articles of dissolution, a certificate
4 of dissolution or the equivalent, or the person has been
5 administratively or judicially dissolved, or its right to conduct
6 business has been suspended or revoked by the jurisdiction of its
7 incorporation, or the person has otherwise been dissolved; and

8 (ii) The dissolution has not been revoked or the person or its
9 right to conduct business has not been reinstated within ninety days
10 after the limited liability company notifies the person that it will
11 be removed as a member for any reason identified in (e)(i) of this
12 subsection;

13 (f) Unless all other members otherwise agree at the time, the
14 member (i) makes a general assignment for the benefit of creditors;

15 (ii) files a voluntary petition in bankruptcy; (iii) becomes the
16 subject of an order for relief in bankruptcy proceedings; (iv) files
17 a petition or answer seeking for the member any reorganization,
18 arrangement, composition, readjustment, liquidation, dissolution, or
19 similar relief under any statute, law, or regulation; (v) files an
20 answer or other pleading admitting or failing to contest the material
21 allegations of a petition filed against the member in any proceeding
22 of the nature described in (f)(i) through (iv) of this subsection; or
23 (vi) seeks, consents to, or acquiesces in the appointment of a
24 trustee, receiver, or liquidator of the member or of all or any
25 substantial part of the member's properties;

26 (g) Unless all other members otherwise agree at the time, if
27 within one hundred twenty days after the commencement of any
28 proceeding against the member seeking reorganization, arrangement,
29 composition, readjustment, liquidation, dissolution, or similar
30 relief under any statute, law, or regulation, the proceeding has not
31 been dismissed, or if within ninety days after the appointment
32 without his or her consent or acquiescence of a trustee, receiver, or
33 liquidator of the member or of all or any substantial part of the
34 member's properties, the appointment is not vacated or stayed, or
35 within ninety days after the expiration of any stay, the appointment
36 is not vacated; or

37 (h) Unless all other members otherwise agree at the time, in the
38 case of a member who is an individual, the entry of an order by a
39 court of competent jurisdiction adjudicating the member

1 incapacitated, as used and defined under chapter (~~11.88~~) 11.130
2 RCW, as to his or her estate.

3 (2) A member may withdraw from a limited liability company at the
4 time or upon the happening of events specified in and in accordance
5 with the limited liability company agreement. If the limited
6 liability company agreement does not specify the time or the events
7 upon the happening of which a member may withdraw, a member may not
8 withdraw from the limited liability company without the written
9 consent of all other members.

10 (3) When a person is dissociated as a member of a limited
11 liability company:

12 (a) The person's right to participate as a member in the
13 management and conduct of the limited liability company's activities
14 terminates;

15 (b) If the limited liability company is member-managed, the
16 person's fiduciary duties as a member end with regard to matters
17 arising and events occurring after the person's dissociation; and

18 (c) Subject to subsection (5) of this section, any transferable
19 interest owned by the person immediately before dissociation in the
20 person's capacity as a member is owned by the person solely as a
21 transferee.

22 (4) A person's dissociation as a member of a limited liability
23 company does not of itself discharge the person from any debt,
24 obligation, or other liability to the limited liability company or
25 the other members which the person incurred while a member.

26 (5) If a member dies, the deceased member's personal
27 representative or other legal representative may exercise the rights
28 of a transferee provided in RCW 25.15.251 and, for the purposes of
29 settling the estate, the rights of a current member under RCW
30 25.15.136.

31 **Sec. 728.** RCW 29A.08.515 and 2004 c 267 s 125 are each amended
32 to read as follows:

33 Upon receiving official notice that a court has imposed a
34 guardianship for an incapacitated person and has determined that the
35 person is incompetent for the purpose of rationally exercising the
36 right to vote, under chapter (~~11.88~~) 11.130 RCW, if the
37 incapacitated person is a registered voter in the county, the county
38 auditor shall cancel the incapacitated person's voter registration.

1 **Sec. 729.** RCW 70.58A.010 and 2019 c 148 s 2 are each amended to
2 read as follows:

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

5 (1) "Adult" means a person who is at least eighteen years of age,
6 or an emancipated minor under chapter 13.64 RCW.

7 (2) "Amendment" means a change to a certification item on the
8 vital record.

9 (3) "Authorized representative" means a person permitted to
10 receive a certification who is:

11 (a) Identified in a notarized statement signed by a qualified
12 applicant; or

13 (b) An agent identified in a power of attorney as defined in
14 chapter 11.125 RCW.

15 (4) "Certification" means the document, in either paper or
16 electronic format, containing all or part of the information
17 contained in the original vital record from which the document is
18 derived, and is issued from the central vital records system. A
19 certification includes an attestation by the state or local registrar
20 to the accuracy of information, and has the full force and effect of
21 the original vital record.

22 (5) "Certification item" means any item of information that
23 appears on certifications.

24 (6) "Coroner" means the person elected or appointed in a county
25 under chapter 36.16 RCW to serve as the county coroner and fulfill
26 the responsibilities established under chapter 36.24 RCW.

27 (7) "Cremated remains" has the same meaning as "cremated human
28 remains" in chapter 68.04 RCW.

29 (8) "Delayed report of live birth" means the report submitted to
30 the department for the purpose of registering the live birth of a
31 person born in state that was not registered within one year of the
32 date of live birth.

33 (9) "Department" means the department of health.

34 (10) "Domestic partner" means a party to a state registered
35 domestic partnership established under chapter 26.60 RCW.

36 (11) "Facility" means any licensed establishment, public or
37 private, located in state, which provides inpatient or outpatient
38 medical, surgical, or diagnostic care or treatment; or nursing,
39 custodial, or domiciliary care. The term also includes establishments
40 to which persons are committed by law including, but not limited to:

1 (a) Mental illness detention facilities designated to assess,
2 diagnose, and treat individuals detained or committed, under chapter
3 71.05 RCW;

4 (b) City and county jails;

5 (c) State department of corrections facilities; and

6 (d) Juvenile correction centers governed by Title 72 RCW.

7 (12) "Fetal death" means any product of conception that shows no
8 evidence of life, such as breathing, beating of the heart, pulsation
9 of the umbilical cord, or definite movement of voluntary muscles
10 after complete expulsion or extraction from the individual who gave
11 birth that is not an induced termination of pregnancy and:

12 (a) Has completed twenty or more weeks of gestation as calculated
13 from the date the last menstrual period of the individual who gave
14 birth began, to the date of expulsion or extraction; or

15 (b) Weighs three hundred fifty grams or more, if weeks of
16 gestation are not known.

17 (13) "Final disposition" means the burial, interment, entombment,
18 cremation, removal from the state, or other manner of disposing of
19 human remains as authorized under chapter 68.50 RCW.

20 (14) "Funeral director" means a person licensed under chapter
21 18.39 RCW as a funeral director.

22 (15) "Funeral establishment" means a place of business licensed
23 under chapter 18.39 RCW as a funeral establishment.

24 (16) "Government agencies" include state boards, commissions,
25 committees, departments, educational institutions, or other state
26 agencies which are created by or pursuant to statute, other than
27 courts and the legislature; county or city agencies, United States
28 federal agencies, and federally recognized tribes and tribal
29 organizations.

30 (17) "Human remains" means the body of a deceased person,
31 includes the body in any stage of decomposition, and includes
32 cremated human remains, but does not include human remains that are
33 or were at any time under the jurisdiction of the state physical
34 anthropologist under chapter 27.44 RCW.

35 (18) "Individual" means a natural person.

36 (19) "Induced termination of pregnancy" means the purposeful
37 interruption of an intrauterine pregnancy with an intention other
38 than to produce a live-born infant, and which does not result in a
39 live birth.

1 (20) "Informational copy" means a birth or death record issued
2 from the central vital records system, containing all or part of the
3 information contained in the original vital record from which the
4 document is derived, and indicating it cannot be used for legal
5 purposes on its face.

6 (21) "Legal guardian" means a person who serves as a guardian for
7 the purpose of either legal or custodial matters, or both, relating
8 to the person for whom the guardian is appointed. The term legal
9 guardian includes, but is not limited to, guardians appointed
10 pursuant to chapters (~~11.88~~) 11.130 and 13.36 RCW.

11 (22) "Legal representative" means a licensed attorney
12 representing either the subject of the record or qualified applicant.

13 (23) "Live birth" means the complete expulsion or extraction of a
14 product of human conception from the individual who gave birth,
15 irrespective of the duration of pregnancy, which, after such
16 expulsion or extraction, breathes or shows any other evidence of
17 life, such as beating of the heart, pulsation of the umbilical cord,
18 or definite movement of voluntary muscles.

19 (24) "Local health officer" has the same meaning as in chapter
20 70.05 RCW.

21 (25) "Medical certifier" for a death or fetal death means an
22 individual required to attest to the cause of death information
23 provided on a report of death or fetal death. Each individual
24 certifying cause of death or fetal death may certify cause of death
25 only as permitted by that individual's professional scope of
26 practice. These individuals include:

27 (a) A physician, physician's assistant, or an advanced registered
28 nurse practitioner last in attendance at death or who treated the
29 decedent through examination, medical advice, or medications within
30 the twelve months preceding the death;

31 (b) A midwife, only in cases of fetal death; and

32 (c) A physician performing an autopsy, when the decedent was not
33 treated within the last twelve months and the person died a natural
34 death.

35 (26) "Medical examiner" means the person appointed under chapter
36 36.24 RCW to fulfill the responsibilities established under chapter
37 36.24 RCW.

38 (27) "Midwife" means a person licensed to practice midwifery
39 pursuant to chapter 18.50 RCW.

1 (28) "Physician" means a person licensed to practice medicine,
2 naturopathy, or osteopathy pursuant to Title 18 RCW.

3 (29) "Registration" or "register" means the process by which a
4 report is approved and incorporated as a vital record into the vital
5 records system.

6 (30) "Registration date" means the month, day, and year a report
7 is incorporated into the vital records system.

8 (31) "Report" means an electronic or paper document containing
9 information related to a vital life event for the purpose of
10 registering the vital life event.

11 (32) "Sealed record" means the original record of a vital life
12 event and the evidence submitted to support a change to the original
13 record.

14 (33) "Secretary" means the secretary of the department of health.

15 (34) "State" means Washington state unless otherwise specified.

16 (35) "State registrar" means the person appointed by the
17 secretary to administer the vital records system under RCW
18 70.58A.030.

19 (36) "Territory of the United States" means American Samoa, the
20 Commonwealth of the Northern Mariana Islands, the Commonwealth of
21 Puerto Rico, Guam, and the United States Virgin Islands.

22 (37) "Vital life event" means a birth, death, fetal death,
23 marriage, dissolution of marriage, dissolution of domestic
24 partnership, declaration of invalidity of marriage, declaration of
25 invalidity of domestic partnership, and legal separation.

26 (38) "Vital record" or "record" means a report of a vital life
27 event that has been registered and supporting documentation.

28 (39) "Vital records system" means the statewide system created,
29 operated, and maintained by the department under this chapter.

30 (40) "Vital statistics" means the aggregated data derived from
31 vital records, including related reports, and supporting
32 documentation.

33 **Sec. 730.** RCW 70.97.040 and 2013 c 23 s 179 are each amended to
34 read as follows:

35 (1)(a) Every person who is a resident of an enhanced services
36 facility shall be entitled to all the rights set forth in this
37 chapter, and chapters 71.05 and 70.96A RCW, and shall retain all
38 rights not denied him or her under these chapters.

1 (b) No person shall be presumed incompetent as a consequence of
2 receiving an evaluation or voluntary or involuntary treatment for a
3 mental disorder, chemical dependency disorder, or both, under this
4 chapter, or chapter 71.05 or 70.96A RCW, or any prior laws of this
5 state dealing with mental illness. Competency shall not be determined
6 or withdrawn except under the provisions of chapter 10.77 or
7 (~~11.88~~) 11.130 RCW.

8 (c) At the time of his or her treatment planning meeting, every
9 resident of an enhanced services facility shall be given a written
10 statement setting forth the substance of this section. The department
11 shall by rule develop a statement and process for informing residents
12 of their rights in a manner that is likely to be understood by the
13 resident.

14 (2) Every resident of an enhanced services facility shall have
15 the right to adequate care and individualized treatment.

16 (3) The provisions of this chapter shall not be construed to deny
17 to any person treatment by spiritual means through prayer in
18 accordance with the tenets and practices of a church or religious
19 denomination.

20 (4) Persons receiving evaluation or treatment under this chapter
21 shall be given a reasonable choice of an available physician or other
22 professional person qualified to provide such services.

23 (5) The physician-patient privilege or the psychologist-client
24 privilege shall be deemed waived in proceedings under this chapter
25 relating to the administration of antipsychotic medications. As to
26 other proceedings under chapter 10.77, 70.96A, or 71.05 RCW, the
27 privileges shall be waived when a court of competent jurisdiction in
28 its discretion determines that such waiver is necessary to protect
29 either the detained person or the public.

30 (6) Insofar as danger to the person or others is not created,
31 each resident of an enhanced services facility shall have, in
32 addition to other rights not specifically withheld by law, the
33 following rights, a list of which shall be prominently posted in all
34 facilities, institutions, and hospitals providing such services:

35 (a) To wear his or her own clothes and to keep and use his or her
36 own personal possessions, except when deprivation of same is
37 essential to protect the safety of the resident or other persons;

38 (b) To keep and be allowed to spend a reasonable sum of his or
39 her own money for canteen expenses and small purchases;

- 1 (c) To have access to individual storage space for his or her
2 private use;
- 3 (d) To have visitors at reasonable times;
- 4 (e) To have reasonable access to a telephone, both to make and
5 receive confidential calls, consistent with an effective treatment
6 program;
- 7 (f) To have ready access to letter writing materials, including
8 stamps, and to send and receive uncensored correspondence through the
9 mails;
- 10 (g) Not to consent to the administration of antipsychotic
11 medications beyond the hearing conducted pursuant to RCW 71.05.215 or
12 71.05.217, or the performance of electroconvulsant therapy, or
13 surgery, except emergency lifesaving surgery, unless ordered by a
14 court under RCW 71.05.217;
- 15 (h) To discuss and actively participate in treatment plans and
16 decisions with professional persons;
- 17 (i) Not to have psychosurgery performed on him or her under any
18 circumstances;
- 19 (j) To dispose of property and sign contracts unless such person
20 has been adjudicated an incompetent in a court proceeding directed to
21 that particular issue; and
- 22 (k) To complain about rights violations or conditions and request
23 the assistance of a mental health ombuds or representative of
24 Washington protection and advocacy. The facility may not prohibit or
25 interfere with a resident's decision to consult with an advocate of
26 his or her choice.
- 27 (7) Nothing contained in this chapter shall prohibit a resident
28 from petitioning by writ of habeas corpus for release.
- 29 (8) Nothing in this section permits any person to knowingly
30 violate a no-contact order or a condition of an active judgment and
31 sentence or active supervision by the department of corrections.
- 32 (9) A person has a right to refuse placement, except where
33 subject to commitment, in an enhanced services facility. No person
34 shall be denied other department services solely on the grounds that
35 he or she has made such a refusal.
- 36 (10) A person has a right to appeal the decision of the
37 department that he or she is eligible for placement at an enhanced
38 services facility, and shall be given notice of the right to appeal
39 in a format that is accessible to the person with instructions
40 regarding what to do if the person wants to appeal.

1 **Sec. 731.** RCW 71.05.360 and 2019 c 446 s 13 are each amended to
2 read as follows:

3 (1) (a) Every person involuntarily detained or committed under the
4 provisions of this chapter shall be entitled to all the rights set
5 forth in this chapter, which shall be prominently posted in the
6 facility, and shall retain all rights not denied him or her under
7 this chapter except as chapter 9.41 RCW may limit the right of a
8 person to purchase or possess a firearm or to qualify for a concealed
9 pistol license if the person is committed under RCW 71.05.240 or
10 71.05.320 for mental health treatment.

11 (b) No person shall be presumed incompetent as a consequence of
12 receiving an evaluation or voluntary or involuntary treatment for a
13 mental disorder or substance use disorder, under this chapter or any
14 prior laws of this state dealing with mental illness or substance use
15 disorders. Competency shall not be determined or withdrawn except
16 under the provisions of chapter 10.77 or (~~11.88~~) 11.130 RCW.

17 (c) Any person who leaves a public or private agency following
18 evaluation or treatment for a mental disorder or substance use
19 disorder shall be given a written statement setting forth the
20 substance of this section.

21 (2) Each person involuntarily detained or committed pursuant to
22 this chapter shall have the right to adequate care and individualized
23 treatment.

24 (3) The provisions of this chapter shall not be construed to deny
25 to any person treatment by spiritual means through prayer in
26 accordance with the tenets and practices of a church or religious
27 denomination.

28 (4) Persons receiving evaluation or treatment under this chapter
29 shall be given a reasonable choice of an available physician,
30 physician assistant, psychiatric advanced registered nurse
31 practitioner, or other professional person qualified to provide such
32 services.

33 (5) Whenever any person is detained for evaluation and treatment
34 pursuant to this chapter, both the person and, if possible, a
35 responsible member of his or her immediate family, personal
36 representative, guardian, or conservator, if any, shall be advised as
37 soon as possible in writing or orally, by the officer or person
38 taking him or her into custody or by personnel of the evaluation and
39 treatment facility, secure withdrawal management and stabilization
40 facility, or approved substance use disorder treatment program where

1 the person is detained that unless the person is released or
2 voluntarily admits himself or herself for treatment within seventy-
3 two hours of the initial detention:

4 (a) A judicial hearing in a superior court, either by a judge or
5 court commissioner thereof, shall be held not more than seventy-two
6 hours after the initial detention to determine whether there is
7 probable cause to detain the person after the seventy-two hours have
8 expired for up to an additional fourteen days without further
9 automatic hearing for the reason that the person is a person whose
10 mental disorder or substance use disorder presents a likelihood of
11 serious harm or that the person is gravely disabled;

12 (b) The person has a right to communicate immediately with an
13 attorney; has a right to have an attorney appointed to represent him
14 or her before and at the probable cause hearing if he or she is
15 indigent; and has the right to be told the name and address of the
16 attorney that the mental health professional has designated pursuant
17 to this chapter;

18 (c) The person has the right to remain silent and that any
19 statement he or she makes may be used against him or her;

20 (d) The person has the right to present evidence and to cross-
21 examine witnesses who testify against him or her at the probable
22 cause hearing; and

23 (e) The person has the right to refuse psychiatric medications,
24 including antipsychotic medication beginning twenty-four hours prior
25 to the probable cause hearing.

26 (6) When proceedings are initiated under RCW 71.05.153, no later
27 than twelve hours after such person is admitted to the evaluation and
28 treatment facility, secure withdrawal management and stabilization
29 facility, or approved substance use disorder treatment program the
30 personnel of the facility or the designated crisis responder shall
31 serve on such person a copy of the petition for initial detention and
32 the name, business address, and phone number of the designated
33 attorney and shall forthwith commence service of a copy of the
34 petition for initial detention on the designated attorney.

35 (7) The judicial hearing described in subsection (5) of this
36 section is hereby authorized, and shall be held according to the
37 provisions of subsection (5) of this section and rules promulgated by
38 the supreme court.

39 (8) At the probable cause hearing the detained person shall have
40 the following rights in addition to the rights previously specified:

- 1 (a) To present evidence on his or her behalf;
- 2 (b) To cross-examine witnesses who testify against him or her;
- 3 (c) To be proceeded against by the rules of evidence;
- 4 (d) To remain silent;
- 5 (e) To view and copy all petitions and reports in the court file.

6 (9) Privileges between patients and physicians, physician
7 assistants, psychologists, or psychiatric advanced registered nurse
8 practitioners are deemed waived in proceedings under this chapter
9 relating to the administration of antipsychotic medications. As to
10 other proceedings under this chapter, the privileges shall be waived
11 when a court of competent jurisdiction in its discretion determines
12 that such waiver is necessary to protect either the detained person
13 or the public.

14 The waiver of a privilege under this section is limited to
15 records or testimony relevant to evaluation of the detained person
16 for purposes of a proceeding under this chapter. Upon motion by the
17 detained person or on its own motion, the court shall examine a
18 record or testimony sought by a petitioner to determine whether it is
19 within the scope of the waiver.

20 The record maker shall not be required to testify in order to
21 introduce medical or psychological records of the detained person so
22 long as the requirements of RCW 5.45.020 are met except that portions
23 of the record which contain opinions as to the detained person's
24 mental state must be deleted from such records unless the person
25 making such conclusions is available for cross-examination.

26 (10) Insofar as danger to the person or others is not created,
27 each person involuntarily detained, treated in a less restrictive
28 alternative course of treatment, or committed for treatment and
29 evaluation pursuant to this chapter shall have, in addition to other
30 rights not specifically withheld by law, the following rights:

31 (a) To wear his or her own clothes and to keep and use his or her
32 own personal possessions, except when deprivation of same is
33 essential to protect the safety of the resident or other persons;

34 (b) To keep and be allowed to spend a reasonable sum of his or
35 her own money for canteen expenses and small purchases;

36 (c) To have access to individual storage space for his or her
37 private use;

38 (d) To have visitors at reasonable times;

1 (e) To have reasonable access to a telephone, both to make and
2 receive confidential calls, consistent with an effective treatment
3 program;

4 (f) To have ready access to letter writing materials, including
5 stamps, and to send and receive uncensored correspondence through the
6 mails;

7 (g) To discuss treatment plans and decisions with professional
8 persons;

9 (h) Not to consent to the administration of antipsychotic
10 medications and not to thereafter be administered antipsychotic
11 medications unless ordered by a court under RCW 71.05.217 or pursuant
12 to an administrative hearing under RCW 71.05.215;

13 (i) Not to consent to the performance of electroconvulsant
14 therapy or surgery, except emergency lifesaving surgery, unless
15 ordered by a court under RCW 71.05.217;

16 (j) Not to have psychosurgery performed on him or her under any
17 circumstances;

18 (k) To dispose of property and sign contracts unless such person
19 has been adjudicated an incompetent in a court proceeding directed to
20 that particular issue.

21 (11) Every person involuntarily detained shall immediately be
22 informed of his or her right to a hearing to review the legality of
23 his or her detention and of his or her right to counsel, by the
24 professional person in charge of the facility providing evaluation
25 and treatment, or his or her designee, and, when appropriate, by the
26 court. If the person so elects, the court shall immediately appoint
27 an attorney to assist him or her.

28 (12) A person challenging his or her detention or his or her
29 attorney shall have the right to designate and have the court appoint
30 a reasonably available independent physician, physician assistant,
31 psychiatric advanced registered nurse practitioner, or other
32 professional person to examine the person detained, the results of
33 which examination may be used in the proceeding. The person shall, if
34 he or she is financially able, bear the cost of such expert
35 examination, otherwise such expert examination shall be at public
36 expense.

37 (13) Nothing contained in this chapter shall prohibit the patient
38 from petitioning by writ of habeas corpus for release.

39 (14) Nothing in this chapter shall prohibit a person committed on
40 or prior to January 1, 1974, from exercising a right available to him

1 or her at or prior to January 1, 1974, for obtaining release from
2 confinement.

3 (15) Nothing in this section permits any person to knowingly
4 violate a no-contact order or a condition of an active judgment and
5 sentence or an active condition of supervision by the department of
6 corrections.

7 **Sec. 732.** RCW 71.32.020 and 2016 c 209 s 407 are each amended to
8 read as follows:

9 The definitions in this section apply throughout this chapter
10 unless the context clearly requires otherwise.

11 (1) "Adult" means any individual who has attained the age of
12 majority or is an emancipated minor.

13 (2) "Agent" has the same meaning as an attorney-in-fact or agent
14 as provided in chapter 11.125 RCW.

15 (3) "Capacity" means that an adult has not been found to be
16 incapacitated pursuant to this chapter or ((~~RCW 11.88.010(1)(e)~~))
17 chapter 11.130 RCW.

18 (4) "Court" means a superior court under chapter 2.08 RCW.

19 (5) "Health care facility" means a hospital, as defined in RCW
20 70.41.020; an institution, as defined in RCW 71.12.455; a state
21 hospital, as defined in RCW 72.23.010; a nursing home, as defined in
22 RCW 18.51.010; or a clinic that is part of a community mental health
23 service delivery system, as defined in RCW 71.24.025.

24 (6) "Health care provider" means an osteopathic physician or
25 osteopathic physician's assistant licensed under chapter 18.57 or
26 18.57A RCW, a physician or physician's assistant licensed under
27 chapter 18.71 or 18.71A RCW, or an advanced registered nurse
28 practitioner licensed under RCW 18.79.050.

29 (7) "Incapacitated" means an adult who: (a) Is unable to
30 understand the nature, character, and anticipated results of proposed
31 treatment or alternatives; understand the recognized serious possible
32 risks, complications, and anticipated benefits in treatments and
33 alternatives, including nontreatment; or communicate his or her
34 understanding or treatment decisions; or (b) has been found to be
35 incompetent pursuant to ((~~RCW 11.88.010(1)(e)~~)) chapter 11.130 RCW.

36 (8) "Informed consent" means consent that is given after the
37 person: (a) Is provided with a description of the nature, character,
38 and anticipated results of proposed treatments and alternatives, and
39 the recognized serious possible risks, complications, and anticipated

1 benefits in the treatments and alternatives, including nontreatment,
2 in language that the person can reasonably be expected to understand;
3 or (b) elects not to be given the information included in (a) of this
4 subsection.

5 (9) "Long-term care facility" has the same meaning as defined in
6 RCW 43.190.020.

7 (10) "Mental disorder" means any organic, mental, or emotional
8 impairment which has substantial adverse effects on an individual's
9 cognitive or volitional functions.

10 (11) "Mental health advance directive" or "directive" means a
11 written document in which the principal makes a declaration of
12 instructions or preferences or appoints an agent to make decisions on
13 behalf of the principal regarding the principal's mental health
14 treatment, or both, and that is consistent with the provisions of
15 this chapter.

16 (12) "Mental health professional" means a psychiatrist,
17 psychologist, psychiatric nurse, or social worker, and such other
18 mental health professionals as may be defined by rules adopted by the
19 secretary pursuant to the provisions of chapter 71.05 RCW.

20 (13) "Principal" means an adult who has executed a mental health
21 advance directive.

22 (14) "Professional person" means a mental health professional and
23 shall also mean a physician, registered nurse, and such others as may
24 be defined by rules adopted by the secretary pursuant to the
25 provisions of chapter 71.05 RCW.

26 (15) "Social worker" means a person with a master's or further
27 advanced degree from a social work educational program accredited and
28 approved as provided in RCW 18.320.010.

29 **Sec. 733.** RCW 71A.16.030 and 1998 c 216 s 4 are each amended to
30 read as follows:

31 ~~(1) ((The department will develop an outreach program to ensure
32 that any eligible person with developmental disabilities services in
33 homes, the community, and residential habilitation centers will be
34 made aware of these services. This subsection (1) expires June 30,
35 2003.~~

36 ~~(2))~~) The secretary shall establish a single procedure for
37 persons to apply for a determination of eligibility for services
38 provided to persons with developmental disabilities.

1 ~~((3) Until June 30, 2003, the procedure set out under subsection~~
2 ~~(1) of this section must require that all applicants and all persons~~
3 ~~with developmental disabilities currently receiving services from the~~
4 ~~division of developmental disabilities within the department be given~~
5 ~~notice of the existence and availability of residential habilitation~~
6 ~~center and community support services. For genuine choice to exist,~~
7 ~~people must know what the options are. Available options must be~~
8 ~~clearly explained, with services customized to fit the unique needs~~
9 ~~and circumstances of developmentally disabled clients and their~~
10 ~~families. Choice of providers and design of services and supports~~
11 ~~will be determined by the individual in conjunction with the~~
12 ~~department. When the person cannot make these choices, the person's~~
13 ~~legal guardian may make them, consistent with chapter 11.88 or 11.92~~
14 ~~RCW. This subsection expires June 30, 2003.~~

15 ~~(4))~~ (2) An application may be submitted by a person with a
16 developmental disability, by the legal representative of a person
17 with a developmental disability, or by any other person who is
18 authorized by rule of the secretary to submit an application.

19 **Sec. 734.** RCW 73.36.050 and 1994 c 147 s 4 are each amended to
20 read as follows:

21 (1) A petition for the appointment of a guardian may be filed by
22 any relative or friend of the ward or by any person who is authorized
23 by law to file such a petition. If there is no person so authorized
24 or if the person so authorized refuses or fails to file such a
25 petition within thirty days after mailing of notice by the veterans
26 administration to the last known address of the person, if any,
27 indicating the necessity for the same, a petition for appointment may
28 be filed by any resident of this state.

29 (2) The petition for appointment shall set forth the name, age,
30 place of residence of the ward, the name and place of residence of
31 the nearest relative, if known, and the fact that the ward is
32 entitled to receive benefits payable by or through the veterans
33 administration and shall set forth the amount of moneys then due and
34 the amount of probable future payments.

35 (3) The petition shall also set forth the name and address of the
36 person or institution, if any, having actual custody of the ward and
37 the name, age, relationship, if any, occupation and address of the
38 proposed guardian and if the nominee is a natural person, the number
39 of wards for whom the nominee is presently acting as guardian.

1 Notwithstanding any law as to priority of persons entitled to
2 appointment, or the nomination in the petition, the court may appoint
3 some other individual or a bank or trust company as guardian, if the
4 court determines it is for the best interest of the ward.

5 (4) In the case of a mentally incompetent ward the petition shall
6 show that such ward has been rated incompetent by the veterans
7 administration on examination in accordance with the laws and
8 regulations governing the veterans administration.

9 (5) All proceedings under this chapter shall be governed by the
10 provisions of (~~chapters 11.88 and 11.92~~) chapter 11.130 RCW which
11 shall prevail over any conflicting provisions of this chapter.

12 **Sec. 735.** RCW 74.34.020 and 2019 c 325 s 5030 are each amended
13 to read as follows:

14 The definitions in this section apply throughout this chapter
15 unless the context clearly requires otherwise.

16 (1) "Abandonment" means action or inaction by a person or entity
17 with a duty of care for a vulnerable adult that leaves the vulnerable
18 person without the means or ability to obtain necessary food,
19 clothing, shelter, or health care.

20 (2) "Abuse" means the willful action or inaction that inflicts
21 injury, unreasonable confinement, intimidation, or punishment on a
22 vulnerable adult. In instances of abuse of a vulnerable adult who is
23 unable to express or demonstrate physical harm, pain, or mental
24 anguish, the abuse is presumed to cause physical harm, pain, or
25 mental anguish. Abuse includes sexual abuse, mental abuse, physical
26 abuse, and personal exploitation of a vulnerable adult, and improper
27 use of restraint against a vulnerable adult which have the following
28 meanings:

29 (a) "Sexual abuse" means any form of nonconsensual sexual
30 conduct, including but not limited to unwanted or inappropriate
31 touching, rape, sodomy, sexual coercion, sexually explicit
32 photographing, and sexual harassment. Sexual abuse also includes any
33 sexual conduct between a staff person, who is not also a resident or
34 client, of a facility or a staff person of a program authorized under
35 chapter 71A.12 RCW, and a vulnerable adult living in that facility or
36 receiving service from a program authorized under chapter 71A.12 RCW,
37 whether or not it is consensual.

38 (b) "Physical abuse" means the willful action of inflicting
39 bodily injury or physical mistreatment. Physical abuse includes, but

1 is not limited to, striking with or without an object, slapping,
2 pinching, choking, kicking, shoving, or prodding.

3 (c) "Mental abuse" means a willful verbal or nonverbal action
4 that threatens, humiliates, harasses, coerces, intimidates, isolates,
5 unreasonably confines, or punishes a vulnerable adult. Mental abuse
6 may include ridiculing, yelling, or swearing.

7 (d) "Personal exploitation" means an act of forcing, compelling,
8 or exerting undue influence over a vulnerable adult causing the
9 vulnerable adult to act in a way that is inconsistent with relevant
10 past behavior, or causing the vulnerable adult to perform services
11 for the benefit of another.

12 (e) "Improper use of restraint" means the inappropriate use of
13 chemical, physical, or mechanical restraints for convenience or
14 discipline or in a manner that: (i) Is inconsistent with federal or
15 state licensing or certification requirements for facilities,
16 hospitals, or programs authorized under chapter 71A.12 RCW; (ii) is
17 not medically authorized; or (iii) otherwise constitutes abuse under
18 this section.

19 (3) "Chemical restraint" means the administration of any drug to
20 manage a vulnerable adult's behavior in a way that reduces the safety
21 risk to the vulnerable adult or others, has the temporary effect of
22 restricting the vulnerable adult's freedom of movement, and is not
23 standard treatment for the vulnerable adult's medical or psychiatric
24 condition.

25 (4) "Consent" means express written consent granted after the
26 vulnerable adult or his or her legal representative has been fully
27 informed of the nature of the services to be offered and that the
28 receipt of services is voluntary.

29 (5) "Department" means the department of social and health
30 services.

31 (6) "Facility" means a residence licensed or required to be
32 licensed under chapter 18.20 RCW, assisted living facilities; chapter
33 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes;
34 chapter 72.36 RCW, soldiers' homes; chapter 71A.20 RCW, residential
35 habilitation centers; or any other facility licensed or certified by
36 the department.

37 (7) "Financial exploitation" means the illegal or improper use,
38 control over, or withholding of the property, income, resources, or
39 trust funds of the vulnerable adult by any person or entity for any
40 person's or entity's profit or advantage other than for the

1 vulnerable adult's profit or advantage. "Financial exploitation"
2 includes, but is not limited to:

3 (a) The use of deception, intimidation, or undue influence by a
4 person or entity in a position of trust and confidence with a
5 vulnerable adult to obtain or use the property, income, resources, or
6 trust funds of the vulnerable adult for the benefit of a person or
7 entity other than the vulnerable adult;

8 (b) The breach of a fiduciary duty, including, but not limited
9 to, the misuse of a power of attorney, trust, or a guardianship
10 appointment, that results in the unauthorized appropriation, sale, or
11 transfer of the property, income, resources, or trust funds of the
12 vulnerable adult for the benefit of a person or entity other than the
13 vulnerable adult; or

14 (c) Obtaining or using a vulnerable adult's property, income,
15 resources, or trust funds without lawful authority, by a person or
16 entity who knows or clearly should know that the vulnerable adult
17 lacks the capacity to consent to the release or use of his or her
18 property, income, resources, or trust funds.

19 (8) "Financial institution" has the same meaning as in RCW
20 30A.22.040 and 30A.22.041. For purposes of this chapter only,
21 "financial institution" also means a "broker-dealer" or "investment
22 adviser" as defined in RCW 21.20.005.

23 (9) "Hospital" means a facility licensed under chapter 70.41 or
24 71.12 RCW or a state hospital defined in chapter 72.23 RCW and any
25 employee, agent, officer, director, or independent contractor
26 thereof.

27 (10) "Incapacitated person" means a person who is at a
28 significant risk of personal or financial harm under ((RCW
29 ~~11.88.010(1) (a), (b), (c), or (d))~~) chapter 11.130 RCW.

30 (11) "Individual provider" means a person under contract with the
31 department to provide services in the home under chapter 74.09 or
32 74.39A RCW.

33 (12) "Interested person" means a person who demonstrates to the
34 court's satisfaction that the person is interested in the welfare of
35 the vulnerable adult, that the person has a good faith belief that
36 the court's intervention is necessary, and that the vulnerable adult
37 is unable, due to incapacity, undue influence, or duress at the time
38 the petition is filed, to protect his or her own interests.

39 (13) (a) "Isolate" or "isolation" means to restrict a vulnerable
40 adult's ability to communicate, visit, interact, or otherwise

1 associate with persons of his or her choosing. Isolation may be
2 evidenced by acts including but not limited to:

3 (i) Acts that prevent a vulnerable adult from sending, making, or
4 receiving his or her personal mail, electronic communications, or
5 telephone calls; or

6 (ii) Acts that prevent or obstruct the vulnerable adult from
7 meeting with others, such as telling a prospective visitor or caller
8 that a vulnerable adult is not present, or does not wish contact,
9 where the statement is contrary to the express wishes of the
10 vulnerable adult.

11 (b) The term "isolate" or "isolation" may not be construed in a
12 manner that prevents a guardian or limited guardian from performing
13 his or her fiduciary obligations under chapter (~~11.92~~) 11.130 RCW
14 or prevents a hospital or facility from providing treatment
15 consistent with the standard of care for delivery of health services.

16 (14) "Mandated reporter" is an employee of the department; law
17 enforcement officer; social worker; professional school personnel;
18 individual provider; an employee of a facility; an operator of a
19 facility; an employee of a social service, welfare, mental health,
20 adult day health, adult day care, home health, home care, or hospice
21 agency; county coroner or medical examiner; Christian Science
22 practitioner; or health care provider subject to chapter 18.130 RCW.

23 (15) "Mechanical restraint" means any device attached or adjacent
24 to the vulnerable adult's body that he or she cannot easily remove
25 that restricts freedom of movement or normal access to his or her
26 body. "Mechanical restraint" does not include the use of devices,
27 materials, or equipment that are (a) medically authorized, as
28 required, and (b) used in a manner that is consistent with federal or
29 state licensing or certification requirements for facilities,
30 hospitals, or programs authorized under chapter 71A.12 RCW.

31 (16) "Neglect" means (a) a pattern of conduct or inaction by a
32 person or entity with a duty of care that fails to provide the goods
33 and services that maintain physical or mental health of a vulnerable
34 adult, or that fails to avoid or prevent physical or mental harm or
35 pain to a vulnerable adult; or (b) an act or omission by a person or
36 entity with a duty of care that demonstrates a serious disregard of
37 consequences of such a magnitude as to constitute a clear and present
38 danger to the vulnerable adult's health, welfare, or safety,
39 including but not limited to conduct prohibited under RCW 9A.42.100.

1 (17) "Permissive reporter" means any person, including, but not
2 limited to, an employee of a financial institution, attorney, or
3 volunteer in a facility or program providing services for vulnerable
4 adults.

5 (18) "Physical restraint" means the application of physical force
6 without the use of any device, for the purpose of restraining the
7 free movement of a vulnerable adult's body. "Physical restraint" does
8 not include (a) briefly holding without undue force a vulnerable
9 adult in order to calm or comfort him or her, or (b) holding a
10 vulnerable adult's hand to safely escort him or her from one area to
11 another.

12 (19) "Protective services" means any services provided by the
13 department to a vulnerable adult with the consent of the vulnerable
14 adult, or the legal representative of the vulnerable adult, who has
15 been abandoned, abused, financially exploited, neglected, or in a
16 state of self-neglect. These services may include, but are not
17 limited to case management, social casework, home care, placement,
18 arranging for medical evaluations, psychological evaluations, day
19 care, or referral for legal assistance.

20 (20) "Self-neglect" means the failure of a vulnerable adult, not
21 living in a facility, to provide for himself or herself the goods and
22 services necessary for the vulnerable adult's physical or mental
23 health, and the absence of which impairs or threatens the vulnerable
24 adult's well-being. This definition may include a vulnerable adult
25 who is receiving services through home health, hospice, or a home
26 care agency, or an individual provider when the neglect is not a
27 result of inaction by that agency or individual provider.

28 (21) "Social worker" means:

29 (a) A social worker as defined in RCW 18.320.010(2); or

30 (b) Anyone engaged in a professional capacity during the regular
31 course of employment in encouraging or promoting the health, welfare,
32 support, or education of vulnerable adults, or providing social
33 services to vulnerable adults, whether in an individual capacity or
34 as an employee or agent of any public or private organization or
35 institution.

36 (22) "Vulnerable adult" includes a person:

37 (a) Sixty years of age or older who has the functional, mental,
38 or physical inability to care for himself or herself; or

39 (b) Found incapacitated under chapter (~~11.88~~) 11.130 RCW; or

1 (c) Who has a developmental disability as defined under RCW
2 71A.10.020; or

3 (d) Admitted to any facility; or

4 (e) Receiving services from home health, hospice, or home care
5 agencies licensed or required to be licensed under chapter 70.127
6 RCW; or

7 (f) Receiving services from an individual provider; or

8 (g) Who self-directs his or her own care and receives services
9 from a personal aide under chapter 74.39 RCW.

10 (23) "Vulnerable adult advocacy team" means a team of three or
11 more persons who coordinate a multidisciplinary process, in
12 compliance with chapter 266, Laws of 2017 and the protocol governed
13 by RCW 74.34.320, for preventing, identifying, investigating,
14 prosecuting, and providing services related to abuse, neglect, or
15 financial exploitation of vulnerable adults.

16 **Sec. 736.** RCW 74.34.067 and 2013 c 263 s 3 are each amended to
17 read as follows:

18 (1) Where appropriate, an investigation by the department may
19 include a private interview with the vulnerable adult regarding the
20 alleged abandonment, abuse, financial exploitation, neglect, or self-
21 neglect.

22 (2) In conducting the investigation, the department shall
23 interview the complainant, unless anonymous, and shall use its best
24 efforts to interview the vulnerable adult or adults harmed, and,
25 consistent with the protection of the vulnerable adult shall
26 interview facility staff, any available independent sources of
27 relevant information, including if appropriate the family members of
28 the vulnerable adult.

29 (3) The department may conduct ongoing case planning and
30 consultation with: (a) Those persons or agencies required to report
31 under this chapter or submit a report under this chapter; (b)
32 consultants designated by the department; and (c) designated
33 representatives of Washington Indian tribes if client information
34 exchanged is pertinent to cases under investigation or the provision
35 of protective services. Information considered privileged by statute
36 and not directly related to reports required by this chapter must not
37 be divulged without a valid written waiver of the privilege.

1 (4) The department shall prepare and keep on file a report of
2 each investigation conducted by the department for a period of time
3 in accordance with policies established by the department.

4 (5) If the department has reason to believe that the vulnerable
5 adult has suffered from abandonment, abuse, financial exploitation,
6 neglect, or self-neglect, and lacks the ability or capacity to
7 consent, and needs the protection of a guardian, the department may
8 bring a guardianship action under chapter (~~(11.88)~~) 11.130 RCW.

9 (6) For purposes consistent with this chapter, the department,
10 the certified professional guardian board, and the office of public
11 guardianship may share information contained in reports and
12 investigations of the abuse, abandonment, neglect, self-neglect, and
13 financial exploitation of vulnerable adults. This information may be
14 used solely for (a) recruiting or appointing appropriate guardians
15 and (b) monitoring, or when appropriate, disciplining certified
16 professional or public guardians. Reports of abuse, abandonment,
17 neglect, self-neglect, and financial exploitation are confidential
18 under RCW 74.34.095 and other laws, and secondary disclosure of
19 information shared under this section is prohibited.

20 (7) When the investigation is completed and the department
21 determines that an incident of abandonment, abuse, financial
22 exploitation, neglect, or self-neglect has occurred, the department
23 shall inform the vulnerable adult of their right to refuse protective
24 services, and ensure that, if necessary, appropriate protective
25 services are provided to the vulnerable adult, with the consent of
26 the vulnerable adult. The vulnerable adult has the right to withdraw
27 or refuse protective services.

28 (8) The department's adult protective services division may enter
29 into agreements with federally recognized tribes to investigate
30 reports of abandonment, abuse, financial exploitation, neglect, or
31 self-neglect of vulnerable adults on property over which a federally
32 recognized tribe has exclusive jurisdiction. If the department has
33 information that abandonment, abuse, financial exploitation, or
34 neglect is criminal or is placing a vulnerable adult on tribal
35 property at potential risk of personal or financial harm, the
36 department may notify tribal law enforcement or another tribal
37 representative specified by the tribe. Upon receipt of the
38 notification, the tribe may assume jurisdiction of the matter.
39 Neither the department nor its employees may participate in the
40 investigation after the tribe assumes jurisdiction. The department,

1 its officers, and its employees are not liable for any action or
2 inaction of the tribe or for any harm to the alleged victim, the
3 person against whom the allegations were made, or other parties that
4 occurs after the tribe assumes jurisdiction. Nothing in this section
5 limits the department's jurisdiction and authority over facilities or
6 entities that the department licenses or certifies under federal or
7 state law.

8 (9) The department may photograph a vulnerable adult or their
9 environment for the purpose of providing documentary evidence of the
10 physical condition of the vulnerable adult or his or her environment.
11 When photographing the vulnerable adult, the department shall obtain
12 permission from the vulnerable adult or his or her legal
13 representative unless immediate photographing is necessary to
14 preserve evidence. However, if the legal representative is alleged to
15 have abused, neglected, abandoned, or exploited the vulnerable adult,
16 consent from the legal representative is not necessary. No such
17 consent is necessary when photographing the physical environment.

18 (10) When the investigation is complete and the department
19 determines that the incident of abandonment, abuse, financial
20 exploitation, or neglect has occurred, the department shall inform
21 the facility in which the incident occurred, consistent with
22 confidentiality requirements concerning the vulnerable adult,
23 witnesses, and complainants.

24 **Sec. 737.** RCW 74.34.135 and 2007 c 312 s 9 are each amended to
25 read as follows:

26 (1) When a petition for protection under RCW 74.34.110 is filed
27 by someone other than the vulnerable adult or the vulnerable adult's
28 full guardian over either the person or the estate, or both, and the
29 vulnerable adult for whom protection is sought advises the court at
30 the hearing that he or she does not want all or part of the
31 protection sought in the petition, then the court may dismiss the
32 petition or the provisions that the vulnerable adult objects to and
33 any protection order issued under RCW 74.34.120 or 74.34.130, or the
34 court may take additional testimony or evidence, or order additional
35 evidentiary hearings to determine whether the vulnerable adult is
36 unable, due to incapacity, undue influence, or duress, to protect his
37 or her person or estate in connection with the issues raised in the
38 petition or order. If an additional evidentiary hearing is ordered
39 and the court determines that there is reason to believe that there

1 is a genuine issue about whether the vulnerable adult is unable to
2 protect his or her person or estate in connection with the issues
3 raised in the petition or order, the court may issue a temporary
4 order for protection of the vulnerable adult pending a decision after
5 the evidentiary hearing.

6 (2) An evidentiary hearing on the issue of whether the vulnerable
7 adult is unable, due to incapacity, undue influence, or duress, to
8 protect his or her person or estate in connection with the issues
9 raised in the petition or order, shall be held within fourteen days
10 of entry of the temporary order for protection under subsection (1)
11 of this section. If the court did not enter a temporary order for
12 protection, the evidentiary hearing shall be held within fourteen
13 days of the prior hearing on the petition. Notice of the time and
14 place of the evidentiary hearing shall be personally served upon the
15 vulnerable adult and the respondent not less than six court days
16 before the hearing. When good faith attempts to personally serve the
17 vulnerable adult and the respondent have been unsuccessful, the court
18 shall permit service by mail, or by publication if the court
19 determines that personal service and service by mail cannot be
20 obtained. If timely service cannot be made, the court may set a new
21 hearing date. A hearing under this subsection is not necessary if the
22 vulnerable adult has been determined to be fully incapacitated over
23 either the person or the estate, or both, under the guardianship
24 laws, chapter (~~11.88~~) 11.130 RCW. If a hearing is scheduled under
25 this subsection, the protection order shall remain in effect pending
26 the court's decision at the subsequent hearing.

27 (3) At the hearing scheduled by the court, the court shall give
28 the vulnerable adult, the respondent, the petitioner, and in the
29 court's discretion other interested persons, the opportunity to
30 testify and submit relevant evidence.

31 (4) If the court determines that the vulnerable adult is capable
32 of protecting his or her person or estate in connection with the
33 issues raised in the petition, and the individual continues to object
34 to the protection order, the court shall dismiss the order or may
35 modify the order if agreed to by the vulnerable adult. If the court
36 determines that the vulnerable adult is not capable of protecting his
37 or her person or estate in connection with the issues raised in the
38 petition or order, and that the individual continues to need
39 protection, the court shall order relief consistent with RCW
40 74.34.130 as it deems necessary for the protection of the vulnerable

1 adult. In the entry of any order that is inconsistent with the
2 expressed wishes of the vulnerable adult, the court's order shall be
3 governed by the legislative findings contained in RCW 74.34.005.

4 **Sec. 738.** RCW 74.34.163 and 2007 c 312 s 10 are each amended to
5 read as follows:

6 Any vulnerable adult who has not been adjudicated fully
7 incapacitated under chapter (~~(11.88)~~) 11.130 RCW, or the vulnerable
8 adult's guardian, at any time subsequent to entry of a permanent
9 protection order under this chapter, may apply to the court for an
10 order to modify or vacate the order. In a hearing on an application
11 to dismiss or modify the protection order, the court shall grant such
12 relief consistent with RCW 74.34.110 as it deems necessary for the
13 protection of the vulnerable adult, including dismissal or
14 modification of the protection order.

15 **Sec. 739.** RCW 74.42.430 and 1980 c 184 s 12 are each amended to
16 read as follows:

17 The facility shall develop written guidelines governing:

- 18 (1) All services provided by the facility;
 - 19 (2) Admission, transfer or discharge;
 - 20 (3) The use of chemical and physical restraints, the personnel
21 authorized to administer restraints in an emergency, and procedures
22 for monitoring and controlling the use of the restraints;
 - 23 (4) Procedures for receiving and responding to residents'
24 complaints and recommendations;
 - 25 (5) Access to, duplication of, and dissemination of information
26 from the resident's record;
 - 27 (6) Residents' rights, privileges, and duties;
 - 28 (7) Procedures if the resident is adjudicated incompetent or
29 incapable of understanding his or her rights and responsibilities;
 - 30 (8) When to recommend initiation of guardianship proceedings
31 under chapter (~~(11.88)~~) 11.130 RCW; (~~and~~)
 - 32 (9) Emergencies;
 - 33 (10) Procedures for isolation of residents with infectious
34 diseases; and
 - 35 (11) Procedures for residents to refuse treatment and for the
36 facility to document informed refusal.
- 37 The written guidelines shall be made available to the staff,
38 residents, members of residents' families, and the public.

1 **PART VIII**

2 **INTENT**

3 NEW SECTION. **Sec. 801.** A new section is added to chapter 11.130
4 RCW to read as follows:

5 It is the intent of the legislature to protect the liberty and
6 autonomy of all people of this state, and to enable them to exercise
7 their rights under the law to the maximum extent, consistent with the
8 capacity of each person. The legislature recognizes that people with
9 incapacities have unique abilities and needs, and that some people
10 with incapacities cannot exercise their rights or provide for their
11 basic needs without the help of a guardian. However, their liberty
12 and autonomy should be restricted through guardianship,
13 conservatorship, emergency guardianship, emergency conservatorship,
14 and other protective arrangements only to the minimum extent
15 necessary to adequately provide for their own health or safety, or to
16 adequately manage their financial affairs.

17 **PART IX**

18 **TECHNICAL**

19 NEW SECTION. **Sec. 901.** Sections 601 through 612 of this act are
20 each added to chapter 11.130 RCW.

21 NEW SECTION. **Sec. 902.** Except for section 114 of this act, this
22 act takes effect January 1, 2021.

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